

229386

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FALL CREEK ESTATES SUB 0504

THIS DECLARATION, MADE this 13th Day of November, 2006 by Yunger Enterprises, Inc. Defined Benefit Pension Plan Trust, Kevin D. and Rhonda Yunger, Trustees, whose address is 515 Pine St. Suite A (P.O. Box 1171), Sandpoint, ID 83864, the owner of Fall Creek Estates, SUB 0504, a 5-Lot Subdivision:

WITNESSETH:

THAT, whereas the above named Trust desires to restrict all that tract or parcel of land as shown upon the official map of "FALL CREEK ESTATES, SUBDIVISION # SUB 0504" recorded in the office of the County Recorder of the County of Boundary, State of Idaho on November 14, 2006 in Book 3 of Plats, page 1 **Inst. 229385**

NOW THEREFORE, Yunger Enterprises, Inc. Defined Benefit Pension Plan Trust, as owner of the above tract of land hereby declares that said land is held and shall be held, conveyed, hypothecated, used, improved and occupied subject to the following covenants, restrictions, easements and agreements which are imposed pursuant to a general plan and shall create mutual equitable servitudes on each of the lots, plots or parcels in said tract of subdivision and a privity of contract with reference thereto between the various owners thereof, their heirs, personal representatives, successors and assigns, to-wit:

ARTICLE 1

Area of Application

1. **FULL PROTECTED RESIDENTIAL AREA.** The residential area covenants in Article 2 hereof in their entirety shall apply to all of the above-described real estate

ARTICLE 2

Residential Covenants

1. **LAND USE AND BUILDING TYPE.** No lots shall be used except for single family residential purposes. No buildings shall be commenced, erected, altered, placed or permitted to remain on any lot other than one detached single family dwelling, a private garage, and other related buildings so long as said related buildings are first approved by the Architectural Control Committee.

C,C&RS Fall Creek Estates

STATE OF IDAHO }
County of Boundary } SS. Page 1 of 7
Filed by: Kevin Yunger
on 11-14-06 at 9:55
Glenda Poston
County Recorder Peteresen
By Deputy

Fee \$ 21.00pd
Mail to 515 Pine St. Suite A Sandpoint, Id.
83864

2. **ARCHITECTURAL CONTROL.** No buildings shall be commenced, erected, altered, placed or permitted on any lot until the construction plans and specifications together with plan showing the relative location of the structure on the lot have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to the location with respect to topography and finished grade elevation. No fence or walls shall be commenced, erected, placed or altered on any lot nearer to any street than the minimum building set back line which is 50' from the lot boundaries, unless similarly approved. Approval shall be as hereinafter provided.
3. **DWELLING QUALITY AND SIZE.** No manufactured homes or mobile homes are permitted. Homes must be conventional in appearance. The minimum floor plan requirement is two bedrooms and two baths with a living room and kitchen. No single story dwelling shall be permitted on any lot with less than 1400 square feet, exclusive of open porches and garages. Two story homes must have a minimum of 900 square feet per floor exclusive of open porches and garages, and are also subject to approval of the Architectural Control Committee. A house with a main floor and a daylight basement shall have a minimum of 1200 square feet on the main floor, exclusive of open porches and garages, and the main floor must be fully finished. The daylight basement can remain unfinished. Construction must be 2"x 6" exterior wall studs minimum or log construction. Interior walls must be 2" x 4" studs minimum. Foundations must be concrete. No concrete block or cinder block foundations are permitted.
4. **COMPLETION OF CONSTRUCTION.** A maximum of one year will be permitted for completion of construction.
5. **BUILDING LOCATION.** A minimum of 50 feet shall be required as set back from any lot boundary line for construction of any building or septic, with the exception of Lot 3, which has a set back on the eastern boundary that varies from 50 feet to 150 feet, according to the plat. No building shall be commenced, erected or placed on a reserved easement as it appears on the Final Plat of Fall Creek Estates on file with the Recorder's Office of Boundary County, State of Idaho.
6. **EASEMENTS.** Easements of up to 20 feet are reserved along the westerly boarder of Fall Creek Estates., in accordance with the plat thereof, for installation and maintenance of utilities, signs, and drainage. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or signs, or which may change the directions of flow of drainage channels within the easements, or which may obstruct or retard the flow of water through drainage in the

7. easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.
8. **NUISANCES AND MAINTENANCE.** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No junk vehicles, dilapidated vehicles, or any vehicle, RV, ATV, appliance or equipment in disrepair may be stored on any lot. No trash or garbage piles are permitted. All trash must be stored in containers and hauled away frequently. At all times, the lot owner shall maintain his total lot in a clean and tidy manner, and at all times promoting the general aesthetic qualities of Fall Creek Estates.
9. **LIVESTOCK AND OTHER ANIMALS.** No livestock, poultry, or exotic animals of any kind shall be raised, bred or kept on any lot, except dogs, cats, or other household pets, which may be kept provided that they are not kept, bred or maintained for any commercial purpose, and provided that the care or lack thereof given to such animals does not constitute a source of annoyance to any nearby property owners.
Exception: Because of their size and topography, Lots 4 and 5 are permitted to have up to four horses each with proper fencing and corrals.
10. **TEMPORARY STRUCTURES.** No structure of a temporary character, trailer, basement, tent, shack garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently. During the construction of any residence, it shall be permissible for the builder or contractor to place a temporary office, tool shed, camper or recreational vehicle on the premises which shall be removed immediately upon completion of the residence or other approved structure.
11. **SIGNS.** No sign of any kind shall be displayed to the public view on any lot except to advertise property for sale or rent (maximum size of 4 square feet) or a sign advertising the contractor's or realtor's business during the construction and sales period (maximum size 25 square feet). A permanent sign displaying Fall Creek Estates is permitted at the southwest corner of Lot 1, which contains a deeded easement for such purpose. All lot owners are corporately responsible for its maintenance and repair.
12. **GARBAGE AND REFUSE DISPOSAL.** No lot shall be used or maintained as a dumping ground or storage site for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. The

burning in outside incinerators, barbecue pits and the like is prohibited. All trash, refuse and garbage shall be hauled from the subdivision. Slash, brush, leaves and debris on the property may be burned at the site only during authorized burning seasons or with proper burning permits.

13. **RESTRICTIONS.** No manufacturing or commercial enterprises shall be conducted or maintained upon , or in connection with, any residential lot or lots, nor shall said lot or lots, in any way, be used for other than strictly residential purposes, except that professional offices, beauty shops or other home business may be maintained within the main dwelling subject to conditional use permit by the county and upon specific approval by the Architectural Control Committee in each case.
14. **REFUSE.** Refuse piles or other unsightly objects or materials shall not be allowed to be placed or remain upon any lot or easement. In the event on non-compliance by the lot owner(s), the Architectural Control Committee or its agents shall have the right to enter upon said lands and remove such refuse piles or other unsightly objects or materials at the expense of the lot owner(s). Such entry shall not be deemed as a trespass, and the lot owner(s) shall be liable for costs incurred relative thereto. Upon notice by the Architectural Control Committee, the lot owner(s) shall have thirty days to comply with disposal/removal requirements.
15. **OBSTRUCTIONS.** Outside clotheslines, aerials, antennas, towers, and similar structures, must be approved by the Architectural Control Committee.
16. **BUILDING MATERIALS.** All materials used in the construction, alteration, or remodeling of any building, wall, fence, or other structure shall be new and of good quality and design. Used materials of good quality may be used in exceptional circumstances, but only upon the prior written approval of the Architectural Control Committee. No cedar shakes or cedar shingles may be used as roofing materials.
17. **SURFACE WATER.** No owner shall collect water at one point and discharge same on to an adjoining lot nor in any way change the natural drainage so as to unduly change the amount of water which runs onto adjoining property.
18. **CONSTRUCTION, TIME LIMITATIONS.** All construction of a residential nature must be completed by a date within twelve (12) months from commencement of construction.
19. **MODULAR HOMES, MANUFACTURED AND DOUBLEWIDE MOBILE HOMES.** Any structures commonly referred to as "modular

homes", "manufactured homes", "single wide mobile homes" and "double wide mobile homes" are prohibited from being placed upon any lot or lots.

