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Eric Semerad - Gallatin County, MT MISC



DECLARATION FOR AILESBUURY RESIDENCES CONDOMINIUM

THIS DECLARATION (as supplemented, amended, or restated from time to time) is hereby made and entered into this 16th day of Feb, 2021 by **Ailesbury 208 Development, LLC**, a Montana limited liability company (hereinafter referred to as the “Declarant”), whereby the lands and property hereinafter described are submitted and subject to the Montana Unit Ownership Act, §§ 70-23-101, *et seq.*, MCA (2019), as amended.

The property subject to this Declaration shall be known as the AILESBUURY RESIDENCES CONDOMINIUM (hereinafter referred to as the “Condominium, Property or Project”). The address of the Condominium is 208 South 3rd Avenue, Bozeman, MT 59715.

NOW, THEREFORE, Declarant hereby declares that the Project shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved subject to the declarations, limitations, covenants, conditions, restrictions, and easements contained in this Declaration, all of which are imposed as equitable servitudes pursuant to a general plan for the development of the Project for the purpose of enhancing and protecting the value and attractiveness of the Project, and every part of it, in accordance with the plan for the improvements of the Project and its division into Condominiums. All the limitations, covenants, conditions, restrictions, and easements shall constitute covenants that run with the land and are binding upon, and inure to the benefit of, Declarant, the Association, and all parties having or acquiring any right, title, or interest in or to any part of the Project or the Property in the Project.

ARTICLE I TITLE AND NATURE

The Project shall be known as AILESBUURY RESIDENCES CONDOMINIUM. The Project is established in accordance with the Unit Ownership Act. The Project contains individual Units for residential use, as set forth herein and in the Bylaws, and each Unit is capable of individual utilization on account of having its own entrance from and exit to a Common Element of the Project. Each Unit Owner in the Project shall have an exclusive right to his Unit and shall have undivided and inseparable rights to share with other Unit Owners the Common Elements of the Project.

ARTICLE II DEFINITIONS

Unless the context expressly provides otherwise, the following definitions shall pertain throughout this Declaration and in the interpretation thereof:

2.1 Aggregate Voting shall mean the entire number of votes present or available to vote in person or by proxy in a particular circumstance.

2.2 Articles shall mean the Articles of Incorporation of the Association.

2.3 Assessment means that portion of the Common Expenses that is to be paid by each Owner as determined by the Association in accordance with Article VII.

2.4 Association or Association of Unit Owners shall mean the Ailesbury Residences Condominium Owners Association, a Montana nonprofit corporation organized under the laws of the State of Montana.

2.5 Board or Board of Directors shall mean the Board of Directors of the Association as more particularly defined in the Bylaws.

2.6 Buildings means the buildings containing the Condominium Units.

2.7 Bylaws means the Bylaws promulgated by the Association under this Declaration and the Unit Ownership Act.

2.8 Common Elements means both General Common Elements and Limited Common Elements.

(a) General Common Elements means all those elements that are for the use of all Owners and guests of Owners of the Ailesbury Residences Condominium. Specifically included are: all parts of the Property not located within the boundaries of a Unit, including but not limited to the land, the framework, columns, trusses, supports, roof and other structural components of the buildings, exterior structural walls and siding, gutters and vertical roof drains, electrical, gas, television, telephone, water and sewer lines and connections serving all of the Units, beneficial easements, landscaping, plants and other materials and improvements separate from and outside of the Buildings containing the Units, and other elements necessary for the safety, maintenance and existence of the Project in which each Unit Owner shall have the designated Percentage of Interest, set forth in Article V below.

(b) Limited Common Elements shall mean those Common Elements that are reserved for the use of the owners of the Unit to which they are appurtenant. Specifically, as to any given Unit Owner or Owners, Limited Common Elements shall mean the following common elements which are located within or affixed to the building containing his Unit: Flues, chimneys, ducts, cables, conduits, electrical heat elements, public utility lines, water, sewer, electrical, gas, cable television lines and hot and cold water pipes (all such utility pipes and lines are Limited Common Elements where they service less than all the Units; where they service all Units they shall be General Common Elements), entrances, stoops, furnaces, patios, decks, balconies, hot water tanks, heating ducts, cold air returns, and fixtures, or other portions of a building servicing only a particular Unit or less than all of the Units; and Parking Spaces.

2.9 Common Expenses means expenses of administration, maintenance, repair or replacement of General Common Elements and all other expenses of the Association, and expenses declared common by the Unit Ownership Act. The term specifically excludes the Limited Common Elements, which shall be the responsibility of their respective Owner or Owners.

2.10 Declaration means this document and all parts attached thereto or incorporated by reference.

2.11 Developer or Declarant means Ailesbury 208 Development, LLC, a Montana limited liability company, and its successors and assigns. Unless the context expressly or implicitly requires otherwise, both successors and assigns are included within the term “Developer” or “Declarant”.

2.12 Governing Documents shall mean this Declaration, the Bylaws, Articles, and rules of the Association.

2.13 Manager means the Board of Directors or any management company or any other person or group of persons retained or appointed by the Board or by the Association for the purpose of conducting the day-to-day operations of the Association.

2.14 Parking Space means the designated parking space or spaces, if any, appurtenant to each Unit. Each parking space is appurtenant to its designated Unit and cannot be separately conveyed.

2.15 Percentage of Interest means the percentage of undivided interest held by each of the Units Owners as reflected in paragraph 5.1.

2.16 Property, Project, or Condominium means the land, building, improvements, and structures thereon and all easements, rights and appurtenances belonging thereto, which are herewith submitted to the Unit Ownership Act and subject to this Declaration.

2.17 Unit shall be the separate Units of the Condominium, including and containing one or more rooms, including, as applicable, a garage in a detached accessory building intended for independent residential use, and with a direct exit leading to a street or highway or to Common Elements leading to a street or highway whether directly or indirectly by way of an easement connecting to a street or highway.

2.18 Unit Designation is the combination of letters, numbers and words that identify the designated Units.

2.19 Unit Owner and Owner means the person owning a Unit in fee simple absolute individually or as co-Owner in any real estate tenancy relationship recognized under the laws of the State of Montana.

2.20 Unit Ownership Act or Act means and refers to the Montana Unit Ownership Act, §§ 70-23-101, *et seq.*, MCA (2019), as amended.

Whenever any reference herein is made to one gender, the same shall include a reference to all genders where the same would be appropriate; similarly, whenever a reference is made herein to the singular, a reference shall also be included to the plural where the same would be appropriate and vice versa.

ARTICLE III REAL ESTATE

3.1 Description. The real property which is by this Declaration submitted and subject to the Montana Unit Ownership Act is described as follows:

(See Exhibit A attached)

The Condominium consists of a single, two-story house and basement, with each floor divided in the center of the house by a shared wall. All floors and the basement on each side of the partition constitute a residential Unit, for a total of two (2) Units on one common lot and a detached shared accessory building garage. See Exhibit C attached hereto for floor plans of the individual Units. See Exhibit D for a site plan and the location of the structures, Units, and parking facilities. The provisions of this Declaration and the Bylaws shall be construed to be covenants running with the land and shall include every Unit and shall be binding upon the Unit Owners, their heirs, personal representatives and assigns for as long as this Declaration and Bylaws are in effect. The Condominium shall be referred to as AILESBUURY RESIDENCES CONDOMINIUM.

3.2 Condominium Units. Each Unit, together with the appurtenant undivided interest in the General Common and Limited Common Elements of the Condominium shall together comprise one Condominium Unit, shall be inseparable, and may be conveyed, leased, rented, devised or encumbered as a Condominium in accordance with this Declaration.

3.3 Encroachments. If any portion of the General Common Elements or Limited Common Elements encroaches upon a Unit or Units, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist. If any portion of the Unit encroaches upon the General Common Elements, or Limited Common Elements, or upon an adjoining Unit or Units, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the General Common Elements, the Limited Common Elements, or on the Units for the purpose of marketability of title. In the event the building or any portion thereof is destroyed and then rebuilt, the Owners of the Unit or Units agree that minor encroachments of parts of the General Common or Limited Common Elements because of such construction shall be permitted and that an easement for such encroachment and the maintenance and repair of the same shall exist.

3.4 Buildings. The Units comprising the Condominium are contained in two (2) detached Buildings. The land on which the Buildings are located is a Common Element of the Project.

3.5 Unit Boundaries. Each Unit shall include the part of the Building containing the Unit that lies within the boundaries of the Unit, which boundaries are as follows: Each of the Units as separately shown, numbered, and designated in Exhibit C consists of the space bounded by and contained within the interior unfinished surfaces of the perimeter walls, floors, ceilings, windows, window frames, doors, door frames, and trim of each Unit, each of those spaces being defined and referred to in this Declaration as a "Unit". Bearing walls located within the interior of a Unit, except for their finished surfaces, are part of the Common Elements, not part of the Unit. Exposed beams in ceilings shall not be part of the Unit. Each Unit includes the utility installations located within its boundaries of which the Owner has exclusive use, including, without limitation: hot water heaters, space heaters, lighting fixtures, cabinetry, and air-conditioning equipment that are located entirely within the Unit they serve. Each Unit includes both the portions of the Building so described and the airspace so encompassed. The Unit does not include those areas and those things that are defined as Common Elements in Article I of this Declaration. The Parking Spaces identified on Exhibit D as being designated to particular Units are appurtenances thereto and constitute Limited Common Elements.

3.6 Fixtures. All Fixtures and Equipment contained in each Unit shall be conveyed with the Unit and shall be the property of the Unit Owner. The Owner shall be responsible for the maintenance and upkeep of the fixtures and equipment of each Unit.

ARTICLE IV EASEMENTS

4.1 Common Element Easements. A nonexclusive right of ingress and egress and support through the General Common Elements are appurtenant to each Unit and any Limited Common Elements and all the General Common Elements are subject to such rights. Except as otherwise limited in this Declaration, each Unit Owner shall have the right to use the Common Elements for all purposes incident to the use of and occupancy of the Unit, and such other incidental uses permitted by this Declaration, which rights shall be appurtenant to and run with the whole Unit.

4.2 Easement for Utilities. Each Unit may have its air space penetrated by electrical wires and lines, gas lines, hot and cold-water lines, wastewater lines and vents and other utility and mechanical lines, pipes, or equipment. These lines, where they serve only one Unit shall be appurtenant to such Unit, but where they serve more than one Unit shall be part of the Common Elements, either limited or general, depending upon how many Units are being served thereby as defined in Article II, paragraph 2.9. Such items shall be so installed and maintained so that they shall not unreasonably interfere with the use of the Unit air space by the Owners of the same. A non-exclusive easement shall exist through, over and across each Unit for structural support of the utility lines and mechanical equipment and for the use, inspection, installation, maintenance, replacement and repair of such utility lines and mechanical equipment for the use of all the Unit Owners or the Unit Owners being serviced by the air space being penetrated by such lines and/or equipment. After completion of construction of a Unit an easement for ingress and egress for the purpose of such inspection, installation, maintenance, replacement or repair of such easement rights shall only be exercised under the direction and approval and with the authority of the Association and /or the Manager unless an emergency exists in which event any action may

reasonably be taken which is justified under the circumstances to minimize damage which would otherwise occur as a consequence of such emergency. There shall be easements to, through and over the Units and the Common Elements for the continuing maintenance and repair of all utilities in the Condominium. There shall exist easements of support with respect to any Unit interior wall that supports a Common Element. The foregoing easements are all permanently reserved to the Declarant, the Association and the Owners.

