

// - 1
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
THUNDER MOUNTAIN PARK

I. DECLARATION

THUNDER MOUNTAIN RANCH, an Idaho joint venture having its principal place of business in Lava Hot Springs, Idaho, hereinafter "Declarant" hereby creates, declares and establishes the following Covenants, Conditions and Restrictions which shall run with the land located in Bannock County, State of Idaho, and described on Schedule A attached hereto and incorporated herein by this reference (hereinafter referred to as "Thunder Mountain Park" or "the Property") and which shall bind and inure to the benefit of all present and future owners of undivided interests (hereinafter "Owner") in Thunder Mountain Park be enforced by the Declarant or any Owner by appropriate action in a court of law.

II. GENERAL COVENANTS AND RESTRICTIONS

1. Permitted and Prohibited Uses:

Except as otherwise permitted by duly enacted Bylaws or Rules of the Thunder Mountain Park Owners Association (the "Association"), a non-profit corporation, the Property shall be used as follows:

(a) Subject to the provisions of paragraph 7 (k) hereof, Thunder Mountain Park shall be used solely by Owners for the recreational uses authorized by the duly enacted Bylaws and Rules of the Association.

(b) A non-exclusive and reciprocal easement is reserved to Owners to use and enjoy all of the Property for the purposes authorized by the Association. No Owner shall hinder, obstruct or interfere with the use of the Property by other Owners.

(c) No Owner will do or permit to be done any act on the Property which may be, or is, or may become a nuisance.

(d) No animals, birds or fowl shall be kept or maintained on any part of the Property, other than household pets which must be restrained.

896

612787

11-2

(e) No trailers, campers or habitable motor vehicles of any nature shall be kept on or stored on the Property until the Association shall have provided suitable spaces therefor approved by local regulatory officials.

(f) No Owner shall remove any trees, shrubs, plants or any other natural material from the Property nor shall there be any alteration to the grade, elevation or surface of the Property without the prior approval of the Association.

(g) No Owner shall keep, or permit to be kept, placed or stored on the Property any fence, structure, fixture, or materials of any kind.

(h) No Owner shall hinder, obstruct, or interfere with the use of the property by persons claiming right of access to and use of the property under Reciprocal Use Agreements entered into by and between Declarant or the Association and other entities for the benefit of such persons claiming rights of access or use.

2. Common Areas and Open Space:

Certain areas of the Property have been designated as common area or open space on the plat of Thunder Mountain Park. These areas shall remain dedicated for the common use for recreational purposes by the Owners, and subdivision thereof shall be prohibited.

3. Utility Easements and Lines:

There are hereby reserved easements for the purpose of installing and maintaining public utility facilities for such purposes which are incidental to the development of the Property. All claims for damages, if any, arising out of the construction, maintenance, and repair of utilities or on account of temporary or other inconvenience caused thereby, against Declarant, or any utility company, or any of its agents or servants are hereby waived by the Owners.

4. Assessments for Taxes, Maintenance, Operation and Development:

The Association shall assess annually each of the Owners a proportionate share of taxes, assessments and charges related to

11-3

the Property, for the expenses of maintaining and operating any recreational facilities and improvements and for costs of developing the Property. All taxes, assessments and charges associated with the Property shall be prorated among the Owners, provided that such assessments shall not exceed \$15.00 per month payable annually not later than March 1 of each calendar year, unless increases in assessments shall have been approved by Owners of not less than 2/3 of all undivided interests. Said assessment shall entitle Owners access to any recreational facilities developed by the Association without further charge. The Association shall be the agent of the Owners for the collection of all assessments and for the payment of all real and personal property taxes and assessments as they become due. In the event an Owner shall fail to pay an assessment made by the Association, such liability shall become delinquent and interest at the rate of 10% per annum and all costs, including a reasonable sum for attorney fees, shall be added thereto. If such delinquency is not cured within ten days after it becomes delinquent, the Association, to which such sum is owing:

✓ (a) may file for record and mail to the Owner at his last known address a notice of delinquency stating the amount thereof, and a description of the Owner's interest. In the event of payment prior to foreclosure, the Association shall record a further notice, stating the satisfaction and releasing the lien.

