

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE STARWEATHER SUBDIVISION

This AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE STARWEATHER SUBDIVISION (the “Declaration”) is effective upon recording in the real property records of Blaine County, Idaho, and is a covenant and equitable servitude running with and binding in perpetuity all the real property in the Starweather Plat 1 legally described in Blaine County Instrument Nos. 223014 and amended in 257442 (collectively the “Plat”) (All the real property described in the Plat is the “Starweather Subdivision”, referred to as “Starweather” in this Declaration). This Declaration binds Starweather, the Lots and Members and Owners and owner of any interest in a Lot or Starweather. All capitalized terms are defined above or below.

RECITALS

A. This Declaration completely revokes and replaces the following (all six-digit instrument numbers refer to the numbers assigned to those documents by the Blaine County, Idaho Recorder):

- i. THE MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AS TO THE USE OF THE REAL PROPERTY EMBRACED WITHIN THE STARWEATHER SUBDIVISION LOCATED IN BLAINE COUNTY, IDAHO, recorded on January 18, 1982, as Instrument No. 223013;
- ii. AMENDMENT TO MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AS TO THE USE OF THE REAL PROPERTY EMBRACED WITHIN THE STARWEATHER SUBDIVISION LOCATED IN BLAINE COUNTY, IDAHO, recorded on October 4, 1988, as Instrument No. 298831;
- iii. SECOND AMENDMENT TO MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AS TO THE USE OF THE REAL PROPERTY EMBRACED WITHIN THE STARWEATHER SUBDIVISION LOCATED IN BLAINE COUNTY, IDAHO, recorded on October 4, 1988, as Instrument No. 298832;
- iv. THIRD AMENDMENT TO MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AS TO THE USE OF THE REAL PROPERTY EMBRACED WITHIN THE STARWEATHER SUBDIVISION LOCATED IN BLAINE COUNTY, IDAHO, recorded on September 21, 1989, as Instrument No. 310338;
- v. THIRD AMENDMENT TO MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AS TO THE USE OF THE REAL PROPERTY EMBRACED WITHIN THE STARWEATHER SUBDIVISION LOCATED IN BLAINE COUNTY, IDAHO, recorded on August 6, 1996, as Instrument No. 393007 (Note: there were two third amendments recorded; Instrument Nos. 310338 and 393007 are separate amendments);

- vi. FOURTH AMENDMENT TO MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AS TO THE USE OF THE REAL PROPERTY EMBRACED WITHIN THE STARWEATHER SUBDIVISION LOCATED IN BLAINE COUNTY, IDAHO, recorded on June 10, 1999, as Instrument No. 428273;
- vii. FIFTH AMENDMENT AND COMPLETE RESTATEMENT OF THE MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AS TO THE USE OF THE REAL PROPERTY EMBRACED WITHIN THE STARWEATHER SUBDIVISION LOCATED IN BLAINE COUNTY, IDAHO, recorded on August 30, 2005, as Instrument No. 525302;
- viii. FIFTH AMENDMENT AND COMPLETE RESTATEMENT OF THE MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AS TO THE USE OF THE REAL PROPERTY EMBRACED WITHIN THE STARWEATHER SUBDIVISION LOCATED IN BLAINE COUNTY, IDAHO, recorded on September 15, 2005, as Instrument No. 525982 ("Fifth Amendment") (Note: there were two fifth amendments recorded – Instrument No. 525982 made corrections to Instrument No. 525302);
- ix. AMENDED AND RESTATED STARWEATHER ARCHITECTURAL REVIEW COMMITTEE RULES ADOPTED EFFECTIVE MAY 23, 2006, recorded on May 23, 2006, as Instrument No. 535657;
- x. AMENDED AND RESTATED STARWEATHER ARCHITECTURAL REVIEW COMMITTEE RULES ADOPTED EFFECTIVE MAY 23, 2006, recorded on January 3, 2007, as Instrument No. 543431; and
- xi. PARTIAL AMENDMENT TO THE FIFTH AMENDMENT AND COMPLETE RESTATEMENT OF THE MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE STARWEATHER SUBDIVISION, recorded on June 28, 2021, as Instrument No. 683981.

