

RESTRICTIVE COVENANTS

UNIT NO. 1

KIRTLEY CREEK HEIGHTS SUBDIVISION

Lemhi County, Idaho

Whereas ZACH A. JOHNSON and ESTHER J. JOHNSON are the owners of certain land which is being subdivided and recorded as Kirtley Creek Heights Subdivision No. 1 referred to hereinafter as the premises, and,

Whereas Zach A. Johnson and Esther J. Johnson by through, and within certain covenants do hereby place certain restrictions, limitations, and regulations as to the use of said premises on all future purchasers or assigns taking said property from within the Kirtley Creek Heights Subdivision No. 1.

Now therefor Zach A. Johnson and Esther J. Johnson do hereby establish, dedicate, declare, publish and impose upon the premises the following protective covenants which shall run with the land and shall be binding upon and be for the benefit and value of all persons claiming under it, its grantees, successors, and assigns and shall be for the purpose of maintaining a uniform and stable value, character, architectural design, use and development of the premises and to all improvements placed or erected thereon unless otherwise specifically excepted and shall have perpetual existence unless terminated or amended as herein provided.

I. USE

- a. All lots shall be used for single family residences only.
- b. No building or improvements shall be placed, constructed or altered on any lot except to provide for a single family dwelling.
- c. Each dwelling unit shall be constructed so as to include not less than 1,000 square feet of living space on the foundation level exclusive of open porches, patios, carport, garage, or basements.
- d. No building or structure shall be erected, placed, constructed, or remodeled so as to be less than 25 feet from the front line; less than 25 feet from the side line or less than 50 feet from the rear lot line.
- e. No residential lot shall be subdivided in any manner for a period of not less than 5 years from the date of purchase.
- f. No lot shall be used as a location or site for the conduct of any commercial or industrial enterprise.

II. EASEMENTS

- a. Owners are given non-exclusive rights to use roads and utility ways.
- b. Easement areas may be landscaped by property owners so as to enhance their appearance so long as the landscaping does not interfere with the use of the property as an easement.
- c. Lot No. 8 grants Lot No. 7 a 20 foot right-of-way for entry on the Southwest corner of Lot No. 8.
- d. Lots 16, 17, 18, and 19 give live stream or irrigation ditch easement of 20 feet. In addition 20 foot easements are granted to live stream drainages as indicated on Sketch Plan for Subdivision No. 1.
- e. A 50 foot easement and/or right-of-way for future road access to adjoining property is granted on Lot No. 1, along the West and Southwest boundaries.
- f. A 10 foot easement is reserved along the roadway on each lot for power and telephone lines and utility repairs

III. WATER AND SEWAGE

- a. Each building site owner must assume the burden of supplying and developing water for his own domestic use. Wells and water systems shall be drilled, installed, and maintained at all times in accordance with all applicable rules and regulations of any public agency and in accordance with any rules in order to comply with the Health Department of Idaho.
- b. Each property owner will be responsible for providing their own sewage system. The sewage system will have to comply with rules and regulations for individual sub-surface sewage disposal required by the State Board of Health and Welfare Department.

IV. TRASH AND GARBAGE

- a. No trash, waste, garbage, litter, junk, junk cars, or refuse shall be thrown, dumped or left on any portion of the premises. Each owner shall provide suitable receptacles for the containment and collection of trash and garbage, which must be enclosed or screened or otherwise unexposed to the public view.

V. ANIMALS

- a. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any parcel except as follows:
 1. Dogs, cats, or other household pets, and,
 2. Horses, cattle, sheep, or poultry may be kept provided they are not kept, bred or maintained for any commercial purposes.
 3. The keeping of pigs and/or goats is not to be allowed on any parcel.

In no event are any of these exceptions to include, or allow, the keeping of such animals for the purposes of commercialization. Owners of said livestock are required to build and maintain at all times adequate wooden or woven wire fencing. Barbed wire fencing will not be acceptable.

