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DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS

OF

PHEASANT RIDGE TOWNHOMES

20316590

AN EXPANDABLE TOWNHOME COMMUNITY

THIS DECLARATION (the "Declaration"), made on the date hereinafter set forth, of the certain covenants, conditions and restrictions pertaining to that certain real estate development known as Pheasant Ridge Townhomes, by the undersigned (hereafter the "Declarant") for itself, its successors, grantees and assigns, pursuant to the Idaho Condominium Property Act codified at § 55-1501 et seq. of the Idaho Code (the "Act").

RECITALS:

A. Declarant is the owner of certain real property in Bannock County, Idaho, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Land").

B. Declarant has or will construct certain buildings and improvements on the Land in accordance with the plans and drawings set forth in the Record of Survey Map filed concurrently herewith, prepared and certified by Scott Morrill, of Engineering Specialties, Idaho Registered Land Surveyor.

C. Declarant desires by filing this Declaration and the related plat map to submit the Land and such buildings and other improvements constructed or to be constructed thereon to the provisions of the Act as the Pheasant Ridge Townhomes Planned Unit Development (the "Development").

D. Declarant desires that the individual units contained in the Development, together with the Common Areas and Facilities appurtenant thereto, be subject to the covenants, limitations, and restrictions contained herein.

E. Declarant desires and intends to develop, and has developed, possible subsequent phases to be built on land contiguous with and adjacent to the Land. It is Declarant's intent to subject such additional land and units so developed into this Development by the filing of such amended or supplemental declarations as are necessary to accomplish that purpose.

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DECLARATION:

NOW, THEREFORE, for such purposes, Declarant hereby makes the following Declaration containing covenants, conditions and restrictions relating to the Development which, pursuant to the Act, shall be enforceable equitable servitudes, where reasonable, and shall run with the land:

1. Name of the Development. The name by which the Development shall be known is PHEASANT RIDGE TOWNHOMES.

2. Definitions. The terms used in this Declaration shall have the meaning stated in the Act and as given herein unless the context otherwise requires.

(a) "Act" shall refer to the Idaho Condominium Property Act, codified at Idaho Code § 55-1501 et seq., as the same may be amended from time to time.

(b) "Additional Land" shall mean and refer to any land or an interest therein which may from time to time be added to and subjected to the terms and conditions of this Declaration. Such Additional Land may include all or part of the tracts of land situated in Bannock County, State of Idaho, together with all appurtenances thereto as described on Exhibit "B" attached hereto and incorporated herein by this reference.

The description of the Additional Land is solely for purposes of identification and is not intended and shall not be deemed to constitute any lien, encumbrance, restriction, or limitation upon any real property or interest in real property other than the Land which the Declaration expressly submits to the provisions of the Act, which Land is expressly described in the attached Exhibit "A."

(c) "Association of Unit Owners" or "Association" shall mean and refer to Pheasant Ridge Homeowners Association, Inc., an Idaho non-profit corporation, of which all of the Unit Owners shall be members. The Association shall be governed in accordance with this Declaration and the Association's bylaws (the "Bylaws"), which will be adopted at the organizational meeting of the Association.

(d) "Common Areas and Facilities" shall mean and refer to:

- (1) The Land, other than the land to be deeded for each townhome Unit.
- (2) That portion of the Property not specifically included in the respective Units as herein defined;
- (3) All exterior walkways, driveways, streets, such recreational areas and facilities as may be provided, yards, fences, service and parking areas, open spaces, and entrances and exits, and in general all other apparatus, installations and other parts of the Property necessary or

convenient to the existence, maintenance and safety of the Common Areas and Facilities or normally in common use;

(4) Those areas specifically set forth and designated in the Map as "Common Area" or "Limited Common Area"; and

(5) All Common Areas and Facilities as defined in the Act, whether or not expressly listed herein.

(e) "Common Expenses" shall mean and refer to all expenses of administration, maintenance, repair or replacement of the Common Areas and Facilities, taxes and insurance, and all items, things and sums described in the Act that are lawfully assessed against the Unit Owners in accordance with the provisions of the Act, this Declaration, the Bylaws, such rules and regulations pertaining to the Unit Owners as the Management Committee may from time to time adopt, and such other determinations and agreements lawfully made and/or entered into by the Management Committee.