B. By recording this Declaration, the following are also revoked upon the recording of new ARC Guidelines:

- i. AMENDED AND RESTATED STARWEATHER ARCHITECTURAL REVIEW COMMITTEE RULES ADOPTED EFFECTIVE MAY 23, 2006, recorded on May 23, 2006, as Instrument No. 535657; and
- ii. AMENDED AND RESTATED STARWEATHER ARCHITECTURAL REVIEW COMMITTEE RULES ADOPTED EFFECTIVE MAY 23, 2006, recorded on January 3, 2007, as Instrument No. 543431 (Note: there were two committee rules recorded and Instrument Nos. 535657 and 543431 are identical).

ARTICLE I DEFINITIONS

The following terms and words shall have the meanings specified below, including any variation of the word. If a word is capitalized in this Declaration that is not defined in this Declaration, the definition in other Governing Documents controls, such as, the ARC Guidelines.

1. “Agent” means the Association’s third-party, independent contractor or employee or any other individuals or entity the Board appoints to facilitate, administer, or manage the Association or the Common Area.
2. “Alteration” means a change of any kind to a Lot, as this term is more fully defined in the ARC Guidelines.
3. “ARC” means the Architectural Review Committee as outlined in this Declaration.
4. “ARC Guidelines” means the ARC Guidelines, processes, and restrictions, adopted by the Board under this Declaration.
5. “ARC Member” means a member of the ARC.
6. “Articles” means the Articles of Incorporation for the Association, as filed with the Idaho Secretary of State.
7. “Association” means the Starweather Owners’ Association, Inc., an Idaho nonprofit corporation, and the management body of Starweather under this Declaration.
8. “Association Lot(s)” means those lot(s) that are designated as lots on the Plat and are
9. “Bylaws” means the Association’s bylaws.
10. “Board” means the Board of Directors of the Association as elected and outlined in the Governing Documents.
11. “Building Envelope” means the area designated on the Plat in each Lot in which an Improvement that excludes landscaping, but includes all Buildings, is permitted under the Declaration and the ARC Guidelines.
12. “Common Area” means any and all property in Starweather owned or managed by the Association, including without limitation the Common Lots, Canvas Back Lane, Mallard Drive, Starweather Drive, Teal Drive, the Water System and all property affixed or appurtenant to it and real property within Starweather, excluding the Lots.
13. “Common Expenses” means all expenses incurred, including reserve or operating reserve dues anticipated for future expenses, for the upkeep, maintenance, repair, replacement, management and operation of the Common Area, including any reserve for maintenance and

repairs, reinstatement, rebuilding and replacement of any and all infrastructure in on or through the roads, Common Lots and Water System; all charges for real property taxes, if any, on or relating to the Common Lots and Water System (except Real Property and other taxes assessed separately on the Lots or on the personal property or any other interest of an Member or Owner); the cost of insurance procured and maintained by the Association; any deficit remaining for a previous period; and any other expenses and liabilities incurred by the Association for the benefit of the Lots and all Members under or by reason of the Declaration.

14. “Common Lot” means those lots designated/named “COMMON LOT” on the Plat, which are Common Area.

15. “Director” means a member of the Board.

16. “Governing Documents” are (1) this Declaration; (2) the Articles of Incorporation filed with the Idaho Secretary of State; (3) the Bylaws; (4) ARC Guidelines, and (5) Rules, if any; and (6) any valid amendments to any of the above. Governing Documents and amendments to Governing Documents are not intended to be attached to this Declaration.

17. “Law” means all applicable law of the United States, State of Idaho and Blaine County and any political subdivision, including without limitation reported or unreported court cases. A reference to a specific law includes all amendments or replacements to that law. The Law specifically mentioned in this Declaration includes the Idaho Nonprofit Corporation Act (abbreviated as the “Act” and the Idaho Homeowners Association Act (abbreviated as the “Association Act”).

18. “Lot” means those individual lots within Starweather that are owned by individual Members, but not the Common Lots.

19. “Maintain” means, without limitation, to construct, install, enforce, improve, modify, operate, repair, replace, remove, or rebuild.

