

**Instrument # 1012457**  
**Bonner County, Sandpoint, Idaho**  
**10/04/2022 12:37:56 PM No. of Pages: 15**  
**Recorded for: LAKE CITY LAW GROUP PLLC**  
**Michael W. Rosedale Fee: \$52.00**  
**Ex-Officio Recorder Deputy cbrannon**  
**Index to: CONDITIONS COVENANTS & RESTRICTIONS**

**BONNER COUNTY RECORDER**  
**COVER SHEET**

**AMENDED AND RESTATED**  
**DECLARATION OF**  
**COVENANTS, CONDITIONS AND RESTRICTIONS**

**STATE SUBDIVISION-PINTO POINT**  
**BONNER COUNTY, IDAHO**

**AMENDED AND RESTATED  
DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS**

**STATE SUBDIVISION – PINTO POINT  
BONNER COUNTY, IDAHO  
DATE  
AUGUST 9, 2022**

**AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
STATE SUBDIVISION – PINTO POINT  
BONNER COUNTY, IDAHO**

**THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**, (hereinafter referred to as Declaration), amends the original Declaration of Covenants, Conditions, and Restrictions, State Subdivision – Pinto Point, Bonner County, Idaho and the Addendum to Declaration of Covenants, Conditions, and Restrictions, State Subdivision – Pinto Point, Bonner County, Idaho filed February 8, 2013 and is made

on this 9th day of August, 2022, by the **Board of Directors**, with reference to the following facts:

A. The land encumbered by this Declaration is more particularly described as follows:

All land located within the Plat of "STATE SUBDIVISION – PINTO POINT," according to the Plat filed the 8th day of February, 2013, in Book 10 of Plats, Pages 152, as Instrument No. 839530, records of Bonner County, Idaho.

B. In addition to ownership of individual Lots, the Private Property Owners and Residential Cottage Site Lease Lessees on State-owned Lots ("Lessees") will hold a membership in an incorporated nonprofit Association, known or to be known as the PINTO POINT Owner's Association, Inc. (PPOA), which Association will operate and maintain certain properties and facilities within the Plat and assume maintenance obligations under certain easements over individually or State-owned land, as legally required.

The PPOA hereby declares that the Property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold and improved, subject to the following declarations, limitations, covenants, conditions, restrictions, and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Property, and every part thereof, in accordance with the plan for the subdivision and sale of the Property as a rural, lake front residential community. All of the limitations, covenants, conditions, restrictions, and easements shall constitute covenants and encumbrances which shall run with the land and shall be perpetually binding upon Private Property Owners, Cottage Site Lease Lessees, their successors-in-interest and assigns, Association, and all parties having or acquiring any right, title, or interest in or to any part of the Property.

**ARTICLE 1.**

**DEFINITIONS**

Unless otherwise expressly provided, the following words and phrases, when used in this Declaration and in the Project Documents, shall have the following meanings:

1.1 "Addendum" shall mean the ADDENDUM TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, STATE SUBDIVISION – PINTO POINT, BONNER

COUNTY, IDAHO, instrument #839540, recorded on February 8, 2013 in Bonner County, Idaho. The covenants, conditions, restrictions, additions and modifications set forth in the Addendum shall terminate when the State no longer owns any residential Lot in the Pinto Point Subdivision.

1.2 “Articles” shall mean the Articles of Incorporation of the Association, as amended from time to time.

1.3 “Assessment” shall mean that portion of the cost of maintaining, improving, repairing, operating, insuring, and managing the Common Area (if any) and meeting other obligations of the Association, which is to be paid by the Members as determined by the Association under the Bylaws. Assessments may be designated as Regular Assessments or Extraordinary Assessments, as those terms are more specifically defined in the Bylaws. Each lot shall bear an equal share of each aggregate Regular and Extraordinary Assessment. Cottage Sites owned by the State, but not leased, shall bear no responsibility for Assessments.