(f) "Declarant" shall mean Pheasant Ridge Development, Inc., an Idaho corporation.

(g) "Development" shall mean and refer to the entire Property, as defined below, together with all rights, obligations and organizations established by this Declaration. At any point in time the Development shall consist of the subsequent Phases which theretofore have been added to and merged with the first Phase.

(h) "Limited Common Areas" shall mean and include that portion of the Land identified on the Map as limited common space for which a license is granted for the exclusive use of the space by the Owner of the specific Unit identified, subject to right of the Association to make repairs or maintain.

(i) "Management Committee" or "Committee" shall mean and refer to the governing committee provided in this Declaration and the Bylaws. The Committee is charged with and shall have the responsibility and authority to make and enforce all of the reasonable rules and regulations covering the operation and maintenance of the Development.

(j) "Manager" shall mean and refer to the person, persons, or corporation selected by the Management Committee to manage the affairs of the Development.

(k) "Map" shall mean and refer to the plat map of the Development recorded as Entry No. 20225775 in the Office of the Bannock County Recorder, State of Idaho, on November 26, 2002.

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(l) "Ownership Interest" shall mean an interest in each townhome Unit and exclusive rights to use the Limited Common Areas appurtenant to such Unit, and non-exclusive rights to use the Common Areas and Facilities.

(m) "Phase" shall mean and refer to each separate step in development of the Land and Additional Land which is initiated through the submission of a tract to the terms of the Act. The term shall also include all improvements that are constructed and all appurtenances, rights, obligations, and legal relationships that come into existence in conjunction with the submission of any single tract.

(n) "Property" shall mean and include the Land, the Additional Land, all buildings, improvements, and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

(o) "Townhome" shall mean and refer to the ownership of a single unit in this Development consisting of unit foundations, columns, girders, supports, main walls, roofs, garages, stairways, etc.

(p) "Unit" or "Townhome Unit" shall mean and refer to one of the Units designated as a Unit on the Map. Mechanical equipment and appurtenances located within any one Unit or located without said Unit but designated and designed to serve only that Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, furnaces, stoves, fixtures, and the like, shall be considered part of the Unit, as shall all decorated interiors, all surfaces of interior structural walls, floors and ceilings, windows and window frames, doors and door frames, and trim, consisting of wallpaper, paint, flooring, carpeting and tile. All pipes, wires, conduits, or other public utility lines or installations constituting a part of the Unit and serving only the Unit, and any structural members other than bearing walls, and any other property of any kind, including fixtures and appliances within any Unit, which are removable without jeopardizing the soundness, safety or usefulness of the remainder of the building within which the Unit is situated shall be considered part of the Unit.

(q) "Unit Owner" or "Owner" shall mean the person or persons owning a Unit in fee simple as shown in the records of the County Recorder of Bannock County, Idaho. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term Unit Owner or Owner shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such a party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

(r) Those definitions contained in the Act, to the extent they are applicable to and not inconsistent herewith, shall be and are hereby incorporated herein by reference and shall have the same effect as if expressly set forth herein and made a part hereof.

3. Submission to Townhome Ownership. Declarant hereby submits the Land, buildings, and other improvements constructed thereon or hereafter to be constructed, together with all appurtenances thereto, to the provisions of the Act for purposes of facilitating the ownership of individual Townhome Units, and this Declaration is submitted in accordance with the terms and the provisions of the Act and shall be construed in accordance therewith. It is the intention of Declarant that the provisions of the Act shall apply to the Property.

4. Covenants to Run with the Land. This Declaration containing covenants, conditions and restrictions relating to the Development shall be enforceable equitable servitudes which shall run with the land and this Declaration and its servitudes shall be binding upon Declarant, its successors and assigns, and upon all Unit Owners or subsequent Unit Owners, their grantees, mortgagees, successors, heirs, executors, administrators, devisees and assigns.

5. Description of Property.

(a) Description of Land. The Land is that tract or parcel, more particularly described in Exhibit "A" attached hereto.