20. “Member” or “Membership” means one ownership interest in one Lot. A Lot has one Member or Membership appurtenant, even though a Lot may have multiple Owners. Each Member has one vote, regardless of the number of Owners per Lot. There are 54 (fifty-four) Lots. As a result, there are 54 Members, even though there may be, and probably are, more than 54 Owners. The term Member also includes all present Owners and their successors in interest. In addition, all invitees of a Member are subject to the Governing Documents, just like a Member, but the Member will be subject to enforcement for the violation of the Member’s invitees.

21. “Mortgage” means any security type interest in a Lot, such as, a mortgage or deed of trust encumbering a Lot or other portion of Starweather. “Mortgagee” shall be the lender and include the beneficiary under a deed of trust for any Lot.

22. “Notice and Hearing” means a hearing before the Board noticed to the affected Member, by email and US Mail, at least thirty (30) days prior to the hearing, at which the affected Member

shall have an opportunity to be heard in person, or by phone or video conference. Notice is provided the day it is deposited in the US Mail or the email sent, as long as the Member replies to the email.

23. “Owner” means one or more individuals or legal entities collectively and currently holding fee simple title interest in a Lot that is named in a deed recorded against a Lot. The term does not include an Owner’s child or spouse or significant other not named as a grantee in a deed recorded against a Lot or an individual or entity having an interest as security for the performance of an obligation, such as a beneficiary under or of a deed of trust recorded against a Lot or an easement holder or licensee of any kind.

24. “Rules” means rules and regulations governing the use and enjoyment of the Starweather Subdivision as adopted by the Association and further defined in this Declaration.

25. “Starweather” means the subdivision, which any and all real property within the outer boundaries of the subdivision on the Plat and any and all appurtenances and fixtures in, on and to the real property in Starweather, including without limitation, the Lots, Common Lots, and all rights of way on the Plat.

26. “Utilities” means all utilities present on the Common Area to the point at which the Utilities meet the boundaries of individual Lots and includes, without limitation, water and sewer pipes and lines; electrical, phone, cable, fiber optic any line that carries internet, conduit and any future type of line.

27. “Water System” means any part of the personal property used and a fixture in Starweather Subdivision to deliver water for domestic use to the Lots. The Common Area portion of the Water System ends at an underground valve that controls the flow of water to a Lot, regardless of whether on a Common Lot or a Lot, and, if no such valve exists, where the Water System crosses the Lot boundary.

ARTICLE II THE ASSOCIATION

1. Purpose. The Association is a nonprofit corporation formed under the laws of Idaho, specifically, as it may be amended, to which all Members belong. The purpose of the Association is to manage the Association, Starweather and the Common Area under the Governing Documents.

2. Formation. The Association was formed with the Idaho Secretary of State on September 26, 1988.

3. Governing Documents. The Association is governed by the Governing Documents, all of which arise out of the Declaration. Excepting this Declaration and any amendments, no other Governing Documents is required to be recorded in the real property records of Blaine County. It is each Member’s responsibility to request from the Association and become familiar with the Governing Documents, which are binding on all Owners.

