

DECLARATION

FOR

MOUNTAIN QUAIL CONDOMINIUM

THIS DECLARATION is made this 18 day of March, 2014, by GALLATIN VALLEY HOMES, INC., a Montana Corporation, 147 High K, Belgrade, MT 59714 ("Declarant"), whereby the lands and property hereinafter described are submitted to the provisions of Title 70, Chapter 23 of the Montana Code Annotated, also known as the "Unit Ownership Act", as a condominium.

The property subject to this Declaration shall be known as MOUNTAIN QUAIL CONDOMINIUM (the "Condominium"). The addresses of the Condominium is 79 and 81 Tailfeather Lane, Bozeman, MT 59718.

SECTION 1. DEFINITIONS

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

1.2 "Association" shall mean the MOUNTAIN QUAIL 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.

1.3 "Board of directors" shall mean the board of directors of the Association as more particularly defined in the Bylaws.

1.4 "Building" or "buildings" shall mean a multiple-unit building or buildings, respectively, comprising a part of the Condominium property.

1.5 "Bylaws" shall mean the bylaws promulgated by the Association under this Declaration and the Unit Ownership Act.

1.6 "Common elements" shall mean both general common elements and limited common elements.

(a) "General common elements" shall mean those common elements which are for the use of all Unit Owners and guests of Unit Owners of the MOUNTAIN QUAIL CONDOMINIUM. Without limiting the foregoing, the general common elements include grounds surrounding the buildings; the land on which the buildings are located; paths, main sidewalks, and walkways (walkways to individual units shall be a limited common element of those units); any parking spaces not specifically allocated to a particular unit; any irrigation system placed on the property for landscape maintenance; any portions of the buildings designated on

2477584

Fee: \$388.00  
MISC

Page: 1 of 54  
04/02/2014 11:52:38 AM  
Charlottesville, VA  
Gallatin County, MT



the floor plans as common to all units, electrical, gas, telephone, cable, water and sewer lines and connections serving all of the units; landscaping, plants and other materials and improvements separate from and outside of the buildings containing the units and individual units excepting out fenced areas in the back of each unit, which shall be a limited common element allocated to that particular unit; and other elements necessary for the safety, maintenance and existence of the MOUNTAIN QUAIL CONDOMINIUM in which each Unit Owner shall have a designated percentage of interest, as set forth in Section 4.2.

(b) "**Limited common elements**" shall mean those common elements which are reserved for the use of fewer than all of the Unit Owners of the MOUNTAIN QUAIL CONDOMINIUMS and their guests, to the exclusion of other Unit Owners and guests. As to any given Unit Owner(s), limited common elements shall mean the common elements which are located within or affixed to the building containing the owner's unit, and which are for the use of the Unit Owners and guests of that unit in which the elements are located or situated on the Condominium's real property. Without limiting the foregoing, the limited common elements include flues, chimneys, ducts, cables, conduits, public utility lines, water, sewer, electrical, gas, cable television lines, hot and cold water pipes (all such utility pipes and lines are limited common elements where they service only one or two units; where they service all units, they shall be general common elements), stairways, balconies, entrances, stoops, furnaces, patios, decks, garages, driveways, boilers, hot water tanks, and fixtures, each unit's individual fenced off back yard, walkways leading to/from individual units or other portions of the building servicing only a particular unit or less than all of the units. The percentage of the separate unit's interest in the limited common elements shall be computed by determining the number of units that have use of the limited common elements and dividing that number into the total value of those limited common elements.

1.7. "**Common expenses**" shall mean:

- (a) expenses of administration, maintenance, repair or replacement of general common elements;
- (b) expenses agreed upon as common by the Association; and
- (c) expenses declared common by the Unit Ownership Act.

1.8. "**Declaration**" shall mean this document and all parts attached thereto or incorporated by reference.

1.9. "**Limited expenses**" shall mean the expenses attributable to the 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.

1.10. "**Manager**" shall mean 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 MOUNTAIN QUAIL CONDOMINIUM.

1.11. "**Property**" shall mean the land, buildings, improvements and structures thereon,

and all easements, rights and appurtenances belonging thereto, which are by this Declaration submitted to the provisions of the Unit Ownership Act.

1.12. "Unit" shall be each separate condominium unit of the MOUNTAIN QUAIL CONDOMINIUM 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.

1.13. "Unit designation" shall mean the combination of letters, numbers, or words which identifies the designated units.

1.14. "Unit Owner" shall mean the person or persons owning a fee simple absolute, or an acceptable leasehold estate in one or more Units of the Mountain Quail Condominium as set forth herein.

## SECTION 2 REAL ESTATE: CONDOMINIUM PROPERTY

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

Lots 14 and 15 of the Amended Plat of Northstar Subdivision Multi-Family Phase 3, Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana.

2.2 **Condominium Units.** It is anticipated that this condominium will be built in two phases. The initial phase of the Condominium, addressed herein, shall initially consist of one (1) building containing a total of four (4) units for a total of four (4) Units in Phase 1. It is anticipated that one (1) additional building with four (4) units will be added in a second phase so that the Condominium will eventually consist of two (2) buildings containing eight (8) units. Each unit has an attached garage. The initial phase unit designations shall be 79A, 79B, 79C and 79D. Phase two shall be designated as 81A, 81B, 81C and 81D. Each Unit, together with the appurtenant undivided interest in the common elements of MOUNTAIN QUAIL CONDOMINIUM shall together comprise one condominium unit, shall be inseparable, and may be conveyed, leased, rented, devised or encumbered as a condominium unit, so long as at all times at least 50% of the Units are owner occupied, as set forth below. A Unit Owner may sell or transfer his unit free from any right of first refusal or similar restriction by the Declarant, if any. 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, personal representatives and assigns for as long as this Declaration and Bylaws for MOUNTIAN QUAIL CONDOMINIUM are in effect. Future improvements to the Condominium will be consistent with initial improvements in terms of quality of construction.

All owners and purchasers acknowledge that while initially there has been constructed one (1) building containing a total of four (4) units that the initial percentages set forth herein are based upon, that at such time as the additional one (1) building and

four (4) units are constructed and added in as depicted on the future site plan attached hereto, the percentage of ownership of common elements and voting interest shall change accordingly. The subsequent building described in the paragraph above and depicted on the proposed future site plan attached hereto show an approximation of the future building which may be subject to change in size, shape, number of units and location, but will be built and constructed and encumbered with the terms, conditions, restrictions and provisions contained and set forth in this Declaration and these Bylaws. This provision is made with the understanding as referenced herein that the additional building and units created on the real property described on Exhibit "A" shall cause a modification in the future and dilution in the future of the percentage of membership interest as each new building and unit is constructed and the appropriate amendment to this Declaration and Bylaws setting forth the floor plans and square footages and new percentages for all of the existing units is filed of record in the Gallatin County Clerk and Recorder's Office.

All improvements to be added shall be substantially completed before such property is added to the existing condominium. Liens arising in connection with the declarant's ownership of, and construction of improvements upon, the property to be added must not adversely affect the rights of existing Unit Owners, or the priority of first mortgages on units in the existing condominium property. All taxes and other assessments relating to such property, covering any period prior to the addition of the property, must be paid.

The declarant's right to add one additional phase expires seven (7) years from the date of the filing of this Declaration.

All owners and purchasers, their heirs, successors and assigns agree and consent that the real property described on Exhibit "A" may be developed with the additional one (1) building containing (4) units by Declarant or Declarant's successors or assigns in a second phase on the real property described herein. In this regard, all Unit Owners, purchasers, their heirs, successors and assigns of any Unit or interest in and to the Condominiums created hereunder agree to and do hereby appoint the Declarant or Declarant's successor, assign or designee as having a power of attorney to effectuate the development of this property and to file with the Gallatin County Clerk and Recorder documentation necessary to facilitate the same.

**2.3 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.

Exhibit B - Floor Plan.

Exhibit C - Site Plan (includes proposed future phase).

**2.4 Parking Areas.** There are no on site parking areas other than the individual garages and driveways designated for individual Condominium Units and (2) guest spots as shown on the site plan.

**2.5 Unit Boundaries.** Each unit shall include the part of the building containing the

unit that lies within the boundaries of the unit. The boundaries shall be determined in the following manner:

(a) **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:

(i) *Upper Boundary*-the plane of the lowest surfaces of the upper floor or ceiling joists for all units;

(ii) *Lower Boundary*-the plane of the highest surface of the floor joists.

(b) **Perimetrical Boundaries.** The perimetrical (vertical) boundaries of the unit shall be the following boundaries extended to an intersection with the upper and lower boundaries:

(i) *Exterior Building Walls.* The plane defined by the centerpoints of the exterior walls bounding a unit shall be a perimetrical boundary of that unit.

(ii) *Interior Building Walls.* The plane defined by the centerpoints of the interior walls bounding a unit, extended to an intersection with other perimetrical boundaries, shall be a perimetrical boundary of that unit. Where walls between units are of varying thicknesses, the plane of the boundary shall be the median line drawn between the two outermost boundaries of such wall.

(c) **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 therefore, are included within the unit.

2.6 **Construction Materials.** The principal materials of construction of the units are concrete for the foundations, footings, and slabs, wood for the framing, structural and finish work, sheetrock, carpet, laminate and tile for the floors, hardy concrete board siding for exterior wall surfaces and asphalt shingles for the roofs of the buildings.

2.7 **Leasing.** Condominium Units shall be used and occupied for single family dwellings purposes only.

No more than fifty percent (50%) of the Condominium Units can be leased at any time. The Association shall develop rules and procedures by which Condominium Unit Owners may make application to the Association for approval to lease a Condominium Unit, rules and procedures by which Condominium Unit Owners may be placed upon a waiting list for the grant of such approval when the fifty percent (50%) Condominium Unit rental maximum has been reached, and other rules and procedures necessary and proper for the implementation of this provision. Once approved by the Association, a Condominium Unit may be rented or leased by the owner provided the entire

Condominium Unit is rented, and the lease is in writing and a copy of the lease is filed with the Association prior to possession. No lease shall relieve the Owner as against the Association and other owners from any responsibility or liability imposed by the Condominium documents.

An Owner shall be liable to the Association and other owners as the case may be, for damage to common elements or property of other owners. Unit Owners are prohibited from leasing their units for an initial term of less than thirty (30) days.

### SECTION 3 EASEMENTS, COMMON ELEMENTS

**3.1 Common Element Easements.** A non-exclusive, perpetual right of ingress, egress and support through the limited common elements within the building is appurtenant to each unit, and all of the general common elements are subject to such rights.