4.3 Easements for Public Utilities. The Developer reserves the right at any time during the development and sales period of the Project to grant easements for utilities over, under and across the Project to appropriate governmental agencies or public utility companies and to transfer title of utilities to governmental agencies or to utility companies. Any such easement or transfer of title may be conveyed by the Developer without the consent of any Unit Owner, mortgagee or other person and shall be evidenced by an appropriate amendment to this Declaration and recorded in the Gallatin County Records. All Unit Owners and mortgagees of Units and other persons interested or to become interested in the Project from time to time shall be deemed to have irrevocable and unanimously consented to such amendment or amendments of this Declaration as may be required to effectuate the foregoing grant of easement or transfer of title.

4.4 Grant of Easements by Association. The Association, acting through its lawfully constituted Board of Directors shall be empowered to grant such easements, licenses, rights-of-entry, and rights-of-way over, under and across the Project for Utility purposes, access purposes or other lawful purposes as may be necessary for the benefit of the Association.

4.5 Easements for Maintenance, Repair, and Replacement. The Developer, the Association and all public or private utilities shall have such easements over, under, across and through the Condominium Project, including all Units and Common Elements, as may be necessary to fulfill any responsibilities of maintenance, repair, or replacements which they or any of them are required or permitted to perform under the Governing Documents or by law. These easements include, without any implication of limitation, the right of the Association to obtain access at all times to meters, controls, valves, pipes, conduits, and other Common Elements located within or to gained through any Unit or its appurtenant Limited Common Elements.

4.6 Specific Written Easement. Developer may, by subsequent instrument, prepared and recorded in its sole discretion without the necessity of consent by any interested party, specifically define or amend by legal description the easements created by this Article IV.

4.7 Right of Access. The Association shall have the irrevocable right, to be exercised by the Board or the Manager, to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Limited Common Elements therein or accessible therefrom or for making emergency repairs therein necessary for the maintenance, repair or replacement of any of the Limited Common Elements therein necessary to prevent damage to the General or Limited Common Elements or to any Unit.

Damage to the interior or any part of the Unit resulting from maintenance, repair, emergency repair, or replacement of any of the General or Limited Common Elements or as a

result of an emergency repair within another Unit at the instance of the Association shall be designated Common Expenses by the Association and assessed accordance with such designation.

ARTICLE V OWNERSHIP

5.1 Percentage of Interest. Each Unit Owner shall be entitled to the exclusive ownership, use, and possession of his Unit and its appurtenances, and the percentage of undivided interest of each Unit Owner in the Common Elements as set forth below. Such percentage represents his ownership interest in the General Common Elements, his liability for Common Expenses, and the voting interest of the Unit Owner or Owners in all matters concerning the Association of Unit Owners. Such Percentage of Interest owned by each of the Units in the Condominium is set forth in Exhibit E, attached.

5.2 Floor Plans and Exhibits. The Condominium consists of a single, two-story house and basement, with each floor divided in the center by a shared wall. All floors and the basement on each side of the partition constitute a residential Unit, for a total of two (2) Units on one common lot, a detached shared accessory building garage, and appurtenant Parking Spaces. For identification and descriptive purposes, the following Exhibits are attached and by reference hereto incorporated into and made a part of this Declaration:

Exhibit A-1: legal description of the real estate included in the Condominium.

Exhibit A-2: The certificate of exemption from subdivision review issued by Gallatin County, Montana.

Exhibit A-3: The Department of Environmental Quality approval letter for Municipal Facilities Exclusion.

Exhibit B: The Certificate of Name issued by the Montana Department of Revenue.

Exhibit C: the floor plans showing the layout of each of the Units of the Condominium, the area of each, and their dimensions.

Exhibit D: the site plan of the Condominium showing the Property, the location of the Buildings containing the Condominium Units on the Property and the common areas to which each Unit has access, the Unit Designations and location of the Units within the Buildings, and onsite Parking Spaces.

Exhibit E: Each Unit's Percentage of Interest in the Common Elements.

5.3 Designation of Parking Spaces. The Board shall designate the Parking Spaces, if any, appurtenant to each Unit. Exhibit D reflects the number, if any, of Parking Spaces to which each Unit will be assigned.

5.4 Exclusive Ownership. Each Owner or Owners shall be entitled to exclusive Ownership and possession of their Unit. Such Owners may use the General and their respective Limited Common Elements in accordance with the purposes for which they are intended and as they may otherwise agree between themselves, so long as they do not hinder or encroach upon the lawful rights of other Unit Owners.

5.5 Construction of Units. Developer shall not be required to construct all proposed Units within any set time frame. Developer reserves the right to build the Units in accordance with the floor plans and site plan attached hereto and as the same may be amended in accordance with this Declaration. If there is any change in the floor plans or site plan or the Unit Owner's Percentage of Interest, this Declaration shall be amended to reflect the change.

Until a Unit is completed, the Assessments levied against such uncompleted Unit by the Association shall be limited to assessments for the General Common Elements relating to the land, including real estate taxes and assessments, public liability insurance, and other assessments and costs relating to the General Common Element, but not including assessments for Building maintenance, fire and casualty insurance or other assessments and costs relating to the Common Elements applicable to or servicing only the Buildings and completed Units.

5.6 Use. The Units and Common Elements shall be occupied and used as follows:

5.6.1 The property may be used for lawful purposes and use shall be restricted as set forth in these Declarations.

5.6.2 There shall be no obstruction of the Common Elements nor shall anything be stored in or on the Common Elements without the prior written consent of the Association. Each Owner shall be obligated to maintain and keep in order and repair his own Unit.

5.6.3 Nothing shall be altered or constructed in or removed from the Common Elements, except upon the prior written consent of the Association.

ARTICLE VI THE ASSOCIATION

6.1 Membership. Any Owner of a Unit in the Condominium shall automatically, upon becoming the Owner of said Unit, be a member of the Association, and shall remain a member of said Association until such time his ownership ceases, whereupon his membership in said Association shall automatically cease. The membership shall be limited to Unit Owners as defined in this Declaration.

6.2 Function. It shall be the function of the Association to:

- (a) Adopt Bylaws for the governance of the Association.

- (b) Make provisions for the general management and/or repairs and maintenance of the Common Elements.
- (c) Levy Assessments as provided for in the Declaration, Bylaws and Unit Ownership Act.
- (d) Adopt and implement a policy for the affairs of the Association.
- (e) Enter into contracts to hire personnel for the management of the affairs of the Association and the maintenance and repair of the Common Elements.

6.3 Vote. On all matters, unless excluded by this Declaration, to be decided by the Association, each Owner shall have a vote equal to his Percentage of Interest. When more than one (1) person owns any Unit, all such persons shall be Members. The vote for such Unit shall be exercised as the Owners among themselves determine, but in no event shall more than the allocated Percentage of Interest vote be cast with respect to any Unit. Meetings of the Association shall only be conducted when a quorum is present, as defined in the Association Bylaws. Except as otherwise provided in the Unit Ownership Act, this Declaration or the Bylaws, a majority of the Aggregate Voting interest present at any meeting or by proxy shall be sufficient to act on matters brought before the Association.

6.4 Failure to Comply – Attorney’s Fees. Each Owner shall comply strictly with the provisions of this Declaration, the Bylaws, rules, regulations, decisions, and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief or both, and for reimbursement of all costs, including attorney fees incurred in connection therewith, which action shall be maintainable by the Board or the Manager in the name of the Association, on behalf of the Owners or by an aggrieved Owner where there has been a failure of the Association to bring such action within a reasonable time.

6.5 Initial Board of Directors. The Declarant hereby appoints the following persons to serve on the Board until the first meeting of the Association:

<u>Name</u>	<u>Address</u>
Ailesbury Management, LLC	555 Alvarado Street San Francisco, CA 94114

6.6 Maintenance by Owners Association. The Association shall maintain and keep in repair the Common Elements of the Condominium. All fixtures, utility lines and equipment installed in the Unit commencing at a point where the utilities enter the Unit shall be maintained and kept in repair by the owner thereof. The Association shall do no act or any work that will impair the structural soundness or integrity of any Building or impair any easement.

All stormwater drainage structures and elements are to be maintained by the Association in strict compliance with the approved Stormwater Maintenance Plan.

Each Owner shall also keep all Limited Common Elements appurtenant to his Unit in a clean and sanitary condition. The right of the Association to repair, alter, and remodel is coupled with the obligation to replace any finishing or other materials removed with similar type or kinds of materials.

ARTICLE VII ASSESSMENTS

7.1 Payment of Assessments. All Assessments shall be due ten (10) days from the date of mailing notice of such Assessments to the Owners. Assessments may be payable in installments, monthly or quarterly, at the option of the Board. The amount of the Common Expenses assessed against each Unit shall be the personal and individual debt of the Owner thereof. No Owner may exempt himself from liability for these contributions toward the Common Expenses by waiver of the use and enjoyment of any of the Common Elements or by abandonment of his Unit. All Assessments that are not paid within thirty (30) days from the date they are due and payable become delinquent and are subject to interest and penalty charges. The Board or Manager shall have the responsibility of taking prompt action to collect any unpaid Assessment that becomes delinquent. In the event of delinquency in the payment of the Assessment, the Unit Owner shall be obligated to pay interest at the rate to be determined by the Board on the amount of the Assessment from the due date thereof, together with such late charges in the amount of ten percent (10%) of the delinquent Assessment. Suit to recover a money judgment for unpaid Common Expenses may be maintained without foreclosing or waiving the lien securing the same.

Common Expenses and common profits, if any, of the Association shall be distributed among, and charged to the Unit Owners according to the Percentage of Interest of each.

7.2 Levying Assessments When Made - Purposes. The Association of Unit Owners shall levy assessments upon the Unit Owners in the following manner and for the following reasons:

7.2.1 The Board shall establish and levy annual assessments in an amount that the Board estimates will be sufficient to raise the funds needed to perform the duties of the Association during each fiscal year. The Board at any time may levy a special assessment to raise funds for unexpected operating or other costs, insufficient operating or reserve funds, or such other purposes as the Board in its discretion considers appropriate. The Board may not impose an annual assessment on any Unit which is more than twenty percent (20%) greater than the annual assessment for the immediately preceding fiscal year or levy special assessments which in the aggregate exceed five percent (5%) of the total budget of the Association for that fiscal year, without the vote or written consent of a majority of the Aggregate Voting interests of the Association. Notice of the assessment, whether regular or special, the amount thereof, and the purpose for which it is made, including an annual budget for expenditures and operation, for regular annual assessments, shall be served on all Unit Owners, by delivering a copy of the same to the Owner personally or by mailing a copy of the notice to the said Owners at their addresses of record at least ten (10) days prior to the due date for such meeting.

7.2.2 Assessments shall be made for the maintenance, repair, replacement, insurance, management and administration of General Common Elements, Limited Common Elements, fees, costs and expenses of the Manager, taxes for Common Elements if any, utilities, reserves for contingent liabilities and other related items and assessments for the Unit Owner's percentage share of any Improvement or Utility Districts which may exist or be created. Assessments for Common Expenses shall be based upon and computed by using each Owner's Percentage of Interest.

7.2.3 Assessments shall also be made for the payment of maintenance, repair, and replacement of the Limited Common Elements as if such Limited Common Elements were Common Elements.

7.2.4 Assessments may also be made for any purpose contemplated by this Declaration and for any purpose set out in the Montana Unit Ownership Act.

7.2.5 The annual assessment shall also include a portion for reserves as the Board considers appropriate to adequately meet the costs of the future repair, replacement, or additions to the major Common Element improvements and fixtures that the Association is obligated to maintain and repair.

7.3 Effect of Conveyance. In a voluntary conveyance of a Unit, the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid Assessments by the Association against the latter for his share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. However, any such grantee shall be entitled to a statement from the Manager or Board of Directors of the Association, as the case may be, setting forth the amount of said unpaid Assessments against the grantor due the Association and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid Assessments made by the Association against the grantor in excess of the amount therein set forth.