4. Board, Association, and Delegation. Unless otherwise restricted or granted to the Members, the Board governs the Association and has the authority and duty to act on the Association's behalf to execute any of the obligations or rights in the Governing Documents. The Board may contract with any third party, independent contractor, or agent to perform all the Association's obligations and/or the Board's non-delegable duties. Any reference to the Association in this Declaration may include the Board, an independent contractor, agent, or employee acting on the Association's behalf.
5. Committees. The Association shall have the right to appoint committees to assist with any Association duty. Except for the ARC, (i) committees shall have no authority to bind the Association and (ii) committee members shall not be compensated.
6. Remedies. The Association may use all remedies to enforce the Governing Documents including without limitation, legal proceedings, fines, if any, in the Rules, and suspension of the use of the Common Lots. No remedy referred to in this Declaration is exclusive, but each shall be cumulative and in addition to any other remedy referred to in this Declaration or otherwise available under Law.
7. Members and Owners. All Owners shall share the privileges of the Members, subject to the Governing Documents. All co-Owners of a Lot shall be jointly and severally obligated to perform the responsibilities of the Governing Documents. The actions of the guests or invitees of any Owner or Member are the liability of that Owner or Member.
8. Voting. In all matters in which Members are entitled to vote, there shall be one vote per Lot or Member. Voting procedures are further defined in the Bylaws.
9. No Personal Liability. No Association Director, officer, duly-appointed volunteer, or committee member (including ARC members) of the Association (collectively, in this section only, "volunteer"), when that volunteer is acting on behalf of the Association, shall be personally liable to any Member, Owner, or third party for any claim of damage, loss or prejudice suffered or claimed by, or to, persons or property on account of any negligent act or omission of the volunteer provided that such volunteer acted (i) without compensation or personal benefit; (ii) in good faith; (iii) without willful or intentional misconduct or fraud; (iv) without engaging in criminal acts or activity; and/or (iv) was not using or operating a motor vehicle during the occurrence which caused the claim, loss, or prejudice and the Association shall defend and indemnify each Director, officer, and committee member. ARC committee members shall be defended and indemnified even if such committee members are compensated.

ARTICLE III DUTIES AND POWERS OF THE ASSOCIATION

In addition to all other powers and duties delegated or granted elsewhere in the Governing Documents and by Law, the Association shall have the following duties and powers with respect to Starweather.

1. Common Area. To govern, maintain, own, repair, improve, replace and grant easements over the Common Area for the benefit of the Members. The Association shall keep the Common Area in good, clean, and sanitary conditions and free of hazards. All roads that are part of the Common Area shall be kept free of snow, in accordance with generally accepted snow-removal standards in the Wood River Valley. The Common Area is currently owned by the Association for the benefit of each individual Member. However, the Association only has authority to convey any interest in the Common Area to a political subdivision of the United States or Idaho, if at least (2/3) of the Members have provided advance, written approval by a ballot vote. The Association shall not convey any interest in the Common Area to an individual or private entity, even if a public charity.
2. Taxes. To pay all real property taxes and assessments, if any, levied upon any Common Area.
3. Assessments. To levy and collect assessments from the Members as outlined below.
4. Financial Statements and Tax Returns. To prepare an annual financial statement, including an income statement and balance sheet, and to file annual tax returns with the Internal Revenue Service and State of Idaho Department of Revenue. Financial statements shall be prepared using the accrual method of accounting.
5. Records. To retain current copies of the Governing Documents, the financial statements and tax returns referenced immediately above, resolutions of the board, Member records, written communication to Members, and board and Member meeting minutes. Excepting board and Member meeting minutes, annual financial reports, tax returns, and resolutions of the board, records older than ten (10) years must not be retained. Records must be kept, and distributed to the Members, in accordance with the Governing Documents and the Act.
6. Independent Contractors and Suppliers. To contract with third-parties, including without limitation, an Agent, accountants, attorneys, surveyors, electricians, excavators, architects, landscaping, and snow removal vendors for Starweather and to maintain the Common Area under the Governing Documents.
7. Insurance. To obtain and maintain insurance as set out in this Declaration.
8. Rules. The Board has the authority to make, amend and rescind Rules, all of which must be ratified by a majority of Members prior to becoming effective or enforced, as set out below. As part of the Board's Rule making authority, only the Board has authority to establish and levy fines for the violation of the Governing Documents, including the Rules. The procedure for fining can also be set out in the Rules, but it must comply with law. Any fines shall be a specific assessment against a Lot, Member or Owner in violation of the Rules. The Rules may be in addition to and different from the Governing Documents, but not contradict the Governing Documents. As a prerequisite to the effectiveness of a Rule, the Board must give Members notice of the proposed Rules at least thirty (30) days prior to the Board or Member meeting at which the Rules are to be approved. Members may recommend Rules to the Board. However,

Members can make Rules, if approved by a simple majority of the Board and Members at a Member meeting or ballot complying with the Act. Any Rules become effective upon the requisite approval, but notice must be provided to Members as a prerequisite to enforcement. Rules approved by Members, unless illegal, can only be amended or rescinded by a simple majority of the Members. The Board does not have any authority to amend or rescind Member made Rules, without a majority of Members' approval. Members are deemed to have constructive notice of the Rules, just like this Declaration, and therefore, it is each Member's responsibility to obtain the Rules from the Board and any updates.

