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March Law, P.C.
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Bozeman, MT 59715

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Charlotte Mills - Gallatin County, MT MISC

**THIRD AMENDMENT TO THE DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND BYLAWS FOR FALCON HOLLOW, GALLATIN COUNTY, MONTANA**

THIS THIRD AMENDMENT dated this 13 day of Nov, 2014, is made pursuant to the amendment provisions and procedures set forth in the original Declaration of Covenants, Conditions and Restrictions and Bylaws for Falcon Hollow, Gallatin County, Montana which was recorded on October 5, 2007 as Document No. 2280901, records of the Gallatin County Clerk and Recorder's office ("Covenants"), the First Amendment to the Covenants which was recorded August 27, 2013 as Document No. 2460751, records of the Gallatin County Clerk and Recorder's Office and the Second Amendment to the Covenants which was recorded May 23, 2014 as Document #2481692, records of the Gallatin County Clerk and Recorder. The amendment provision sets forth in the original Covenants under Article XIV, Section 6 provides that Declarant reserves the right to amend these Covenants to reflect subsequent additional phases. Pursuant to that Amendment right, this Amendment is made by the Declarant to amend the Covenants to include Phase 3.

Unless stated otherwise, the amendments contained herein pertain only to Falcon Hollow Phase 3.

NOW, THEREFORE, the following Amendments to the Covenants are as follows:

1. That except for the specific changes, modifications, clarifications, and additions contained and set forth herein, each and every one and all the terms and conditions of the Covenants shall remain in full force and effect, unchanged and unaltered by this Amendment except where inconsistent with or in conflict with the terms hereof in which case this Amendment shall control.
2. This Amendment is made to update the Covenants to reflect the actual development of the property, and more specifically to reflect the addition of Phase 3.

3. That the real property subject to the Covenants as set forth and updated in the Second Amendment, shall be further updated to include the addition of Phase 3. Therefore the legal description contained in the Covenants and updated in the Second Amendment shall be further revised herein and shall be replaced with the following:

Falcon Hollow Phase 2A, 2B and 3, being a portion of Dependent Resurvey No. 17 and Tract 1 of Dependent Survey No. 17A, located in the Northeast one-quarter of Section 17, Township 2 South, Range 5 East, Principal Meridian Montana, Gallatin County, Montana.

4. Townhouses shall be allowed on Lots 20-31 in Block 5 and Lots 8-17 in Block 6 of Falcon Hollow Subdivision Phase 3. All remaining Lots in Falcon Hollow Subdivision Phase 3, regardless of zoning designation, shall be limited to single family residences.
5. Falcon Hollow Phase 3 shall be governed by and subject to the original Falcon Hollow Covenants and Amendments thereto.
6. Falcon Hollow Phase 3 shall be subject to the design guidelines set forth on the attached Exhibit "A" .
7. Falcon Hollow Phase 3 shall be subject to the following County required covenants:
 - a. All structures shall be constructed in compliance with Montana State adopted codes for construction, including does for pertinent Seismic Zone, and current fire codes as adopted by the State of Montana.
 - b. The control of noxious weeds by the Homeowners' Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (7-22-2101 through 7-22-2153 MCA) and the rules and regulations of the Gallatin County Weed Control District.

The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. In the event a landowner does not control the noxious weeds, after 10 days notice from the Homeowners' Association, the Association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.
 - c. The Homeowners' Association shall be responsible for the operation, maintenance and control of all interior subdivision roads, parks, trails and

common open space. The Homeowners' Association agrees that the County has no obligation to maintain the interior subdivision roads, parks, trails and open space.

- d. Membership in the Homeowners' Association shall be mandatory for each lot owner. Each lot owner shall be required to pay such fees as the Board of Directors of the Association deem appropriate for real estate taxes, insurance, and the maintenance of the interior subdivision roads, parks, trails and common open space.
- e. All lots shall be limited to one driveway access.
- f. Residential structures exceeding 3,600 square feet in area or 35 feet in height shall be constructed with an automatic fire sprinkler system meeting the requirements of the NFPA 13D/Uniform Fire Code. The Fire Service Area shall receive a stamped set of engineered sprinkler system plans for review and approval prior to construction. Inspections shall be scheduled, with 48 hours notice, during construction and after completion.
- g. Address for all structures shall be clearly posted at the street-driveway intersection in reflective forms of no less than 4 inches in size.
- h. Pets shall be controlled by each property owner, and not allowed to roam at large.
- i. These covenants do not automatically terminate, but shall continue in full force and effect until amended or revoked as set forth in 7 (r) herein.
- j. The covenants shall contain a clause about the subdivision being located within the Gallatin County/Bozeman Area Zoning District and that permits are required from the Planning Department prior to the commencement of construction.
- k. No water may be removed from any irrigation ditch, canal, or other water conveyance facility without a water right, permit, or written water lease agreement with the appropriate water users and/or water conveyance facility's authorized representatives.
- l. Unless there is written consent from the appropriate water users and/or water conveyance facility's authorized representatives, storm water, snowmelt runoff, water from dewatering practices, or other water originating from within the boundaries of the subdivision shall not discharge into or otherwise be directed into any irrigation ditch, canal, pipeline, or other water conveyance facility.
- m. The Owners' Association shall remove any trash or debris that originated from within the subdivision and has accumulated in the water conveyance

facilities passing through their subdivision by no later than May 1st of each year. If the Owners' Association fails to remove the trash or debris as described above, the water users and/or water conveyance facility's authorized representatives may cause the trash or debris to be removed and bill the Owners' Association for such efforts. Until such time that the Owners' Association assumes responsibility for the requirements described herein, such requirements shall be the responsibility of the developer.

- n. Lot owners are hereby notified of the water users, water conveyance facility's authorized representatives, and/or their designee's right to access the property to maintain and repair the water conveyance facility (this includes, but is not limited to, placement of excavated material, removal of vegetation and debris along the water conveyance facility); to install, repair, and or adjust headgates and other diversion structures; and to carry out other normal means of repair and maintenance related to the ditch/canal.
- o. To assure non-interference with water conveyance facilities, no livestock grazing shall take place, nor shall any new structures (other than structures for the maintenance and operation of the water conveyance facility), fences, landscaping (other than grass), or roads, may be installed or erected within the water conveyance facility non-interference setback, except where agreed to in writing by the water users and/or water conveyance facilities authorized representatives.
- p. Neither the Owners' Association nor any lot owners shall undertake any activity that would result in the interference or obstruction in the transmission of water in the water conveyance facility. Before any maintenance, improvements, or modifications are performed on any water conveyance facility, written permission must be obtained from the water users and/or water conveyance facility's authorized representatives prior to commencing such work. Upon completion of maintenance, improvements, or modifications to any water conveyance facility, the person responsible for such work shall provide written notice to the water users and/or water conveyance facility's authorized representatives and allow them an opportunity to inspect such work.
- q. Lot purchasers are hereby notified that Montana law provides specific protections in regards to liability and nuisance claims for agricultural operations and irrigators. Those specific protections include, but are not limited to Section 85-7-2211, M.C.A.; Section 85-7-2212, M.C.A.; and Section 27-30-101, M.C.A.
- r. Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in

accordance with the amendment procedures in the covenants, and the County Commission.

IN WITNESS WHEREOF, this Third Amendment has been executed on the dates set forth below:

PEREGRINE DEVELOPMENT, L.L.C.

By: Charles Dearhamer *Charles Dearhamer*

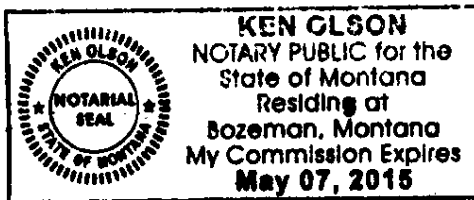
Its: Member

STATE OF MONTANA)

COUNTY OF GALLATIN)
:ss

On this 13th day of November, 2014, before me, a notary public in and for the State of Montana, personally appeared Charles Dearhamer, known to me to be the Member of Peregrine Development, L.L.C. and the person whose name is subscribed above, and acknowledged to me that he executed the same pursuant to the authority vested in him.

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



Ken Olson
Ken Olson

Notary Public for the State of Montana

Residing at:

My Commission expires: May 7, 2015

Return to:
March Law, P.C.
225 E. Mendenhall
Bozeman, MT 59715

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Charlotte Mills - Gallatin County, MT MISC

SECOND AMENDMENT TO THE DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND BYLAWS FOR FALCON HOLLOW, GALLATIN COUNTY, MONTANA

THIS SECOND AMENDMENT dated this 9th day of May, 2014, is made pursuant to the amendment provisions and procedures set forth in the original Declaration of Covenants, Conditions and Restrictions and Bylaws for Falcon Hollow, Gallatin County, Montana which was recorded on October 5, 2007 as Document No. 2280901, records of the Gallatin County Clerk and Recorder's office ("Covenants") and the First Amendment to the Declaration of Covenants, Conditions and Restrictions and Bylaws for Falcon Hollow, Gallatin County, Montana which was recorded August 27, 2013 as Document No. 2460751, records of the Gallatin County Clerk and Recorder's Office ("Amendment"). The amendment provision sets forth in the original Covenants under Article XIV, Section 6 provides that Declarant reserves the right to amend these Covenants to reflect subsequent additional phases. Pursuant to that Amendment right, this Amendment is made by the Declarant to amend the Covenants and First Amendment to include Phase 2B.

Unless stated otherwise, the amendments contained herein pertain only to Falcon Hollow Phase 2 (including Phase 2A and Phase 2B).

NOW, THEREFORE, the following Amendments to the Covenants are as follows:

1. That except for the specific changes, modifications, clarifications, and additions contained and set forth herein, each and every one and all the terms and conditions of the Covenants shall remain in full force and effect, unchanged and unaltered by this Amendment except where inconsistent with or in conflict with the terms hereof in which case this Amendment shall control.
2. This Amendment is made to update the Covenants to reflect the actual development of the property, and more specifically to reflect the addition of Phase 2B.

3. That the real property subject to the Covenants as set forth and updated in the First Amendment, shall be further updated to include the addition of Phase 2B. Therefore the legal description contained in the Covenants and updated in the First Amendment shall be further revised herein and shall be replaced with the following:

Falcon Hollow Subdivision Phase 2 and being further described as:

Falcon Hollow Phase 2A and 2B, being a portion of Dependent Resurvey No. 17 and Tract 1 of Dependent Survey No. 17A, located in the Northeast one-quarter of Section 17, Township 2 South, Range 5 East, Principal Meridian Montana, Gallatin County, Montana.

4. Falcon Hollow Phase 2B shall be governed by and subject to the original Falcon Hollow Covenants and Amendments thereto. Further, Falcon Hollow Phase 2B shall be subject to the design guidelines set forth for Phase 2 in the First Amendment to the Covenants.

IN WITNESS WHEREOF, this Second Amendment has been executed on the dates set forth below:

PEREGRINE DEVELOPMENT, L.L.C.

By: Charles DeShane

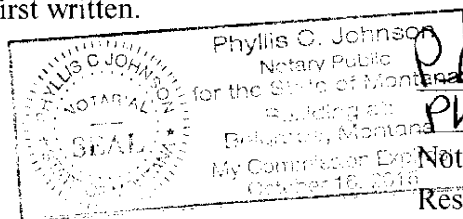
Its: Member

STATE OF MONTANA)

COUNTY OF GALLATIN)
:ss

On this 9th day of May, 2014, before me, a notary public in and for the State of Montana, personally appeared Charles DeShane known to me to be the member of Peregrine Development, L.L.C. and the person whose name is subscribed above, and acknowledged to me that he executed the same pursuant to the authority vested in him.

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



Phyllis C. Johnson
Phyllis C. Johnson
Notary Public for the State of Montana
Residing at: Belgrade, MT
My commission expires: 10/16/2015



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Charlotte Mills-Gallatin Co MTMISC 259.00

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
AND BYLAWS**

FOR

**FALCON HOLLOW
GALLATIN COUNTY, MONTANA**

INTRODUCTION

It is the general intent of this document to establish the legal authority for and to list the Covenants that pertain to the various properties (i.e. single family residential, condominium and commercial) within the Falcon Hollow Subdivision and to establish the Falcon Hollow Property Owners Association, Board of Directors and Architectural Review Committee.

The Falcon Hollow Subdivision includes various land use areas that are subject to these Covenants with certain areas having specific requirements appropriate for those areas and uses. The intent of the Covenants is to achieve compatibility between the different land use categories so that the entire community maintains an esthetic continuity and property values are protected and the health, safety and welfare of the population is maintained. Below are the existing and proposed areas within the Falcon Hollow project and the uses thereof. Falcon Hollow includes: 88 duplex and four-plex condominiums, 6 commercial lots, 1 fire station and 32 single family residential lots. It is the intent that these Covenants, Conditions and Restrictions shall apply to all areas and lots within Falcon Hollow. However, because certain areas may have specific requirements that are appropriate only for that specific area or use, some of the Covenants apply only to commercial, some only to residential and some only to condominiums as specifically set forth and noted herein. Unless otherwise stated, the Covenants shall apply to all lots within Falcon Hollow.

Falcon Hollow will be developed in phases. The first phase shall be made up of condominiums. The remaining phases will be made up of single family housing and commercial areas. These covenants will necessarily need to be amended to include descriptions of the commercial, single family residential and additional common areas once the phases are completed and added in.

The Covenants detail how the various properties within Falcon Hollow are to be developed and maintained beyond the minimum requirements of the Gallatin County/Bozeman Area Planning District. More specifically, the Covenants define how buildings and properties within Falcon Hollow are to be designed, landscaped and maintained. Unless otherwise noted, these Covenants, Conditions and Restrictions apply to all lots within Falcon Hollow.

Subject to the provisions herein, when a lot is purchased in Falcon Hollow, the owner automatically becomes a member of the Falcon Hollow Property Owners Association. The Owners Association is run by a Board of Directors. It is the Board of Directors duty to implement, administer and enforce all the Covenants including protection and maintenance of common areas, buffer easements, roads, stormwater facilities, irrigation ditch maintenance, common utility facilities and other assets common to the Property Owners Association.



These Covenants, Conditions and Restrictions acknowledge that the condominium area will, by necessity, need to have its own association pursuant to the Condominium Unit Act. To this end, each unit owner shall be a member of the Falcon Hollow Property Owners Association as well as a member of the Condominium Association. The Condominium Association shall have its own Declaration, rules and assessments which the condominium unit owners shall also be subject to, in addition to being subject to the Falcon Hollow Property Owners Association.

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS AND BYLAWS
FOR FALCON HOLLOW SUBDIVISION**

This First Declaration, made on the date hereinafter set forth by Developer hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Gallatin, State of Montana, which is more particularly described as:

Tract B of Certificate of Survey No. 2031, located in the NE1/4 of Section 17, Township 2 South, Range 5 East, M.P.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Gallatin County, Montana. Previously recorded as Document Number 2241053 on 09/08/2006; and

Tract A of Certificate of Survey No. 2031, located in the NE1/4 of Section 17, Township 2 South, Range 5 East, M.P.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Gallatin County, Montana. Previously recorded as Document Number 2249493 on 11/29/2006; and

Tract I of Dependent Survey No. 17A, being part of Dependent Resurvey No. 17, located in the Northeast Quarter of Section 17, Township 2 South, Range 5 East, P.M.M., Gallatin County, Montana, said survey being on file in the office of the County Clerk and Recorder of Gallatin County, Montana. Previously recorded as Document Number 2249494 on 11/29/2006.

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



ARTICLE I. GALLATIN COUNTY PLANNING DEPARTMENT REQUIRED COVENANTS

1. The Property Owners' Association and Condominium Association shall be responsible for the control of County-declared noxious weeds. In order to comply with the Noxious Weed Management Plan of the District and the Montana County Noxious Weed Control Act, the District requires that the following items be addressed in the covenants of each subdivision within Gallatin County.

(a) Landowners are responsible for noxious weed control on their own individual lots as stated in the Montana County Noxious Weed Control Act (7-22-2116) and according to the District's Noxious Weed Management Plan.

(b) The Property Owners Association and Condominium Association is responsible for noxious weed control in each of their respective parks, open spaces, community areas, trails and roadways within the subdivision. The Owners Association will also act as the contact point for any noxious weed complaints within the subdivision.

The control of noxious weeds by the Property Owners Association and Condominium Association on those areas for which the Owners Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District. The landowner shall be responsible for the control of the state and county declared noxious weeds on his or her own lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the Owners Association, the Owners Association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within thirty (30) days of the mailing of such assessment. The Property Owners Association and Condominium Association is responsible for control of state and county declared noxious weeds in the subdivision's parks, open spaces, community areas, trails and roadways.

2. All new dwellings or home business occupancies built prior to the provision of an adequate water supply for fire fighting purposes shall be constructed with an automatic fire sprinkler system meeting the requirements of NFPA I 3D/Uniform Fire Code. The fire district shall receive a stamped set of engineered sprinkler system plans for review and approval prior to construction. Inspections shall be scheduled, with 48-hour notice, during construction and after completion.
3. All structures shall be assigned by the Gallatin County GIS Department
4. Lot owners are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies, and machinery noises. Standard agricultural practice feature the use of heavy equipment, burning, chemical sprays, and the use of machinery early in the morning and late into the evening.



5. The property owners' shall be responsible for maintenance of interior subdivision roads, parks and open space.
6. All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.
7. The maintenance of all exterior boundary fences shall be shared equally with adjacent homeowners.
8. Common open space shall be preserved and maintained for passive recreation, wildlife habitat, protection of scenic and unique or important natural features including delineated wetlands, its water and vegetation.
9. Membership in the owners' association shall be mandatory for each lot or unit owner. Each lot or unit owner shall be required to pay such fees as the board of directors of the association deem appropriate for real estate taxes, insurance and the maintenance of the common open space and park areas.
10. The owners' association shall be responsible for liability insurance in an amount to be determined by the board of directors of the association, which insurance shall name Gallatin County as a loss payee.
11. A portion of the assessments levied by the board of directors of the owners' association shall become a lien on the lots within the subdivision in the event the taxes on the open space become delinquent. The board of directors shall adjust the assessments on the taxes on the common open space increase.
12. Ownership shall be structured in such a manner that real property taxing authorities may satisfy tax claims against the common open space lands by proceeding against individual owners in the owners' association and the dwelling or building units they own.
13. The subdivision site is within the Seismic Zone 3 area and therefore all structures must be built in compliance with state building codes.
14. All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3, and the National Fire Codes.
15. Title to the common open space within the subdivision shall vest in the owners' association and be maintained and controlled by the board of directors of the association. The Association shall be responsible for the operation and maintenance of parks, trails and common areas within the subdivision once 95% of the lots are sold, or until Declarant transfers ownership of the same to the association, whichever occurs first. The Association shall be responsible for acquiring and maintaining appropriate liability insurance on the same.
16. Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the



mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.

17. All lots shall have only one driveway access. Each driveway access point must be at least seventy-five (75) feet from the nearest road intersection.
18. The artificial feeding of all big game wildlife shall be prohibited, including providing by food, garbage or other attractant.
19. All garbage shall be stored in animal proof containers or be made unavailable to animals.
20. Owners acknowledge that wildlife damage to landscaping will occur. Owners shall accept that risk and shall not file claim against the Owners' Association or any other governing body for such damages.
21. Pets shall be controlled by each homeowner, and not allowed to roam within the subdivision.
22. The taking of any wildlife species within the property is prohibited, except for catching fish.

ARTICLE II. FIRE PROTECTION REQUIRED COVENANTS

All inhabitable structures or buildings (including mobile and modular buildings or homes and others) with any residential or commercial capacity or use shall have a fire sprinkler system installed. Any building within 50' of a building equipped with a fire sprinkler system shall have a fire sprinkler system installed.

- I. General Fire Protection Requirements.
 - A. Any fire protection covenant required as a condition of the preliminary or final plat approval and required by the fire protection authority having jurisdiction may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in the covenants and the Gallatin County Commission. The Gallatin County Commission shall consult the Fire Protection Authority having jurisdiction(RFSA) prior to adoption or amendment of the fire protection covenants.
 - B. Prior to any construction of any structure, the property owners, through the properly organized property owners association(or a committee of property owners of a properly organized property owners' association) shall review and approve all proposed building projects within the subdivision. The property owners(or their appropriately organized committee) shall not approve any construction that is not in complete compliance with all the fire protection requirements.
The fire protection authority having jurisdiction shall be made a party to these covenants, for the purposes of enforcing these fire protection covenants.

Compliance with the fire protection covenants and requirements is the responsibility of the property owner. The property owners are responsible for the enforcement of the fire protection covenants. Any action(including but not limited to legal, administrative, clerical, engineering, and others) taken by the RFSA in enforcing any of these fire protection requirements and covenants shall be at the expense of the owner of the property that is the subject of the enforcement action.

C. Addressing Posted - Addresses shall be assigned by Gallatin County GIS.

Addresses shall be posted at the intersection of the driveway and the subdivision or public roadway and shall be constructed of 4 (four) inch letters of a retro reflective material(i.e. Scotchlite[3M]) on a contrasting, retro-reflective material surface on a metal background. The requirement applies to all buildings.

The address signs shall be placed at the intersection of the driveway and the subdivision roadway, on the same side of the roadway that the structure is located. The address signs shall face both directions of travel of the roadway serving the driveway. Driveways off of cul de sacs shall post a minimum of one sign facing the direction of travel toward the driveway. The address sign and the mounting post for the address sign shall be metal. The address sign shall be posted a minimum of 3 feet above ground level. Addresses shall be posted in compliance with this requirement prior to any construction activity.

D. All buildings shall be built in compliance with the current editions of the NFPA

1/Uniform Fire Code and the currently adopted building code or successor building codes adopted by the authorities having jurisdiction.

E. Alternative Fire Protection Features or Systems - Alternative fire protection

technologies, means, features or systems may be approved by the RFSA. The alternatives may be approved only where the property owner provides fire protection equivalent to or greater than required in these requirements.

F. Fire Apparatus Access and Driveways - Fire apparatus shall be able to park on a roadway or driveway within 150 feet of all parts of the exterior of the building. All cul de sacs shall have a 50 foot radius of finished roadway surface built in compliance with the road standards of Gallatin County. Parking on the roadway in the cul de sac and within 20 feet of the intersection of the cul de sac and the connecting roadway is prohibited. Vehicles parked in violation of this condition shall be towed at the owner's expense, by the property owner's association or the RFSA. This parking restriction shall be posted in manner approved by the RFSA and at the expense of the property owner's association.

To allow for emergency vehicle access to structures, the property owner shall provide a driveway meeting the following requirements. A minimum unobstructed finished driving surface of 12 feet and a vertical clearance of 15 feet for driveways. Driveway approaches shall be constructed to allow for a 50 foot turning radius for approaching fire apparatus from the approaching lane. Driveways shall be completed prior to occupancy.



- G. Separation between structures required - Any structure not required by these fire protection covenants to have fire protection sprinkler systems installed shall be located so as to be separated from any other structure, or part thereof, by a distance of 50 feet measured from the closest part of each structure.
- H. Future performance of fire protection features, and use of fire protection features by RFSA - All fire protection features shall be maintained to their original design requirements in perpetuity by the property owners of the Subdivision. The RFSA shall, in perpetuity, have unrestricted use of all fire protection features at no expense to the RFSA.
- I. All structures with any residential or commercial use shall have installed a lock box for building keys and contact information for the occupants. The property owner is responsible for keeping the keys current with the building locks and the contact information up to date for the current owner or occupant(s). The lock box must contain 4 sets of master keys for all exterior accesses to the building and master keys for all interior doors. The lock box, the mounting location, selection of keys, contact information and other matters related to the key lock boxes shall be approved by the RFSA prior to occupancy and installed prior to any occupancy of the structures.
- J. Effect of Nonpayment of Fire Protection Costs - Any fire protection cost, including but not limited to enforcement costs, not paid within thirty(30) days after the due date shall bear interest from the due date at the rate of 10 percent(10%) per annum. The property owner's association or the RFSA may bring an action at law against the owners obligated to pay the same or foreclose the lien against the property. No owner may waive or otherwise escape liability for the fire protection cost provided for herein by non-use of the open space or by abandonment of their lot.
Upon delivery of the notice of fire protection costs to the owner, the assessment shall be a lien upon the owner's lot until paid. The property owner's association and or the RFSA may record the notice of lien with the Clerk and Recorder of Gallatin County, Montana. In the event of non-payment within thirty days(30 days) after the recording of the notice of lien, the property owner's association or the RFSA may foreclose the lien in the manner set forth under Montana law for the foreclosure of liens against real property. The property owner's association or the RFSA is entitled to collect during an action for delinquent fire protection costs any and all responsible attorney fees and costs, and any other administrative costs, including but not limited to engineering, clerical, and others, accrued prior to and in association with the collection of delinquent fire protection costs.
2. Fire Protection Sprinkler Systems Required
- A. All inhabitable structures or buildings(including mobile and modular buildings or homes and others) with any residential or commercial capacity or use shall have fire sprinkler systems installed. The fire sprinkler systems shall be designed and engineered(with appropriate stamps and signatures) by a professional engineer licensed in Montana and approved by the RFSA and installed in accordance with the current edition of the appropriate National Fire Protection Association



Standard for the building and its use. All commercial buildings or buildings with any commercial capacity or use, or any multi occupancy residential capacity or use, shall have installed a fire sprinkler system that is fully compliant with NFPA 13.

The water supply for the fire sprinkler system shall be tested by actual field measures performed by a professional engineer licenced in the State of Montana. The engineer performing the field measures of the fire sprinkler water supply shall provide written certification of the performance of the fire sprinkler water supply and that the performance of the water supply meets the water flow requirements for the fire sprinkler system in the structure. The RFSA may witness the field measures of the fire sprinkler water supply.

The property owner shall provide the RFSA with a copy(signed and stamped by a professional engineer, licensed in Montana and approved by the RFSA) of the fire protection sprinkler system plans 14 days prior to their installation.

Prior to occupancy of the building the property owner shall provide the RFSA with written certification by a professional engineer(licensed in Montana, and approved by the RFSA) that the fire protection sprinkler system and fire alarm system has been installed and tested in compliance with the appropriate NFPA standard, as approved by the RFSA, and is fully operational.

- B. The property owner is responsible for the condition of the fire sprinkler system. All fire protection sprinkler systems shall be properly maintained by the property owner to provide at least the same level of performance and protection as their original design. Any modification to the interior arrangement or use of any building required to have a fire protection sprinkler system installed, shall result in the fire protection sprinkler system being re-engineered and updated to the new arrangement and use of the building using the requirements of these covenants.
- C. Buildings requiring fire sprinkler systems shall have a smoke detection and alarm system meeting or exceeding the requirements of the current edition of the applicable National Fire Protection Association Standard including but not limited to NFPA 13, NFPA 72(National Fire Alarm Code), the Uniform Building Code, and other referenced standards or codes. Buildings with any commercial capacity or use, or multi occupancy residential capacity use, shall have installed a fully addressable, fire detection, alarm, and fire sprinkler flow system with off site, central station monitoring approved by the RFSA.
- D. The following Fire Protection Sprinkler/Fire Alarm System Project Tracking Process shall be used in all circumstances where a structure has a fire protection sprinkler system installed as part of compliance with the Fire Protection Covenants. The Tracking Process shall be administered by the RFSA and may be assigned by the RFSA to an appropriate committee of the property owners'' association(once it is properly organized). If this process is assigned by the RFSA to a committee of the property owners'' association, the property owners'' association shall accept and execute this program responsibility at its expense.

Compliance with all fire protection requirements is the responsibility of the property owner. Enforcement of all fire protection requirements is the responsibility of the property owners' association. The Tracking Process requirements are as follows:

- E. The property owner shall provide 14 day written notice, to the RFSA, of intent to build a structure with fire protection sprinkler system and, where applicable, fire alarm system. A plan review fee will be paid by the developer/owner to the RFSA. A reasonable fee schedule shall be determined by the RFSA. In lieu of a plan review fee and at the discretion of the RFSA, the RFSA may require a third party review(selected by the RFSA) of the plans at the expense of the property owner.
- F. The property owner shall provide written certification, to the RFSA, by a professional engineer(licensed in Montana and approved by the Rae Fire Service Area) that the fire protection sprinkler system and, where applicable, fire alarm system, are installed and fully operational prior to enclosure with sheet rock or interior wall covering installation. The RFSA shall be permitted to witness the testing. The property owner shall provide the RFSA with a minimum of 48 hours advanced notice of the pre-enclosure inspection.
- G. Prior to occupancy, the property owner shall provide written certification, to the RFSA, by a professional engineer(licensed in Montana and approved by the Rae Fire Service Area) and the owner that all fire protection requirements, including but not limited to the acceptance tests for the fire sprinkler system(in compliance with applicable NFPA standards), have been met. The RFSA shall be permitted to witness the checklist inspections required in this section. The owner of the property shall provide the RFSA with a minimum of 48 hours notice of all the checklist inspections and related performance tests.
- H. Occupancy shall be permitted only when all Fire Protection Requirements have been met, fire protection systems are fully compliant and operational, and related field measures have been completed and in compliance with applicable requirements as determined by the RFSA.

ARTICLE III. DEFINITIONS

- 1. "Association" shall mean and refer to Falcon Hollow Property Owners Association, its successors and assigns.
- 2. "Condominium" shall mean any part of the Falcon Hollow Subdivision in which portions of the real estate (i.e. Units) are designated for separate ownership and the remaining real estate is designated for common ownership and undivided interest solely by the owners of the Units.
- 3. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is part of the properties. Owner shall also include the purchaser under a Contract for Deed.



4. "Developer" shall mean the original Developer of Falcon Hollow Subdivision, namely Peregrine Development, LLC.
5. "Property" or "Properties" shall mean and refer to that certain real property here in before described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.
6. "Lot" shall mean and refer to any plat of land shown upon any recorded subdivision of the properties.
7. "Unit" shall mean and refer to each individual unit within a condominium. For purposes of voting and assessment, each condominium unit shall be treated as a lot. By way of example, each unit in a condominium shall be entitled to one vote in the Falcon Hollow Property Owners Association and shall be assessed as if that unit was a lot. Since there will be 88 condo units, there will be 88 units voting. In other words, the term "Lot" shall refer to the term "unit" for the purposes of assessment and voting purposes within the Falcon Hollow Property Owners Association.
8. "Declarant" shall mean and refer to original Developer/Subdivider as referred to in section 3.
9. "Common Areas " shall mean and refer to all areas depicted on the plat as common areas, and more specifically described as open area, parking/snow storage area and parks, all as shown on Plat J-473 of Falcon Hollow Subdivision first filing as recorded in the records of Gallatin County, Montana. Common Areas shall also mean and refer to all areas depicted as common areas on all subsequent phases of Falcon Hollow Subdivision Plats.
10. "Residential Single Family Areas" shall mean and refer to all areas depicted on future plat(s) as residential in subsequent phases of Falcon Hollow Subdivision.
11. "Commercial Areas" shall mean and refer to all areas depicted on future plat(s) as commercial in subsequent phases of Falcon Hollow Subdivision.
12. "Condominium Areas" shall mean and refer to all areas depicted on the final plat as said plat being recorded as document #~~2280897~~ and more specifically described as Block 1, Lots 1-9, Block 2, Lots 1-8 and Block 3, Lots 1-9 all as shown on Plat J-473 of Falcon Hollow Subdivision First Filing as recorded in the records of Gallatin County, Montana.
13. "Committee" or "Architectural Review Committee" shall mean the Falcon Hollow Architectural Review Committee as established and set forth herein.



14. "Subdivision" shall refer to all of that certain property as herein before described and such additions thereto as may hereafter be brought within the jurisdiction of the Association, and more commonly referred to as "Falcon Hollow".
15. "Member" shall mean and refer to each lot or unit owner including the Declarant. Membership in the Association shall be appurtenant to and may not be separated from ownership of a lot or unit.

ARTICLE IV. PROPERTY OWNERS' ASSOCIATION BYLAWS, MEMBERSHIP AND VOTING RIGHTS

1. Formation & Assessment

The Owners hereby establish a Property Owner's Association, which shall be a Montana non-profit corporation, for the purpose of promoting, developing and operating the subdivision. The commercial, single family residential and condominium areas shall all belong to one Association that shall be made up of all lot or unit owners. This Association shall be called Falcon Hollow's Property Owners Association. The Association shall adopt these Bylaws for the administration of the Association. These Bylaws, as adopted and as properly amended, shall be binding upon all owner's Lots and Units in the subdivision. Every Owner of a Lot or Unit which is subject to assessment shall be a member of the Association and membership is automatic and mandatory for owners of lots and units. Every member shall be entitled to one vote on any association business. Multiple owners of a single lot or unit have one collective vote. However, until such time as 95% of Falcon Hollow Subdivision lots or units have been conveyed to third party buyers, the original Developer shall be entitled to two votes for each lot owned by Developer. After 95% have been sold, Developer shall have one vote for each lot or unit owned by developer. Membership shall be appurtenant to and may not be separated from ownership of any Lot or unit which is subject to assessment. Membership shall transfer with the sale of a lot or unit to the new owner. Each lot or unit owner shall be responsible for advising the Association of his or her acquisition of ownership, of his or her mailing address, and of any change in the same.

2. Directors

The term "Directors" shall mean the Original Developer until 95% of the lots or units have been conveyed to third party buyers or until developer appoints three members to serve, whichever shall occur first. Thereafter Directors of the Association shall consist of at least three lot owners who shall be elected at the annual meeting by a simple majority of the members of the Association. The Board shall consist of one commercial area member and one residential area member and one condominium area owner. That Board of Directors shall be elected for a term set by a simple majority of the membership but not less than one year and no longer than three. Each director shall serve until replaced by his successor. Any vacancy in the Board of Directors

occurring before the next annual meeting of the members shall be filled by appointment by the remaining directors.

3. Director's power

The Directors shall have the authority to act on behalf of the Association and its members as shall be reasonably necessary to carry out the purposes of the Association and enforce these Covenants. The Directors shall act by majority vote. The officers of the Association shall follow the directions of the majority vote of the Directors. Directors shall have the right to fill any vacancies on the board of directors.

