FLANDERS CREEK SUBDIVISION

DECLARATION OF COVENANTS, RESTRICTIONS & BY-LAWS

This Declaration, made this 19 day of JULY, 2006 by DMC Incorporated, authorized to do business in the State of Montana whose principal place of business and address is 2055 N. 22nd Avenue, Bozeman, Montana 59718, hereinafter referred to as the "Declarant".

Declarant is the owner of land in Bozeman, County of Gallatin, State of Montana described in Exhibit "A" attached hereto and made a part hereof. Declarant intends to develop the land with single family residences, multi-family residences, mixed use office uses, parks, private open space and a variety of uses by means of subdivision, and the purpose of this declaration is to create and keep the community area desirable, attractive, beneficial and suitable in architectural design, materials and appearance; and to guard against unnecessary interference with the natural beauty of the community area; for all the mutual benefit and protection of owners within the community area.

Declarant hereby declares that all land described in Exhibit "A" shall be held, sold, conveyed, encumbered, leased, occupied and improved, subject to the Flanders Creek covenants meaning the limitations, covenants and restrictions set forth in this declaration and any subsequent amendments hereto, all of which are intended to enhance the desirability and attractiveness of the land. These limitations, covenants and restrictions shall run with the land and shall be binding upon all persons having or who acquire any right, title or interest in and to the land, and shall inure to the benefit of the Declarant, the Association and each person who becomes an owner of the land.

ARTICLE I

DEFINITIONS

SECTION 1. The following words when used in this declaration or any supplemental declaration (unless the context shall prohibit) shall have the following meanings.

A. "Architect" shall mean a person registered to practice architecture in the State of Montana.

B. "Association" shall mean the Flanders Creek Community Association, and its successors and assigns which shall serve and may be referred to as the Homeowners' Association.

C. "Board" shall mean the board of directors of the Association.

D. "By-Laws" shall mean the by-laws of the Association.

E. "COB" shall mean City of Bozeman.

F. "Parks" shall mean all land and interest therein which has or may be conveyed to the Association or COB, including but not limited to all lands identified as common

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open space, trails, public park, park, private open space, and detention ponds as delineated on the final plat of Flanders Creek Subdivision. The word Parks when used herein in the singular form may be referring to a portion of the total Parks delineated on the final plat of Flanders Creek Subdivision. Any portion of the designated Parks not specifically designated as common open space may be transferred to an appropriate organization subject to the restriction governing the maintenance and improvements of Parks contained herein. Common open space, including the detention / retention ponds, shall remain in the ownership and control of the Association. Parks, ponds, watercourse setbacks and trails shall be maintained and improved consistent with the provisions of these covenants governing maintenance of parks and improvements of parks. All Parks are hereby declared to be dedicated to be public use and available for the use and enjoyment of the public.

G. "Flanders Creek Design Committee", also referred to as FCDC, shall mean the committee of three members who review building proposals for conformance to the provisions of these covenants and approves, conditionally approves or rejects the same.

H. "Declarant" shall mean DMC, Inc. or such other person entity or corporation who DMC, Inc may be, by a recorded document, designated as the Declarant.

I. The term "lot" shall mean and refer to only that land so divided into a lot, tract or parcel that is (a) described in Exhibit "A" or hereafter annexed subject to the Flanders Creek and (b) designated as the Declarant for residential or commercial use. The term lot does not include any portion of the Parks.

J. "Flanders Creek" shall include all land described in Exhibit "A", together with such other land as may by annexed pursuant to the provisions of these Covenants.

K. "Owner" also referred to as lot owner, member and home owner, shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to or leasehold interest in any land which is a part of Flanders Creek, including contract purchasers, but excluding those having such interest merely as security of the performance of an obligation.

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ARTICLE II

LAND SUBJECT TO THIS DECLARATION

SECTION 1. The land described in Exhibit "A" attached hereto shall be held, sold, conveyed, leased, encumbered, occupied and improved subject to this Declaration.

SECTION 2. The Declarant may, pursuant to the following provisions of the section, from time to time and in Declarant's sole discretion, annex to Flanders Creek Subdivision all or any part of the land described in future exhibits (not then constituting a part of Flanders Creek) owned by Declarant at the time of such annexation.

A. The annexation of such land shall be effectuated by Declarant recording a declaration describing the land to be annexed; setting forth-such additional limitations, restrictions, covenants and conditions as are applicable to such land; and declaring the land is to be held, sold, conveyed, encumbered, leased, occupied and improved subject to the Flanders Creek covenants.

B. Upon the annexation becoming effective, the annexed land shall become a part of Flanders Creek.

C. The declaration described in Section 2 (A) above may include, but is not limited to, providing for the following:

   i. A designation of land classifications as provided for by the Declarant;

   ii. A declaration of restrictions applicable exclusively to a specified area.

D. Only the land described in Exhibit "A" and that specifically annexed as provided for in this section shall be deemed subject to the Flanders Creek covenants, whether or not shown on any subdivision map filed by Declarant or described or referred to in any document executed or recorded by Declarant. Nothing herein or in any amendment hereto shall be deemed to be a representation, warranty or commitment that the Declarant will commit or subject to the Flanders Creek covenants any land Declarant may now own or hereafter acquire except that land described in Exhibit "A" or an annexed thereto.

E. HIGH GROUND WATER DISCLOSURE: Due to the potential of high groundwater within the subdivision, it is recommended that full or partial basements NOT be constructed without prior consultation with a Montana Registered Professional Engineer certified in residential and commercial construction.

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ARTICLE III

LAND CLASSIFICATIONS AND RESTRICTIVE COVENANTS

SECTION 1. All lots within Flanders Creek shall be classified into the following City of Bozeman Uniform Development Ordinance ("UDO") designations and carry their associated allowable uses, lot areas, widths and coverages, yards, setbacks and heights:

A. R-3 (Residential One to Five Household District).

B. R-O (Residential Office District)

SECTION 2. All lots within Flanders Creek, except as specifically noted, shall be subject to the following limitations and restrictions. Exceptions to this regulation will be granted on the basis of architectural merit or historical precedent, as determined by the Flanders Creek Design Committee (FCDC):

A. Building Type

   i. Prefabricated, modular, mobile, panelized, factory built and/or kit buildings of any type are prohibited.

B. Foundations

   i. Foundation walls shall be exposed a maximum of 12 in. above the ground unless they are integral with an approved design scheme. Concrete foundations exposed more than 12 in. above grade must have an approved architectural finish (texture, pattern and/or color).

C. Windows and Doors

   i. Unless otherwise approved for design merit, windows shall not exceed 50% of the wall area, and not less than 10%, measured on each elevation. Elevation calculations shall include exterior window trim.

   ii. Windows shall be made of painted or stained wood or clad in metal or vinyl or be a higher-grade vinyl window package.

   iii. Windows must match in material, design and be overall proportional to one another on all elevations.

   iv. Buildings with wood exteriors shall have all openings trimmed in wood bands of minimum 4-in nominal width.

   v. False shutters are not permitted.

   vi. Typical sliding glass doors may only be used in walls facing the rear yard.

D. Attached garages shall be clearly subordinate to the dwelling. A subordinate garage has the following characteristic: The area of the garage vehicle door(s) comprises 30% or less of the total square footage, exclusive of any exposed roof areas, of the principal façade of the dwelling.

E. Garage doors are encouraged to be built of wood, steel, or fiberglass with a wood veneer. Whenever alleys are not available, and lot width allows, it is required that garage doors do not face the street. Exceptions will be considered based on site conditions and design merit.

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i. Multifamily structure garage doors shall be separated for each vehicle unless facing an alley.