9. Enforcement. The Association is authorized, but not obligated to take any legal action to enforce the Governing Documents. This includes, without limitation, filing a complaint or other appropriate court action or document, fining and perform such other acts, whether or not expressly authorized by the Governing Documents, as may be reasonably necessary to enforce any of the provisions of the Governing Documents. The Association shall be entitled to specifically assess a Lot, Member or Owner for its costs of enforcement of the Governing Documents. "Costs of Enforcement" include all costs incurred enforcing the Governing Documents by the Board or an Owner, including without limitation, all attorney fees and court costs, including on appeal and in bankruptcy court. The Board or an Owner is only entitled to a judgment for its costs of enforcement, if the Board or Owner prevails in a court action against a Lot, Member or another Owner.

ARTICLE IV GENERAL RESTRICTIONS

Other than set out in this Declaration and the ARC Rules, restrictions on the use of Lots or Common Lots in the Starweather Subdivision are part of the Rules portion of the Governing Documents.

ARTICLE V MAINTENANCE RESPONSIBILITIES

1. Alterations. No Alterations of any kind may take place on a Lot without the written approval of the ARC, as further defined and outlined in the ARC Guidelines.
2. General Purpose. The ARC shall be responsible for the review and decisions on all proposed Alterations under the ARC Guidelines.
3. ARC Guidelines. The ARC Guidelines, which includes any and all amendments and restatements, are adopted by the Board at a Board meeting held under the Bylaws and the law. For all new Alterations, even to Improvements, as that term is defined in the ARC Guidelines, the ARC Guidelines apply. In addition, the process for such alterations is contained in and set by the ARC Guidelines, including appeals.
4. ARC Members. There shall be a total of five (5) ARC Members as set out in the ARC Guidelines.

5. Alteration Restrictions. In addition to other restrictions in this Declaration, the following restrictions apply to all Alterations and may not be amended by the Board or ARC, unless otherwise indicated below.

a. Compliance with Law. All Alterations must comply with applicable law.

b. Subdividing and Combining Lots. Lots shall not be further subdivided. Technically, adjustment of a lot line or lot line shifts between adjacent Lots is a subdivision under the Law. Lot line shifts approved in advance by the ARC and Blaine County are allowed only to correct encroachments or setback violations under the Law. However, no portion of a Lot may be sold separately from the rest of that Lot otherwise. Lots may be combined conditioned on prior ARC and Blaine County approval. The number of Lots combined will have a Membership and a vote for each Lot, which also means that each former Lot shall still be subject to all assessments imposed on all Lots.

c. Native Landscaping/Landscaping Removal. Prior to an Alteration involving the building of a residence, an Owner or Owner's third-party contractor or anyone else shall not alter, change, disturb or remove the landscaping that has grown on the Lot (i.e., native landscaping). Prior to or after a residence is built on a Lot, only if an Owner has a writing from and signed by a certified arborist that identifies a particular tree or shrub with the arborist's marking on the tree or shrub that is clearly identified by the arborist in the writing is in danger of falling and causing damage to individuals, real or personal property, the Board shall grant authority for the Owner to remove only that tree or trees the arborist identified with the arborist's marking and no others.

d. Number of Buildings. A maximum number of three (3) buildings are permissible on each Lot as follows: the primary residence including an attached garage; a detached garage if not attached to a residence; and one outbuilding. All buildings must be located within the platted building envelope, unless otherwise approved by the ARC. No outbuilding construction or detached garage construction may commence until after the primary residence is constructed, unless approved by the ARC. No Lot can be improved with a garage, outbuilding or accessory dwelling unit prior to the Improvement of a primary residence.

e. Accessory Dwelling Units. One accessory dwelling unit, as that term is defined by Blaine County Code, is permitted as a building or within any of the buildings. No accessory dwelling unit may be inhabited by anyone longer than a total of 60 (sixty) days other than an Owner or an Owner's employee or independent contractor. All accessory dwelling units must have a minimum of 500 (five hundred) square feet, excluding the area of any basement.