4. Initial Director and Architectural Review Committee

The Developer shall serve as the Director and Architectural Review Committee until such time as 95% of the lots have been conveyed to third party buyers, or until developer appoints three persons to serve until such time as the Association appoints new persons, whichever shall occur first. Thereafter, Committee members shall be designated by the board of directors. There shall be at least three members and no more than seven. There shall be at least one member of the commercial area and at least one member of the residential area and at least one member from the condominium area on the Committee Board.

5. Officers

Directors shall also serve as officers who shall be designated by a simple majority of the members at the annual meeting unless and until a majority of the members vote to have officers elected separate and apart from the directors.

6. Officer duties

The duties of each of the officers shall be as follows:

- a. President. The President shall preside over all meetings of the Association. He shall call the membership together whenever necessary. The President shall be the general administrative and executive officer of the Association. He shall perform such duties as may be specified, and exercise such powers as may be delegated to him by the Association.
- b. Vice President. The Vice President shall exercise the powers of the President in the absence of the President.
- c. Secretary/Treasurer. The Secretary shall give notice of all meetings of the Association and shall keep a record of the proceedings of the meetings of the Association. He shall be authorized to sign, on behalf of the Association, all records, documents and instruments when such are authorized to be signed by the



President of the Association. He shall exercise such other duties as may be designated by the President and shall keep minutes of all the proceedings of the Association.

The Treasurer shall keep and maintain adequate and correct accounts of the properties and business of the Association, including accounts of its assets, liabilities, receipts, disbursements, gains and losses of the Association. He shall prepare and render such periodic accountings as shall be required of the Association.

- d. All disbursements of Association funds shall be signed by both the Treasurer and the President.

7. **Vacancies**

A vacancy in any office of the Association shall be filled by appointment by the Board of Directors until the next annual meeting or his/her successor is duly appointed or elected.

8. **Meetings**

The annual meeting of the Association shall occur at a time set by the directors, and properly noticed. Any special meeting may be called by the President, or in his absence, by the Vice President. In addition, a special meeting shall be held upon call of 50% of the owners. Special meetings shall require 48 hours notice, in writing. Notice of annual and special meetings shall be mailed to owners at the address for each owner which is listed as such on the official plats and records of Gallatin County, as maintained by the Clerk and Recorder, Gallatin County, or at such address as shall be designated, in writing, by owner. The presence of members representing a simple majority of the total votes of the membership shall constitute a quorum.

9. **Voting approval**

Any proposed action must be approved by a simple majority of the quorum of the total membership of the Association. If a quorum of the total membership is not present, then any proposed action cannot be voted upon. Members who were not present in person or by proxy may give their assent to any action in writing, provided the same is received by the appropriate officer of the Association not later than ten (10) days from the date of such meeting wherein the action is voted on.

10. **Power of Association**

The Association, acting through its Board of Directors, shall have the power and authority to take such actions as shall be necessary or reasonable to care for, protect and maintain the common areas, easements, roads, storm water facilities, common utility facilities and other assets that are shared in common by all lot owners; to enforce these Covenants; to collect assessments; to set annual and/or special meetings; and to act in any other matters set forth



herein or which may serve the development, including the formation of special improvement districts, improvement districts for upgrades, either public or private, park districts, water and sewer matters, shade tree district or other improvement districts for such improvements as the Association shall approve.

11. Annual Meeting and Budget

The Association shall hold an annual meeting each year at such date, place and time as shall be set by the Board of Directors. At the annual meeting, the members shall review and approve a budget for the next year and shall elect Directors, and shall conduct such other business as shall be reasonable or necessary to carry out the purpose of the Association.

The annual meeting of the Board of Directors shall be held immediately after the annual meeting of the members. At the annual meeting, the Directors shall elect a President, Vice President and Secretary/Treasurer for the Association from among the Directors.

12. Membership

For the purpose of determining membership at any meeting of the property owners association a person or entity shall be deemed to be a member upon the recording of a duly executed deed to an owner or upon the recording of a Notice of Purchaser's Interest or an Abstract of Contract for Deed showing a contract purchase by an owner of any lot within the property. The legal title retained by the vendor selling under contract shall not qualify such vendor for membership nor shall residents who are renters.

Foreclosure of a mortgage, trust indenture or the termination or foreclosure of a contract for deed wherein title is vested in the mortgagee, beneficiary or original seller on a contract or repossession for any reason of a lot or unit sold under a contract shall terminate the vendee's membership, whereupon all rights to such membership shall vest in the legal owner.

ARTICLE V: COVENANT FOR MAINTENANCE ASSESSMENT

1. Creation of the Lien for Personal Obligation of Assessments

The Owner of any Lot or unit by acceptance of a Contract of Sale or a deed therefore, whether or not it shall be so expressed in such deed or contract, is deemed to covenant and agree to pay to the Association (a) annual assessments or charges and (b) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time the assessment fell due.

The Association has the authority to impose reasonable charges for interests and penalties for overdue payments.

The Association Board of Directors must first obtain the approval of a majority of the membership interests before:

- a) making any assessment for a capital improvement costing in excess of \$5,000.00;
- b) mortgaging, encumbering or otherwise disposing of any Property of the Association in excess of \$2,000.000.

2. Purpose of Assessments

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and to maintain and care for the properties and common areas pursuant to this document.

3. Annual Assessments

Annual assessments shall be determined by the Board of Directors, provided, however, that from and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may not be increased each year more than ten percent (10%) above the maximum assessment for the previous year without the vote or written assent of a simple majority of the membership. The first annual assessment for each Lot shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each deeded Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specific Lot or Unit have been paid.

4. Notice

Notice for any action authorized under 3 shall be sent to all members not less than ten (10) days in advance of the meeting.

5. Uniform Rate of Assessment

Both annual and special assessments must be fixed at a uniform rate for all deeded Lots or units. Assessments must be made upon the pro-rata share of each lot or unit based upon the total assessment cost divided by the total number of lots and units.

6. Delinquent Dues and Assessments

After any dues or assessments have been delinquent for a period of two months or more, the Association may mail to the owner a notice of delinquency. After any dues or assessments have

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been delinquent for a period of four months or more, the Association shall be entitled to file a lien against the owner's property, provided said Association has given notice of delinquency 30 days in advance which shall be filed in accordance with the provisions of Title 71, Chapter 3, M.C.A. The Association shall have all rights and remedies as provided herein. Such lien may be foreclosed upon in like manner as a mortgage on real Property with a right of redemption, which foreclosure proceeding may include the addition of court costs and attorney's fees. If there is more than one owner of an interest in a lot, each such owner shall be jointly and severally liable for any and all unpaid assessments for that lot.

7. SID and RID Waiver and Water and Sewer Hook-up Fee

The Declarant and each Lot or Unit Owner, by entry into an agreement to purchase a Lot or Unit and taking title to the same, **waive the right to protest** any special improvement district created and of public record in existence prior in time to Owner receiving title to any Lot or Unit. In this regard, Owner, prior to taking title to a Lot or Unit, is advised to review or seek advice with respect to the public record in the Gallatin County Clerk and Recorder's Office.

Each Lot or Unit owner shall be required to pay a one-time hook-up fee of \$2000.00 per hook-up in order to hook-up their unit or lot to the Rae Sewer and Water District.

8. Park and Common Areas

The Association shall be responsible for the initial seeding and landscaping of the parks and common areas. The Condominium Association shall be responsible for the seeding and maintenance of the common areas and Parks

ARTICLE VI: COMMON AREAS

1. General

All Common Areas, as depicted on the final plat shall be reserved in perpetuity as common areas. Each property owner shall have the right to use and enjoy the common areas and facilities, if any. The Association shall be fully responsible for all liability insurance, taxes, assessments and maintenance of all common areas and facilities placed or transferred to the Association. The Property Owners' Association shall assess each lot or unit owner their proportionate share of these expenses, based upon the formula set forth herein for all other assessments. Ownership and control of common areas shall transfer to the Association when 95% of the lots have sold or when Declarant transfers ownership of the same, whichever occurs first. At such time as ownership is transferred, the Association is obligated to accept the same.

The Property Owners Association shall be responsible for landscaping the common areas and maintaining the same. The Property Owners Association shall have one year from final plat approval in which to landscape the common areas, as set forth in the landscape plan attached hereto as Exhibit "A".

2. Road maintenance and snow removal

The maintenance and snow removal shall be the responsibility of the Property Owners' Association. The cost of the same will be assessed on a pro rata basis. Road signs will be placed and designed as approved by the Committee and in conformance with County regulations. Noxious weeds along roadways and lots will be controlled in accordance with the County Weed Supervisor's recommendations and enforced by the Property Owners' Association.

ARTICLE VII: SIDEWALKS/DRIVEWAYS-PARKING

Sidewalks shall be installed by owner on both sides of the streets at the time houses or buildings are constructed on individual lots. Upon the third anniversary (3 years) of each final plat phase recordation, any Lot Owners who have not constructed their sidewalks shall be required to install sidewalks on their lots, regardless of whether a home is constructed on the Lot or not. In the event that said Lot Owner shall fail to do so, the Association may do so and the cost shall be added to and become a part of the assessment to which such Lot is subject.

All driveways and parking areas or spaces are to be concrete or asphalt.

ARTICLE VIII: UTILITIES

1. Refuse Disposal

No part of the above described property shall be used or maintained as a dumping ground for rubbish, trash or garbage. Each lot owner is responsible for the removal and cost of removal of their garbage. All waste shall be kept in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall comply with all applicable laws and regulations. All residential garbage cans shall be kept inside of garages until the day of pickup and immediately returned after they have been emptied. All commercial and condominium lot owners shall screen their garbage cans/dumpsters appropriately from view.

ARTICLE IX: EASEMENTS

Easements for roads, drainage, electricity, telephone, lighting, water, sewer, cable television and all other utilities, pedestrian traffic, or any other service or utility shall be, and hereby are, granted and reserved as shown on the plat. Such easements shall not interfere with and shall be subject and servient to any and all buildings subsequently erected in such areas, the easements herein provided for shall by-pass such buildings.

All utilities, pipes, wires and service lines shall be buried. Satellite television dishes may be allowed but the location, size and color shall be approved by the Architectural Committee and the Architectural Committee may require shrubbery around the same.

All road easements as shown on the plat shall include a corresponding easement for drainage, electricity, telephone, lighting, and all other utilities along or under such roads.

Easement areas may be landscaped so as to enhance their appearance so long as the landscaping does not interfere with the use of the Property as an easement.

No utility service line or facility shall be installed or replaced without the prior approval of the Owners or the Architectural Committee. All easement areas must be restored, at the expense of the utility or service entity doing such work, to as near the condition as existed previous to such work as possible. In the discretion of the Architectural Committee or Owner, a bond may be required of the utility, installer or service entity to insure compliance with this provision.

At no time will patios, barbecues, fences or other structures be placed upon any utility easement within the exterior boundary of a Lot.

ARTICLE X: ARCHITECTURAL CONTROLS

1. Creation - Membership

There is hereby created an Architectural Committee which is herein referred to as the "Committee" or the "Architectural Committee", which shall be the developer until 95% of the lots are sold or until developer appoints three persons to serve until such time as the Association appoints new persons, whichever shall occur first. After that point, the Committee shall consist of three (3) persons, appointed by a majority of the Property Owners. Architectural Committee members shall serve staggered three year terms. The Committee shall be made up of at least one member from the commercial area and at least one member from the residential area, and at least one member from the condominium area.

2. Selection

If no successor is appointed by a majority of the Property Owners on or before the expiration of an individual member's term, the Architectural Member shall be deemed to have been re-appointed for another term.

On the death or resignation of an individual member, a replacement shall be selected by the remaining members of the Architectural Committee to fill out the unexpired term.

3. Purpose

The Architectural Committee may make such reasonable rules and by-laws, and adopt such procedures, as it deems necessary to carry out its functions, which rules, by-laws and procedures may not be inconsistent with the provisions of these covenants.

4. Committee Review

No parking lots, construction, reconstruction, alteration, remodeling, landscaping, fence, wall or other improvement shall be placed, constructed, erected, repaired, restored, reconstructed, altered, remodeled, added to or maintained on any lot until building drawings, plans and specifications (which must have been prepared by a licensed architect for all construction, reconstruction, alteration or remodeling), and such other information as the Architectural Committee may reasonably require, including without being limited to, colors, building materials and models, have been submitted to, and approved by, a majority of the Architectural Committee in writing; nor may the same be commenced until the Architectural Committee shall have issued a permit allowing for such improvements.

5. Conformity to Codes

The Architectural Committee shall require but not be responsible for ensuring that all construction comply with the provisions of the following standard codes or their amendments:

- "Uniform Building Codes"
- "International Conference of Building Officials"
- "National Plumbing Code"
- "National Electrical Code"
- "National Fire Protective Association"

6. Committee Guidelines

The Architectural Committee shall be governed by the following guidelines in its consideration of plans and specification submitted for its approval:

- a. It must recognize that this subdivision is designated primarily for commercial and residential owners (including condominiums), and all improvements in the subdivision must harmoniously combine, and not be inconsistent with, the development of the project which will serve said purpose.
- b. In considering any plans and specifications, the Architectural Committee shall examine the suitability of the same to the site, including the materials of which it is to be constructed, as well as the relationship of the same to the neighborhood and the adjacent properties.
- c. No plans or specifications shall be approved which would harm the monetary or aesthetic values within the property.
- d. All plans or specifications shall be in full compliance with all of the terms and provisions of these covenants, except for any variances, which have been granted by the Architectural Committee for such plans and specifications.
- e. A review fee will be required at the time of submission of all design submittal documents and materials. The Owner shall submit the required design review fee to the Committee. The purpose of the design review fee shall be to defray the Associations cost of review of all proposed site plans and specifications submitted to them. The fee, which shall be set by the Directors from time to time, shall



initially be \$100.00 per plan submitted, regardless of the number of buildings or units contained in the plan.

7. Liability

The Architectural Committee, or the individual members thereof, may not be held liable by any person for any damages which may result from Architectural Committee action taken pursuant to these covenants, including, but not by way of limitation, damages which may result from correction, amendment, change or rejection of plans, the issuance, suspension or enforcement of building permits or any delays associated with such action on the part of the Architectural Committee.

8. Commencement of Work

The Owner or Occupant shall begin work within one (1) year of receipt of written approval and diligently proceed toward completion of all approved excavation, construction, refinishing and alterations. If work is not so commenced approval shall be deemed revoked unless the Architectural Committee, pursuant to written request made and received prior to the expiration of said one year period, extends the period of time within which work must be commenced.

9. Completion Time

All construction on or in the Premises shall be diligently prosecuted to completion and shall, in any event, be completed within twelve (12) months of commencement unless specific written extension is granted by the Architectural Committee. No construction material shall, at any time, be placed or stored so as to impede, obstruct or interfere with pedestrian or vehicular traffic and no construction materials shall be placed or stored on lots for a period of more than thirty (30) days following substantial completion of construction as shall be determined by the Architectural Committee.

10. Temporary Residential Structures Forbidden.

No residential structure of a temporary character, residential trailer, basement, tent, shack, or any other residential outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently. All structures must be maintained in a reasonable manner to present a neat and attractive exterior appearance.

11. Minimum Residence, Condominium and Commercial Size Requirements.

All buildings and improvements shall comply with height restrictions as set forth by the County and those set forth by the ARC. All residential area single family dwellings shall have a minimum of 1100 square feet of floor space together with at least a single-car attached or detached garage. The 1100 square feet must be at daylight level or above grade and is excluding



basements, garages, carports, porches, etc. It is the intention of this covenant to insure that all dwellings shall be of a quality workmanship and materials substantially the same as, or better than, other dwellings in the subdivision and conform to the Uniform Building Code (UBC). Commercial buildings shall have a minimum square footage of 5,000 feet in only one building on lot, and 8,000 total if two buildings on lot, but in no event shall the commercial buildings take up more than 70% of the lot area or violate any County regulations regarding the same. Any viewshed requirements herein shall not apply to commercial lots.

Each condominium unit shall have a minimum square footage of 1000.

12. General Regulations.

Applicable requirements of Gallatin County and the Montana Building Code shall also be met. All plans must be approved by the Architectural Review Committee. Plans shall include a scaled site plan at 1" = 20' scaled floor plans and elevations. A list of exterior materials and colors shall also be submitted. There shall be no construction work initiated without a Land Use Permit issued by Gallatin County and without written approval of the plans by the Committee. All building construction and landscaping must conform to the final approved plans by the Committee.

All plans, materials and specifications must be suitable to the site, adjacent properties and the neighborhood. All improvements must be compatible with the surrounding properties so as not to impair or degrade property or aesthetic values and must conform to all applicable codes and regulations, as set forth herein or as may be otherwise applicable. All plans shall be approved by the Architectural Review Committee and all commercial structures are to be designed by an architect licensed in the State of Montana. The following design submittal is required:

- a. Site plans including landscaping, driveways, walks and decks. (Scale to be represented on plan)
- b. Complete construction drawings- Two (2) sets shall be submitted to the committee for approval. Each set shall include floor plans, exterior elevations of all sides, roof design, specifications and any construction details. (Scale to be represented on plan)
- c. Samples of all exterior materials may be required for evaluation by Committee. The time allowed for review shall be no longer than 30 days from the time of submittal. The time frame may be adjusted to allow for holidays. Approval of any plan shall require a majority of the Committee.

There shall be no construction work initiated without a Land Use Permit issued by Gallatin County and without written approval of the plans by the Committee. All building construction and landscaping must conform to the final approved plans by the Committee.

It is the intention of this Covenant to insure that all structures shall be of a quality workmanship



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and materials substantially the same as, or better than other structures in the development.

13. Landscape Plan.

Landscaping plans emphasizing lawn areas shall be submitted to the Architectural Review Committee for their approval and the landscaping shall be completed within three (3) months (weather permitting) after the Owner's first occupancy or completion of the single family residence, house or commercial building, whichever occurs first and weather permitting. The condominium association shall be required to complete landscaping pursuant to their condominium declaration, but in no event longer than three months from the completion of the final unit.

Each lot shall be required to sod the entire lot unless a variance is requested by the owner and granted by the Committee. Such variances shall be granted for larger commercial lots. Underground sprinklers shall be required. If said landscaping plan is not capable of being completed within the time frame set forth above, the Architectural Committee may require the lot owner to put forth a bond in an amount to be determined by the Architectural Committee to cover the cost of the same.

All Owners are required to establish sod lawns with underground sprinkler systems for their Lot. They shall also mow, irrigate, control noxious weeds and otherwise maintain their Lot and any right-of-way boulevard that adjoins their Lot so that the landscaping does not detract from the general appearance of the subdivision in the opinion of the Architectural Review Committee. To prevent the potential for groundwater contamination, the amount and type of chemicals applied to yards shall be restricted to acceptable standards.

In the event that the need for maintenance or repair or weed control is caused through the willful or negligent act of the Owner, his family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject. For purposes of this Article, maintenance and repair caused by willful acts of the Owners shall include maintenance and repairs required as a result of utility repairs or other actions of contractors or agents of the Owner performed outside the boundary of his Lot.

The Covenants and Restrictions of this Declaration on exterior maintenance shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association and the Owner of any Lot subject to this Declaration.

14. Exterior Siding.

The exterior siding of the structure shall consist of natural wood, wood look-alikes or wood products, brick, stone, stucco or other manufactured exterior good quality materials, including insulated metal or vinyl siding. However, no sheet or panel metal siding nor cement block siding



is allowed. No plywood sheet siding is allowed.

15. Roofs of Structures.

The roofs shall be covered with shakes, tiles or shingles and no rolled roofing shall be allowed. Exposed aluminum or silver flashing including roof gutters shall not be allowed unless colored to match the trim or color of the roof. Steel galvanized gutters are not allowed.

16. Foundation of Structures.

Within Falcon Hollow, all foundations shall be constructed from masonry materials, foundations constructed from wood or other materials are expressly prohibited. Exposed concrete shall be limited to a maximum of 12" from the bottom of siding to the finish grade.

17. Colors of Structures.

The exterior colors of the structures shall be local earth tones, white or wood colors. No bright or shiny colors on exterior siding shall be allowed. For example, bright oranges, royal blues, pinks, purples and like bright colors are not allowed. Colors are to be compatible with the balance of the neighborhood.

18. Exterior Structures.

The exterior design, style and colors of each of the outbuilding and structures on a Lot shall conform to the design, style and colors of the main building. The building should be a visual combination of forms that does not give a "box" appearance. Breaks in the roof lines and wall lines that add interest to the form and help define the design of the building are encouraged.

19. Entrances.

The main entrance to the main structure shall provide weather protection and visual definition. A concrete walk shall be provided from the driveway to the main entrance by the owner.

20. Zoning Regulations.

The height of structures erected within the confines of the real property which is the subject of this Declaration shall be controlled by the zoning and other appurtenant regulations enacted by Gallatin County. Four-plex structures shall conform to the RTH Zoning Regulations with height limitations of 32'.

21. Accessory Buildings.

All accessory buildings, such as garages and storage buildings shall be approved by the Architectural Committee and shall be architecturally compatible with the other structures on or being constructed on the Lot. No guest houses shall be allowed.

22. Fencing.



Residential backyards and side yards maybe fenced with wood or materials that look like natural wood. Only local natural colors shall be allowed, such as browns, and specifically excluding white. The front yard toward the public road shall not be fenced. No chain link or wire fences shall be allowed. Fences shall be maintained in good condition. Fences cannot be higher than six feet.

23. Antennas and Satellite Dishes.

In no case shall a satellite dish or antennae exceed 24" in diameter.

24. Dog Kennels.

No chained dogs are allowed on the lots in the single family residential area only and chained dogs are specifically not allowed in condominiums and commercial area. Dog kennels with concrete floors are allowed in single family housing residential area only provided they do not exceed 10 feet by 10 feet in size and are located in the rear yards and screened or fenced from the neighbor's view. Such kennels are to be kept in a clean and odor free condition at all times. No kennels or fenced or chained dogs shall be allowed in condominium or commercial areas.

25. Street Lighting.

A minimum of one and maximum of two lights, pursuant to the Developer's specification, and of a design prescribed by the Architectural Review Committee, shall be installed by the Owner of a commercial or single family residential lot where the driveway intersects the front sidewalk. The light must be activated by photocell for nighttime operation. The Owner shall be required to provide power and maintenance for the light. Lot owners shall be responsible for any additional lighting that may be required by the Association or by any applicable laws, ordinances or regulations. All lighting shall be first approved by the Architectural Committee.

The Condominium Association shall be responsible for placing lights for each duplex or four-plex as the Architectural Review Committee deems appropriate.

26. Authority to Approve

The Architectural Committee shall have the authority to reject the materials, designs and colors submitted with plans, or the plans themselves, if they are not compatible, or are inappropriate, with the rest of the subdivision.

27. Variances

The Architectural Committee shall have the authority to grant variances to the building locations, minimum square footage, and where, in its discretion, it believes the same to be appropriate and necessary and where the same will not be injurious to the rest of the subdivision.

28. Substantial Compliance

All improvements, construction, reconstruction, alterations, remodeling or any activity requiring the approval of the Architectural Committee must be completed in substantial compliance with the plans and specifications initially approved by the Architectural Committee and for which permits have been issued.

29. Enforcement

The Architectural Committee shall have the power, authority, standing and right to enforce these covenants in any court of law or equity when it reasonably believes the same have been violated and as more particularly set forth in Section 9 and shall have the authority to revoke or suspend building approval and/or order the suspension or cessation of any construction or work in the violation of these covenants or of any approval issued by the Architectural Committee.

ARTICLE XI: COMMERCIAL AREAS ONLY

Generally, the covenants contained in this entire document apply to both commercial condominiums and residential lots alike. However, the covenants in this specific Article apply only to the Commercial lots in Falcon Hollow. Unless otherwise noted, the covenants below shall prevail over any ambiguity created by any other covenant within the document as a whole.

1. Intent.

The intent of this district is to provide a central area for the community's business, government, service and cultural activities. Uses within this district should be appropriate to such a focal center with inappropriate uses being excluded. Room should be provided in appropriate areas for logical and appropriate planned expansion of the present district. Any changes to permitted uses shall require a 66% (2/3) approval by the Association.

2. Permitted and Excluded Uses.

The following uses are permitted within the commercial area of Falcon Hollow:

1. Antique shops.
2. Art and music supply stores.
3. Barber and beauty shops.
4. Dressmaking.
5. Financial institutions.
6. Food and drug stores.
7. Small Business or "Build and Sell" type Furniture stores, no National stores.
8. Laundry and dry cleaning.
9. Parking lots.
10. Printing offices.
11. Private schools, such as dance, business, secretarial and technical but not private or public elementary or secondary schools.

12. Professional and business office (for personal services).
13. Public offices.
14. Repair services for clothes, dolls, small appliances, watches, glasses, and other such things.
15. Restaurants, cafes.
16. Retail sales
 - A. Clothing,
 - B. Candy,
 - C. Furniture,
 - D. Jewelry, and
 - E. Excluding heavy machinery.
17. Shopping centers.
18. Signs.
19. Temporary buildings for and during construction, only.
20. Medical, Dental, Optometry, or related health care type facilities.
21. Landscape business, or related business requiring storage and/or showroom areas, but at no time may heavy equipment be stored on any lot.
22. Uses customarily accessory to those listed and uses consistent with zoning ordinances and approved by the Declarant or Association.

The following are prohibited/excluded uses:

1. Adult businesses.
2. Establishments that primarily serve alcoholic beverages.
3. Heavy machinery sales.

3. **Lot Area and Width.**

No minimum lot area or width is prescribed beyond those required by county standards.

4. **Coverage.**

Buildings may cover entire lot providing other requirements and all county standards are met.

5. **Yards.**

A 15 foot front yard is required on all commercial lots bordering streets and all other applicable code or regulation requirements shall be met. As noted earlier, variances to the requirement of sodding entire lot may be granted for larger commercial lots, at the discretion of the Architectural Review Committee. All other landscaping provisions, as set forth herein, shall apply.

6. **Off-street Parking.**

Off-street parking shall be provided, except existing buildings may be changed from one permitted use to another without providing additional parking so long as all applicable codes and



regulations are met. Each business shall be limited to the number of parking spaces allocated to it by county ordinances or regulations, if any, or by the Committee. Employees of businesses shall park in back parking areas, leaving the areas closest to the buildings for customers. The remainder of the parking areas shall be for customer parking only. No overnight parking shall be allowed without Association consent. No items shall be stored on the parking lot area without Association consent.

7. Off-street Loading.

Off-street loading shall be provided.

8. Height.

All structures shall not exceed 42' in height as measured from finished grade to highest roof point.

9. Exterior Siding.

The exterior siding of the structures shall be wood or wood look-alikes, wood products, or other high quality manufactured exterior materials. No plywood or steel siding permitted.

10. Zoning Regulations.

The height of structures shall be controlled by the zoning and other appurtenant regulations enacted by Gallatin County and shall not exceed 42'. Commercial structures shall conform to the Commercial Zoning Regulations.

11. Pets.

Cats, dogs and other domestic animals must be kept on leashes and under the control and supervision of their owners at all times when they are on the premises. Pet owners must properly pick up and dispose of all pet waste. No dog kennels or chained dogs or fenced doges are allowed on the Commercial lots.

12. Business Signs and Advertising.

No business signs or advertising signs, of any kind or nature, will be permitted to be located on the Property or on any structure constructed on it, unless all signs so erected or placed meet the applicable Sign Codes, and meet with the approval of the Architectural Committee. No additional monument signs shall be allowed. Maintenance of signs shall be responsibility of owner businesses. No sign shall be approved other than informational and vehicular control signs, signs identifying the building or business of the Occupant of a lot, and signs offering the lot for sale or lease, and temporary development signs. Temporary signage for short term sales events may be permitted by the Architectural Committee.

13. Number of Buildings.

The commercial lots may have up to two buildings per lot so long as the buildings meet the

square footage requirements herein.



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ARTICLE XII: STORAGE FACILITIES/GARAGES

1. All structures must be maintained in a reasonable manner to present a neat and attractive exterior appearance.

2. **Minimum Layout Requirements**

All garage and storage structures and storage areas are to be arranged to accommodate reasonable access and egress. Structures shall not exceed the size determined by the architectural review board. It is the intention of this Covenant to insure that all storage facilities shall be of a quality workmanship and materials. Applicable requirements of Gallatin County and the Montana Building Code shall also be met. All plans must be approved by the Architectural Review Committee. A list of exterior materials and colors shall also be submitted. There shall be no construction work initiated without a Land Use Permit issued by Gallatin County and without written approval of the plans by the Committee. All building construction and landscaping must conform to both the final approved plans by the Committee.

3. **Concrete Slab.**

All garage/storage structures are to include a concrete slab floor. Asphalt or gravel or earthen flooring is not allowed.

ARTICLE XIII: USE RESTRICTIONS

1. **Single Family Residential and Condominium Area Businesses Only**

No residence or building erected on the single family residential area or condominium area which is the subject of this Declaration shall be used for any commercial endeavor, day care, or other business type activity. Cottage industry type activities are allowed as long as no employees outside of the immediate family are employed on the residential properties.

2. **Animals, Pets in Single Family Residential Condominium Area.**

No more than two common household pets per single family residential lot or condominium unit shall be allowed. The proper control of household pets, dogs and cats is important to the integrity and well being of the Falcon Hollow community. No domestic fowl, horses or other farm animals are allowed within Falcon Hollow. All applicable laws of Gallatin County regarding pets, dogs and cats must be adhered to as well and all pets shall be under the immediate control and supervision of their owners.

3. **Storage of Equipment/Inoperable Vehicles.**

No lot shall be used for the storage of any inoperable vehicle, and no single family residential lot or condominium unit shall be used to store machinery or equipment. No single family residential



lot or condominium unit shall be used for storage of any articles, vehicles, equipment or other personal property of any quantity in excess of the immediate needs and personal use of the Owner of a Lot or the occupants thereof as the case may be. Storage of materials, supplies, equipment, vehicles, tools or trade items is expressly prohibited on single family residential lots and condominium units, unless completely enclosed in the residence's garage or storage area. No more than two recreational vehicles and/or boats, including but not limited to campers, RVs, boats and jet skis shall be stored outside on a single family residential lot. Any recreational vehicles or boats that are stored outside must be reasonably screened or enclosed on a single family residential lot. Condominium unit owners may not store recreational vehicles unless said recreational vehicles are located within garages, if available.

4. Commercial Vehicles on Single Family Residential Lots or Condominium Areas.

No single family residential lot or condominium unit shall be used for the parking or storage of any commercial trucks, large commercial vehicles or other heavy equipment, except as may be necessary during reasonable periods of construction on individual lots.

5. Offensive Activity (applies to all properties).

- a. No noxious or offensive activity shall be carried on upon any portion of the above described property, nor shall anything be done thereon which may be, or may become, an annoyance to the neighborhood.
- b. No fireworks of any kind may be brought into, discharged or stored on any lot except for personal use only on the Fourth of July and First of January in accordance with all regulations and laws.
- c. No firearms shall be discharged on any lot or common area.
- d. No cutting of firewood shall be allowed on site.
- e. Any fire must be contained in approved containers or pits only.
- f. No snowmobiles, dirt bikes, ATVs or similar off road vehicles shall be used within the subdivision.
- g. No inoperable vehicles may be located outside of a garage for more than 72 hours.

Any violation of County ordinances, zoning or other regulations shall be a violation of these covenants and can be enforced by the Association or individual lot owners.

6. Waterways/Ponds/Other Water Areas.

The Owner or Occupant of any lot or unit shall at all times conduct his use and activities in a manner that will preserve the integrity of water areas including the prevention of any degradation of water quality, any reduction or increase in the flow of said water areas, any damage to the stream bed or banks of said water areas. The Owner or Occupant of any lot or unit shall not conduct or permit the conduct of the following activities:



- a. The discharge of any liquid, solid, or gas into water areas;
- b. The use of any unapproved fertilizers or herbicides, or the polluting of water areas is prohibited.
- c. Any refuse encouraging activities.
- d. The construction or constriction of the water area.

7. **Street Parking.**

Street parking is allowed for guests, deliveries or short temporary periods but no overnight parking is allowed on the street in the single family residential and condominium areas. Each condominium unit and single family residential lot shall be allowed two guest parking areas on the street.

8. **Hazardous Materials.**

No hazardous materials may be stored or disposed of on any lot or common area.

ARTICLE XIV: GENERAL PROVISIONS

1. **Effects of Covenants on Mortgage.**

A breach of any of the foregoing provisions, conditions, restrictions or covenants shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value on any Lot, or portion of any lot, and any improvements thereon, but said provisions, conditions, restrictions and covenants shall be binding upon and effective against any Owner there of whose title thereto was acquired by foreclosure, trustee sale or otherwise.

2. **Incorporation by Reference.**

In any conveyance of the lands covered hereby, it shall be sufficient to insert a provision therein to the effect that the conveyance is subject to the restrictions and covenants contained in this document, without setting forth such restrictions and covenants verbatim or in substance in such conveyance.

3. **Enforcement.**

Enforcement of these covenants shall be by procedure of law or in equity against any person or persons violating or attempting to violate any covenants, and the legal proceedings may be either to restrain the violation of the covenants or to recover damages, or both. Each person who has been found by a court of competent jurisdiction to have violated one or more of these covenants shall be liable for all reasonable attorney's fees and costs incurred in connection with the litigation.

3A. **General Provisions.**

In the event of any violation or threatened violation of these covenants, the Association or any owner may enforce these covenants by legal proceedings in a court of law or equity, including the seeking of injunctive relief and damages. In association with such legal proceedings or as a

separate remedy, the Owners Association may enter upon the property in question and remove, remedy or abate the violation or threatened violation after first having given notice and a reasonable opportunity for the owner to take action to comply with these covenants as set forth below.

3B. Notice of Violation.

Notice, as required above shall be in writing and shall be served on the person or entity concerned, and shall specify the violation or threatened violation, identify the property, demand compliance with the terms and conditions of these covenants and shall state the action which will be taken if the violation or threatened violation is not abated, remedied or satisfied. If such notice cannot be personally served after a reasonable effort to locate the person or entity to be served, service may be had by posting notice by certified mail, return receipt requested, to the last known address or address of record of the owner. Such notice must further provide for a period of at least fifteen (15) days (except in cases where more expeditious action may be required to protect property, persons, wildlife or the environment) from the date of personal service of such notice, or thirty (30) days from the date of posting and mailing of the same, within which abatement, entry or commencement of litigation, as provided above, can be commenced.