F. Roof

i. Pitched roofs shall be clad with cedar shingles, natural slate, artificial slate, asphalt/fiberglass shingles with complimenting colors, approved by the FCDC. Steel will be considered based on overall composition, unique detailing and design merit.

ii. The principal roof shall be a symmetrical hip or gable form with a pitch between 4:12 and 10:12. Steeper and alternative roof designs will be considered based on design merit as determined by the FCDC.

iii. Flat roofs comprising less than 30% of the total roof area are permitted. Flat roofs used as balconies on street facades shall be enclosed with solid railings and integrated with the design, unless otherwise approved based on design merit.

iv. Skylights shall be flat in profile (no bubbles or domes).

v. Skylights and solar panels shall be applied parallel and flat to the roof and are not to be on any roof parallel to the street.

vi. Roof protrusions other than chimneys and plumbing vent stacks shall not be placed on a roof facing a street or public space.

vii. Shed dormers shall have a pitch of at least 4:12.

viii. Overhanging eave depth shall be no less than 18 in., except in the case of eaves overhanging gable ends, which must protrude at least 12 in. Accessory structures shall be a minimum of 12 in. Alternative details and dimensions will be considered based on overall design and composition.

ix. The eave may be encroached by a bay window or windows for no more than half of the running length of each façade, cumulatively.

x. Ridge line and fascia continuous length dimensions shall not exceed 30 ft for single family garages, 50 ft for single family and duplex structures and 100 ft for multi-family and non residential structures without a 2 ft minimum dimensional break.

xi. Closed soffits shall be of material other than vinyl.

xii. Fascia detail must have a minimum total face dimension of 6 in. unless otherwise approved for design merit and composition.

xiii. Gutters shall be built of painted metal or copper of a color and finish that blends with the finish color scheme.

xiv. Chimneys shall be constructed of stone, brick, stucco or integrated with overall design and approved materials.

xv. It is strongly encouraged that chimneys emerge from the highest roof volume.

xvi. All roof-mounted equipment shall be integrated into overall design and screened. Vents projecting from the roof shall be painted to match overall

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roof material color. Roof top equipment shall not face a public street.

xvii. Exterior antenna, satellite receivers (dish) or aerial shall be not be located on a street facing elevation and be screened or landscaped as approved by the FCDC.

xviii. No building height shall exceed those specified by the applicable UDO.

G. Walls

i. All facades of a building shall be made of similar materials and similarly detailed.

ii. Varied building massing is encouraged. No residential exterior wall plane shall exceed 35' in length without incorporating a minimum 24 in. offset or recess in a significant proportion to the overall plane.

iii. Primary materials on a façade may change only at a horizontal band or the inside corner of a separate composed mass/volume. Where fitting, facades shall appear to have heavier materials on the bottom and lighter materials above (i.e., concrete and masonry shall be below wood or stucco).

iv. Building walls shall be clad in smooth cut cedar shingles, wood clapboard, wood board and batten, cement board siding, word fiber siding brick or stone approved by the FCDC. Stucco or EIFS, preferably as a secondary material, with a smooth or roughcast (pebbled) finish, and steel is also permitted upon approval based on overall composition and design merit.

v. Primary siding shall be run horizontally. Maximum lap siding exposure is 6 in. unless approved otherwise for design merit.

vi. The color palette of the body of the house shall be from white, cream, earth tones or as approved by the FCDC based on color scheme merit or historical precedent. All trim, frames, doors, and windows shall be in a compatible accent color. Residential color schemes must be varied from the adjacent properties, in each direction. Attached dwelling units exempted from each other.

vii. Exterior wood shall be painted or stained with solid pigment or semi-transparent stain (wood front doors excluded).

viii. Stone shall be set in an un-coursed pattern with a horizontal orientation.

H. Porches

i. Front porches are required on all residential structures. Minimum depth shall be 6 ft and minimum width shall be at least 30% of the fronting elevation width on single family and duplex structures.

ii. The first floor elevations shall be a minimum of 2 ft and a maximum of 5 ft above the average fronting street elevations measured on the property line. Variances may be granted on a case-by-case basis. The intent is to create a defining edge and a street friendly appearance, with an open porch raised to enhance privacy.

iii. Main entry doors are required to be either composed with the porch design

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and/or recessed a minimum of 5 ft from the primary façade of the house.

iv. Porch supports shall be stone, masonry or concrete piers no less than 12 in. x 12 in. square, or wood piers no less than 8 in. x 8 in. square. Column groupings must have a min. outer dimension of 10 in. Tapered columns may not be smaller than 7 in. x 7 in. at the top. Columns and supports are to be similarly detailed on all sides of a structure and be complimentary to the overall design scheme.

I. Residential Decks

i. Open and uncovered decks may only face rear yards. Decks may continue in side yards but may not extend more than 36 in. from the side yard facing facade. Covered porches may wrap side yard facades when composed and integrated with overall design.

ii. Open space below first floor elevated decks or porches shall be wood lattice with a maximum of 1½ in. space between strips. Said lattice shall be applied between and not concealing deck supports. Upper level decks must be integral to the design and over first floor space.

J. Signs

i. No signs, placards, or notices shall be erected, placed, maintained or permitted to remain on any part of any land in Flanders Creek, except such commercial signs as have been approved by the FCDC for identification of residences, streets, parks or areas, places of business, or other commercial uses. Signs must also be constructed to comply with the Bozeman sign ordinance.

K. Lighting

i. General

a. Exterior Lighting: All exterior lighting must be free of glare and shall be fully shielded or shall be indirect lighting. No lighting shall shine beyond a property's lot line. All structures shall comply with Section 18.42.150 (Lighting) of the UDO and any subsequent adopted ordinance proscribing regulations of glare and lighting.

b. Mercury vapor and high-pressure sodium lights are prohibited.

ii. Residential (Single Family / Multi-family) Lighting

a. All exterior residential building mounted lighting must be incandescent.

b. All attached exterior lighting shall be limited to maximum 100-watt incandescent bulbs and of such focus and intensity so as to not cause disturbance of adjacent lots.

c. Obtrusive flood lighting is prohibited.

d. Clear glass or exposed bulb (non-cutoff) fixtures are prohibited.

iii. Parking Lot Lighting

a. Duplicate the street lights within the subdivision as specified below or COB approved equal. Fixture locations and wattages as approved by the

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FCDC and COB.

iv. Street Lighting

a. The Flanders Creek Subdivision will light street and significant pedestrian intersections with 'shoe box style', high pressure sodium vapor units (HPSV). A Special Improvement Lighting District (SILD) will be formed for each phase with fee assessments to lot owners in the district. Pole heights will vary when conditions warrant, with a maximum pole height of 35 ft at collectors and main intersections and 25 ft on local streets. Streetlight fixtures will be spaced approximately 300 ft o.c. between intersections on longer local street blocks.

v. Lighting Definitions

a. Fully Shielded lights: Outdoor residential light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane.

b. Indirect Light: Direct light that has been reflected or has scattered off to other surfaces.

c. Glare: Light emitting from a luminare with intensity great enough to reduce a viewer's ability to see.