7.4 Assessment to be paid by the Developer. During the period beginning with the recording of this Declaration and ending upon the completion of construction of the final Unit, the Developer shall not pay any assessments on the Units it owns that it holds for sale, provided, however, that during this period the Developer shall reimburse the Association for any expenses the Association incurs which are not covered by the assessment of other Unit Owners and the assessment of Developer for the Units it holds for the use of its principals.

7.5 Liens and Foreclosure. All sums assessed but unpaid for the share of Common Expenses chargeable to any Unit shall constitute a lien on such Unit superior to all other liens and encumbrances, except only for tax and special assessment liens on the Unit in favor of any assessing authority, and all sums unpaid on a first mortgage or a first trust indenture of record, including all unpaid obligatory sums as may be provided by such encumbrance. To evidence such lien, the Manager shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the amount of accrued interest and late charges thereon, the name of the Owner of the Condominium Unit and a description of the Condominium Unit. Such notice shall

be signed and verified by one of the officers of the Association or by the Manager, or his authorized agent, and shall be recorded in the office of the Clerk and Recorder of Gallatin County, Montana. Such lien shall attach from the date of recording such notice. Such lien may be enforced by the foreclosure of the defaulting Owner's Condominium Unit by the Association in the manner provided in the Unit Ownership Act and as provided by the foreclosure of a mortgage on real property upon the recording of a notice of claim thereof. In any such foreclosure, the Unit Owner shall be required to pay a reasonable rental for the Unit, and the Plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosure or waiving the lien securing the same. In any such proceeding the Owner may be required to pay the costs, expenses and attorney's fees incurred in filing a lien, and in the event of foreclosure proceedings, additional costs, expenses and attorney's fees incurred.

7.6 Bidding at Foreclosure. The Board of Directors of the Association on behalf of the other Unit Owners shall have the power to bid on the Unit at a foreclosure or other legal sale and to acquire and hold, lease, mortgage and convey or otherwise deal with the same. Any lienholder holding a lien on a Unit may pay, but shall not be required to pay, any unpaid general Common Expenses payable with respect to any such Unit, and upon such payment, such lienholder shall have a lien on said Unit for the amounts paid of the same rank as the lien of his encumbrance without the necessity of having to file a notice or claim of such lien.

7.7 Unpaid Assessments - Mortgagee. Where a lienholder or other purchaser of a Unit obtains title to the Unit because of foreclosure of the first mortgage or trust indenture, such acquirer, his successors, and assigns shall not be liable for the share of Common Expenses or Assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such acquirer. Such unpaid share of Common Expenses or Assessments shall be deemed to be Common Expenses collectable from all the Units including such acquirer, his successors, and assigns.

ARTICLE VIII DEVELOPER'S RIGHT TO CHANGE

The Developer reserves the right to change the interior design and arrangement of all Units, so long as the Developer owns the Units so altered. No such change shall increase the number of Units or alter the boundary of the General Common Elements without an amendment of this Declaration.

ARTICLE IX AMENDMENT

9.1 Amendment Procedure. Amendment of this Declaration shall be made in the following manner: At any regular or special meeting of the Association of Unit Owners such amendment may be proposed as a resolution by any Unit Owner, or the Board or Manager. Upon adoption of the resolution by a majority vote of those present the amendment shall be made subject for consideration at the next succeeding meeting of the Association with notice thereof, together with a copy of the amendment to be furnished to each Owner no later than thirty (30) days in

advance of such meeting. At such meeting, the amendment shall be approved upon receiving the favorable vote of seventy-five percent (75%) of the aggregate Percentage of Interest of the Unit Owners. If so approved, it shall be the responsibility of the Association to file the amendment with the Clerk and Recorder's Office of Gallatin County, Montana. Notwithstanding anything set forth in this Article IX, paragraph 9.1, the Developer reserves the sole right to amend this Declaration the longer of so long as Developer is a Unit Owner or until the completion of the Project.

9.2 Reservation by Developer. The Developer hereby reserves the right at any time, on behalf of itself and on behalf of the Association, to amend this Declaration and the Governing Documents without approval of any Unit Owner or mortgagee for the purposes of correcting survey or other errors and for any other purpose unless the amendment would materially alter or change the rights of a Unit Owner or mortgagee, in which event Unit Owner and mortgagee consent shall be required as provided above.

9.3 Change in Percentage of Interest. The Percentage of Interest, the corresponding value in the vote of any Unit Owner and the corresponding proportion of Common Expenses assessed against such Unit Owner shall not be modified without the written consent of such Unit Owner and his mortgagee, nor shall the Percentage of Interest assigned to any Unit be modified without like consent, except as provided in this Declaration or in the Bylaws or pursuant to the Unit Ownership Act.

9.4 Approval of Developer. No amendment shall adversely affect the rights or privileges of the Developer without Developer's written consent.

9.5 Declarant's Right to Amend. Notwithstanding the procedure set forth above, the Declarant may amend this Declaration, or any other Governing Documents, prior to any sale or lease of a Unit or interest thereof.

ARTICLE X ASSIGNMENT

Any or all the rights and powers granted or reserved to the Developer in the Governing Documents or by law, including the power to approve or disapprove any act, use or proposed action or any other matter or thing, may be assigned by it to any other entity or to the Association. Any such assignment or transfer shall be made by appropriate instrument in writing duly recorded in the office of the Gallatin County Clerk and Recorder.

ARTICLE XI RESTRICTIONS

All the Units and Common Elements in the Condominium shall be held, used, and enjoyed subject to the following limitations and restrictions:

11.1 Use. The Units in the Condominium shall be used only for purposes of residential occupancy by Unit Owners, their guests, invitees, and lessees, and may not be used for any other purpose whatsoever.

11.2 Leasing. Owners may lease their Unit to residential tenants on a periodic basis, whether short-term, long-term, or as a Vacation Rental by Owner (“VRBO”). All rental agreements must reference these restrictions and state that the tenant shall abide by and be bound by the same. Owners shall still be responsible for timely payment of all Condominium assessments, and Owners shall be responsible for all violations of the Governing Documents or damages caused to the Common Elements by their tenants.

11.3 Alterations and Modifications. No Unit Owner shall make any alteration or modification of any Common Element. The Association shall only undertake such alterations and modifications if Declarant or the Developer has given approval. So long as Declarant or the Developer own any Unit in the Condominium there shall be no obstruction of the Common Elements, nor shall anything be stored in or on the Common Elements without the prior written consent of the Association. Each Owner shall be obligated to maintain and keep in order and repair his own Unit and Limited Common Elements.

Owners shall not cause or permit anything to be placed, hung, or displayed on the outside of windows, walls of a building and no air conditioning, sign, awning, canopy, radio or television antenna, satellite dish, other reception device shall be affixed to or placed upon the exterior walls or roof or any part thereof, without the prior written consent of the Association, except as allowed by law.

Nothing shall be done in any Unit or in, on or to the Common Elements which will impair the structural integrity of any building or which would structurally change any building, except as is otherwise provided herein.

Nothing shall be altered or constructed in or removed from the Common Elements, except upon the prior written consent of the Association.

11.4 Activities. No illegal activity shall be carried on in any Unit or upon the Common Elements nor shall anything be done which may be or become an annoyance or a nuisance to the Unit Owners of the Condominium. No unreasonably noisy activity shall occur in or on the Common Elements or in any Unit. No Unit Owner shall do or permit anything to be done or keep or permit to be kept in his Unit or on the Common Elements anything that will increase the rate of insurance on the Condominium without the written approval of the Board, and each Unit Owner shall pay to the Association the increased cost of insurance premiums resulting from any such activity or the maintenance of any such condition even if approved. Activities which are deemed an annoyance and are expressly prohibited include, but are not limited to, the following: any activity involving the use of firearms, air rifles, pellet guns, BB guns, bows and arrows, or other similar weapons, projectiles, or devices.

11.5 Pets.

11.5.1 Owners or their tenants may keep up to three (3) pets in their Unit. Owners shall register their pet(s) with the Board. Fish, reptiles, amphibians, and other animals which are permanently housed in aquariums, terrariums, or other enclosures do not need to

be registered and will not count towards the total. No pet may be kept, bred, or maintained for any commercial purposes or which violates law. The pet owner must conform to the rules for pets established by the Board and abide by all laws concerning pet ownership.

11.5.2 Rules for registered pets shall be as follows:

- a. Registered pets outside the Condominium Units must have an identifying collar and must be leash walked (preferably with a maximum of a six (6) foot leash) while on the Property. Owners must have control of pets at all times. Any excrement dropped on the Common Elements must be picked up and bagged by the pet owner and disposed of properly.
- b. All pets, litter boxes, cages, etc. must be kept inside the Unit - not on porches, stairways, landings, or any other Common Element.
- c. Continual barking, howling, or other animal noise will be considered disturbing the peace.
- d. Pets running unattended on the Property will result in a call by the Board to animal control at the pet owner's expense.

11.5.3 The following procedure shall apply to revoking pet privileges:

- a. First Offense: A registered letter will be sent to the pet owner by the Board outlining the rule violation and requesting compliance.
- b. Second Offense: The pet owner will be requested to appear before the Board for a review of the rule violation.
- c. Third Offense: Automatic revocation of the pet privilege by the Board and the Owner will be told to remove the pet from the Property.
- d. Continued violations will result in a fine as determined by the Board.

11.5.4 Any Unit Owner who causes any animal to be brought or kept upon the premises of the Condominium shall indemnify and hold harmless the Association from any loss, damage, or liability that the Association may sustain as the result of the presence of such animal on the premises.

11.6 Aesthetics. The Common Elements shall not be used for storage of supplies, materials, personal property or trash or refuse of any kind, except as provided in duly adopted rules and regulations of the Association. No unsightly conditions shall be maintained on any patio, porch, or deck and only furniture and equipment consistent with the normal and reasonable use of such areas shall be permitted to remain there during seasons when such areas are reasonably in use

and no furniture or equipment of any kind shall be stored thereon during seasons when such areas are not reasonably in use. Trash receptacles shall be maintained in areas designated therefor at all times and shall not be permitted to remain elsewhere on the Common Elements except for such short periods of time as may be reasonably necessary to permit periodic collection of trash. The Common Elements shall not be used in any way for the drying, shaking, or airing of clothing or other fabrics. In general, no activity shall be carried on nor condition maintained by a Unit Owner, either in his Unit or upon the Common Elements, which is detrimental to the appearance of the Condominium.

11.7 Advertising. No signs or other advertising devices of any kind shall be displayed which are visible from the exterior of a Unit or on the Common Elements, including "For Sale" signs, without written permission from the Association and the Developer, so long as it owns a Unit in the Condominium or until the completion of the Project.

11.8 Parking. Owners shall park, store, or maintain boats, trailers, campers, and other recreational vehicles ("Recreational Vehicles") on the gravel parking space appurtenant to the Owner's Unit or in the Owner's garage. No Recreational Vehicle may be parked on a street or alley adjacent to the Property except on a temporary basis not to exceed four (4) hours within any twenty-four (24) hour period, such as is incident to loading or unloading thereof. Maintenance and repair of the Owner's vehicle(s) may be made on the Property, provided that noise, smoke, and other nuisances are kept to a minimum. The Association may cause the removal of any vehicle wrongfully parked on the Property, including a vehicle owned by any Owner, his family, guests, or tenants, in any manner allowed by law. The Association shall not be liable for any damages incurred by the vehicle owner, or any Owner, because of the removal in compliance with this section, or for any damage to the vehicle caused by the removal. Notwithstanding the foregoing, the Association may cause the removal, without notice, of any vehicle parked in a marked fire lane, within fifteen (15) feet of a fire hydrant, in a parking space designated for handicapped without proper authority, or in a manner which interferes with any entrance to, or exit from, the Property or any Condominium or parking space located thereon.