3C. Costs of Enforcement.

Actual costs, expenses and reasonable attorney's fees connected with enforcing, correcting, remedying, abating, preventing or removing any violation or threatened violation of these covenants incurred either through litigation, entry or self-help shall constitute a claim by the party initiating such action against the owner of the property which is the subject of such violation or threatened violation. The party making such claim may bring suit for enforcement of these covenants and file a lien against the subject property in the amount of and for the collection of the claim by filing a verified statement of the lien with the office of the Clerk and Recorder of Madison County, Montana. Such lien statement must set forth the names of the claimant, and the owner of record of the property against which the lien is claimed, a description of the property, the amount of the claim, the date of the claim and a brief statement of the manner in which the costs and expenses constituting the claim were incurred. Once filed, the lien shall remain on record as a claim against the property until the validity of the claim is determined by a court of law. Once a claim has been determined valid by a court of law, any such judgement may be foreclosed upon in the manner provided for the law for foreclosures with a right of redemption.

4. Subdivision.

No lot may be further subdivided.

5. Severability.

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Invalidation of any of these covenants by a judgment or a court order shall in no way affect any of the other provisions, but they shall remain in full force and effect.

6. Amendment.

The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity. This Declaration may be amended by an instrument signed by the Owners of not less than sixty-six percent (66%) of the lots, each lot being entitled to one (1) vote except that each condominium unit shall be entitled to one vote. The Declarant, at its discretion, will retain control of the Falcon Hollow Property Owners Association and until 95% of the lots are sold.

Declarant specifically reserves the right to amend these covenants as necessary to reflect the subsequent additional phases at such time as they are completed. This shall include, but not be limited to the right to amend the definition section as it relates to the commercial, residential and common areas.

Certain provisions herein may not be amended. Specifically, County, fire and any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County.

7. Constructive Acceptance.

Every person or entity who now or hereafter owns, occupies or acquires any right, title or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in the Property.

8. Notices; Documents; Delivery.

Any notice or other document permitted or required by the Falcon Hollow Covenants shall be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed as follows: If to the Association or the Architectural Review Committee, at the registered office for the Association.

9. Annexation.

Additional residential property and common area may be annexed to the Property by Declarant at any time, provided however, that all of such additional property and property owners may be subject to different Covenants.

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10/05/2007 02:06P**10. Board Liability.**

No member of the Association Board of Directors shall be liable to any person or entity for the entry, self-help or abatement of a violation or threatened violation of these covenants and all owners or lessees of real Property shall be deemed to have waived any and all rights or claims to or for damages for any loss or injury resulting from action taken to these covenants. Exception to the above shall exist for loss, injury or damage for intentionally wrongful acts.

11. Dispute Resolution.

In an effort to resolve disputes among property owners in the Association, all such disputes shall first be submitted to mediation in Gallatin County, Montana. The parties to the dispute shall mutually agree upon a mediator. If the parties can not agree upon a mediator, one shall be chosen for them by the Association.

12. Compliance.

All applicable Zoning provisions, Ordinances and Uniform Building Codes, and other applicable codes or regulation, including any review or approval of site plans by local Fire District if applicable, must be met with respect to each lot.

13. Anti-waiver.

No failure to exercise and no delay in exercising any right, power or privilege under this Declaration shall be a waiver thereof. No waiver of a breach of any provision will be deemed a waiver of any preceding breach of the same or any other provision. No extension of time of performance of any obligations or other acts will be deemed to be an extension of time of performance of any other obligations or any other acts.

14. Attorney's Fees/costs.

Except as otherwise specifically provided herein, if any suit or other proceeding for the interpretation or enforcement of this Declaration occurs, the prevailing party shall be entitled to recover its reasonable costs and expenses incurred including, without limitation, reasonable attorneys' fees.

15. Headings.

The headings used herein are inserted for convenience only and are in no way intended to describe, interpret, define or limit the scope, extend to intent of this document or any provision hereto.

16. Binding Effect.

Except as provided herein, each of the covenants, conditions, restrictions, regulations and reservations set forth herein shall continue to be binding upon the Owner, and each of its assigns and successors in interest, and upon each of them and on all parties or persons claiming under it



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on them, perpetually, from the day and year that this declaration is accepted and filed among the records of the Clerk and Recorder of Gallatin County.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal the 5th day of OCTOBER, 2007.

PEREGRINE DEVELOPMENT, L.L.C.

By: [Signature]
RAYMOND B. LEWIS

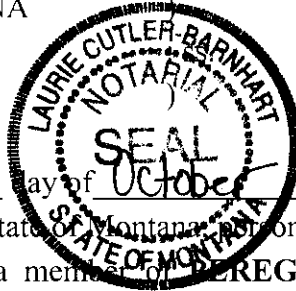
Its: MEMBER

By: [Signature]
~~SHAWN MORAN~~ KEN SHEPARD

Its: MEMBER

STATE OF MONTANA

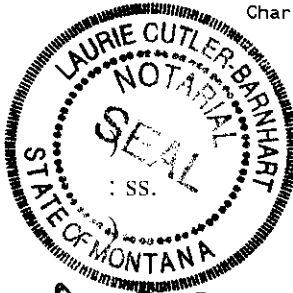
County of Gallatin



On this 5th day of October, 2007, before me a Notary Public in and for the State of Montana, personally appeared **RAYMOND B. LEWIS**, known to me to be a member of **PEREGRINE L.L.C.**, and acknowledged to me that he executed the same on behalf of the limited liability company pursuant to the power and authority vested in him.

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

Laurie Cutler-Barnhart
[Signature]
Notary Public, State of Montana
Residing at Bozeman, Montana
My commission expires: 02-14-2009



STATE OF MONTANA

County of Gallatin

On this 5th day of OCTOBER, 2007, before me a Notary Public in and for the State of Montana, personally appeared ~~SHAWN MORAN~~, KEN SHEPHERD known to me to be a member of **PEREGRINE L.L.C.**, and acknowledged to me that he executed the same on behalf of the limited liability company pursuant to the power and authority vested in him.

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

LAURIE CUTLER-BARNHART
Laurie Cutler Barnhart
Notary Public, State of Montana
Residing at Bozeman, MT 59718
My commission expires: 02-14-2009

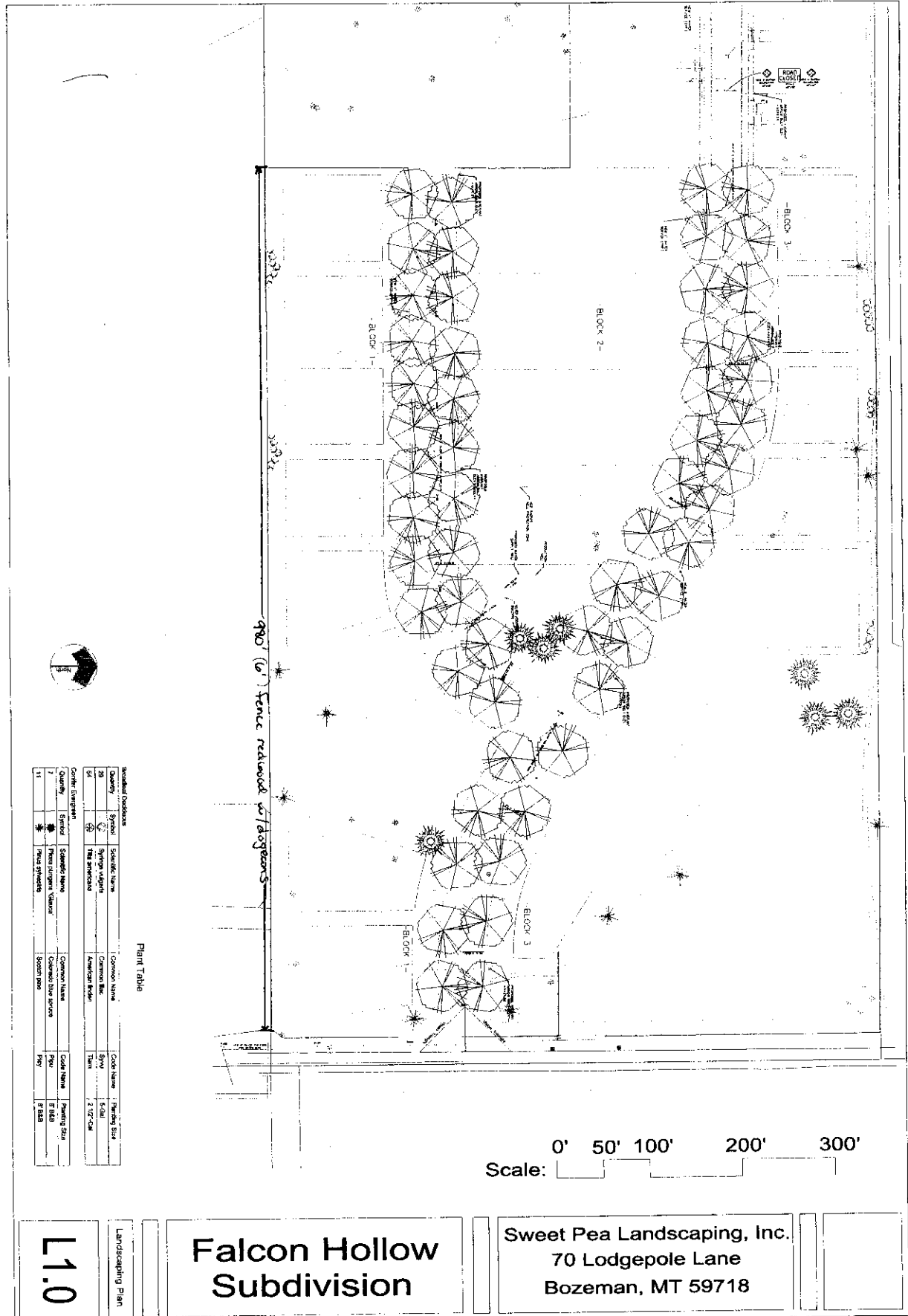


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AMENDMENT NO. 1 TO THE CONDOMINIUM
DECLARATIONS AND BYLAWS FOR
TALON CONDOMINIUM

THIS AMENDMENT executed as of the day and year which corresponds to the signatures below, is made pursuant to the amendment provisions and procedures set forth in the original Condominium Declaration and Bylaws of and for Talon Condominium which was recorded as Document No. 2311510, records of the Gallatin County Clerk and Recorder's office. This Amendment is made pursuant to the power of amendment granted in the original Condominium Declaration and Bylaws of and for Talon Condominium. The purpose of this first amendment is the annexation of additional land and buildings into the Talon Condominium regime.

NOW, THEREFORE, and in recognition of the power to amend granted in the original Declaration, the members of Talon HOA, after an affirmative vote of 75% of the members and 51% of the eligible Mortgagees, as required in the Declaration, hereby make the following Amendment to the Condominium Declaration and Bylaws for Talon

Condominiums:

1. That the recitals as set forth above are hereby incorporated herein by reference.

2. That the legal description contained and set forth on the original Condominium Declaration as Exhibit A is hereby corrected to reflect the annexation of additional property as follows:

Lots 1 and 2 of Block 1 and Lot 2 of Block 3 of Falcon Hollow Subdivision, First Filing, being Tract A & B, Certificate of Survey No. 2031, situated in the NE ¼ of Section 17, T. 2 S., R. 5 E., P.M.M., Gallatin County, Montana, according to the official plat thereof on file in the Gallatin County Clerk and Recorder's Office, Gallatin County, Montana. (Plat J-473)

3. That the description of the condominium contained under Section II "Real Estate" subsection "Description", paragraph 2, is hereby amended to add one additional building containing 2 units.

3. That 1 additional building having 2 units is hereby added to the Talon Condominium Regime such that the initial percentage ownerships as set forth in the original Declaration will be, reduced and revised as follows:

<u>Unit No.</u>	<u>Square Footage</u>	<u>Revised Percentage of Interest In General Common Elements</u>
<u>BUILDING 1</u>		
<u>UNIT NO.</u>		
36 Talon Way		
A	1520	9.98%
B	1520	9.98%
C	1520	9.98%
D	1520	9.98%

BUILDING 2
UNIT NO.

20 Talon Way

A	1520	9.98%
B	1520	9.98%
C	1520	9.98%
D	<u>1520</u>	<u>9.98%</u>

BUILDING 3
UNIT NO.

61 Talon Way

A	1533	10.00%
B	1533	10.00%

TOTAL	15226	100%
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4. That a site plan for Buildings No. 3 is attached hereto as Exhibit "A" and incorporated herein by reference and shall supplement the site plan previously on file and of record in the office of the Gallatin County Clerk and Recorder's Office filed as Document No. 2311510.

5. That floor plans for buildings No. 3 are attached hereto as Exhibit "B" and incorporated herein by reference and shall supplement the floor plans, previously on file and of record in the office of the Gallatin County Clerk and Recorder's Office filed as part of Document No. 2311510.

6. That a signed Surveyor's Certificate of Floor Plan is attached hereto as Exhibit "C" and incorporated herein by reference and shall supplement the signed Surveyor's Certificate of Floor Plan previously on file and of record in the office of the Gallatin County Clerk and Recorder's

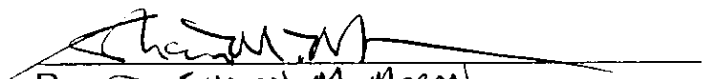
Office filed as part of Document No.2311510.

7. That except for the specific changes, modifications, clarifications and additions contained and set forth above, each and every one and all the terms and conditions of the restated Condominium Declaration and all amendments thereto remain in full force and effect, unchanged and unaltered by this Amendment except where inconsistent with or in conflict with the terms hereof in which case this Amendment shall control.

DATED this 18th day of August, 2009.

IN WITNESS WHEREOF, I certify that this Amendment No. 1 to the Condominium Declarations and Bylaws for Talon Condominium has been adopted by a vote of the owners of seventy-five percent (75%) of the members of the Talon Condominium Owners Association, Inc. and fifty-one percent (51%) for the Eligible Mortgagees, and this Amendment No. 1 to the Condominium Declarations and Bylaws for Talon Condominium hereby Amends the prior Declaration on file with the Gallatin County Clerk and Recorder's Office at Document No. 2311510.

TALON CONDOMINIUM OWNERS
ASSOCIATION, INC.


By: SHAWN M. MORAN
Its: PRESIDENT

STATE OF MONTANA)

: ss

County of Gallatin)

On this 18th day of August, 2009, before me, a Notary Public in and for said State, personally appeared Shawn M. Novak, known to me to be the President of the Talon Condominium Owners Association, Inc. and acknowledged to me that he/she executed the same on behalf of the corporation pursuant to the power and authority vested in him/her.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial seal the day and year written above.



Phyllis C. Johnson
PHYLLIS C. JOHNSON

Notary Public for the State of Montana

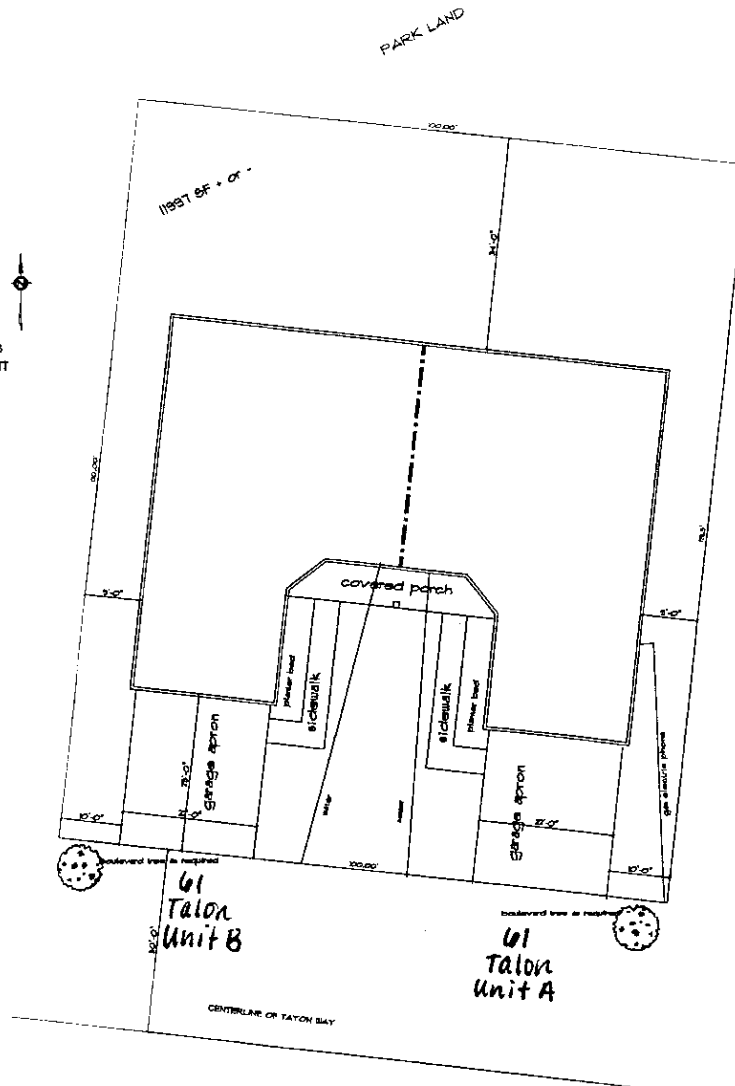
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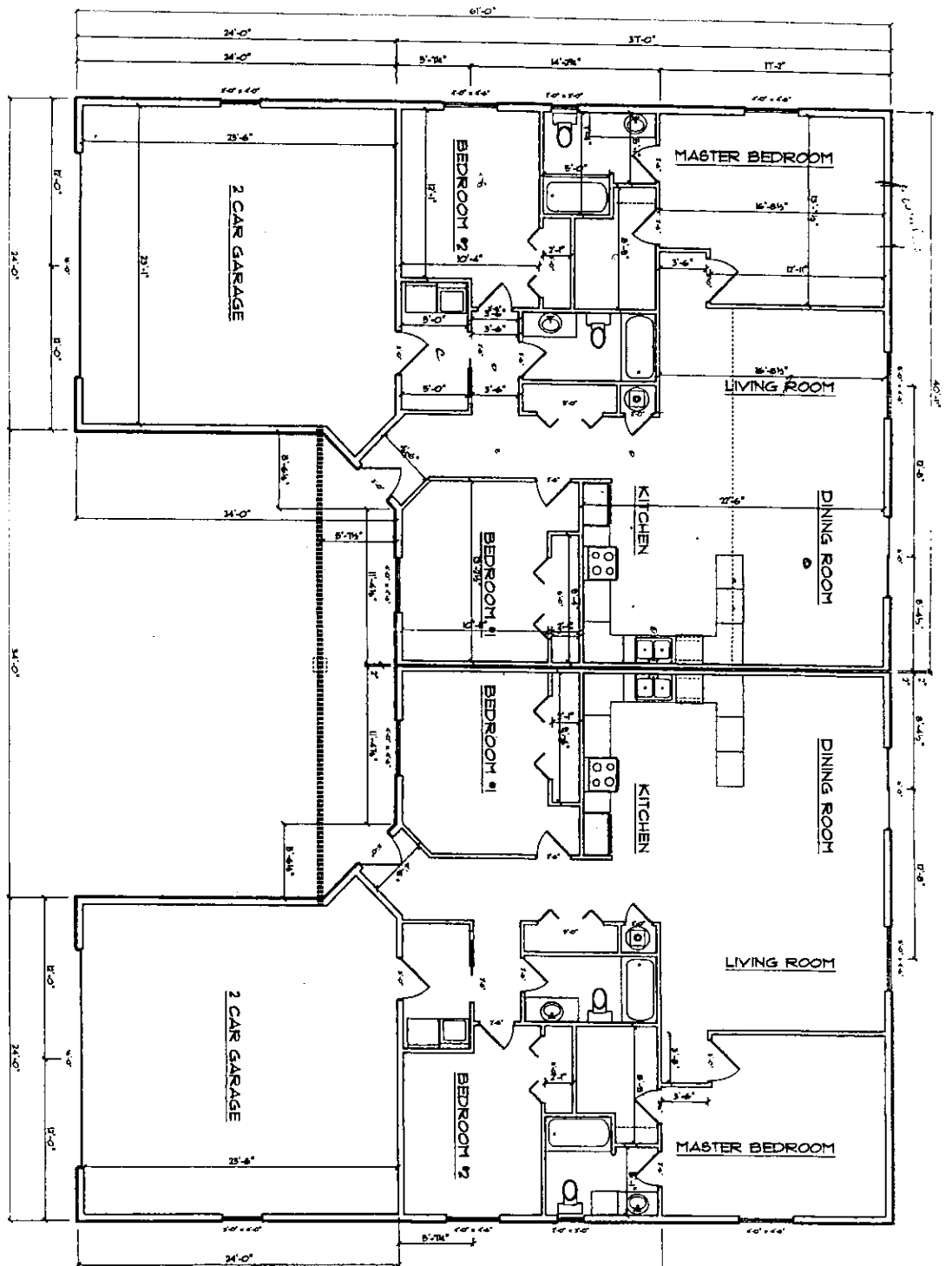
My Commission expires: 10/16/2011

SITE PLAN

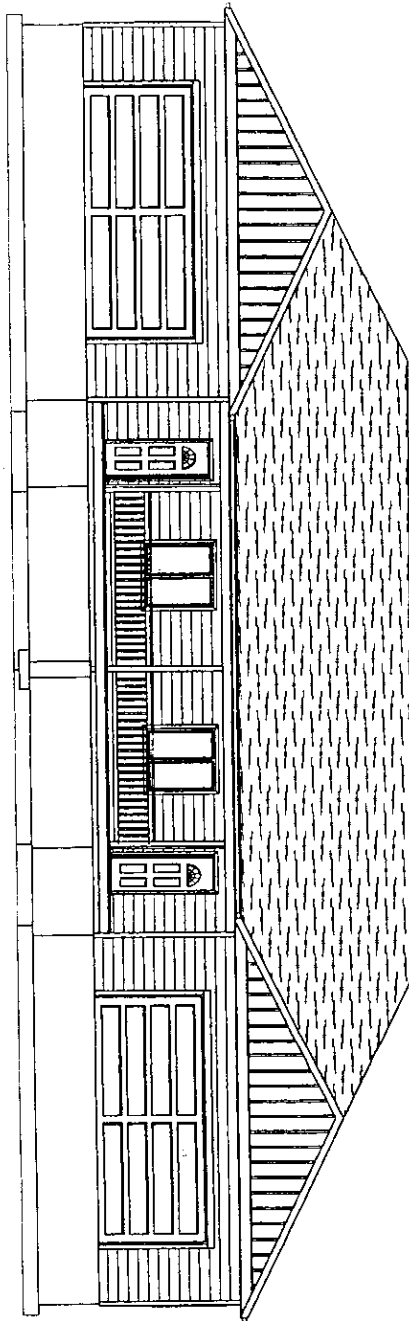
LOT 2 BLOCK 3
FALCON HOLLOW SUB
GALLATIN COUNTY, MT

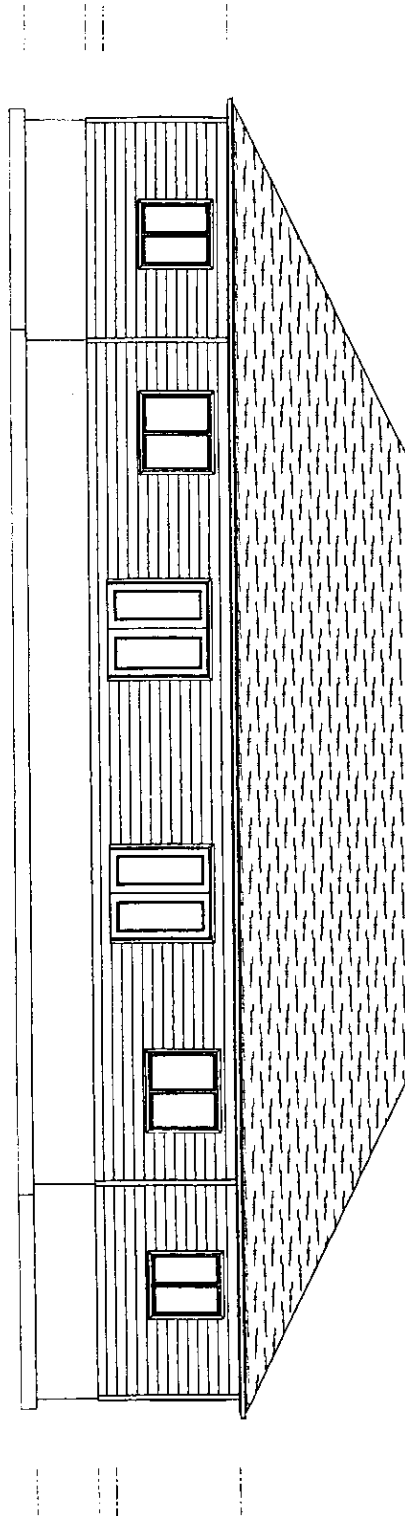
1" = 20'

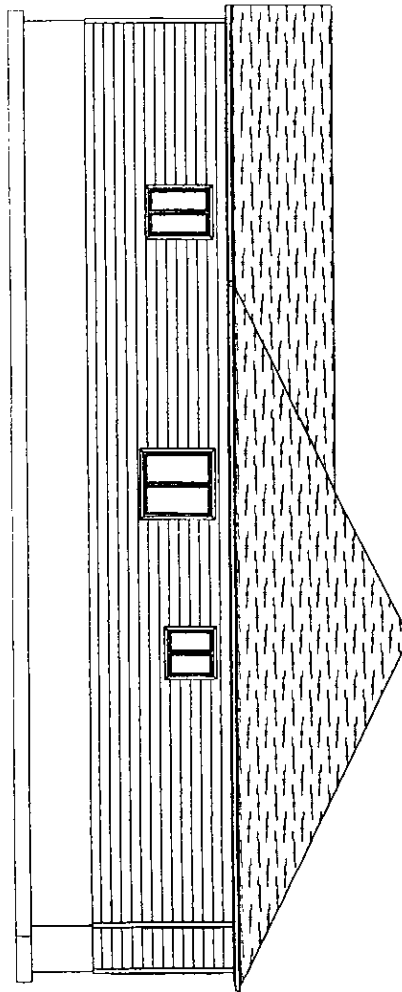


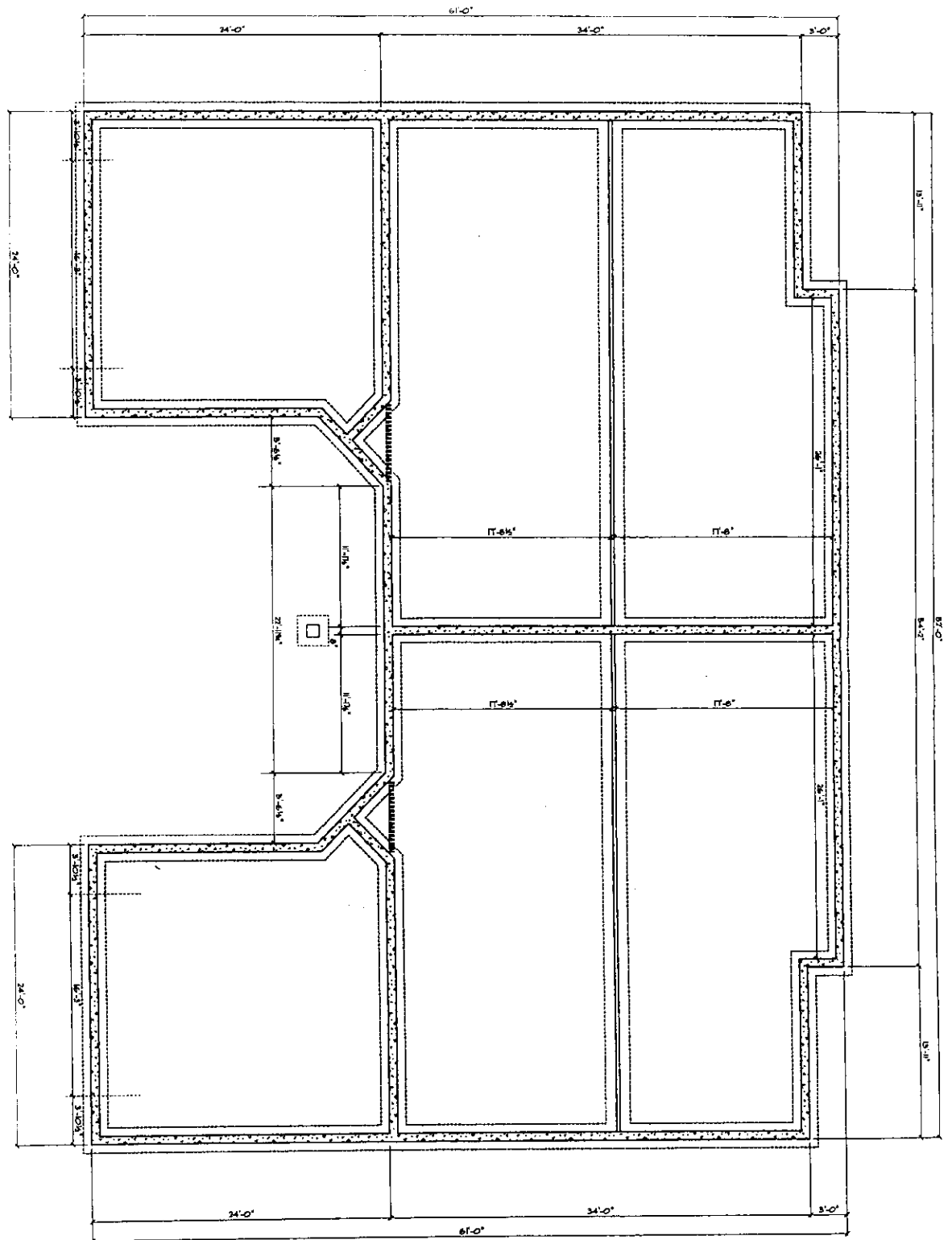


MAIN FLOOR LAYOUT
1533 sq ft









PARK
±103947 SF

STRUCTURE

S 00°08'16" E
GOOCH HILL ROAD

SUPPLEMENTAL SITE
PLAN SHOWING ALL
THREE BUILDINGS

EX. MAILBOX
(TYP.)

EX. CMP
CULVERT

1
±12773 SF

EX. POWER
POLE WITH GUY
WIRE (TYP.)

PARK
±19567 SF

3
±12000 SF

3
±14160 SF

657.87

OPEN

A EX. BLDG

A B C D

36
Talon

20
Talon

Common

CEI

SURVEYOR'S CERTIFICATE


The undersigned, being a duly registered surveyor in the State of Montana, herewith certifies the following:

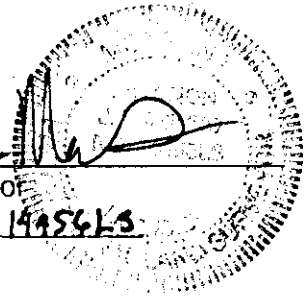
That pursuant to the provisions of MCA § 70-23-306(2), the floor plans for **TALON CONDOMINIUM**, located on the real property described as:

Lot 2 of Block 3 of Falcon Hollow Subdivision, First Filing, being Tract A & B, Certificate of Survey No. 2031, situated in the NE ¼ of Section 17, T. 2 S., R. 5 E., P.M.M., Gallatin County, Montana, according to the official plat thereof on file in the Gallatin County Clerk and Recorder's Office, Gallatin County, Montana. (Plat J-473)

and as duly filed with the First Amendment to the Declaration and Bylaws thereof, depict the layout of the units and floors of the building as of this date.

Dated: 10/3/09


Registered Surveyor
Registration No. 1495623





GALLATIN COUNTY

CERTIFICATE OF EXEMPTION FROM SUBDIVISION REVIEW

I, Manager of Subdivision and Zoning for Gallatin County, Montana, do hereby certify that the Preliminary Declaration for the Talon Condominium Expansion signed August 18th, 2009, by Shawn M. Moran, President of the Talon Condominium Owners Association, Inc., pursuant to Title 70, Chapter 23, Montana Code Annotated, is exempt from review under the Montana Subdivision and Platting Act pursuant to Section 76-3-203(1), MCA (2007).

The Condominiums are to be located on the following described real property:


Lots 1 and 2 Block 1, and Lot 2 of Block 3 of Falcon Hollow Subdivision, First Filing, being Tract A & B, Certificate of Survey No. 2031, situated in the NE $\frac{1}{4}$ of Section 17, T.2 S, R. 5 E, PMM, Gallatin County, Montana, according to the official plat thereof on file in the Gallatin County Clerk and Recorder's Office, Gallatin County, Montana (Plat J-473).

The Declaration is exempt because the condominiums are to be constructed on land that was subdivided in compliance with Parts 5 and 6 of the Subdivision and Platting Act. Specifically, preliminary plat approval for the Falcon Hollow Phase 1 expressly contemplated the construction of a multi-family building consisting of two units on Lot 2 of Block 3 and all applicable parkland dedication requirements as required by Section 76-3-621, MCA (2007) has been complied with as stated in the final plat approval for the Falcon Hollow Subdivision Phase 1. Furthermore, the units subject to this Declaration are exempt because the subject condominiums are in conformance with the requirements of the Gallatin County/Bozeman Area Zoning Regulations.

Any future amendment to the Preliminary Declaration for the Talon Condominium or to any final Declaration that adds units to the Condominium Declaration for the Talon Condominium for lots within the Falcon Hollow Subdivision requires, for each amendment, an additional declaration of condominium exemption from the Gallatin County Planning Department.

This Certificate of Exemption in no way obviates the declarants' responsibility to file a final declaration as required under the Montana Unit Ownership Act.

DATED this 7th Day of October, 2009.


W. Randall Johnson, AICP;
Manager, Subdivision and Zoning

F:\PLNG\CONDOS\2009 Cert of Exemptions\talon-expansion-condo.coe

CERTIFICATE OF NAME

That the understanding 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 the following property to be annexed into the TALON CONDOMINIUM, situated as follows:

Lot 2 of Block 3 of Falcon Hollow Subdivision, First Filing, being Tract A & B, Certificate of Survey No. 2031, situated in the NE ¼ of Section 17, T. 2 S., R. 5 E., P.M.M., Gallatin County, Montana, according to the official plat thereof on file in the Gallatin County Clerk and Recorder's Office, Gallatin County, Montana. (Plat J-473)

That the name TALON CONDOMINIUM, is not the same as, similar to or pronounced the same as the word in the name of any other property or subdivision within Gallatin County, except for the word "Condominium"; and

All taxes and assessments due and payable for the said property have been paid to date.