L. Site Design

i. Buildings shall be located on lots relative to the set backs specified in the applicable UDO, any easements indicated on the final plat and that has been filed and attached street fronting and setback chart (Exhibit B).

ii. All residential zoned corner lots shall front the street in the direction of interior lots on the same side of the block. Corner lot structures are required to be designed to address both street frontages (wrapping porches, façade enhancements, etc.).

iii. All lot owners are required to install city standard concrete sidewalks, along all lot street frontages, at the time of construction and prior to occupancy within three (3) years after Final Plat approval.

iv. Driveway aprons in boulevard are to be concrete and built to city standards.

v. Driveway and apron center lines must intersect perpendicular to the sidewalk and street right of way.

vi. For projects with four (4) or more housing units, concrete curbing is required for all driveway and parking areas as per UDO requirements.

vii. Driveway and parking areas shall be planned to provide for appropriately sized snow storage areas that do not interfere with, or stack snow on, landscape plantings.

viii. The front façade of a single-family house or duplex must be built on the front yard setback line ("built-to" line). The width of the house on the build-to line must occupy a minimum of 25% of the width of the lot measured along the build-to line. Consideration will be given for 5 ft maximum setback from the

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build-to line, based on design merit. Houses located on lots with curved property lines at the street may substitute for that line, a straight line, located at the average depth of the curved line segment fronting the building.

ix. A 12-foot minimum distance shall separate outbuildings from the main structure. Detached volumes, designed as part of an overall composition of the main structure will be considered based on design merit.

x. The face of an alley-accessed garage must be built a minimum of 10 ft, and a maximum of 20 ft, from the alley property line. Variances for stated alley build-to lines may be granted by the FCDC based on design merit. It is the intent of these regulations to create a defined built edge along the alley. The setback may be as much as 26 ft to allow for backing distance and parking stalls behind a garage.

xi. Street accessed garages must be located a minimum of 20 ft back from the front yard set back, at the primary street façade, and a minimum 10 ft back from the front door plane.

xii. The maximum distance allowed for parking from an alley accessed property line is 44 ft.

xiii. Attached garages shall be clearly subordinate to the dwelling.

xiv. Trash containers shall be located within a garage or adjacent to or within the parking area and shall be screened from public view with durable materials that compliments the overall design scheme of the property.

M. Landscaping/Yards:

i. All required and approved landscaping must be completed within 2 months of occupancy when planting season allows, and no later than 6 months after occupancy if winter prohibits completion. Boulevard trees must be installed prior to occupancy. Underground irrigation is required for all landscaped areas. Wells for irrigation are strongly encouraged for multi-unit properties.

ii. Definitions

a. Front Yard: The areas from the set back (build-to) line to the property line, and from side lot line to side lot line.

b. Side Yard Corridor: The area from the side of the house to the side lot line, less front yard and rear yard.

c. Rear Yard: The area from the back of the structure extending to the rear property line.

d. Determination of Yard: The front yard of each individual corner lot shall be the yard coinciding with the front yards of the established by the interior subdivision lots on that particular block. The side yard of each individual lot shall be the yard not established as either the front or rear yard. Each owner shall, prior to submitting plans to the COB Planning Department for their building permit application, submit to the FCDC all necessary information for review and approval of yard orientation along with architectural plans, See Exhibit B.

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iii. Yards

a. Each lot owner will be required to meet minimum landscape specifications consistent with the overall plan. These will include, but are not limited to: installation of street trees, yard trees, shrubs, mixed planting beds and turf lawns. Lots with 4 units or more are subject to UDO requirements for landscaping and screening in parking areas and around structures.

b. Front yards are required to have turf (sod) installed where lawns are planned. Seeding acceptable in rear and side yards only.

c. The Owner is encouraged to plant native species (shrubs and trees), wildlife-friendly shrubs, preferably planted in an informal or mixed hedge at the yard perimeters.

d. Planting at least three minimum 2 in. caliper deciduous trees (one front or side yard, two rear yard) and at least three appropriately sized planting beds (two front, one rear) at the building perimeter containing mixed shrubs is required for every 4 units planned on the lot.

e. Unless prevented by a utility easement or garage access, the Owner of a lot with an alley shall plant a minimum of one minimum 2 in dia. caliper deciduous (non-ornamental) tree (may be part of the rear yard requirement) for each lot near the alley.

f. Individual lot owners shall be responsible for landscaping of the all street frontage (front, side and rear as applicable) boulevard areas before the time of occupancy and maintenance thereafter. Minimum 2 in. diameter caliper trees shall be planted to follow COB regulations for species and spacing and turf (sod) must be installed. Property developer responsible for obtaining required city street tree planting permit from the forestry department.

g. Planting beds shall have a top layer of mulch or earth tone stone (non-white).

h. Hedges and evergreen trees are encouraged in side property line corridors.

i. Deciduous trees must be planted a minimum of 10 ft from the eaves.

j. Property owners determine their own gardens, perennials, native grasses and/or ground covers in the rear yard.

k. It is the responsibility of the property owner to check the appropriateness of chosen plant species with specific site conditions.

l. It is the responsibility of the Owner to contact the appropriate utility companies before digging and verify the landscape placement is not in conflict with underground utilities or easements.

m. Commencing with the transfer of any land in Flanders Creek from Declarant, the Owner shall cause all the land to be maintained in a neat appearance at all times. Grass shall be cut and trees, bushes and hedges shall be trimmed at such intervals as are necessary to maintain the

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attractiveness of Flanders Creek.

iv. Fences

a. Screens and linear fence designs and locations must be approved by the FCDC.

b. Maximum screen and fence height is 5 ft – 0 in. unless approved otherwise by the FCDC. Maximum height for fences in corner side yards shall be 4 ft - 0 in. No fences are allowed in required vehicle vision triangles. No fences are allowed in front yards unless approved by the FCDC.

c. Screens, fences and gates must be made of wood (excluding split rail). Fence designs should have a cap board or if a picket fence, have a flattop or dog-ear cut. Alternative materials will be considered on design merit and composition with overall design scheme.

d. No chain link allowed. Vinyl fencing will be reviewed on a case by case basis. Approvals, if granted, will be based on overall design merit.

e. All wood fences must have a sealer, stain or paint applied in order to protect the wood from moisture and UV rays.

v. Weed Control

a. The owner of each lot shall control the weeds and all noxious plants on their lot (developed or undeveloped); provided, however, that the owner shall not use spray or killing materials in such a way as to be harmful to humans or animals or to the other adjacent land vegetation.

b. In the event an owner of a developed or undeveloped lot does not control the weeds and noxious plants, the Association, after ten days written notice to an owner to control the same, may cause the weeds or noxious plants to be controlled, and may assess the lot owner for the costs thereof.

vi. Garbage

a. There shall be no incineration or burning of garbage, trash or other waste or debris on, or coming from, any developed lot. No junk, garbage, trash, equipment, disabled or out of use vehicles, parts, metals, lumber, debris or other waste shall be allowed to accumulate on any lot or originate from any lot during construction. All garbage and trash requirements of the COB shall be observed. Garbage containers shall be kept in the garage or other enclosures except on garbage pick-up day and during construction. Each lot owner shall maintain the alley right-of-way adjacent to the owner's property. Such maintenance shall include, but not be limited to, picking up and appropriately disposing of debris and garbage, mowing and trimming of the alley right-of-way.

b. In the event an owner shall not control waste on or coming from their property (developed or undeveloped), the Association, after ten days written notice to an owner to control the same, may cause the waste to be controlled or collected, and may assess the lot owner for the costs thereof.

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SECTION 3. General Notes for all Flanders Creek Lots

A. Single family residential houses built upon shall meet the minimum standard of the adopted International Building Codes.

B. The maximum size of an attached garage shall be 650 gross sq ft.

C. The maximum size of a detached garage or outbuilding shall be 750 gross sq ft on the first floor and 550 gross sq ft on the second floor.

D. Each building or other structure shall be constructed, erected and maintained in strict accordance with the approved plans and specifications.

E. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any land in the subdivision, except that a reasonable number of cats, dogs or other common household pets may be kept; provided, however that they are not kept, bred or maintained for any commercial purpose. Exterior Dog kennels are strongly discouraged and must be in an inconspicuous location and screened from neighbor's property if utilized.

F. All pets shall be on a leash at all times when off the owner's property. All pets must be restrained and controlled when near ponds, waterways, in open space, parks or on the trail system. Absolutely NO dogs are allowed in ponds.