11.9 Rules and Regulations. It is intended that the Board of Directors of the Association may make rules and regulations from time to time to reflect the needs and desires of the Unit Owners in common. Reasonable regulations consistent with the Act, this Declaration, and the Bylaws concerning the use of the Property may be made and amended from time to time by any Board of Directors of the Association, including the first Board of Directors. Copies of all such rules, regulations and amendments thereto shall be furnished to all Unit Owners.

11.10 Right to Access of Association. The Association or its duly authorized agent shall have access to each Unit and any Limited Common Elements appurtenant thereto from time to time during reasonable working hours and upon notice to the Unit Owner thereof as may be necessary for the maintenance, repair, or replacement of any of the Common Elements. The Association or its agent shall also have access to each Unit and any Limited Common Elements appurtenant thereto at all times without notice as may be necessary to make emergency repairs to prevent damage to the Common Elements or to another Unit. It shall be the responsibility of each Unit Owner to provide the Association means of access to his Unit and any Limited Common Elements appurtenant thereto during all periods of absence. In the event of the failure of such Unit

Owner to provide means of access, the Association may gain access in such manner as may be reasonable under the circumstances and shall not be liable to such Unit Owner for any necessary damage to his Unit and any Limited Common Elements appurtenant thereto caused thereby or for repair or replacement of any doors or windows damaged in gaining such access.

11.11 Reserved Rights of Developer. None of the restrictions contained in this Article shall apply to the commercial activities or signs or billboards, if any, of the Developer during the development and sales period or of the Association in furtherance of its powers and purposes set forth herein, as the same may be amended from time to time. Notwithstanding anything to the contrary elsewhere herein contained, Developer shall have the right to maintain a sales office, a business office, a construction office, model Units, storage areas and reasonable parking incident to the foregoing and such access to, from and over the Project as may be reasonable to enable development and sale of the entire Project by Developer and may continue to do so during the entire development and sales period of the Project.

ARTICLE XII CHANGES, REPAIRS, LIENS

12.1 Alterations by Unit Owners. Notwithstanding any rights to remodel the Units, bearing walls may not be moved. No change in the boundaries of Units shall encroach upon the boundaries of the Common Elements except by amendment to this Declaration

12.2 Maintenance by Unit Owner. An Owner shall maintain and keep in repair the interior of his own Unit. All fixtures, utility lines and equipment installed in the Unit commencing at a point where the utilities enter the Unit shall be maintained and kept in repair by the Owner. An Owner shall do no act, nor any work, that will impair the structural soundness or integrity of the Building or impair any easement. An Owner shall also keep all areas and Limited Common Elements appurtenant to his Unit in a neat, clean, and sanitary condition. No acts of alteration, repairing or remodeling by the Owner shall impair in any way the structural integrity of Limited Common Elements or General Common Elements.

12.3 Exterior Alterations. No Owner may change, alter, or remodel the exterior of his Unit without the prior written approval of the Board and, so long as it owns a Unit in the Condominium or until the completion of the Project, the Declarant.

12.4 Maintenance by Association. The Association shall take all necessary steps, including, but not limited to, painting, roof repairs, concrete, brick and stone repairs, repairs to walls, sidewalk maintenance, repair, upkeep and replacement or repair of all broken or worn parts, to ensure that the Common Elements do not unnecessarily deteriorate. The Board shall annually inspect the Common Elements and proceed with any necessary maintenance or repairs.

12.5 Liens for Alterations. Labor performed and materials furnished and incorporated into a Unit with the consent of or at the request of the Unit Owner, his agent, his contractor, or his subcontractor shall be the basis for the filing of a lien against the Unit or the Unit Owner consenting to or requesting the same. Each Unit Owner shall indemnify and hold harmless each of the other Owners and the Association from liens against the Unit or against the General Common Elements

or Limited Common Elements for construction performed or for labor, materials, services, or other products incorporated in the Owner's Unit at such Owner's request.

ARTICLE XIII INSURANCE

13.1 Studs-Out Insurance. The Association shall purchase a "studs-out" insurance policy for the Property. Such insurance shall cover only those parts of the buildings and structures from the studs outward towards the exterior ("Bare Structure"). Such policy shall be issued by an insurance company authorized to do business in Montana. The named insured shall be the Association individually as agent for the Unit Owners without naming them. Such policy shall provide that payments for losses thereunder by the insurer shall be paid to the Insurance Trustee hereinafter designated, and all policies and endorsements thereon shall be deposited with the Insurance Trustee. The Bare Structure shall be insured to any amount equal to the full insurable replacement value as determined annually by the Board, the insurer and any first lienholder or their representatives, but subject to such deductible clauses as are required in order to obtain coverage at reasonable costs, and which coverage shall be increased by the Board as may be necessary to provide that the insurance proceeds will be sufficient to cover replacement, repairs or reconstruction. Such coverage shall afford protection against:

- (i) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and
- (ii) Specifically such other risks including flood and earthquake loss as from time to time shall customarily be covered with respect to buildings similar in construction, location and use as the building on the land.

13.2 Other Association Insurance. The Association may purchase other insurance, including the following:

13.2.1 Public Liability Insurance in such amounts and with such coverage as shall be required by the Board, including, but not limited to, hired automobile and non-Owner automobile coverage, if applicable, and with cross-liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner.

13.2.2 Errors or Omissions Insurance for the Directors, Officers and Manager, if the Association so desires, in amounts to be determined by the Board.

13.2.3 Other Insurance. Such other insurance as the Board shall determine from time to time to be desirable and as may be required by law.

13.3 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that the amount of increase in the premium occasioned by use for other than a residence, misuse, occupancy, or abandonment of a Unit or its appurtenances or of the Common Elements by a Unit Owner shall be assessed against

the Owner. Not less than ten (10) days prior to the date when a premium is due, evidence of such payment shall be furnished by the Association to each lienholder requesting notice.

13.4 Insurance Trustee. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees as their interests may appear. Upon such election being made by the Board, the Board shall provide that all proceeds covering property losses shall be paid to such bank or escrow company in Montana as may be designated as Insurance Trustee by the Board, which trustee is herein referred to as the Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the insurance trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated in this instrument and for the benefit of the Unit Owners and their mortgagees in the following shares, but which shares need not be set forth in the records of the insurance Trustee:

13.4.1 Unit Owners. A share for each Unit Owner, such share being the same as the Percentage of Interest appurtenant to his Unit.

13.4.2 Mortgagees. In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in Trust for the mortgagee and the Unit Owner as their interests may appear, provided however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions thereof made to a Unit Owner and mortgagee pursuant to the provisions of this Declaration.

13.5 Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial Owners in the following manner:

13.5.1 Miscellaneous. Expenses of administration, Insurance Trustee and construction or remodeling supervision shall be considered as part of the cost of construction, replacement, or repair.

13.5.2 Reconstruction or Repair. Any balance remaining shall be used for reconstruction and repair as hereafter provided.

13.5.3 If there is no reconstruction or repair the first proceeds for distribution after paying the Insurance Trustee shall be made to the first lienholders for such Units before distribution to the Unit Owners. If the Unit or Units are destroyed and partially rebuilt distribution shall be made to Unit Owners or the Insurance Trustee, as their interests appear based on the reconstruction of the Units.

13.5.4 After distribution of the insurance proceeds as set forth in subparagraphs 13.5.1, 13.5.2 and 13.5.3 above, any remaining proceeds shall be distributed to the Units Owner(s) as such Owner(s) interest shall appear.

13.5.5 Certificate. In making distribution to Unit Owners and their lienholders, the Insurance Trustee may rely upon a certificate of the Association made by its representative or Manager as to the names of the Unit Owners and their respective shares of the distribution.

13.6 Association as Agent. The Association is irrevocably appointed agent for each Unit Owner and for each Owner of a mortgage or other lien upon a Unit and for each Owner of any other interest in the Condominium Property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

13.7 Benefit to Mortgagees. Certain provisions in this Article are for the benefit of mortgagees or trust indenture beneficiaries, and all such provisions are covenants for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee or beneficiary.

13.8 Notice to Lienholder. Upon written request by first lien holder the Association will notify the holder of any first lien on any of the Units of the occurrence of any loss in excess of \$10,000.00 within thirty (30) days of such loss.

13.9 Reconstruction.

13.9.1 Repair after Casualty. If any part of the Bare Structure shall be damaged by casualty, whether it shall be reconstructed or repaired shall be determined in the following manner:

- (a) If a Unit or Units are found by the Board to be tenantable after the casualty, the damaged property shall be repaired.
- (b) If a Unit or Units are found by the Board to be not tenantable after the casualty, the damaged property may be reconstructed or rebuilt as provided in the applicable provisions of the Unit Ownership Act.
- (c) If the Association elects not to rebuild as herein provided and set forth in § 70-23-802, MCA, the insurance proceeds shall be used to satisfy any outstanding liens or encumbrances on the property, and then disbursed as provided in § 70-23-805, MCA.
- (d) The Insurance Trustee may rely upon a certificate of the Association made by its President or the Manager as to the determination whether the damaged property is to be reconstructed or rebuilt.

13.9.2 Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original improvements, or if not, then according to plans and specifications approved by not less than seventy-five percent (75%) of the Aggregate Voting interests of the Unit Owners, including the Owners of all

Units the plans for which are to be altered. Any such reconstruction not in accordance with the original plans and specifications must be set forth in an amendment to the Declaration.

13.9.3 Responsibility. The responsibility for reconstruction or repair after casualty shall be the Association who shall work with the Insurance Trustee to carry out the provisions of this Article.

13.9.4 Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction or repair for which the Association is responsible, or if at any time during such reconstruction or repair, or upon completion of such reconstruction or repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against all Unit Owners in sufficient amounts to provide funds to cover the payment of such costs. Such assessments shall be in proportion to the Owner's Percentage of Interest.

13.9.5 Construction Funds. The funds for payment of costs of reconstruction or repair after casualty, which shall consist of proceeds of insurance held by the Insurance Trustee and funds collected by the Association from assessments against Unit Owners, shall be disbursed in the sound discretion of the Insurance Trustee and according to the contract of reconstruction or repair, which contract must have the approval of the Board.

13.9.6 Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from the insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be paid to the Association for the use and benefit of the Unit Owners.

16.1 Studs-In Insurance. Each Unit Owner shall purchase for his Unit a "studs-in" insurance policy covering the interior of his Unit, including all flooring, fixtures, and furnishings owned and used exclusively by the Unit Owner. Coverage amounts shall be sufficient to cover the replacement value of the Unit. Such policy shall include coverage for any additions or alterations to the Unit desired by the Owner and authorized by the Association which increase the replacement value of the Unit. If an Owner fails to obtain and maintain such insurance, and an uninsured loss occurs which would have otherwise been covered under the insurance required by this section, such Owner shall be liable to the Association for the loss suffered, and the Association shall be entitled to recover such amounts from the Owner in the same manner as any other debt owed to the Association.

16.2 Other Unit Owner Insurance Coverage. Each Unit Owner may purchase such additional insurance covering personal property or other subjects as the Owner desires. The Association shall not be responsible for the payment of premiums or adequacy of coverage under such policies.

16.3 Certificates of Insurance. Certificates of insurance for insurance required to be purchased by the Association shall be issued to each Owner and mortgagee upon written request.