1.4 “Association” shall mean the PINTO POINT Owner’s Association, Inc., an Idaho nonprofit corporation, formed on December 11, 2019, the Members of which shall be Private Property Owners of Lots and Lessees of a Residential Cottage Site Lease within the Property as provided herein, and any successor-in-interest thereto.

1.5 “Board” or “Board of Directors” shall mean the Board of Directors of the Association, as it shall be constituted from time to time.

1.6 “Bylaws” shall mean the Bylaws of the Association as restated or amended from time to time.

1.7 “Common Area” shall include property identified on the Plat as Common Area (if any), which may include roads, easements and rights-of-way. Common Area shall also include additional property or property rights obtained by the Association in the future. If no land on the Plat is labeled “Common Area”, none exists as of the date of recording of the Plat.

1.8 “Common Expenses” shall mean the actual and estimated expenses of maintenance, improvement, repair, operation, insurance, and management of the Common Area (if any), meeting obligations of the Association and of administration of the Association, and any reasonable reserve for such purposes as determined by the Board, and all sums designated Common Expenses by or pursuant to the Project Documents.

1.9 “County” shall mean Bonner County, Idaho

1.10 “County Code” shall mean the Bonner County Revised Code, including Title 12, Land Use Regulations, as amended, superseded or repealed.

1.11 “Declaration” shall mean this Amended and Restated Declaration of Covenants, Conditions, and Restrictions, (herein after referred to as “Declaration”) as it may be amended from time to time.

1.12 “Dwelling Unit” shall refer to any building or portion thereof on a Lot that provides complete, independent living facilities for one family only, including permanent provisions for living, sleeping, eating, cooking and sanitation.

1.13 “Lot” shall mean a platted parcel of land which is part of the Plat.

1.14 “Member” shall mean a member of the Association. Every Private Property Owner of a Lot and every Lessee of a Residential Cottage Site Lease of a Lot owned by the Idaho State Board of Land Commissioners “State Land Board” shall be a Member of the Association. Each member shall be responsible to provide the Board of Directors with the Members current mailing address, email address or other contact information.

1.15 “Mortgage” includes a recorded mortgage, deed of trust, real estate contract, or other instrument creating a voluntary security interest in any Lot.

1.16 “Mortgagee” includes a mortgagee, beneficiary or holder of a deed of trust, real estate contact vendor, or other holder of a voluntary security interest in any Lot.

1.17 “Nonconforming Structure” means a lawful structure that exists on the effective date of adoption of this Amendment, which structure could not be built under the terms of this Amendment by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure; such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

a) No such Nonconforming Structure may be enlarged or altered in any way which increases its nonconformity. Any structure or portion thereof may be altered to decrease its nonconformity.

b) A Nonconforming Structure or nonconforming portion of a structure destroyed by any means may be reconstructed so long as the reconstruction does not increase its nonconformity and reconstruction occurs within two (2) years of its destruction.

c) Should such Nonconforming Structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district or zone in which it is located after it is moved.

d) No nonconforming portion of a structure may be enlarged or altered in any way which increases its bulk (such as lot area, open space, yards, lot coverage, height, impervious surface ratios and floor area ratios).

However, pursuant to the Variance procedures set forth herein in Section 3.18 of this Declaration, and as stated in Title 12 Subchapter 2.3 of the Land Use Regulations for Bonner County, if a Variance is approved, the Variance will allow the Nonconforming Structure to exist in accordance with the terms of the Variance.

e) This exception for Nonconforming Structures does not apply to temporary structures, vehicles or equipment as defined in 3.3 and 3.4.

1.18 “Permit” shall refer to Building Location Permits as required by the Bonner County Code and all other applicable laws and regulations of the State of Idaho.

1.19 “Person” shall mean any natural person, corporation, partnership, association, trustee, or other legal entity, but shall not include the State Land Board.

1.20 "Plat" shall refer to the recorded plat for "STATE SUBDIVISION – PINTO POINT" and any amendments thereto. The Plat identifies each Lot and shows its relative location and dimensions.

1.21 "Project Documents" shall mean the Plat, this Declaration, and the Articles, Bylaws, and any properly adopted rules and regulations of the Association, as each shall be amended from time to time.