G. No boat, trailer or recreational vehicle shall be parked on any street, road or any part of the right of way of any street or road in Flanders Creek at any time. All recreation vehicles shall be stored within enclosed or covered parking.

H. No snowmobiles, recreational ATV's, or trail bikes, except for street-legal uses shall be operated within Flanders Creek Subdivision. ATV's used on an owner's property, for the purpose of snow removal, are acceptable.

I. The Owners, Declarant and Association are hereby prohibited and precluded from engaging in any activity that would affect or impact any downstream water user facilities and irrigation ditches for downstream water rights.

J. All properties and existing waterways are subject to UDO applicable ordinances pertaining to watercourse setbacks.

SECTION 4.

A. Each Owner grants to Declarant and reserves to Declarant, a lien upon the lot of the Owner to secure the faithful performance by the Owner of the requirements and restrictions contained in these Covenants. If any Owner shall fail to comply with Article III or any other requirement for building location, setback, design, landscaping or construction within 10 days after Declarant shall have deposited in the United States postal system a notice to the Owner of the failure to comply. Declarant shall have the right to cause the necessary work to be done and to have a lien upon the land of the noncomplying Owner for the reasonable cost of such work plus an additional amount equal to 15% of the cost of such work. If within 30 days the noncomplying Owner does not pay to Declarant the sum secured by the lien, then Declarant may foreclose the lien in compliance with the mortgage foreclosure laws of the State of Montana for the aggregate of (I) the reasonable cost of such work (II) a sum equal to 15% of such work, and (III) all cost incurred by Declarant

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in foreclosing the lien, including a reasonable attorney's fee. Declarant is in no way precluded from seeking any remedy available to Declarant pursuant to the laws of Montana, including but not limited to immediate, temporary and permanent injunctive relief. Enforcement of these covenants by Declarant, FCDC, Board, Owner or any party having standing, shall include for the party seeking enforcement and prevailing in such enforcement, an award of costs, fees and reasonable attorney's fees.

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ARTICLE IV

DESIGN REVIEW PROCESS

SECTION 1 Submission of Plans before Construction

A. 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 FCDC as to compliance with these Covenants, as well as appropriate COB review & permitting.

B. Determination of Yard: Each owner shall, prior to submitting plans to the COB Planning Department for their building permit application, submit to the FCDC all necessary information for review and approval of yard orientation along with architectural plans.

SECTION 2 General Requirements

A. Submit two copies of the required documents for each design review to:

   i. Flanders Creek Design Committee (FCDC), Bozeman, Montana 59715 (Or to an address as directed by the developer or Home Owners Association)

B. The design review cycle begins on Monday of each week. Submittals must be received by noon on Friday of the previous week. All documents must be dated and labeled with "Flanders Creek Design Committee" and specific project title, street and legal address.

C. Upon FCDC review, the owner will be notified within ten (10) business days after the start of the review cycle date that the design has been approved, approved with stipulations or disapproved. Submittals deemed incomplete will be returned.

D. The reasons for approval with stipulation and disapproval will be clarified for the owner in writing and/or with drawings. If the FCDC does not contact the owner within ten (10) business days of the review commencement date, the application shall not be deemed "approved".

E. Request for withdrawal of an application may be made without prejudice, provided the request for withdrawal is made in writing to the FCDC. 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 FCDC to justify his/her position. The FCDC will consider the arguments and facts presented by the owner and notify the owner of its final decision within ten (10) days of the hearing.

F. The FCDC shall sign and stamp all proposed plans prior to those plans being submitted for a building permit.

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SECTION 3 Twelve Months to be Completed

A. Any structure to be erected in accordance with an approval so given must be erected and completed within one year from the date of approval. If any structure is commenced and is not completed in accordance with the plans and specifications within one 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 an injunction, or for damages. If construction of a structure is not commenced within one year after approval, the approval shall be deemed denied and a new approval must be obtained prior to the commencement of construction.

SECTION 4 Liability and Variances

A. In passing upon all such plans and specifications, the FCDC shall take into consideration the suitability of the proposed building or other structure and the materials of which it is to be built to the lot upon which it is to be erected, its harmony with the surroundings and the effect of the building on other structures, as planned, as viewed from adjacent or neighboring lots. The committee shall use reasonable judgment in passing upon all such plans and specifications, but shall not be liable to any person for its actions in connection with submitted plans and specifications, unless it is shown that the committee acted with malice or wrongful intent.

B. Neither the Association, the Declarant, the Board of Directors, the FCDC nor the individual members thereof, may be held liable to any person for any damages for any action taken pursuant to these Covenants, 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.

C. Further, the Committee may, upon application, grant a variance from the Architectural Regulations, provided that the spirit of these Covenants is complied with, and provided that notice of the nature of the variance is mailed (certified) to adjacent lot owners within a 100 ft radius of the subject property, at least seven days before the variance is approved in order to give the other owners a chance to comment and have input to the FCDC. All variance requests pertaining to the FCDC approvals must be made in writing to the FCDC. Any variance granted shall be considered unique and will not set any precedent for future decisions. The Committee, in reviewing and considering an application for a variance, shall consider the nature of the hardship claimed, the impact on the adjacent lot owners, the impact on Flanders Creek and proposed mitigations for the impacts. 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.

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SECTION 5 Procedure

STEP 1 DESIGN & CONSTRUCTION REVIEW

In addition to verifying the required setbacks, this review checks the designs for correct interpretation of the Architectural Regulations and allows the owner to get feedback prior to the expense of developing designs and producing construction documents.

Form Required: Form A – Design & Construction Review Application.

Review Fee: $100 Single family and duplex unit projects; $200 Multi-unit and commercial projects. All returned incomplete applications are subject to a $50 resubmittal fee. Fees based on each individual property, regardless of proposed project or prior design approvals.

Minimum Drawings Required - 2 complete sets (one returned, one filed following review):

Site Plan (1/8" = 1'-0" scale or larger) showing:

North arrow.
Property lines, setback lines, sidewalks, drives, streets, alleys and any easements with dimensions

First floor elevation related to a top of existing street curb

Outline of any existing structures within 20' of property lines.
Building footprints with entry area delineated and overhangs shown as dashed lines.
Garden walls/fence lines: location, height, details and materials.
Water, electric, phone and sewer services located from property line to structure.
Street lights, utility boxes,
Location of adjacent streets/alleys with curb, right-of-way and pavement delineated.
Driveway/Parking Area drainage.
Location, dimensions and materials for walks and drives.
Location of snow storage areas.
Exterior light locations, fixture type and bulb size.
Location of external equipment (electric meter, location of waste bins, etc.)

Existing landscaping
Landscape concept plan including boulevard tree(s) located

Floors Plans (1/4" = 1'-0" scale or larger) showing:

North arrow
Foundation plan dimensioned
Wall, window and door openings dimensioned
All overhangs of floors as dashed lines
Overall exterior dimensions
Gross square footage, excluding garage

Roof Plan (1/8" = 1'-0" scale or larger) showing:

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Roof planes and overhangs with dashed wall lines
Slope directions
Penetrations

Elevations (1/4" = 1'-0" scale or larger) showing:

All elevations (colors rendered for fronting street elevation).
Roof penetrations delineated
Finish grade lines delineated
Landscape Plan (1/8" = 1'-0" or larger) showing:

Existing landscaping.
A landscape plan delineating planting bed materials, edging, irrigation system called out, plant listing, installation and mature sizes and their respective locations with dimensions. Location of snow storage areas. Adjacent landscaping within 20 ft of all property lines.

STEP 2 CONSTRUCTION COMMENCEMENT

Construction may not commence without the approval of the COB Building Division, necessary permits obtained and fees collected. A copy of Form A – Design & Construction Design Review Application bearing the FCDC approval letter must accompany COB site plan review and/or building permit applications.