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**ARTICLE XIV
SALES**

14.1 An Owner shall notify the Association of any transfer, by sale or otherwise, of the Owner's Unit within ten (10) days of the date of the same. The notice shall include the new Owner(s) name(s) and address(es).

14.2 New Owners will be required to pay a new owner transfer fee equal to twice the amount of the then current monthly Assessment, payable to the Association at the time of transfer or sale.

**ARTICLE XV
REMOVAL OR PARTITION - SUBDIVISION**

The Condominium may only be removed from Condominium Ownership, and may only be partitioned or sold, upon compliance with each of the conditions hereof:

15.1 The Board must approve the plans of removal, partition, or sale, except for the rights reserved to Developer or the Declarant. Such approval shall include the details of how any partition or sale, and the distribution of property or funds, shall be accomplished.

15.2 The plan of removal, partition, subdivision, abandonment, termination, or sale must be approved as provided in the Unit Ownership Act. If approval for any of the foregoing is not required by the Unit Ownership Act, then approval shall be required from at least seventy-five percent (75%) of the aggregate percentage of interests of the Owners. Upon obtaining such approval, the Board shall be empowered to implement and carry out the plan of removal, partition, subdivision, abandonment, termination, or sale.

15.3 No Unit may be divided or subdivided into a smaller Unit, and no portion may be sold or otherwise transferred, except as provided herein.

15.4 The Common Elements of the Condominium shall not be abandoned, partitioned, subdivided, encumbered, or sold or transferred without compliance with all the above requirements.

**ARTICLE XVI
MUNICIPAL FACILITIES EXCLUSION**

16.1 Under Section 76-4-125(1)(d), MCA, a subdivision excluded from the provisions of Title 76, Chapter 3, MCA must be submitted for review according to the provisions of this part, except that the following divisions or parcels, unless the exclusions are used to evade the provisions of this part, are not subject to review: as certified pursuant to Section 76-4-127, MCA: (i) new divisions subject to review under the Montana Subdivision and Platting Act; (ii) divisions

or previously divided parcels recorded with sanitary restrictions; or (iii) divisions or previously divided parcels of land that are exempt from the Montana Subdivision and Platting Act review under 76-3-203 or 76-3-207(1)(a), (1)(b), (1)(d), (1)(e), or (1)(f), MCA.

16.2 Under Section 76-3-203, MCA, condominiums, townhomes, townhouses, or conversions, as those terms are defined in Section 70-23-102, MCA, constructed on land subdivided in compliance with parts 5 and 6 of Title 76, Chapter 3 or on lots within incorporated cities and towns are exempt from the provisions of Title 76, Chapter 3 if (1) the approval of the original subdivision of land expressly contemplated the construction of the condominiums, townhomes, or townhouses and any applicable park dedication requirements in 76-3-621 are complied with; or (2) the condominium, townhome, or townhouse is in conformance with applicable local zoning regulations when local zoning regulations are in effect.

ARTICLE XVII INTERPRETATION

The provisions of this Declaration and of the Bylaws to be promulgated and recorded herewith shall be liberally construed to effectuate the purposes of this Declaration and Bylaws and to create a building subject to and under the provisions of the Unit Ownership Act.

ARTICLE XVIII REMEDIES

All remedies provided for in this Declaration and Bylaws shall not be exclusive of any other remedies that may now be, or are hereafter, available to the parties hereto as provided for by law. In any action to enforce the Governing Documents, the prevailing party shall recover his attorney's fees and court costs.

ARTICLE XIX SEVERABILITY

The provisions hereof shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any one or more provision shall not affect the validity or enforceability of any other provision hereof.

ARTICLE XX MISCELLANEOUS

19.1 Expenditures. Except for expenditures required for emergency situations, no single expenditure or debt in excess of Five Thousand Dollars (\$5,000.00) may be made or incurred by the Manager without the prior approval of the Board. The Board may modify the limitation on single expenditures without amendment to these Declarations.

19.2 Benefit. Except as otherwise provided herein, this Declaration shall be binding upon and shall inure to the benefit of the Declarant, the Association and each Unit Owner, and the heirs, personal representatives, successors and assigns of each.

19.3 Service of Process. The name and address of the person to receive service of process for the Condominium until another designation is filed of record shall be Silverman Law Office, PLLC at 600 Lola Street, Helena, Montana 59601.

19.4 Notice to Lienholder. Upon request a first lienholder will be entitled to written notification from the Association of any default in the performance by an individual Unit Owner of any obligation under the Governing Documents that is not cured within sixty (60) days.

19.5 Right to Examine Books. Every Unit Owner and first lienholder shall have the right to examine the books and records of the Association by giving a written notice requesting such examination. Upon receipt of such notice, the party receiving the notice shall schedule a mutually agreeable date and time during normal business hours for the examination which date shall be not more than ten (10) days following the receipt of the notice requesting the examination.

19.6 Warranties. The Declarant expressly makes no warranties or representations concerning the property, the Units, the Declaration, the Bylaws, or deeds of conveyance except as specifically set forth therein and no one may rely upon such warranty or representation not so specifically expressed therein. Estimates of Common Expenses are deemed accurate, but no warranty or guarantee is made or is intended, nor may one be relied upon.

19.7 Notices. All writings required or permitted to be given or delivered under this Declaration shall be deemed to have been given or delivered when deposited in the United States mail or by delivering it personally to an officer of the Association, Developer, Manager, or directly to a Unit Owner:

Developer/Declarant:
Ailesbury 208 Development, LLC
555 Alvarado Street
San Francisco, CA 94114

Manager:
Ailesbury Management, LLC
555 Alvarado Street
San Francisco, CA 94114

With a copy to:


Silverman Law Office, PLLC
P.O. Box 4423
Helena, MT 59604

Unit Owner:
Address as shown on the records of the Association

The Association, Developer, Declarant, or Manager may change its address for the purposes of delivery of such writings by delivering written notice of such change to the Unit Owner in the manner above provided at least ten (10) days prior to the effective date of such change.

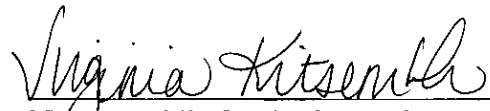
IN WITNESS WHEREOF, the Declarant has caused this Declaration to be made and executed according to the provisions of the Montana Unit Ownership Act, §§ 70-23-101, *et seq.*, MCA (2019).

AILESBURY 208 DEVELOPMENT, LLC

By: 
Catherine R. Woods, Manager

STATE OF MONTANA)
 : ss.
County of Gallatin)

This instrument was acknowledged before me on February 16, 2022, by Catherine R. Woods, Manager of Ailesbury 208 Development, LLC.


Notary Public for the State of Montana

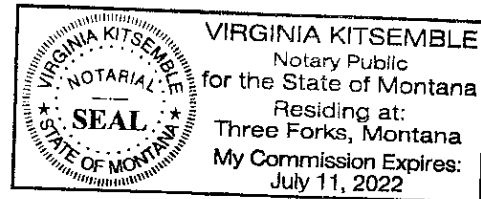


EXHIBIT A-1
(Legal Description of Real Estate)

The N $\frac{1}{2}$ of Lot 16 and all of Lot 17 and the South 4 feet of Lot 18 in Block D of Alderson's Addition to the City of Bozeman, Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana. (Reference: Film 117, page 2089)

EXHIBIT A-2
(Certificate of exemption from subdivision review)

BOZEMAN^{MT}

Community Development

CONDOMINIUM REVIEW DECISION

APPLICATION

Date: **September 14, 2021** Number of Units total / this phase: 2 units total (duplex)

File Number: Original Project File number, If applicable: 20-367,BP21-00030815/BP21-00030828

21-370

Condominium Name: **Ailesbury Residence Condominiums**

Legal Description: The N½ of Lot 16 and all of Lot 17 and the South 4 feet of Lot 18 in Block D of Alderson's Addition S07, T02 S, R06 E of the City of Bozeman, Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana. (Reference: Film 117, page 2089)

STATUTE

"76-3-203. Exemption for certain condominiums. Condominiums constructed on land subdivided in compliance with parts 5 and 6 of this chapter or on lots within incorporated cities and towns are exempt from the provisions of this chapter if:

- (1) the approval of the original subdivision of land expressly contemplated the construction of the condominiums and any applicable park dedication requirements in 76 -3-621 are complied with; or
- (2) the condominium proposal is in conformance with applicable local zoning regulations when local zoning regulations are in effect."

FINDINGS

Per the above statute, the Department of Community Development finds the condominium development noted above meets the Subdivision & Platting Act (SPA) and Sanitation in Subdivision Act (SiS) by:

- SPA) Does not require subdivision review and has satisfied the exemption criteria.
- SPA) Has completed review as a subdivision.
- SiS) A municipal facilities exemption has been granted (see attached).
- SiS) Exempt from Sanitation Review per:

DIRECTOR SIGNATURE OR HIS DESIGNEES

Brian Krueger

Digitally signed by Brian Krueger
 DN: C=US, E=bkrueger@bozeman.net, O=City of Bozeman, OU=Community Development, CN=Brian Krueger
 Date: 2021.10.15 14:13:03-06'00'

Brian Krueger, Development Review Manager, City of Bozeman Department of Community Development

CONTACT US

Alfred M. Stiff Professional Building
 20 East Olive Street 59715 (FED EX and UPS Only)
 PO Box 1230
 Bozeman, MT 59771

phone 406-582-2260
 fax 406-582-2263
 planning@bozeman.net
 www.bozeman.net

EXHIBIT A-3
(DEQ approval letter for Municipal Facilities Exclusion)



February 11, 2022

Cathrine Woods
c/o Chris Walker
Silverman Law Office
504 West Main Street
Bozeman MT 59715

RE: Ailesbury Residences Condominium
Municipal Facilities Exclusion
EQ# 22-2009
City of Bozeman
Gallatin County

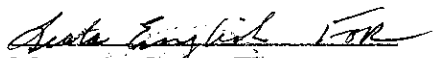
Dear Ms. Woods;

This is to certify that the information and fees received by the Department of Environmental Quality relating to this subdivision are in compliance with 76-4-127, MCA. Under 76-4-125(1)(d), MCA, this subdivision is not subject to review, and the Declaration can be filed with the county clerk and recorder.

Plans and specifications must be submitted when extensions of municipal facilities for the supply of water or disposal of sewage are proposed 76-4-131. Construction of water or sewer extensions prior to DEQ, Public Water Supply Section's approval is prohibited, and is subject to penalty as prescribed in Title 75, Chapter 6 and Title 76, Chapter 4.

Ailesbury Residences Condominium Municipal Facilities Exclusion will consist of 2 Units.

Sincerely,


Margarite Juarez Thomas
Section Supervisor
Engineering Bureau
Department of Environmental Quality
(406) 755-8956
Email MJuarezThomas@mt.gov

cc: City Engineer
County Sanitarian
Owner
file

EXHIBIT B
(DOR Certificate of Name)

CERTIFICATE OF NAME

The undersigned, being the duly authorized agent of the Department of Revenue of the State of Montana within the County of Gallatin, herewith executes the following certificate relating to Ailesbury Residences Condominium situated as follows:

The N½ of Lot 16 and all of Lot 17 and the South 4 feet of Lot 18 in Block D of Alderson's Addition to the City of Bozeman, Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana. (Reference: Film 117, page 2089)

1. That the name "Ailesbury Residences Condominium" is not the same as, similar to, or pronounced the same as a word in the name of any other property or subdivision within Gallatin County, except for the word "Condominium"; and
2. All taxes and assessments due and payable for the said Ailesbury Residences Condominium have been paid to date.