20. **FUTURE SUBDIVISIONS.** Any future subdivision of any lot, parcel or tract of Fall Creek Estates, SUB 0504 is prohibited.
21. **PUBLIC DEDICATION.** Other than land dedicated to public use as it appears in the Final Plat of Fall Creek Estates, no further lot, parcel, or tract of land may be dedicated to public use without the approval of the Architectural Control Committee.

ARTICLE 3

Architectural Control Committee

1. **REVIEW BY COMMITTEE.** The Architectural Control Committee is composed of Kevin D. Yunger, Rhonda Yunger and a member to be elected by the owners of lots comprising Fall Creek Estates. It is understood that Kevin D. Yunger shall have the right and authority to change the membership of said committee by notice in writing to the other members, and name new members to the committee at his discretion. The committee shall have the right to refuse to approve any such plans or specifications or grading plans, and shall have the right to take into consideration the use and suitability of the proposed building or structure and of the materials with which it is to be built, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the building or other structures planned on the outlook from the adjacent neighboring property, and may, at its discretion, allow or grant exceptions to these covenants when it is deemed advisable to do so.
2. **APPROVAL OR DISAPPROVAL.** The committee's approval or disapproval, as required in these covenants, shall be in writing. In the event the committee or its designated representative fails to approve or disapprove, within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.
3. **DESIGNATION OF REPRESENTATIVE OR SUCCESSOR.** A majority of the Committee may designate a representative to act in its behalf in the event of death or resignation of any Committee member. The remaining members shall have full authority to designate a successor. Neither the Committee members nor a designated representative shall be entitled to compensation for services performed pursuant to this covenant.

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**ARTICLE 4
General Provisions**

1. **TERM.** These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of ten (10) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.
2. **ENFORCEMENT.** Enforcement of these covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages. Costs of enforcing these covenants, including attorney fees and court costs, shall be paid by any person found in violation of said covenants, conditions and /or restrictions.
3. **SEVERABILITY.** Invalidation of any one of these covenants by judgement or court order shall in no wise affect any of the other provision or covenants. They shall remain in full force and effect.
4. **NOTICE.** Any notice required to be sent to any owner under the provisions of this Declaration shall be deemed to have been properly given when mailed, postage prepaid, to the last known address of the person who appears as owner of record at the time of such mailing.
5. **CONTRACTS.** Every person, who by written contract agrees to purchase any lot, tract, or parcel of land herein described, will be deemed to have made and accepted such contract and agreed to purchase the lands herein described subject to all of the restrictions and conditions set forth herein.
6. **OWNERSHIP.** Every person who becomes the owner(s) of any lot, tract, or parcel of land described herein shall be deemed to have accepted title and ownership to real estate such real estate subject to all the restrictions and conditions set forth herein.

**ARTICLE 5
Attestation**

IN WITNESS WHEREOF, YUNGER ENTERPRISES INC., DEFINED BENEFIT BENESION PLAN TRUST, KEVIN D. AND RHONDA YUNGER, TRUSTEES, has executed this instrument this ¹⁴13 day of

Nov. ~~October~~ 2006.

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YUNGER ENTERPRISES INC., DEFINED BENEFIT PENSION PLAN
TRUST BY:

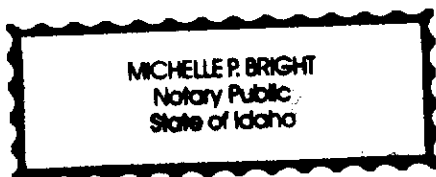
Kevin D. Yunger
Kevin D. Yunger, Trustee

Rhonda Yunger
Rhonda Yunger, Trustee

State of Idaho)

County of Bonner) ss.

On this 13th day of November, 2006, before me, the undersigned Notary Public, personally appeared Kevin D. Yunger and Rhonda Yunger, known to me, or proved to me on the basis of satisfactory evidence, to be the trustees of the Trust that executed the instrument, or the persons who executed the instrument of behalf of said Trust, and acknowledged to me that such Trust executed the same.



[Signature]
Notary Public - State of Idaho
Residing at GAIDOU
My Commission expires 10.20.12