Dated: 10/7/2009

Sandra Kavanagh / PVS
County Assessor

Return to:
MTE

AMENDMENT NO. 2 TO THE CONDOMINIUM
DECLARATIONS AND BYLAWS FOR
TALON CONDOMINIUM

THIS AMENDMENT executed as of the day and year which corresponds to the signatures below, is made pursuant to the amendment provisions and procedures set forth in the original Condominium Declaration and Bylaws of and for Talon Condominium which was recorded as Document No. 2311510, records of the Gallatin County Clerk and Recorder's office and Amendment No. 1 to the Condominium Declarations and Bylaws for Talon Condominium, recorded as Document Number 2343923, records of the Gallatin County Clerk and Recorder's Office. This Amendment is made pursuant to the power of amendment granted in the original Condominium Declaration and Bylaws of and for Talon Condominium. The purpose of this second amendment is to clarify that the annexation of additional land and building, also known as Building Number 3, into the Talon Condominium regime pursuant to Amendment No. 1 is annexed into and is a part of Phase 2 of Talon Condominiums.

Fee: \$21.00
MISC

2344127

Page: 1 of 3
Charlotte Mills - Gallatin County, MT
10/13/2009 10:06:25 AM

NOW, THEREFORE, and in recognition of the power to amend granted in the original Declaration, the members of Talon HOA, after an affirmative vote of 75% of the members and 51% of the eligible Mortgagees, as required in the Declaration, hereby make the following clarification and Amendment to the Condominium Declaration and Bylaws for Talon Condominiums:

1. That the recitals as set forth above are hereby incorporated herein by reference.

2. That Building Number 3 is annexed into and is a part of Phase 2 of Talon Condominiums.


3. That except for the specific changes, modifications, clarifications and additions contained and set forth above, each and every one and all the terms and conditions of the restated Condominium Declaration and all amendments thereto remain in full force and effect, unchanged and unaltered by this Amendment except where inconsistent with or in conflict with the terms hereof in which case this Amendment shall control.

DATED this 12th day of October, 2009.

IN WITNESS WHEREOF, I certify that this Amendment No. 1 to the Condominium Declarations and Bylaws for Talon Condominium has been adopted by a vote of the owners of seventy-five percent (75%) of the members of the Talon Condominium Owners Association, Inc. and fifty-

one percent (51%) to the Eligible Mortgagees, and this Amendment No. 1 to the Condominium Declarations and Bylaws for Talon Condominium hereby Amends the prior Declaration on file with the Gallatin County Clerk and Recorder's Office at Document No. 2311510.

TALON CONDOMINIUM OWNERS
ASSOCIATION, INC.


By: Shawn Moran
Its: President

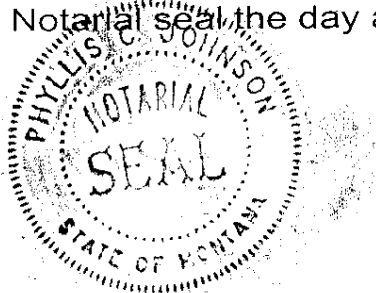
STATE OF MONTANA)


: ss

County of Gallatin)

On this 12th day of October, 2009, before me, a Notary Public in and for said State, personally appeared SHAWN MORAN, known to me to be the President of the Talon Condominium Owners Association, Inc. and acknowledged to me that he executed the same on behalf of the corporation pursuant to the power and authority vested in him.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial seal the day and year written above.




Phyllis C. Johnson
Notary Public for the State of Montana
Residing at Belgrade, MT
My Commission expires: 10/16/2011

Return to:
NHB, LLC
PO Box 11530
Bozeman, MT 59719



DECLARATION
FOR
WHEATGRASS CONDOMINIUM

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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, executes the following certificate relating to Wheatgrass Condominium situated on lands legally described as follows:

Lot 1, Block 3, of Falcon Hollow Subdivision, First Filing, being Tract A & B, Certificate of Survey No. 2031, situated in the NE¼ of Section 17, Township 2 South, Range 5 East, P.M.M. Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Gallatin County, Montana. [Plat Reference: J-473]

1. That the name "Wheatgrass 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 above-described property have been paid.

DATED: ^{July}~~June~~ 6, 2010.

Mary Vito PVS
County Assessor

**DECLARATION
FOR
WHEATGRASS CONDOMINIUM**

THIS DECLARATION is made June 30, 2010, by NHB, LLC, a Montana limited liability company, PO Box 11530, Bozeman, Montana 59719 ("Declarant").

RECITALS

- A. Declarant is the owner of a certain tract of land ("Land") in Gallatin County, Montana, described as follows:

Lot 1, Block 3, of Falcon Hollow Subdivision, First Filing, being Tract A & B, Certificate of Survey No. 2031, situated in the NE¼ of Section 17, Township 2 South, Range 5 East, P.M.M. Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Gallatin County, Montana. [Plat Reference: J-473].

- B. Declarant desires to develop the Land and the building ("Building") and other improvements located thereon (collectively the "Property") as a residential condominium consisting of units as separate interests under Title 70, Chapter 23 of the Montana Code Annotated, also known as the "Unit Ownership Act."
- C. The Property subject to this Declaration shall be known as WHEATGRASS CONDOMINIUM ("Condominium"). The address of the Condominium is 35 Talon Way, Bozeman, Montana 59718

NOW, THEREFORE, Declarant hereby submits the Property to the provisions of the Unit Ownership Act and declares that the Property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved subject to the following declarations, limitations, covenants, conditions, restrictions, and easements (collectively "Covenants"), all of which are imposed as equitable servitudes pursuant to a general plan for the development of the Property and the division of the Property into Condominium Units. The Covenants shall run with the Land and shall be binding upon and inure to the benefit of all persons having any right, title or interest in the Property (or any part thereof) and their heirs, successors, and assigns.

SECTION 1. DEFINITIONS

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

- "Allocated Interest" shall have the meaning ascribed to it in Section 4.2.
- "Assessment" means an assessment described and authorized in Section 6 of this Declaration.
- "Association" means the Wheatgrass Condominium Owners Association, an association of all of the Unit Owners acting as a group and in accordance with this Declaration and duly adopted Bylaws.
- "Board of Directors" or "Board" means the board of directors of the Association as more particularly defined in the Bylaws.

- “Building” means the multiple-unit building more particularly described in Section 2.1 that comprise part of the Condominium Property.
- “Bylaws” mean the bylaws promulgated by the Association under this Declaration and the Unit Ownership Act.
- “Common Elements” mean both General Common Elements and Limited Common Elements. The terms “General Common Elements” and “Limited Common Elements” shall have the meanings ascribed to them in Section 2.6.
- “Declarant” means NHB, LLC, a Montana limited liability company, and its successors and assigns.
- “Declaration” means this document and all parts and exhibits attached thereto or incorporated by reference.
- “Document” or “Documents” means this Declaration, the Bylaws, the Association’s articles of incorporation and any rules and regulations of the Association, all as the same may be amended from time to time in the manner provided therein and by law. Any exhibit, schedule or certification accompanying or referred to in a Document is incorporated into and a part of that Document.
- “Eligible Mortgagee” means the bona-fide holder, insurer or guarantor of a first position or first priority Mortgage in a Unit which has notified the Association, in writing, of such Eligible Mortgagee’s name and address, and that such Eligible Mortgagee holds a first position or first priority Mortgage in a Unit, with the identifying number or street address of such Unit. Such notice shall be deemed to include a request that such Eligible Mortgagee be given the notices, and conferred the other rights, as described in Sections 12 and 13 and other provisions of the Declaration.
- “General Assessments” means Assessments levied against all Units to fund General Expenses and the Reserve Fund.
- “General Expenses” mean the (i) expenses of administration, maintenance, repair or replacement of General Common Elements; (ii) expenses agreed upon as common by the Association; and (iii) expenses declared common by the Unit Ownership Act.
- “Law” means all laws, ordinances, requirements, orders, proclamations, directives, codes, rules, and regulations of any governmental authority that affect the Property, a Unit, this Declaration, or any Person’s rights and remedies under this Declaration in any way. The term shall include Law in force at the date of this Declaration or passed, enacted or imposed at some later time, subject in all cases, however, to any applicable waiver, variance or exemption. “Governmental authority” as used in this paragraph shall include any agency, authority, bureau, department, quasi-governmental body or other entity or instrumentality having or claiming jurisdiction over the Property.
- “Legal Interest Rate” means the interest rate set in Section 31-1-104 of the Montana Code Annotated (or any successor statute). The Legal Interest Rate as of the date of this Declaration is 10% per annum.
- “Limited Expenses” mean the expenses attributable to the administration, maintenance, repair, and replacement of Limited Common Elements, and are expenses only of the Unit Owner(s) having or sharing an interest in such Limited Common Elements for which the expenses are accrued.

- “Manager” means the Board of Directors, manager, management agent or any other person or group of persons retained or appointed by the Association for the purpose of conducting the day-to-day operations of the Condominium.
- “Member” means a Person entitled to membership in the Association, as provided herein.
- “Member Votes” means the votes assigned to each Unit by this Declaration, as amended from time to time. *See* Sections 4.2 and 5.5.
- “Mortgage” means a mortgage, deed of trust, trust indenture or other, similar form of consensual security interest or consensual lien intended as security for an obligation.
- “Mortgagee” means a beneficiary or holder of a Mortgage.
- “Person” means a natural person, corporation, limited liability company, partnership, association, trust, other entity or any combination thereof.
- “Property” shall mean the Land, the Building, and other improvements thereon, and all easements, rights and appurtenances belonging thereto, which are by this Declaration submitted to the provisions of the Unit Ownership Act.
- “Public Records” means the records on file and of record in the office of the Clerk and Recorder, Gallatin County, Montana.
- “Reserve Fund” means the separate bank or other account of the Association, established to provide reasonably adequate reserve funds for contingencies, including the amount of any deductible under any hazard insurance policy maintained by the Association, and for future repairs and replacements of improvements to the Common Elements, into which shall be deposited the portion of assessments of General Expenses allocated for reserves, as more fully set forth in Section 6 of this Declaration
- “Tenant” means the owner of a leasehold interest in any Unit or any part thereof.
- “Transfer of Control” means the date when control of the Association is required to be transferred by Declarant to the Owners, namely the date on which Declarant no longer has the right (or has voluntarily relinquished the right) to appoint and remove the members of the Board of Directors pursuant to Section 11.2.
- “Unit” or “Condominium Unit” means each separate condominium unit as described in Section 2.3, and is a parcel of real property including and containing one or more rooms occupying one or more floors or a part or parts thereof, intended for any type of independent use, and with a direct exit to a public street or highway or to a common area or areas leading to a public street or highway.
- “Unit Designation” means the combination of letters, numbers or words that identifies the designated Units.
- “Unit Owner” or “Owner” means the Person or Persons owning a fee simple absolute, or one who is a co-owner in any real estate tenancy relationship that is recognized under the laws of the State of Montana, in one or more Units of the Condominium. If a Unit is sold under a contract of sale with a recorded notice of purchaser’s interest, and the contract specifically so provides, then the purchaser (rather than the holder of the legal interest) shall be deemed the Unit Owner.

- “Working Capital Fund” means the separate bank or other account of the Association, established to meet unforeseen expenditures or to purchase any additional equipment or services, into which the initial working capital deposits are made, as more fully set forth in Section 6 of this Declaration.

SECTION 2 REAL ESTATE; CONDOMINIUM PROPERTY

- 2.1 **Description of Building.** The Property includes one residential building (“Building”) containing two Condominium Units, each of them with a single story above a crawlspace and an attic. Each of the Condominium Units includes an attached garage. Reference is made to the site and floor plans attached hereto as Exhibits A and B for further details regarding the Building.
- 2.2 **Construction Materials.** The principal materials of construction of the Building are concrete for the foundations, footings, and slabs; wood for the framing, structural, and finish work; oriented strand board (OSB) sheathing and Tyvek® for the exterior walls; sheetrock, composite board, and plywood for the interior walls; carpet, hardwood, and tile for the floors; prefinished hardboard siding on exterior wall surfaces; metal soffits and fascia; wood exterior door in front; sliding glass door in rear; steel garage door; and asphalt shingles for each Building's roof.
- 2.3 **Condominium Units.** The Building is divided into two (2) separate Condominium Units, and the Condominium has two (2) Units in total. The Unit designations are as follows: 35A and 35B. A garage is attached to and part of each Condominium Unit, and the designation and location of each Unit's garage is shown on Exhibits A and B. Each Unit, together with an appurtenant undivided interest in the 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 Unit.
- 2.4 **Unit Boundaries.** Each Unit shall include the part of the Building that lies within the boundaries of the Unit. The boundaries shall be determined in the following manner:
- Upper and Lower Boundaries.* The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the perimetrical boundaries:
 - Upper Boundary—the plane of the lowest surfaces of the roof trusses for all Units;
 - Lower Boundary—the plane of the highest surface of the first floor joists, except that the lower boundary of that portion of the Unit consisting of a garage shall be the surface of the concrete slab.
 - Perimetrical Boundaries.* The perimetrical (vertical) boundaries of the Unit shall be the following boundaries extended to an intersection with the upper and lower boundaries:
 - Exterior Building Walls. The plane defined by the interior side of the framed, unfinished, and undecorated exterior building walls shall be a perimetrical boundary of that Unit.
 - Interior Perimeter Walls. The plane defined by the interior side of the framed, unfinished, and undecorated interior walls bounding a Unit, extended to an intersection with other perimetrical boundaries, shall be a perimetrical boundary of that Unit.
 - Included within Unit.* Each Unit shall include, without limitation, the following:
 - All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, ceiling tiles, and any other materials constituting any part of the

finished or decorated surfaces of, and other finishing materials applied to, the unfinished and undecorated perimeter walls of such Unit;

- (ii) All portions of interior, non-perimeter walls, and all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, and finished and decorated surfaces thereof or thereon, within the boundaries of the Unit defined above, except for structural, component parts of interior, structural walls;
 - (iii) All vent covers, grills, and similar objects affixed to interior and perimeter walls, floors, and ceilings of such Unit; and
 - (iv) All control knobs, switches, thermostats, plugs, outlets, and similar items that exclusively serve such Unit whether affixed to or projecting from the interior or perimeter walls, floors, and ceilings.
- (d) *Apertures.* Where there are openings in any boundary, including without limitation windows, doors, and skylights, the boundaries of the Unit shall extend to the most exterior extrusion of the coverings of such openings, and the frameworks thereof. Therefore, windows, doors, screens, and all framings, casings, and hardware therefor are included within the Unit.

2.5 **Site and Floor Plans.** The following exhibits are attached to this Declaration and by this reference are incorporated into and made a part of this Declaration:

- (a) Exhibit A (Site Plan) showing the site plan of the Property, the location of the Building on the Property, and the location of the Condominium Units within the Building.
- (b) Exhibit B (Floor Plan) showing the floor plan of the Building and the designation, dimensions, and area for each of the Condominium Units located therein; and
- (c) Exhibit C (Engineer's Certificate).

2.6 **Common Elements.** The Common Elements of the Condominium consist of the Property, including the Land, the Building, and other improvements thereon, other than the Units. The Common Elements within the Building include those spaces, areas, and all facilities therein for the common use of the Units and the Unit Owners or which are necessary or convenient for the existence, maintenance or safety of the Building. The Limited Common Elements of the Condominium ("Limited Common Elements") shall consist of those Common Elements which serve or benefit exclusively fewer than all of the Unit Owners of the Condominium and their guests and invitees, to the exclusion of other Unit Owners and their guests and invitees. A Common Element that is not a Limited Common Element is a "General Common Element." Without limiting the generality of the foregoing, items included in the General Common Elements and Limited Common Elements are described below.

(a) *General Common Elements.* The General Common Elements include, without limitation:

- The Land;
- Grounds surrounding the Building;
- Paths, sidewalks, and walkways;
- Common access drives;
- Landscaping, lawns, trees, plants, and other landscaping materials;
- Any irrigation system placed on the Land for landscape maintenance;
- Electrical, gas, telephone, cable, water, and sewer lines and connections serving all of the Units; and

- Other elements necessary for the safety, maintenance, and existence of the Condominium.

(b) *Limited Common Elements.* The Limited Common Elements include, without limitation:

- Any portions of the Building designated on the floor plans as common to less than all of the Units.
- Flues, chimneys, ducts, cables, conduits, public utility lines, water, sewer, electrical, gas, cable television lines, and hot and cold water pipes, in each case where they service only a particular Unit or less than all Units;
- Stoops, porches, decks, balconies, and patios servicing only a particular Unit or less than all of the Units;
- Privacy fences;
- Yard space in the rear of each unit, of a size established by Declarant and to be enclosed with a privacy fence, shall be a Limited Common Element of such Unit;
- Furnaces, air conditioning units, hot water tanks, and other equipment servicing only a particular Unit or less than all of the Units; and
- The crawlspace below and attic space above each Unit.

2.7 **Outside Parking Spaces.** One outside parking space shall be designated for each Condominium Unit and shall be an appurtenance to that Unit. The parking space for each Unit shall be in the driveway in front of each Unit's garage as designated in the Condominium's site plan. There are no other outside parking spaces within the Property.

SECTION 3 CREATION OF PROPERTY RIGHTS; EASEMENTS

- 3.1 **Easement for Ingress and Egress.** Each Owner is hereby granted a perpetual, nonexclusive easement and right of way, in common with each other Owner, appurtenant to each Unit, for ingress and egress to and from the Owner's Unit, through, over and along the portion of the Property not occupied by the Building or Limited Common Elements, which easement and right of way shall be deemed to run with the title to the Owner's Unit, subject to such reasonable rules, regulations, and restrictions as may be imposed by the Association.
- 3.2 **Reciprocal Easements for Support.** Every portion of a Unit that contributes to the structural support of the Building shall be burdened with a nonexclusive easement of structural support. Such easement of support shall be for the benefit of all other Units and the Common Elements within the Building. Each Unit shall have a nonexclusive easement of structural support in those portions of the Common Elements and other Units that contribute to the structural support of the Building.
- 3.3 **Common Elements – Ingress, Egress, and Use.** Each Unit shall have appurtenant to it nonexclusive easements for ingress and egress through, and for use of, the General Common Elements. Each Unit Owner, and such Unit Owner's Tenants, licensees, guests, and invitees, shall have the right to use the General Common Elements in accordance with the purposes for which they are intended without hindering the exercise of or encroaching upon the rights of any other Unit Owners. The undivided common interest in the General Common Elements appurtenant to each Unit is declared to be permanent in character and cannot be altered without the consent of all the Unit Owners affected. Each Limited Common Element is hereby allocated and made appurtenant to the Unit(s) to which it is assigned or is attached.
- 3.4 **Party Wall.** Each Unit, as dominant tenement, shall have appurtenant to it a nonexclusive easement over, across, and upon any adjacent Unit, as servient tenement, for construction, maintenance, and repair of any party wall constructed or installed separating or to separate the Units.

- 3.5 **Encroachments.** If any portion of the 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, as a result of construction, reconstruction, repair, shifting, settlement or movement, any portion of a Unit encroaches upon the 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 upon either the Common Elements or the Unit(s) for the purpose of marketability of title.
- 3.6 **Utility Easements—Reservation.** Declarant hereby reserves, for the benefit of Declarant, the Association, and the Unit Owners, easements on the Property (including the Units) for utility services, including heat, air conditioning, water, sewer, power, telephone, natural gas, internet access, fire suppression, and cable television, as may reasonably be required to serve the Condominium. The location of such easements shall be as shown on the plans and specifications for the Building, or as the Building is constructed, or as set forth in the recorded plat or other instruments of record. Declarant and the Association shall each have the right to grant additional utility easements or relocate any existing utility easements in or on any portion of the Property (including any of the Units) that it shall deem necessary or desirable for the proper operation and maintenance of the Condominium or any portion thereof, or for the general health or welfare of the Unit Owners, Tenants, and occupants of one or more of the Units; provided that such additional utilities or relocation of existing utilities in or on a Unit be approved in writing by the affected Unit Owner(s). Any utility company and its employees and agents may access any Unit or the Common Elements in furtherance of such easement, provided that such access shall be with the permission of the Declarant or Association, with prior, reasonable notice to the affected Unit Owner(s), and during reasonable hours (except in cases of emergency).
- 3.7 **Easement for Inspection, Repair, etc.** Each Unit may have its air space penetrated by electrical wires and lines, gas lines, mechanical equipment including air handling ducts, hot and cold water lines, waste water lines, vents, and other utility and mechanical lines, pipes or equipment. A non-exclusive easement of ingress and egress shall exist through, over, and across each Unit for inspection, installation, alteration, maintenance, operation, repair, and replacement of such utility lines and mechanical equipment. Such easement shall benefit the Units and Common Elements being served by such utility lines and mechanical equipment. The easement may be exercised only with the approval and under the direction of the Board of Directors or Manager unless an emergency exists in which event any action may reasonably be taken which is justified under the circumstances to minimize damage that would otherwise occur as a consequence of such emergency.
- 3.8 **Right of Access.** The Association shall have the irrevocable right, to be exercised by the Board of Directors or Manager, to access each Unit from time to time as may be necessary for the maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Elements or to any other Unit. Except in an emergency situation, entry shall only be during reasonable hours, after notice to the Owner, and shall be made with as little inconvenience to the Unit Owner as practical.

SECTION 4 OWNERSHIP OF UNITS AND COMMON ELEMENTS

- 4.1 **Ownership of Units.** Subject to the provisions of this Declaration and the Bylaws, each Unit Owner shall be entitled to the exclusive ownership, use, and possession of such Owner's Unit(s).
- 4.2 **Allocated Interest in Common Elements.** Each Unit shall be allocated an undivided interest in the General Common Elements ("Allocated Interest"), and such undivided interest shall be appurtenant to the Unit. The Allocated Interest shall be expressed as a percentage. The Allocated Interest represents the extent of each Unit Owner's interest in the General Common Elements, and it shall be used to calculate the Unit Owner's liability for General Expenses. As set forth in Section 5.5, the number of Member Votes held by each Unit Owner shall be based on the Allocated Interest. Declarant has determined, for the purposes of determining the Allocated Interest, that the Units are approximately equal in value as of completion of construction and filing of the Declaration. Accordingly, the Allocated Interest appurtenant to each of the Units shall be equal. The Allocated Interests appurtenant to the Units in the Condominium shall be according to the percentages set forth below:

Unit No.	Square Footage*	Allocated Interest	Member Votes
35A	1330 ft ²	50%	1
35B	1330 ft ²	50%	1
Totals	2660.0 ft²	100.00%	2

*Includes space within attached garage

Each Limited Common Element shall be allocated to a Unit benefited thereby based upon the percentage that such Unit's Allocated Interest bears to the total Allocated Interest of all Units benefited by such Limited Common Element. The resulting percentage shall be used to calculate the Unit Owner's liability for Limited Expenses. Declarant reserves the right to modify the Allocated Interest for a Unit at any time before such Unit is conveyed to a purchaser other than Declarant. Any such modification shall be made by an amendment to this Declaration.

- 4.3 **Undivided Interests not Severable.** The undivided interest in the General Common Elements appurtenant to a Unit, as the same may be allocated or reallocated, may not be severed and transferred separately from such Unit. The Unit's Allocated Interest shall be deemed to transfer or convey with the Unit even if it is not expressly mentioned or properly described in the instrument of transfer or conveyance. If a Unit's Allocated Interest is modified as permitted by this Declaration, the Unit Owner shall describe the Allocated Interest as amended. If a Unit Owner mistakenly describes the extent of a Unit's Allocated Interest in an instrument of transfer or conveyance, such instrument shall be deemed amended to conform with this Declaration and any amendments thereto.

SECTION 5 THE ASSOCIATION

- 5.1 **Creation and Purpose.** The Association shall be formed for the purpose of administering, implementing, and enforcing this Declaration and operating the Association for the benefit of its Members. The Association shall be incorporated and operate as a non-profit, mutual benefit, Montana corporation. Either the Declarant or an authorized representative of the Board of Directors may sign as incorporator and file the articles of organization.
- 5.2 **Membership.** An Owner of a Condominium Unit shall automatically become a Member of the Association upon acquiring such ownership. An Owner shall remain a Member of the Association until the Owner's Unit ownership ceases. The membership shall be limited to Unit Owners.

- 5.3 **Function.** In addition to the powers and duties provided for elsewhere in this Declaration and the Bylaws, the Association, acting through its Board of Directors for the mutual benefit of the Unit Owners, shall generally have the powers and duties necessary or incidental to the operation and management of the Association and the Common Elements including, but not limited to, the following powers and duties:
- (a) Adopt bylaws for the governance of the Association.
 - (b) Adopt and implement a policy and rules for the affairs of the Condominium.
 - (c) Take such action to enforce the terms and provisions of this Declaration by appropriate means, including, but not limited to:
 - (i) Expenditure of funds;
 - (ii) Employment of legal counsel, accounting services, and management services; and
 - (iii) Commencement and prosecution of legal or equitable causes of action.
 - (d) Maintain and otherwise manage the Common Elements;
 - (e) Obtain lawn and landscape maintenance services, snow removal services, and other services that in the opinion of the Association are necessary and proper for the benefit of the Common Elements;
 - (f) Provide for the maintenance, repair, and replacement of an irrigation system serving the Property.
 - (g) Borrow funds to pay costs of operation secured by assignment or pledge of its rights against delinquent Owners;
 - (h) Enter into contracts for legal, management, and accounting services
 - (i) Maintain one or more accounts in banks or other financial institutions;
 - (j) Enter into contracts for security services for all or portions of the Property.
 - (k) Take action to protect or defend the Property from loss or damage by suit or otherwise;
 - (l) Establish and maintain a working capital and contingency fund;
 - (m) Make an annual report available to each Unit Owner and any Mortgagee within a reasonable time after receipt of a written request;
 - (n) Delegate its powers and duties to committees, officers or employees; and
 - (o) Employ a Manager or contract with independent contractors or managing agents who have professional experience to perform all or any part of the duties and responsibilities of the Association.

5.4 **Limitations on Authority.**

- (a) *Amount of Expenditures.* No single expenditure or debt in excess of \$5,000 may be made or incurred by the Association or Manager without prior approval evidenced by the affirmative vote of Unit Owners holding 75% of the Member Votes.
- (b) *Termination of Management Agreements, Leases, etc.* The following agreements made by the Association must allow for termination by either the Association or the other party, without cause and without payment of a termination fee or other penalty, on not more than 30 days' written notice: (i) any agreement or employment contract entered into by the Association for the professional management of the Condominium; (ii) any employment contract; (iii) any lease of Condominium facilities; or (iv) any contract or lease to which Declarant is a party. If the Association (or the Declarant on behalf of the Association) enters into any such agreement prior to Transfer of Control, then the agreement shall provide the Association with the right to terminate the agreement, without cause and without payment of a termination fee or other penalty, by the Association's written notice given at any time after Transfer of Control.

5.5 **Voting Interest.** The total number of votes in the Association ("Member Votes") shall be 2. Unless a Condominium Unit's vote is expressly excluded in a particular matter by this Declaration, each Unit Owner shall be entitled to cast the number of Member Votes allocated to such Owner's Unit in any matter that comes before the Association for a vote. The initial number of Member Votes allocated to each Unit is based on the Unit's Allocated Interest and is shown in Section 4.2. In any situation where a Member is entitled to exercise the Member Votes for a Unit and more than one Person holds the ownership interest in such Unit, such Member Votes shall be cast as those Persons determine among themselves, and they shall advise the Secretary in writing at or prior to any meeting as to who is authorized to cast such votes. In the absence of such advice, the Unit's vote shall be suspended if more than one individual seeks to exercise it. The Member Votes allocated to each Unit may not be split.

5.6 **Voting; Quorum.** Meetings of the Association shall only be conducted when a quorum is present, as defined in the Bylaws. Except as specifically provided otherwise in the Unit Ownership Act, this Declaration or the Bylaws, when Members vote to take action on a matter, a majority of Member Votes shall carry.

5.7 **Failure to Comply.** Each Unit Owner shall comply strictly with the provisions of this Declaration, the Bylaws of the Association, and the 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 Manager in the name of the Association, on behalf of the Unit Owner, or in the proper case by an aggrieved Unit Owner.

SECTION 6 **ASSESSMENTS; LIENS**

6.1 **Assessments and Owners' Obligation to Pay.**

- (a) *Generally.* Assessments may be made for any purpose contemplated by this Declaration and for any purpose set out in the Unit Ownership Act. A Unit Owner, regardless of how title is acquired, shall be personally obligated and liable for all Assessments, including interest, penalties, and late charges, coming due while such Person is a Unit Owner.

- (b) *Joint Liability of Grantor and Grantee.* If a Unit is conveyed, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments against the grantor for grantor's share of the General Expenses including attorney's fees and other costs of collection incurred by the Association up to the time of the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. A prospective purchaser, however, 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 the 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.
- (c) *Partial Exception for Acquisition by Foreclosure.* Where the Unit Owner obtains title to the Unit as the result of foreclosure of a first mortgage, such Unit Owner, and that Owner's successors and assigns, shall not be liable for any of the General Expenses and Limited Expenses chargeable to such Unit that became due prior to the Unit Owner's acquisition of title. Such unpaid share of General Expenses and Limited Expenses shall be a General Expense of all the Unit Owners, including the Owner of the Unit against which the unpaid General Expenses and Limited Expenses were assessed and that Owner's successors and assigns.
- (d) *Types of Assessments.* There shall be three types of Assessments: (i) General Assessments to fund General Expenses for the benefit of all Unit Owners; (ii) Limited Assessments for Limited Expenses benefiting fewer than all Unit Owners, and (iii) Special Assessments. General Assessments shall be levied on all Units from time to time subject to this Declaration, as provided in Section 6.2 below. Limited Assessments shall be levied against all Units benefiting from the services supported thereby as provided in Section 6.3 below. Special Assessments shall be levied as provided in Section 6.4 below. The Board of Directors shall have the final authority to determine which type of assessment will be used to cover particular Association expenses.
- (e) *Manner of Payment.* Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors and, if the Board so elects, Assessments may be paid in two or more installments. Unless the Board otherwise provides, the General Assessment and any Limited Assessment shall be due and payable in advance on the first day of each fiscal year. Assessments or any portion thereof not paid 30 days after the due date shall be deemed delinquent. If any Owner is delinquent in paying any Assessment or other charge levied on its Unit, the Board may require any unpaid installments of the annual Assessment and/or any other Assessments to be paid in full immediately.
- (f) *Certificate of Payment.* The Association shall, upon written demand at any time, furnish to any Owner liable for any type of Assessment, or any Mortgagee, a certificate in writing signed by an officer of the Association setting forth whether such Assessment has been paid as to any particular Unit. Such certificate shall be conclusive evidence of payment to the Association of any Assessments therein stated to have been paid. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.
- (g) *No Waiver or Setoff.* No Unit Owner may waive or otherwise exempt itself from liability for Assessments by non-use of the Common Elements, abandonment of a Unit or any other means. The obligation to pay Assessments is a separate and independent covenant on the part of each Unit Owner. No diminution or abatement of Assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association

or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements that are the responsibility of the Association, or from any action taken to comply with any applicable Law.

6.2 Computation of General Assessment.

- (a) *Preparation of Budget.* The Board shall, at least 30 days before the beginning of each fiscal year, prepare a budget covering the estimated General Expenses of the Association during the coming year. The budget shall include a capital contribution establishing Reserve and Working Capital Funds in accordance with a budget separately prepared, as provided in Section 6.5 hereof.
- (b) *Content of Budget.* The budget may include, but shall not be limited to, the following expenses:
 - (i) Cost of operation, maintenance, repair, renovation, and replacement of the General Common Elements, including landscaping, care of grounds, snow removal, and walkways;
 - (ii) Insurance premiums for public liability, fires, and other standard perils and casualties insurance, directors and officers insurance, and other insurance coverage deemed necessary or desirable by the Board of Directors;
 - (iii) Taxes and assessments made against Common Elements or Units owned by the Association and property owners' association assessments;
 - (iv) Management fees and expenses.
 - (v) Professional fees, including legal and accounting fees, and costs of collection;
 - (vi) Water, sewer, electricity, gas, and all other utility and service charges used to operate and maintain the Common Elements or Units owned by the Association;
 - (vii) Property security;
 - (viii) Expenses and liabilities incurred by the Association under or by reason of this Declaration;
 - (ix) Payment of any deficit remaining from a previous assessment period; and
 - (x) Within the limitations prescribed by this Declaration, the creation of a Reserve Fund for maintenance, repair, and replacement of General Common Elements on a periodic basis, as needed.
- (c) *Computation of Individual Unit General Assessments.* The General Assessment to be levied for the coming year against each Unit subject to Assessment shall be computed by multiplying the budgeted General Expenses by each Unit's Allocated Interest.
- (d) *Approval of Budget.* The Board of Directors shall cause a copy of the General Expense budget and notice of the amount of the General Assessment to be levied against each Unit for the following year to be delivered to each Owner at least 10 days prior to the beginning of the fiscal year. Such budget and Assessment shall become effective unless disapproved at a meeting of the Members by Members representing at least a majority of the Member Votes in the Association. There shall be no obligation to call a meeting for the purpose of

considering the budget except on petition of the Members for a special meeting made in accordance with the Bylaws. The petition must be presented to the Board within 10 days of delivery of the notice of Assessments. Notwithstanding the foregoing, however, if the proposed budget is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year, and the General Assessment for the current year shall be based on the preceding year budget.

