

**SECOND AMENDED PROTECTIVE COVENANTS
OF
THUNDER CANYON ESTATES**

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the undersigned, THUNDER CANYON ESTATES OWNERS ASSOCIATION, INC., being the owners association of land in Sections 29, 32, and 33, Township 9 South, Range 38 East B.M., Bannock County, Idaho, platted as THUNDER CANYON ESTATES, divisions No. 1 and 2, pursuant to paragraph 25 of the *Amended Protective Covenants of Thunder Canyon Estates* dated November 15, 2008, desire to amend the protective covenants for said subdivision and to set forth these *Second Amended Protective Covenants of Thunder Canyon Estates*, and,

WHEREAS, the *Second Amended Protective Covenants of Thunder Canyon Estates* supercede and replace the *Amended Protective Covenants of Thunder Canyon Estates*, Divisions No. 1 and 2, previously recorded as Bannock County Instrument No. 20900317, as those Protective Covenants shall be amended through the recordation of these *Second Amended Protective Covenants of Thunder Canyon Estates*.

NOW, THEREFORE, the undersigned board of directors for Thunder Canyon Estates Owners Association, Inc., after presentation to and approval by majority vote by the owners of property in the THUNDER CANYON ESTATES, hereby declares that all of the land in the subdivision shall be held, sold, and conveyed subject to the following covenants and conditions, which are for the purpose of protecting the value and desirability of the property, and which will be construed as the Amended Protective Covenants running with the titles to the land and be binding upon all successors in interest of the present owners, with the exception of the land in Lot 1, Block 5, all of the lots in THUNDER CANYON ESTATES, Divisions No. 1 and 2 are designated as residential lots. Lot 1 in Block 5 is designated as a well lot.

- 1. Land Use and Building Type.** No lot shall be used except for residential purposes. No building shall be erected upon any of the lots other than one detached single-family dwelling, with a concrete foundation and with at least a two car garage attached, not to

exceed two stories in height. No pre-built homes of any nature shall be permitted on any lot at THUNDER CANYON ESTATES North of Merrick Road.

2. **Architectural Control.** No building or landscaping shall be erected, placed or altered on any lot until the construction and landscaping plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship, material and color harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. When construction is started on a house, the owner has one year to complete construction unless an extension is approved by the Architectural Control Committee. When construction of the home is complete, the owner has six months to complete landscaping on the lot.
3. **Fences.** No fence or wall shall be erected, placed or altered on any lot nearer to any street (front or side) than the minimum building setback line (30 feet) as set forth in the Zoning Ordinances of Bannock County, Idaho, unless similarly approved by the Architectural Control Committee. Fencing along golf course fairways will be one design only. A detailed drawing of this fence plan can be obtained from the Architectural Control Committee. Should lot owners decide to fence along fairways, said fence will be installed at lot owner's expense.
4. **Dwelling Size.** For a single-story dwelling (with or without basement), exclusive of open porches and garages, the ground floor shall be not less than 1300 square feet. No dwelling shall be more than two stories. For two story dwellings, the minimum ground floor square footage shall be 1300 square feet. Any proposed split-level home shall be submitted to the Architectural Control Committee for approval.
5. **Building Location.** No building shall be located on any lot nearer to the street than the minimum building setback of 30 feet, as set forth in the Zoning Ordinances of Bannock County, Idaho. No building shall be located nearer than 10 feet to a side of lot line, or 25 feet from back lot line. For the purposes of the covenant, said distances are to be measured from the foundation.

6. **Easements.** Easements for installation and maintenance of utilities, irrigation and drainage facilities are reserved, as shown on the recorded plat.
7. **Nuisances.** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become any annoyance or nuisance to the neighborhood. No radio or other towers shall be permitted, nor shall satellite dishes exceeding 3 feet in diameter, without the approval of the Architectural Control Committee.
8. **Temporary Structures.** No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently. No outbuildings may be constructed unless first approved by the Architectural Control Committee. No house trailer, motorhome, boat or camper will be parked in front of a house, on a street or driveway, including side streets of corner lots. The area next to the garage may be used for parking of such vehicles. Other parking locations must be approved by the Architectural Control Committee.
9. **Signs.** No permanent sign of any kind shall be displayed to the public view on any lot, except one sign of not more than one square foot showing the owner's name and conventional house number sign, or for sale or builder's advertising sign of not more than five square feet.
10. **Garbage and Refuse Disposal.** No rubbish, trash; garbage or other wastes shall be dumped on any vacant lot. All such wastes shall be kept in clean, sanitary containers.
11. **Livestock and Poultry.** No animals livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not bred or maintained for any commercial purposes.
12. **Kindergartens and Schools.** No lot or building thereon shall be used as a school, kindergarten or child day care center without permission and approval of the Board of Directors.
13. **Architectural Control Committee.** The Architectural Control Committee ("the Committee") is composed of the Thunder Canyon Estates Owners Association, Inc.'s

Board of Directors. A majority of the committee may designate a representative to act for them in the event of the death or resignation of any member of the committee, the remaining members shall have full authority to designate a representative to designate a successor. Neither the members of the committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. The record owners of a majority of the lots shall have the power to change the membership of the committee or to withdraw from or restore to the committee any of its powers and duties.