**3.2 Utility Easements-Reservation.** Easements are reserved through the Condominium property as may be required for utility services, including heat, air conditioning, water, sewer, power, telephone, natural gas and cable television, in order to serve the Condominium adequately. However, such easements through the property or units shall be only according to the plans and specifications for the buildings, as set forth in the recorded plat, or as the building is constructed, unless approved in writing by the affected unit owner.

**3.3 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 and vents and other utility and mechanical lines, pipes or equipment. A non-exclusive easement shall exist through, over and across each unit for inspection, installation, maintenance, replacement and repair of such utility lines and mechanical equipment for the use of all of the Unit Owners or the Unit Owners being serviced by the air space being penetrated by such lines and/or equipment to a minimum, ingress and egress for the purpose of such inspection, installation, maintenance, replacement or repair of such easement rights shall only be done under the direction and approval and with the authority of the Association and/or the manager unless an emergency exists in which event any action may reasonably be taken which is justified under the circumstances to minimize damage which would otherwise occur as a consequence of such emergency.

**3.4 Right of Access.** The Association shall have the irrevocable right, to be exercised by the board of directors or manager, to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the limited common elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the general or limited common elements or to any other unit.

**3.5 Ingress and Egress.** A non-exclusive easement shall exist in favor of each Unit

Owner and occupant, their respective guests, tenants, licensees and invitees for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portions of the common elements as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portion of the common elements as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways.

**3.6 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 any portion of 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 either on the common elements or on the units for the purpose of marketability of title.

**3.7 Other Easements.** The declarant reserves for itself and its successors and assigns non-exclusive easements and rights of way for ingress, egress, and utilities and right to construct, use, and convey present and future condominiums, Buildings, and Condominium Units located on the Property; along with the right, during and for any purpose concerning the construction of any Building and the finishing of any Condominium Unit or proposed Condominium Unit therein, to use, access, and to upon the general common elements for access, deliveries, and the placement or temporary parking of vehicles, materials, and equipment.

The real property submitted to the Unit Ownership Act is subject to existing easements, covenants, Articles of Incorporation, Bylaws, terms, conditions, obligations, disclosures, reservations, restrictions, dedications and conditions shown and delineated in the Condominium Documents, plats, site plans, and other documents filed or recorded with the Clerk and Recorder of Gallatin County, Montana, or the State of Montana, and subject to applicable zoning ordinances and land use restrictions, if any, laws and regulations of the state of Montana and the United States of America, and also subject to taxes, assessments, and charges levied by Gallatin County, improvement districts, sewer and water districts, fire districts, and any other district or taxing authority, if any.

The Property submitted to the Unit Ownership Act pursuant to this Declaration is also subject to and are in addition to the basic zoning district regulations and provisions which are administered by Gallatin County and the Property is further subject to the requirements, restrictions and conditions set forth in the Condominium Documents.

#### SECTION 4 OWNERSHIP

**4.1 Ownership of Units.** Each Unit Owner shall be entitled to the exclusive ownership, use and possession of such owner's unit.

**4.2 Percentage of Interest in Common Elements.** Each Unit Owner shall have a

percentage of undivided interest in the general common elements of the Condominium. This percentage represents the Unit Owner's interest in the general common elements and the Unit Owner's liability for common expenses. The percentage of interest in the general common elements for each Unit Owner shall be computed by taking the square footage of each unit at the date of filing this Declaration and dividing it by the total square footage of all the units having an interest in the general common elements of the Condominium. Such percentage of interest owned by each of the units in the Condominium shall be according to the percentages set forth below:

**PHASE 1**

<b>Unit No.</b>	<b>Estimated Square Footage</b>	<b>Percentage of Interest in General</b>
<b><u>Building 1</u></b>		
<b>Unit 79A</b>	<b>1578</b>	<b>25%</b>
<b>Unit 79B</b>	<b>1578</b>	<b>25%</b>
<b>Unit 79C</b>	<b>1578</b>	<b>25%</b>
<b>Unit 79D</b>	<b>1578</b>	<b>25%</b>
<b>Total</b>		<b>100%</b>

A total of one (1) additional building with a total of four (4) units, as shown on the proposed future site plan attached hereto, are anticipated to be constructed in a second phase, for a grand total of eight (8) Condominium Units in two (2) buildings. All owners and purchasers acknowledge that while initially there has been constructed one (1) building containing a total of four (4) units that the initial percentages set forth herein are based upon, that at such time as the additional one (1) building and four (4) units are constructed and added in as depicted on the future site plan attached hereto, the percentage of ownership of common elements and voting interest shall change accordingly.

- 4.3 **Floor plan and exhibits:** For identification and descriptive purposes the following Exhibits are attached and by reference hereto incorporated into and made a part of this Declaration.



1. Exhibit A - Legal description of the property.
2. Exhibit B - Floor plans for each of the units in Building 1, including dimensions and designations.
3. Exhibit C - Site plan (includes proposed future phase).

## SECTION 5 USE OF CONDOMINIUM PROPERTY

### 5.1 Use Restrictions.

(a) The Condominium units shall be used for residential purposes only, except that an owner or occupant may use a portion of a unit for an office or studio, provided that such uses do 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) do not violate the provisions of any applicable laws, regulations or covenants affecting the Condominium 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 so long as no more than 50% of all units within the Association are leased at any given time. 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 units occupants are provided customary hotel services, such as room service for food and beverage, maid service, laundry and linen service or the like.

(b) There shall be no obstruction of the common elements nor shall anything be stored in or on the general common elements without the prior written consent of the Association. Owners with units which have usable space in the limited common area beneath the living area of their unit may use this space for storage only if such use does not constitute a hazard to any unit, does not block any access beneath the 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.

(c) Nothing shall be done or kept in any unit or in the common elements which will increase the rate of insurance on the building or contents thereof, without the prior written consent of the Association. No owner shall permit anything to be done or kept in the Owner's Unit or in the common elements which will result in the cancellation of insurance on the building, or contents thereof, or which would be in violation of any law. No waste will be permitted on the common elements.

(d) Unit Owners shall not cause or permit anything to be hung or displayed on

the outside of windows or placed on the outside walls of a building, and no sign, awning, canopy, shall be affixed to or placed upon the exterior walls or roof of any part thereof, without the prior written consent of the Association. Seasonal decorations that are promptly removed after the season and reasonable name plates 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 general or limited common elements.

(e) No radio, television antennas, or satellite dishes shall be placed on the buildings or upon any portion of the common elements without prior written permission of ASSOCIATION. Small satellite dishes may be placed within the limited common elements appertaining to that unit only.

(f) No nuisances shall be allowed upon the property nor shall any use or practice be allowed which is a source of annoyance to Unit Owners or which interferes with the peaceful possession and proper use of the property by its residents which shall include, but not be limited to, barking dogs. No immoral, improper, offensive or unlawful use shall be made of the property nor any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

(g) Unit Owners and occupants shall comply in all respects with all of the requirements of the following documents as may be applicable to the property and the Unit Owners.

(h) No Unit 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 recreational vehicles kept on the property, including campers, trailers, motor homes, boats, jet skis and all other recreational equipment, must be enclosed in the garage. No one shall reside in such recreational vehicles, motor homes, campers, trailers or other recreational equipment stored on the property.

(i) 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 a building, except as is otherwise provided in this Declaration.

(j) No animals of any kind shall be raised, bred, or kept in any Unit, except that each unit may have up to three household pets with no more than two dogs. All household pets kept in units are subject to rules and regulations from time to time adopted by the Association. All pets shall be subject to all applicable animal control laws and ordinances. All animals shall be on a leash or within a units fenced yard at all times. Pet owners shall immediately clean up after their pet on Condominium property. No kennels, tethers, exercise lines, or the like shall be permitted.

(k) Nothing shall be altered or constructed in or removed from the common

elements, except upon the prior written consent of the Association.

(l) Garbage cans must be kept inside garage except for on the day of garbage pickup. After pickup, cans shall be promptly returned to garages. Each owner shall be responsible for their own garbage service. Furthermore, no junk, garbage, trash, equipment, parts, metals, lumber, debris, or other waste shall be allowed on the sidewalk, entrance, yard or driveway for any unit, or in any of the limited or general common areas.

(m) Back Yards. Each unit shall have a fenced-in back yard which shall be a limited common element for each particular unit only. The fences shall be repaired and maintained by the Association, except that each owner shall be responsible for any damage, repair or maintenance caused by the action, inaction or negligence of a unit owner in which case such unit owner will be responsible for the cost. If such a unit owner responsible for the repair, maintenance or damage fails to make the repairs, in a timely manner, the Association shall have the right, (but not the obligation), including rights of access and entry to repair and fence and charge the unit owner for the same plus a 10% fee for the same.

(n) Lawn Care. The association shall be responsible for all lawn care and maintenance except for back yards. Each unit owner shall be responsible for the lawn and tree maintenance in their fenced-in back yards. Should an owner fail, refuse or neglect to care for or maintain their back yard, the Association shall have the right (but not the obligation), including the right of access and entry, to perform maintenance and care in the yard area and charge the unit owner for the same plus a 10% fee for the same.

5.2 The Association is responsible for maintenance of Condominium property's sprinkler system, for care of the lawns on the fronts and sides of Condominium property (except unit owners are responsible for back yards), and for removal of snow from main sidewalks which faces Tailfeather, roads, alleys and parking spaces comprising portions of the general common elements. Items that are the responsibility of the Association shall be paid through Association assessments on the owners. Unit Owners at their own expense, shall be responsible for removing snow and ice from the sidewalks and walkways in, around, and appurtenant to their Units and shall comply with all regulations and ordinances governing the same.

5.3. **Use of Common Elements.** Unit Owners may use the general and limited common elements in accordance with the purposes for which they are intended and as they may otherwise agree between themselves, so long as they do not hinder or encroach upon the lawful rights, use, and enjoyment of other Unit Owners, however, the fenced-in yard for each unit shall be used exclusively by that unit and no other.

## SECTION 6 THE ASSOCIATION

6.1 **Membership.** An Owner of a Condominium unit shall automatically and mandatorily 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 as defined in this Declaration.

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

- (a) Adopt bylaws for the governance of the Association.
- (b) Make provisions for the general management and/or repairs and maintenance of the Condominium.
- (c) Levy assessments as provided for in the Declaration, bylaws and Unit Ownership Act.
- (d) Adopt and implement a policy for the affairs of the Condominium.
- (e) Represent the interests of the Unit Owners in matters concerning any applicable Homeowners Association.
- (f) Enter into contracts or hire personnel for the management of the affairs of the Association and the maintenance and repair of the common elements.
- (g) Be responsible for the perpetual maintenance of the landscaping, common open space, parking lots, and driving lanes to the extent such maintenance is required.
- (h) Be responsible for the upkeep, maintenance, repair, refurbishing and remodeling of the common elements of the condominium including the lands, grounds, landscaping, shrubbery, and trees (which includes control of noxious weeds), and maintenance of the exteriors of the units including the exterior walls, roofs, perimeter sidewalks and any fences bordering the Condominium.