No pets, animals, or poultry can be kept if they become a nuisance to other residents of the tract. Any kennels, barnyards, corrals, pens, chickencoops, sheds, barns, or outbuildings for the keeping of such animals must be erected and maintained at least 30 feet from the nearest boundary line of any parcel. No structures can be built with rolled tar paper exteriors or roofing.

VI. ENVIRONMENT

- a. Every attempt shall be made to preserve and protect the environment indigenous to the area. Destruction, disturbance, or damage to all plant life, all animal life and their natural habitats, streams, ponds, springs, underground aquifers, soils, rocks are strictly forbidden except where absolutely necessary for the placement of construction of improvements on the land or for the proper and orderly development of the premises.
- b. All areas not utilized as sites for improvements where disturbed by construction or any human activity, shall be returned as quickly as possible to their natural condition and replanted with native plant life except where otherwise utilized for lawns, gardens, or exterior living areas.

VII. MINING

- a. No mining, quarrying, excavation, oil drilling or development of any kind shall be allowed in or on the premises except for such excavation as may well be necessary in connection with the construction or placing of improvements thereon in accordance with the terms and restrictions of these covenants.

VIII. TEMPORARY STRUCTURES

- a. No trailer, mobile home, basement, tent, shack, garage, or camper shall be used at any time on the premise as a residence or a place of habitation or sleeping temporarily or permanently except where the same may reasonably be necessary during construction and never without:
 1. The prior approval of Zach A. and Esther J. Johnson which is revocable at any time in its discretion.
 2. Never for more than seven months at a time. No structure of a temporary nature shall be permitted to be kept or stored on the premises except under the terms of sub-paragraph VIII.

IX. NUISANCE

- a. No noxious or offensive use or activity shall be carried on within the subdivision nor anything done or permitted on or in the premises which shall constitute a public nuisance.

X. CONSTRUCTION

- a. All construction on or in the premises shall be diligently prosecuted to completion and shall in any event be completed within 12 months of commencement unless specific written extension is granted by Zach A. and Esther J. Johnson.
- b. No construction material shall at any time be placed or stored so as to impede, obstruct, or interfere with vehicular traffic and no construction materials shall be placed or stored on residential lots for a period not to exceed 30 days following substantial completion of construction.

XI. ENCROACHMENTS

- a. The wrongful extension of a structure or of any improvement, partly or wholly, on the property of another will be considered encroachment. Encroached party may sue for damages and/or require the removal of illegal structures.

XII. ENFORCEMENT

- a. In the event of any violation or threatened violation of these covenants, any owner of real property in the premises or Zach A. and Esther J. Johnson may enforce these covenants by legal proceedings in a court of law or equity, including the seeking of injunctive relief and damages.

In association with such legal proceedings or as a separate owner, or Zach A. and Esther J. Johnson may enter upon the property in question and remove, remedy, or abate the violation or threatened violation, after first giving proper notice and a reasonable opportunity for the violator to take action himself to comply with these covenants set forth below.
- b. Notice as required in the paragraph above shall be in writing and shall be served on the person or entity concerned and shall specify the violation or threatened violation, identify the property, and demand compliance with the terms and conditions of these covenants and shall state the action which shall be taken under paragraph "a" above, if the violation or threatened violation is not abated, remedied or satisfied. If such notice can not be personally served after a reasonable effort to locate the person or entity, service may be had by posting a copy of such notice at a conspicuous place on the property which is the subject of such violations and mailing a copy of the notice by certi-

fied mail, return receipt requested, to the last known address or address of record of the violator. Such notice must further provide for a period of 15 days from the date of personal service of such notice or 30 days from the date of posting and mailing of the same within which the compliance can be had with these covenants before any self-help abatement, entry, or commencement of litigation as provided in the above can be commenced.

