

**SUPPLEMENTAL DECLARATION OF COVENANTS & RESTRICTIONS**

**BARBARY SUBDIVISION**

*# 9149236*

We, the undersigned, original members of the "Architectural Committee" of the above named subdivision, hereby declare and give notice and authority to Conally Decker, as Chairman, along with Jerry Bryant, Joe Gmach, and Mike Durham to be members of the "Architectural Control Committee" and to contact Home Owners in Barbary Subdivision for the purpose of establishing an Architectural Control Committee, and other business as they so desire.

*J Ramon Yorgason*  
\_\_\_\_\_  
J/ Ramon Yorgason

*Marilyn Yorgason*  
\_\_\_\_\_  
Marilyn Yorgason

*Capital Dev.*  
ADA COUNTY RECORDER  
J. DAVID NAVARRO  
BOISE, IDAHO

RECORDED - REQUEST OF

FEE *3.00* DEPUTY *[Signature]*

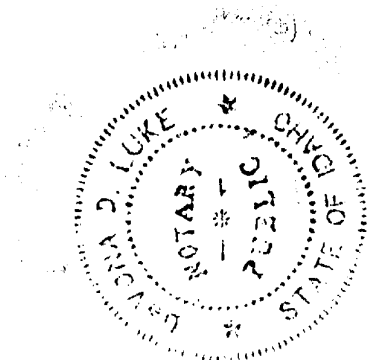
1998 DE 18 PM 2:05

98121781

STATE OF IDAHO     )  
                                  ) ss.  
County of Ada         )

On this eighteenth day of December, 1998, before me, the undersigned, a Notary Public in and for said State, personally appeared J. RAMON YORGASON and MARILYN YORGASON, husband and wife, known to me to be the persons who signed the within and foregoing SUPPLEMENTAL DECLARATION OF COVENANTS & RESTRICTIONS and acknowledge to me that they executed the same.

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



*DeVona D. Luke*  
\_\_\_\_\_  
DeVona D. Luke  
Notary Public for the State of Idaho  
Residing at Boise, Idaho  
My commission expires August 27, 1999.

SUPPLEMENTAL DECLARATION OF COVENANTS & RESTRICTIONS

BARBARY SUBDIVISION

We, the undersigned, original members of the "Architectural Committee" of the above named subdivision, hereby declare and give notice that on August 25, 1992, all lots in the last phase of the above noted subdivision were sold; and since houses have been built upon these lots, as per Article II, Section 1, "the work of this committee", consisting of the undersigned, was "deemed completed" and said committee members were ("shall be") automatically released from all responsibilities thereto.

*J. Ramon Yorgason*  
\_\_\_\_\_  
J. Ramon Yorgason

*Marilyn Yorgason*  
\_\_\_\_\_  
Marilyn Yorgason

95076164

ADA CLERK RECORDER  
J. DAVID NAYARRO  
BOISE ID

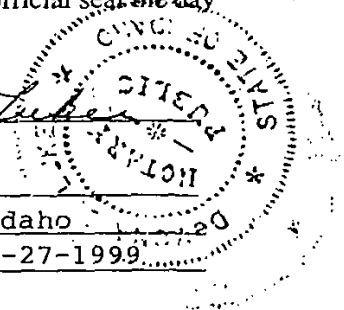
*Capital Development*  
'95 OCT 18 PM 12:12  
FEE *500* REC'D BY *[Signature]*  
RECORDED AT THE REQUEST OF

STATE OF IDAHO )  
 ) ss.  
County of Ada )

On this 10th day of October, 1995, before me, the undersigned, a Notary Public in and for said State, personally appeared J. RAMON YORGASON and MARILYN YORGASON, husband and wife, known to me to be the persons who signed the within and foregoing SUPPLEMENTAL DECLARATION OF COVENANTS & RESTRICTIONS and acknowledge to me that they executed the same.

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

*DeVona D. Luke*  
\_\_\_\_\_  
DeVona D. Luke  
Notary Public for Idaho  
Residing at Boise, Idaho  
My commission expires: 08-27-1999



IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 19th day of August, 19 91

J. Ramon Yorgason  
J. RAMON YORGASON

Marilyn Yorgason  
MARILYN YORGASON

STATE OF IDAHO )  
: ss.  
County of Ada )

On this 19th day of August, 1991, before me, the undersigned, a notary public in and for said state, personally appeared J. RAMON YORGASON and MARILYN YORGASON, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.