6.3 **Limitation on Authority.** No single expenditure or debt in excess of \$5,000.00 may be made or incurred by the Association or manager without prior approval evidenced by the affirmative vote of Unit Owners holding fifty-one percent (51%) of the votes attributable to all of the Condominium Units.

6.4 **Voting Interest.** Unless a Condominium unit's vote is expressly excluded in a particular matter by this Declaration, each Unit of the Condominium shall have one (1) vote on all matters to be decided by the Association. If a unit is owned by more than one person or an entity, such persons or entity shall appoint a representative to cast the vote for that unit. Except as otherwise provided in the Unit Ownership Act, this Declaration, or the bylaws, a majority of the votes present at any meeting or by proxy shall be sufficient to act on matters brought before the Association. Meetings of the Association shall only be conducted when a quorum is present, as defined in the Association bylaws. Declarant shall retain one vote for each unit owned by the Declarant, regardless of whether or not such unit has been constructed or completed.

6.5 **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 7 ASSESSMENTS; LIENS

### 7.1 Liability for Assessments.

(a) **Generally.** A Unit Owner, regardless of how title is acquired, shall be liable for all assessments coming due while such person is the Unit Owner. 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 common 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 said unpaid assessments against the grantor due the Association and such grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for, any unpaid assessments made by the Association against the grantor in excess of the amount therein set forth.

(b) **Foreclosure.** Where the Unit Owner obtains title to the Unit as the result of foreclosure of a first mortgage or trust indenture, such Unit Owner, and that owner's successors and assigns, shall not be liable for any of the common expenses chargeable to such Unit that became due prior to the Unit Owner's acquisition of title. Such unpaid share of common expenses shall be a common expense of all the Unit Owners, including the owner of the unit against which the unpaid common expenses were assessed and that owner's successors and assigns.

7.2 **Assessments-Purposes, Procedure.** The Association shall levy assessments upon the Unit Owners in the following manner and for the following reasons:

- (a) Assessments shall be made as a part of the regular business of the Association at any regular or special meeting thereof as provided in the bylaws of the Association. Notice of the assessment, amount thereof, and the purpose for which it is made whether regular or special, including an annual budget for expenditures and operation, shall be served on all Unit Owners affected by delivering a copy of the same to the owner personally or by mailing a copy of the notice to the owners at their addresses of record at least ten (10) days prior to the date for such meeting.
- (b) Assessments shall be made for the repair, replacement, general maintenance,

management and administration of common elements, fees, costs and expenses of the manager, taxes for common areas if any, to establish a reserve fund and for the Unit Owner's percentage share of any special improvement district assessments. Assessments shall be based upon and computed by using the percentage of interest that each Unit Owner has in the general common elements.

Assessments may also be made for the payment of limited common element expenses such that the Unit Owners are chargeable only for the expenses relating to their respective units or building. Unit Owners shall share in the payment for limited expenses for the repair, maintenance and replacement of limited common elements of their respective units in accordance with the percentage the unit or units have in the limited common elements for which the assessment is being made. If only one unit is associated with the limited common elements involved, then the entire cost of such repair, maintenance or replacement shall be borne by that Unit.

In accordance with the percentage of interest in the general common elements as set forth in the Declaration, each Owner shall be assessed for general common expenses, which shall include the expenses of any properly created special improvement districts (SIDs) affecting the property, including, but not limited to lighting districts, street maintenance and tree maintenance. Such assessments, and assessments for limited common expenses, shall be collected and paid according to the terms and under the procedures more particularly set forth in the Declaration. The amounts of assessments described above and any other assessments allowed by these Bylaws, the Declaration and by the State of Montana, shall be fixed by the Board of Directors. Notice of each Owner's assessments shall be mailed to the Owner at his or here address of record.

- (c) Assessments may also be made for any other purpose contemplated by this Declaration and for any purpose set out in the Unit Ownership Act.
- (d) Common expenses and profits, if any, of the condominiums shall be charged to and distributed among the Unit Owners according to the percentage of undivided interest of each in the common elements.
- (e) An initial assessment of \$250.00 common area charge for each Unit, will be collected at the closing of each Unit purchased from the Declarant. At the time the Association holds its first meeting, or at any duly noticed meeting thereafter, a reserve account will be set up to which any unused initial assessments shall then be deposited. Thereafter, a yearly assessment shall be made for the reserve account in an amount determined by the Association but in no event shall it be less than 10% of the annual budget. The reserve fund shall be for the maintenance, repair, replacement and administration of common elements.

- (f) The Association, acting through the Board or the Manager, shall have the authority to levy fines against Units for any violation of the covenants set forth herein or for any violation of the rules and regulations duly adopted by the Board. Violations caused by a tenant shall be assessed against the occupied Unit and shall be the responsibility of the Unit Owner. For each violation, the Unit owner may be fined according to the following fine schedule:

First Offense:	\$25.00
Second Offense:	\$50.00
Third Offense and More:	\$100.00

The fine schedule may be amended by the Board at any duly called meeting provided it is thereafter approved by at least seventy-five percent (75%) of the aggregate Unit ownership interest at any regular or special meeting of the Association. All fines shall be considered final and shall be considered an assessment and a lien against the Unit unless the Unit Owner makes a written appeal to the Board within five (5) business days of receiving the fine and the Board subsequently overturns such fine. The Board shall have thirty days to meet and render its decision regarding the fine, which decision shall be final. All fines may be collected by the Association in the same manner as an assessment as set forth herein. All fines not paid within thirty (30) days shall accrue interest at the then maximum current legal rate of interest per annum on the amount of the fine from the due date thereof.

### 7.3 Payment of Assessments.

- (a) **Due Date: Delinquency.** All assessments shall be due thirty (30) days from the date of mailing such assessment following the meeting at which time assessments are levied by the Association, and may be payable in one annual payment, quarterly or monthly installments, at the option of the Unit Owner. The amount of the general common expenses assessed against each unit, and the amount of limited common expenses assessed against each unit shall be the personal and individual debt of the Unit Owner. No Unit Owner shall be exempt from liability for this contribution toward the common expenses by waiver of the use or enjoyment of any of the general common elements or limited common elements or by abandonment of the unit. All assessments which are not paid within thirty (30) days from the date they are due and payable become delinquent and are subject to interest at the rate of 10% per annum and penalty charges.
- (b) **Collection.** The Association or manager shall have the responsibility of taking prompt action to collect any unpaid assessment which becomes delinquent. In the event of delinquency in the payment of the assessment, the Unit Owner shall be obligated to pay interest at the then current legal rate of interest per annum on the amount of the assessment from the due date

thereof, together with all expenses, including attorney fees incurred, together with such interest and late charges as are provided in the bylaws of the Association. Suit to recover a money judgment for unpaid common expenses and limited expenses may be maintainable without foreclosing or waiving the lien securing the same. Unpaid assessments, together with attorney fees, interest and costs shall also be a personal obligation of the Unit Owner at the time the assessment become due and a purchaser may be held jointly or severally liable for past due payments.

**7.4 Liens and Foreclosure.** All sums assessed but unpaid for the share of general common expenses and limited common expenses chargeable to any Unit shall constitute a lien on such Unit. To evidence such lien, the Association shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the amount of accrued interest and late charges thereon, the name of the 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 office of the Clerk and Recorder of Gallatin County, Montana. Such lien shall attach from the date of recording such notice. Such lien may be enforced by the foreclosure of the defaulting Owner's 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 common expenses shall be maintainable without foreclosure or waiving the lien securing the same. In any such proceeding the owner may be required to pay the costs, expenses and attorney's fees incurred in filing a lien, and in the event of foreclosure proceedings, additional costs, expenses and attorney's fees incurred.

**7.5 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 general common expenses or limited common expenses payable with respect to any such Unit, and upon such payment such lienholder shall have a lien on said unit for the amounts paid of the same priority as the lien of the lienholder's encumbrance without the necessity of having to file a notice or claim of such lien.

**7.6 Priority of Lien.** To the extent permitted by Montana law or other applicable law, any lien of the Association for common expense charges and assessments becoming payable on or after the date of recordation of the first mortgage, shall be subordinate to the first mortgage on the Unit. To the extent permitted by Montana law or other applicable laws, such a lien for common expense charges and assessments shall not be affected by any sale or transfer of a Unit, except that a sale or transfer of a Unit pursuant to a foreclosure of a first mortgage shall extinguish a subordinate lien for common expense charges and assessments which became payable prior to such sale or transfer. To the extent permitted by Montana law or other applicable law, any such sale or transfer



pursuant to a foreclosure shall not relieve the purchaser or transferee of a Unit from liability for, nor the Unit sold or transferred from the lien of, any common expense charges thereafter become due.

**7.7 Mortgagees and Unpaid Dues.** Any first mortgagee who obtains title to a condominium unit pursuant to the remedies in the mortgage or through foreclosure will not be liable for more than six months of the unit's unpaid regularly budgeted dues or charges accrued before acquisition of the title to the unit by the Mortgagee. If the Condominium Association's lien priority includes costs of collecting unpaid dues, the lender will be liable for any fees or costs related to the collection of the unpaid dues.

#### SECTION 8 DECLARANT'S RIGHT TO CHANGE

**8.1 Alteration of Design and Boundaries.** The Declarant reserves the right to change the interior design and arrangement of all Units and alter the boundaries between Units, so long as the Declarant owns the Units so altered. No such change shall increase the number of Units or alter the boundary of the general common elements without an Amendment of this Declaration. Until seventy-five percent (75%) of all units (including future phase) has been built and sold, Declarant reserves the right to establish easements, reservations, exceptions and exclusions consistent with the Condominium project.

**8.2 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 to exercise the rights, duties and functions of the board of directors of the Association until seventy-five percent (75%) of the total condominium units have been sold (including future phase) after which time the control of the Association shall pass to the home owners. Such transition shall occur within 120 days of seventy-five percent (75%) of the condominiums being sold. During the period of development and sale of the remaining condominium units, the monthly assessment for common expenses shall be based upon the estimate of the actual cost thereof, excluding therefrom any estimated amount for contingencies or reserves and Declarant shall pay Declarant's pro rata share thereof only for those condominium units which have been completed. During the period when fewer than all of the units have been erected, the common expenses shall be allocated among the owners of existing, completed units, and during such period Declarant shall pay the real estate taxes and assessments on that part of the land described in Section 2.1 that remains undeveloped but on which condominium units will be subsequently constructed.