- c. No owner or Zach A. or Esther J. Johnson shall be liable to any person or entity for any entry self-help or abatement of a violation or threatened violation of these covenants and all owners of real property shall be deemed to have waived any and all rights or claims to or for any loss or injury resulting from action taken to abate, remedy or satisfy any violation or threatened violation of these covenants. Exception to the above shall exist for less injury or damage for intentionally wrongful acts.
- d. Actual costs, expenses and reasonable attorneys' fees incurred in connection with correcting, remedying, abating, preventing, or removing any violation or threatened violations of these covenants through litigation entry or self-help shall constitute a claim by the owner or committee initiating such action against the owner of the property which is the subject of such violation or threatened violation. Such claim shall not, however, exceed five thousand dollars (\$5,000.00) for any one claim and shall be enforceable through appropriate court action. The owner or Zach A. and Esther J. Johnson making such a claim may file a lien against the subject property in the amount of and for the collection of the claim by filing a verified statement of the lien with the office of the Clerk and Recorder, Lemhi County, Idaho. Such lien statement must set forth the names of the claimant and the owner of record of the property against which the lien is claimed, a description of the property, the amount of the claim and the date of the claim and a brief statement of the manner in which the cost and expenses constituting the claim were incurred. Once filed, the lien shall remain of record as a claim against the property until paid in full or foreclosed in the manner otherwise provided by law, subject to rights of redemption.

XIII. SIGNS

- a. No signs of any kind shall be displayed to the public view on any parcel except on professional sign of not more than fifteen square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period and "No Trespassing" signs as needed.

XIV. AMENDMENTS

- a. These covenants or any portion thereof, may be amended, abandoned, terminated, modified or supplemented at any time after five years by the written consent duly recorded with the office of the Clerk and Recorder, Lemhi County, Idaho, of the owners of seventy-five percent (75%) of the privately owned land included within the boundaries of the subdivision.

XV. SEVERABILITY

- a. After five years from date of recording a determination of any one or more of the covenants or conditions hereof

by judgment, order or decree of a court shall not affect in any manner the other provisions hereof, which shall remain in full force and effect.

SANITARY REQUIREMENTS

Addendum to Restrictive Covenants of Kirtley Creek Heights Subdivision, Unit No. 1.

SEWAGE:

REGULATION: As required by Section 1-3005 of the Individual and Subsurface Sewage Disposal Regulations, "It shall be unlawful for any person to construct, alter (replace), or extend individual or subsurface sewage disposal systems within the State of Idaho unless he holds a valid permit issued by the Director of the Idaho Department of Health and Welfare." (This permit should be obtained from the District Seven Health Department.)

So as to avoid the possibility of permit denial, and thereby, the denial of a sewage disposal system:

Said permit, as required in Section 1-3005, must be obtained prior to any construction, alteration (replacement) or extension of a sewage disposal system and prior to the construction or placement of any dwelling(s) or water supply system(s) where dwelling(s) and water supply system(s) do not presently exist upon the premises. The sewage disposal system must be installed, extended or altered to the specifications approved upon the permit and obtain, upon inspection, the approval of the Director of the Idaho Department of Health and Welfare before use or cover of the sewage disposal system; as required in Section 1-3007, INSPECTION, Individual and Subsurface Sewage Disposal Regulations, 1978.

WATER:

RECOMMENDATION: When an individual domestic water supply system is to be constructed, said individual water supply system should be constructed in a manner which complies with the Standards for Individual Water Supply Systems, (Environmental Services Division, Bulletin 5, Revised 1967) which may be obtained from the District Seven Health Department.

REQUIREMENT: If a central water supply system is proposed which will serve 10 or more connections or serve 25 or more people per day; said central water supply system must: (1) be designed by an engineer registered in the State of Idaho, stamped with his seal and bearing his signature; and (2) have plans designed in accordance with Idaho Regulations for Public Drinking Water Systems of November 1, 1977, and said plans submitted to the Idaho Department of Health and Welfare for review and approval before construction may begin.