The FCDC reserves the right to inspect in the field for compliance during any stage of construction. The FCDC is empowered to enforce its policy as set forth in the Architectural Regulations and Neighborhood Association's Declaration of Covenants, Conditions & Restrictions by any action, in law or equity, to ensure compliance.

STEP 3 MINOR CHANGES

It is anticipated that owners may wish to make improvements or modifications to their buildings or property during initial construction or at a future date. A change may be executed upon receipt of Form B - Application for Change(s) bearing the FCDC stamp of approval.

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FORM A

DESIGN & CONSTRUCTION DESIGN REVIEW APPLICATION

BLOCK & LOT NUMBER:_____

OWNER: _____

Address:_____

Telephone:_____ FAX:_____

Email address:_____

BUILDER: _____

Firm:_____

Address:_____

Telephone:_____ FAX:_____

Email address:_____

ARCHITECT or DESIGNER:_____

Firm:_____

Address:_____

Telephone:_____ FAX:_____

Email address:_____

LANDSCAPE ARCHITECT:_____

Firm:_____

Address:_____

Telephone:_____ FAX:_____

Email address:_____

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INFORMATION

Are any variances from the Flanders Creek Covenants being requested under this application? ☐ Yes ☐ No

If yes, please describe the variance and the reason for it (attach additional pages as necessary):

_____

_____

_____

_____

_____

_____

Drawings submitted (please check): ☐ Review Fee (Check made out to DMC, Inc)

☐ Site / Landscape Concept Plan ☐ Floor Plans ☐ Roof Plan ☐ Elevations ☐ 2 sets of all drawings Note: Incomplete submittals will not be reviewed and will be returned and subject to resubmittal fee.

Submitted by:_____ Date:_____

Property Owner Signature: _____

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FORM B

APPLICATION FOR CHANGE(S)

BLOCK & LOT NUMBER:_____

OWNER: _____

Address:_____

Telephone:_____ FAX:_____

Email address:_____

BUILDER: _____

Firm:_____

Address:_____

Telephone:_____ FAX:_____

Email address:_____

ARCHITECT or DESIGNER:_____

Firm:_____

Address:_____

Telephone:_____ FAX:_____

Email address:_____

Change Description: (attach sketch of proposed change)

_____

_____

_____

_____

Reason for Change: (attach sketch of proposed change)

_____

_____

_____

_____

Submitted by:_____ Date:_____

Property Owner Signature: _____

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ARTICLE V

FLANDERS CREEK DESIGN COMMITTEE

SECTION 1 Function of the Flanders Creek Design Committee (FCDC)

To encourage the architectural harmony of FCDC the developer and all Owners are bound by regulations defined in the Flanders Creek Covenants, Conditions and Restrictions and the design review process. To that end, no structure shall be erected or altered until Municipal, FCDC and any other required approvals have been obtained.

SECTION 2 Scope of Responsibilities

The FCDC has the right to exercise control over all construction in the Flanders Creek Subdivision. It will also review all Owner's alterations and modifications to existing structures (including but not limited to additions, renovations, and landscaping).

SECTION 3 Enforcing Powers

Should a violation occur, the FCDC has the right to an injunctive relief, which requires the owner to stop, remove, and/or alter any improvements in a manner that complies with the standards established by the FCDC. Approval by the FCDC does not relieve an owner of his/her obligation to obtain any government approvals. If such approvals are required and are not obtained by the owner, the FCDC and/or the applicable government agency may take whatever actions are necessary against the owner to force compliance.

SECTION 4 Committee Members

The FCDC shall consist of individuals appointed by the President of the Association. The FCDC will consist of a Declarant's representative, an architect and an at-large member of the Association. At such time as 90% of the lots are held in individual ownership other than that of the Declarant, the Declarant's representative shall be replaced by a member duly appointed by the Board of Directors.

SECTION 5. Limitation of Responsibilities

The primary goal of the FCDC is to review the submitted applications, plans, specifications, materials, and samples in order to determine if the proposed structure conforms to the Flanders Creek Subdivision covenants. The FCDC does not assume responsibility for the following:

The structural adequacy, capacity, or safety features of the proposed structure or improvement.

Soil erosion, ground water levels, non-compatible or unstable soil conditions.

Compliance with any or all building codes, safety requirements, and governmental laws, regulation or ordinances.

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ARTICLE VI

FLANDERS CREEK COMMUNITY ASSOCIATION

SECTION 1. The Flanders Creek Community Association is charged with the duties and empowered with the rights set forth herein and By-Laws that may be adopted for governing the Board of Directors.

SECTION 2. Every owner or contract purchaser of a lot shall be a member of the Association. Membership shall be appurtenant to and may not be separate from the ownership of any lot. Each owner shall be responsible for advising the Association of their acquisition of ownership, of their mailing address, and of any changes of ownership or mailing address. The initial address of the Association shall be 2055 N. 22nd Ave, Bozeman, Montana 59718. The address of the Association may be changed by the Board of Directors upon notice to the Owners.

SECTION 3. 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 easements, parkways, boundary fences, storm drainage easements, and open space; 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, either public or private, for such improvements as the Association shall approve.

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, shall elect Directors to fill any expired term or vacant position, and shall conduct such other business as shall be reasonable or necessary to carry out the purpose of the Association. The members shall have the authority to set the number of Directors, which number shall not be less than three nor more than seven.

SECTION 4. 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, except that the Secretary-Treasurer may be a member who is not a Director.

SECTION 5. For the purpose of determining membership, at any meeting a person or entity shall be deemed to be a member upon the recording of a duly executed deed to that 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. The legal title retained by the vendor selling under contract shall not qualify such vendor for membership.

Foreclosure of a mortgage, trust indenture or the termination or foreclosure of a contract for deed wherein title is vested in the mortgage, 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.

SECTION 6. The Board of Directors shall serve for a term to be set by a simple majority of the membership, which shall not be for less than one year. Each director shall serve until replaced by his or her successor. Any vacancy on the Board of Directors occurring before the next annual meeting of the members shall be filled by the remaining directors.

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SECTION 7. The Board of Directors shall have the power and responsibility of acting 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.

SECTION 8. The Board of Directors shall serve as officers which 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.

SECTION 9. The duties of each of the offices shall be as follows:

A. President. The President shall preside over all meetings of the Association. He or she shall call the membership together whenever necessary. The President shall be the general administrative and executive officer of the Association, and shall perform such duties as may be specified, and exercise such powers as may be delegated to the office of President by the Board of Directors.

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. The Secretary shall be authorized to sign on behalf of the Association, all records, documents and instruments when such are authorized to be signed by the Association.

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

SECTION 10. A vacancy in any office of the Association shall be filled by appointment by the Board of Directors until the next annual meeting or the successor is duly appointed or elected.

SECTION 11. The annual meeting of the Association shall occur on or before the 2nd Tuesday of July of each year. Any special meetings may be called by the President, or in the absence of the President, by the Vice-President. In addition, a special meeting shall be held upon call of 25% 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 at the office of the Clerk and Recorder, Gallatin County, Montana, or at such address as shall be designated, in writing, by any owner. The presence of members, in person or by written proxy, representing 60% of the total votes of the membership shall constitute a quorum.

SECTION 12. If proposed action is favored by a majority of the votes cast at a meeting, but such vote is less than the requisite 60% of the members, 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 Secretary of the Association not later than thirty (30) days from the date of such meeting wherein the action was voted upon.

SECTION 13. The Associations shall have the rights, obligation and duties, subject to the

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Flanders Creek Covenants, to do and perform each and every one of the following for the benefit of the Owners and for the maintenance and improvement of Flanders Creek.

A. The Association shall accept title to all common open space and other land from time to time conveyed to it. The Association may also acquire and accept title to any other property, real, personal or mixed.