Debra D. Luke  
Notary Public for Idaho  
Residing at Boise, Ada, Idaho  
My Commission Expires August 27, 1993

9149236  
J. Ramon Yorgason  
ADA COUNTY, ID. FOR  
J. DAVID NAVARRO  
RECORDER BY [Signature]

'91 SEP 4 PM 3 42

**BARBARY SUBDIVISION  
DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS**

THIS DECLARATION, made on the date hereinafter set forth by J. RAMON YORGASON and MARILYN YORGASON (hereinafter referred to as "Declarant")

**WITNESSETH:**

WHEREAS, declarant is the owner of certain property in Boise City, County of Ada, State of Idaho, which is more particularly described as:

A portion of Lots 4 and 5 of the second Subdivision of the Kepner Place Subdivision, lying in the E 1/2 SW 1/4 of section 2, T.3N, R.1E, Boise Meridian, Boise City, Ada County, Idaho, according to the official plat thereof on file and of record in the office of Recorder of said county.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I**

**DEFINITIONS**

**Section 1.** Owner shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 2.** Properties shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Owners.

**Section 3.** Lot shall mean and refer to any plot of land designated as a lot upon any recorded subdivision map of the Properties.

**Section 4.** Declarant shall mean and refer to J. RAMON YORGASON and MARILYN YORGASON, husband and wife, their successors and assigns if such successors or assigns acquire more than one undeveloped Lot from the Declarant for the purpose of development.

## ARTICLE II

### ARCHITECTURAL CONTROL

**Section 1. Architectural Committee.** A committee of three persons shall act as an Architectural Committee and shall, prior to any new construction in said subdivision, be furnished with one set of detailed plans and specifications of any proposed building to be located in said subdivision and shall be allowed fifteen (15) days to review said plans, drawings, and specifications. If the plans are not approved within said fifteen (15) days, they shall be deemed rejected. If said committee shall approve the proposed building, or any modification or alteration thereof, they shall so indicate by the dating and signing of the set of plans by a member of the committee, and their approval shall be construed as full compliance with the provisions of Paragraph One (1) of the original covenants. Said committee shall have sole discretion to determine what shall be substantial compliance with said covenants. No building shall occupy any portion of said subdivision without prior consent of said committee.

The initial committee shall consist of the following:

J. Ramon Yorgason	2304 N. Cole, Suite A, Boise, ID 83704
Marilyn Yorgason	2304 N. Cole, Suite A, Boise, ID 83704
James L. Titmus	2304 N. Cole, Suite A, Boise, ID 83704

A majority of said committee is empowered to act for the committee. In the event any member of the committee is unable to act or fails or desires not to act, the remaining committee members shall appoint an owner of a Lot in said subdivision to serve on said committee, all of whom shall serve without compensation.

Upon the sale of the last lot in the subdivision, the work of the initial committee shall be deemed completed and said committee members shall then be automatically released from all responsibilities thereto.

After release of the Initial Committee, any homeowners who desire to serve on said committee may do so provided fifty percent (50%) of the homeowners in existence agree thereto.

**Section 2. Covenants, Conditions, and Restrictions.** The following covenants shall run with the land and be in force and effect for thirty (30) years hereafter unless sooner terminated by agreement by the owners of sixty-seven percent (67%) of the land in the subdivision. Modification or termination of these covenants can only be made with the consent of the owners while any lots in this subdivision remain in their ownership, and are as follows, to-wit:

(1) No building, fence, wall, structure, improvement, or obstruction shall be placed or permitted to remain upon any part of said property unless a written request for approval thereof containing the plans and specifications thereof, including exterior color scheme, has been approved in writing by the Architectural Committee. The approval of the Committee shall not be unreasonably withheld if the said plans and specifications are for improvements which are similar in general design and quality, and generally in harmony with the dwellings then located on said property.

Variations in building setback requirements shown on plat may be given by the Architectural Committee upon proper showings and so long as the City ordinances on setbacks are met.

Lot 1 Block 1 and Lot 24 Block 1 had homes in existence prior to development of the subdivision. Said Lots are excluded from the following building covenants.

The floor areas of a one-story house in this subdivision shall not be less than 1200 square feet on the ground floor. However, where continuous roof lines cover entrance or porch areas, breezeways, or patios, twenty-five percent (25%) of the floor area of such covered areas may be included at the discretion of the Architectural Committee in determining the ground floor area of the home. Two-story and tri-level homes shall have no less than 1500 square feet, exclusive of covered porches, entrances, or patios. No split-entry homes will be allowed.

The value of any residence shall exceed Seventy Thousand dollars (\$70,000.00) based on July 1991 values.

Each house in this subdivision shall include some brick or stone on the front exposure and roofs of at least 4 in 12 pitch. Bay windows, broken roof lines, gables, hip roofs, etc., are strongly encouraged. Exterior colors of earth tones or light blues or grays shall be encouraged. Bright or bold colors, or very dark colors, shall be discouraged and must be approved by the Architectural Committee.