SOLID WASTE:

REGULATIONS as presented and applied to this subdivision are taken from the Idaho Solid Waste Management Regulations and Standards, June 28, 1973.

REGULATIONS: No lot shall be used or maintained as a dumping or storing ground for cars, rubbish, trash or other waste. All solid waste and post-consumer products accumulated on each lot shall be managed during storage, collection, transfer or transport in such a manner that said solid wastes and post-consumer products shall not:

- A) Provide sustenance to rodents or insects which are capable of causing human disease or discomfort.
- B) Cause or contribute to the pollution of air.
- C) Cause or contribute to the pollution of surface or underground waters.

SOLID WASTE: continued

- D) Cause excessive abuse of land.
- E) Cause or contribute to noise pollution
- F) Abuse the natural aesthetic quality of an area
- G) Physically impair the environment to the detriment of man and beneficial plant life, fish and wildlife.

AIR POLLUTION:

REGULATIONS as presented and applied to the subdivision are taken from the Rules and Regulations for the Control of Air Pollution in Idaho, May 5, 1977.

D. REGULATION FOR CONTROL OF OPEN BURNING

SECTION 2

GENERAL RESTRICTIONS

- A) Notwithstanding the provisions of subsection B of this section, no person shall allow, suffer, cause or permit the open burning of materials which emit toxic contaminants or large volumes of smoke, particulates or odors (such materials are garbage, rubber, plastics, heavy petroleum products, dead animals, etc.).
- B) No person shall allow, suffer, cause or permit any open burning operation which does not fall into at least one of the categories of Section 3.
- C) Any open burning operation that would normally be allowed by Section 3 of this regulation, but is determined to be a nuisance, hazard, or source of air pollution shall be prohibited.

SECTION 3

CATEGORIES OF ALLOWABLE BURNING

- A) Fires used for the preparation of food, campfires and fires for recreational purposes, under control of a responsible person.
- B) Fires used for control or alleviation of fire hazard or for weed control when no alternate control method exists. When such burning requires a permit from an organized fire-fighting agency having proper jurisdiction, issuance of such permit shall be based on consideration of potential environmental damage and suitability of alternate methods in addition to other factors.
- C) Fires used in the training of organized fire-fighting personnel.
- D) Properly operated industrial flares for combustion of flammable gases.
- E) Readily combustible rubbish produced by operation of a domestic household may be burned on the property from which the rubbish was generated if no public or commercial solid waste collection service is available and the property is located in an area of low population density, defined as having fewer than 100 dwelling units per square mile. This shall include three leaves, gardening waste. Rubbish is defined in the Idaho Solid Waste Control Regulations and Standards as "nonputrescible solid waste except abandoned vehicles and car bodies or car body parts, industrial solid waste and agricultural solid waste."
- F) Burning at community tree disposal areas and private disposal sites shall be in compliance set forth in the Idaho Solid Waste Control Regulations and Standards.
- G) The open burning of plant life grown on the premises in the course of any agricultural, forestry, or land clearing operation may be permitted when it can be shown that such burning is necessary and that no fire or traffic hazard will occur. Convenience of disposal is not of itself a valid necessity for burning.

CATEGORIES OF ALLOWABLE BURNING Continued

1. It shall be the responsibility of any person conducting such burning to make every reasonable effort to burn only when weather conditions are conducive to a good smoke dissipation and only when an economical and reasonable alternate method of disposal is not available.
2. When such alternate method is made available, it shall be put into use within a reasonable time.
3. Any person conducting an agricultural, forestry, or land clearing burning operation similar to an operation carried out by a governmental agency shall follow the rules and procedures of the agency with regard to minimizing air pollution.
4. When such burning creates air pollution or a public nuisance, additional restrictions may be imposed to minimize the effect upon the environment.