Dated: Feb 16, 2022

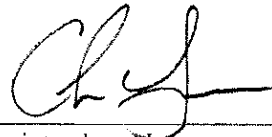

County Assessor

EXHIBIT C
(Certificate of Floor Plan)

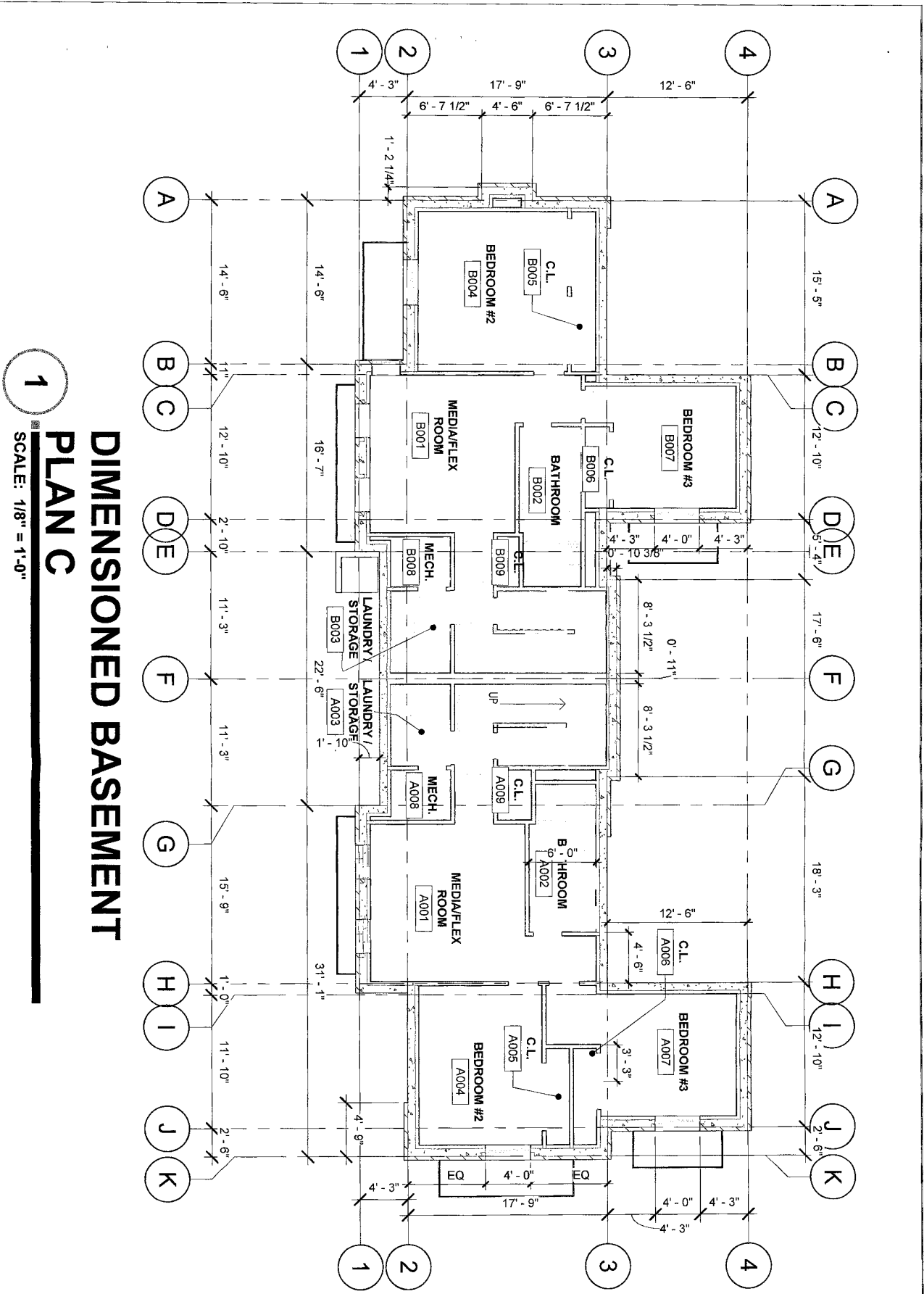
CERTIFICATE OF FLOOR PLAN

The undersigned, being a duly registered professional architect in the State of Montana, and the architect preparing the floor plans for the Ailesbury Residences Condominium, herewith certifies that the floor plans for the Ailesbury Residences Condominium attached to this Declaration are an accurate copy of the plans filed with and approved by the officials and officers of the City of Bozeman having jurisdiction to issue building permits.

Dated: 2/12/2022



Christopher Yeley
Registered Professional Architect
Number: ARC-ARC-LIC-12644



1
SCALE: 1/8" = 1'-0"

DIMENSIONED BASEMENT
PLAN C

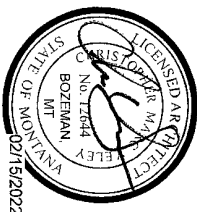


LOCALELEMENT
 ARCHITECTS

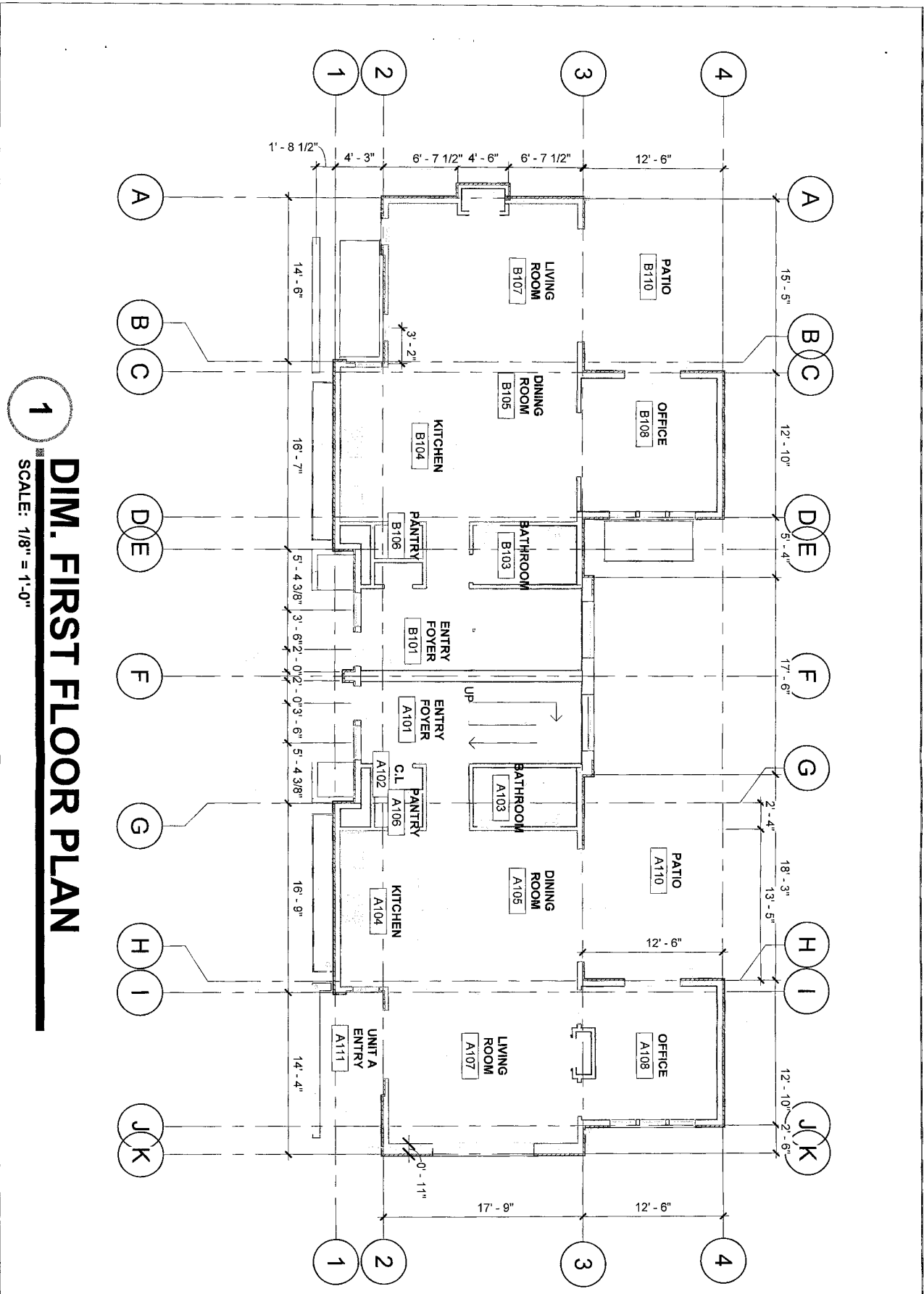
All reports, drawings, specifications, computer files, field data notes, other documents and instruments of service shall remain the property of the Architect, Local Element Architects, LLC. The Architect shall retain all common law, statutory, and other reserved rights in and to the work product created by this drawing shall be restricted to the original site for which it was prepared and publication thereof is expressly limited to such use. Review, reproduction or publication by any means is prohibited without written consent from LocalElementArchitects, LLC.

208 S. 3RD DUPLEX
 208 S. 3rd. Ave
 Bozeman MT, 59715
 02/12/22

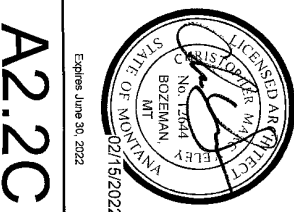
Author
 23 APEX DR. STE #100



A2.1C



1
DIM. FIRST FLOOR PLAN
 SCALE: 1/8" = 1'-0"



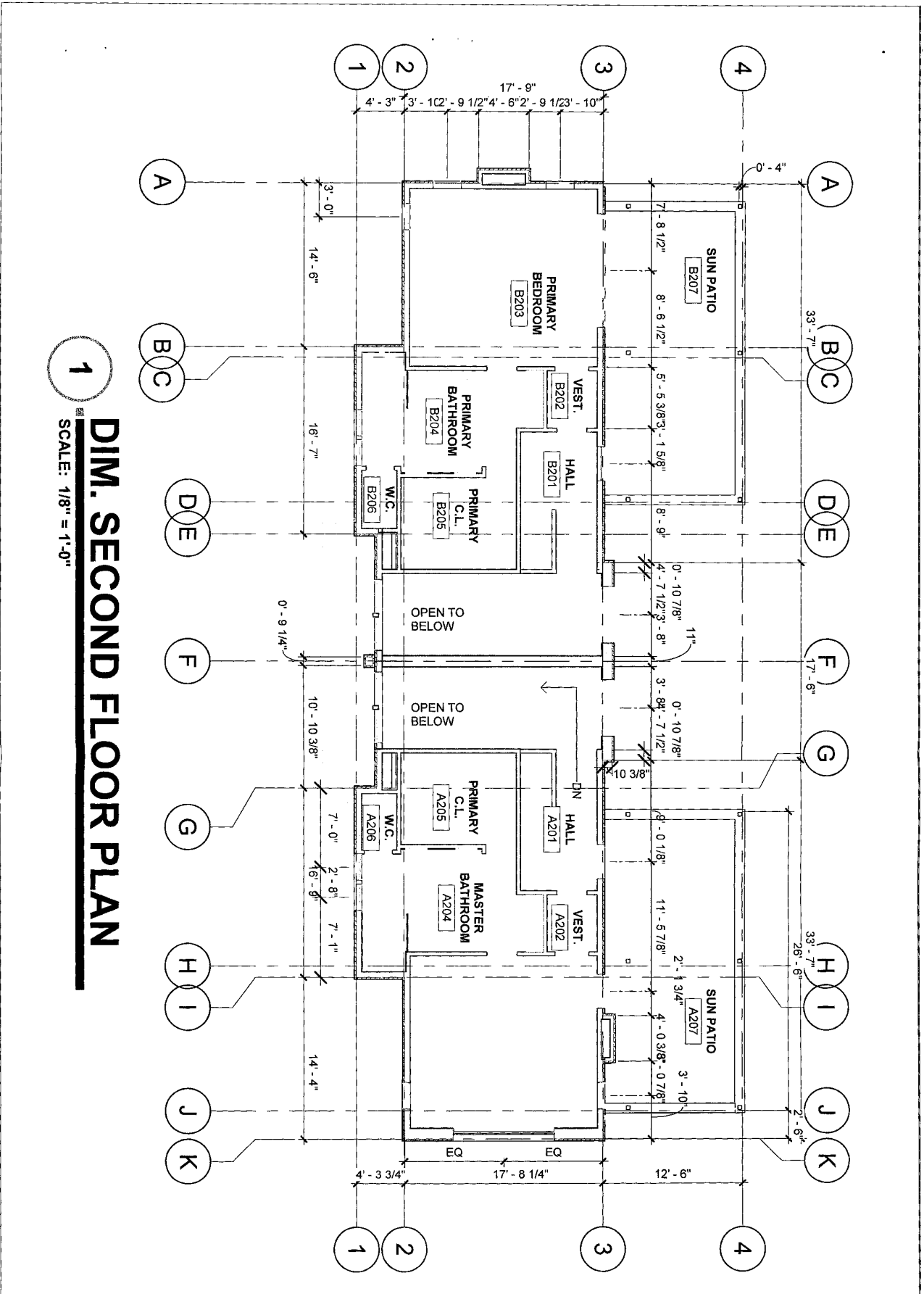
208 S. 3RD DUPLEX
 208 S. 3rd. Ave
 Bozeman MT, 59715
 02/15/22