As discussed, described and noted above in this Declaration and Bylaws, the Declarant has reserved the right to construct a minimum of one (1) building with four (4) units as generally depicted on the future site plans attached hereto and that with the creation of such building the percentage ownership and voting percentages of Unit Owners shall be diluted. Such construction of one (1) additional building described throughout this Declaration and Bylaws may be done by Declarant or Declarant's successors or assigns without vote of the Unit Owners or Association as acceptance of a Condominium Unit constitutes consent and acceptance for the construction of the additional building as described throughout this document.

Declarant reserves the right to decide not to construct planned future Units, phases and/or improvements to the common elements. In such event, Declarant may remove Lot 14 (the lot in which the future phase will be located) from the Unit Ownership Act, so long as easements are established for access and utilities to and from Lot 15 for the association. The owners and purchasers hereby consent to the removal of lot 15 from the HOA should Declarant decide to do so and hereby grant the Declarant a limited power of attorney for the purpose of filing any necessary documents to remove Lot 15 from the Unit Ownership Act if Declarant decides not to construct the planned future phase.

#### SECTION 9 AMENDMENT

**9.1 Amendment by Unit Owners.** At any regular or special meeting of the Association, such amendment may be proposed as a resolution by any Unit Owner, the board or manager. Upon adoption of the resolution by a majority of votes present at a meeting or by proxy, the 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 amendment, to be furnished to each owner no later than thirty (30) days in advance of such meeting. At such meeting, the amendment shall be approved upon receiving the favorable vote of at least seventy-five percent (75%) of the total votes in the Association and the approval of fifty-one percent (51%) of the "eligible" holders of first mortgages on Units subject to a mortgage. For first mortgagees to be "eligible" to vote herein, they must have requested notice as provided herein under "Notice of Action". If so approved, it shall be the responsibility of the Association to file the amendment with the Clerk and Recorders Office of Gallatin County, Montana. Approval will be implied when an "eligible" mortgagee fails to submit a response to any written proposal for an amendment within sixty (60) days after it received proper notice by Certified Mail, return receipt requested.

**9.2 Amendment by Declarant.** Notwithstanding the procedure set forth in Section 9.1, the Declarant may amend this Declaration, or any other Condominium document, at any time prior to the sale of the first unit or interest thereof.

The Declarant or its successors, assigns and/or designee may amend this Declaration, or any other project document, prior to any sale of any Unit or interest thereof, and thereafter as further set forth herein to facilitate adding additional phases, including but not limited to Amendments to this Declaration and Bylaws without vote of the Unit Owners or Association as each building is constructed in order to restate the percentage ownership and voting percentages of Unit Owners which are thereby diluted.

#### SECTION 10 ALTERATIONS, MAINTENANCE AND REPAIRS

**10.1 Alterations by Association.** The interior plan of a unit may be changed by the owner. The boundaries between units may be changed only by the owners of the units affected. No units may be subdivided (except in accordance with Section 8). 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 the existing 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 9, 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.

**10.2 Exterior Alterations.** No Unit Owner may change, alter or remodel the exterior of the unit without the prior written approval of the Association.

**10.3 Interior Remodeling.** Each Unit Owner shall have the exclusive right to paint, repaint, tile, wax, paper, panel, carpet, brick or otherwise maintain, refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his or her own unit, and the interior thereof, so long as such owner does not affect the structural integrity of the building in which the unit is located.

**10.4 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 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 general or limited common elements for construction performed or for labor, materials, services or other products incorporated in the owner's unit at such owner's request.

**10.5 Maintenance by Association.** The maintenance, repair and replacement of all general common elements and Association property shall be performed by the Association, and the cost is a common expense. The maintenance, repair and replacement of all limited common elements, excluding the fenced-in back yard area for each unit, shall be performed by the Association, and the cost is a limited expense.

**10.6 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 general or limited common elements, or as a result of an emergency repair within another unit at the instance of the Association, shall be designated either limited or general common expenses by the Association and assessed in accordance with such designation.

**10.7 Maintenance by Unit Owners.** Each Unit Owner, at such owner's own expense, shall maintain and keep in good order and repair the interior of the owner's unit and the area contained within the fenced back yard. All fixtures and equipment installed in the unit and the area contained within the fenced-in back yard, commencing at a point where

the utilities enter the unit, shall be maintained, kept in repair, and replaced if necessary by the Unit Owner . An owner shall do no act nor any work that will impair the structural soundness or integrity of the building or impair any easement.

Each owner shall also keep any balcony, entrance, porch, back yard or deck area appurtenant to the owner's unit in a clean and sanitary condition. Each Unit Owner shall be responsible for snow removal and maintenance of their individual entry ways, driveways and front porches. The HOA shall be responsible for snow removal and maintenance of the common drive and common sidewalks. 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 limited common elements or general common elements.

## SECTION 11 INSURANCE

### **Insurance Generally**

The Owners Association must maintain adequate blanket property insurance, liability insurance, flood insurance (if in a flood zone), fidelity bond coverage and workmen's compensation insurance.

The Association must obtain, maintain, and pay the premiums upon, as a common expense, a "master" or "blanket" type policy of property insurance covering all of the common elements and limited common elements, (except land, foundation, excavation and other items normally excluded from coverage) including fixtures, to the extent they are part of the common elements of the condominium, building service equipment and supplies, and other common personal property belonging to the Owners Association. All references herein to a "master" or "blanket" type policy of property insurance, are intended to denote single entity condominium insurance coverage.

### **Purchase**

All insurance policies upon the property of the MOUNTAIN QUAIL CONDOMINIUM, including the general and limited common elements, shall be purchased by the Association and shall be issued by an insurance Company authorized to do business in Montana.

- (a) Named Insured: The named insured shall be the Association individually and as agent for the Unit Owners without naming them. Such policies shall provide that payments for losses thereunder by the insurer shall be paid to the insurance Trustee, as a trustee for each Unit Owner hereinafter designated, and all policies and endorsements thereon shall be deposited with the insurance Trustee. Unit Owners may obtain insurance coverage,

at their own expense, upon their own personal property and for their personal liability.

- (b) **Copies to Mortgagees:** One copy of each insurance policy and of all endorsements thereon shall be furnished by the Association to each mortgagee of a Unit Owner upon written request.

**Coverage**

- (a) **Casualty:** Such policy must be consistent with state and local insurance laws and at least equal to such coverage as is commonly required by institutional mortgage investors in the area in which the condominium is located. Such policies must also provide that they may not be cancelled or substantially modified, without at least 10 days' prior written notice to the Owners Association. All buildings and improvements upon the land shall be insured in an amount equal to the full insurable replacement value, and all personal property included in the common elements shall be fully insured, with all such insurance to be based on current replacement value, as determined annually by the Board of Directors, but subject to such deductible clauses as are required in order to obtain coverage at reasonable costs. Such coverage shall afford protection against:
  - (1) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and
  - (2) Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the building on the land, including, but not limited to, vandalism and malicious mischief.
  - (3) Errors or Omissions Insurance for the Directors, Officers and Managers, if the Association so desires, in amounts to be determined by the Board.
- (b) **Public and General Liability:** In such amounts and with such coverage as shall be required by the Board of Directors of the Association, including, but not limited to, hired automobile and non-owned automobile coverage, if applicable, and with cross-liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner. The Owners Association is required to maintain comprehensive general liability insurance coverage covering all of the common elements, commercial space owned and leased by the Owners Association, and public ways of the condominium project. Coverage limits shall be in amounts generally required by private institutional mortgage investors for

projects similar in construction, location, and use. However, such coverage shall be for at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insured's for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the common elements, and legal liability arising out of lawsuits related to employment contracts of the Owners Association. Such policies must provide that they may not be cancelled or substantially modified, by any party, without at least 10 days' prior written notice to the Owners Association.

- (c) **Other Insurance:** The Board shall obtain Worker's Compensation policies to meet the requirements of law and such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable and as may be required by the Federal and State laws.
- (d) **Other Requirements:** The policies must also provide recognition of any Insurance Trust Agreement; a waiver of the right of subrogation against Unit Owners individually; that the insurance is not prejudiced by any act or neglect of individual Unit Owners which is not in the control of such owners collectively; and that the policy is primary in the event the Unit Owner has other insurance covering the same loss. The requirements stated in this paragraph are generally provided by the insurer in the form of a "Special Condominium Endorsement" or its equivalent. The insurance policy shall afford, as a minimum, protection against the following:
  - (1) In the event the condominium contains a steam boiler, loss or damage resulting from steam boiler equipment accidents in an amount not less than \$50,000.00 per accident, per location (or such greater amount as deemed prudent based on the nature of the property);
  - (2) all other perils which are customarily covered with respect to condominiums similar in construction, location and use, including all perils normally covered by the standards "all-risk" endorsement where such is available.
- (e) **Fidelity Bond:** - Blanket fidelity bonds shall be required to be maintained by the Owners Association for all officers, directors, and employees of the Owners Association and all other persons handling, or responsible for, funds of or administered by the Owners Association. Where the management agent has the responsibility for handling or administering funds of the Owners Association, the management agent shall be required to maintain fidelity bond coverage for its officers, employees and agents

handling or responsible for funds of, or administered on behalf of, the Owners Association. Such fidelity bonds shall name the Owners Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Owners Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to 3 months aggregate assessments on all units plus reserve funds. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions. The premiums on all bonds required herein, except those maintained by the management agent, shall be paid by the Owners Association as a common expense. The bonds shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 10 days' prior written notice to the Owners Association or Insurance Trustee.

### **Premiums**

Premiums for insurance policies purchased by the Association shall be paid by the Association as a common expense, except that the amount of increase in the premium occasioned by use, misuse, occupancy or abandonment of a Unit or its appurtenances or of the common elements by a Unit Owner shall be assessed against the Owner.

### **Insurance Trustee**

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

- (a) Unit Owners - An undivided share for each Unit Owner, such share being the same as the undivided share in the common elements appurtenant to his Unit.

- (b) Mortgagees - In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions thereof made to the Unit Owner and mortgagee pursuant to the provision of this Declaration.
- (c) The Trustee shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish this purpose.

**Distribution of Proceeds**

Proceeds of insurance policies received by the insurance trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

- (a) Miscellaneous: Expenses of administration, the insurance trustee, and construction or remodeling supervision shall be considered as part of the cost of construction, replacement or repair.
- (b) Reconstruction or Repair - If the damage for which the proceeds are paid is to be repaired or reconstructed by the Association, the remaining proceeds shall be paid to defray the costs thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being payable jointly to them.
- (c) Failure to Reconstruct or Repair - If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being payable jointly to them.
- (d) Certificate - In making distribution to Unit Owners and their mortgagees, the insurance trustee may rely upon a certificate from the Association made by its representative or Manager as to the names of the Unit Owners and their respective shares of distribution.