No gravel roofs or moving of pre-built homes into the subdivision will be allowed without the approval of the Architectural Committee.

All the lots shall be provided with a driveway and a minimum of two off-street automobile parking spaces within the boundaries of each lot.

All area requirements shall be exclusive of the required two-car garage area and shall be well-constructed of good quality material and workmanship. For the purpose of the covenants, eaves, steps, and open porches shall not be considered as part of a building, provided, however,

that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot. No residence shall be in excess of two stories above ground.

All houses shall have an enclosed garage which will hold no less than two cars and no more than three.

Fences shall not extend closer than ten (10) feet to the property line, including sod and shrubs, on the side of the house next to a side street and shall not extend closer than twenty (20) feet to the front property line nor higher than six(6) feet without express approval of the Architectural Committee, and shall be of good quality and workmanship and shall be properly finished and maintained. The location of fences, hedges, high plantings, obstructions, or barriers, shall be so situated as not to unreasonably interfere with the enjoyment and use of neighboring properties and streets and shall not be allowed to constitute an undesirable, nuisance, or noxious use. The determination of the Architectural Committee shall be binding on all parties as to whether an undesirable, nuisance, or noxious use exists.

All recorded lots within this subdivision shall be subject to and restricted by the following recorded subdivision covenants:

(a) A monthly sewer charge must be paid after connecting to the Boise City public sewer system, according to the ordinances and laws of Boise City.

(b) Owner shall submit to inspection by either the Department of Public Works or the Department of Building whenever a subdivided lot is to be connected to the sewage system constructed and installed on and within its property.

(c) The applicant/owner of this subdivision or lot or lots therein shall and hereby does vest in Boise City the right and power to bring all actions against the owner of the premises hereby conveyed or any party thereof for the collection of any charges herein required and to enforce the conditions herein stated.

(d) The recording of this plat by Declarant shall be deemed and construed as a request for the annexation of its property to the corporate limits of Boise City. Such requests and consents shall be binding on all subsequent purchasers or owners of Declarant's property.

(2) No building shall be located on any lot nearer than twenty (20) feet from the front line and fifteen (15) feet from the rear line nor nearer than five (5) feet per story to any side line.

(3) Construction of any residences on the subdivision shall be diligently pursued after commencement thereof, and shall be completed within eight (8) months.

(4) Landscaping of front yard is the specific responsibility of the builder and must be completed within thirty (30) days of substantial completion of the home, or within thirty (30) days of occupancy, and is to include sod in the front yard, one flowering tree of at least 1 1/2" caliper or pine tree of at least six (6) feet in height, three (3) five gallon plants and five (5) one gallon shrubs. Berms and sculptured planting areas are encouraged. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval of the Architectural Committee. Grass will be planted in the back yard within one year of occupancy. All grass and landscaping shall be maintained by the property owner in a sightly manner and shall be kept as weed free as possible. Fine grading on each individual Lot shall be required to conform to the master drainage plan of the subdivision.

(5) Each homeowner is required to have a photo-sensitive pole light installed in the front yard within ten (10) feet of the front property line, designed to switch on automatically at sunset and off at sunrise with a minimum bulb power of 40 watts. Completion is the responsibility of the Builder and must be completed before the front sod is in place.

(6) No building shall be moved onto the premises.

(7) No shack, tent, trailer house, storage building or basement only, shall be use within the subdivision for living quarters, permanent or temporary.

(8) Nothing of an offensive, dangerous, odorous, or noisy endeavor shall be conducted or carried on nor shall anything be done or permitted in said subdivision which may be or become an annoyance or nuisance to the other property owners in said subdivision. Weeds shall be cut to less than four (4) inches on vacant lots.

(9) Keeping or raising farm animals or poultry is prohibited. No animals shall be kept or raised for commercial purpose. All dogs and cats or household pets kept on these premises shall be properly fed and cared for and shall be adequately fenced so as not to annoy or trespass upon the use of the property of others.

Dogs shall not be allowed to run at large. Not more than two (2) animals may be kept at one time, except that a litter of young may be kept until eight (8) weeks old.

(10) No business shall be conducted on the above property that cannot be conducted within the residence of the owner as permitted by law. No signs shall be installed to advertise said business. No oil exploration or development of any nature or kind or mining exploration, development, or structure shall be permitted upon the lots in the subdivision.

(11) Only one outbuilding per lot will be allowed. All outbuildings shall be constructed of good quality building material, completely finished and painted on the outside and shall be of a quality and character that will be in harmony with the other buildings on said property and must be approved by the Architectural Committee.