1.22 "Private Property Owner" or "Private Property Owners" shall mean the record holder or holders of title to a Lot within the Property, but shall not include the State Land Board. The term "Private Property Owner" or "Private Property Owners" shall include any person having a fee simple title to any Lot, but shall exclude Mortgagees and any other persons or entities having any interest merely as security for the performance of any obligation. Further, if a Lot is sold under a recorded contract of sale to a purchaser, the purchaser, rather than the fee owner, shall be considered the Private Property Owner.

1.23 "Property" or "Project" shall mean the land described in Recital A of this Declaration, together with all buildings, improvements and structures thereon owned by the Private Property Owner of the fee interest in the land and the buildings, improvements and structures thereon owned by a Residential Cottage Site Lease Lessee and every easement or right appurtenant thereto.

1.24 "Secondary Structure" shall refer to any structure not directly attached to the Single-Family Dwelling on any Lot. Two (2) Secondary Structures are allowed on a lot: one (1) building of 1250 square feet, or a combination of the two, not to exceed 1450 square feet, as measured by the ground floor building footprint. Uninhabitable utility structures such as a pump house, woodshed or outhouse are excluded. All Secondary Structures shall be constructed in accordance with applicable permitting requirements, federal, state and local laws and regulations, and shall be in compliance with the Bonner County Code.

1.25 "State Land Board" shall mean the State of Idaho, Board of Land Commissioners, acting by and through the Idaho Department of Lands, collectively.

1.26 "Variance" means a modification of the bulk (size, height, shape, floor area ratio or other relationships of a structure to a lot or other structures) and placement requirements of the County Code as to lot or parcel size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space size, height of buildings, or other provisions of the Code and Article 3 of this Declaration.

## ARTICLE 2.

### ASSOCIATION ADMINISTRATION MEMBERSHIP AND VOTING RIGHTS

2.1 Organization of Association. The Association shall be incorporated under the name of PINTO POINT Owner's Association, Inc., as a nonprofit corporation under the Idaho Nonprofit Corporation Act.

2.2 Duties and Powers. The duties and powers of the Association are those set forth in the Articles and Bylaws, together with its general and implied powers as a nonprofit corporation, generally to do any and all things that a nonprofit corporation organized under the

laws of the State of Idaho may lawfully do, including, but not limited to, the performance of, and compliance with, all duties, responsibilities, terms and conditions set forth herein.

2.3 Membership. The Private Property Owner and Residential Cottage Site Lease Lessee shall automatically, upon becoming the Private Property Owner or Residential Cottage Site Lease Lessee, be a Member of the Association, and shall remain a Member thereof until such time as its ownership ceases for any reason, at which time its membership in the Association shall automatically cease. Membership shall be in accordance with the Articles and the Bylaws of the Association.

### ARTICLE 3.

#### CONSTRUCTION STANDARDS AND USE RESTRICTIONS

In addition to all of the covenants contained herein, the use of the Property and each Lot therein is subject to the following:

3.1 Single-Family Dwelling Use. No Lot shall be occupied and used except for single-family residential purposes by the Member and its family, or by a single-family tenant. No more than one (1) Single-Family Dwelling Unit shall be allowed on any Lot. (see also 1.12 and 1.24 above)

3.2 Mobile Homes. Mobile Homes shall not be placed on the Property.

3.3 Temporary Structures. No trailer, tent, shack, camper, storage container or other outbuilding or structure of a temporary nature shall be placed on the any Lot for storage or otherwise for any period of two (2) weeks or longer unless otherwise approved by the Board on such terms and conditions as are allowed by the Board after a written request by a Member.

3.4 Vehicle and Equipment Restrictions. No vehicle, boat or equipment which is in a material state of disrepair shall be permitted to remain on any Lot unless placed within an enclosed garage.

3.5 Manufactured or Modular Homes. Manufactured or modular homes that comply with all the applicable building codes, have a minimum 4:12 roof pitch; meet applicable Bonner County snow load requirements for this area, and are installed on a permanent foundation shall be allowed.