B. The Association shall maintain or provide for the maintenance of the Parks until such time as the COB assumes the obligations for the Parks, exclusive of the common open space.

C. All maintenance and/or improvement of public parks shall be consistent with and in conformance with the Flanders Creek Park Master Plan, which outlines the installation of landscaping improvements, trail/bike path improvements and maintenance and upkeep of the public parks and trails approved by the COB in conjunction with Flanders Creek Subdivision.

D. The Flanders Creek and Rosa Home Owners Associations shall jointly maintain the combined parks and have a signed joint agreement to do so.

E. The Association shall maintain or provide for the maintenance of the Parks, according to the Flanders/Rosa Master Park Plan, until such time as the City of Bozeman assumes the obligations for the Parks, exclusive of the common open space.

F. The Association shall maintain or provide for the maintenance of the stormwater detention and retention basins, manholes and pipelines in accordance with the maintenance plan contained within the Flanders Creek Subdivision Stormwater Report.

G. All common open space areas identified on the final plat of Flanders Creek.

H. The parklands are available for the enjoyment and use of the residents, guests and public visiting Flanders Creek. The public parks and linear trail system (parks) are dedicated to the public use.

I. The Association shall pay all real property taxes and assessments levied upon the common open space.

J. The Association may obtain and maintain in force such insurance policies, as the Board may deem appropriate.

K. The Association shall have all powers set forth in Flanders Creek Covenants including, without limitation, the power to levy assessments, to make contracts and to acquire and dispose of property, and shall take such action, whether or not expressly authorized by Flanders Creek Covenants as may reasonably be necessary to enforce the Flanders Creek Covenants, limitations, covenant conditions and restrictions.

L. The Association shall have the power and authority at any time and from time to time and without liability to any Owner for trespass, damage or otherwise, to enter upon any lot, for the purpose of maintaining and repairing any lot, if for any reason the Owner fails to maintain and repair the lot as required by the Covenants or for the purpose of removing any improvement constructed, reconstructed, refinished,

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altered or maintained upon such area in violation of these Covenants.

M. The Association may maintain and repair any roads, sidewalks, parks, linear trail or public areas in or adjoining Flanders Creek including landscaping and planting the same and repairing improvements thereon when public authorities, in the opinion of the Board have failed to do so in a manner befitting the standards of the community.

N. The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of Flanders Creek Covenants, or to enforce by mandatory injunction or otherwise all of the provisions of the Flanders Creek Covenants.

O. In fulfilling any of its duties under the Flanders Creek Covenants, including its duties for the maintenance, repair, operation or administration of the Parks, and to the extent necessary by the failure of the Owners of private areas, or in exercising any of its rights to construction improvements of other work upon any Parks, the Association shall have the power and authority:

a. To contract and pay for, or otherwise provide for, construction, maintenance and repair of all improvements upon Parks on such terms and conditions as the Association, shall deem appropriate and to pay and discharge all liens arising out of any work;

b. To obtain, maintain and pay for such insurance policies or bonds as the Board may deem to be appropriate for the protection or benefit of Flanders Creek, the Association, the members of the Board, the members of the Committee, or the Owners;

c. To contract and pay for, or otherwise provide for, such utility services including, but without limitation, water, sewer, trash, electrical, telephone and gas services as may from time to time be required;

d. To contract and pay for, or otherwise provide for the services of architects, engineers, attorneys and certified public accountants or such other professional or nonprofessional services as the Board may deem necessary;

e. To contract and pay for, or otherwise provide for, fire, police and such other protection services as the Board deems necessary for the benefit of Flanders Creek, any property located with Flanders Creek, or the Owners;

f. To contract and pay for, or otherwise provide for, such materials, supplies, furniture, equipment and labor to the extent the Board deems necessary, and to pay and discharge any and all liens placed upon any Parks on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration.

g. The Board shall be required to grant and convey to any third parties easements or rights-of way in, on, over or under any Parks without payment to the Association when requested by Declarant. The Board shall also have the power and authority to grant and convey to any third parties, on such terms as the Board may approve, parcels or strips of land from any Parks.

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The Board may not grant or convey land from any Parkland or Linear Trail which would jeopardize the land required by the subdivision, planned unit development or zoning approvals for the land described in Exhibit A.

h. The Board may from time to time employ the services of a manager to manage the affairs of the Association. The Board may delegate to the manager any of its powers under the Flanders Creek restrictions, provided, however, the Board cannot delegate to such manager the power to execute any contract binding on the Association for a sum in excess of $1,000.00; nor for the performance of any work or services, which work or services are not to be completed within 60 days; nor the power to sell, convey, mortgage or encumber any property of the Association.

i. The Board shall have the right to pay, compromise or contest any or all taxes and assessments levied against all or any part of the Parks, or upon any personal property belonging to the Association.

j. The Owners, Declarant and Association are hereby prohibited and precluded from engaging in any activity that would impact any downstream water user facilities.

P. Enforcement of these covenants by Declarant, FCDC, Board, Owner or any party having standing, shall include for the party seeking enforcement and prevailing in such enforcement, an award of costs, fees and reasonable attorney's fees.

SECTION 14 The Board from time to time and subject to the provisions of Flanders Creek may adopt, amend and repeal rules and regulations to be known as Flanders Creek Rules governing:

A. The use of Parks, including without limitations the recreational facilities;

B. The use of roads;

C. The collection and disposal of refuse;

D. The burning of open fires;

E. The maintenance of animals within Flanders Creek.

SECTION 15 No member of the Board shall be personally liable to any Owner, guest, lease or to any other persons, including the Declarant, for any error or omission of the Association, its representatives and employees, Committee or the manager, provided, however, that such member according to the actual knowledge possessed by him, acted in good faith.

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ARTICLE VII

ASSESSMENTS

SECTION 1 The Declarant for each lot owned by it within Flanders Creek hereby covenants, and each Owner of any lot by acceptance of a purchase and sale agreement, deed or lease therefore, whether or not it shall be so expressed in any such deed, lease or any other conveyance, shall be deemed to covenant and agree to pay to the Association the Owner's proportionate share of assessments established and collected from time to time as hereinafter provided.

SECTION 2 The Owner's proportionate share of the assessments and special assessments shall be assessed in the following manner:

A. Each owner or member will be assessed a proportionate share based on the number of dwelling units built per lot for residential lots and on a dwelling unit equivalent on commercial properties.

B. Each single-family dwelling will be assessed one share.

C. Each multi-family lot will be initially assessed on the basis of 3 dwelling units per acre. This will continue until completion of all construction of each dwelling unit on the lot. Subsequent to completion, the lot will be assessed a number of shares equal to the actual number of dwellings constructed.

D. Commercial lots will be assessed three dwelling unit shares per acre.

E. Assessments to Owners will commence immediately after the transfer of title from the Declarant to the Owner. No assessments will be levied against lots owned by the Declarant.

F. The Board shall have the right to determine and refine the specifics and timing of assessments within the parameters of the preceding statements.

SECTION 3 At least 30 days prior to the commencement of each fiscal year, the Board shall fix the amount of the assessment for such fiscal year and shall, at that time, prepare a roster of the lots and assessments applicable thereto. Written notice of the assessment shall be sent to every Owner subject thereto.

SECTION 4 The assessments levied by the Board on behalf of the Association shall be used exclusively for the purpose of financing the Association functions and duties. Assessments shall include, but not be limited to, maintenance of fences, trails, linear park, weed control and other improvements.

SECTION 5 If at any time and from time to time during any fiscal year, the assessment proves inadequate for any reason, including nonpayment of any Owner's share thereof, the Board may levy a further assessment in the amount of such actual or estimated inadequacy which shall be assessed to the Owners in the manner set forth herein.