(b) Description of Improvements. The significant improvements contained or to be contained in the Development include two story buildings containing multiple Units each constructed principally of concrete foundation with exterior walls of vinyl siding and/or stucco, asphalt shingle roofing, interior walls of wood studs, plywood and dry wall plaster or a similar looking material. Each Unit has an assigned garage. The Development also includes landscaping, guest parking, and other facilities located substantially as shown on the Map and will be subject to easements that are reserved through the Development as may be required for utility services.

(c) Description and Legal Status of Units. The Map shows the Unit number of each Unit, its location, those Limited Common Areas which are reserved for its use, and the Common Areas and Facilities to which it has immediate access. All Units, of whatever type, shall be capable of being independently owned, along with the assigned garage. Without limitation, a Unit shall include any finishing material applied or affixed to the interior surfaces of the interior walls and all utility pipes, lines, systems, fixtures, or appliances found within the boundary lines of the Unit and servicing only that Unit.

(d) Garages. Garages belong to the Unit as assigned and shown on the recorded Map.

(e) Common Areas and Facilities. Except as otherwise provided in the Declaration, the Common Areas and Facilities shall consist of those areas and facilities described in § 2(d) and constitute in general all of the parts of the Property except the Units. Without limiting the generality of the foregoing, the Common Areas and Facilities shall include the following:

- (1) The ground and Land not conveyed to each Unit Owner;

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- (2) All common structural parts of the buildings including, without limitation, foundations, columns, joists, beams, supports, supporting walls, floors, ceilings and roofs;
- (3) Driveways, parking areas, lawns, shrubs, and gardens, sidewalks, and recreational areas;
- (4) Any common utility pipe or line or system servicing more than a single Unit, and all ducts, wires, conduits, and other accessories used therewith;
- (5) All other parts of the Property necessary or convenient to its existence, maintenance and safety, or normally in common use, or which have been designated as Common Areas and Facilities on the Map;
- (6) The Limited Common Areas herein described; and
- (7) All repairs and replacements of any of the foregoing.

(f) Description of Limited Common Areas and Facilities. Each Owner of a Unit is hereby granted an irrevocable and exclusive license to use and occupy the Limited Common Areas and garage facilities reserved exclusively for the use of his Unit. The Limited Common Areas appurtenant to any given Unit consist of a patio, entrance walkway, garages, contiguous with the Unit as indicated on the Map. The exclusive right to use and occupy each Limited Common Area shall be appurtenant to and shall pass with the title to the Unit with which it is associated.

6. Statement of Purpose and Restriction on Use.

(a) Purpose. The purpose of the Development is to provide residential housing and parking spaces in accordance with city requirements in effect on January 1, 2002 for Unit Owners and their tenants and guests, all in accordance with the provisions of the Act.

(b) Restrictions on Use. The Units and Common Areas and Facilities shall be used and occupied as follows:

(1) Each of the Units shall be occupied by the Unit Owner, his family, servants, guests or tenants as a private residence and for no other purpose.

(2) No parking area shall be used for parking of trailers, mobile homes, boats, snowmobiles or campers that have been detached from trucks. No repairs to automobiles or trucks or changing oil on any vehicle, trailer or boat may be performed on the Property. Each Unit Owner shall use only parking stalls assigned to or purchased by such Unit Owner. All other parking is to be used as guest only parking. The Association shall have the right (A) to report violating vehicles to the appropriate authorities and ask that the violating vehicles be ticketed, and (B) to tow vehicles that are in violation of this provision, in accordance with applicable local law.

(3) The Common Areas and Facilities shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Unit Owners.

(4) Nothing shall be done or kept in any Unit or in the Common Areas and Facilities that will increase the rate of insurance on the buildings or contents thereof beyond that customarily applicable for residential use, or will result in the cancellation of insurance on the buildings, or the contents thereof, without the ~~prior written consent of the Management Committee~~. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Areas and Facilities that violates any law, ordinance, or regulation of any governmental authority. No Unit Owner or guest shall use or store any hazardous material or substance on the Property.