↳ (b) immediately upon recording of a notice of delinquency, the amounts delinquent shall be and become a lien upon the undivided interest and shall also secure all future liabilities of the Owner thereof which become due and payable subsequent to the date of recording. The lien shall continue until all amounts secured are fully paid or satisfied and shall be subordinate to any bona fide mortgage or deed of trust made in good faith and for value on the Property.

(c) may foreclose any deed of trust executed by such Owner in favor of the Association in accordance with its terms and conditions.

III. THUNDER MOUNTAIN PARK OWNERS ASSOCIATION

5. Thunder Mountain Park Owners Association:

For the purposes set forth herein and for the purpose of maintaining community services of every kind or nature required or desired for the general use and benefit of the Owners, each and

11-4

every Owner, in accepting a deed or contract for the purchase of such interest, agrees to and shall be a member of and be subject to the obligations and duly enacted Bylaws and Rules of the Association.

6. Property Development:

The Association shall have power to subdivide and develop the property by constructing individual trailer spaces together with such other improvements necessary for the convenient utilization of such spaces. Upon the completion of such spaces, the Association may:

(1) Lease the improvements on and appertaining to such spaces in the name of the Association to the Owners based on their priority number which is to be assigned by Declarant at the time of purchase of an undivided interest in the Property. By the acceptance of a deed of an undivided interest, each owner shall be deemed to have consented to this priority procedure. The leases granted by the Association to the Owners shall be in terms not to exceed five years, and the terms of said leases shall not obligate the Owner to renew said lease. The cost of the development of the Property into trailer spaces shall be assessed against the owners on an equal basis, and the Association shall not only have a lien upon the undivided interest of each Owner for payment thereof, but as a condition for entering into the lease, the Association shall have the power to require the Owners to execute a deed of trust to their respective undivided interest in order to secure payment of any and all assessments of the Association.

(2) The Association shall have the power upon a two-thirds vote of the Owners to require the Owners to deed their undivided interest in the Property to the Association; whereupon the Association shall deed the trailer spaces to the Owners based on the same priority selection procedure described above on a fee simple basis as permitted by law. The cost of the development of the Property into trailer spaces shall be assessed against the owners on an equal basis, and the Association shall not only have a lien upon the deeded trailer space of each Owner for payment thereof; but as a condition for executing a deed to such trailer spaces, the Association shall have power to require the Owners to execute a deed of trust to their respective trailer space in order to secure payment of any and all assessments of the Association.

7. Powers of the Association:

The Association shall, in addition to the powers set forth in its Articles and Bylaws:

- (a) ~~Enforce charges;~~ restrictions, conditions and covenants existing upon and created for the benefit of Thunder Mountain Park or the Owners, and shall pay all expenses incidental thereto; shall enforce the Rules and Regulations of the Association and pay all of the expenses in connection therewith; and shall reimburse the Declarant for all costs and expenses incurred or paid by it in connection with the enforcement of any of the conditions, covenants, restrictions, charges, assessments or terms set forth in this declaration;
- (b) ~~Levy and collect dues and assessments~~ from its members, in an amount of not more than \$15.00 per month payable annually on or before March 1 of each calendar year for payment of taxes, assessments, and maintenance and repair of recreational facilities and improvements on the Property, ~~which maximum monthly assessment shall be increased only upon approval by Owners of 2/3 of undivided interests;~~
- (c) Establish and maintain a reserve fund for these and other purposes;
- (d) Pay taxes and assessments, if any, which may be levied upon the Property and improvements thereon by any governmental authority;
- (e) Provide for the maintenance of any recreational facilities constructed or to be constructed on the Property for the use of the members of the Association;
- (f) Provide for public liability insurance with cross liability endorsement to cover negligent injury by one Owner to another;
- (g) Expend the monies collected by the Association from assessments or charges and other sums received by the Association for the payment and discharge of all proper costs, expenses and obligations incurred by the Association in carrying out any or all of the purposes for which the Association is formed;
- (h) Secure planning and zoning approval and other requisite approvals necessary for the subdividing of the Property into individual trailer spaces; contract in the name of the Association for the development of said spaces.