**Association as Agent**

The Association is irrevocably appointed agent for each Unit Owner and for each Owner of a mortgage or other lien upon a Unit and for each Owner of any other interest



in the condominium property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

**Benefit to Mortgagees**

Certain provisions in this paragraph entitled "Insurance" are for the benefit of mortgagees or trust indenture beneficiaries of condominium parcels, and all such provisions are covenants for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee or beneficiary.

**Reconstruction**

(e) **Repair After Casualty**

If any part of the condominium property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

- (1) Lesser Damage - If a Unit or Units are found by the Board of Directors of the Association to be tenantable after the casualty, the damaged property shall be repaired.
- (2) Greater Damage - If a Unit or Units are found by the Board of Directors to be not tenantable after the casualty, the damaged property shall be reconstructed or rebuilt.
- (3) Certificate - The insurance trustee may rely upon a certificate of the Association made by its president and secretary to determine whether or not the damaged property is to be reconstructed or repaired.

(f) **Plans and Specifications**

Any reconstruction or repair must be substantially in accordance with the plans for specifications and the original improvements, or if not, then according to plans and specifications approved by the Board of Directors and by more than seventy-five percent (75%) of the Unit Owners, including the Owners of all Units the plans for which are to be altered. Any such reconstruction not in accordance with the original plans and specifications must be set forth in an amendment to the Declaration, which amendment shall be prepared and filed of record in accordance with the provisions of such amended filing.

(g) **Responsibility**

The responsibility for reconstruction or repair after casualty shall be the same as for maintenance and repair of the condominium property, and the Association shall work with the insurance trustee to carry out the provisions of this Article.

(h) **Assessments**

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

(i) **Construction Funds**

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

(j) **Surplus**

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

(k) **Condemnation**

The Owners Association shall represent the Unit Owners in the condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the common elements, or part thereof, by the condemning authority.

**SECTION 12 REMOVAL OR PARTITION; SUBDIVISION**

**12.1 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. The consent of Owners of Units to which at least 75 percent (75%) of the votes in the Owners Association are allocated and the approval of the "eligible" holders of first mortgages on Units to which at least 51 percent (51%) of the votes of units subject to a mortgage appertain, shall be required to terminate the condominium regime. For a Mortgagee to be "eligible" hereunder, they must have requested notice as set forth herein under "Notice of Action". Upon obtaining such approval, the Board 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.

**12.2 Subdivision Prohibited.** No unit may be divided or subdivided into a smaller unit, nor may any portion thereof sold or otherwise transferred, except as otherwise expressly provided in this Declaration.

#### SECTION 13 MISCELLANEOUS

**13.1 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.

**13.2 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:

Gallatin Valley Homes, Inc.  
147 High K  
Belgrade, MT 59714

**13.3 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 common 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.

**13.4 Remedies.** The remedies provided in this Declaration and the bylaws shall not be exclusive of any other remedies which may now or in the future be available to the

parties as provided for by law.

**13.5 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.

**13.6 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.

**13.7 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, bylaws and Unit Ownership Act.

**13.8 Rights of Action:** The Association, and any aggrieved Condominium Unit Owner, has a right of action against Condominium Unit Owners who fail to comply with the provisions of this Declaration, the Association Bylaws, rules, regulations, or any other provisions of documents relating to the Condominium or the decisions made by the association.

**13.9 Notice of Action:** A holder, insurer or guarantor of a first mortgage, upon written request to the Association, (such request to state the name and address of such holder, insurer or guarantor and the Unit number), will be entitled to timely written notice of:

(1) Any proposed amendment of the condominium instruments effecting a change in (i) the boundaries of any Unit or the exclusive easement rights appertaining thereto, (ii) the interests in the general or limited common elements appertaining to any Unit or the liability for common expenses appertaining thereto, (iii) the number of votes in the Owners Association appertaining to any Unit or (iv) the purposes to which any unit or the common elements are restricted:

(2) Any proposed termination of the condominium regime;

(3) Any condemnation loss or any casualty loss which affects a material portion of the condominium or which affects any unit on which there is a first mortgage held, insured or guaranteed by such eligible holder;

(4) Any delinquency in the payment of assessments or charges owed by an Owner of a unit subject to the Mortgage of such eligible holder, insurer or guarantor, where such delinquency has continued for a period of 60 days;

(5) Any lapse, cancellation or material modification of any insurance policy maintained by the Owners Association.

### **First Mortgagees Rights**

No provision of the this Declaration shall give a condominium Unit Owner or any other party priority over any rights of the first mortgagee of the condominium unit pursuant to its mortgage in the case of payment to the Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of condominium units and/or common elements.

To the extent possible under Montana and other applicable law, the following protections for the benefit of first mortgage holders are as follows:

- (1) Any restoration or repair of the condominium after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the Declaration and the original plans and specifications unless the approval of the eligible holders of first mortgages on Units to which at least 51% of the votes of Units subject to mortgages held by such eligible holders are allocated, is obtained.
- (2) Any election to terminate the condominium regime after substantial destruction or a substantial taking in condemnation of the condominium property must require the approval of the eligible holders of first mortgages on Units to which at least 51% of the votes of Units subject to mortgages held by such eligible holders are allocated.
- (3) Unless the formula for reallocation of interests in the common elements after a partial condemnation or partial destruction of the condominium project is fixed in advance by the Declaration or by applicable law, no reallocation of interests in the common elements resulting from a partial condemnation or partial destruction of the condominium project may be effected without the approval of the eligible holders of first mortgages on Units to which at least 51% of the votes of Units subject to mortgages held by such eligible holders are allocated.

NOTE: As used in this section, the term "eligible holder, insurer or guarantor" shall mean a holder, insurer or guarantor of a first mortgage on a Unit in a condominium.

13.10 **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.

13.11 **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.

GALLATIN VALLEY HOMES, INC.

By: 

Jared Schroeder

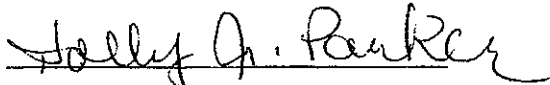
Its: President

ACKNOWLEDGMENT

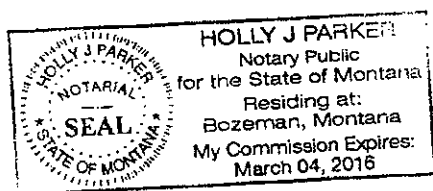
STATE OF MONTANA )  
  ) :ss  
County of Gallatin )

This instrument was acknowledged before me on March 18, 2014, by JARED SCHROEDER as the President of Gallatin Valley Homes, Inc.

SUBSCRIBED AND SWORN TO before me this 18th day of MARCH, 2014.



Notary Public for the State of Montana  
Residing at \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



ii

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 MOUNTAIN QUAIL CONDOMINIUM situated on lands legally described as follows:

Lots 14 and 15 of the Amended Plat of Northstar Subdivision Multi-Family Phase 3, Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana.

1. That the name "MOUNTIAN QUAIL 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: April 01, 2014.

Barbara Kavanagh / PVS  
County Assessor

ARCHITECT'S CERTIFICATE

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

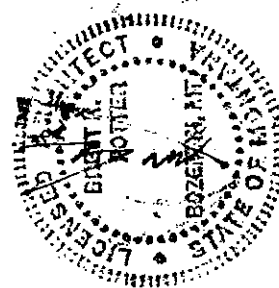
That pursuant to the provisions of MCA § 70-23-306(2), the floor plans for **MOUNTAIN QUAIL CONDOMINIUM**, located on the real property described on Exhibit "A" attached hereto, as duly filed with the Declaration and Bylaws thereof, depict the layout of the units and floors of the building in Phase 1 as built as of this date.

Dated: 3-1-14

TRETT R. POTTER

2599 MT, Registered Architect

Registration Number: 2599





**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**Lots 14 and 15 of the Amended Plat of Northstar Subdivision Multi-Family Phase 3, Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana.**



## 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 Mountain Quail Condominium made March 18, 2014, by Jared Shroeder, president of GALLATIN VALLEY HOMES, INC., a Montana Corporation, 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.

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


Lots 14 and 15 of the Amended Plat of Northstar Subdivision Multi-Family Phase 3, 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-439-A).

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 Northstar Subdivision Multi-Family Phase 3 expressly contemplated the construction of multi-family buildings within Lots 14 and 15 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 Northstar Subdivision Multi-Family Phase 3. Furthermore, the units subject to this Declaration are exempt because the subject condominiums are in conformance with the requirements of the Four Corners Zoning Regulations.

Any future amendment to the Preliminary Declaration for the Mountain Quail Condominium or to any final Declaration that adds units to the Condominium Declaration for the Mountain Quail Condominium for lots within the Northstar Subdivision Multi-Family Phase 3 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 31st Day of March, 2014