SECTION 6 In addition to the assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Parks, including fixtures and personal

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property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who vote in person or by proxy at a meeting duly called for this purpose. For the purpose of this section an Owner will be allowed a number of votes equal to the number of dwelling units assessed to the Owner's lot at the time of the proposed election.

SECTION 7 The Board shall also levy an assessment against any Owner, as a direct result of whose acts or failure or refusal to act or otherwise to comply with the Flanders Creek Covenants for monies expended by the Association in performing its functions under Flanders Creek covenants and Board By-Laws. Such assessment shall be in the amount so expended and shall be due and payable to the Association when levied. Monies so expended shall include, without limitation, reasonable engineers', architects', attorneys' and accountants' fees incurred by the Association.

SECTION 8 Each assessment shall be a separate, distinct and personal debt and obligation of the Owner against who it is assessed, and each Owner by acceptance of a purchase and sale agreement, deed or lease, shall be deemed to covenant and agree to pay the same to the Association. If the Owner does not pay such assessment or any installment thereof when due, the Owner shall be deemed in default and the amount of the assessment not paid, together with the amount of any subsequent default, plus interest at 12% per annum and costs, including reasonable attorney's fees, shall be and become a lien upon the lot of such Owner upon recordation by the Association of a notice of default. The Association assessment lien may be foreclosed through suit by the Association in like manner as a mortgage of real property, and the Association shall have power to bid on the lot at foreclosure sale and to acquire and hold, lease, mortgage or convey the lot. A suit to recover a money judgment of unpaid assessments shall be maintainable without foreclosing or waiving the lien securing the same. The foregoing remedies shall be in addition to any other remedies provided by law for the enforcement of such assessment obligation.

SECTION 9 The Parks as defined herein and such portions of Flanders Creek as may be conveyed or dedicated to and accepted by a municipality, public utility, State of Montana, the County of Gallatin shall be exempt from assessments.

SECTION 10 When requested by an Owner, the Association shall execute a certificate stating the indebtedness secured by the Association lien upon the lot of the Owner, and such certificate shall be conclusive upon the Association and the Owners in favor of such persons who rely therein in good faith as to the amount of such indebtedness as of the date of the certificate. The Association shall be entitled to a reasonable fee as a condition to issuing the certificate.

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ARTICLE VIII

MISCELLANEOUS PROVISIONS

SECTION 1 In addition to the rights reserved to the Declarant to modify or supplement the Flanders Creek Covenants with respect to land annexed to Flanders Creek, the Flanders Creek Covenants, may, at any time, be amended or replaced upon the happening of all the following events:

A. The vote of Owners having not less than three-quarters (3/4) of the total votes of each class of Owners of lots then within Flanders Creek Covenants at a meeting of the Association duly held. For the purposes of this section, an Owner will be allowed a number of votes equal to the number of dwelling units assessed to his/her lot at the time of the proposed election. The notice of the meeting shall state that the purpose of the meeting is to consider the amendment or repeal of the Flanders Creek Covenants, giving the substance of any proposed amendments or indicating the provisions to be repealed, as the case may be; and

B. The recordation of a certificate of the Secretary or an Assistant Secretary of the Association setting forth in full the amendment or amendments to the Flanders Creek so approved, including any portion or portions thereof repealed, and certifying that said amendment or amendments have been approved by vote of the Owners pursuant these covenants.

SECTION 2 All the limitations, conditions, and restrictions contained in these covenants of Flanders Creek shall run with the land and shall be binding on all parties and persons claiming under them for a 10 year period beginning at the date of filing of this document, at which time the same shall be automatically extended for successive periods of 10 years, unless the record Owners of lots then within Flanders Creek having not less than three-fourths (3/4) of the total votes record an instrument terminating the Flanders Creek Covenants within 1 year prior to the commencement of any such period. Any such termination shall take effect upon expiration of the period during which it is given. Prior to the expiration to these covenants, the Association may vote, pursuant to the provisions allowing amendment hereto, to extend these covenants.

SECTION 3 In addition to the remedy provided herein, if the Owner of any lot in Flanders Creek or any part thereof or interest therein violates any provisions hereof, Declarant, the Association or the Owner of any lot or part thereof or interest therein may bring an appropriate civil action against the defaulting party in such proceedings or action; provided however, that Declarant or the Association shall have no duty under any circumstances to enforce compliance with Flanders Creek Covenants. Failure by Declarant, the Association or any property Owner or Owners or their representatives, heirs, successors, or assigns to enforce any of the limitations, covenants, restrictions, reservations, easements, or charges herein contained shall, in no event be deemed a waiver of the right to do so thereafter, provided, however, any structure which has been completed for a period of 1 year without any suit having been commenced concerning such structure, shall not thereafter be subject to suit of initial noncompliance with the requirements of the building design portion of these Covenants.

Failure to enforce any provision of these Covenants does not wave or diminish the

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enforceability of the Covenants at a future date.

SECTION 4 All the limitations, covenants, conditions of and restrictions of Flanders Creek Covenants shall be liberally construed together to promote and effectuate, the fundamental concepts of Flanders Creek.

Any covenant that is included herein as a condition of the preliminary plat approval and required by the governing body 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.

SECTION 5 In the event any limitation, covenant, restriction, or reservation of Flanders Creek Covenants is held to be invalid or unenforceable in whole or in part, by any order, judgment or decree of any court, then such decision shall in no way affect the validity of the other limitations, covenants, restrictions or reservations therein contained, and they shall remain in full force and effect.

SECTION 6 The Association shall accept as Parks all land conveyed to it by the Declarant.

SECTION 7 At any time and from time to time following conveyance of Parks by the Declarant to the Association, the Declarant may construct, reconstruct, refinish or alter any improvement upon or make or create any excavation on or fill upon or change the natural or existing drainage of or remove or plant any trees; shrubs or ground cover upon such Parks if the Declarant shall determine that any such work is reasonably necessary for any utility installation serving any property within Flanders Creek, is reasonably necessary for the construction of any facility for use by the Owners, is desirable in order to provide or improve access to or to enhance the use and enjoyment of such Parks or is desirable to protect, support or preserve any land which constitutes a part of Flanders Creek.

SECTION 8 Any and all of the rights and powers vested in the Declarant pursuant to the Flanders Creek Covenants may be delegated, transferred, assigned, conveyed or released by the Declarant to the Association and the Association shall accept the same effective upon the recording by the Declarant of a notice of such delegation, transfer, assignment, conveyance or release.

SECTION 9 If at any time or from time to time all or any portion of the Parks is taken by the right of eminent domain or by purchase in lieu of eminent domain, the entire award and compensation shall be paid the Association. No Owner shall be entitled to any portion of such award and no Owner shall be entitled to participate as a party or otherwise in any proceedings relating to such condemnation, such right to participation being herein reserved exclusively to the Association which shall in its name alone represent the interest of all Owners.

SECTION 10 No Owner through the Owner's non-use of any Parks, or by abandonment of Owner's lot, may avoid the burdens or obligation imposed on Owner by these Covenants, the Board's By-laws and Flanders Creek Subdivision.

SECTION 11 Any notice or other document permitted or required by the Flanders Creek Covenants may be delivered either personally or by mail. If delivery is to be made by mail, it shall be deemed to have been delivered to the Association twenty-four (24) hours after having been deposited in the United States mail, postage prepaid, addressed to Flanders Creek at the address designated by the Association from time to time, and shall be deemed

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to have been delivered to the Committee twenty-four (24) hours after having been deposited in the same manner addressed to the Committee in care of Flanders Creek at the latter's then current address. Delivery by mail shall be deemed complete to an Owner twenty-four (24) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the Owner at his address filed with the Association or the Declarant. Where there is more than one Owner of a lot, the delivery personally or by mail to any one Owner of the lot shall be effective delivery to all Owners of such lot.