(i) Contract with others for the management, maintenance, operation or construction of any improvements on the Property; provided, however, the Association shall not enter into any such contract with the Declarant or its successors in interest which binds the Association or the Owners for a period in excess of three (3) years, unless reasonable cancellation provisions are included in the contract;

(j) Establish rules and regulations covering the use of the Property and the facilities under its control or management;

(k) Contract with other persons, firms, corporations or associations governing the use of improvements and facilities on the Property by persons other than the Owners in consideration of similar rights of use or access to other facilities for the Owners;

(l) Contract for utility services on behalf of the Owners including, water, power, sewer, telephone, etc.;

(m) ~~Collect assessments from Owners~~ and pay mortgage or deed of trust payments, property taxes and procure and provide fire and other hazard insurance and pay premiums thereon for improvements located on the Property, and procure and provide liability insurance coverage;

(n) Receive all notices, claims and demands relative to taxes and assessments affecting the Property; by accepting title to an undivided interest in the Property, the purchaser thereof thereby waives his right to receive such notices and designates the Association as his exclusive agent for receipt of such notices, claims or demands;

(o) Acquire by gift, purchase, lease or otherwise, develop, improve, subdivide, convey, sell, transfer, mortgage or otherwise encumber, dedicate for public use, or otherwise dispose of real or personal property for the benefit of the Owners; provided however, the Association shall not acquire any real property by purchase or lease, or change the uses to which the Property may be put, or change the purposes for which the Association was formed without first obtaining the written consent therefor from two-thirds of the Owners including the Declarant;

(p) Do any and all lawful things which may be advisable, proper, authorized or permitted to be done by the Association under and by virtue of any condition, covenants,

11-7

restriction, reservation, charge, or assessment affecting the property or incidental to the exercise of any of the foregoing powers, or for the peace, health, comfort, enjoyment, safety, or general welfare of its members.

IV. MISCELLANEOUS

8. Right of Entry:

The Association shall have the right to enter upon any portion of the Property to the extent such Property is necessary or convenient to carry out the duties of the Association. Such right of entry shall be exercised so as to interfere as little as is reasonably possible with possession and enjoyment by the Owners.

9. Duration:

All of the foregoing covenants, conditions, reservations and restrictions shall continue and remain in full force and effect at all times as against the owner of any interest in the Property, regardless of how title is acquired, until commencement of the calendar year 2002, on which date these covenants, conditions, reservations and restrictions shall terminate and end; provided, however, that these covenants, conditions, reservations and restrictions shall be automatically extended for a period of ten years, and thereafter in successive ten year periods, unless on or before the end of one of such extension periods or the base period the Owners of two-thirds of the undivided interests in the Property shall by written instrument duly record and declare a termination of the same.

10. Enforcement:

Each and every one of the covenants, restrictions, reservations and conditions contained herein shall be considered to be an independent and separate covenant and agreement and in the event any one or more of such covenants, restrictions, reservations or conditions shall for any reason be held to be invalid or unenforceable, all remaining covenants, restrictions, reservations, and conditions shall nevertheless remain in full force and effect.

11. Waiver:

No delay or omission on the part of the Association or the owners of other interests in the property in exercising any rights, power, or remedy herein provided, in the event of any

902

612787

11-8

breach of the covenants, conditions or restrictions herein contained shall be construed as a waiver thereof or acquiescence therein.

12. Amendments:

These restrictions or covenants may be amended at any time and from time to time by an instrument in writing signed by the owners of two-thirds or more of the undivided interests in the Property.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed by its duly authorized officer this 25 day of October, 1978.

THUNDER MOUNTAIN RANCH JOINT
VENTURE

LAVA LAND COMPANY, INC.
Joint Venture Partner

By Larry B. Hanks
Larry B. Hanks, President

Attest:

Blaine Hanczyk
Secretary

903

11-9

612787

NORTHWESTERN ENGINEERING, INC.