14. **Procedure.** The Committee's approval or disapproval as required in the covenants shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove proposed plans within thirty (30) days after written plans and specifications have been submitted to it, approval will not be required and the related covenants shall be deemed to have been fully complied with.
15. **Variances.** The Committee shall have the option of permitting variances to the building restrictions where size and shape of lot or topography make strict application of the restrictions impractical or difficult. The prime concern of the Committee will be that design, finish, and location harmonize with and compliment the natural environment to the fullest extent practicable. Requests for variances shall be made to the Committee in writing, and the Committee's decision shall be made in writing within thirty (30) days of the request.
16. **Compliance.** Any question or dispute as to whether a particular lot is being used within these restrictions shall be submitted to the Committee. The Committee shall make this determination within thirty (30) days. Its determination shall be final and binding upon the owners of said lots. The Committee's approval or disapproval required in this Declaration shall be in writing.
17. **Finality.** The Committee's decision shall be final and binding upon all parties concerned.
18. **Non-Liability of Committee Members.** Neither the Committee nor any member thereof shall be liable to the Association, or to any owner for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties

hereunder, unless due to the willful misconduct or bad faith of the Committee. The Committee shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and THUNDER CANYON ESTATES generally. The committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes, materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval from the standpoint of structural safety or conformance with building or other codes.

19. **Water.** Each lot owner shall receive their water from Thunder Canyon Water Company, which shall own, operate, and maintain the community water system and supply water to lot owners at reasonable rates. Each lot owner, as a prerequisite to obtaining water service, shall install a water meter and pay a reasonable connection fee to Thunder Canyon Water Company. All lot owners shall indemnify and hold Thunder Canyon Water Company harmless from and against any liability associated with delivery of such water, including condition of the water.
- a. **Number of Water Connections.** A total of 25 water connections are available in THUNDER CANYON ESTATES under the current system operated by Thunder Canyon Water Company. Any connection to the water system must be approved by the Board of Directors.
- b. **Irrigation Restrictions.** Any water connections to the current system shall be allowed to and/or restricted to irrigate no more than 1/3 acre of landscaping or other irrigable land. This provision applies even if a property owner owns more than 1/3 acre of property. Permanent structures on the lot shall not be included in the calculation of 1/3 acre of irrigable property.
- i. **Irrigate.** As set forth in this provision, "irrigate" is defined as the using of water supplied by a THUNDER CANYON ESTATE and Thunder Canyon Water System connection, by any means of delivery, for the purposes of watering

landscaping, lawn, trees, flowers, fields, grass, pasture, crops, gardens, or any other non-domestic, household use of the water.

- c. **Enforcement – Water & Irrigation.** The Board of Directors is authorized to enforce these water and irrigation restrictions by any means necessary including but not limited to shutting of a water connection, terminating a water connection, restricting and/or limiting a water connection and its use, establishing maximum gallons per day for a water connection, assessing reasonable fines or fees for excess water use, and/or placing a lien against a property to recover assessed fines or fees. The Board of Directors shall provide written notice to the property owner who is in violation of these covenants detailing the violation and shall provide at least 7 days for the property owner to cure any violations prior to proceeding with any enforcement action.
- d. **Upgrade of System.** The Board of Directors upon approval of any necessary governmental agencies shall have the authority to upgrade the water system and add additional connections to the water system.

20. **Airpark.** The Lava Hot Springs Airpark is located adjacent to and west of Thunder Canyon Estates. Residents and guests of THUNDER CANYON ESTATES shall have certain privileges for use of the Airpark. THUNDER CANYON ESTATES residents shall not take action against the airport for overhead flight associated with FAA-approved airport operations.

21. **Association Dues.** Each individual, person(s), an/or entity(ies) who own at least 50% fee interest in a lot in the THUNDER CANYON ESTATES, Divisions I and 2, shall pay an annual association due in the sum of TWO HUNDRED AND NO/100 DOLLARS (\$200.00), to be paid by August 31 of each year, effective as of January 1, 2009, and each year thereafter. Said association dues shall be paid to Thunder Canyon Estates Owners Association, Inc. Any increase or decrease in association dues shall be approved by a majority of the owners in the THUNDER CANYON ESTATES, Divisions I and 2 after presentation to the owners pursuant to By-Laws of Thunder Canyon Estates Owners Association, Inc. In the event that a lot has two or more owners, only one of the owners

of that particular lot shall be assessed the annual association due. Thunder Canyon Estates Owners Association, Inc. is empowered under all legal means to enforce said dues, to include but not limited to, placing liens against property for payment of dues and pursuing legal action in a court of competent jurisdiction. The owner(s) of any lot and/or parcel of property in THUNDER CANYON ESTATES, Divisions 1and2 who fail to pay their annual dues necessitating Thunder Canyon Estates Owners Association, Inc.'s collection of unpaid dues shall be responsible to pay all costs and attorney fees associated with said collection.