3.6 Rental of Property. A Member shall be entitled to rent a Member's property. A Bonner County Vacation Rental Permit is required for any rental period exceeding two (2) weeks during any month of the calendar year.

3.7 Permits and Construction Standards. Each Member shall comply with all applicable federal, state, and local laws, rules, regulations and ordinances (including Panhandle Health District), and procure, at the Member's sole expense, all licenses and permits required by such laws, rules, regulations and ordinances related to use of the Lots. Construction standards and setbacks shall be in accordance with County Code. Notwithstanding the foregoing, any Nonconforming Structures, uses of land and structures or characteristics of use that were approved by the State Land Board are permitted to continue. Construction standards and setbacks shall be in the accordance with County Code except as otherwise stated in this Declaration including, but not limited to, Section 3.15.

a. Setback Requirements. Structures shall be setback from the ordinary high water mark a minimum of forty feet (40'). The side setback for Primary Dwellings shall be fifteen feet (15') from the side lot lines. The side setback for Secondary Structures shall be 5' from the side lot line, except those Secondary Structures that are located between the Primary Dwelling and the side lot line shall be at least fifteen feet (15') from the side property line. Setbacks are to be measured from outer edge of building eaves and decks. The front setback for Primary Dwellings shall be twenty-five feet (25') from the front lot line (street side). Garage related Secondary Structures front setback shall be as determined by the Bonner County Planning Dept.

b. Building Height. The maximum height of any structure shall be thirty-five feet (35'). Building height shall be measured from the average finished grade to the highest point of the roof, except for skylights, chimneys, wireless masts, and similar structures. The average finished grade shall be determined by first delineating the smallest rectangle which can enclose the building and then averaging the elevations taken at the midpoint of each side of the rectangle.

3.8 Environmental Protection. Lot development and uses shall conform to Title 12 of the Bonner County Land Use Code, Chapter 7 Environmental Standards, as may be amended from time to time, except as otherwise stated in this Declaration including, but not limited to, Section 3.15.

3.9 Fire Hazards. Lots shall be maintained to reduce fire hazards by the elimination of fine fuels and dead material on the Lot to provide a natural but managed appearance.

3.10 Protection of Forest Resources. Other forest resources shall be protected, such as archeological resources, sensitive plant and animal species, water quality and fish habitat.

3.11 Fences. Fences are not allowed.

3.12 Colors, Roofing and Siding. All structures shall be painted with earth tone colors. Examples of earth tone colors include natural weathered wood, varnished, painted or stained siding using dark green, brown, gray or red tones that will blend into the natural surroundings. Natural stone-faced structures, which conform to County Code, are acceptable. Roofs may be metal. Roofs and siding must be non-reflective and painted with earth tone colors. Siding on all new and replacement structures must be metal, cementitious, wood, or masonry.

3.13 Community Services Lot. The Pinto Point Community Services Lot (Lot 1, Block 2) shall be used for the Pinto Point Sewer District community drain field. Additional uses may include a community building available for community purposes as authorized by the Pinto Point Owner's Association, Inc., subject to all federal, state and local requirements. Community uses may include a fire station, a road maintenance yard and office, a sewer district office and parts storage, an apartment for security personnel, and a community meeting area. Development, maintenance and management of Lot 1 Block 2 shall be the responsibility of the Association.

3.14 Quiet Time. Exterior loud outside music, construction and power equipment operation are prohibited from 10:00 p.m. until 7:00 a.m.

3.15 New Construction Building Plan Submission. New construction building plans for leased Lots must include any necessary approval or permit from Panhandle Health District and be approved in writing by the Idaho Department of Lands and a copy shall be provided to the



PPOA, prior to submission to Bonner County Planning Department. New construction building plans for deeded Lots must include any necessary approval or permit from Panhandle Health District and shall be submitted to the PPOA for review and advice regarding compliance with this Declaration, prior to submission to Bonner County Planning Department. A copy of the Bonner County approved Building Location Permit must also be submitted to the PPOA for their records.