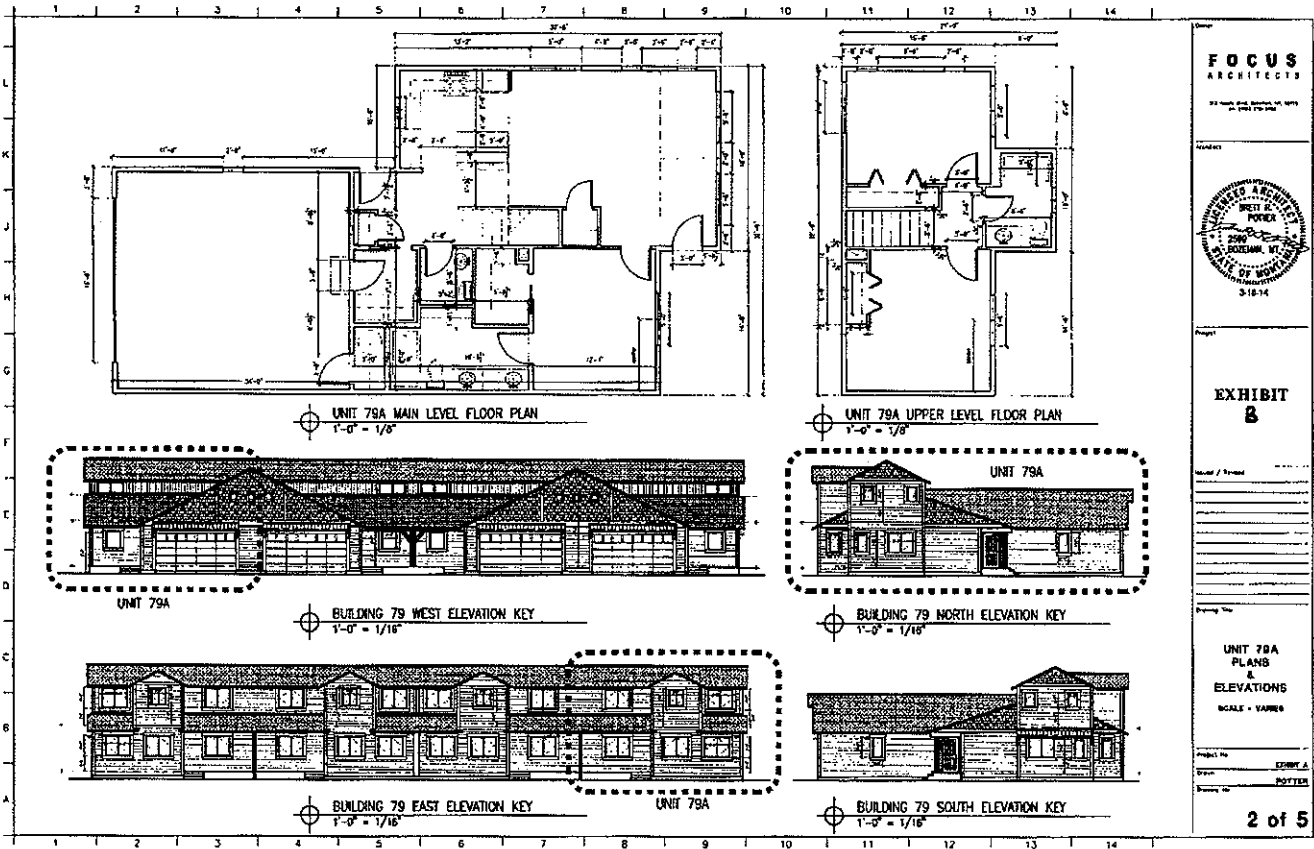
  
W. Randall Johnson, AICP;  
Manager, Subdivision and Zoning



**EXHIBIT "A"**

**LEGAL DESCRIPTION**

Lots 14 and 15 of the Amended Plat of Northstar Subdivision Multi-Family Phase 3, Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana.



**FOCUS**  
ARCHITECTS

2200 WEST 10TH STREET, SUITE 100  
MILWAUKEE, WI 53233



**EXHIBIT**  
**8**

Project / Revised

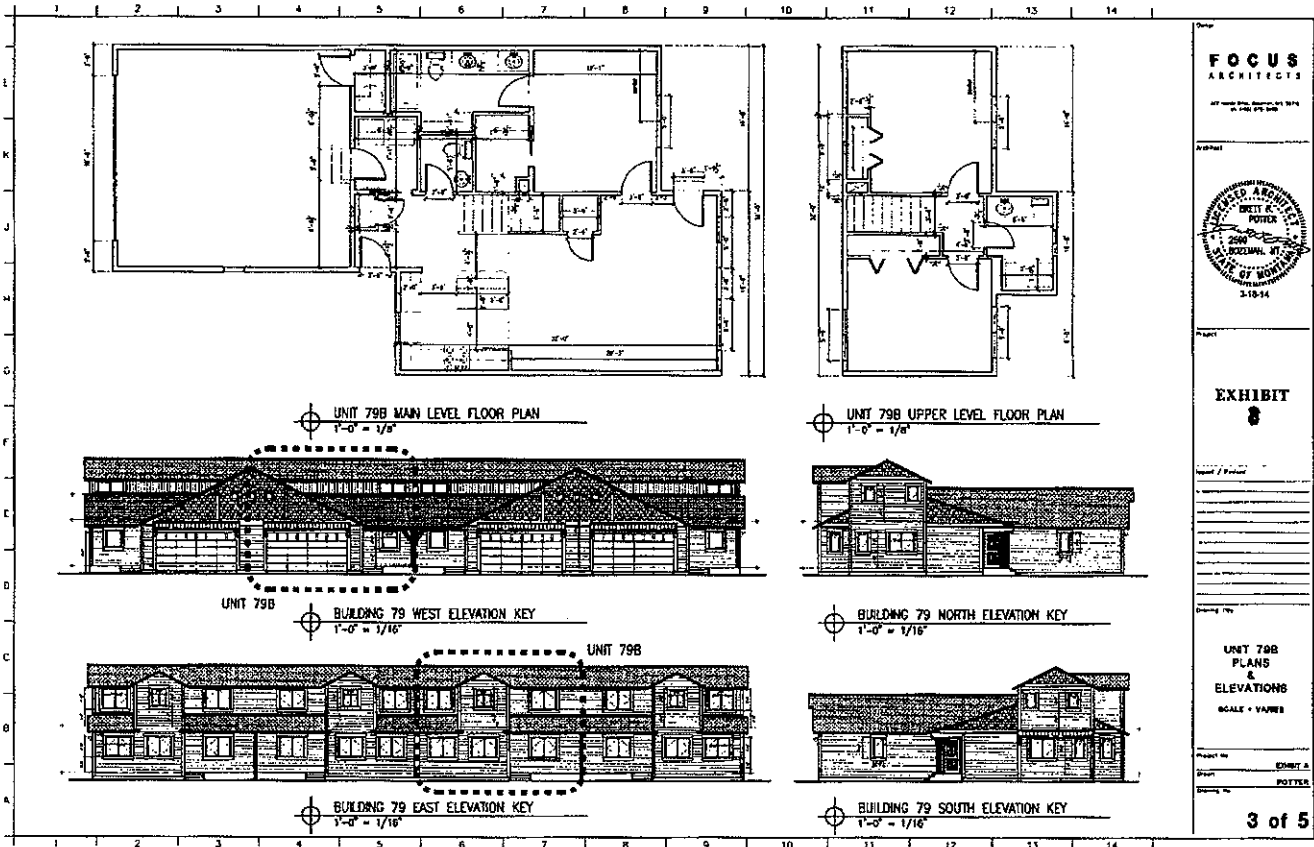
Project No.

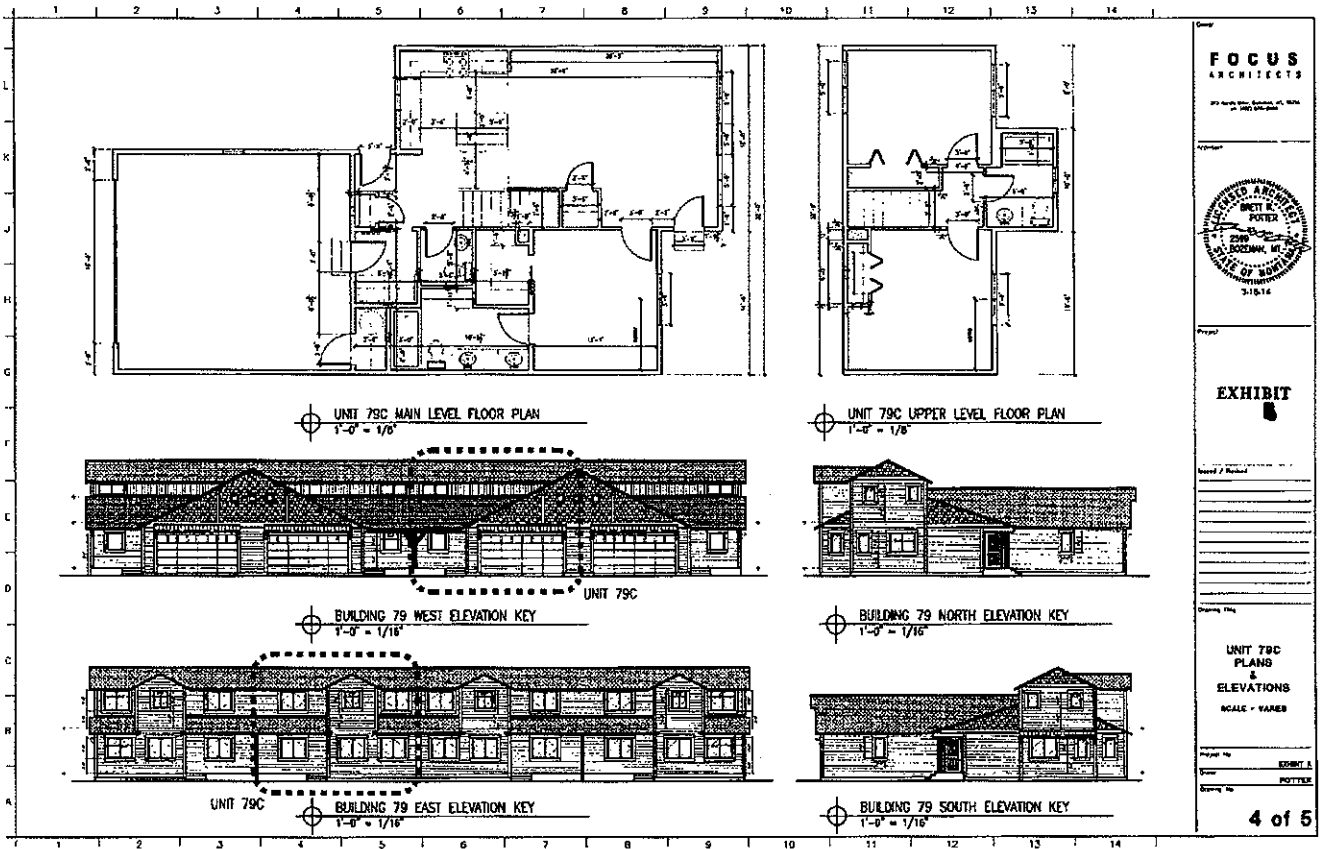
**UNIT 79A**  
**PLANS**  
**&**  
**ELEVATIONS**  
SCALE - VARIOUS

Project No.