f. Garages. Every Lot upon which there is a residence must have an enclosed garage, which must be available at all times to park a minimum of two (2) vehicles. The enclosed garage may be a stand-alone building or attached to and part of another building.

g. Minimum Residence Size. Except for an accessory dwelling unit, a residence shall have a minimum of one-thousand five hundred (1,500) square feet, not counting the square footage of garages or a basement, of enclosed inhabitable and heated area. If the principal

residence is more than one story, it shall have a minimum enclosed habitable and heated area of seven hundred fifty (750) square feet on the ground floor, excluding the square footage of garages.

h. Height. No building or structure, or any portion thereof, shall exceed 35 (thirty-five) feet in height above “existing grade”, as that term is defined in the ARC Guidelines.

i. Fences. No fence shall exceed six (6) feet in vertical height from existing grade.

j. Utilities. Within and upon each Lot, there may occur encroachments for water lines, septic systems and utilities serving other Lots. Because such encroachments are in collective interest of the Lots, Starweather and Owners, in general, each Lot and Owner irrevocably grants a nonexclusive easement for their current existence, maintenance and use and future existence, installation, maintenance and use subject to nuisance, creating minimal disturbance and the ability of an Owner to move such an easement to the Association and all Owners, even if not in the Plat.

ARTICLE VI INSURANCE

The Association shall, at all times, maintain insurance provided by insurance companies authorized to write policies of insurance in Idaho. The provisions of this section shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage, in addition to any insurance coverage required, in such amounts and in such forms as the Board deems appropriate.

1. Casualty. The Association shall purchase and maintain property insurance on any improvements that are part of the Common Area, including without limitation, the pump house and any fixtures to real property, such as the Water System that is part of the Common Area, in amounts the Board estimates at replacement cost. Such insurance shall include fire and extended coverage, vandalism, and malicious mischief, if available, and such other risks and hazards against which the Board shall deem it appropriate to provide insurance protection against in the exercise of good business judgment. The Board may comply with the above requirements by the purchase of blanket coverage and may elect such “deductible” provisions as in the Board’s opinion are consistent with good business judgment.

2. Public Liability and Property Damage. The Association shall purchase and maintain broad form comprehensive liability coverage in such amounts and such forms as the Board deems advisable to provide adequate protection. Coverage may include, without limitation, liability for personal injuries, operation of automobiles on the Association’s behalf, and activities in connection with the ownership, operation, maintenance, and use of the Common Area.

3. Directors and Officers. The Association shall purchase and maintain directors and officer’s insurance which cover the errors, acts, or omissions of the Board.

4. Form. Casualty insurance shall be carried in a form or forms naming the Association as the insured and as trustee for the Owners and shall protect each Owner against liability for acts of the Association in connection with the ownership and maintenance of the Common Lots.
5. Proceeds. The Association shall receive the proceeds of any insurance under policies it obtains and maintains under this article. The Association body shall apportion the proceeds to the portions of Common Areas, Lots or Owners damaged.
6. Personal Property and Loss-of-Use Not Insured. The Association shall have no duty to insure for Owners' property or be liable for the loss-of-use of any Lot.
7. No Obligation for Flood Insurance. The Association shall not be obligated to purchase flood insurance and each Member is responsible for any damage to the Members or Lots resulting from flooding.
8. Member's Insurance. The Association shall not purchase insurance for any Member for the acts, omissions, or casualty on each Lot and each Member forever releases, holds the Association harmless and indemnifies the Association against all casualty on the Member's Lot, including without limitation, casualty from fire and flooding.