3.16 Liability. The PPOA shall not be liable for any plan costs, construction costs or demolition costs of any improvement, including specifically those improvements which may violate or have violated the restrictions of this Declaration.

3.17 New Construction Standards and Use Restrictions. The Board of Directors may propose new architectural standards, rules, regulations, restrictions and design guidelines of this Declaration which, following member approval per Article 6 hereof, Private Property Owners and Lessees of Residential Cottage Site Leases shall be obligated to comply with.

3.18 Variances. The Board recognizes Bonner County, in Title 12, Subchapter 2.3 of the Bonner County Land Use Regulations provides a Variance procedure to request relief from the strict application of Title 12. The Board also believes there should be a Variance procedure for Private Property Owners and Residential Cottage Site Lease Lessees to request relief from the strict application of this Declaration. Both Bonner County and the Board have legal interests and rights to enforce the Land Use Regulations in Title 12, Subchapter 2.3 and this Declaration respectively and both Bonner County and the Board have the right to evaluate requests for a Variance from the strict application of Title 12 and this Declaration.

Both Title 12, Subchapter 2.3 and this Declaration state the procedure a Member must follow to request a Variance and a Member must apply to both Bonner County and the Board to request a Variance. It will be necessary for both Bonner County and the Board to approve the Variance request before the Member can proceed with the Variance requested. A denial of the Variance request by either Bonner County or the Board means the Member shall not be entitled to proceed with the Variance requested.

Although a Member is required to obtain both Bonner County and Board approval for a Variance requested, the Board believes a Member should first apply to the Board for a Variance request. The application for a Variance request at the Board level is less costly and less cumbersome and, since Board approval of a Variance request is necessary for the Member to proceed in accordance with a Variance, the Board believes a Member should first apply to the Board to determine Board approval for the Variance requested before proceeding with the Variance application to Bonner County. In the event the Board denies the Variance request, the Member can avoid having to apply to Bonner County. In the event both Bonner County and the Board approve of the Variance request, the Member shall be entitled to proceed with the Variance requested.

a. This section provides the procedure for Private Property Owners and Lessees to apply to the Board of Directors for a variance. A Variance is a modification of the requirements of a provision of this Declaration.

b. The Private Property Owner or Lessee shall file a Variance Proposal in writing with the Board of Directors. The Board shall review the particular facts and circumstances of the Variance Proposal submitted. To grant a variance the Board must find adequate evidence showing that:

(1) An undue hardship exists because of site characteristics, and that special conditions and circumstances exist which are peculiar to the land, structure or building involved.

(2) A literal interpretation of the provisions of the CCR's would deprive the Private Property Owner or Lessee of rights commonly enjoyed by other properties in the same area.

(3) Granting the variance requested will not confer on the Private Property Owner or Lessee any special privilege that is denied by the CCR's to other lands, structures, or buildings in the same area.

(4) Special conditions and circumstances do not result from the actions of the applicant.

(5) The variance requested is the minimum necessary to alleviate the undue hardship.

(6) The variance is not in conflict with the public interest.

3) Upon receiving a Variance Proposal, the Board shall provide a Notice of the Variance Proposal to all PPOA members by sending notice to the Members email address on file with the PPOA at the time the Variance Proposal is filed with the Board. A hearing on the Variance Proposal shall be set within 30 days of the Variance Proposal and no later than 45 days from the receipt of the Variance Proposal. The location of the hearing shall be determined by the Board and shall be provided to PPOA members in the same manner as the PPOA members are sent notice of the Variance Proposal. PPOA members shall be entitled to appear at the hearing or submit a writing to the Board of Directors to state their support or objection to the Variance Proposal or to request further information to determine whether the PPOA member supports or objects to the Variance Proposal.

4) At the request of the Member applying for a Variance or on the Boards own motion, the hearing will be conducted by video conference and all PPOA Members will be provided an invite and login information to attend the video conference.

5) Following the hearing the Board shall consider the Variance Proposal and vote to approve or deny the Variance Proposal. A simple majority of the Board of Directors vote shall determine whether the Variance Proposal is approved or denied. The Board of Directors may continue the decision-making process to a stated future date and request additional information as part of the decision-making process. The Board of Directors may, also, by simple majority vote, modify the Variance Proposal as the Board deems appropriate in accordance with Paragraph 2 above.