6.3 Computation of Limited Assessments.

- (a) *Separate Budget for Limited Expenses.* The Board shall, at least 30 days before the beginning of each fiscal year, prepare a separate budget covering the estimated Limited Expenses to be incurred by the Association during the coming year. Limited Expenses may be levied by the Association against particular Units where the Board has determined that certain Association expenditures benefit only such Units. Such budget may include a capital contribution establishing a reserve fund for repair and replacement of capital items, as appropriate.
- (b) *Computation of Individual Unit Special Assessments.* Limited Expenses shall be allocated among all Units benefited thereby proportionately based upon each Unit's relative Allocated Interest or in such other manner as the Board determines is more equitable. The Assessment for Limited Expenses shall be levied as a Limited Assessment.
- (c) *Approval of Limited Expenses Budget.* The Board shall cause a copy of such budget and notice of the amount of the Limited Assessment to be levied on each Unit for the coming year to be delivered to each Owner of a Unit subject to a Limited Assessment at least 10 days prior to the beginning of the fiscal year. Such budget and Assessment shall become effective unless disapproved at a meeting of the Members by Members representing at least two-thirds of the Member Votes allocated to the Unit(s) subject to the Assessment. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least one of the Units subject to the Limited Assessment. If the proposed budget for any Limited Expense is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

6.4 Special Assessments.

- (a) *Purpose.* The Association, acting through its Board of Directors, may levy Special Assessments against all or less than all of the Units for the following purposes: (i) to cure insufficiencies in the General Assessments due to extraordinary expenses not contemplated in the General Assessment budget for a fiscal year; (ii) for additional capital improvements or acquisitions of General Common Elements; (iii) for major repairs or renovations of existing Common Elements (other than those contemplated by the reserve budget created under Section 6.5); and/or (iv) to offset an extraordinary expense created by an Owner's particular use of one or more Units.
- (b) *Special Assessments Affecting the Entire Membership.* The Board may levy Special Assessments against all Units from time to time, provided that the total amount of the Special Assessment levied during any fiscal year shall not exceed the greater of (i) \$10,000 or (ii) 25% of the General Expense budget for such fiscal year. Any Special Assessment in excess of such limitation shall be effective only upon approval by a majority of the Member

Votes. Special Assessments levied against the entire membership shall be allocated among the Units proportionately based upon each Unit's Allocated Interest.

- (c) *Special Assessments Affecting Less Than All Members.* The Association may levy a Special Assessment against any one or more (but less than all) Units (i) to offset an extraordinary expense created by a particular use of one or more Units; or (ii) to reimburse the Association for costs incurred in bringing a Unit or Unit Owner into compliance with the provisions of the Declaration, Bylaws or Association rules. A Special Assessment may be levied upon the vote of the Board of Directors after notice to the Unit Owner(s) and an opportunity for a hearing.

6.5 **Reserve and Working Capital Funds.**

- (a) *Reserve Fund.* The Board of Directors shall establish and continuously maintain the Reserve Fund. The Reserve Fund shall contain reasonably adequate reserve funds for contingencies, including the amount of any deductible under any hazard insurance policy maintained by the Association, and for future maintenance, repairs, and replacements of the Common Elements. The Reserve Fund shall be funded by General Assessments. The Board of Directors shall annually prepare a Reserve Fund budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual General Assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within and distributed with the applicable budget and notice of General Assessments, as provided in this Section 6. That portion of assessments for General Expenses attributable to reserves shall be transferred on a regular basis from the General Expense fund into the Reserve Fund. The Association shall hold the Reserve Fund in a segregated account.
- (b) *Working Capital Fund.* Declarant and the Board shall also establish the Working Capital Fund to meet unforeseen expenditures or to purchase any additional equipment or services. The Working Capital Fund shall be funded in an amount that is at least equal to 2 months of estimated General Expense assessments for each Unit. Each Unit's share of the Working Capital Fund shall be collected and paid by the Declarant, on behalf of the Association, at the earlier of: (i) the closing of the initial sale of each Unit; or (ii) within 10 days after the date of Transfer of Control of the Association. Any amounts paid into the Working Capital Fund shall not be considered advance payments of general or special assessments. If not sooner transferred, upon Transfer of Control the Working Capital Fund shall be transferred to the Association for deposit into a segregated account. Declarant may not use the Working Capital Fund to defray any of Declarant's expenses, reserve contributions or construction costs or to make up any budget deficits of the Association prior to the Transfer of Control. If, upon Transfer of Control, there are unsold Units for which Declarant shall pay into the Working Capital Fund, then, when such Units are ultimately sold by Declarant, Declarant shall be entitled to a reimbursement for funds paid the Association for such unsold Unit's share of the Working Capital Fund by using funds collected at closing when the Unit is sold.

- 6.6 **Collection of Assessments.** The Association 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 Legal Interest Rate on the amount of the assessment from the due date thereof, together with all expenses, including attorney fees incurred, together with such penalties and late charges as are provided in the Bylaws of the Association.

- 6.7 Lien of Assessments; Foreclosure.** All Assessments, together with interest at the Legal Interest Rate computed from the date a delinquency first occurs, late charges, costs, and reasonable attorney's fees, shall be a charge and a continuing lien upon the Unit against which each Assessment is made until paid. To evidence such lien, the Association shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness (after deducting all just credits and offsets), the amount of accrued interest and late charges thereon, the name of the Unit Owner, and a description of the Unit. Such notice shall be signed and verified by one of the officers of the Association or by the Manager, or his or her authorized agent, and shall be recorded in the Public Records. The lien shall attach from the date of recording such notice. The lien may be enforced by the foreclosure of the defaulting Owner's Unit by the Association as provided in the Unit Ownership Act in like manner as foreclosure of a Mortgage on real property. In any foreclosure, the Unit Owner shall be required to pay a reasonable rental for the Unit, if so provided in the Bylaws, 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 Assessments shall be maintainable without foreclosure or waiving the lien securing the same. In any such proceeding the Unit Owner may be required to pay the costs, expenses, and reasonable attorney's fees incurred in filing a lien, and in the event of foreclosure proceedings, additional costs, expenses, and attorney's fees incurred. If a default for which a notice of lien was filed is cured, the Association shall file a release of such notice; provided, however, that the defaulting Owner shall be responsible for the costs (including reasonable attorney's fees) of preparing and filing such release.
- 6.8 Subordination of the Lien to First Mortgages.** The lien of Assessments, including interest, late charges, and costs (including reasonable attorney's fees) provided for herein, shall be superior to all other liens and encumbrances, except for taxes, assessments, and special assessment liens imposed on the Property by a statutory authority, and the lien of a first Mortgage of record upon any Unit. The sale or transfer of any Unit shall not affect the Assessment lien, except that the sale or transfer of any Unit pursuant to judicial or non-judicial foreclosure of a first Mortgage shall extinguish the lien of such Assessments as to payments that became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from lien rights for any Assessments thereafter becoming due. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Unit obtains title pursuant to judicial or non-judicial foreclosure of the Mortgage, it shall not be liable for the portion of the Assessments by the Association chargeable to such Unit that became due prior to such acquisition of title. Such unpaid portion of the Assessments shall be deemed to be General Expenses collectible from Owners of all the Units, including such acquirer and its successors and assigns.
- 6.9 Bidding at Foreclosure Sale.** The Association shall have the power to bid on the Unit at a foreclosure or other legal sale, and to acquire and hold, lease, mortgage, vote the votes appurtenant to, 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 Assessments payable with respect to any such Unit, and upon such payment such lienholder shall have a lien on the Unit for the amounts paid of the same priority as the lien of the lienholder's encumbrance without the necessity of having to file a notice or claim of such lien.

SECTION 7 USE OF CONDOMINIUM PROPERTY

- 7.1 Laws and Ordinances.** No Unit Owner shall permit anything within the Unit Owner's control to be done or kept on the Property or in a Unit that would violate any Laws or that will result in the cancellation of, or increase the premiums for, any insurance carried by the Association, or that would be in violation of any rule or regulation promulgated by the Association. The Owner shall obtain any and all governmental permits, approvals, and authorizations prior to beginning any

construction in a Unit. If there are differences between restrictions imposed by this Declaration or by applicable Law, the more restrictive shall apply.

7.2 Uses Permitted – Residential. Subject to the restrictions set forth elsewhere in this Section 7, the Condominium Units shall be used for residential purposes only, except that an Owner or occupant, as an incident to such Owner's or occupants residential use, may use a portion of a Unit for a home office or studio. Home office or studio uses shall not (i) interfere with the quiet enjoyment of any other Owner or occupant, (ii) involve customers or clients coming into the Condominium, (iii) require the storage of equipment, products or materials in the Unit, and (iv) violate the provisions of any applicable Law affecting the Property. Notwithstanding the foregoing, nothing shall prohibit a Unit Owner from leasing or renting such Owner's Unit to third persons or holding it out for lease or rental, or entering into an agreement or contract with others for the lease or rental of the Unit for residential use. However, no Unit may be leased for transient or hotel purposes, which shall be defined as rental for any period less than thirty (30) days, or any rental if the Unit's occupants are provided customary hotel services, such as room service for food and beverage, maid service, laundry and linen service or the like.

7.3 Use of Common Elements. Unit Owners may use the 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, use, and enjoyment of other Unit Owners. Nothing shall be altered or constructed in or removed from the Common Elements, except upon the prior written consent of the Association. No waste will be permitted on the Common Elements.

7.4 General Use Restrictions and Restrictions.

- (a) *Storage, Obstruction.* 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. Subject to the foregoing requirement of consent, items may be stored on the Common Elements only if such storage does not constitute a hazard to any Unit, does not block any access beneath a Unit or obstruct any easement for utility service, does not violate any applicable law, regulation or fire code, and does not result in cancellation or rate increase of Association insurance. Notwithstanding the foregoing, Owners with Units that have usable storage space in the crawlspace beneath the living area of their Units or in attic above their Units may use this space for storage without the Association's prior written consent, provided that such storage otherwise complies with the provisions of this Section.
- (b) *Uniformity and Appearance of Building.* Unit Owners shall not cause or permit anything to be hung, affixed or displayed on the outside of windows or placed on the outside walls of the Building, and no sign, awning or canopy shall be affixed to or placed upon the exterior walls or roof of any part thereof, without the prior written consent of the Board of Directors. Further, Unit Owners shall not cause or permit anything to be hung, affixed or displayed on the inside of windows, doors or other apertures that detracts from the exterior uniformity or appearance of the Building. Items and materials that may not be placed in or on windows, doors or other apertures include, without limitation, aluminum foil, newspaper, sheets, cardboard, tinted or reflective paint, signs, and neon displays. Materials and equipment used to repair or replace windows or other apertures shall conform to the style, specifications, and quality of the original construction. Seasonal decorations that are promptly removed after the season and reasonable nameplates or identification signs for individual Units may be allowed. No basketball hoops or other permanent attachments may be made to the exterior of any Unit. No other fixtures or attachments shall be permitted on the Common Elements.

- (c) *Antennas, Satellite Dishes.* No exterior antennas, towers, satellite dishes or other apparatus for sending or receiving of radio, television, electromagnetic or microwave signals shall be placed upon the Building or Property without the prior written approval of the Board of Directors. The Board of Directors, in its sole discretion, may give or deny approval subject to applicable Law. The Board of Directors may impose size limitations on such equipment and screening, location, and placement requirements as conditions of approval. Notwithstanding the foregoing, Television satellite dishes may be installed, provided that they are no greater than 18 inches in overall diameter and size and installed in locations that are pre-approved by the Board of Directors.
- (d) *Nuisance.* No nuisances shall be permitted to exist or operate on the Property so as to be offensive or detrimental to another Unit Owner, Tenant or occupant. Nuisances include, but are not limited to, the following conditions insofar as they may disturb the peace, quiet, safety, and comfort of the Unit Owner, Tenant or occupant of other Units: foul or obnoxious odors, noise, vibration, electromechanical or electromagnetic disturbance and radiation, air or water pollution, and dust. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Property. No immoral, improper, offensive or unlawful use shall be made of the Property or any part thereof.
- (e) *Vehicles, Equipment, etc.* No Unit, garage or driveway shall be used for the storage of any inoperable vehicle, machinery or equipment, or other personal property of any quantity in excess of the immediate needs and personal use of the Owner or occupants of a Unit. All equipment and vehicles kept on the Property, including recreational vehicles, campers, trailers, motor homes, boats, and all other recreational equipment, shall be enclosed in the appurtenant garage. No one shall reside in such recreational vehicles, motor homes, campers, trailers or other recreational equipment stored on the Property.
- (f) *Uses Not to Impair Structural Integrity.* Nothing shall be done in any Unit or in, on or to the Common Elements which will impair the structural integrity of a Building or which would structurally change the Building, except as is otherwise provided in this Declaration.
- (g) *Animals and Pets.* No animals of any kind shall be raised, bred or kept in any Unit or on the Property, except that dogs, cats, and other ordinary, household pets may be kept subject to rules and regulations from time to time adopted by the Association. All pets shall be subject to all applicable Law, including but not limited to animal control laws, ordinances, and leash laws. Pet owners shall immediately clean up after their pet on Condominium Property. No kennels, tethers, exercise lines, or the like shall be permitted in any Unit or elsewhere on the Condominium Property.
- (h) *Alteration of Common Elements Prohibited.* Nothing shall be altered or constructed in or removed from the Common Elements, except upon the prior written consent of the Association.
- (i) *Trash.* No junk, garbage, trash, equipment, parts, metals, lumber, debris or other waste shall be allowed on the walkways, entrances, patios, porches, stoops, stairwells or driveway for any Unit, or in any of the Common Elements. Arranging for curbside trash pickup shall be the responsibility of each Unit Owner.

7.5 Compliance with Subdivision Covenants. Unit Owners and occupants shall comply in all respects with the requirements of covenants, conditions, and restrictions affecting the Property, as the same may be amended from time to time, that appear in the Public Records and affect the Property.

- 7.6 **Rules and Regulations** The Board of Directors may adopt and amend from time to time reasonable rules and regulations for the safety, care, order, and cleanliness of the Condominium. Such rules and regulations may affect the Common Elements or one or more Units. Copies of all rules, regulations, and amendments shall be furnished to all Unit Owners. Such rules and regulations shall be consistent with the Unit Ownership Act, this Declaration, and the Bylaws, and they shall not unreasonably interfere with a Unit Owner's, Lessee's or other occupant's use and enjoyment of a Unit as a residence.
- 7.7 **Inspection by Association.** Authorized representatives of the Association may from time to time, during reasonable hours and with reasonable notice, enter upon and inspect any Unit to ascertain whether or not the Declaration has been or is being complied with. Such person or persons shall not be deemed guilty of trespass by reason of such entry.

SECTION 8 ALTERATIONS, MAINTENANCE, AND REPAIRS

- 8.1 **Alterations.** A Unit Owner may change the interior plan of a Unit. The boundaries between Units may be changed only by the Unit Owners of the Units affected. No Units may be subdivided (except in accordance with Section 14). No change in the boundaries of Units shall encroach upon the boundaries of the Common Elements. Boundary walls must be equal in quality of design and construction to existing, finished boundary walls. A change in the boundaries between Units shall be set forth in an amendment to this Declaration. In addition to compliance with the provisions of Section 12, such amendment shall further set forth and contain plans for the affected Units showing the Units after the change in boundaries. The plans shall be drawn by an architect licensed to practice in Montana and attached to the amendment as exhibits, together with the certificate of architect or engineer as required by the Unit Ownership Act. Such an amendment shall be signed and acknowledged by the Owners of the affected Units, as well as those Owners with an interest in any Common Element affected. The amendment shall also be approved by the Board of Directors of the Association, and signed and acknowledged by all lienors and Mortgagees of the affected Units.
- 8.2 **Exterior Alterations.** No Unit Owner may change, alter or remodel the exterior of the Unit without the prior written approval of the Association.
- 8.3 **Interior Remodeling.**
- (a) *Right to Remodel.* Subject to the requirements of this Declaration, each Unit Owner shall have the exclusive right to paint, repaint, tile, paper, panel, carpet, brick or otherwise maintain, refinish, and decorate the inner surfaces of the walls, ceilings, floors, windows, and doors bounding such Owner's Unit, and the interior thereof.
 - (b) *Maintenance of Structural Integrity.* Nothing shall be done in any Unit or in, on or to the Common Elements which will impair the soundness, structural integrity or safety of the Building or which would structurally change the Building, except as is otherwise provided in this Declaration.
 - (c) *No Impairment of Easements.* No alterations, remodeling or repair of any Unit shall impair any easement unless the written consent of all the other affected Unit Owners is first obtained.
- 8.4 **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, or the Owner's agent, contractor or subcontractor, shall be the basis for the filing of a construction lien against the Unit of 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 and against all liability (including court costs and attorney fees) arising from the claim of any lien against the Unit or any other Owner or against the Common Elements for construction performed or for labor, materials, services or other products incorporated in the Owner's Unit.

- 8.5 **Maintenance by Association.** The Association shall perform the maintenance, repair, and replacement of all General Common Elements and Association property, and the cost is a General Expense. The Association shall perform the maintenance, repair, and replacement of all Limited Common Elements, and the cost is a Limited Expense.
- 8.6 **Damages arising from Maintenance.** Damage to the interior or any part of a Unit resulting from maintenance, repair, emergency repair or replacement of any of the Common Elements, or as a result of an emergency repair within another Unit at the instance of the Association, shall be designated either General Expenses or Limited Expenses by the Association and assessed in accordance with such designation.
- 8.7 **Maintenance by Unit Owners.** Each Unit Owner, at such Owner's own expense, shall maintain and keep in good order and repair the Owner's Unit. All fixtures, utility lines, lighting, and equipment installed in and for the use of the Unit shall be maintained and kept in repair by the Unit Owner. An Owner shall do no act or any work that will impair the structural soundness or integrity of the Building, reduce the value of the Property or impair any easement. The right of the each Owner 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. All glass replacement shall be with similar quality, shade, and design. No act or alteration, repairing or remodeling by any Unit Owner shall impair in any way the integrity of the adjoining Units or the integrity of the Common Elements. Each Owner shall also keep any balcony, entrance, porch, deck area, or yard appurtenant to or used in conjunction with the Owner's Unit in a clean and sanitary condition.

SECTION 9 INSURANCE

9.1 Authority and Requirement to Purchase Insurance – General Provisions.

- (a) *Authority.* The Association, acting by and through the Board of Directors, shall obtain, purchase, and maintain, all of the insurance policies specified and required in this Section 9. Neither the Association, Board of Directors, nor the Declarant, however, shall be liable for failure to obtain any coverages required by this Section 9, or for any loss or damage resulting from such failure, if such failure is due to the unavailability of such coverages, or if such coverages are so available only at a demonstrably unreasonable cost.
- (b) *Companies.* The Association shall obtain and purchase insurance policies only from reputable insurance companies authorized to do business in Montana.
- (c) *Premiums.* The Association shall pay premiums for insurance policies as a General Expense, except that the amount of increase in the premium occasioned by use, misuse, occupancy or abandonment of a Unit or its appurtenances or of the Common Elements by a Unit Owner may be assessed against the Owner.
- (d) *Policy Requirements – Generally.* Each required policy must provide that:
- (i) Named Insured. The named insured is the Association for itself and as agent for the Unit Owners without naming them. Each Owner is an insured Person under the policy with respect to liability arising out of such Owner's interest in the Common Elements or membership in the Association;

- (ii) Recognition of Insurance Trustee. Each policy shall provide for the recognition of any insurance trust agreement made by the Board. If the Board designates an Insurance Trustee, all payments under policies subject to the insurance trust agreement shall be paid to the Insurance Trustee, and all policies and endorsements thereon shall be deposited with the Insurance Trustee;
 - (iii) Waiver of Subrogation. The insurer waives any right to claim by way of subrogation against the Declarant, the Association, the Board of Directors, or the Owners, and their respective agents, employees, guests, and, in the case of the Owners, the members of their households;
 - (iv) Right to Cure. Such policy shall not be substantially modified or suspended due to the act or omission of any Owner (including his invitees, agents, and employees) or of any member (acting within the scope of his authority for the Association), officer or employee of the Board of Directors, without a prior demand in writing that the Board of Directors cure the defect and neither shall have so cured such defect within 60 days after such demand;
 - (v) Notice of Cancellation. Such policy may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days' prior written notice to the Board of Directors, and the holder of any Mortgage on Units registered with the insurer; and
 - (vi) Primary Insurance. If, at the time of a loss under the policy, there is other insurance in the name of the Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.
- (e) *Deductible and Other Insurance Features*. Except as otherwise provided by this Declaration, the Board of Directors shall establish the amount of the deductible and other features under the insurance policies as it deems desirable and financially expedient in the exercise of its business judgment.
 - (f) *Declarant's Interests*. The Declarant, so long as Declarant shall own any Unit, shall be protected by all such policies as an Owner.
 - (g) *Copies and Certificates to Mortgagees*. The Association shall furnish one copy of each insurance policy and of all endorsements thereon to each Mortgagee of a Unit Owner upon written request. Certificates of insurance shall be issued to each Unit Owner and Eligible Mortgagee upon written request.

9.2 **Physical Damage Insurance.**

- (a) *"All Risk" Policy*. The Board of Directors shall obtain and maintain a blanket, "all-risk" form policy of fire insurance with extended coverage, vandalism, malicious mischief, windstorm, sprinkler leakage, debris removal, cost of demolition, water damage, inflation guard, and building ordinance or law endorsements, insuring the entire improvements on the Land, including the Building, all other improvements constituting part of the Common Elements, and all of the Units (but excluding fixtures, equipment, betterments, wall coverings, furniture, and other personal property supplied or installed by an Owner in a Unit), together with service equipment contained therein, and common personal property and supplies, and covering the interests of the Association, the Board of Directors, all Owners, and Persons holding Mortgages on such Units, as their interests may appear, in an amount equal to 100% of the then-current, insurable replacement cost of such

improvements (exclusive of the Land, excavations, and other items normally excluded from such coverage), without deduction for depreciation (e.g., with either a guaranteed replacement cost endorsement or a replacement cost endorsement).

- (b) *Coverage of HVAC, Service Equipment, etc.* The physical damage insurance policies obtained and maintained by the Association shall state whether certain fixtures and equipment located within the boundaries of the Units, including heating, ventilation, air conditioning, other service equipment, interior fixtures, and carpets, are included within the coverage of such policies in order that Unit Owners may insure the fixtures and equipment themselves if such items are not insured by the Association.
- (c) *Primary Coverage.* Such policy shall also provide that the physical damage policy purchased by the Association acting by and through the Board of Directors shall be deemed primary coverage and any Unit Owners' policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchased by individual Owners or their Eligible Mortgagees unless otherwise required by law.
- (d) *Loss Payee; Insurance Trustee.* Such policy shall reflect the Association as the named insured (for itself and as agent for the Unit Owners), and the "loss payable" clause shall reflect the Association, as trustee for each Unit Owner and the holders of Mortgages on Units, as loss payee. Such policy shall also include a standard mortgage clause and shall name as mortgagee the various holders of Mortgages on Units of which the insurer is notified. The Board shall have the option, in its sole discretion, of naming as loss payee, on behalf of the Association, an insurance trustee ("Insurance Trustee") with whom the Association has entered into an insurance trust agreement. The duty of the Insurance Trustee shall be to receive, hold or otherwise properly dispose of proceeds of insurance designated in the insurance trust agreement in trust for the Association and Owners, and their Mortgagees, as their interests may appear.

9.3 **Liability Insurance.** The Board of Directors shall obtain and maintain comprehensive commercial general liability and property damage insurance, insuring the Association, each member of the Board of Directors, each Owner, and the Declarant (as their interests may appear) against any liability to the public or to the Owners (and their invitees, agents, and employees) arising out of or incident to the ownership, operation, maintenance, and/or use of the Common Elements. Such insurance shall be issued on a comprehensive liability basis and shall contain: (i) a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to his action against another named insured; (ii) a "severability of interest" endorsement which shall preclude the insurer from denying liability to an Owner because of negligent acts of the Association or of another Owner; and (iii) such other coverages and endorsements as the Board of Directors may deem appropriate. The Board of Directors shall review and adjust policy limits once each year, but in no event shall such insurance be less than \$1,000,000 covering all claims for bodily injury, including deaths of persons, and/or property damage arising out of one occurrence. The Board of Directors shall have authority to compromise and settle all claims against the Association or upon insurance policies held by the Association. The Unit Owners shall have no personal liability upon such claims, except as may be otherwise provided by law, and nothing herein contained shall in any way be construed as imposing upon the Association a duty to assess Unit Owners for the purpose of raising sufficient funds to discharge any liability in excess of insurance coverage.

9.4 **Other Association Insurance.** The Board of Directors shall obtain and maintain such worker's compensation coverage as may be required by Law. The Association may obtain and maintain such other insurance as the Board of Directors may from time to time deem to be necessary or as

may be required by Law, including but not limited to errors and omissions insurance for officers, directors, and managers, flood insurance, and insurance for the benefit of Association employees.

- 9.5 **Unit Owners' Separate Insurance.** Each Unit Owner is responsible for obtaining policies of insurance covering physical damage to (i) personal property located within the Owner's Unit; (ii) improvements made by the Owner to Owner's Unit; and (iii) ceiling, floor, and wall coverings, electrical fixtures, appliances, air conditioning and heating equipment, water heaters, built-in cabinets, and other improvements to the extent these items are located within the Unit boundaries and are not covered by the Association's insurance policies. The Unit Owner is also responsible for obtaining policies of insurance covering the Owner's personal liability. All policies acquired and maintained by a Unit Owner shall be at such Owner's expense. No Owner shall be entitled to exercise the Owner's right to acquire or maintain such insurance coverage under this section so as to decrease the amount which the Association, acting by and through the Board of Directors on behalf of all Owners, may realize under any insurance policy maintained by the Association or to cause any insurance coverage maintained by the Association to be brought into contribution with insurance coverage obtained by an Owner.
- 9.6 **Association as Agent.** The Association is hereby irrevocably appointed the agent and attorney-in-fact for each Unit Owner, other named insureds and their beneficiaries, and any other holder of a lien or other interest in the Property, to adjust and settle all claims arising under insurance policies purchased by the Association, to execute and deliver releases upon the payment of claims and otherwise deal with the Property upon its repair, destruction or obsolescence as is provided in this Declaration, including without limitation the authority, right, and power to make, execute, and deliver any contract, deed or other instrument with respect to the interest of an Owner which are necessary and appropriate to exercise the powers herein granted. Title to any Unit is hereby declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute the irrevocable appointment of the Association as agent and attorney-in-fact as herein provided.

SECTION 10 DAMAGE AND DESTRUCTION; CONDEMNATION.

10.1 Damage or Destruction

- (a) *Notice to Mortgagees.* In the event of substantial damage to or destruction of any Unit or Common Elements, the Association shall give timely written notice thereof to all Eligible Mortgagees affected thereby.
- (b) *Repair or Replacement.* In the event of damage or destruction to any portion or all of the Property, insurance proceeds and the funds in the Reserve Fund shall be applied by the Association, as attorney-in-fact, to the prompt repair or replacement of such damage or destruction, unless: (i) unit ownership of the Property is terminated pursuant to the Unit Ownership Act and this Declaration; (ii) such repair or replacement would be illegal under any Law, including state or local health or safety statutes or ordinances; or (iii) 90% of the Member Votes, including 100% of the Member Votes allocated to a Unit or assigned Limited Common Element which will not be repaired or replaced, vote not to repair or replace all or a portion of such damage or destruction. The Association shall have full authority, right, and power, as attorney-in-fact, to cause such repair or replacement of such damage or destruction. The Board of Directors of the Association shall hold any insurance proceeds in trust for the Association, Owners, Mortgagees, and other lien holders as their interests may appear. Subject to the provisions of this Section 10, the proceeds shall be disbursed first for the repair or restoration of the damaged Property. If there is a surplus of proceeds after the damaged Property has been completely repaired or restored, such surplus shall be distributed to the Association for the use and benefit of the Unit Owners. If the aggregate of the insurance proceeds and the funds in the Reserve Fund is insufficient to

repair or replace such damage or destruction, such damage or destruction shall be promptly repaired or replaced by the Association, as attorney-in-fact, using insurance proceeds, the Reserve Fund, and the proceeds of a special assessment to be made against all of the Owners and their Units. The deficiency assessment shall be a General Expense and made pro rata according to each Owner's Allocated Interest in the General Common Elements and shall be due and payable upon the terms set forth by the Association after 30 days prior written notice thereof.

- (c) *Partial Repair or Replacement.* If the entire Property is not repaired or replaced, the insurance proceeds attributable to the damaged or destroyed Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Property, and the insurance proceeds attributable to Units and Limited Common Elements which are not restored shall be distributed to the Owners of those Units and the Owners of the Units to which those Limited Common Elements were allocated, or to Eligible Mortgagees, as their interests may appear, and the remainder of the insurance proceeds, if any, shall be distributed to the Association for the use and benefit of the Unit Owners.
- (d) *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 the Board of Directors, by the affirmative vote of the Unit Owners holding at least 75% of the Member Votes attributable to all Condominium Units, and by 100% of the Member Votes attributable to Units directly affected by the changed plans and specifications. Any reconstruction not in accordance with the original plans and specifications must be set forth in an amendment to the Declaration, which amendment shall be prepared and recorded in the Public Records as provided in Section 12.

10.2 **Failure to Reconstruct.** Notwithstanding the provisions of Section 10.1, the Association, upon the affirmative vote of 90% of the Member Votes, may elect not to reconstruct or restore the Property after its destruction. Pursuant to the provisions of Section 70-23-803, Montana Code Annotated, if the Association does not decide to repair, rebuild or reconstruct the destroyed Property within 60 days after the date of destruction, the Property shall be deemed removed from the provisions of the Unit Ownership Act. Insurance proceeds shall be distributed to the beneficial owners, remittances to Unit Owners and their Mortgagees being payable jointly to them. Thereupon, the Owners shall hold the property as tenants in common, with each holding an undivided interest proportionate with their Allocated Interests.

10.3 **No Abatement of Expenses.** During any period of insurance adjustments, restoration or repair, condemnation proceedings or the like, assessments against the Owners and their respective Units for General Expenses and Limited Expenses shall not be abated.

10.4 **Condemnation.**

- (a) *Consequences of Condemnation.* If at any time or times during the continuance of condominium ownership pursuant to this Declaration, all or any part of the Property shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance of condemnation, the provisions of this Section 10.4 shall apply.
- (b) *Negotiation; Association as Agent.* The Association, acting through its Board of Directors, shall represent the Unit Owners in condemnation proceedings or in negotiations, settlements, and agreements with the condemning authority for acquisition of all or a portion of the Common Elements. The Association is hereby irrevocably appointed the agent and attorney-in-fact for each Owner, and for any other holder of a lien or other interest in the Property, for such purposes, and the Association shall have full authority to enter into settlements and agreements with the condemning authority, including without

limitation the authority, right, and power to make, execute, and deliver any contract, deed or other instrument with respect to the interest of an Owner which are necessary and appropriate to exercise the powers herein granted. Title to any Unit is hereby declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute the irrevocable appointment of the Association as agent and attorney-in-fact as herein provided.

- (c) *Payment of Proceeds.* All compensation, damages, or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award", shall be payable to the Association.
- (d) *Complete Taking.* In the event that the entire Property is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, unit ownership pursuant to this Declaration shall terminate. The Condemnation Award shall be apportioned among the Owners and Eligible Mortgagees, as their interests may appear, in proportion to their Allocated Interests in the General Common Elements, provided that if a standard different from the value of the Property as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree, or otherwise, then in determining such share the same standard shall be employed to the extent it is relevant and applicable.
- (e) *Partial Taking.* In the event that less than the entire Property is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership hereunder shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award to be determined in the following manner. As soon as practicable the Association shall, reasonably and in good faith, allocate the Condemnation Award among compensation, damages, and other proceeds, and shall apportion the amounts so allocated among the Owners as follows:
 - (i) The total amount allocated to taking of, or injury to, the General Common Elements shall be apportioned among the Owners, in proportion to their respective Allocated Interest in the General Common Elements;
 - (ii) The total amount allocated to taking of, or injury to, the Limited Common Elements shall be apportioned among the Owners of the Unit(s) to which such Limited Common Elements were appurtenant in the proportion to their respective Allocated Interest in the General Common Elements;
 - (iii) The total amount allocated to severance damages shall be apportioned to those Owners of Units, which were not taken or condemned;
 - (iv) The respective amounts allocated to the taking of, or injury to, a particular Unit and/or improvements an Owner had made within his or her own Unit shall be apportioned to the particular Unit involved; and
 - (v) The amount allocated to consequential damages and other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances.

If an allocation of the Condemnation Award is already established in negotiation, judicial decree or otherwise, then in allocating the Condemnation Award the Association shall employ such allocation to the extent it is relevant and applicable.

- (f) *Distribution.* The Association shall as soon as is practicable determine the share of the Condemnation Award to which each Owner is entitled. Such shares shall be paid into separate accounts and disbursed as soon as is practicable. Any distribution of the

Condemnation Award made pursuant to this paragraph shall be made by checks payable jointly to the Owners and holders of Mortgages, as their interests may appear.

- 10.5 **Certificates by Title Insurance Companies.** If payment of any insurance or condemnation proceeds are to be made to Owners or lien holders, the Board of Directors shall obtain and may rely on a title insurance company's certificate of title search or a title insurance policy based on a search of the Public Records from the date of the recording of the original Declaration stating the names of the Owners and the lien holders with respect to each Unit.

SECTION 11 DECLARANT'S RIGHT TO CHANGE

- 11.1 **Alteration of Design and Boundaries.** The Declarant reserves the right to change the interior design and arrangement of all Units that Declarant owns. Declarant also reserves the right to alter the boundary between Units, increase the number of Units, and alter the boundary of the General Common Elements so long as Declarant owns the Units so altered, such changes do not cause a material, adverse effect on Units owned by others, and an appropriate amendment of this Declaration is executed and recorded in the Public Records. By accepting title to a Unit, other Owners are deemed to have consented to actions taken by Declarant and amendment of the Declaration pursuant to the foregoing sentence. Until 75% of the Units have been built and sold, Declarant reserves the right to establish easements, reservations, exceptions, and exclusions consistent with the Condominium project.
- 11.2 **Declarant's Rights During Development.** Notwithstanding any other provisions expressly or impliedly to the contrary contained in this Declaration or the Bylaws of the Association, Declarant reserves the right (but shall not have the obligation) to appoint all of the members of the Board of Directors of the Association until the earlier of (i) 120 days after the date that 75% of the Condominium Units have been conveyed to a Unit purchaser, or (ii) the date that is 3 years following the first conveyance of a Unit to a Unit purchaser; provided, however, that the foregoing shall not be construed to affect the Declarant's rights, as a Unit Owner, to exercise the Member Votes allocated to the Units that Declarant owns. During the period of development and sale of the remaining condominium Units, the monthly assessment for General Expenses and Limited Expenses shall be based upon the estimate of the actual cost thereof, excluding therefrom any estimated amount for contingencies, reserves or sinking funds. Declarant may, in its sole discretion, temporarily or permanently relinquish the rights reserved to it under this Section.

