

Area will not require compliance with the provisions of this Article or the Design Guidelines.

**ARTICLE 11.
WATER AND SANITARY SEWER**

11.1. **Black Rock Utilities, Inc.** Water and sewer services will be provided to Community by Black Rock Utilities, Inc. ("Black Rock Utilities"), a non-profit corporation established for the sole purpose of owning, operating and maintaining a private water and sewer system for the exclusive use of residents of Community and the Club.

11.1.1 **Ownership/Membership.** Black Rock Utilities is a non-profit, non-stock corporation in which the Association will be the sole member. When the portion of the water system required to serve the lots in the first platted phase of Black Rock is completed, all water permits held by Declarant and all completed water facilities constructed by the Declarant necessary to serve the first phase Lots will be deeded to Black Rock Utilities, including all wells, well houses and related piping, meters, and water distribution lines with water service stubs to each Lot. Future portions of the water system will also be deeded to Black Rock Utilities upon completion of each such portion.

11.1.2. **Governance.** The Association through its Board of Directors shall appoint a Board of Directors for Black Rock Utilities ("Black Rock Utilities Board"), which will be responsible for the administration and maintenance of Black Rock Utilities and for the establishment, amendment and enforcement of all bylaws and rules and regulations of Black Rock Utilities, as amended from time to time, regarding the water and sewer system.

11.2. **Fees.** Each Owner shall pay fees and usage charges on a regular basis at rates and at times to be established by Black Rock Utilities from time to time. Such fees and usage charges are intended to cover all anticipated annual operating expenses of the system as well as to provide a reasonable reserve for repair and replacement.

11.3. **Utilities Rules and Regulations.** Black Rock Utilities shall be governed by the Bylaws and Utilities Rules and Regulations as adopted by Black Rock Utilities. Any amendment to such Bylaws and Rules and Regulations must be adopted by resolution approved as set forth in such governing documents and distributed or made available to each Owner within a reasonable time following the effective date of the amendment.

11.4. Sanitary Sewer – Initial Construction.

11.4.1. **Sewer Service to Lots.** Each Lot shall be provided sewer service by Black Rock Utilities. No wells or drainfields will be allowed on any Lot, except for the Beach Front Sales Office which may be served by a drainfield, and the Club maintenance building, which may be served by a temporary drainfield, until such time as the Black Rock Utilities sewer system is usable, at which time the Club maintenance building will be connected to the Black Rock Utilities water and sewer system, and the drainfield will be abandoned.

11.4.2. **Ownership and Construction.** Declarant shall be responsible for the initial construction of the sewer mains, the shutoff valve located at or near the property line of each Lot, and the service line running between the sewer main and the shutoff valve. Sewer facilities located on each Lot will not be constructed until the Owner is ready to build a dwelling unit on the Lot. The Owner shall be responsible for determining the location of the septic tank on the Lot, provided, however, that Black Rock Utilities shall approve of the determined location. Black Rock Utilities shall be responsible for the completion of the initial construction of all sewer facilities located on the Owner's Lot, including but not limited to, a septic tank for holding effluent to be pumped into the Black Rock Utilities sewer main, the service line running from the septic tank to the shutoff valve located at or near the property line, and the pump and pumping system and appurtenances needed to pump the sewage from the septic tank to the sewer main and any control and alarm panels, wiring and electrical connections relating to the pumping system. If a pumping system is required, Black Rock Utilities shall install a pumping system that is in compliance with applicable requirements of the Department of Environmental Quality, and the County of Kootenai. The cost of all such construction of sewer facilities on any Lot by Black Rock Utilities shall be borne solely by the Owner. In addition, the Owner shall be responsible for construction of the service line running from the house to the septic tank.

11.4.3. **Sanitary Sewer – Ongoing Maintenance.** Upon completion of each phase of sanitary sewer construction, the sewer mains and shut off valves will be conveyed to, owned, operated, repaired, maintained and/or replaced by Black Rock Utilities. Black Rock Utilities shall also own, operate, repair, maintain and/or replace all sewer facilities on each Lot from the septic tank to the shut off valves. Replacement of any such equipment on any Lot shall be at the sole expense of the Owner. Each Owner shall be responsible for the operation, repair, maintenance and replacement of the service line running from the house to the septic tank on such Owner's Lot. Each Owner shall install, operate, repair, maintain and replace the sewer facilities for which that Owner is

responsible in such a manner as to cause no injury to other property or the overall sewer system. Each Owner shall be in compliance with any ordinances, rules and regulations adopted by the Black Rock Utilities Board concerning the sewer system.