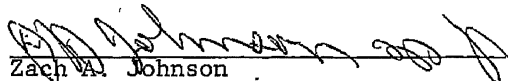
STAGNANT WATERS:

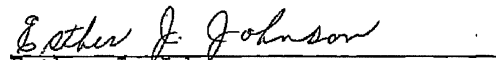
RECOMMENDATIONS: Based on the intentions of the Well Construction Standards of June, 1975, of the Department of Water Resources of Idaho and of the Individual and Subsurface Sewage Disposal Regulations, 1978.

1. No open sloughs, ponds, or dry pits shall be created or allowed to exist which contaminate underground water or provide for the propagation of insects and disease harmful to man or serve no useful purpose.
2. No open sloughs, ponds, or open pits shall be created within 300 feet of the absorption area (drainfield) of any sewage disposal system.

SUMMATION: The aforementioned Rules, Regulations, Standards and any future addendums thereto, as presented and applied to this subdivision, as an attachment to the Restrictive Covenants of this subdivision, are legally enforceable by power of their respective authorities.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 15th day of August, 1978.

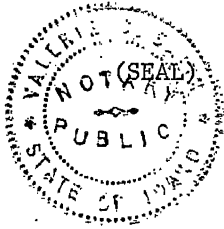

Zach A. Johnson


Esther J. Johnson

STATE OF IDAHO)
) ss
COUNTY OF LEMHI)

On this 15th day of August, 1978, before me the under-
signed, a Notary Public in and for said State, personally appeared
ZACH A. JOHNSON and ESTHER J. JOHNSON known to me to be the persons
which executed the foregoing instrument and acknowledged to me that
they executed the same.

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



Valerie C. Smith
Notary Public for State of Idaho
Residing at Salmon, Idaho
Comm. Expires October 1, 1978

141910

No. _____
State of Idaho) ss
County of Lemhi)
This instrument was filed for
record at the request of _____
American Land Title Co., Inc.
at 11:10 o'clock _____ A.M.
_____ August 16 _____ 1978
and duly filmed and indexed in the
file of _____ Deeds
Records of Lemhi County, Idaho.
_____ Eleanor Aldous _____
Ex-officio Recorder
By _____ Doris M. Mantel _____
Deputy
Fee - \$8.00pd. _____

INDEXED 11:10

SANITARY REGULATIONS AND RECOMMENDATION
Kirtley Creek Heights Subdivision- Amended

This subdivision amendment has been reviewed for sanitary restrictions described in Idaho Code Section 50-1326. The following comments are intended to inform and educate all parties as to the sewage disposal and/or potable water situations particular to this development.

Sewage disposal

This amendment is a lot line adjustment of lots 16 and 18. Lot 16 has an existing structure with septic in place. This lot line adjustment was to bring the well on Lot 16 onto lot 18.

Potable water:

Well logs indicate variable water depths and quantity.

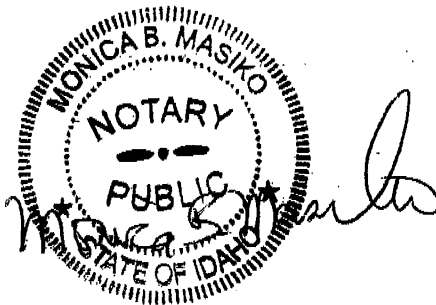
These lots are subject to all applicable public health and sanitation regulations, as well as county ordinances. No inhabitable dwelling will be constructed without a valid sewage disposal permit.

Steve Adams
REHS/RS Signature

8/12/08
Date

NOTARY STATEMENT: Steve Adams personally appeared before me, a notary, on the 12th day of August 2008 and signed the above document of his own free will.

My commission expires 02/05/2013



State of Idaho
County of Lemhi) SS No. 277579
This instrument was filed for record at the request
of Wade Surveying
at 10 o'clock a m 9-24 2008
and duly filed and indexed in the records of Lemhi
County
Terri J. Morton
Ex-Officio Recorder
By Erin G. Gordin Deputy
Fee 300
Return to Wade Surveying