SECTION 12 AMENDMENT

- 12.1 **Amendment by Unit Owners.** Unit Owners holding 25% of the total number of Member Votes, the Board of Directors or Manager may propose an amendment to this Declaration at any regular or special meeting of the Association. Upon adoption of a resolution to amend by a majority of Member Votes present at a meeting or by proxy, the proposed amendment shall be made a subject for consideration at the next succeeding meeting of the Association with notice thereof, together with a copy of the proposed amendment, to be furnished to each Owner no later than thirty (30) days in advance of such meeting. At such meeting, the proposed amendment shall be approved upon receiving the favorable vote (in person, by proxy or by mail ballot) of 75% of the total number of Member Votes. If a proposed amendment is favored by a majority of the votes cast at such meeting, but the vote is less than the requisite 75% of total number of Member Votes, Members who were not present in person or by proxy may give their assent to the proposed amendment in writing, provided that the same is received by the secretary of the Association not later than 30 days from the date of such meeting wherein the action was voted upon. If the amendment is approved, it shall be the responsibility of the Association, through its officers, to record the amendment in the Public Records. The president and secretary of the Association shall have the authority to certify that the amendment was properly adopted, and they shall have the authority to execute the amendment and record it in the Public Records. No amendment may

remove, revoke or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

12.2 Amendment by Declarant. Notwithstanding the procedure set forth in Section 12.1, the Declarant may amend this Declaration, or any other Condominium document, prior to any sale of a Unit or interest thereof.

12.3 Consent of Eligible Mortgagees.

(a) *Consent Requirement.* Notwithstanding the provisions of Section 12.1 or any other provision of this Declaration or the Bylaws, no material amendment of this Declaration or the Bylaws may be made by the Association or the Unit Owners without the additional, written consent of Eligible Mortgagees holding Mortgages on Units that represent at least 51% total number of Member Votes (based upon Allocated Interests) that are subject to Mortgages held by Eligible Mortgagees. An amendment to this Declaration or the Bylaws shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. Any amendment or change to any provision of this Declaration or the Bylaws that establishes, governs or regulates any of the following shall be considered material:

- (i) Voting rights;
- (ii) Increases in Assessments that raise the previously assessed amount by more than 25%, assessment liens or the priority of assessment liens;
- (iii) Reductions in the requirements for reserves for maintenance, repair, and replacement of Common Elements;
- (iv) Responsibility for maintenance and repairs;
- (v) Reallocation of interests in the Common Elements or Limited Common Elements, or rights to their use, except that, when Limited Common Elements are reallocated by agreement between Unit Owners, only those Unit Owners and only Eligible Mortgagees holding Mortgages in such Units must approve such action;
- (vi) Redefinition of any Unit boundaries, except that when boundaries of only adjoining Units are involved, then only those Unit Owners and the Eligible Mortgagees holding Mortgages in such Unit or Units must approve such action;
- (vii) Convertibility of Units into Common Elements or of Common Elements into Units;
- (viii) Expansion or contraction of the Condominium, or the addition, annexation or withdrawal of property to or from the Condominium;
- (ix) Hazard or fidelity insurance requirements;
- (x) Imposition of any restrictions on the leasing of Units;
- (xi) Imposition of any restriction on the right of a Unit Owner to sell, transfer or otherwise convey such Owner's Unit;
- (xii) Restoration or repair of the Condominium (after damage or partial condemnation) in a manner other than that specified in the Unit Ownership Act, this Declaration, the Bylaws, and any other Condominium documents;

- (xiii) Any action withdrawing, abandoning, or terminating the submission of the Property to the Unit Ownership Act after substantial destruction or condemnation of the Units or Common Elements;
 - (xiv) Abandonment, partition, subdivision, encumbrance, sale or other transfer of the Common Elements by act or omission; and
 - (xv) Any provision of this Declaration or the Bylaws that is for the express benefit of Eligible Mortgagees.
- (b) *Additional Consent Requirement for Terminating Condominium Regime.* Notwithstanding Paragraph 12.3(a) to the contrary, any action withdrawing, abandoning or terminating the submission of the Property to the Unit Ownership Act for any reason other than substantial destruction or condemnation of the Units or Common Elements must be consented to in writing by Eligible Mortgagees holding Mortgages on Units that represent at least 67% of the votes of Units (based upon Allocated Interests) that are subject to Mortgages held by Eligible Mortgagees. If the Unit Ownership Act requires the consent of a percentage of Eligible Mortgagees greater than that set forth in this paragraph, the Unit Ownership Act's requirement shall apply.
- (c) *Implied Consent of Eligible Mortgagees.* Notwithstanding the contrary requirements of obtaining the written consent of Eligible Mortgagees in Paragraph 12.3(a), a proposed amendment shall be deemed approved by a Mortgagee if the Mortgagee fails to object or consent to a written proposal for an amendment within sixty (60) days after receipt of notice of the written proposal by such Eligible Mortgagee, provided such notice was delivered by certified or registered mail, with a "return receipt" requested.

SECTION 13 ADDITIONAL MORTGAGEE PROTECTIONS

13.1 Notice of Actions. The Association shall give prompt written notice to each Eligible Mortgagee of:

- (a) Any condemnation or any casualty loss which affects either a material portion of the Condominium, or the Unit in which there is a Mortgage held by such Eligible Mortgagee;
- (b) Any delinquency in the payment of assessments or other charges owed by a Unit Owner whose Unit is subject to a Mortgage held by such Eligible Mortgagee, which delinquency remains uncured for a period of 60 days;
- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as set forth in this Declaration or the Bylaws; and
- (e) Any judgment rendered against the Association.

13.2 Maintenance and Inspection of Documents and Books. The Association continuously shall maintain current copies of the Documents, as well as the Association's books, records and financial statements, and shall make the same available, at reasonable times during normal business hours, for inspection by any Unit Owner, Eligible Mortgagee, or the

holder, insurer, or guarantor of any other first Mortgage secured by a Unit in the Condominium.

- 13.3 **Priority – Lien Rights.** Except as specifically provided in this Declaration, no provision of this Declaration shall be construed to grant to any Unit Owner or to any other Person any priority over any lien rights of an Eligible Mortgagee pursuant to its Mortgage in the case of distributions of insurance proceeds or condemnation awards.

SECTION 14 REMOVAL OR PARTITION; SUBDIVISION

- 14.1 **Procedure for Removal or Partition.** The Condominium may be removed from condominium ownership, and may be partitioned or sold, only upon compliance with each of the conditions hereof:

- (a) The Board of Directors of the Association must approve the plans of removal, partition or sale, including the details of how any partition or sale, and the distribution of property or funds, shall be accomplished.
- (b) The plan of removal, partition or sale must be approved as provided in the Montana Unit Ownership Act. If the Unit Ownership Act does not require approval for removal, partition or sale, then approval shall be evidenced by the affirmative vote of at least 75% of the Member Votes. Upon obtaining such approval, the Board of Directors shall be empowered to implement and carry out the plan of removal, partition or sale.

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

- 14.2 **Subdivision Prohibited.** No Unit may be divided or subdivided into a smaller Unit, nor may any portion thereof sold or otherwise transferred, except as provided in Section 11.1 and as otherwise expressly provided in this Declaration.
- 14.3 **Application of Section.** This Section 14 shall not apply to the sale of individual Units and shall not be considered as a right of first refusal.

SECTION 15 MISCELLANEOUS

- 15.1 **Covenants to Run with Land.** 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, successors, nominees, personal representatives and assigns for as long as this Declaration and the Bylaws are in effect.
- 15.2 **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:

Benjamin E. Nistler
NHB, LLC
PO Box 11530
Bozeman, Montana 59719

- 15.3 **Disclaimer.** Except as expressly provided in this Declaration, the Bylaws, or in agreements or instruments pertaining to conveyance of the Units, Declarant does not intend by this Declaration to make, and hereby expressly negates and disclaims, any warranties and representations regarding the value, nature, quality, physical condition, suitability, compliance with laws or any

other aspect of the Condominium Property or the Units. Estimates of General Expenses and Limited Expenses made by Declarant are reasonably believed to be accurate at the time they are made, but Declarant makes no warranty or representation that such estimates are either correct or may be relied upon by any person.

- 15.4 **No Dedication.** Nothing contained in this Declaration shall be construed or deemed to constitute a dedication, express or implied, of any part of the Property to or for any public use or purpose whatsoever.
- 15.5 **Remedies.** The remedies provided in this Declaration and the Bylaws shall not be exclusive of any other remedies that may now or in the future be available to the parties as provided for by law.
- 15.6 **Severability.** The provisions of this Declaration shall be deemed independent and severable, and the invalidity, partial invalidity or unenforceability of any one or more provisions shall not affect the validity or enforceability of any other provision.
- 15.7 **Binding Effect.** Except as otherwise provided, 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, nominees, successors, and assigns of each.
- 15.8 **Captions.** The captions, titles, and section headings throughout this Declaration are for convenience and reference only and shall not be deemed or held to explain, modify, amplify or aid in the interpretation, construction or meaning or the provisions of this Declaration, nor to define, limit or describe the scope or intent of a particular section.
- 15.9 **Interpretation.** The provisions of the Declaration and of the Bylaws to be promulgated and recorded herewith shall be liberally construed to effectuate the intent and purpose of the Declaration and the Bylaws.
- 15.10 **Nondiscrimination.** There shall be no limitation upon sale, lease or occupancy of any unit based upon race, creed, color, sex, religion, national origin, handicap or familial status. The Association may make reasonable accommodations, including reasonable waiver of the covenants and restrictions of this Declaration, when necessary to afford handicapped individuals the opportunity to enjoy the Condominium property.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be made and executed according to the provisions of the Unit Ownership Act, Title 70, Section 23, Montana Code Annotated.

NHB, LLC, a Montana limited liability company.

by: _____

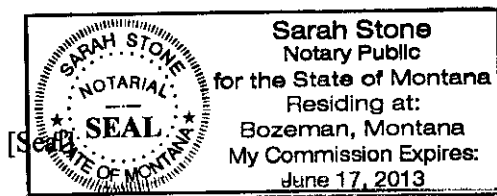

Benjamin E. Nistler, Manager

[Acknowledgment on next page]

ACKNOWLEDGMENT

STATE OF MONTANA)
 : ss.
County of Gallatin)

This instrument was acknowledged before me on June 30, 2010, by Benjamin E. Nistler as manager of NHB, LLC, a Montana limited liability company.



CS *St*
Printed Name: Sarah Stone
NOTARY PUBLIC for the State of Montana
RESIDING AT Bozeman, Montana
My Commission Expires June 17, 2013

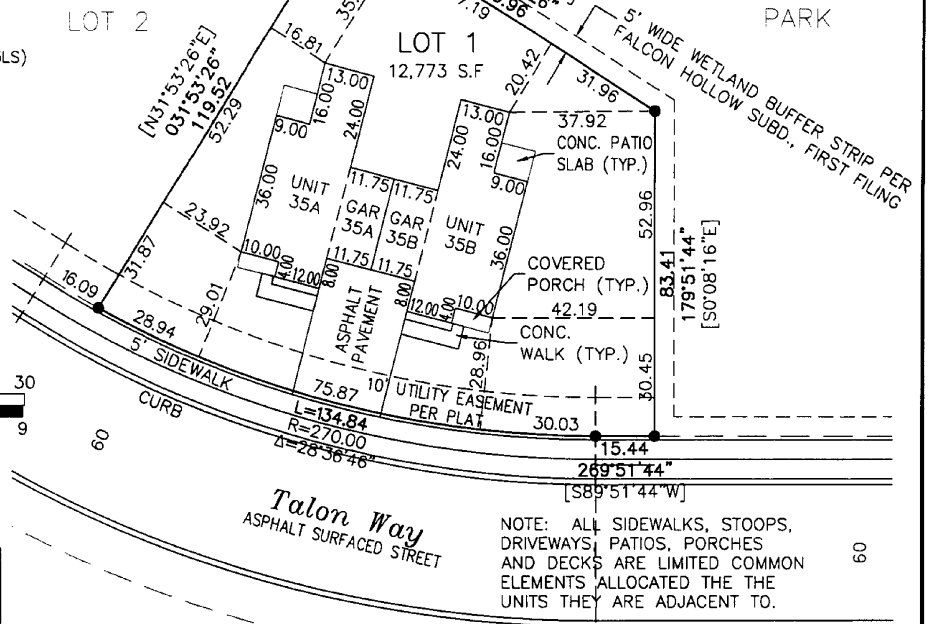
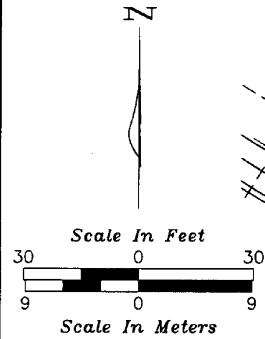
LEGAL DESCRIPTION

LOT 1, BLOCK 3, FALCON HOLLOW
SUBDIVISION, FIRST FILING, NE 1/4 SEC. 17,
T. 2 S., R. 5 E. OF P.M.M., GALLATIN
COUNTY, MONTANA

ADDRESS: 35 TALON WAY
BOZEMAN, MT 59718

- FOUND 5/8" REBAR WITH
1 1/4" PLASTIC CAP
(ENGINEERING INC #15273LS)

EXHIBIT A SITE PLAN WHEATGRASS CONDOMINIUM

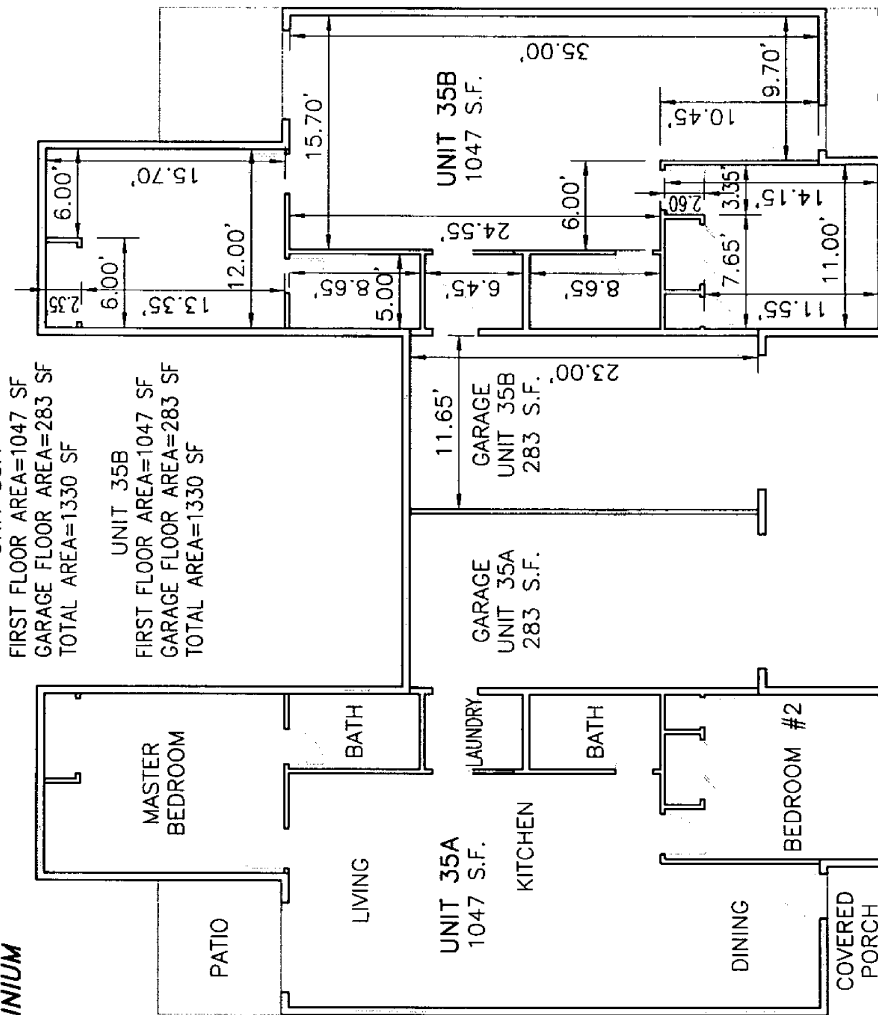


Sheet 1 of 1

#10249(EA)

**35 TALON WAY - FIRST FLOOR PLAN
WHEATGRASS CONDOMINIUM**

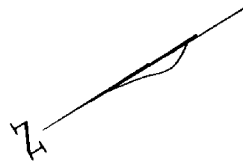
NOTE:
UNIT AREAS ARE MEASURED
TO THE EXTERIOR FACE OF
EXTERIOR WALLS, AND TO THE
CENTERLINE OF COMMON
WALLS.



NOTE: UNIT 35A DIMENSIONS ARE MIRRORED FROM UNIT 35B.
BOTH UNITS ARE SINGLE STORY UNITS.

Sheet 1 of 1

#10249(EB)



Scale In Feet



Scale In Meters



Engineering and Surveying Inc.
1091 Stoneridge Drive • Bozeman, MT 59718
Phone (406) 587-1113 • Fax (406) 587-8788
www.chengineers.com • info@chengineers.com

EXHIBIT C

ENGINEER'S CERTIFICATE

The undersigned, being a duly registered professional engineer and land surveyor in the State of Montana, herewith certifies the following:

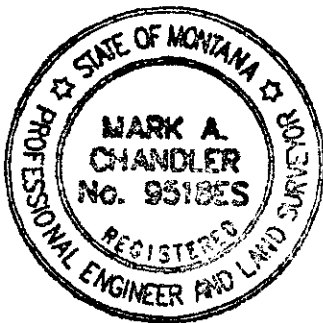
That pursuant to the provisions of 70-23-306(2), MCA, the site plan and floor plans for Units 35A, and 35B of **Wheatgrass Condominium**, located on:

Lot 1, Block 3, FALCON HOLLOW SUBDIVISION, FIRST FILING, according to the plat thereof, on file and of record in the office of the Clerk and Recorder, Gallatin County, Montana. (Plat J-473)

As duly filed with the Declaration and By-Laws thereof, are an accurate copy of the plans filed with and approved by the officials and officers of the County of Gallatin and/or the State of Montana, having jurisdiction to issue building permits. The site plan and floor plans render a hand representation of the actual site and buildings, and fully and accurately depict the layout, location, unit designation, area and dimensions of each unit as built, and the common areas to which each unit has access.

Dated: June 9, 2010

Note: Buildings and Site Improvements on Lot 1 were not complete at the date of signing.



A handwritten signature in cursive script that reads "Mark A. Chandler".

Mark A. Chandler
Registered Professional Engineer and Land Surveyor
License No. 9518ES

Return to:
 NHB, LLC
 PO Box 11530
 Bozeman, MT 59719

BYLAWS
of
WHEATGRASS CONDOMINIUM OWNERS ASSOCIATION

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SECTION 1. INTRODUCTION

- 1.1 **Application.** These Bylaws, upon being recorded with the Clerk and Recorder of Gallatin County, Montana, apply to and govern the WHEATGRASS CONDOMINIUM OWNERS ASSOCIATION ("Association"). Pursuant to Section 5.1 of the Declaration, the Association must be incorporated and operate as a non-profit, mutual benefit corporation under the Montana Nonprofit Corporation Act, Title 35, Chapter 2, of the Montana Code Annotated ("Act"). The Association is authorized and created by the Declaration for Wheatgrass Condominium ("Declaration"). All Unit Owners shall have the rights and responsibilities described in these Bylaws and shall be subject to the provisions thereof. Unless the context requires otherwise, capitalized terms in these Bylaws shall have the meanings given them in the Declaration.
- 1.2 **Association Powers.** The Association shall have all the powers set forth in the Declaration and these Bylaws. If incorporated, the Association shall additionally have all of the powers enumerated and set forth in the Act, except as expressly limited by its articles of incorporation, the Declaration, and these Bylaws.
- 1.3 **Relation to other Documents; Conflicts.** If the Association is incorporated, these Bylaws shall be subject to and governed by the articles of incorporation of the Association. These Bylaws are further subject to the Declaration, as such may be from time to time amended. If there is any conflict between these Bylaws and the Declaration, the Declaration shall control. No acts by the Association or its Board of Directors shall be contrary to the Declaration.

SECTION 2. OFFICES

- 2.1 **Registered Office.** The Association's registered office shall be located within Montana at the address of the Association's registered agent. If the Association is incorporated, the Board of Directors or Members holding a majority of Member Votes may change the registered agent and the

address of the registered office from time to time, upon filing the appropriate statement with the Secretary of State. If the Association is not incorporated, the Board of Directors or Members holding a majority of Member Votes may change the registered agent by amending the Declaration as provided in Section 70-23-902 of the Montana Code Annotated.

- 2.2 **Principal Office.** The Association's principal office shall be within Gallatin County, Montana, at such location as may be designated by the Board of Directors upon notice to the Members. The principal office need not be identical with that of the registered office.

SECTION 3. MEMBERSHIP

- 3.1 **Mandatory Membership.** Every Person who is an Owner of a Condominium Unit shall be a Member of the Association. Persons holding a Mortgage in a Unit or any other interest in a portion of the Property merely as security for the performance of an obligation shall not be entitled to membership.
- 3.2 **Membership Interest.** Ownership of each Condominium Unit shall entitle the Owner thereof to a specified number of Member Votes based on such Unit's Allocated Interest. The Member Votes allocated to each Unit shall be as provided in the Declaration and any amendments thereto. Multiple Owners of a single Unit shall have, collectively, the Member Votes allocated to such Unit. If an Owner owns more than one Unit, such Owner shall have the Member Votes allocated to all of its Units.
- 3.3 **Transfer of Membership.** A membership interest shall run with the land. A membership interest is an incident to ownership that is created when ownership of a Unit is acquired and terminated when ownership is divested. Except as otherwise provided in the Declaration, a membership may not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon transfer of the corresponding ownership interest in a Unit, and then only to the transferee of that ownership interest. Any attempt to transfer membership in the Association other than by a transfer of the corresponding ownership interest shall be null and void.
- 3.4 **Annual Membership Meeting.** The Association shall hold an annual meeting of the membership at such date, place, and time as shall be set by the Board of Directors. At the annual meeting, the Members elect directors and transact any other business as may come before the meeting.
- 3.5 **Special Membership Meetings.** The president (or vice-president in absence of the president) may call a special membership meeting for any purpose or purposes described in the meeting notice. Members having the requisite Member Votes specified in the Declaration may call a special membership meeting to review Assessments. Members holding 25% of the total Member Votes may call a special membership meeting for other purposes described in the meeting notice. If Members request a special membership meeting, they must do so in writing, and sign, date, and deliver the demand to any corporate officer at least 10 days before the Association must give notice of the meeting. The president shall then call the special meeting on these Members' behalf. For purposes of determining whether Members hold the requisite number of Member Votes to call a special meeting, the record date is the close of business on the 30th day before delivery of the demand or demands for such meeting to any corporate officer.
- 3.6 **Place of Meeting.** The Board of Directors may designate any place within Gallatin County, Montana, as the meeting place for any annual or special meeting of the Members. If the Board of Directors does not designate a meeting place, the Members shall meet at the principal office of the Association.

3.7 Notice of Membership Meetings.

- (a) *Notice Required.* The secretary of the Association shall deliver notice of all annual or special membership meetings to each record Unit Owner.
- (b) *Manner of Notice.* Notice of annual and special membership meetings shall be given by separate written notice. Unless otherwise provided in the Declaration, notice shall be given not less than 10 or more than 30 days before the date of the meeting. Notice shall be deemed effective at upon personal delivery of the notice to a Member or upon the date when the notice was deposited postpaid in the United States mail. Notice by United States mail shall be addressed to each Member at the address listed in the records of the Gallatin County Assessor's office unless the Member has provided the Association in writing another mailing address.
- (c) *Contents of Notice.* The notice shall state the place, day and hour of any annual or special membership meeting. Unless otherwise required by the Declaration or the Act, the notice of an annual membership meeting need not include a description of the meeting's purpose or purposes. The notice of each special membership meeting, however, shall include a description of the meeting's purpose or purposes.
- (d) *Adjourned Meeting.* If the Members adjourn any membership meeting to a different date, time, or place, the secretary need not give notice of the new date, time and place, if the new date, time, and place is announced at the meeting before adjournment.
- (e) *Waiver of Notice.* A Member entitled to a notice of a meeting, or to any other notice required by the Act, the Declaration, or these Bylaws, may waive such notice by a writing signed by the Member. The Member must send the notice of waiver to the Association (either before or after the date and time stated in the notice) for inclusion in the minutes or filing with the Association's records. A Member's attendance at a meeting: (i) waives the Member's right to object to lack of notice or defective notice of the meeting, unless the Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting; and (ii) waives the Member's right to object to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the Member objects to considering the matter when it is presented.

3.8 Conduct of Membership Meetings.

- (a) *Conduct of Meeting.* The president, or in the president's absence, the vice president, or in their absence, any person chosen by the Members present shall call the membership meeting to order and shall act as the chairperson of the meeting. The chairperson (or a person designated by the chairperson) shall establish rules of the meeting that will freely facilitate debate and decision-making. The chairperson will indicate who may speak when and when a vote will be taken. The secretary of the Association shall act as the secretary of all meetings of the Members, but in the secretary's absence, the presiding officer may appoint any other person to act as the secretary of the meeting.
- (b) *Order of Business.* The order of business at a membership meeting shall be as follows
 - (i) Call to order;
 - (ii) Reading of prior minutes;
 - (iii) Election of directors, if that is the purpose of the meeting;
 - (iv) Business specified by the notice;
 - (v) Unfinished business;

- (vi) New business;
- (vii) Adjournment.

At the annual meeting, the president and treasurer shall report on the activities and financial condition of the Association.

3.9 Membership Quorum Requirements

- (a) *Annual Meeting Quorum.* There is no quorum requirement for an annual meeting. Unless the Declaration, Bylaws or Montana Nonprofit Corporation Act require a greater than majority vote for a particular matter, actions may be taken on matters coming before the annual meeting by Members holding a majority of Member Votes present at the meeting in person or by proxy.
- (b) *Meeting Quorum.* Unless otherwise provided by the Declaration, fifty-one percent (51%) of the total Member Votes of the Association, either present or by proxy, shall constitute a quorum at any meeting of the membership other than an annual meeting. If the required quorum is not present, another meeting may be called subject to the notice requirements of Section 3.7 of these Bylaws, and the required quorum at such subsequent meeting shall be one-half of the required quorum at the preceding meeting; provided, however, that no such subsequent meeting may be held more than 60 days following the preceding meeting.

3.10 **Proxies** A Member may vote in person or by proxy at all membership meetings. The Member may appoint a proxy to vote by signing an appointment form, either personally or by attorney-in-fact. The Association shall consider a proxy appointment valid if made in writing and filed with the secretary of the Association before or at the time of the meeting. No proxy shall be valid after 11 months from the date it was made, unless otherwise provided in the proxy. The Association, and its director, officer or agent who accepts or rejects a proxy appointment in good faith, is not liable in damages to a Member for the consequences of such acceptance or rejection.

3.11 **Voting of Membership** Each Member is entitled to exercise the number of Member Votes attributable to such Member's Unit on each matter voted on by the Members. If a membership stands of record in the names of two or more Persons, then the vote of one representative shall bind all names on that one membership. Except as specifically provided otherwise in the Declaration or these Bylaws, when Members vote to take action on a matter, a majority of Member Votes shall carry.

3.12 **Action by Written Consent** The Members may act on any matter generally required or permitted at a membership meeting, without actually meeting, if: all the Members take the action, each one signs a written consent describing the action taken, and the Members file all the consents with the records of the corporation. Action taken by consents is effective when the last Member signs the consent, unless the consent specifies a different effective date. A signed consent has the effect of a meeting vote and may be referred to as a meeting vote in any document. The record date for determining Members entitled to take action without a meeting is the earliest date that a Member signs a consent.

SECTION 4. DIRECTORS

4.1 Number, Tenure and Qualifications of Directors.

- (a) *Election of Directors.* The Members may set the number of directors, provided that such number shall be no less than 3 and no more than 5. A director shall be elected by the Members for a term set by the membership, provided that such term shall be not less than 1

year nor greater than 3 years. Directors' terms shall be staggered so that the terms of at least one-third of the directors on the Board expire annually. If a director's term expires, the director shall continue to serve until the Members have elected and qualified a successor or until there is a decrease in the number of directors. If a vacancy occurs on the Board of Directors prior to a membership meeting, the remaining directors may fill the vacancy. When the directors elect a director to fill a vacancy, the director's term expires at the next membership meeting at which Members elect directors. Directors shall be either individual Members of the Association or authorized representatives of entity Members of the Association.

- (b) *Nomination and Voting.* The Board may nominate qualified persons for vacant director positions. Members may also make such nominations from the floor at a meeting where directors are to be elected. Each Member (or if more than one Person holds a membership interest, their representative) shall be entitled to cast the number of Member Votes allocated to such Member's Unit as set forth in the Declaration with respect to each vacancy to be filled at any election of directors. The candidates receiving the greatest number of votes shall be elected.

- 4.2 **Removal of Directors.** One or more directors elected by the Members may be removed, with or without cause, if a majority of the Member Votes present at a duly constituted meeting affirmatively votes for such removal. Notice must be sent to all Members and directors that a purpose of the meeting is removal.
- 4.3 **Regular Meetings of the Board of Directors.** The Board of Directors shall hold a regular meeting immediately after, and at the same place as, the annual membership meeting. No notice of the meeting other than this Bylaw is required. The Board of Directors may provide, by resolution, the date, time, and place (which shall be within Gallatin County, Montana) of additional regular meetings. Regular Board meetings may be held by conference telephone, if convened in accordance with Section 4.5.
- 4.4 **Special Meetings of the Board of Directors.** The president, or one-third of the directors then in office may call and give notice of special meetings of the Board of Directors. Those authorized to call special Board meetings may fix any place within Gallatin County, Montana, as the special meeting place. Special Board meetings may be held by conference telephone, if convened in accordance with Section 4.5.
- 4.5 **Board of Director Meetings by Conference Telephone.** If authorized by the Board of Directors, the Board or any designated committee of the Association may participate in a Board or committee meeting by means of conference telephone or similar communications equipment, provided all persons entitled to participate in the meeting receive proper notice of the telephone meeting (see Section 3.9), and provided all persons participating in the meeting can hear each other at the same time. A director participating in a conference telephone meeting is deemed present in person at the meeting. The chairperson of the meeting may establish reasonable rules governing conduct of the meeting by phone.
- 4.6 **Notice of Special Director Meetings; Waiver.** The Association's secretary shall give either oral or written notice of any special Board meeting at least 2 days before the meeting. The notice shall include the meeting place, day and hour. If the meeting is to be held by conference telephone, the secretary must provide instructions for participating in the telephone meeting. Any director may waive notice of any meeting. The waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or corporate records. A director's attendance at a meeting waives the director's right to object to lack of notice or defective notice of the meeting; this shall be true unless the director, at the beginning of the meeting (or promptly upon arrival), objects to holding

the meeting or transacting business at the meeting, and does not vote for or assent to action taken at the meeting. Neither the secretary nor director needs to specify in the notice or waiver of notice the business to be transacted at, or the purpose of, any special Board meeting.

4.7 **Directors, Manner of Acting.**

- (a) *Required Number to Constitute Act.* The act of a majority of the directors of the Association shall be the act of the Board of Directors.
- (b) *Director Approval.* The Association shall deem a director to have approved of an action taken if the director is present at a meeting of the Board unless:
 - (i) The director objects at the beginning of the meeting (or promptly upon arrival) to holding it or transacting business at the meeting; or
 - (ii) The director's dissent or abstention from the action taken is entered in the minutes of the meeting; or
 - (iii) The director delivers written notice of dissent or abstention to the presiding officer of the meeting before its adjournment or to the Association immediately after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

4.8 **Conduct of Board of Directors Meetings.** The president, or in the president's absence, the vice-president, or in their absence, any person chosen by the directors present shall call the meeting of the directors to order and shall act as the chairperson of the meeting. The chairperson, or the chairperson's designee, shall establish rules of the meeting that will freely facilitate debate and decision-making. The chairperson will indicate who may speak when and when a vote will be taken. The secretary of the Association shall act as the secretary of all meetings of the directors, but in the secretary's absence, the presiding officer may appoint any other person to act as the secretary of the meeting.

4.9 **Director Action Without a Meeting.** The directors may act on any matter generally required or permitted at a Board meeting, without actually meeting, if all the directors take the action, each one signs a written consent describing the action taken, and the directors file all the consents with the records of the Association. Action taken by consents is effective when the last director signs the consent, unless the consent specifies a different effective date. A signed consent has the effect of a meeting vote and may be referred to as a meeting vote in any document.

4.10 **Director Compensation.** Directors shall not receive compensation for services rendered to the Association. Directors shall, however, be entitled to reimbursement for actual expenses incurred in the performance of their duties.

4.11 **General Powers.** Except as otherwise provided by the Declaration and articles of incorporation, all Association powers shall be exercised by or under the authority of the Board of Directors, and the Board shall manage and direct the business and affairs of the Association. Without limiting the generality of the foregoing, the Board of Directors is empowered to do the following things:

- (a) Exercise ultimate decisional power in and on all matters affecting the Association, except for those matters reserved to the Members or the Declarant.
- (b) Enter into contracts and agreements as are necessary to conduct the business of the Association.