22. **General Provision.** These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods often (10) years. Amendment may occur as stated in paragraph 25.
23. **Enforcement.** Enforcement shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenants, by such person or persons claiming such violations, either to restrain violation or to recover damages, and the Committee has no responsibility for such enforcement as such covenants are running with the land and shall be enforced as set out herein.
24. **Severability.** Invalidation of any one of these covenants by judgment or court order shall not affect any of the other provisions which shall remain in full force and effect.
25. **Amendment.** These Second Amended Protective Covenants may be amended by the vote of the majority of the owners of the lots.
26. **Governing Law.** These Second Amended Protective Covenants shall be construed and enforced under Idaho Law. Any disputes under these Second Amended Protective Covenants shall be subject to the exclusive jurisdiction of the State of Idaho, Bannock County.

THUNDER CANYON ESTATES OWNERS ASSOCIATION, INC.

BY ITS DIRECTORS:

[Signature]
NICHOLAS NELSON, President

Date: 7-1-13

[Signature]
DON NIELSEN, Treasurer

Date: 6-18-13

[Signature]
JENNY CONTRERAS, Member

Date: 7-9-13

[Signature]
DEVANEE MORRISON, Secretary

Date: 7-11-2013

[Signature]
WILLY ONEAL, Member

Date: 7/10/2013

[Signature]
RICHARD GEORGE, Member

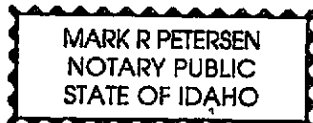
Date: 6-28-13

ACKNOWLEDGMENT(S)

STATE OF IDAHO)
)
:SS
COUNTY OF BANNOCK)

On this 1 day of July, 2013, before me a Notary Public of the County and State aforesaid, personally appeared NICHOLAS NELSON, known to me to be the person whose name appears on the within instrument and who acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

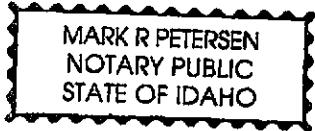


[Signature]
Notary Public for Idaho
Residing at Pocatello, ID
My Commission Expires: 4-28-2018

STATE OF IDAHO)
 :SS
COUNTY OF BANNOCK)

On this 18 day of JUNE, 2013, before me a Notary Public of the County and State aforesaid, personally appeared Don Nielsen, known to me to be the person whose name appears on the within instrument and who acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

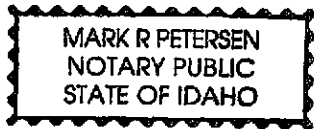


[Signature]
Notary Public for Idaho
Residing at POCATELLO, IDAHO
My Commission Expires: 4-28-2018

STATE OF IDAHO)
 :SS
COUNTY OF BANNOCK)

On this 9 day of July, 2013, before me a Notary Public of the County and State aforesaid, personally appeared Jenny Contreras, known to me to be the person whose name appears on the within instrument and who acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

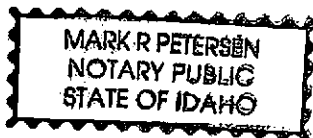


[Signature]
Notary Public for Idaho
Residing at POCATELLO, ID
My Commission Expires: 4-28-2018

STATE OF IDAHO)
 :SS
COUNTY OF BANNOCK)

On this 11 day of July, 2013, before me a Notary Public of the County and State aforesaid, personally appeared Devanee Morrison, known to me to be the person whose name appears on the within instrument and who acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



[Signature]
Notary Public for Idaho
Residing at POCATELLO, ID
My Commission Expires: 4-28-2018

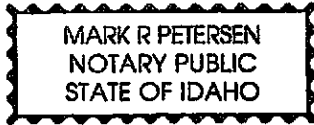
STATE OF IDAHO)

:SS

COUNTY OF BANNOCK)

On this 11 day of JULY, 2013, before me a Notary Public of the County and State aforesaid, personally appeared Willy Oneal, known to me to be the person whose name appears on the within instrument and who acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



[Signature]
Notary Public for Idaho
Residing at POCATELLO, ID
My Commission Expires: 4-28-2018

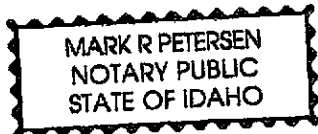
STATE OF IDAHO)

:SS

COUNTY OF BANNOCK)

On this 28 day of JUNE, 2013, before me a Notary Public of the County and State aforesaid, personally appeared Richard George, known to me to be the person whose name appears on the within instrument and who acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



[Signature]
Notary Public for Idaho
Residing at POCATELLO, ID
My Commission Expires: 4-28-2018

OFFICIAL RECORD BK# 971
BANNOCK COUNTY IDAHO

RECORDED AT REQUEST OF
FEE 37 - DEPUTY 129

Thunder Canyon

21316034

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