(5) No Unit Owner shall cause or permit anything (including, without limitation, a sign, awning, canopy, shutter, radio, television antenna, satellite dish, clothes lines, pots, plants, wind chimes or other decorative items) to hang, be displayed or otherwise affixed to or placed on the exterior walls or roof or any part thereof, or on the inside or outside of windows or doors, without the ~~prior written consent of the Management Committee~~. Temporary open house signs may be placed subject to written approval of the Management Committee as to location, duration, size and design. If signs are placed without written approval, the Committee retains the right to remove them. No signs for the sale of a unit may be placed in or upon any vehicle on Common Areas without approval of the Management Committee.

~~(6) Horizontal leveler type window blinds are allowed subject to "For Sale" signs~~ may be placed only on the interior of Unit windows and/or on the Unit garage. Such signs may not exceed the size of ten inches (10") high and twenty inches (20") long. The Management Committee approval of the color shall provide written notice of any violating sign, and, if such sign is not removed immediately, the Committee shall be authorized to assess a fine of ten dollars (\$10.00) per day thereafter.

(6) Two inch (2") white window blinds shall be provided to each Unit owner upon occupancy. No plastic, sun screen, or reflective-type material shall be used on the interior or exterior of the windows. In the event that a Unit owner elects to replace the original white blinds, any replacement blinds (A) must be similar in appearance to the original blinds, (B) must be white in color, and (C) must not materially deviate from the general look of the original blinds in other Units, which determination shall be made by the Committee in its sole discretion.

(7) No noxious, offensive, or illegal activity shall be carried on or permitted in any Unit or in the Common Areas and Facilities, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or public or private nuisance to the other Unit Owners or occupants.

(8) Nothing shall be done in any Unit or in, on, or to the Common Areas and Facilities that will impair the structural integrity of the buildings or any part thereof or that would structurally change the buildings or any part thereof except as is otherwise provided herein.

(9) ~~No animals or pets of any kind are to be raised, bred or kept in any Unit or may be kept within the interior of a Unit so long as they do not disturb other Unit Owners.~~ Small kennels may be placed on the back patio area of a Unit, and may include a temporary retractable fence that is a maximum height of four feet (4'). Any such temporary fence must be approved by the Committee prior to its placement. Unit Owners shall be responsible for ensuring that such outdoor kennels do not produce noxious odors or otherwise disturb neighboring Unit Owners. When pets are outside in the Common Areas and Facilities or Limited Common Areas without the prior written approval of the Management Committee with respect to the specific pet. Unit Owners shall keep any approved pets off the Common Areas and Facilities. If the, they must be supervised by the owner of the pet, who shall immediately clean up after any pet that defecates or otherwise disturbs the grounds. Any owner failing to comply with this requirement shall be fined by the Association in the amount of \$50.00 per occurrence. If any pet becomes a nuisance to other Unit Owners, the pet owner shall receive a written warning from the Committee, and if the problem persists, the pet owner shall remove the pet from the Development upon written notice by the Management Committee or its representative. If the pet owner fails to immediately remove the pet upon receipt of such written notice, then, in addition to such other remedies as are set forth herein (including attorney's fees), the pet owner shall pay a penalty in the amount of \$50.00 per day, payable to the Association.

(10) The Common Areas and Facilities shall be kept free and clear of all rubbish, debris, and other unsightly materials.

(11) No Owner shall violate the ~~rules and regulations regarding use of the Units and of the Common Areas as adopted from time to time by the Management Committee.~~

(12) All owners shall conform to requirements of the City of Chubbuck for zoning.

(13) No Common Area shall be subdivided, sold, or otherwise conveyed without approval of the City of Chubbuck.

7. Person to Receive Service of Process. The person to receive service of process in the cases provided herein or in the Act is Jason A. Lyle, whose address is 535 Gary Street, Pocatello, Idaho 83201. Upon formation of the Association, the President of the Association shall be the person to receive service of process.

8. Ownership and Use.



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(a) Ownership of a Unit. Except with respect to any of the Common Areas and Facilities located within the bounds of a Unit, each Unit Owner shall be entitled to the exclusive ownership and possession of his Unit and exclusive use of assigned garage or garages.