- (c) Promote, conserve, and preserve the Common Elements.
- (d) Designate, hire and dismiss the personnel necessary for the Association's operation and for the maintenance, operation, repair, and replacement of the Common Elements. The Board may, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and materials to be used by such personnel in the performance of their duties.
- (e) Make and establish rules and regulations for the governance of the Condominium as provided in the Declaration.
- (f) Prepare budgets and levy Assessments as described in these Bylaws and the Declaration.
- (g) Establish accounts in banks or other financial institutions for operating and reserve funds as set out in the Declaration.
- (h) Pay the expenses of the Association, including all property taxes and assessments.
- (i) Obtain and carry insurance against casualties and liabilities, as provided in the Declaration, and pay the premium cost thereof, and provide for the use and disposition of insurance proceeds in the event of loss or damage to Association property.
- (j) Provide a means of hearing grievances of unit owners and to respond appropriately thereto.
- (k) 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 the Association, to levy a penalty, to charge interest on unpaid amounts due and owing, and, in a foreclosure proceeding, to charge a reasonable rental for the Unit. However, other than for the collection of delinquent assessments or accounts, the Board of Directors shall not initiate any litigation or lawsuit without prior approval of a majority of the Member Votes.
- (l) Defend in the name of the Association any and all lawsuits wherein the Association is a party defendant.
- (m) Call meetings of the Association, both annual and special, preside over such meetings, and give appropriate notice of such meetings as required by these Bylaws.
- (n) Formulate and introduce resolutions at the meetings of the Association.
- (o) Act on behalf of the Association in matters concerning the Association's membership, if any, in any subdivision owner's association.
- (p) 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 in order to carry out the governance and operation of the Condominium.

4.12 Committees. Pursuant to the Montana Nonprofit Corporation Act, Montana Code Annotated §35-2-433, and subject to the limitations therein, the Board of Directors may create one or more committees and appoint members of the Board to serve on them. Each committee must have two or more members. Committees shall serve at the pleasure of the Board of Directors.

- 4.13 **Managing Agent.** The Board of Directors may employ for the Association a professional management agent at a compensation established by the Board to perform such day-to-day operations of the Association as the Board shall authorize. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager. No management contract may have a term in excess of one year and must permit termination by either party without cause and without termination fee on 30 days' or less written notice.
- 4.14 **Borrowing.** The Board of Directors shall have the power to borrow money for the purpose of maintenance, repair or restoration of the Common Elements without the approval of the Members of the Association. The Board shall also have the power to borrow money for other purposes; provided, the Board shall obtain Member approval in the same manner provided in Section 6.4(b) of the Declaration for Special Assessments if the proposed borrowing is for the purpose of modifying, improving or adding amenities and the total amount of such borrowing exceeds or would exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.
- 4.15 **Enforcement.** The Board shall have the power to impose reasonable fines for violation of any duty imposed under the Declaration, these Bylaws or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Unit or to suspend an Owner's right to vote due to nonpayment of assessments. In the event that any occupant of a Unit violates the Declaration, Bylaws or a rule or regulation and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, that if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Declaration, Bylaws or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.
- (a) *Notice.* Prior to imposition of any sanction, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than 10 days within which the alleged violator may present a written request to the Board of Directors for a hearing; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 10 days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed.
 - (b) *Hearing.* If a hearing is requested in a timely manner, the Board shall conduct a hearing affording the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, Director or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. The Board of Directors may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any person.
 - (c) *Additional Enforcement Rights.* Notwithstanding anything to the contrary herein contained, the Association, acting through the Board of Directors, may elect to enforce any provision of the Declaration, these Bylaws or the rules and regulations of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set

forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs actually incurred, including reasonable attorney's fees.

SECTION 5. OFFICERS

- 5.1 **Number of Officers; Qualification.** The officers of the Association shall be a president, a secretary, and a treasurer. The same person may hold the offices of secretary and treasurer. The Board may appoint a vice-president if it deems such office necessary. All officers must be individual Members of the Association or authorized representatives of entity Members of the Association. The president and vice-president shall be appointed from among the directors. The secretary and treasurer need not be directors.
- 5.2 **Appointment and Term of Office.** The Board of Directors shall appoint officers of the Association for a term that the Board determines. If the Board does not specify a term, the officers shall hold office until the next annual meeting of the Board.
- 5.3 **President.** The president shall be the principal executive officer of the Association. The president shall be subject to the control of the Board of Directors and shall in general supervise and control, in good faith, all of the business and affairs of the Association. The president shall, when present, preside at all meetings of the Members and of the Board of Directors.
- 5.4 **Vice President.** The vice president, if one is appointed, shall perform, in good faith, the president's duties if the president is absent, dies, is unable or refuses to act. If the vice president acts in the absence of the president, the vice president shall have all presidential powers and be subject to all the restrictions upon the president. The vice president shall perform any other duties that the president or Board of Directors may assign to the vice president.
- 5.5 **Secretary.** The secretary shall in good faith: (a) create and maintain one or more books for the minutes of the proceedings of the Members and of the Board of Directors; (b) provide that all notices are served in accordance with these Bylaws, the Declaration, or as required by law; (c) be custodian of the Association's records; (d) when requested or required, authenticate any records of the Association; (e) keep a current list of the mailing addresses of the Members; (f) sign, on behalf of the Association, all records, documents and instruments when such are authorized to be signed by the Association; and (g) in general perform all duties incident to the office of secretary and any other duties that the president or the Board of Directors may assign to the secretary.
- 5.6 **Treasurer.** The treasurer shall: (a) have charge and custody of the accounts of the Association; (b) receive and give receipts for moneys due and payable to the Association from any source, and deposit all moneys in the Association's name in banks or other depositories that the Board shall select; (c) prepare and provide such periodic accounting as shall be required by the Association; and (d) in general perform all of the duties incident to the office of treasurer and any other duties that the president or Board of Directors may assign to the treasurer.
- 5.7 **Officer Compensation.** Officers shall not receive compensation for services rendered to the Association. Officers shall, however, be entitled to reimbursement for actual expenses incurred in the performance of their duties.

SECTION 6. INDEMNIFICATION OF DIRECTORS, OFFICERS AND AGENTS

6.1 Indemnification of Directors

- (a) *General.* An individual made a party to a proceeding because the individual is or was a director of the Association may be indemnified against liability incurred in the proceeding, but only if the indemnification is both:
 - (i) Determined permissible; and
 - (ii) Authorized, as defined in subsection (b) of this Section 6.1. The indemnification is further subject to the limitation specified in subsection (d) of this Section 6.1.
- (b) *Determination, and Authorization.* The Association shall not indemnify a director under Section 6.1 unless:
 - (1) Determination. Determination has been made in accordance with procedures set forth in the Montana Nonprofit Corporation Act that the director met the standard of conduct set forth in subsection (c) below; and
 - (2) Authorization. Payment has been authorized in accordance with procedures listed in the Montana Nonprofit Corporation Act based on a conclusion that the expenses are reasonable, the Association has the financial ability to make the payment, and the financial resources of the Association should be devoted to this use rather than some other use by the Association.
- (c) *Standard of Conduct.* The individual shall demonstrate that:
 - (i) The individual acted in good faith; and
 - (ii) The individual reasonably believed:
 - (A) In acting in an official capacity with the Association, that the individual's conduct was in the Association's best interests;
 - (B) In all other cases, that the individual's conduct was at least not opposed to the Association's best interests; and
 - (C) In the case of any criminal proceeding, that the individual had no reasonable cause to believe that the conduct was unlawful.

The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, is not, of itself, a determination that the director did not meet the standard of conduct described in this section.
- (d) *No Indemnification Permitted in Certain Circumstances.* The Association shall not indemnify a director under Section 6.1 if
 - (i) The director was adjudged liable to the Association in a proceeding by or in the right of the Association; or

- (ii) The director was adjudged liable in any other proceeding charging that the director improperly received personal benefit, whether or not the individual acted in an official capacity.
- (e) *Indemnification Limited.* Indemnification permitted under Section 6.1 in connection with a proceeding by the Association or in the right of the Association is limited to the reasonable expenses incurred in connection with the proceeding.

6.2 Advance Expenses for Directors The Association may pay for or reimburse, in advance of final disposition of the proceeding, the reasonable expenses incurred by a director who is a party to a proceeding if:

- (a) By following the procedures of the Montana Nonprofit Corporation Act the Board of Directors determined that the director met requirements (c)–(e) listed below;
- (b) The Board of Directors authorized an advance payment to a director;
- (c) The director has furnished the Association with a written affirmation of the director's good faith belief that the director has met the standard of conduct described in Section 6.1;
- (d) The director has provided the Association with a written undertaking, executed personally or on the director's behalf, to repay the advance if it is ultimately determined that the director did not meet the standard of conduct; the director's undertaking must be an unlimited general obligation, but need not be secured, and the Association may accept the undertaking without reference to financial ability to make repayment; and
- (e) The Board of Directors determines that the facts then known to it would not preclude indemnification under Section 6.1 of these Bylaws or the Montana Nonprofit Corporation Act.

6.3 Indemnification of Officers, Agents and Employees The Board of Directors may choose to indemnify and advance expenses to any officer, employee, or agent of the Association applying those standards described in Sections 6.1 and 6.2 of these Bylaws.

6.4 Mandatory Indemnification Notwithstanding any other provisions of these Bylaws, the Association shall indemnify a director or officer who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director or officer was a party because he or she is or was a director or officer of the Association, against expenses incurred by the director or officer in connection with the proceeding.

SECTION 7. BOOKS AND RECORDS; INSPECTION

7.1 Corporate Records.

- (a) *Minutes and Financial Records.* The Association shall keep a record of the minutes of all meetings of its Members and Board of Directors, a record of all actions taken by the Members or Board of Directors without a meeting, and a record of all actions taken by a committee of the Board of Directors acting in place of the Board and on behalf of the Association. The Association shall maintain appropriate financial records.
- (b) *Membership List.* The Association shall maintain a record of the Members' names and addresses. The membership list shall indicate each Member is entitled to one vote.

- (c) *Form.* The Association shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.
- (d) *Other Records.* The Association shall keep a copy of the following records at its principal office or at a location from which the records may be recovered within 2 business days:
 - (i) Its articles or restated articles of incorporation and all amendments to them currently in effect;
 - (ii) Its most recent annual report delivered to the Secretary of State;
 - (iii) Its Bylaws or restated Bylaws and all amendments to them currently in effect;
 - (iv) A copy of the Declaration;
 - (v) Rules and regulations adopted by the Board of Directors pursuant to authority granted in the Declaration.
 - (vi) Resolutions adopted by its Board of Directors;
 - (vii) The financial statements, if any, furnished for the past 3 years to the Members;
 - (viii) The minutes of all membership meetings, and records of all actions taken by Members without a meeting, for the past 3 years; and
 - (ix) A list of the names and business addresses of its current directors and officers.

7.2 Member's Rights to Inspect Corporate Records

- (a) *Absolute Inspection Rights of Records by Members.* A Member (or a Member's agent or attorney) is entitled to inspect and copy, at a reasonable time and location specified by the Association, any of the records of the Association described in Section 7.1(d). The Member must give the Association written notice or a written demand to inspect at least 5 days before the date on which the Member wishes to inspect and copy.
- (b) *Conditional Inspection Right.* The Member (or the Member's agent or attorney) may inspect and copy, at a reasonable time and reasonable location specified by the Association, additional records listed in Section 7.2(c) if the Member meets the following criteria:
 - (i) The Member must give the Association a written demand to inspect made in good faith and for a proper purpose at least 5 business days before the date on which the Member wishes to inspect and copy; and
 - (ii) The Member must describe with reasonable particularity:
 - (A) The Member's purpose and
 - (B) The records that the Member desires to inspect; and
 - (iii) The Association must approve that the records are directly connected with the Member's purpose.

- (c) *Additional Records.* If the Member meets the requirements of Section 7.2(b), the Member may inspect and copy:
 - (i) Excerpts from minutes of any meeting of the Board of Directors, records of any action of a committee of the Board of Directors acting on behalf of the Association, minutes of any meeting of the Members, and records of action taken by the Members without a meeting, to the extent not subject to inspection under subsection (a) of Section 7.1;
 - (ii) Financial records of the Association; and
 - (iii) The membership list.
- (d) *Availability of Records to Lenders and Eligible Mortgagees.* Lenders of Unit Owners and Eligible Mortgagees may inspect and copy at the Associations, during normal business hours or at other reasonable times, and at a location specified by the Association, any of the records of the Association described in items (i) – (vii) of Section 7.1(d). A lender or Eligible Mortgagee must give the Association written notice or a written demand to inspect at least 5 days before the date on which the lender or Eligible Mortgagee wishes to inspect and copy.
- (e) *Financial Statement to FHA, FHLMC, FNMA, VA, etc.* Upon the written request of the FHA, FHLMC, FNMA, VA, or other, similar agencies or corporations having an interest in the Condominium or a Unit, the Association shall prepare and furnish within a reasonable time an audited financial statement of the Association for the preceding fiscal year.
- (f) *Copy Costs.* The right to copy includes the right to photocopy. The Association may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to a Member, lender, Eligible Mortgagee, prospective purchaser, agency or corporation having inspection rights. The charge may not exceed the estimated cost of production or reproduction of the records.

SECTION 8. MISCELLANEOUS

- 8.1 **Contracts.** The Board of Directors may authorize any officer(s) or agent(s) to enter into any contract or to execute or deliver any instrument in the name of and on behalf of the Association. The authorization may be general or specific. In the absence of another designation, the president and the secretary shall make all corporate deeds, mortgages and instruments of assignment or pledge.
- 8.2 **Checks, Drafts, etc.** The Board of Directors shall authorize by resolution which officer(s) or agent(s) may sign and issue all Association checks, drafts or other orders for payment of money, and notes or other evidence of indebtedness. The Board of Directors shall also determine by resolution the manner in which these documents will be signed and issued.
- 8.3 **Deposits.** The treasurer of the Association shall deposit in banks and other depositories all Association funds that are not being used. The Board of Directors shall authorize by Board resolution the exact location of the banks and depositories.
- 8.4 **Insurance.** The Board of Directors may purchase insurance policies to protect the property of the Association against casualty loss and to protect the Association, and its Board of Directors, officers and agents, when acting in their official capacity from liability.
- 8.5 **Fiscal Year.** The fiscal year of the Association shall be the calendar year or as otherwise set by resolution of the Board of Directors.

SECTION 9. AMENDMENTS

- 9.1 **Amendments.** Prior to the conveyance of the first Unit, Declarant may unilaterally amend these Bylaws. Thereafter, these Bylaws may amended by the Association upon approval of 75% of the Member Votes at a meeting duly noticed and called for such purpose. If a proposed amendment is favored by a majority of the votes cast at a meeting, but such vote is less than the requisite 75% of the votes of the membership interests, Members who were not present in person or by proxy may give their assent to any amendment in writing, provided that the same is received by the Secretary of the Association not later than thirty (30) days from the date of such meeting wherein the action was voted upon. No amendment shall be effective until a copy of the Bylaws, as amended, certified by the president and secretary of the Association is recorded in the Public Records. No amendment may remove, revoke or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

IN WITNESS WHEREOF, the Declarant hereby approves and adopts the foregoing Bylaws on June 30, 2010.

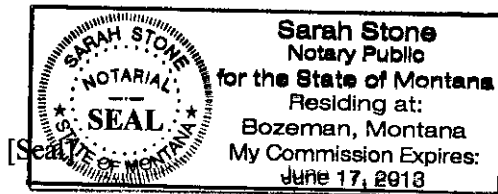
NHB, LLC, a Montana limited liability company.

by: _____

Benjamin E. Nistler, Manager

STATE OF MONTANA)
 : ss.
County of Gallatin)

This instrument was acknowledged before me on June 30, 2010, by Benjamin E. Nistler as manager of NHB, LLC, a Montana limited liability company.



Sarah Stone
Printed Name: Sarah Stone
NOTARY PUBLIC for the State of Montana
RESIDING AT Bozeman, Montana
My Commission Expires June 17, 2013



GALLATIN COUNTY

CERTIFICATE OF EXEMPTION FROM SUBDIVISION REVIEW

I, Manager of Subdivision and Zoning for Gallatin County, Montana, do hereby certify that the Preliminary Declaration for Wheatgrass Condominiums made June ____, 2010, by Benjamin E. Nistler, Manager of NHB, LLC, a Montana limited liability company, pursuant to Title 70, Chapter 23, Montana Code Annotated, is exempt from review under the Montana Subdivision and Platting Act pursuant to Section 76-3-203(1), MCA (2007).

The Condominiums are to be located on the following described real property:

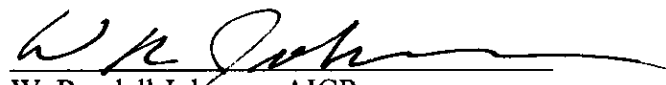
Lot 1, Block 3 of Falcon Hollow Subdivision, First Filing, being Tract A & B, Certificate of Survey No. 2031, situated in the NE ¼ of Section 17, T.2 S, R. 5 E, PMM, Gallatin County, Montana, according to the official plat thereof on file in the Gallatin County Clerk and Recorder's Office, Gallatin County, Montana (Plat J-473).

The Declaration is exempt because the condominiums are to be constructed on land that was subdivided in compliance with Parts 5 and 6 of the Subdivision and Platting Act. The preliminary plat approval for the Falcon Hollow Phase 1 expressly contemplated the construction of a multi-family building within Lot 1 and all applicable parkland dedication requirements required by Section 76-3-621, MCA (2007) has been complied with as stated in the final plat approval for the Falcon Hollow Subdivision Phase 1. Furthermore, the units subject to this Declaration are exempt because the subject condominiums are in conformance with the requirements of the Gallatin County/Bozeman Area Zoning Regulations.

Any future amendment to the Preliminary Declaration for Wheatgrass Condominiums or to any final Declaration that adds units to the Condominium Declaration for the Wheatgrass Condominium for lots within the Falcon Hollow Subdivision requires, for each amendment, an additional declaration of condominium exemption from the Gallatin County Planning Department.

This Certificate of Exemption in no way obviates the declarants' responsibility to file a final declaration as required under the Montana Unit Ownership Act.

DATED this 28th Day of June, 2010


W. Randall Johnson, AICP;
Manager, Subdivision and Zoning

F:\PLNG\CONDOS\2010 Cert of Exemptions\wheatgrass-condo.coe

Return to:
NHB, LLC
PO Box 11530
Bozeman, MT 59719

**FIRST AMENDMENT TO DECLARATION
FOR
WHEATGRASS CONDOMINIUM**

THIS FIRST AMENDMENT ("Amendment") is made March 31, 2011, by NHB, LLC, a Montana limited liability company, PO Box 11530, Bozeman, Montana 59719 ("Declarant"). This Amendment shall be effective upon its filing for record in the office of the Clerk and Recorder, Gallatin County, Montana.

RECITALS

- A. The Declaration for Wheatgrass Condominium dated June 30, 2010 ("Declaration") was recorded July 6, 2010 in the records of Gallatin County, Montana, under Document No. 2364730.
- B. The Condominium is located on a tract of Land described as:
- Lot 1, Block 3, of Falcon Hollow Subdivision, First Filing, being Tract A & B, Certificate of Survey No. 2031, situated in the NE¼ of Section 17, Township 2 South, Range 5 East, P.M.M. Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Gallatin County, Montana. [Plat Reference: J-473].
- C. As of the date of this Amendment, Declarant owns all of the Condominium Units, and none of the Units or any interest thereof have been sold.
- D. Pursuant to Section 12.2 of the Declaration, Declarant desires to amend the Declaration to correct a technical error in the designation of the Condominium Units on the site and floor plans attached to the Declaration.

AMENDMENT

1. **Definitions.** Unless the context requires otherwise, capitalized terms in this Amendment shall have the meanings given them in the Declaration.
2. **Amendment of Site and Floor Plans.** Exhibits A, B, and C attached to the Declaration are hereby deleted. The following exhibits are attached to this Amendment, are intended to substitute for the deleted exhibits, and by this reference are incorporated into and made a part of the Declaration, as amended:

2385539
Page: 1 of 5
04/01/2011 11:33:38 AM
Charlotte Mills - Gallatin County, MT
Fee: \$35.00
MISC

- (a) Exhibit A (Site Plan) showing the site plan of the Property, the location of the Building on the Property, and the location of the Condominium Units within the Building.
- (b) Exhibit B (Floor Plan) showing the floor plan of the Building and the designation, dimensions, and area for each of the Condominium Units located therein; and
- (c) Exhibit C (Engineer's Certificate).

3. **Ratification.** Except as modified, altered or amended by the provisions of this Amendment, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, Declarant has caused this First Amendment to Declaration for Wheatgrass Condominium to be made and executed.

NHB, LLC, a Montana limited liability company.

by: _____

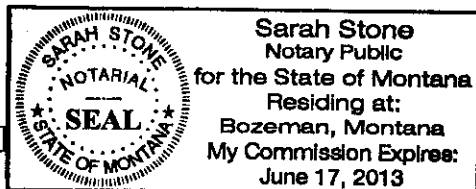
Benjamin E. Nistler, Manager

ACKNOWLEDGMENT

STATE OF MONTANA)
 : ss.
County of Gallatin)

This instrument was acknowledged before me on March 31, 2011, by Benjamin E. Nistler as manager of NHB, LLC, a Montana limited liability company.

[Seal]



Sarah Stone
Printed Name: Sarah Stone
NOTARY PUBLIC for the State of Montana
RESIDING AT Bozeman, Montana
My Commission Expires June 17, 2013

2385539 Page 3 of 5 04/01/2011 11:33:38 AM

**35 TALON WAY - FIRST FLOOR PLAN
WHEATGRASS CONDOMINIUM**



Engineering and Surveying Inc.
1091 Barnstable Drive • Boston, MA 02716
Phone (408) 587-1116 • Fax (408) 587-0768
www.chengineers.com • info@chengineers.com

NOTE: UNIT 35B DIMENSIONS ARE MIRRORED FROM UNIT 35A.
BOTH UNITS ARE SINGLE STORY UNITS.

#10249(EB)

UNIT 35B
FIRST FLOOR AREA=1047 SF
GARAGE FLOOR AREA=283 SF
TOTAL AREA=1330 SF

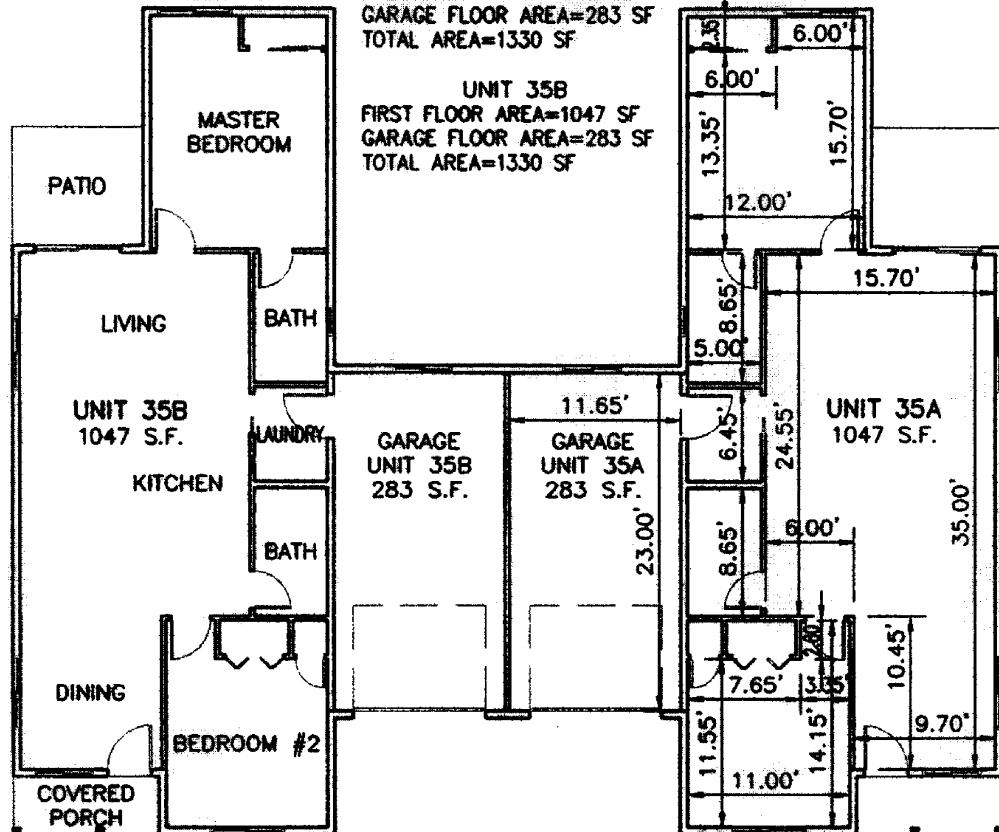


EXHIBIT C

ENGINEER'S CERTIFICATE

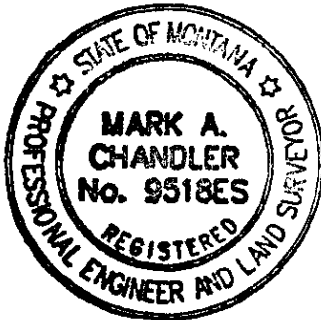
The undersigned, being a duly registered professional engineer and land surveyor in the State of Montana, herewith certifies the following:

That pursuant to the provisions of 70-23-306(2), MCA, the site plan and floor plans for Units 35A, and 35B of **Wheatgrass Condominium**, located on:

Lot 1, Block 3, FALCON HOLLOW SUBDIVISION, FIRST FILING, according to the plat thereof, on file and of record in the office of the Clerk and Recorder, Gallatin County, Montana. (Plat J-473)

As duly filed with the Declaration and By-Laws thereof, are an accurate copy of the plans filed with and approved by the officials and officers of the County of Gallatin and/or the State of Montana, having jurisdiction to issue building permits. The site plan and floor plans render a hand representation of the actual site and buildings, and fully and accurately depict the layout, location, unit designation, area and dimensions of each unit as built, and the common areas to which each unit has access.

Dated: March 30, 2011



A handwritten signature in cursive script that reads "Mark A. Chandler".

Mark A. Chandler
Registered Professional Engineer and Land Surveyor
License No. 9518ES

ADDENDUM TO IMPROVEMENTS AGREEMENT
FOR
FALCON HOLLOW MAJOR SUBDIVISION

This addendum will modify the Improvements Agreement for Falcon Hollow Major Subdivision, dated September 18, 2007 and Partial Release of February 5, 2008, ("Agreement"). Except as modified herein, the Agreement remains in full force and effect.

1. Paragraph 3. **Completion of the Improvements** shall be modified as follows:

The Subdivider on or before September 18, 2012 must complete the Improvements. The Subdivider shall be allowed extensions of time beyond the completion date only for unavoidable delay caused by strikes, lockouts, acts of God, or other factors beyond the control and ability to remedy of the Subdivider or any agent or contractor hired by, or on behalf of, the Subdivider; provided, however, that no extension of time shall be allowed for any delay caused by weather conditions. The Subdivider shall, within two days after such delay commences, give notice to the County for its review and approval of the delay, the cause for the delay, the period or anticipated period of the delay and the steps taken by the Subdivider to mitigate the effects of the delay. Any failure of the Subdivider to properly give notice shall be deemed a waiver of any right to an extension of time for the delay.

2. Except as set forth herein, the Agreement remains in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the date first above written.

SUBDIVIDER:

PEREGRINE DEVELOPMENT, INC.

By

Its: CHARLES DEARTHNER MEMBER

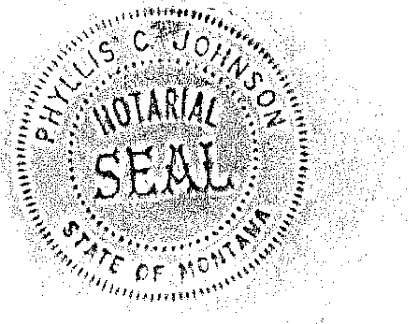
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Page: 1 of 3 09/01/2010 07:55:27 AM Fee: \$21.00
Charlotte Mills - Gallatin County, MT IMP



STATE OF Montana }
 County of Gallatin } SS

On August 6, 2010, before me Phyllis C. Johnson, Notary Public, personally appeared Charles Dearhammer, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument in person, or the entity upon behalf of which the person acted, executed the instrument.



WITNESS my hand and official seal.

Phyllis C. Johnson
 Printed Name Phyllis C. Johnson
 Notary Public for the State of Montana
 Residing at Belgrade, MT
 Commission Expires 10/16/2011

COUNTY:

BOARD OF COUNTY COMMISSIONERS GALLATIN COUNTY, MONTANA

Joe P. Skinner
 Joe P. Skinner, Chairman

8/17/10
 Date

William A. Murdock
 William A. Murdock, Member

8/17/2010
 Date

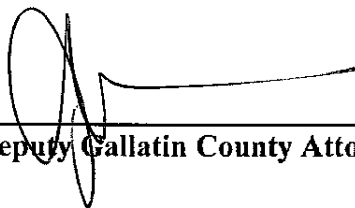
R. Stephen White
 R. Stephen White, Member

8/17/10
 Date

ATTEST:

Charlotte Mills
 Charlotte Mills, Clerk and Recorder
 Gallatin County, Montana

Approved as to Legal Content:



Deputy Gallatin County Attorney

Return to:
March Law, P.C.
225 E. Mendenhall
Bozeman, MT 59715

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Page: 1 of 23 08/27/2013 01:22:25 PM Fee: \$161.00
Charlotte Mills - Gallatin County, MT MISC

FIRST AMENDMENT TO THE DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND BYLAWS FOR FALCON HOLLOW, GALLATIN COUNTY, MONTANA

THIS AMENDMENT dated this 24 day of May, 2013, is made pursuant to the amendment provisions and procedures set forth in the original Declaration of Covenants, Conditions and Restrictions and Bylaws for Falcon Hollow, Gallatin County, Montana which was recorded on October 5, 2007 as Document No. 2280901, records of the Gallatin County Clerk and Recorder's office ("Covenants"). The amendment provision sets forth in the original Covenants under Article XIV, Section 6 provides that Declarant reserves the right to amend these Covenants to reflect subsequent additional phases. Pursuant to that Amendment right, this Amendment is made by the Declarant to amend the Covenants to reflect the addition of Falcon Hollow Phase 2 as set forth under the Amendment provisions. The purpose of this amendment is to supplement and amend the Covenants to reflect the addition of Phase 2 to Falcon Hollow and to provide certain regulations and guidelines for Phase 2's development.

Unless stated otherwise, the Amendments contained herein pertain only to Falcon Hollow Phase 2, and not to Falcon Hollow First Filing.

NOW, THEREFORE, the following Amendments to the Covenants are as follows:

1. That except for the specific changes, modifications, clarifications, and additions contained and set forth herein, each and every one and all the terms and conditions of the Covenants shall remain in full force and effect, unchanged and unaltered by this Amendment except where inconsistent with or in conflict with the terms hereof in which case this Amendment shall control.

2. That the fourth sentence of the 2nd paragraph of the initial introduction contained on page 1 of the Covenants which sets forth the existing and proposed areas within Falcon Hollow shall be amended to read as follows: Falcon Hollow includes: 88 duplex and four-plex condominiums, 7 multi-family lots and 43 single family residential lots. The developer/declarant reserves the right to amend and update these covenants to reflect additions, phases and/or changes to future Lots, including but not limited to changing the multi-family lots into townhome lots.

This Amendment is made to update the Covenants to reflect the actual development of the property and shall apply to all property within Falcon Hollow.

3. That the real property subject to the Covenants as set forth on page 2 of the Covenants be amended to remove the third property described as:

“Tract 1 of Dependent Survey No. 17A, being part of Dependent Resurvey No. 17, located in the Northeast Quarter of Section 17, Township 2 south, Range 5 East, P.M.M., Gallatin County, Montana, said survey being on file in the office of the County Clerk and Recorder of Gallatin County, Montana. Previously recorded as Document Number 2249494 on 11/29/2006.”

and it shall be replaced with the following: Falcon Hollow Subdivision Phase 2 and being further described as:

Falcon Hollow Phase 2A, being a portion of Dependent Resurvey No. 17 and Tract 1 of Dependent Survey No. 17A, located in the Northeast one-quarter of Section 17, Township 2 South, Range 5 East, Principal Meridian Montana, Gallatin County, Montana.

4. All lots in Phase 2 shall be subject to the covenants set forth in the original Declaration of Covenants, Conditions and Restrictions and Bylaws for Falcon Hollow, Gallatin County, Montana which was recorded on October 5, 2007 as Document No. 2280901, records of the Gallatin County Clerk and Recorder's office and as amended herein. Further, all lot owners in Falcon Hollow Phase 2 shall automatically become members in the Falcon Hollow Property Owner's Association established with Falcon Hollow's first filings which shall include but not be limited to sharing in the maintenance of all subdivision roads, parks and open spaces.

5. That the following requirements shall be added to the County required Covenants set forth in Article I of the Covenants. Falcon Hollow Phase 2 shall be subject to the following County required Covenants in addition to those already set forth in the Covenants:

- A. Individual lot accesses from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations.
 - B. Basements shall be prohibited due to periodic high groundwater.
 - C. No mobile, manufactured, modular and/or prefabricated or “kit” homes or similar homes of any type may be placed or utilized on any Lot.
 - D. The home/property owners’ association shall be responsible for the operation and maintenance of all interior subdivision roads, parks and open space.
 - E. As recorded on the final plat and stated in the restrictive deed, the home/property owner’s association grants title to park land/open spaces within Falcon Hollow Phase 2 Subdivision to Gallatin County for the use of the general public in perpetuity.
 - F. The maintenance of lands designated as park land or open space shall be the responsibility of the home/property owner’s association. The owner agrees that the County has no obligation to maintain the lands in all streets.
 - G. All Parks, Open Spaces and Trails shall perpetually remain in that use and be preserved and maintained for passive and active recreation, wildlife habitat, and protection of scenic, and unique or important natural features.
 - H. The Parks, Open Areas, and Parking/Snow Storage Areas shall not be further subdivided.
 - I. Any development of commercial lots shall receive site plan approval from the Gallatin County Planning Department prior to submitting an application for a land use permit.
 - J. Property owners should be aware that the Rowland Road access on Huffine Lane is identified as a limited movement access by the Huffine Lane Access Management Plan. Property owners should be aware that vehicular traffic will be limited to ‘right in, right out’ movements in the future.
6. That Article VII titled “Sidewalks/Driveways - Parking” shall be revised as follows:

Each Lot owner, upon purchase, shall deposit an amount equal to \$4.00 per square foot into escrow with the Falcon Hollow HOA as partial deposit on the construction of sidewalks subject to the following stipulations:

- A) Sidewalks shall be installed by owner on both sides of the streets at the time houses or buildings are constructed on individual lots. Upon the two year anniversary (2 years) of final plat recordation for Phase 2, any Lot Owners who have not constructed their sidewalks shall be required to install sidewalks on their lots, regardless of whether a home is constructed on the Lot or not.
 - B) Lot owner may request release of the funds for construction of the sidewalk upon showing the HOA proof of bid and construction date, and upon signing a verification that funds shall be used for construction of sidewalk only.
 - C) If the Lot owner has failed to install the sidewalk within 2 years, the Association shall, upon request of the developer, release said funds to the developer and the developer shall have the right to use the funds to install sidewalks where required and any costs or expenses not covered by the deposit shall become a lien in favor of developer on the Lot where the sidewalk was installed. In such an event, every Lot owner in Phase 2 of Falcon Hollow hereby consents to the Developer, or its successor or assigns, filing a lien on the Lot owner's property for the uncovered costs of sidewalk installation.
 - D) All driveways and off street parking areas or spaces shall be concrete.
7. Falcon Hollow Phase 2 consists primarily of single family residential Lots, and as such, is considerably different in design than the first filing which consisted mainly of condominiums. Therefore, as it applies only to Phase 2, Article X in its entirety, shall be replaced with the Architectural Controls and Guidelines set forth on Exhibit "A", and attached hereto and incorporated herein. These Architectural Controls and Guidelines shall apply only to those Lots within Falcon Hollow Phase 2. The Architectural Controls and Guidelines set forth in Article X of the Covenants shall continue to control for Lots in Falcon Hollow First Filing.
8. Falcon Hollow Phase 2 shall be subject to all other terms and conditions of the Covenants, except in regard to Article X as further set forth herein.