6) All costs associated with a Variance Proposal including the cost of notification to PPOA Members are the responsibility of the Private Property Owner or Lessee requesting the Variance. However, there shall be no fee or other cost to file a Variance Proposal with the Board. In the event the Board determines a cost will be incurred by the Board to process the Variance Proposal, the Private Property Owner or Lessee submitting the Variance Proposal shall be informed and such cost will be the responsibility of the Private Property Owner or Lessee.

It is understood that prior to any hearing on a Variance Proposal, members of the Board of Directors shall declare any conflict of interest a Board Member has that would affect the Board Member's participation in evaluating the Variance Proposal being requested and request to be recused from considering the Variance Proposal. The Board of Directors may recuse a Board Member from participation in evaluating a Variance Proposal if a majority of the Board of Directors determines a Board Member has a conflict of interest and has not requested to be recused.

In the event two or more Board Members declare a conflict of interest in considering a Variance Proposal, the Board shall have the authority to appoint PPOA Members to replace the Board Members that declare a conflict of interest so that there are three persons to consider the Variance Proposal.

#### **ARTICLE 4.**

##### **ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS**

4.1 Creation of the Lien and Personal Obligation of Assessments. Each Private Property Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed and each Cottage Site Lessee, whether or not it shall be so expressed in such lease, is deemed to covenant and agree to pay to the Association Assessments as set forth in the Bylaws. All Assessments, together with interest, costs, penalties, and actual attorneys' fees, shall be a charge and a continuing lien upon the Lot owned by a Private Property Owner against which each Assessment is made, the lien to become effective upon recordation of a Notice of Assessment Lien by the Board as required by law (and limited in duration as provided by law) as to a Lot Private Property Owner, and shall be a charge against the Cottage Site Lease Lessee personally and not against a State-owned Lot. No Private Property Owner or Cottage Site Lease Lessee may exempt himself or herself from liability from his or her contribution toward the Common Expenses by waiver or the use or enjoyment of any of the Common Area (if any) or any other part of the Project, or by the abandonment of his or her Lot.

4.2 Transfer of Lot by Sale or Foreclosure or Termination of a Cottage Site Lease. The sale or transfer of any Lot shall not affect any Assessment lien, or relieve the Lot from any liability therefore, whether the lien pertains to payments becoming due prior or subsequent to such sale or transfer. Notwithstanding the foregoing, the sale or transfer of any Lot pursuant to foreclosure or by deed in lieu of foreclosure of a recorded bona fide first mortgage given in good faith and for value shall extinguish the lien of all such Assessments as to payments which became due prior to such sale or transfer. Sale or transfer pursuant to mortgage foreclosure or by deed in lieu of foreclosure shall not, however, affect the personal liability of the Private Property Owner for unpaid Assessments. Furthermore, any Assessments for which the liens are extinguished pursuant to this Paragraph shall be deemed to be Common Expenses collectible from all of the Lots, including the Lot for which the lien was extinguished. Termination of a Cottage Site Lease shall not affect the personal liability of a Cottage Site Lease Lessee from personal responsibility for an assessment.

In a voluntary conveyance of a Lot, or transfer of a Cottage Site Lease, the grantee of the same shall be jointly and severally liable with the grantor for all unpaid Assessments by the Association against the latter for its share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from

the Board, setting forth the amount of the unpaid Assessments due the Association, and such grantee shall not be liable for, nor shall the Lot conveyed by subject to a lien for, any unpaid Assessments made by the Association against the grantor in excess of the amount set forth in the statement; provided however, the grantee shall be liable for any such Assessment becoming due after the date of such statement.

## ARTICLE 5.

### **RIGHTS OF MORTGAGEES**

In order to induce various lenders and lending agencies to participate in the financing of any Lots within the Property, this Article 5 is included in this Declaration. To the extent the provisions pertaining to the rights of such lenders and lending agencies conflict with any other provisions of this Declaration or any other of the Project Documents this Declaration shall control.