11.4.4. **Sanitary Sewer – Fees.** Upon completion of the sewer improvements in accordance with the regulations of the Department of Environmental Quality and Kootenai County, each Owner shall pay directly to Black Rock Utilities such amounts for sanitary sewer service, including monthly charges, and all other fees and charges as may be set from time to time by the Black Rock Utilities Board relating to sanitary sewer service.

11.5. **Water Service – Initial Construction.** Each Lot shall be served by a water system provided by Black Rock Utilities. Declarant shall be responsible for the initial construction of the water mains, the shutoff valve (curb stop) located at or near the property line of each Lot, and the service line running between the water main and the water meter. Black Rock Utilities shall be responsible for the installation of two water meters on each Lot, one for potable water and one for irrigation water. The Owner shall be responsible for the cost of the meters and the installation. The Owner shall also be responsible for the initial construction of all water facilities located on that Owner's Lot, including but not limited to the service line running from the house to the water meter located at or near the property line, and, if required, the individual pressure reducing valve and appurtenant shutoff valves, pipes and fittings. If a pressure reducing valve is required in order to reduce the water pressure to a maximum of 80 pounds per square inch, the Owner shall furnish and install the valve so that it has an external (outside the house) point of discharge. Internal (inside the house) points of discharge are not permitted for pressure-reducing valves, and neither Declarant, nor the Association, nor Black Rock Utilities shall be responsible for any damages that may occur from malfunctioning or improperly designed or installed pressure-reducing valves.

11.5.1. **Potable Water.** Potable water is defined as water that is reasonably necessary to support a single-family residence, such as drinking water and water for cooking, bathing, laundry and sanitary uses.

11.5.2. **Potable Water Service – Ongoing Maintenance.** As set forth in Section 11.1.1, the water mains for potable water service, the water meters for such service, and the service line running between the water main and the water meters will be conveyed to, owned by, and subject to the control of the Black Rock Utilities. Black Rock Utilities will also be responsible for the replacement, repair and maintenance of the water meter for potable water on each Lot. The cost of any such replacement, repair or maintenance, however, shall be the responsibility of the Owner. Each Owner shall also be responsible for the operation, repair, maintenance and replacement of all water facilities located on the Owner's Lot, including but not limited to the service line running from the house to

the water meter located at or near the property line, and, if required, the individual pressure reducing valve and appurtenances. Each Owner agrees to install, operate, repair, maintain and replace the water facilities for which such Owner is responsible in such a manner as to cause no injury to other property or the overall water system, and to be in compliance with any rules and regulations adopted by the Black Rock Utilities Board concerning the water system.

11.5.3. Potable Water Service – Fees. Each Owner shall pay to Black Rock Utilities such amounts for water meter installation and replacement and such fees for potable water service, including monthly charges and all other fees and charges, as may be set from time to time by Black Rock Utilities relating to potable water service. All such charges shall be considered Assessments, as provided in Article 14 herein.

11.5.4. Potable Water Meter. Water usage shall be separately metered for each Lot. After the required installation and meter fees are paid, Black Rock Utilities shall supply and install a water meter which is National Sanitation Foundation approved, and shall further initiate water service. All meters will be installed and located at or near the property line. Black Rock Utilities shall be responsible for the operation, repair, maintenance and replacement of the water meter so that the water meter will at all times be in compliance with the applicable requirements of the Department of Environmental Quality, the County of Kootenai and Black Rock Utilities. However, the cost of the water meter and the cost of replacement of any such water meter shall be the responsibility of the Owner. Each Owner shall cooperate in permitting the Declarant and/or the Black Rock Utilities to periodically read the water meter to determine water usage. Black Rock Utilities may, but shall not be required to, take into account the amount of water usage in determining the fees and charges to be made for sewer and/or water service.

11.5.5. Irrigation Water Service – Ongoing Maintenance. As set forth in Section 11.1.1. above, the water mains for irrigation water service and the service line running between the water main and the water meters will be conveyed to, owned by, and subject to the control of Black Rock Utilities. Black Rock Utilities will also own and be responsible for the replacement, repair and maintenance of the water meter for irrigation water on each Lot. The cost of any water meter replacement, however, shall be the responsibility of the Owner. Each Owner shall also be responsible for the operation, repair, maintenance and replacement of all water facilities located on such Owner's Lot, including but not limited to the service line running from the house to the water meter located at or near the property line; and, if required, the individual pressure reducing valve and appurtenances. Each Owner agrees to install, operate, repair, maintain and replace the water facilities for which that Owner is responsible in such a manner as to cause no injury to other property or the overall water system, and to be in compliance with any rules and

regulations adopted by the Black Rock Utilities Board concerning the water system.