ARTICLE VII THE WATER SYSTEM

1. Ownership. The Association controls, maintains, manages and owns the Water System.
2. Compliance. The Association shall, at all times, be in compliance, or work diligently and in good faith to be in compliance, with the Idaho Department of Environmental Quality ("DEQ"), the Idaho Department of Water Resources ("IDWR"), and other government agencies or water districts, with jurisdiction over, without limitation, the potability/safety of water, fire flow requirements, quantity of water used, and total acres irrigated. The Association is the owner of record of several water rights, as filed with the IDWR and is the Owner/Purveyor of Water/Supplier of water to the Lots and Common Lots, as defined in the Idaho Administrative Procedures Act (IDAPA) 58.01.08. The Association has the authority to control and minimize water use on/to Lots in accordance with requirements of the DEQ, IDWR, and other government agencies with jurisdiction over Starweather.
3. Cross-Connection Control Policy. The Association shall, at all times, keep in place and execute a cross-connection control policy in compliance with IDAPA 58.01.08.
4. Water Costs. Excepting the cost of electricity to supply water to each Lot and the portion of the Water System that is not Common Area, all costs associated with the Water System is an Association expense, which is an expense shared by all Members. The cost of electricity to supply water to the Association is divided among all Members, regardless of whether a Lot is connected to the Water System; the cost incurred by the Association to service any portion of the Water System that is not part of the Common Area, which is necessary for that portion of the

Water System that is part of the Common Area is a specific assessment to the Lot and Member on which the work took place (or for the Lot serviced by the Water System).

5. Individual Meters. The Association may install individual water meters on each individual water line servicing a Lot, whether the meter is on the Lot or Common Area. If installed, the Association may bill Members on a per-gallon basis, instead of the cost of electricity as outlined above, or both, the cost of which will be set by the Board, in its sole discretion. The total per-gallon charge to all affected Members in any given year may not exceed the operating costs of the Water System which are only those goods and services which are used or consumed for/by the Water System within a calendar year, plus a reasonable amount of capital reserve for repair or replacement of the Water System.

6. Grant of Easement. Each Member grants the Association an easement over that Member's Lot to maintain the Water System, including without limitation, an easement to inspect, repair and replace cross-connection valves and, if applicable, an easement to install a water meter on a Lot.

ARTICLE VIII ASSESSMENTS

1. Authority. The Association has the authority to assess each Member and shall collect from each Member amounts sufficient to pay any and all present and future Association liabilities, including without limitation, for operating expenses and capital reserves to repair and replace Common Area infrastructure.

2. Type of Assessments: There shall be three (3) types of assessments:

a. Regular Assessments. Regular assessments are for anticipated annual operating expenses and anticipated capital expenses (or funding for anticipated capital expenses in the future). On an annual basis the Board shall approve an operating budget and capital budget, including funding for anticipated capital expense beyond the current year, and base the Regular assessments on the budgets.

b. Special Assessments. Special assessments are those levied by the Board and may, without limitation, be levied to cover previous years' operating or capital losses and/or operational or capital expenditures. All special assessments that exceed 20 % (twenty percent) of the total of the operating and capital budget for the year in which the special assessment is levied shall require a majority of the Members' approval.

c. Specific Assessments. Specific assessments are costs levied by the Association against an individual Lot, including without limitation, fines for violation of the Rules and for water fees, as outlined in this Declaration, and for other matters as contemplated in this Declaration, including arising out of or related to the ARC Guidelines.

3. Proportion of Assessments. Excepting specific assessments, all assessments will be divided by the number of Lots on the Plat (regardless of whether Lots have been previously

combined, such that the Lots will still be assessed as if they existed prior to combining them) and each Member is responsible for that Member's Lot's share for the assessment. As a result, if a Lot line has previously been or is vacated, the new Lot is subject to the same amount of assessments that would have been assessed to the Lots prior to the Lot line being vacated.

4. Invoices. The Association shall send invoices to all Members on a quarterly basis by (i) regular US Mail; or (ii) email or other electronic means. However, if the Association chooses to use electronic invoicing, any Member may still opt to receive bills by the U.S. Mail, or both, upon request to the Association. Invoices are due by the end of the first calendar month of each calendar quarter.