Author
 23 APEX DR. STE #100

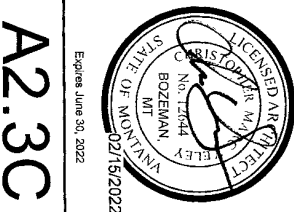
A2.2C
 Expires June 30, 2022

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1
DIM. SECOND FLOOR PLAN
 SCALE: 1/8" = 1'-0"



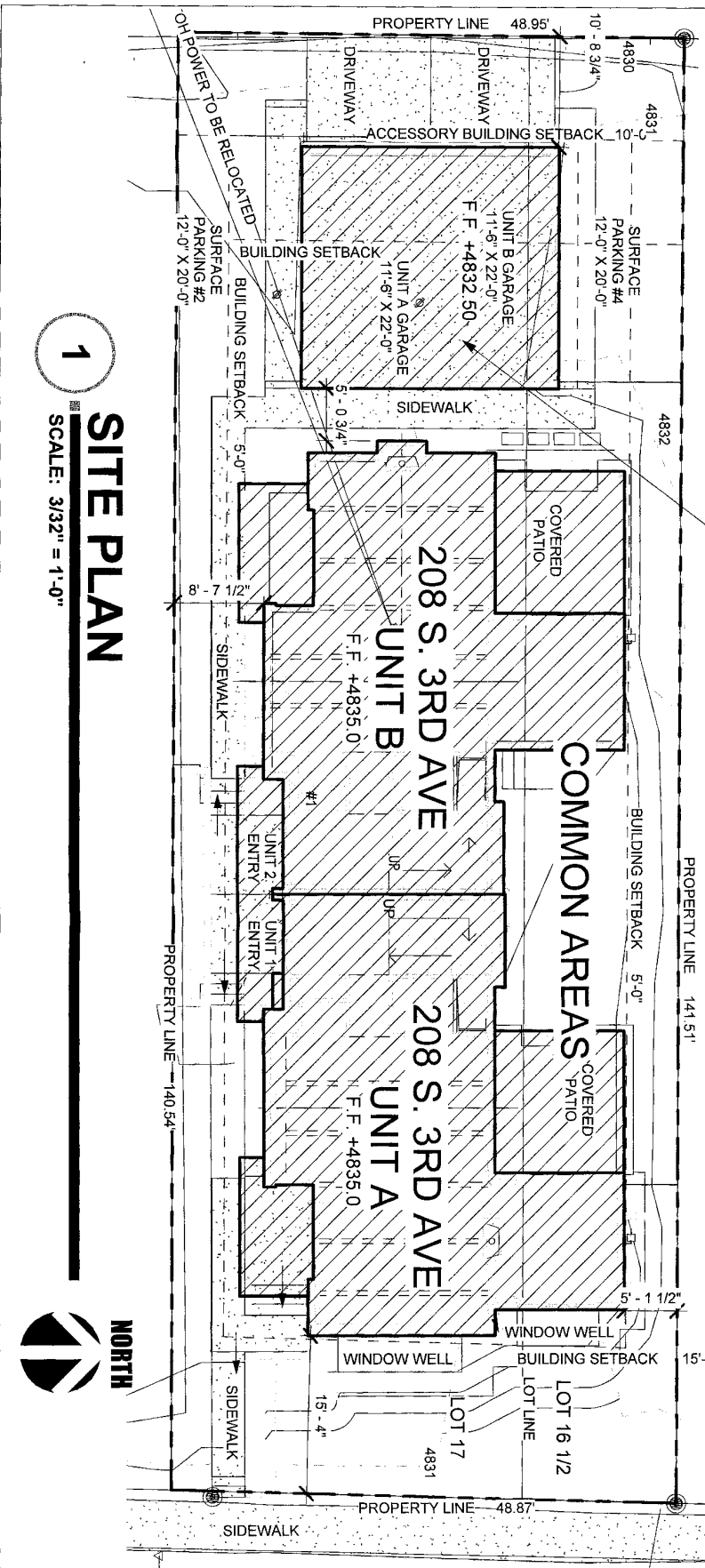
208 S. 3RD DUPLEX
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 23 APEX DR. STE #100

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EXHIBIT D
(Site Plan)



1

SITE PLAN

SCALE: 3/32" = 1'-0"



BUILDING AREAS

ACCESSORY BUILDING - SEPARATE PERMIT	
UNIT A GARAGE	274 SF
UNIT B GARAGE	274 SF
ACCESSORY BUILDING - SEPARATE PERMIT	548 SF
UNIT A CONDITIONED	973 SF
UNIT A MAIN LEVEL	935 SF
UNIT A SECOND FLOOR	670 SF
UNIT A CONDITIONED	2578 SF
UNIT A COVERED PATIO	194 SF
UNIT A COVERED PATIO	33 SF

UNIT A COVERED PATIO	83 SF
UNIT A COVERED PATIO	309 SF
UNIT B CONDITIONED	
UNIT B BASEMENT	973 SF
UNIT B MAIN LEVEL	936 SF
UNIT B SECOND FLOOR	671 SF
UNIT B CONDITIONED	2580 SF
UNIT B COVERED PATIO	206 SF
UNIT B COVERED PATIO	33 SF
UNIT B COVERED PATIO	239 SF
TOTAL UNDER ROOF	6254 SF

ACC. BUILDING AREAS

ACCESSORY BUILDING - SEPARATE PERMIT	
UNIT A GARAGE	274 SF
UNIT B GARAGE	274 SF
ACCESSORY BUILDING - SEPARATE PERMIT	548 SF
TOTAL UNDER ROOF	548 SF

208 S. 3RD DUPLEX
 208 S. 3rd Ave
 Bozeman MT, 59715
 02/12/22

CY
 23 APEX DR. STE #100

02/15/2022

A1.1C

LOCALELEMENT ARCHITECTS

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EXHIBIT E
(Percentage of Interest in Common Elements)

Unit A: 50%

Unit B: 50%

**BYLAWS OF THE AILESBUY RESIDENCES CONDOMINIUM OWNERS
ASSOCIATION**

1. PURPOSE AND APPLICATION

These Articles are and shall be the Bylaws of the AILESBUY RESIDENCES CONDOMINIUM OWNERS ASSOCIATION (the "Association"). These Bylaws shall, upon being recorded with the Recorder of Gallatin County, State of Montana, govern and control the administration of the Association and its governance of the Ailesbury Residences Condominium ("Ailesbury Residences"). These Bylaws are a part of the Declaration for Ailesbury Residences, which Declaration is made a part hereof by reference. All Unit Owners, their guests, and any renters or sublessees, present and future, shall have the rights and responsibilities described in these Bylaws and shall be subject to the provisions thereof.

The acquisition of an ownership interest in a unit in Ailesbury Residences (a "Unit") signifies that the Unit Owner accepts, ratifies, and agrees to comply with these Bylaws.

The definition of terms set forth in the Declaration shall be applicable throughout these Bylaws and the interpretation thereof.

2. MEMBERSHIP

Persons owning a Unit in fee simple absolute individually or as a co-Owner in any real estate tenancy relationship recognized under the laws of the State of Montana shall be a member of the Association. Membership begins concurrently with the acquisition of an ownership interest and terminates at the time such ownership interest is terminated. Such termination shall not relieve a Unit Owner of liability for obligations incurred while a member of the Association; further membership in the Association does not in any way negate or impair any Unit Owner's legal remedies, right to bring action, or defenses to all actions involving the Association, other Unit Owners, or management which may arise from or be incidents of unit ownership.

3. OBLIGATIONS

Each Unit Owner shall be obligated to comply with these Bylaws, the Declaration, and the laws of the City of Bozeman, County of Gallatin, State of Montana. Such obligations shall include, but not be limited to, the paying of Assessments by the Association. Failure of any owner to abide by these Bylaws, and all rules made pursuant thereto, the Declaration, and the laws of the City of Bozeman, County of Gallatin, and the State of Montana, shall be grounds for appropriate legal action by the Association or by an aggrieved Unit Owner against such noncomplying owner.

4. MEETING AND VOTING

A. Regular Meetings.

There shall be a regular meeting of the Association annually, commencing in the year the Condominium regime is established, or on such other date properly announced by the Association. Any first lienholder shall have the right to have a representative attend any regular meeting and shall be given notice thereof. The first meeting of the Association shall take place not more than one year following the date of recording these Bylaws, if not sooner held.

B. Special Meetings.

Pursuant to these Bylaws, the Association may at any time hold special meetings, notice of which must be sent to any first lienholders, who shall have the right to have a representative attend. Such special meetings may be called on the initiative of the Chairman of the Association, a signed request of the Manager, or a petition signed by fifty percent (50%) of the Unit Owners. Notice of any special meeting must specify the reason for such meeting and the matters to be raised. Only matters set forth in the petition or request may be brought before such meeting unless seventy-five percent (75%) of the aggregate interest of Unit Owners agrees otherwise.

C. Notice.

Notice of all meetings, regular or special, shall be mailed by the Association's Secretary to every Unit Owner of record at their address of record at least ten (10) days prior to the time for holding such meeting. Such notices shall specify the date, time, and place of the meeting and shall make provision to allow for the voting of each Unit Owner's interest by proxy at the discretion of the Unit Owner. The mailing of a notice in the manner provided in this paragraph or the personal delivery of such notice by the Secretary of the Association shall be considered as notice served.

D. Quorum.

No meeting, regular or special, shall be convened to conduct business unless a quorum is present in person or by proxy. A quorum shall consist of more than fifty percent (50%) of the total aggregate interest of Ailesbury Residences. At any time during any meeting where a quorum is not present, such meeting shall be adjourned forthwith.

5. VOTING INTEREST

Each Unit Owner at Association meetings shall have a voting interest equal to his Percentage of Interest as set forth in the Declaration, a copy of which is being filed concurrently with the filing of these Bylaws with the Clerk and Recorder of Gallatin County, State of Montana.