11.5.6. Irrigation Water. Irrigation use is defined as any use necessary for maintaining any and all landscaping, including common areas and, for purposes of this Declaration, all out of doors use, including, but not limited to, watering and/or washing pets, washing cars, and the like.

11.5.7. Irrigation Water Service – Fees. Each Owner shall pay to Black Rock Utilities such amounts for water meter installation and replacement and such fees for irrigation water service, including monthly charges and all other fees and charges as may be set from time to time by Black Rock Utilities relating to irrigation water service. All such charges shall be considered Assessments, as provided in Article 14 herein.

11.5.8. Irrigation Water Meter. Irrigation water usage shall be separately metered for each Lot. After the required installation and water meter fees are paid, Black Rock Utilities shall supply and install a water meter and shall initiate services. All meters will be installed and located at or near the property line. Black Rock Utilities shall be responsible for the operation, repair, maintenance and replacement of the water meter so that the water meter will at all times be in compliance with the applicable requirements of the Department of Environmental Quality, the County of Kootenai and Black Rock Utilities, provided, however, that the cost of the water meter and the cost of replacement of any such water meter shall be the responsibility of the Owner. Each Owner shall cooperate in permitting Black Rock Utilities to periodically read the water meter to determine water usage. Black Rock Utilities may, but shall not be required to, take into account the amount of water usage in determining the fees and charges to be made for sewer and/or water service.

11.5.9. Landscaping Use. Only Irrigation water shall be used for any and all landscaping, including Common Areas.

11.5.10. Frost-Free Hose Bibs. Frost free hose bibs are allowed on Dwelling Units, however the number allowed per Dwelling Unit shall be based upon the size of the Dwelling Unit and shall be at the discretion of the Design Committee. ANY USE OF POTABLE WATER OUT OF DOORS IS PROHIBITED.

11.6. Unauthorized Hook-Up. Each Owner shall notify the Association prior to hooking onto water and sewer systems provided by Black Rock Utilities. It is the responsibility of Black Rock Utilities to provide hook-up to each Lot Owner upon receipt of such notification in writing. Any unauthorized hook-up will result in fines being levied by Black Rock Utilities and may result in termination of service or prosecution, or both. In the event of court action as a result of an unauthorized hook-up, then all costs and expenses, including actual attorneys'

fees and legal assistants' fees incurred by Black Rock Utilities in connection with such action shall be paid by the violating Owner.

11.7. **Owner Repairs.** Owner shall immediately notify Association of any leaks or breaks in the service lines and/or residence lines for which Owner may or may not be responsible. If Owner fails to repair any leaks or breaks for which Owner is responsible, Association has the right to enter onto Owner's property and make any and all repairs necessary to preclude water waste or damage, and will bill Owner for said repairs. Owner will be responsible to reimburse Black Rock Utilities for repairs within thirty (30) days, and any such amount incurred shall be deemed Assessments as provided in Article 14 herein.

11.8. **Use of Water for Fire Fighting.** Each Owner shall be responsible for the cost of all water used for fire fighting on the Owner's Lot and shall be responsible for any loss/damage caused to the Association, Black Rock Utilities, the Club or other third parties by water used for fire fighting on Owner's Lot.

11.9. **No Liability for Interruption of Service.** The Association, Black Rock Utilities and the Utilities Board shall not be liable for any actual or consequential damages arising from, or related to the intentional or unintentional interruption of water services, regardless of the cause of the interruption. Each Owner and their successors and assigns agree to indemnify and hold harmless the Association and Black Rock Utilities for any and all liability related in any fashion to interruption of service. Further, Owner and their successors and assigns agree that they shall never file or assist in the prosecution of any claim against the Association and/or Black Rock Utilities related in any fashion to the provision or lack of provision of water service.

ARTICLE 12. PROPERTY USE MAINTENANCE AND RESTRICTIONS

12.1. **General Restriction.** The Property will be used only for the purposes set forth in this Declaration, as permitted by the applicable ordinances of the County of Kootenai, the laws of the State of Idaho and the United States, and as set forth in the Black Rock Documents or other specific recorded covenants affecting all or any part of the Property.

12.2. **Use of Lots.** Each Lot may be used only for the purposes permitted by the applicable zoning, including any applicable planned unit development. In the event of a conflict between any provision of the applicable planned unit development and any provision of this Declaration, the more restrictive provision shall control. Lease of a Dwelling Unit shall not be considered a business or trade within the meaning of this subsection.

12.3. **Motorized Vehicles.** No trucks, trail bikes, recreational vehicles, motor homes, motor coaches, snowmobiles, campers, trailers, boats or boat trailers or similar vehicles, other than passenger automobiles or pickup or utility trucks with a capacity of one ton or less, or any other motorized vehicles will be