Drawn by: **EDMUND**

Checked by: **PORTER**





**FOCUS**  
ARCHITECTS  
875 North Elm Street, Suite 101  
Westborough, MA 01581

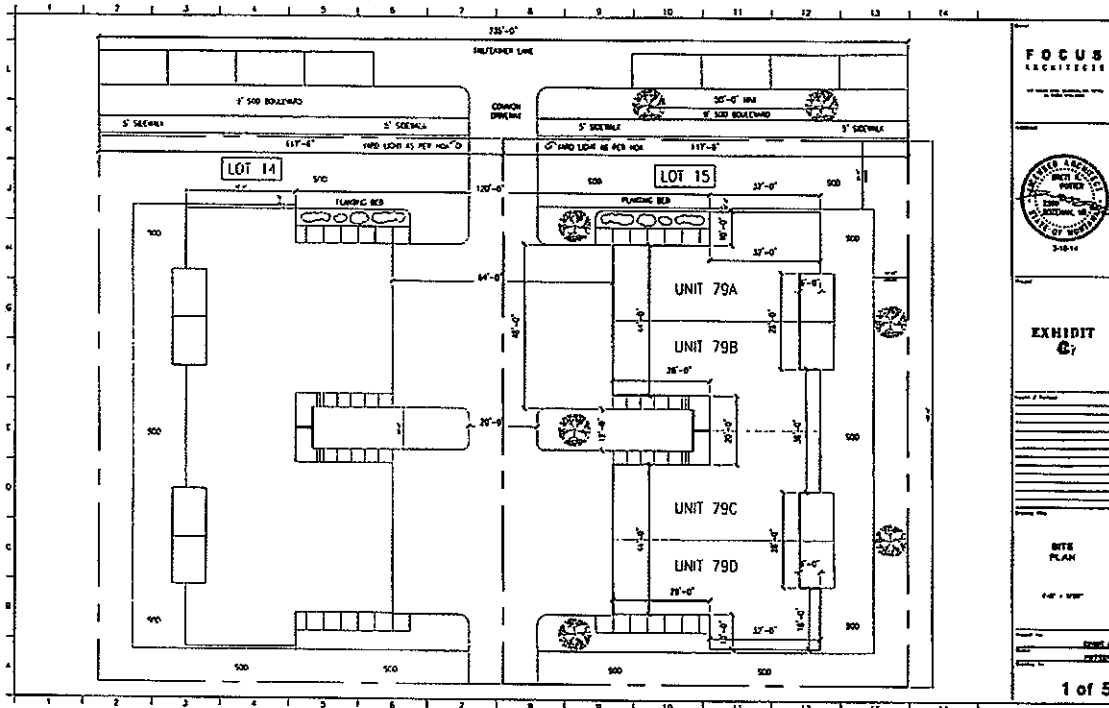
**BRETT R. POTTER**  
2389  
STATE OF VERMONT  
2-16-14

**EXHIBIT**

UNIT 79C  
PLANS  
&  
ELEVATIONS  
SCALE - VARIES

4 of 5







BYLAWS OF THE ASSOCIATION OF UNIT OWNERS  
OF  
MOUNTAIN QUAIL CONDOMINIUM ASSOCIATION, INC.

ARTICLE I

PURPOSE AND APPLICATION

These Articles are and shall be the Bylaws of the Association of Unit Owners of the MOUNTAIN QUAIL CONDOMINIUM ASSOCIATION, INC. (the "Association"). These Bylaws shall, upon being recorded with the Clerk and Recorder of Gallatin County, State of Montana, govern and control the administration of the MOUNTAIN QUAIL CONDOMINIUM as declared by GALLATIN VALLEY HOMES, INC., a Montana Corporation of Belgrade, Montana on this \_\_\_ day of March, 2014. All Unit Owners, their employees, business invitees, guests and any renters or sublessees, present and future, shall have the rights and responsibilities described in these Bylaws and shall be subject to the provisions thereof.

The acquisition of an ownership interest in a unit in the MOUNTAIN QUAIL CONDOMINIUM signifies that the owner accepts, ratifies, and agrees to comply with these Bylaws.

ARTICLE II

MEMBERSHIP

Persons owning a Unit in the MOUNTAIN QUAIL CONDOMINIUM or an interest in a unit, or owning a unit in any real estate tenancy relationship recognized by the State of Montana, shall be a member of the Association of Unit Owners ("Association"). An owner may not decline membership in the Association. Membership begins concurrently with the acquisition of an ownership interest and terminates at the time such ownership interest is terminated. Such termination shall not relieve any owner of a liability for obligations incurred while a member of the Association; further, membership in the Association does not in any way negate or impair any owners's legal remedies, right to bring legal action, or defenses to any and all actions involving the Association, other Unit Owners, or the Management, which may arise from or be incidents of unit ownership.

ARTICLE III

OBLIGATIONS

Each Unit Owner shall be obligated to comply with these Bylaws and the Declaration. Such obligations shall include, but not limited to, the paying of assessments levied by the Association, and the adherence to the protective covenants which are a part of the Declaration. Failure of any owner to abide by these Bylaws, and all rules made pursuant thereto, the Declaration, the County of Gallatin, and the State of Montana, shall be grounds for appropriate legal action by the Association of Unit Owners or by an aggrieved Unit Owner against such noncomplying owner.

ARTICLE IV

MEETING AND VOTING

There shall be a regular meeting of the Association annually on the second Monday in September of each year, commencing in the year the MOUNTAIN QUAIL CONDOMINIUM regime is established, or on such other date properly announced by the Association.

Pursuant to these Bylaws, the Association may at any time hold special meetings. Such special meetings may be called on the initiative of the Chairman of the Association, by the Board of Directors, a signed request by the Manager, or a petition signed by twenty-five percent (25%) of the Unit Owners. Notice of any special meeting must specify the reason for such meeting and the matters to be raised. Only matters set forth in the petition or request may be brought before such meeting.

A. Notice.

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

B. Quorum.

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

ARTICLE V

VOTING INTEREST

A. Procedures.

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

Each Unit shall thus have an equal voting interest on all matters affecting the general business of the MOUNTAIN QUAIL CONDOMINIUM, on all matters affecting the common elements, assessments for the common elements, and on all matters upon which the Association has agreed to have voting on the general common elements' interests. Voting upon matters affecting limited common elements and assessments for limited expenses shall be only by owners having a unit or interest in units located in the building affected. No member shall be entitled to vote during any period in which such member shall be in default in the payment of any assessment levied by the Association as set forth in the Declaration.

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

B. Proxies.

Every person entitled to vote shall have the right to do so either in person or by written proxy signed by such person and filed with the secretary of the Association. A proxy shall be deemed signed if the member's name is placed on the proxy, (whether by manual signature, typewriting, telegraphic transmission, facsimile or otherwise) by the member or the member's attorney-in-fact. A validly executed proxy which does not state that it is irrevocable shall continue in full force and effect unless (i) revoked by the person executing it prior to the vote pursuant to that proxy by a writing delivered to the Association stating that the proxy is revoked, or by a subsequent proxy executed by, or attendance at the meeting and voting in person by, the person executing the proxy; or (ii) written notice of the death or incapacity of the maker of that proxy is received by the Association before the vote pursuant to that proxy is counted; provided however, that no proxy shall be valid after the expiration of eleven (11) months from the date of the proxy unless otherwise provided in the proxy.

C. Record Date.

In order that the Association may determine the members entitled to notice of, or to vote at, any meeting or entitled to exercise any rights in respect of any other lawful action, the board

of directors may fix, in advance, a record date which shall not be more than sixty (60) nor less than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to any other action.

Members of record at the close of business on the record date are entitled to notice and vote or to exercise their rights as the case may be, notwithstanding any transfer of any units on the books of the Association after the record date, except as otherwise provided by agreement, in the Montana Nonprofit Corporation Act.

## ARTICLE VI

### BOARD OF DIRECTORS

The governance of the MOUNTAIN QUAIL CONDOMINIUM shall be by a Board of three (3) Directors, elected by the Unit Owners. The directors need not be Unit Owners. Such Board shall have all powers and responsibilities attendant to the general administration and control of the Association. Additionally, the Board shall have the authority necessary to carry into effect the powers and duties specified by these Bylaws.

Until seventy five percent (75%) of all phases of the condominiums have been sold or Declarant turns over the Board of Directors and Association to the Owners, whichever occurs first, the Declarant reserves the right to appoint and remove all members of the Board and to exercise the powers and responsibilities otherwise assigned by the Declaration of the Association. By express written declaration, Declarant shall have the option to at any time turn over to the Association the total responsibility for electing and removing members of the Board.

#### A. Meetings.

Meetings of the Board of Directors may be held at any place which has been designated in the notice of the meeting, or if not stated in the notice or there is no notice, designated in the Bylaws or by resolution of the Board of Directors. Immediately following, and at the same place as, each annual meeting of members, the Board of Directors shall hold without call or notice other than this bylaw a regular meeting for the purposes of organization, election of officers and the transaction of other business. Other regular meetings of the Board of Directors shall be held without notice at such time as from time to time may be fixed by the Board of Directors.

#### B. Special Meetings: Notice.

Special meetings of the Board of Directors may be called at any time by the chairman or the secretary or any two directors. Notice of the time and place of all special meetings shall be given to each director by any of the following means:

(i.) By personal delivery, or by telephone, facsimile or telegraph at least 48 hours prior to the time of the meeting; or

(ii.) By first-class mail, postage prepaid, at least four days prior to the time of the meeting.

C. Waiver of Notice.

The transactions of any meeting of the Board of Directors, however called and noticed and wherever held, are as valid as though it had been held at any meeting duly held after regular call and notice, if a quorum is present and if, either before or after the meeting, each of the directors not present signs a written waiver of notice or a consent to holding the meeting or an approval of the minutes thereof. All such waivers, consents and approvals shall be filed with corporate records or made a part of the minutes of the meeting. Notice of a meeting shall also be deemed waived by any director who attends the meeting without protesting before or at its commencement the lack of notice.

D. Participation by Telephone.

Members of the Board of Directors may participate in a meeting through the use of conference telephone or similar communications equipment, as long as all members participating in such meeting can hear one another. Participation in a meeting pursuant hereto constitutes presence in person at such meeting.

E. Quorum and Action at Meeting.

A majority of the authorized number of directors shall constitute a quorum for the transaction of business. Subject to the provisions of Montana Nonprofit Corporation Act, every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the Board of Directors.

F. Action Without Meeting.

Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all members of the board individually or collectively consent in writing to the action. Such written consent shall have the same force and effect as a unanimous vote of the directors.

G. Committees.

The Board of Directors may, by resolution adopted by a majority of the authorized number of directors, designate one or more committees, each consisting of two or more directors and each of which, to the extent provided in the resolution and as limited by the Montana Nonprofit Corporation Act, shall have all the authority of the Board of Directors. Further the board may designate one or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. Each committee shall serve at the pleasure of the board.

H. Meetings and Action of Committees.

Meeting and action of committees shall be governed by, and held and taken in accordance with, the provisions of this Article VI of these Bylaws, with such changes in context of these Bylaws as are necessary to substitute the committee and its members for the Board of Directors and its members except that the time for regular meetings of committees may be determined either by resolution of the Board of Directors or by resolution of the committee. Special meetings of committees may also be called by resolution of the Board of Directors. Notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. Minutes shall be kept of each meeting of any committee and shall be filed with the corporate records. The Board of Directors may adopt such other rules for the governance of any committee as are not inconsistent with the provisions of these Bylaws.

ARTICLE VII

OFFICERS OF THE BOARD OF DIRECTORS

The Association shall elect from its membership a Board of Directors which shall consist of a Chairman and Secretary/Treasurer, who shall serve for a term of one (1) year. The manner of election of the Board of Directors shall be as follows:

At the first and all subsequent annual meetings of the Association, nominations for positions on the Board shall be accepted from any of the Unit Owners present. Each Association member shall have one (1) vote. Board members shall be elected by majority vote of the members present or voting by proxy at any annual or special meeting. The first Board consisting of one (1) person, as set forth in ARTICLE XV, shall serve until the first annual meeting of the Association, at which time a new Board shall be elected.