5.1 **No impairment.** The following rights of a Mortgagee shall not be impaired:

- a. To foreclose or take title to a Lot pursuant to the remedies provided in the Mortgage;
- b. To accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor; or
- c. To sell or lease a Lot so acquired by the Mortgagee without interference.

5.2 **Subordination.** Any lien created or claimed in the provisions of this Declaration is expressly made subject and subordinate to the rights of any first Mortgage which encumbers all or any interest in a Lot, made in good faith and for value; and no such lien shall in any way defeat, invalidate, or impair the obligation or priority of such Mortgage unless the Mortgagee expressly subordinates its interests, in writing, to such lien. If any Lot and/or interest therein is encumbered by a first Mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in this Declaration for Assessments, or installments of Assessments, shall not operate to affect or impair the lien of the Mortgage. On foreclosure of the Mortgage, the lien for Assessments or the installments that have accrued up to the time of foreclosure shall be subordinate to the lien of the Mortgage, with the foreclosure-purchaser taking title to the Lot or interest therein free of the lien for Assessments or installments that have accrued up to the time of the foreclosure sale. On taking the title to the Lot and/or interest therein, the foreclosure purchaser shall be obligated to pay only Assessments or other charges levied or assessed by the Association that become due or payable on or after the foreclosure purchaser acquired title to the Lot and/or interest therein. The subsequently levied assessment or other charges may include previously unpaid Assessments, provided all Members, including the foreclosure-purchaser and its successors and assigns, are required to pay their proportionate share of such assessment as provided herein. As used herein, the term "foreclosure" shall include both judicial and nonjudicial (i.e., trustee's sales), and a deed (or assignment) in lieu of foreclosure.

5.3 **Amendment of Declaration.** No amendment to this Declaration shall affect the rights of the holder of any first Mortgage recorded prior to recordation of such amendment who does not join in the execution thereof.

5.4 Mortgagee Protection Clause. No breach of any covenants, conditions and restrictions in this Declaration, nor the enforcement of any of the lien provisions herein, shall defeat or render invalid the rights under any Mortgage on any Lot made in good faith and for value, but all of the covenants, conditions and restrictions shall be binding upon and effective against any Member whose title is derived through foreclosure or otherwise.

## ARTICLE 6.

### DURATION, AMENDMENT AND VOTING

6.1 Duration. This Declaration shall continue in full force for a term of fifty (50) years from the date hereof, after which time the same shall be automatically extended for successive periods of ten (10) years, unless a Declaration of Termination is recorded, meeting the requirements of an amendment to this Declaration as set forth in Paragraph 6.2.

6.2 Amendment. Notice of the subject matter of a proposed amendment to this Declaration in reasonably detailed form shall be included in the Notice of any meeting of the Association at which the proposed amendment is to be considered. A resolution adopting a proposed amendment may be proposed by a Member at a meeting of the Members of the Association. The resolution shall be adopted by the vote, in person or by proxy, or written consent of Members representing at least sixty-seven percent (67%) of the total allocated votes in the Association.

6.3 The Private Property Owner of each residential Lot and the State Cottage Site Lessee for each residential Lot shall be entitled to one vote for each residential Lot in the subdivision. Non-residential Lots within the subdivision shall not be entitled to a vote.

A certificate, signed and sworn to by two (2) officers of the Association, that the record Members of the required number of Lots have either voted for or consented in writing to any amendment adopted as provided above, when recorded, shall be conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for a period of at least five (5) years.

## ARTICLE 7.

### GENERAL PROVISIONS

7.1 Invalidity of Any Provision. Should any provision of this Declaration be declared invalid or in conflict with any law of the jurisdiction where the Project is situated, the validity of all other provisions shall remain unaffected and in full force and effect.

7.2 Conflict of Project Documents. If there is any conflict among or between the Project Documents, priority shall be given to the Project Documents in the following order: the Plat, the Addendum, this Declaration, the Articles, the Bylaws, and the rules and regulations of the Association.