5. Unpaid Assessments. Any Member's assessment remaining unpaid by the end of the first calendar month of the calendar quarter, shall begin to accrue interest on the outstanding principal balance from the first day of the calendar quarter at the interest rate specified by the Board or if the Board does not specify an interest rate, then the interest rate for money past due in Idaho Code section 28-22-104, which is currently twelve percent (12%) per annum, until the Association receives the assessment and any all outstanding interest and other charges in full. The Association shall first credit all amounts a Member pays to charges the Association incurs to collect the assessment, then to accrued interest, then to the principal amount of the then oldest unpaid assessment. Any assessment remaining unpaid for the first two calendar months of a calendar quarter, including accrued and accruing interest and charges the Association incurs to collect the assessment, shall automatically become a lien upon that Member's Lot. At any time after the unpaid assessment becomes a lien upon a Member's Lot, the Association may, at the Association's sole discretion and at the Member's sole expense by specific assessment on that Member, limit, block or prevent a Member's access to and/or use of the Common Area, and/or record a notice of assessment lien against that Lot stating the amount of the unpaid assessment or assessments, the accrued interest, and charges the Association has incurred to collect the assessment through the date of recording the notice. A member of the Board shall sign the notice, have the signature acknowledged by a notary public and record the notice in the real property records of Blaine County, Idaho. The lien continues until the Member has paid in full any and all assessments, accrued interest and charges the Association has incurred to collect the assessment. Under the express terms of this Declaration, Owner expressly agrees by purchasing a Lot that unpaid assessments on any Lot, whether or not recorded as a lien, shall be a binding obligation upon the Lot and also the individual Owner and any type of successor in interest, jointly and severally with the former Owner of that Lot. The Association shall enforce such obligations against successors in interest as set forth in this Declaration. When a Member has paid a lien, assessment or any new assessments, accrued interest and the charges the Association has incurred to collect the assessment in full, the Association shall sign, have acknowledged and record a notice in the real property records of Blaine County, Idaho that the Member has paid the lien in full. The Association may foreclose a lien that remains unpaid by the end of the calendar quarter in which it is recorded, as required by law.

6. Joint and Several Liability. A successor in interest to a Member, regardless of how that Member obtained title to a Lot is jointly and severally liable with the previous Member owning the Lot for all unpaid assessments, including interest and other costs authorized by, arising out of or related to this Declaration, including the ARC Guidelines.

7. Right of Enforcement. The Association or an Owner, individually, shall have the right to enforce any or all of the provisions of this Declaration upon a Lot or Owner. The failure of the Association to enforce any of the provisions of this Declaration at any time shall not constitute a waiver by the Association of the right of the Association or any Member to enforce any such provision or any other provisions of this Declaration.

ARTICLE IX GENERAL

1. Non-waiver. The failure of the Association, Board, ARC, or any other committee to enforce any provision(s) of the Governing Documents does not provide a waiver of any subsequent breach or default in the performance of any provisions of the Governing Documents and a decision does not set a precedent in a similar situation.

2. Attorney Fees and Costs. The prevailing party in any litigation to enforce any provision or part of the Governing Documents is entitled to a judgment from the non-prevailing party of all costs and attorney's fees, including without limitation attorney fees incurred on appeal or in bankruptcy court. However, this does not apply to Members filing suit against other Members or Members filing suit against the Association for declining to enforce the provisions contained in the Governing Documents.

3. No Partnership. The Governing Documents do not, and are not intended to create a joint venture or partnership between the Members and/or between the Members and the Association.

4. No Third-Party Rights. The Governing Documents do not create any third-party beneficiary rights and do not and are not intended to create any rights in those that are not Members of the Association or Owners.

5. Captions and Headings. The captions and headings in this Declaration are for reference and convenience only and do not limit the scope or intent of any portion of this Declaration.

6. Governing Law and Venue. This Declaration shall be interpreted and construed in accordance with Idaho Law and any action taken in relation to this Declaration shall be in the Fifth Judicial District of the State of Idaho, County of Blaine.

7. Amendment. This Declaration may be amended by and instrument in writing signed by the President and Secretary of the Association certifying that such amendment has been approved by the vote or written ballot of a majority of Members.

CERTIFICATION OF AMENDMENT

In accordance with Section 9.10 of the prior Declaration, President Mike Smith, and Secretary, Amanda Porino, certify that at least 51% of the Members, which is the same number of Lots, approved this Declaration by written consent.

Starweather Owners' Association, Inc.

By Mike Smith, President

By Amanda Porino, Secretary