IN WITNESS WHEREOF, this First Amendment has been executed on the dates set forth below.

PEREGRINE DEVELOPMENT, L.L.C.

By: ckh [signature]

Its: Member

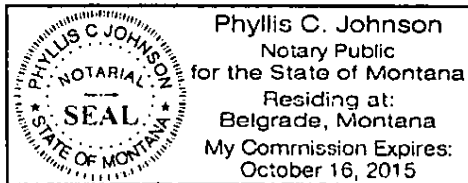
STATE OF MONTANA)

:SS

COUNTY OF GALLATIN)

On this 24th day of May, 2013, before me, a notary public in and for the State of Montana, personally appeared Charles [signature] known to me to be the member of Peregrine Development, L.L.C. and the person whose name is subscribed above, and acknowledged to me that he executed the same pursuant to the authority vested in him.

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



Phyllis C. Johnson
Phyllis C. Johnson
Notary Public for the State of Montana
Residing at: Belgrade, MT
My commission expires: 10/16/2015

EXHIBIT A
FALCON HOLLOW PHASE 2
DESIGN REVIEW GUIDELINES AND REGULATIONS

The integration of buildings, improvements and landscapes within the Falcon Hollow Subdivision is essential to the success and appearance of the community. Any and all construction alterations or improvements, and front yard landscaping shall be subject to advance approval by the Architectural Review Committee (ARC). Any deviation from approved plans shall be re-submitted to the Architectural Review Committee for approval. Site Design Regulations serve to protect and enhance the natural landscape, stream corridors, view sheds and natural habitat.

Falcon Hollow Phase 1 consisted of multi family residences and condominiums. Falcon Hollow Phase 2 shall consist mainly of single family residences. These design guidelines have been adopted specifically for Phase 2 due to the different characteristics of housing and use from Phase 1, and specific building requirements for Phase 2 only. These guidelines shall replace Article X in its entirety as to Phase 2 only and shall govern the design of Phase 2 only. Falcon Hollow First Filing shall continue to be governed by the Design Regulations set forth in the Declaration of Covenants, Conditions and Restrictions and Bylaws for Falcon Hollow Article X, recorded as document #2280901 in the Gallatin County Clerk and Recorder's Office.

Therefore, in Falcon Hollow Phase 2, no structures, including residences, outbuildings, accessory buildings, tennis courts, swimming pools, antennas (except as otherwise permitted in the Declaration), flag poles, fences, walls, exterior lighting, landscaping, or any other improvements shall be constructed, erected, relocated, removed or installed on a dwelling or on any lot, nor shall any painting, alteration or change to the exterior of the improvements, the exterior of a residence, to a dwelling or to any lot front yard or to any structure or any attachment to the exterior of a residence (including paint, awnings, patios, decks, or shutters) be commenced unless: complete plans and specifications shall have been first submitted to and approved in writing by the Architectural Review Committee as may be outlined in the Rules and Regulations. Additional written approval may be required by a sub architectural review committee administered by any sub association.

These design regulations shall be modified to govern the design and regulation of multi family lots at such time as future sub phases containing multi family lots are completed. The developer hereby reserves the right to automatically amend these design regulations as necessary to add in design regulations for multi family lots at such time as additional sub phases of Falcon Hollow Phase 2 are added.

In the event of a conflict between these design guidelines and any Federal, State , County or other regulation or law ("regulations"), the regulations shall apply over these design guidelines.

I. ARCHITECTURAL REVIEW COMMITTEE:

SECTION 1. Creation - Membership

There is hereby created an Architectural Committee specifically for Phase 2 of Falcon Hollow and limited in its jurisdiction to lots within Phase 2 which is herein referred to as the "Committee" or the "Architectural Committee" or "ARC", which shall be the developer until 80% of the lots are sold or until developer appoints three persons to serve until such time as the Association appoints new persons, whichever shall occur first. After that point, the Committee shall consist of three (3) persons, appointed by a majority of the Property Owners in Phase 2 Architectural Committee members shall serve staggered three year terms. The Committee shall be made up of at least two members from Phase 2.

SECTION 2. Selection

If no successor is appointed by a majority of the Property Owners on or before the expiration of an individual member's term, the Architectural Member shall be deemed to have been re-appointed for another term.

On the death or resignation of an individual member, a replacement shall be selected by the remaining members of the Architectural Committee to fill out the unexpired term.

SECTION 3. Purpose

The Architectural Committee may make such reasonable rules and by-laws, and adopt such procedures for the development of Phase 2 of Falcon Hollow as it deems necessary to carry out its functions, which rules, by-laws and procedures may not be inconsistent with the provisions of these Covenants. The Committee shall be limited in its jurisdiction to lots within Phase 2.

SECTION 4. Committee Review

No parking lots, construction, reconstruction, alteration, remodeling, landscaping, fence, wall or other improvement shall be placed, constructed, erected, repaired, restored, reconstructed, altered, remodeled, added to or maintained on any lot until building drawings, plans and specifications (which must have been prepared by a licensed architect for all construction, reconstruction, alteration or remodeling), and such other information as the Architectural Committee may reasonably require, including without being limited to, colors, building materials and models, have been submitted to, and approved by, a majority of the Architectural Committee in writing; nor may the same be commenced until the Architectural Committee shall have issued a permit allowing for such improvements.

SECTION 5. Conformity to Codes

The Architectural Committee shall require but not be responsible for ensuring that all construction comply with the provisions of the following standard codes or their amendments:

- “Uniform Building Codes”
- “International Conference of Building Officials”
- “National Plumbing Code”
- “National Electric Code”
- “National Fire Protective Association”

SECTION 6. Committee Guidelines

The Architectural Committee shall be governed by the following guidelines in its consideration of plans and specifications submitted for its approval:

- a. It must recognize that this Phase is designated primarily for single family residential owners and all improvements in the subdivision must harmoniously combine and not be inconsistent with, the development of the project which will serve said purpose.
- b. It must also recognize that Phase 2 is part of a larger development and all improvements in the development must be harmoniously combine, and not be inconsistent with, the development of the project which will serve said purpose.
- c. In considering any plans and specifications, the Architectural Committee shall examine the suitability of the same to the site, including the materials of which it is to be constructed, as well as the relationship of the same to the neighborhood and the adjacent properties.
- d. No plans or specifications shall be approved which would harm the monetary or aesthetic values within the property.
- e. All plans or specifications shall be in full compliance with all of the terms and provisions of these covenants, except for any variances, which have been granted by the Architectural Committee for such plans and specifications.

SECTION 7. Liability

The Architectural Committee, or the individual members thereof, may not be held liable by any person for any damages which may result from Architectural Committee action taken pursuant to these covenants, including, but not by way of limitation, damages which may result from correction, amendment, change or rejection of plans, the issuance, suspension or enforcement of building permits or any delays associated with such action on the part of the Architectural Committee.

II. DESIGN REVIEW PROCESS

SECTION 1. Submission of Plans Before Construction.

No residence, fence, wall, garage, outbuilding or other structure shall be made, erected, altered or permitted to remain upon the properties until written plans and specifications showing the design, nature, kind, color, dimensions, shape, elevations, material, use and location of the same shall have been submitted and approved, in writing, by a majority of the ARC as to compliance with these Guidelines, as well as appropriate County review, permitting and fee payment. All plans submitted to the County Planning must have first obtained the Falcon Hollow Architectural Review Committee's notice of approval in writing. Also included is the appropriate Residential Regulations Checklist.

SECTION 2. General Requirements.

Not less than fourteen (14) days prior to the anticipated date of construction commencement, Applicant shall submit two (2) copies of the required documents for each design review to the Architectural Review Committee.

Submittals must be labeled with "Falcon Hollow Architectural Review Committee" and specific project title and address.

Every effort shall be made to notify the owner within fourteen (14) business days after the start of the ARC review cycle date that the design has been approved, approved with stipulations, or disapproved. Applications which are submitted to the ARC incomplete will be returned and may be subject to a re-submittal fee.

The specific reasons for approval with stipulation and disapproval, will be clarified for the owner in writing and/or with drawings. The ARC shall specifically state the reason for any denial, along with the applicable design regulation(s) and findings of fact supporting its denial. If the ARC does not contact the owner within fourteen (14) days of the review commencement date, the application shall be deemed "disapprove".

An application for withdrawal may be made without prejudice, provided the request for withdrawal is made in writing to the ARC.

All variance requests pertaining to the ARC approvals must be made in writing to the ARC. Any variance granted shall be considered unique and will not set any precedent for future decisions.

If an application has been denied, or the approval is subject to conditions that the owner feels are unacceptable, the owner may request a hearing before the ARC to justify his or her positions. The ARC will consider the arguments and facts presented by the owner and notify the owner of its final decisions within fourteen (14) days of the hearing.

SECTION 3. Construction Completion.

If construction of a structure is not commenced within one (1) year after ARC approval, a new ARC application must be submitted. No construction shall be commenced without a valid ARC approval. Any structure to be erected in accordance with an approval so given must be erected and completed within one (1) year from the date of construction commencement. If any structure is commenced and is not completed in accordance with the plans and specifications within one (1) year, the Directors of the Association, at their option, may take such action as may be necessary, in their judgment, to improve the appearance so as to make the property harmonious with other properties and to comply with these Covenants, including completion of the exterior or the combination thereof, or removing the uncompleted structure or similar operations. The amount of any expenditure made in so doing shall be an obligation of the owner. A lien on the property may be recorded and shall be enforceable by an action at law. In lieu thereof, the Association may take such action as is available by law, including any injunctions, or actions for damages.

SECTION 4. Construction Completion According to Submitted Plans.

Owners are required to complete their construction project in compliance with these covenants and the pre-approved drawings. If the ARC finds the improvements were not completed in strict compliance with the covenants and approved plans, the ARC shall notify the owner of the noncompliance within seven (7) days of the discovery of the noncompliance and shall require remedy of the same. The owner shall have seven (7) days from the noncompliance notification to remedy the noncompliance or shall submit a work plan delineating the time frame when the noncompliance will be remedied. The ARC may allow up to forty-five (45) days for the noncompliance to be remedied if the submitted work plan provides adequate justification for the requested time.

No occupancy of the project shall take place prior to written ARC approval and issuance of an occupancy permit, as well as payment of review fees, and any outstanding costs, unless otherwise allowed. If the noncompliance is not remedied within seven (7) days of notification and the owner does not provide a work plan within said time, or if the noncompliance is not remedied within the time frame provided in the work plan as approved by the ARC, the ARC may, at their option, remedy the noncompliance. The owner shall reimburse the ARC upon demand for all expenses incurred in connection therewith. If the owner does not promptly repay such expenses, the ARC shall levy an assessment and file a lien against such owner and the improvement in question and the land on which the same is situated for reimbursement and the same shall be enforced and/or foreclosed upon in the manner provided for by law.

No occupancy of the project shall take place prior to written ARC approval as well as payment of any outstanding costs, unless otherwise allowed.

SECTION 5. Liability and Variances.

Neither the Association, the Declarant, the Directors, the ARC nor the individual members thereof, may be held liable to any person for damages for any action taken pursuant to these Guidelines, including but not limited to, damages which may result from correction, amendment, changes or rejection of plans and specifications, the issuance of approvals, or any delays associated with such action on the part of the Board of Directors.

Further, the Committee may, upon application, grant a variance from the Architectural Regulations, provided that the spirit of these Guidelines is complied with. The Committee shall have the duty and power to make the final decision on the granting of the variance, without any liability being incurred or damages being assessed due to any decision of the Committee.

Within all sections of these covenants, when a variance is indicated that it may be granted, the variance must be requested and approved by the ARC and/or County as applicable, depending on whether the variance is from the Guidelines or from the current County Zoning Ordinance or both.

SECTION 6. Design Review Procedure.

STEP 1: Construction Design Review.

In addition to verifying the County and ARC required setbacks, this review checks the designs for correct interpretation of the Architectural Regulations, checks the construction documents for compliance with the ARC and verifies that the previous ARC recommendations have been incorporated, if applicable. Conformity to applicable local regulations, building codes and zoning regulations, as well as obtaining appropriate permits is the responsibility of the architect and/or builder.

Form Required: Construction Design Review Application

Review Fee: The fees set forth herein are subject to reasonable adjustment at the discretion of the Architectural Review Committee from time to time. Four hundred fifty and no/100 dollars (\$450.00) for each project. Previously approved plans are subject to a design review fee of three hundred and no/100 dollars (\$300.00). Incomplete applications which are returned to Applicant may be subject to a one hundred fifty and no/100 dollars (\$150.00) re-submittal fee. If the buildings change in variety of four (4) or more, then another review fee of four hundred fifty and no/100 dollars (\$450.00) will be required.

Scaled drawings shall be required, including a Site and Landscaping Plan, Floor Plans, Four Elevations, and a Building Section. Additionally, the ARC require a material and color board to adequately represent the proposed materials and colors for the home.

Minimum Drawings Required:

Site Plan (1" = 50' scale or larger) showing:

- North arrow.
- Property lines and setback lines with dimensions.
- Building footprints with entry area delineated and overhangs shown as dashed lines.
- Garden walls, fence lines, location, height and material quality of retaining walls.
- Park and drive areas. Must meet County zoning regulations.
- Garbage enclosures, size, details and materials.
- Bike rack size, details and materials.
- Detention/retention pond sizes, details and where to drain.
- Water, electric and sewer service.
- Location of streets.
- Grade on all homes shall meet minimum County requirements:
- Location, dimensions and materials for walks and drives.
- Exterior light locations and type.

Floor Plans (1/8" = 1'0" scale or larger) showing:

- Foundation plan dimensioned.
- T.O. Wall in reference to elevation level.
- Room use labeled and rooms dimensioned.
- Wall, window and door openings dimensioned.
- Exterior walls dimensioned.
- All overhangs of floors and roofs as dashed lines.
- Gross square footage, (and square footage per floor).

Elevations & Sections showing: (1/8" = 1'0" scale or larger)

All Elevations as required per applicable Building Codes and zoning and these Covenants.

- Street elevations with minimum 1/4" = 1'0".
- Colors shall be submitted on a separate form indicating both colors and materials.
- Height of chimney as compared to ridge line of roof.
- Electrical and natural gas service areas, depict size and location. These services shall be screened from street.
- Exterior materials and finishes (walls, roofing, trim, chimney, windows and doors).

Landscape Plan or Description:

Front sprinklered.

General landscape plans, including islands, fencing or retaining walls, and location of trees and shrubbery.

Two boulevard trees.

Material Samples:

Required by ARC.

Siding and trim sample with actual color applied.

STEP 2. Construction Commencement.

Construction may not commence without necessary permits obtained and fees collected. A copy of Form A - Construction Design Review Application bearing the ARC approval letter must accompany any building permit applications.

The ARC reserves the right to inspect in the field for compliance during any stage of construction. The ARC is empowered to enforce its policy as set forth in the Falcon Hollow Master Subdivision Declaration by any action, in law or equity, to ensure compliance.

A. Improvements

1. Driveways and Parking:

Site access, when entered from the street, shall be perpendicular to the street when lot features allow. Parking areas and garage doors shall not be the primary visual element of any residence. Landscaping materials shall be used to diminish the impact of the entry to the parking area and garage(s). All parking shall be within the lot boundary, off public and private rights-of-way, and only within the designated parking area within a lot, which will be either in the garage or on the driveway. No driveway or access shall be allowed to encroach into the side yard setbacks other than those on shared driveway easements filed of record.

No parking will be permitted on the grass or any yard areas at any time.

The construction and maintenance of all driveways and culverts shall be the responsibility of the owner. Driveways and parking areas shall be crowned and sloped for adequate drainage and safety.

Driveways, approach and parking surfaces shall be constructed of concrete. Any other material shall be approved by the Falcon Hollow Architectural Review Committee. Materials shall restrict weed growth and maintain a clearly defined edge between the landscaped area and the driveway surface. Materials shall withstand deterioration from

winter snow plowing and erosion.

Driveways shall be limited in width for single and double car garage(s) to 24 feet and three car garage(s) to 36 feet maximum at the intersecting street. Drives should not be connected between units. A landscaped area between drives per unit is required. Drives can be expanded to 26 feet at turn-around areas and parking structures. Maximum driveway grades shall not exceed 1:20 for the first 20 feet from the roadway, and shall not exceed 1:10 slope beyond.

No side yard parking pad sites will be permitted or widening of driveways beyond the width of the garage on any lot.

B. Utilities and Site Details

1. Utilities:

All utilities (natural gas, electric, telephone and television cable) shall be installed underground. No antenna or satellite dish shall be installed on any structure or lot so that it is visible from any street. No antenna, satellite dish or structure may extend above the highest ridge line or no more than 24" above the point of attachment. (18" diameter satellite dishes shall not be required to be screened from adjacent lots). Larger satellite dishes and ground mounted structures are not permitted.

Meters shall be placed in a location so as to be acceptable to the meter reader and yet not visible from adjoining roadways. All conduit wires servicing the meter are to be beneath the exterior wall sheathing or enclosed. Meters, transformers and other utility boxes shall be concealed with landscaping.

2. Radon:

Radon gas is a hazard found in all soil types throughout the country, and should be anticipated in Falcon Hollow. The ARC shall be amenable to passive radon mitigation systems installed.

3. Wood Storage:

Firewood shall be stored either outdoors and stacked in an enclosed area, such as a structure designed for the storage of wood, or in the garage, so as to be invisible to neighboring owners and the street frontage. Such structures shall be architecturally compatible with the material and color of the primary structure, and shall be integrated into the design of the building. No firewood shall be stored along the side or front of a house.

III. BUILDING FORM REGULATIONS

The intent of the following building design regulations are to develop architectural diversity within Falcon Hollow, Phase 2, that will allow for the vitality of individual expression.

A. Building Height

Building heights within all single family residential areas of the Falcon Hollow Subdivision shall be limited to a maximum of thirty-two feet (32'). Building height shall be measured from the highest ridge to the adjacent grade. The maximum building height shall never exceed that which is stipulated and governed by the zoning regulations. With the approval of the ARC, chimneys, cupolas and other rooftop architectural features may exceed the given maximum height limitations by not more than four feet (4'). Each residence shall have a minimum of three roof ridges. Hip dormers shall have the same pitch as the main roof.

On complex buildings with multiple heights, the building height shall be determined by calculating the highest ridge line of the building, and measure to the average of the highest and lowest finished grade. The final elevation of the finished surface materials, whether soil, paving, or decking shall be indicated as the finished grade and shall be shown on the Architect's drawings.

B. Roof Form

The architecture within Falcon Hollow shall complement the natural qualities of the Bozeman area. The following design regulations have been developed to allow for distinct building forms while addressing the character of the entire community. Front and rear walls not to exceed thirty-two feet (32') in length without a change of orientation such as the introduction of dormers, projected bays, or recesses greater than two (2) feet. When refining roof forms consideration shall also be given to the prevention of excessive snow build-up and snow shedding.

1. Shape and Pitch

When examining roof shapes and pitches for buildings within Falcon Hollow, designers should consider the character of the building being designed and its relationship with its surroundings to achieve unity with the landscaped design for the home. All roof types will be considered as a part of the whole of the project and the architects expression of design. There will be a minimum of six (6) in twelve (12) roof pitch on all main roofs three (3) in twelve (12) pitch and four (4) in twelve (12) pitch are acceptable on dormers and porch roofs depending on the overall form and mass balance.

Roof protrusions other than chimneys shall not be located on any roof facing the front or street side of the building. Wall direct-vent flue pipes are not allowed on any part of the street facade.

2. Entry Definition, Overhangs & Fascia

Snow in the Bozeman area often builds upon roof surfaces and slides off at irregular intervals. Such slides can damage property, decks, balconies and even injure people. No roof shall be allowed without adequate protection from snow slides shall slope towards driveways, sidewalks, porches, decks, balconies or any other areas that may be damaged or cause injury through the shedding of snow or ice from the roof.

Entrances shall be specifically expressed and protected with adequate overhangs. All roofs shall overhangs of at least sixteen (16) inches. All fascia materials shall be a minimum of six (6) inches.

Steps leading to front entry porches or doorways will be constructed of concrete or stone masonry. No wood frame steps will be permitted.

3. Dormers and Secondary Roofs:

Dormers and secondary roofs are often necessary to add interest and scale to major roof areas and to make habitable use of the attic space within the roof. Dormers and secondary roofs shall be gable, shed, hip, and modified hip roofs and may be stacked in multiple forms. Flatter roofs may be considered with 24" eaves. Hip dormers shall have same pitch as main roof.

4. Skylights and Solar Collectors:

When designing the location of skylights, consideration shall be given to both the interior and exterior appearance of the residence. Locations shall also be coordinated with window and door locations. Skylights shall be located away from valleys, ridges and all other areas where driving snow may hinder the performance and safety of the unit. Skylights shall be of high quality, insulated, double pane construction. Roof skylights shall be flat in profile; bubble and dome style skylights shall not be permitted.

Solar collectors shall be integrated into the overall roof design, and shall be placed flush with the slope of the roof or wall of the building. All solar collectors shall be screened or concealed from view of the other dwellings and common areas.

5. Chimney Composition, Proportion and Materials:

Chimneys, flues and vents can be used to create visual contrast to the dominant roof forms of the buildings within Falcon Hollow. All flues shall be enclosed with a chimney cap and fitted with a spark arrestor. No exposed metal or clay flues shall be allowed. All chimney forms shall related to the overall building and shall be covered with stone, stucco or siding materials to match exterior finishes of the building.

Building vents and flues for such functions as ventilation and exhaust shall be consolidated into enclosures wherever possible and shall typically be concealed from public view. Place roof penetrations on the rear side of the house whenever possible. All exposed metal shall be painted in a color compatible with the color scheme of the house. Attic openings, soffit vents, foundation louvers, or other direct openings in outside walls, overhangs or roofs shall be covered with non-combustible, corrosion-resistant metal mesh.

6. Exterior Wall Form:

Exterior wall surfaces shall be no longer than thirty feet (30') in length without a roof and wall break. The ARC shall consider submissions on a lot by lot basis with an overall goal of maintaining continuity of structure appearance.

Foundation walls shall be exposed a maximum of eight inches (8") above the ground for fairly flat lots and a maximum of twelve inches (12") for sloped lots of significant change. On sloping grades, siding shall remain at least one foot (1') above grade, and the upper edge of the water table shall remain level, stepping down the slope in increments of four feet (4') or less, see above. Concrete foundations exposed more than the requirements above must have an architectural finish complimenting the natural architecture of the overall structure (texture, pattern and/or color). The top of the foundation wall shall not be higher than 18" above the top side of curb on the lot.

IV. MATERIAL AND DETAIL REGULATIONS

When choosing materials for buildings in Falcon Hollow, Phase 2, architects should select materials of an appropriate quality and durability in an often harsh northern environment. Synthetic and composite materials which conserve valuable wood resources should be considered whenever a building owner is contemplating opaque finishes or high maintenance areas. The use of materials and colors for all structures in the development districts shall blend into the surrounding site.

The following are the only allowable materials in Falcon Hollow, Phase 2:

A. Roof Materials

Durable roof materials capable of withstanding the freeze thaw cycle of the environment are required. Cold roof systems with adequate ventilation and insulation are recommended. All roof materials shall carry a Class A or B rating.

The following are the only acceptable roof materials:

- Treated wood shakes or shingles
- Natural and synthetic slate shingles
- Architectural series-style shingles

- Pre-finished metal roofing - accent roof only
- Asphalt random tab shingles
- Rubber roofs in flat roof applications
- Other similar materials, as allowed by the ARC
- All roof flashing vents, hoods, and roof accessories shall be copper or a prefinished metal that blends with the color of the roofing material selected.

B. Exterior Wall Materials

The character of the building exterior shall be kept simple in order to harmonize and compliment the surrounding environment of the site. Natural materials and subdued colors shall be used on the main body of the building. Exterior trim can be more colorful and may contrast with the main body in order to add visual interest to the predominant neutral tones.

Samples of all exterior building materials, including window trim and associated colors of such materials are required in the Final Plan Review.

The ARC shall consider materials not listed below that maintain the aesthetic and expressive nature of Falcon Hollow, including pre-finished composite wood products and synthetic siding materials.

1. Stonework:

Rock shall be natural or synthetic stone materials. Dry stack settings with minimal exposed mortar are preferred. Stonework shall not be applied to individual wall surfaces in order to avoid a veneer-like appearance and shall continue around corners to an inside corner. Detailed drawings of all exterior stonework shall be required as a part of the final plan submittal.

2. Concrete/Stucco:

Exposed concrete foundation walls between ground level and exterior wall siding shall be maximum of eight inches (8") above the ground for fairly flat lots and a maximum of twelve inches (12") for sloped lots of significant change. Foundation exposure over requirements as noted above shall be finished with synthetic textured stucco (stained a subdued color in harmony with the building), stone, or treated wood.

3. Wood Product or Synthetic Siding:

Smooth or rough sawn wood or synthetic siding and approved composite wood products shall be the only acceptable exterior wood sheathing materials. All wood siding shall be painted or stained in accordance with approved building color scheme. Other wood product siding will be considered by the Falcon Hollow Property Owners Association, Inc. on a case by case basis.

4. Shingles:

Natural and synthetic shingles shall be used only as accent or detail materials within the composition of exterior finishes. Shingles shall not be the dominant exterior material on any building. No metal shall be allowed except as accents.

5. Natural Log:

Full structural log and timber homes are not allowed. Porch posts, knee brace accents are permitted depending on overall architecture of building.

6. Color Schemes:

The color palette of the body of the house shall be from earth tones or as approved by the ARC based on color scheme merit or historical precedent. All trim, frames, doors, and windows shall be in a compatible accent color. Color schemes must be varied from the two adjacent properties, in each direction.

Exterior color schemes throughout Falcon Hollow shall emphasize the natural tones of the surrounding natural environment and those of a traditional neighborhood development. Large exterior wall surfaces shall be painted or stained with natural tones. Trim and other accenting details of the building may be of a brighter intensity and contrasting color scheme. Color schemes shall emphasize the contrast between basic wall surfaces and accented details. All exterior color schemes shall be reviewed by the ARC as a part of the Plan Review process.

Natural materials and subdued colors shall be used on the main body of the building. Exterior trim can be more colorful and may contrast with the main body in order to add visual interest to the predominant neutral tones.

7. Siding:

Siding shall be run horizontally or vertically, but not at other angles to horizontal.

8. Masonry:

Masonry shall be natural or approved synthetic materials. Dry stack, uncoursed settings with minimal exposed mortar are preferred. Masonry shall not be applied to individual wall surfaces in order to avoid a veneer-like appearance. It shall continue around corners to an inside corner. Use consistent materials for overall building.

C. Exterior Windows and Doors

1. Scale, Composition and Proportion:

Windows and doors shall be of a consistent size, shape and orientation through a given building. Window and door patterns and reveals shall be carefully studied to create interest and variety.

Large scale windows and doors shall be recessed or trimmed a minimum of six inches (6") in exterior wall surfaces and all other windows trimmed a minimum of 3 ½". Uninterrupted bands of windows and doors shall not be allowed in any building. Window and door locations shall be carefully considered to avoid being obscured by accumulating snow.

2. Solar Orientation and Exposure:

The design and location of exterior windows shall respond to the solar orientation of the building. The following energy considerations shall be addressed in the building design:

- Double or triple glazing
- Neutral density gray solar tinting
- Openings caulked around windows and doors
- Weather-stripping
- Storm windows
- Entry vestibules

3. Materials:

Windows and doors shall be constructed of natural, stained or painted wood, or pre-finished aluminum, enamel or vinyl cladding. All glazing shall be framed in walls of stone, stucco or wood. Glass curtain walls shall not be approved in any circumstance. Mirrored glass shall not be used. Glass storm panels, set within the window sash, may be used within divided-light windows, provided that the storm panel is installed on the interior side of the window. Divided light glass must be authentic-appearing.

4. Garage Doors:

Garage doors may be oriented toward the street, but shall be de-emphasized in the elevation of the building. Garage doors may be the same color as the building or may match building trim. Colored elevation of the garage door and building elevation will need to be approved. Single, double-width garage doors will be considered (maximum width of eighteen feet (18')).

D. Decks, Balconies, Terraces and Porches:

1. Design:

Decks, balconies, terraces and porches shall be designed to enhance the overall architecture of the building by creating variety and detail on exterior elevations. Covered decks, projecting balconies and bay windows shall be integrated with, rather than randomly placed throughout, the building. Terraces shall be used to integrate the building and landscape by creating a transition between the built and natural character of the site. No deck, balcony or porch shall be used for the storage of any items. Any furniture placed on a deck, balcony or porch will be designed and certified for outdoor use. No exterior carpeting may be used if it is visible from any neighboring lot or the street. All railings shall be wood or approved wood-like material or approved steel, aluminum railing complimenting the architectural character of the building and finished to be compatible with the color scheme of the house.

2. Materials:

Low level decks shall be skirted to grade, while providing proper ventilation and access. Decks which are not practical to skirt shall be designed to assure that the underside of the deck is integrated with the design of the building. Exposed metal joist hangers shall not be visible. Posts shall be a minimum of eight inches (8") square. Posts shall be a minimum of 8". The dimensions of two-story columns shall be increased to account for the great height. Materials and colors shall be consistent with the building and surrounding landscape. Front porches are intended to be open to allow for interaction with the street. Screened-in porches and glazing are not permitted. Porch supports shall be built of stone, masonry, concrete, or wood. Column base piers shall be no less than sixteen inches by sixteen inches (16" X 16") square and wood columns shall be no less than eight inches (8") square. No exterior carpeting may be used if it is visible from any neighboring lot or the street. Porch railings are encouraged to be closed and constructed of the same material as the adjacent form. Open railing designs will be considered based on design merit.

Steps leading to front entry porches or doorways will be constructed of concrete or stone masonry. No wood frame steps will be permitted.

E. Night Sky Requirements

Incandescent type lighting with a maximum of 60-watt compact fluorescent lighting (CFL) type bulbs is the only approved lighting type in Phase 2. The use of mercury vapor and obtrusive flood lighting is prohibited. Each house will provide a single street light which will be standardized for the entire subdivision (fixture type to be determined by the ARC) and will be located at the inside corner of the driveway and the sidewalk. These street lights will be a free standing decorative light.

In addition, all outdoor lighting shall be free of glare, and shall be fully shielded or shall be indirect lighting. No lighting shall be beyond a property's lot line. No ranch lights or unshielded lights shall be permitted. For purposes of this paragraph, the following definitions apply:

1. Fully Shielded Lights: Outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test expert.
2. Indirect Light: Direct light that has been reflected or has scattered off of other surfaces.
3. Glare: Light emitting from a luminary with an intensity great enough to reduce a viewer's ability to see, and in extreme cases, causing momentary blindness.
4. Outdoor Lighting: The nighttime illumination of an outside area or object by any manmade device located outdoors that produces light by any means.

F. Home Occupations

Accessory use. Home occupations or professions may be conducted upon the lot or within the residence by the owner or occupant of the residence, provided that it first meets with zoning requirements and there are no employees on the premises, and there is no advertising of any product, work for sale, or service provided to the public upon such lot or in the residence. No advertising or directory signs relating to the home occupation shall be allowed. Daycare or child care businesses shall be allowed so long as it is allowed under applicable zoning.

G. Building Height:

Single family and duplex structures shall be a maximum of 2 floors. The maximum height of outbuildings shall be 2 floors. Maximum building height is 32' measured from average finish grade to the ridge line for roofs with pitches of greater than 6:12, for roof pitches of 3:12 or greater but less than 6:12 28' high; and for roof pitch less than 3:12, maximum height is 24'.

H. Dog Kennels:

Dog kennels or runs must be attached to a primary or accessory structure, be screened from public streets and adjacent properties, and receive ARC approval for materials and configuration. Further, they must meet with any applicable zoning.

I. Lot Coverage and Floor Area:

Each Lot shall comply with zoning requirements for Lot Coverage and floor area.

J. Yards:

Each Lot's yard shall comply with all requirements set forth for yards by zoning.

K. Zoning:

All zoning, land use regulations and all other laws, rules and regulations of any government or agency under whose jurisdiction the land lies are considered to be part of these Covenants and enforceable hereunder; and all of the Owners of said lands shall be bound by such laws, rules and regulations.

L. Trailers and campers:

Parked on the side of home and hidden from street view only.

M. Garbage:

No street view.

N. Fencing:

Five foot (5') natural wood fences located on the side or back of lots shall be allowed. Architectural Review Committee shall establish a fencing style that shall be used throughout the development. Fencing must be approved by Architectural Review Committee prior to commencement of project.

In the event there is a conflict between the Covenants and the applicable zoning, the most restrictive provision of either the Covenants or the zoning shall control.