(b) Nature of and Restrictions on Ownership and Use. Each Unit Owner shall have and enjoy the rights and privileges of fee simple ownership of his Unit and garages. There shall be no requirements concerning who may own Units, it being intended that they may and shall be owned as any other property by persons, corporations, partnerships, or trusts and in the form of common tenancy. All Units are to be sold as single family owner occupied units for use by family members. All Unit Owners, their tenants and other occupants or users of the Development, shall be subject to the Act, this Declaration, the Bylaws, and all rules and regulations of the Association of Unit Owners and Management Committee.

(c) Prohibition Against Subdivision of Unit. No Unit Owner, by deed, plat or otherwise, shall subdivide or in any manner cause the ownership of his Unit to be separated into physical tracts or parcels smaller than the whole Unit as shown on the Map and no garage assigned to any Unit shall be conveyed separately from such Unit.

(d) Ownership of Common Areas and Facilities. The Common Areas and Facilities contained in the Development are described and identified in this Declaration and on the Map. Said Common Areas and Facilities shall be owned by the Association. Each Unit Owner will have an interest in the Common Areas and Facilities with all other Unit Owners by virtue of their membership in the Association. The Common Areas and Facilities shall be used only in a manner that is consistent with their community nature and with the use restrictions applicable to the Units contained in the Development.

(e) Use of Common Areas and Facilities. Except with respect to Limited Common Areas, each Unit Owner may use the Common Areas and Facilities in accordance with the purpose for which they are intended, but subject to this Declaration, the Bylaws, and the rules and regulations of the Management Committee. This right of use shall be appurtenant to and run with each Unit.

9. Use of Limited Common Areas and Facilities. A Unit Owner's exclusive right of use and occupancy of the Limited Common Areas and Facilities reserved for his Unit shall be subject to and in accordance with this Declaration and the Bylaws. Any Limited Common Area appurtenant to a Unit may be leased only to persons who reside in the Development or used by the family, tenants, or guests thereof on a temporary basis.

10. Voting-Multiple Ownership. The vote attributable to and exercisable in connection with a Unit shall be one vote for each Unit owned. In the event there is more than one Owner of a particular Unit, the vote relating to such Unit shall be exercised as such Owners may determine among themselves. A vote cast at any meeting by any of such Owners shall be conclusively presumed to be the vote attributable to the Unit concerned unless an objection is immediately made by another Owner of the same Unit. In the event such an objection is made, the vote involved shall

not be counted for any purpose whatsoever other than to determine whether a quorum exists. Declarant shall retain 51 % of all voting rights until all phases are built on the Property.

11. Management.

(a) ~~Management Committee.~~ The business, property and affairs of the Development shall be managed, operated and maintained by the Management Committee of the Association as agent for the Unit Owners. The Management Committee shall have, and is hereby granted, the following ~~authority and powers:~~

(1) The authority, without the vote or consent of the Unit Owners or of any other person(s), to grant or create, on such terms as it deems advisable, utility and similar easements, over, under, across and through the Common Areas and Facilities, provided that work performed pursuant to such easements must be done in a workmanlike manner and any damage to the interior structure or decor of a Unit must be repaired;

(2) The authority to execute and record, on behalf of all Unit Owners, any amendment to the Declaration or Map which has been approved by the vote or consent necessary to authorize such amendment;

(3) The authority to enter into contracts that in any way concern the Development, so long as any vote or consent of the Unit Owners necessitated by the subject matter of the agreement has been obtained;

(4) The power and authority to convey or transfer any interest in real property, so long as any vote or consent necessary under the circumstances has been obtained;

(5) The power and authority to purchase, otherwise acquire, and accept title to, any interest in real property, so long as such action has been authorized by any vote or consent necessary under the circumstances;

(6) The power and authority to add any interest in real property obtained pursuant to subsection (5) next above, to the Development, so long as such action has been authorized by the necessary vote or consent;

(7) The power to sue and be sued;

(8) The authority to license otherwise unauthorized persons to use the recreational areas and facilities from time to time as the Committee deems appropriate upon payment of fees prescribed by it to help defray the cost of maintenance thereof and in conformance with the conditions imposed by the City of Chubbuck or Declarant and in conformance with city ordinances and regulations;

*easements*