DECLARANT SIGNATURE TO FOLLOW

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IN WITNESS WHEREOF, Declarant has hereunto set its hand as of this 20 day of JUNE, 2006.

DMC Incorporated.
David M. MacDonald, President

STATE OF MONTANA)

:ss. County of GALLATIN)

On this 20 day of JUNE, 2006, before me, the undersigned, a Notary Public of the State of MONTANA, personally appeared DAVID M. MACDONALD known to me to be the person that executed the within instrument and acknowledged to me she executed the same.

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

Patricia Pettigrew NOTARY PUBLIC for the State of MONTANA Printed Name: PATRICIA PETTIGREW Residing at BOZEMAN, MT My Commission expires 1-31-2009

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EXHIBIT A

DESCRIPTION OF FLANDERS CREEK

Tract A, Certificate of Survey No. 2389, according to the plat thereof, on file and of record in the office of the Clerk and Recorder, Gallatin County, Montana, located in the East Half of the Southeast Quarter of Section 4, Township 2 South, Range 5 East of P.M.M., Gallatin County, Montana, described as follows:

Beginning at the Southeast Corner of said Section 4;
thence westerly 270d04'30", assumed azimuth from north, 660.93 ft along the south line of said Tract A;
thence northerly 001d01'12" azimuth 2620.32 ft along the west line of said Tract A;
thence easterly 089d35'55" azimuth 662.43 ft along the north line of said Tract A;
thence southerly 181d04'49" azimuth 2631.38 ft along the east line of said Tract A,
to the point of beginning.

Area = 1,738,886 sq ft, 39.9193 acres or 161,547.8 sq m. Subject to existing easements.

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EXHIBIT B

Flanders Creek Subdivision Property Setbacks

Block	Lot #	Fronting Street	Zone	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Notes
1	1	DURSTON	R-3	15'	5'	20'	1, 3
2	1	COTTONWOOD	R-3	25'	5'	20'	1,2
	2	COTTONWOOD	R-3	25'	5'	20'	2
	3	COTTONWOOD	R-3	25'	5'	20'	2
	4	COTTONWOOD	R-3	25'	5'	20'	2
	5	COTTONWOOD	R-3	25'	5'	20'	2
	6	COTTONWOOD	R-3	25'	5'	20'	2
	7	COTTONWOOD	R-3	25'	5'	20'	1,2
	8	TWIN LAKES	R-3	15'	5'	20'	1,2
	9	TWIN LAKES	R-3	15'	5'	20'	2
	10	TWIN LAKES	R-3	15'	5'	20'	2
	11	TWIN LAKES	R-3	15'	5'	20'	2
	12	TWIN LAKES	R-3	15'	5'	20'	2
	13	TWIN LAKES	R-3	15'	5'	20'	2
	14	TWIN LAKES	R-3	15'	5'	20'	1.2
3	1	COTTONWOOD	R-3	25'	5'	20'	1,2
	2	COTTONWOOD	R-3	25'	5'	20'	2
	3	COTTONWOOD	R-3	25'	5'	20'	2
	4	COTTONWOOD	R-3	25'	5'	20'	2
	5	COTTONWOOD	R-3	25'	5'	20'	2
	6	COTTONWOOD	R-3	25'	5'	20'	2
	7	COTTONWOOD	R-3	25'	5'	20'	1,2
	8	TWIN LAKES	R-3	15'	5'	20'	1,2
	9	TWIN LAKES	R-3	15'	5'	20'	2
	10	TWIN LAKES	R-3	15'	5'	20'	2
	11	TWIN LAKES	R-3	15'	5'	20'	2
	12	TWIN LAKES	R-3	15'	5'	20'	2
	13	TWIN LAKES	R-3	15'	5'	20'	2
	14	TWIN LAKES	R-3	15'	5'	20'	1,2

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Block	Lot #	Fronting Street	Zone	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Notes
4	1 A-B	COTTONWOOD	R-3	25'	5'	20'	1,2
	2 A-B	COTTONWOOD	R-3	25'	5'	20'	2
	3 A-B	COTTONWOOD	R-3	25'	5'	20'	2
	4 A-B	COTTONWOOD	R-3	25'	5'	20'	2
	5 A-B	COTTONWOOD	R-3	25'	5'	20'	2
	6 A-B	COTTONWOOD	R-3	25'	5'	20'	2
	7 A-B	COTTONWOOD	R-3	25'	5'	20'	2
	8 A-B	COTTONWOOD	R-3	25'	5'	20'	1,2
	9 A-B	TWIN LAKES	R-3	15'	5'	20'	1,2
	10 A-B	TWIN LAKES	R-3	15'	5'	20'	2
	11 A-B	TWIN LAKES	R-3	15'	5'	20'	2
	12 A-B	TWIN LAKES	R-3	15'	5'	20'	2
	13 A-B	TWIN LAKES	R-3	15'	5'	20'	2
	14 A-B	TWIN LAKES	R-3	15'	5'	20'	2
	15 A-B	TWIN LAKES	R-3	15'	5'	20'	2
	16 A-B	TWIN LAKES	R-3	15'	5'	20'	1,2
5	1	SHERWOOD	R-0	15'	5'	20'	1 , 4
	2	SHERWOOD	R-0	15'	5'	20'	1 , 4
	3	TWIN LAKES	R-0	15'	5'	20'	1 , 4
	4	TWINLAKES	R-0	15'	5'	20'	1 , 4
	5	TWIN LAKES	R-0	15'	5'	20'	1 , 4
	6	TWINLAKES	R-0	15'	5'	20'	1 , 4
	7	SHERWOOD	R-0	15'	5'	20'	1 , 4
	8	SHERWOOD	R-0	15'	5'	20'	1 , 4
6	1 A-D	TWIN LAKES	R-1	15'	5'	20'	1,2
	2 A-D	TWIN LAKES	RSL	15'	5'	20'	2
	3 A-D	TWIN LAKES	RSL	15'	5'	20'	2
	4 A-D	TWIN LAKES	RSL	15'	5'	20'	2
	5 A-D	TWIN LAKES	R-1	15'	5'	20'	1,2
	6 A-D	PARKVIEW	R-1	15'	5'	20'	1,2
	7 A-D	PARKVIEW	RSL	15'	5'	20'	2
	8 A-D	PARKVIEW	RSL	15'	5'	20'	2
	9 A-D	PARKVIEW	RSL	15'	5'	20'	2
	10 A-D	PARKVIEW	R-2	15'	5'	20'	1,2
7	1	TWIN LAKES	R-3	15'	5'	20'	1
	2	TWIN LAKES	R-3	15'	5'	20'	-
	3	TWIN LAKES	R-3	15'	5'	20'	-
	4	TWIN LAKES	R-3	15'	5'	20'	-

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Notes:

1. Corner side yard present. City Uniform Development Ordinance requirements for corner side yard setbacks apply. Structure design must address both frontages.
2. Alley minimum setback for garages is 10' (maximum 20'). Rear yard setback for other structures 20'. Verify utility easements for possible additional setbacks.
3. Multiple street frontages. Structure design must address all street frontages.
4. **Block 5 RO lots: ONLY 49% of these lots may be developed into offices or other non-residential type uses.**

General Notes:

All zoning designations and setbacks are listed for general reference. Current COB Codes and Ordinances, at the time of development, take precedent as a minimum.

Each owner shall, prior to submitting plans to the COB Planning Department for their building permit application, submit to the FCDC all necessary information for review and approval of yard orientation along with architectural plans. Such orientation shall be based upon the following:

A. The front yard of each individual corner lot shall be the yard coinciding with the front yards of the established by the interior subdivision lots on that particular block. The side yard of each individual lot shall be the yard not established as either the front or rear yard.