7.3 Inspections. The Board of Directors is empowered to perform periodic inspections of work in progress and/or completed work. Such inspection shall be for the purpose of determining whether the Private Property Owner or Residential Cottage Site Lease Lessee is proceeding, and/or completed the work in accordance with the provisions of this Declaration or is in violation therefrom.

7.4 **Enforcement.** Violations of the Declaration may be reported to any Member of the Board and the Board will attempt to resolve the matter with the Association Member. If an appropriate and immediate resolution is not forthcoming, the Board will serve written notice of the violation to the Association Member. If the matters are not resolved within thirty (30) days of written notice, or being diligently pursued in a reasonable plan approved by the Board, the Board shall be authorized to commence such legal or equitable proceedings as are determined appropriate by the Board, to be necessary or proper to correct or enjoin any activity or condition existing with the property, the continuation of which violates the provisions of this Declaration.

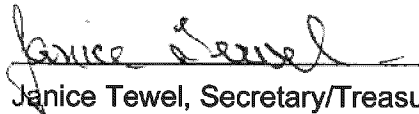
a. The Board shall not commence such legal, equitable proceedings or injunctions until written notice of the deviation or violation has been appropriately prepared and given to the Private Property Owner or to the named Residential Cottage Site Lease Lessee (along with a copy of such notice to the Idaho Department of Lands). The Lessee of a Residential Cottage Site Lease, pursuant to the terms of the Residential Cottage Site Lease, is obligated to comply with the terms and conditions set forth in this Declaration and, upon execution of the Lease automatically becomes a "member" of the HOA defined in the Declaration. The Residential Cottage Site Lease states that any breach of the Declaration shall constitute a breach of the Lease. Thereafter, the Board shall have the sole discretion to commence any such proceedings it deems appropriate thirty (30) days following the service of the notice to the Private Property Owner or Lessee of a Residential Cottage Site Lease Lessee's mailing address. Service shall be deemed valid by the Board of Directors sending notice to the Private Property Owner or Lessee's mailing address and email address on file with the PPOA.

b. In the event the Board shall prevail in any legal or equitable proceeding to correct or enjoin any activity or condition existing with a Lot, the continuation of which violates the provisions of this Declaration, all costs and expenses incurred in connection therewith including, but not limited to, any statutory costs, attorneys' fees or other costs awarded by the Court shall be reimbursed to the Board of Directors. Any award of statutory costs, attorneys' fees or other costs awarded by the Court shall be recorded as a lien on the Lot owned by a Private Property Owner subject to the legal or equitable proceeding. As to any such action against the Lessee of a Lot owned by the State Land Board, failure to comply with any terms of a Residential Cottage Site Lease, such as failure to comply with the Declaration, shall constitute a default and give rise to a basis for termination of the Lease. Any award of statutory costs, attorneys' fees or other costs awarded by the Court shall be reduced to a judgment against the Residential Cottage Site Lease Lessee and may result in a judgment lien against any real property owned by the Lessee in accordance with state law, but shall not be a lien against any such Lot owned by the State Land Board. The Board shall have the sole discretion to commence any legal proceeding as it deems appropriate to pursue collection of any such judgment.

IN WITNESS WHEREOF, the Board of Directors has caused these presents to be executed by the Members of the Board of Directors and said Board acknowledges this Declaration has been done in correspondence with Section 6.2 of this Declaration and approved by the members in accordance with the Section 6.2 of the Declaration.

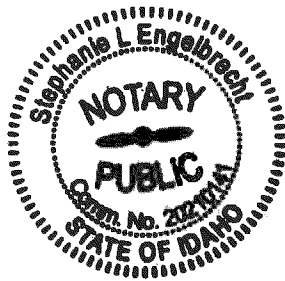


John D. Christenson, President of PPOA



Janice Tewel, Secretary/Treasure of PPOA

SUBSCRIBED AND SWORN to before me this 9<sup>th</sup> day of August 2022.



Notary Public of Idaho

Residing at: Rathdrum, ID

My Commission expires: 1/19/27