ARTICLE VIII

LIABILITY

Members of the Board and their officers, assistant officers, agents and employees acting in good faith on behalf of the Association:

- (1) shall not be liable to the Owners as a result of their activities as such for any mistake of judgment, negligence or otherwise, except for their willful misconduct or bad faith;
- (2) shall have no personal liability in contract to an Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity as such;

- (3) shall have no personal liability in tort to any Owner or any person or entity, except for their own willful misconduct or bad faith;
- (4) shall have no personal liability arising out of the use, misuse or condition of the Property which might in any way be assessed against or imputed to them as a result of or by virtue of their capacity as such.

#### ARTICLE IX

##### POWERS AND DUTIES OF THE Board of Directors

The Board of Directors shall have the following powers and duties:

- A. To call annual meetings of the Association and give due notice thereof
- B. To conduct elections of the Board of Directors.
- C. To enforce the provisions of the Declaration, Bylaws, and protective covenants of the MOUNTAIN QUAIL CONDOMINIUM by appropriate action.
- D. To promulgate and adopt rules and regulations for the use of the common elements and for the occupancy of the units so as not to interfere with the peace and quiet of all the residents. Such rules must be approved by two thirds (2/3) of the unit owners at any regular or special meeting of the Association.
- E. To provide for the management of the MOUNTAIN QUAIL CONDOMINIUM by hiring or contracting with suitable and capable management and personnel for the day-to-day operation, maintenance, upkeep and repair of the general common and limited common elements.
- F. To levy assessments as allowed by the Declaration, these Bylaws and the State of Montana, and to provide for the collection, expenditure and accounting of said assessments.
- G. To pay for the expenses of the maintenance, repair and upkeep of the general common elements and the limited common elements, and to approve payment vouchers either at regular or special meetings.
- H. To delegate authority to the Manager for the routine conduct of Association business, however, such authority shall be precisely defined with ultimate authority at all times residing in the Board of Directors.
- I. To provide a means of hearing grievances of Unit Owners and to respond appropriately thereto.

- J. To meet at regularly scheduled times and to hold such meetings open to all Unit Owners or their agents.
- K. To prepare an annual budget for the Association in order to determine the amount of the assessments payable by the Unit Owners to meet the general common and limited common expenses, and allocate and assess such charges among the Unit Owners according to their respective interests in the general common and limited common elements. To levy and collect special assessments whenever, in the opinion of the Board, it is necessary to do so in order to meet increased operating or maintenance expenses, costs, or additional capital expenses, or become of emergencies.
- L. To take appropriate legal action to collect any delinquent assessments, payments or amounts due from Unit Owners, or from any person or persons owing money to the Association, and to levy a penalty and to charge interest on unpaid amounts due and owing. However, other than for the collection of delinquent assessments or accounts, the Board shall not initiate any litigation or lawsuit without prior approval of at least two-thirds (2/3rd's) of the aggregate interest of the Unit Owners in the Association.
- M. To defend in the name of the Association any and all lawsuits wherein the MOUNTAIN QUAIL CONDOMINIUM is a party defendant.
- N. To enter into contracts necessary to carry out the duties herein set forth.
- O. To establish a bank account for the MOUNTAIN QUAIL CONDOMINIUM, and to keep therein all funds of the Association. Withdrawal of monies from such accounts shall only be by checks signed by such persons as are authorized by the Board of Directors.
- 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 MOUNTAIN QUAIL CONDOMINIUM.
- Q. To make repairs, alterations, additions, and improvements to the general common and limited common elements consistent with managing the Association in a first class manner and in the best interest of the Unit Owners.
- R. To provide the perpetual maintenance of the general common open area and landscaping, the parking areas and driving lanes, and any stream/ditch and irrigation canals, and to make any assessments necessary for such maintenance as provided herein. Such maintenance shall specifically include the control of County declared noxious weeds.



- S. To arrange, keep, maintain and renew the insurance for the Association as set forth in the Declaration.
- T. To receive and make payment for common utility expenses, including the power bill, for all of the condominium units. The pro-rata portion of the utility expenses shall be paid by the unit owners as part of, or in addition to, their condominium assessment, with the method of payment to be determined by the Board.
- U. To carry out the duties and responsibilities of the Board in all other matters as may be authorized, needed or required by the Declaration.

## ARTICLE X

### VACANCIES AND REMOVAL

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

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

## ARTICLE XI

### COMPENSATION

No member of the Board of Directors shall receive any compensation for acting as such. Nothing herein, however, shall be construed to preclude compensation being paid to Managers who are hired by the Board of Directors.

## ARTICLE XII

### MANAGERS

The Manager shall be appointed and/or removed by the Board of Directors. The Manager (or any member of the Board or Association handling Association funds or having power to withdraw or spend such funds) shall be bonded if required by the Board of Directors, and shall maintain the records of the financial affairs of the of the Association. Such records shall detail all assessments made by the Association and the status of payments of said assessments by all Unit Owners. All records shall be available for examination during normal

business hours to any Unit Owner or his assigned representative. All functions and duties herein provided for the Manager may be performed by the Board, or the Chairman, if the Board should decide not to have a Manager.

A. Accounts.

The receipts and expenditures of the Association shall be under the direction of the Manager and be classified as appropriate into general common expenses and limited common expenses, and shall include a provision for current expenses which shall include all receipts and expenditures to be made within the year for which the budget is made, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves or betterments. The balance in this fund at the end of each year shall be applied to reduce the assessments for current expenses for the succeeding year. Other budget items may be provided for in the discretion of the Manager.

B. Budget.

The manager shall prepare and submit to the Board each calendar year, a budget, which must be approved and adopted by the Board. The budget shall include the estimated funds required to defray the general common and limited common expenses and to provide and maintain funds for the foregoing accounts according to good accounting practices.

Copies of the budget and proposed assessments shall be transmitted to each member on or before September 30 of the year preceding the year for which the budget is made. If the budget is subsequently amended, a copy of the amended budget shall be furnished to each member.

C. Financial Report.

An audit and financial report of the accounts of the Association may be made annually by a Certified Public Accountant, if required by the Board of Directors, and a copy of the report shall be furnished to each member no later than March 1<sup>st</sup> of each year for which the audit is made.

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

ARTICLE XIII

AMENDMENT OF BYLAWS

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

ARTICLE XIV

ASSESSMENTS

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

ARTICLE XV

MISCELLANEOUS

A. Records and Inspection Rights.

The Association shall keep such records (including member's lists, accounting books, minutes of meetings and other records) as are required by the Montana Nonprofit Corporation Act, and these records shall be open to inspection by the Directors and Members of the Association to the extent permitted by the Montana Nonprofit Corporation Act.

Availability

The Owners Association shall make available to Unit Owners, lenders and the holders and insurers of the first mortgage on any unit, current copies of the declaration, by-laws and other rules governing the condominium, and other books, records and financial statements of the Owners Association. The Owners Association also shall be required to make available to prospective purchasers current copies of the declaration, by-laws, other rules governing the condominium, and the most recent annual audited financial statement if such is prepared.

B. Checks, Drafts, Evidences of Indebtedness.

All checks, drafts or other orders for payment of money, notes or other evidence of indebtedness, issued in the name of, or payable to, the Association, shall be signed or endorsed by such person or persons and in such manner as, from time to time, shall be determined by resolution of the Board of Directors.

C. Execution of Corporate Contracts and Instruments.

The Board of Directors may authorize any officer or officers or agent or agents, or appoint an attorney or attorneys-in-fact, to enter into any contract or execute any instrument in the name of, and on behalf of, the Association, and this authority may be general or confined to specific instances; and unless so authorized or appointed, or unless afterwards ratified by the Board of Directors, no officer, agent or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit or to render it liable for any purpose of for any amount.

D. Transfer of Control.

The Declarant shall relinquish all special rights, expressed or implied, through which the Declarant may directly or indirectly control, direct, modify, or veto any action of the Owners Association, its executive board, or a majority of Unit Owners, and control of the Owners Association shall pas to the owners of units within the project, not later than 120 days after the date by which seventy-five percent (75%) of the units have been conveyed to unit purchasers.

The foregoing requirement shall not affect the Declarant's rights, as a Unit Owner, to exercise the votes allocated to units which it owns.

Declarant shall foster participation of Unit Owners in the management of the project prior to the transfer of the Association.

E. Owners Association's Rights and Restrictions.

The Association is granted a right of entry upon unit premises and any limited common elements to affect emergency repairs, and a reasonable right of entry thereupon to effect other repairs, and a reasonable right of entry thereupon to effect other repairs, improvements, replacement or maintenance deemed necessary.

The Association is granted the right to grant utility easements under, through or over the common elements, which are reasonable necessary to the ongoing development and operation of the project.

ARTICLE XVI

THE DECLARATION

The undersigned has filed, along with these Bylaws, a Declaration whereby the properties known as the MOUNTAIN QUAIL CONDOMINIUM are submitted subject to Title 70, Chapter 23, M.C.A. The Declaration shall govern the acts, powers, duties and responsibilities of the Association of Unit Owners, and in the event these Bylaws and the Declaration are in conflict, the Declaration shall prevail.

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

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

The MOUNTAIN QUAIL CONDOMINIUM Association of Unit Owners and its Board of Directors shall have the primary and final authority on all matters solely affecting the condominium area, subject to the laws, rules and regulations of the City of Bozeman, the County of Gallatin and the State of Montana.

IN WITNESS WHEREOF, the undersigned, as the owner of record of all of the condominium units and 100% of the voting interests of the MOUNTAIN QUAIL CONDOMINIUM as of the date hereof, hereby appoints the following person to serve on the Board of Directors and as an officer until the first annual meeting of the Association, to-wit:

JARED SCHROEDER

And, the Declarant and the said Board hereby declare and affirm the adoption of the foregoing Bylaws on the 18 day of March, 2014.

STATE OF MONTANA )  
 )  
:SS  
County of Gallatin )

This instrument was acknowledged before me on March 18, 2014, by JARED SCHROEDER the PRESIDENT of GALLATIN VALLEY HOMES, INC, a Montana Corporation pursuant to the authority vested in him.

GALLATIN VALLEY HOMES, INC.

By: [Signature]  
JARED SCHROEDER  
Its: president

SUBSCRIBED AND SWORN TO before me this 18th day of March, 2014.

[Signature: Holly J. Parker]  
Notary Public for the State of Montana  
Residing at \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