(12) No building or structure shall be placed on said property so as to obstruct the windows or light of any adjoining property owner in said subdivision.

(13) Additional easements: In addition to the easements shown on the recorded plat, an easement is further reserved five (5) feet on each side of all other lot lines for installation and maintenance of utilities, irrigation, and drainage.

Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of the utilities, or which may change the direction of the flow of water through the drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility is responsible.

(14) This subdivision is within the Ridenbaugh Canal District and subject to any and all assessments of said District and any and all other Water Districts or Authority within the subdivision. The Declarant has made no provisions that provide for future delivery of irrigation water to the individual lots.



(15) All bathroom, sink, and toilet facilities shall be located inside the dwelling house or other suitable appurtenant building, and shall be connected by underground pipe to wet line sewer connection lines which have been provided to each lot.

(16) No sign of any kind shall be displayed to public view on any building or building site on said property except a professional sign of not more than five (5) square feet advertising the property for rent by an owner or for sale or to advertise the property during the construction and sales period. If a property is sold or rented, any sign relating thereto shall be removed immediately, except that the Declarant or its agent may post a "Sold" sign for a reasonable period following the sale. Notwithstanding any provision to the contrary, signs of any and all sizes and dimension may be displayed by the Declarant, without limitation thereto, for subdivision identification.

(17) No lot or building site included within this subdivision shall be used or maintained as a dumping ground for waste material. Incinerators are not permitted. Receptacles for storage or trash, garbage, etc., shall be maintained in a sanitary and clean condition.

(18) Parking of boats, trailers, motorcycles, trucks, truck-campers, and like equipment, or junk cars or other unsightly vehicles, and like items shall not be allowed on any part of said property nor on public ways adjacent thereto excepting only within the confines of an enclosed garage, or other approved enclosure, and no portion of same may project beyond the enclosed area. Garage driveways shall not be extended on either side for additional parking without first securing Architectural Committee approval. For the purpose of this section, an approved area may be beside the house but not on a street side, and consist of a six (6) foot solid board fenced enclosure that is, on the front, no closer than ten (10) feet to the nearest front corner of the house. If the height of the stored item is greater than the height of the front fence, the fence must be two (2) feet farther from the nearest front corner of the house for each part of a foot the item extends above the fence and the item must be stored two (2) feet away from any side yard fence for each part of a foot it extends above said fence, but in no case will the item be allowed to be stored if its height is greater than nine (9) feet or length greater than twenty-five (25) feet. The Architectural Committee shall be the sole and exclusive judges of approved parking areas.

(19) No machinery, building equipment or material shall be stored upon site until Grantee is ready and able to commence the construction. Building materials shall be placed within the property line of the building site upon which the structure is to be erected.

(20) Installation of radio and/or television antennae or satellite dishes is prohibited outside any building without written consent from the Architectural Committee, which would require them to be screened from the street view.

(21) The Architectural Committee's decision is final and binding on all issues.

**Section 3. Damage to Improvements.** It shall be the responsibility of the Builder of any residence in this subdivision to leave street, curbs, sidewalks, fences, tiled irrigation lines, if any, and utility facilities free of damage and in good and sound condition at the conclusion of the construction period. It shall be conclusively presumed that all such improvements are in good,

sound condition at the time building is begun on each Lot unless the contrary is shown in writing at the date of conveyance or by date of possession, whichever date shall first occur, which notice is addressed to a member of the Architectural Committee.

**Section 4. Time Extension for Covenants.** The covenants set forth in this instrument shall run with the land and shall be binding on all persons owning a lot(s) under them for a period of thirty (30) years from the date of this recording thereof, after which time such covenants shall be automatically extended for successive periods of ten (10) years, unless at any time after the initial recording of this instrument, an instrument signed by sixty-seven percent (67%) of the lot owners of this subdivision has been recorded agreeing to terminate said covenants, in whole or in part.

**Section 5. Enforcement.** Enforcement against any person or persons violating or attempting to violate any covenant herein after ten (10) days notice thereof in writing served on the offending party, shall be had by any property owners either at law or equity. In the event of judgement against any person for such, the Court may award an injunction against any person for such violation, require such compliance as the Court deems necessary, award such damages, reasonable counsel fees, and Court costs as may be suffered or incurred, and such other or further relief as may be deemed just and equitable.

### **ARTICLE III**

#### **GENERAL PROVISIONS**

**Section 1. Enforcement.** Any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 2. Severability.** Invalidation of any one of these covenants or restrictions by judgement or other court order shall in no wise affect any other provisions which shall remain in full force and effect.

**Section 3. Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first thirty (30) year period by an instrument signed by not less than sixty-seven percent (67%) of the Lot Owners. Any amendment must be recorded.