Engineers, Planners, Surveyors

OCTOBER 24, 1978

SCHEDULE A

134 PARK AVENUE
P. O. BOX 846
POCATELLO IDAHO 83201
PHONE (208) 233-7341

THUNDER MOUNTAIN RECREATIONAL TRAILER PARK

LEGAL DESCRIPTION

A PARCEL OF LAND SITUATED IN THE SOUTH 1/2 OF SECTION 33, TOWNSHIP 9 SOUTH, RANGE 38 EAST, BOISE MERIDAN, BANNOCK COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE EAST 1/4 CORNER OF SAID SECTION 33, SAID POINT BEING A FOUND BANNOCK COUNTY BRASS CAP MONUMENT;
THENCE ALONG THE LATITUDINAL CENTERLINE OF SECTION 33, NORTH 89°46'03" WEST, 2645.94 FEET TO THE CENTER OF SECTION 33, SAID POINT BEING A BANNOCK COUNTY BRASS CAP MONUMENT STAMPED LS 968;
THENCE CONTINUING ALONG SAID LATITUDINAL CENTERLINE OF SECTION 33, NORTH 89°46'03" WEST, 497.79 FEET TO A 2-INCH ALUMINUM CAP STAMPED LS 968;
THENCE SOUTH 0°06'18" WEST, 1325.30 FEET TO A POINT ON THE SOUTH 1/16 LINE OF SECTION 33, SAID POINT BEING A 2-INCH ALUMINUM CAP STAMPED LS 968;
THENCE ALONG THE SOUTH 1/16 LINE OF SECTION 33, SOUTH 89°53'42" EAST, 1820.00 FEET TO THE SOUTHEAST 1/16 CORNER OF SECTION 33, SAID POINT BEING A BANNOCK COUNTY BRASS CAP MONUMENT STAMPED LS 968;
THENCE NORTH 86°46'06" EAST, 38.89 FEET TO THE WEST RIGHT OF WAY OF THUNDER MOUNTAIN ROAD;
THENCE ALONG SAID RIGHT OF WAY OF THUNDER MOUNTAIN ROAD, ALONG A CURVE CONCAVE TO THE RIGHT, SAID CURVE HAVING A CENTRAL ANGLE OF 45° 09' 59" AND A RADIUS OF 100.00 FEET, FOR AN ARC LENGTH OF 78.83 FEET TO A POINT OF TANGENCY, SAID POINT BEING A 2 INCH ALUMINUM CAP STAMPED L.S. 968;
THENCE ALONG SAID RIGHT OF WAY NORTH 41° 54' 13" EAST, 131.63 FEET TO A POINT OF CURVATURE, SAID POINT BEING A 2 INCH ALUMINUM CAP STAMPED L.S. 968;
THENCE NORTHEASTERLY ALONG SAID RIGHT OF WAY OF THUNDER MOUNTAIN ROAD, ALONG A CURVE CONCAVE TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE OF 113° 41' 29" AND A RADIUS OF 125.00 FEET, FOR AN ARC LENGTH OF 248.03 FEET TO A POINT OF TANGENCY, SAID POINT BEING A 2 INCH ALUMINUM CAP STAMPED L.S. 968;
THENCE CONTINUING ALONG SAID RIGHT OF WAY NORTH 71° 47' 16" WEST, 96.63 FEET TO A 2 INCH ALUMINUM CAP STAMPED L.S. 968;
THENCE ALONG THE NORTH RIGHT OF WAY OF INYO TRAIL NORTH 24° 26' 38" EAST, 117.70 FEET TO A POINT OF CURVATURE, SAID POINT BEING A 2 INCH ALUMINUM CAP STAMPED L.S. 968;
THENCE CONTINUING NORTHEASTERLY ALONG SAID NORTH RIGHT OF WAY, ALONG A CURVE CONCAVE TO THE RIGHT, SAID CURVE HAVING A CENTRAL ANGLE OF 33° 00' 36" AND A RADIUS OF 125.00 FEET, FOR AN ARC LENGTH OF 72.01 FEET TO A POINT OF TANGENCY, SAID POINT BEING A 2 INCH ALUMINUM CAP STAMPED L.S. 968;