Such Percentage of Interest shall be the voting interest of each Unit Owner on all matters affecting the general business of Ailesbury Residences, on all matters affecting the General Common Elements, on Assessments for the General Common Elements, and on all matters upon which the Association agrees to have voting. Voting upon matters affecting Limited Common Elements and assessments for limited expenses shall be only by Unit Owners having a unit or interest in units located in the building affected.

Whenever a quorum is present at a meeting of the Association or the Board of Directors, those present may do all acts they are empowered to do unless specific provisions of these Bylaws, the Declaration, or the laws of the State of Montana direct otherwise.

6. BOARD OF DIRECTORS

Prior to completion of the Project as determined by the Developer, Ailesbury Residences shall be governed and managed by Ailesbury Management, LLC. Thereafter, the governance of Ailesbury Residences shall be by a Board of Directors elected among the Unit Owners. The Board shall consist of at least two (2) members and each member of the Board shall serve for a term of one (1) year and shall be elected by majority vote of those present at any annual or special meeting. At the first and all subsequent meetings of the Association, nominations for positions on the Board will be accepted from any of the Unit Owners present. Voting will be noncumulative with each Association member having a vote equal to his percentage of interest in the General Common Elements. The Board shall have all powers and responsibilities attendant to the general administration and control of a condominium under the laws of the State of Montana. Additionally, the Board shall have the authority necessary to carry into effect the powers and duties specified by these Bylaws.

7. POWERS AND DUTIES OF THE BOARD OF DIRECTORS

The Board shall have the following powers and duties:

- a. To call annual and special meetings of the Association and give due notice thereof.
- b. To conduct elections of the Board.
- c. To enforce the provisions of the Declaration and Bylaws of Ailesbury Residences by appropriate action.
- d. To promulgate and adopt rules and regulations for the use of the Common Elements and for the occupancy of the Units so as to not interfere with the peace and quiet of all the Unit Owners. Such rules must be approved by seventy-five percent (75%) of the Unit Owners at any regular or special meeting of the Association.
- e. To provide for the management of Ailesbury Residences by hiring or contracting with suitable and capable management and personnel for the day-to-day operation, maintenance, upkeep, and repair of the Common Elements.
- f. To levy Assessments as allowed by the Declaration, these Bylaws, and the State of Montana, and to provide for the collection, expenditure, and accounting of said Assessments.
- g. To pay for the expenses of the maintenance, repair, and upkeep of the Common Elements and to approve payment vouchers either at regular or special meetings.

- h. To delegate authority to the Manager for the conduct of condominium business, to carry out the duties and powers of the Board; provided, however, that such authority shall be precisely defined with ultimate authority at all times residing in the Board.
- i. To provide a means of hearing grievances and foreclosure proceedings of Unit Owners and to observe all due process requirements imposed upon owners associations for condominiums.
- j. To meet at regularly scheduled times and hold such meetings open to all Unit Owners or their agents.
- k. To prepare an annual budget for Ailesbury Residences to determine the amount of the Assessments payable by the Unit Owners to meet Common Element expenses and to allocate and assess such charges among the Unit Owners according to their respective interests in the Common Elements, and to submit such budget to the Unit Owners on or before the date of the annual meeting.
- l. To levy and collect special assessments whenever, in the opinion of the Board, it is necessary to do so to meet increased operating or maintenance expenses, costs, or additional capital expenses, or because of emergencies.
- m. To take appropriate legal action to collect any delinquent Assessments, payments or amounts due from Unit Owners or from any person or persons owing money to Ailesbury Residences, and to levy a penalty and to charge interest on unpaid amounts due and owing.
- n. To defend in the name of the Association all lawsuits wherein Ailesbury Residences is a party defendant.
- o. To enter contracts with third parties to carry out the duties herein set forth, for and on behalf of the Board and the Association.
- p. To establish a bank account for Ailesbury Residences, and to keep therein all funds of the Association. Withdrawal of monies from such accounts shall only be by checks signed by such persons as are authorized by the Board.
- q. In general, to act for and carry on the administration and affairs of the Association as authorized and prescribed by the Declaration and to do all those things which are necessary and reasonable to carry out the governance and operation of Ailesbury Residences.
- r. To establish rules and regulations for conduct, behavior and use of the Common Elements.

- s. To make repairs, alterations, and improvements to the Common Elements consistent with managing Ailesbury Residences in a first-class manner and in the best interest of the Unit Owners.
- t. To arrange, keep, maintain, and renew the insurance for the Association as set forth in the Declaration.
- u. To carry out the duties and responsibilities of the Board in all other matters as may be authorized, needed, or required by the Declaration.
- v. To allow first lienholders to inspect Association and Board records.

8. VACANCIES AND REMOVAL

Should a vacancy occur on the Board, the Board, subject to the exception described below, shall appoint a member of the Association to serve for the unexpired term. Such vacancy shall be filled no later than the next regular Board meeting after which it occurs. Should such vacancy not be filled by the Board at the next regular meeting of the Association, the Association may fill such vacancy.

At any regular or special meeting of the Association, any member of the Board may be removed by a majority of the aggregate interests in Ailesbury Residences. Such vacancy shall be filled by the Association. Such removal matter must be announced in the notice of such regular or special meeting. The personal delivery of such notice by the Secretary of the Association shall be considered notice served.

9. COMPENSATION

No member of the Board shall receive any compensation for acting as such. However, members of the Board may be reimbursed for actual expenses incurred in the performance of the members' duties, and nothing herein shall be construed to preclude compensation being paid to a Manager(s) hired by the Board.

10. OFFICERS

The officers of the Association shall be a President, Secretary, Treasurer, and such other officers as the Board may from time to time by resolution create. The election of officers shall take place immediately after the annual election of members to the Board. Each officer shall hold a term of one (1) year unless earlier removed by majority vote of the Board or by a majority of the aggregate interests in Ailesbury Residences. An officer may resign by giving written notice to the Board, the President, or the Secretary. A vacancy in any office may be filled by appointment of the Board; the appointee shall serve for the remainder of the term of the officer who is replaced. A single person may hold more than one office simultaneously.

11. DUTIES OF OFFICERS

The duties of officers are as follows:

- a. **President:** The President shall reside at all meetings of the Board; shall ensure that resolutions and other actions of the Board are carried out; shall sign all leases, mortgages, deeds, and other written instruments; and shall perform such other duties as may be prescribed by the Board from time to time.
- b. **Secretary:** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and meetings of the Association members; serve notice of meetings of the Board and of the Association members; keep appropriate current records showing the Association members, together with their addresses; and shall perform such other duties as may be prescribed by the Board from time to time.
- c. **Treasurer:** The Treasurer shall have oversight responsibility for receipt and deposit in appropriate bank accounts all Association funds, and for the disbursement of such funds as directed by resolution of the Board; for reporting the financial condition of the Association to the Board at its regular meetings; for keeping proper books of account; for arranging for an annual audit of the Association books by a public accountant, who is not a member of the Association, at the end of each fiscal year; and for the preparation and distribution to all Association members an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting.

12. MANAGER

If the Board elects to hire a Manager, the Manager shall be appointed and/or removed by the Board. The Manager or any member of the Board or Association handling Association funds or having power to withdraw or spend such funds may be bonded and shall have maintained records of the financial affairs of Ailesbury Residences. Such records shall also detail all Assessments made by the Association and the status of payments of said Assessments by all Unit Owners. All records shall be available for examination during normal business hours to any Unit Owner or his assigned representative. All functions and duties herein provided for the Manager may be performed by the Board, or the President, if the Board elects not to have a Manager.

- a. **Accounts:** The receipts and expenditures of the Association shall be under the direction of the Manager and be classified as appropriate into general common expenses and limited common expenses. Such may include:
 1. **Current Expenses:** all receipts and expenditures to be made within the year for which the budget is made, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserve or to betterments. The balance in this fund at the end of each year shall be

applied to reduce the Assessments for current expenses for the succeeding year.

2. Reserve for Deferred Maintenance: funds for maintenance items which occur less frequently than annually.
 3. Reserve for Replacement: funds for maintenance items which occur less frequently than annually.
 4. Betterments: funds to be used for capital expenditures for additional improvements or additional personal property which shall be a part of the Common Elements.
- b. Budget: Upon the Board's request, the Manager shall prepare and submit to the Board a budget each calendar year which must be approved then and adopted by the Board. The budget may include the estimated funds required to defray the general common and limited common expenses and to provide and maintain funds for the foregoing accounts according to good accounting practices.

Copies of the budget and proposed Assessments shall be transmitted to each Association member before the end of the year preceding the year for which the budget is made. If the budget is subsequently amended, a copy of the amended budget shall be furnished to each Association member.

- c. Financial Report: An audit and financial report of the accounts of the Association shall be made annually by an accountant, and a copy of the report shall be furnished to each Association member at the annual meeting.

The Manager shall generally operate and manage Ailesbury Residences for and on behalf of the Unit Owners and shall have such other powers and authority as the Board may designate. If there is no Manager or if the Manager resigns, is terminated, or his contract expires, the Board shall perform all the duties of the Manager.

13. AMENDMENT OF BYLAWS

These Bylaws may be amended at any regular or special meeting of the Association provided that a copy of the proposed revision is included in the notice of such meeting. Upon a vote of over seventy-five percent (75%) of the aggregate interests in Ailesbury Residences, the amendment shall be declared adopted. As soon as practicable after adoption, the Secretary shall prepare a copy of these Bylaws as amended for certification by the President and Secretary of the Association. Such amended and certified Bylaws shall then be filed and recorded in the office of the Clerk and Recorder of Gallatin County, State of Montana. Amendments to the Bylaws shall become effective at the time of such recording.

14. ASSESSMENTS

In accordance with the Percentage of Interest as set forth in the Declaration, each Unit Owner shall be assessed for general common expenses. Such Assessments and assessments for limited common expenses shall be collected and paid according to the terms and under the procedures more particularly set forth in the Declaration. The amount of Assessments described above and any other assessments allowed by these Bylaws, the Declaration, and by the State of Montana shall be fixed by the Board. Notice of each Unit Owner's Assessments shall be mailed to said owner at his address of record.

15. FISCAL YEAR

The fiscal year of the Association shall begin January 1 of each year and end December 31 of each year.

16. THE DECLARATION

The undersigned has filed, along with these Bylaws, a Declaration whereby the properties known as Ailesbury Residences are submitted and subject to §§ 70-23-101, *et seq.*, MCA (2019). The Declaration shall govern the act, powers, duties, and responsibilities of the Association of Unit Owners, and in the event these Bylaws and the Declaration are in conflict, the Declaration shall prevail.

By virtue of these Bylaws and the Declaration, each Unit Owner has the right to membership in the Association of Unit Owners and any Unit Owner may be on the Board of Directors of Ailesbury Residences.

After such time that the Developer deems the Project complete, the Association of Unit Owners and its Board shall have the primary and final authority on all matters solely affecting Ailesbury Residences area, subject to the laws, rules, and regulations of the City of Bozeman, County of Gallatin, State of Montana.

[signature page follows]

IN WITNESS WHEREOF, the undersigned, as owner of record of all the Units of Ailesbury Residences and one hundred percent (100%) of the voting interests of Ailesbury Residences as of the date hereof, hereby declares and affirms the adoption of the foregoing Bylaws of the 16 day of Feb, 2022.

AILESBUURY 208 DEVELOPMENT, LLC

By: C.C.
Catherine R. Woods, Manager

STATE OF MONTANA)
 : ss.
County of Gallatin)

This instrument was acknowledged before me on February 16 2021, by Catherine R. Woods, Manager of Ailesbury 208 Development, LLC.

Virginia Kitsemble
Notary Public for the State of Montana