THENCE CONTINUING ALONG SAID NORTH RIGHT OF WAY OF INYO TRAIL NORTH
 51° 27' 14" EAST, 452.69 FEET TO A POINT OF CURVATURE, SAID POINT
 BEING A 2 INCH ALUMINUM CAP STAMPED L.S. 968;
 THENCE NORTHEASTERLY ALONG SAID NORTH RIGHT OF WAY OF INYO TRAIL,
 ALONG A CURVE CONCAVE TO THE RIGHT, SAID CURVE HAVING A CENTRAL
 ANGLE OF 25° 40' 45" AND A RADIUS OF 225.00 FEET, FOR AN ARC
 LENGTH OF 100.85 FEET TO A POINT OF TANGENCY, SAID POINT BEING A
 2 INCH ALUMINUM CAP STAMPED L.S. 968;
 THENCE CONTINUING ALONG SAID NORTH RIGHT OF WAY OF INYO TRAIL,
 NORTH 83° 07' 59" EAST, 385.36 FEET TO A POINT OF CURVATURE, SAID
 POINT BEING A 2 INCH ALUMINUM CAP STAMPED L.S. 968;
 THENCE NORTHEASTERLY ALONG SAID NORTH RIGHT OF WAY OF INYO TRAIL,
 ALONG A CURVE CONCAVE TO THE RIGHT, SAID CURVE HAVING A CENTRAL
 ANGLE OF 112° 30' 12" AND A RADIUS OF 45.00 FEET, FOR AN ARC LENGTH
 OF 88.36 FEET TO A 2 INCH ALUMINUM CAP STAMPED L.S. 968;
 THENCE NORTH 83° 07' 59" EAST, 293.43 FEET TO A POINT ON THE EAST
 LINE OF SECTION 33, SAID POINT BEING A 2 INCH ALUMINUM CAP STAMPED
 L.S. 968;
 THENCE ALONG THE EAST LINE OF SECTION 33 NORTH 0° 04' 53" EAST,
 382.61 FEET TO THE POINT OF BEGINNING.

SAID PARCEL EXCLUDING THE RIGHT OF WAY OF THUNDER MOUNTAIN ROAD,
AS SHOWN ON SHEET 3 OF THE PLAT OF THUNDER MOUNTAIN RANCH RECREA-
TIONAL SUBDIVISION, INSTRUMENT NUMBER 598108, AS FILED IN THE
BANNOCK COUNTY RECORDERS OFFICE, BANNOCK COUNTY, IDAHO.

905

11-11

612787

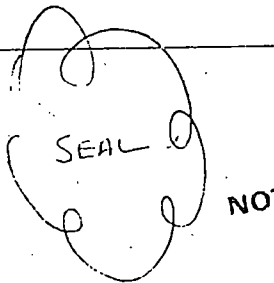
STATE OF UTAH)
 : ss.
COUNTY OF CACHE)

On the 14th day of November, personally appeared before me LARRY B. HANKS and BLAINE HANCEY, JR., who being by me duly sworn did say, each for himself, that he the said LARRY B. HANKS is the President, and he the said BLAINE HANCEY, JR., is the Secretary of LAVA LAND COMPANY, INC., and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors, and said LARRY B. HANKS and BLAINE HANCEY, JR., each duly acknowledged to me that said corporation executed the same.

Susann Hancey
NOTARY PUBLIC

Residing at Providence, Utah

My Commission Expires: August 5, 1979



NOTARY SEAL

612787
NO. RECORDED AT REQUEST
Thunder Mountain Park
Nov 15 11 04 AM '78
SPECIAL REC. SER. NO. 328
TOWN OF CANYON, DASH
TIM CRONSON, RECORDER
\$11.00 FEE \$1