

**AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
RIVER LANDING CONDOMINIUMS**

NOTICE

The residential Condominium Units described in this declaration are offered only for residential and recreational purposes, permitting owners the residential and recreational use of their Condominium Unit and the common areas. Ownership of a Condominium Unit should not be viewed as an investment. No one should purchase a Condominium Unit based on any expectation of economic benefit from such ownership. No federal, state or other governmental authority has passed upon or endorsed the merits of this declaration and the documents referenced herein.

THIS AMENDMENT AND RESTATEMENT TO DECLARATION is made on the 10th day of June, 2023, by the owners of Condominium Units within the River Landing Condominiums of Polson, Montana 59860 representing no less than sixty seven percent (67%) of the owners, and provides as follows:

RECITALS

1. This Declaration is applicable to certain real estate which shall hereinafter be referred to as the "Real Property" located in Lake County, Montana, which is described as follows:

Tract A, Certificate of Survey No. 6254 RT; being that property as described in Document number 338515, records of Lake County, located in Government Lot 6, Section 4, Township 22 North, Range 20 West, Principal Meridian Montana, Lake County, Montana, and being more particularly described as follows:

Commencing at the Southeast corner of said Government Lot 6; thence, N.00°13'00"W., 27,00 feet to the intersection of the north right-of-way of 7th Avenue, and the west right-of-way of 6th Street, point being the TRUE POINT OF BEGINNING; thence along said right-of-way of 7th Avenue S,89°56'29"W., 269.54 feet to a point on the easterly boundary of Certificate of Survey No. 6229, records of Lake County; thence departing said right-of-way N.00°32'57"W., 442.80 feet to the Flathead River; thence along said River N.74°49'54"E., 281.64 feet; to a point on the west right-of-way of 6th Street, thence along said 6th Street, S.00°13'00" E., 516.20 feet to the TRUE POINT OF BEGINNING. Containing 2.96 acres, more or less, being subject to all easements or rights-of-way as shown, existing or of record.

2. The original Declaration for River Landing Condominiums was recorded November 16, 2006, as instrument No. 474656, records of Lake County, Montana, and was amended

from time to time thereafter. This Amended and Restated Declaration is intended to replace and supersede the original Declaration, including all amendments thereto.

3. Currently, located upon the Real Property are four buildings containing a total of thirteen separate Condominium Units, which Units are herein declared, and shall hereinafter be conveyed as condominiums.
4. Owners wish to amend the restrictions, covenants, conditions and easements previously placed upon the Real Property for the use and benefit of the Real Property, itself, and all current and future owners of all or any part of the Real Property, which restrictions, covenants, conditions and easements shall run with the Real Property and shall be binding upon all parties having or requiring any right title or interest in any part of the Real Property and shall inure to the benefit of and bind each successor in interest to the owner thereof.

NOW, THEREFORE, it is provided as follows:

DECLARATION

1. DEFINITIONS

- a. **Architectural Control Committee.** “Architectural Control Committee” shall mean and refer to a committee of the Association, as more specifically described in Section 6 of this Amended and Restated Declaration.
- b. **Association.** “Association” shall mean and refer to the River Landing Condominium Owners Association, Inc. a Montana non-profit corporation, as described in Section 7 of this Amended Declaration.
- c. **Buildings.** “Buildings” means the buildings to be located upon the Real Property, as described herein.
- d. **Bylaws.** “Bylaws” means the Bylaws of the Association.
- e. **Common Areas.** “Common Areas” shall mean all Real Property, its improvements, fixtures and appurtenances owned by the Unit owners or the Association, for the common use and enjoyment of the Members of the Association as specifically described in Section 3(c) of this Amended and Restated Declaration.
- f. **Condominium Unit.** "Condominium Unit" or "Unit" shall mean and refer to the individual Condominium Units as illustrated on the floor and site plans recorded with this Amended and Restated Declaration (noting the original floor plans and unit depictions recorded with the original Declaration and subsequent Amendments remain un-amended by this instrument) and as more specifically described in Section 3(b) of this Amended and Restated Declaration.

- g. **Declaration.** Unless otherwise specific, "Declaration" shall refer to this Amended and Restated Declaration of Condominium, Covenants, Conditions and Restrictions for the River Landing Condominium.
- h. **Eligible Mortgage Holder.** "Eligible Mortgage Holder" shall refer to the holder, insurer or guarantor of first mortgages upon a Unit, who request notice in accordance with the provisions of Section 15 (j).
- i. **Fully Constructed and Completed Condominium.** "Fully Constructed and Completed Condominium" shall mean a Unit that has received a Certificate of Occupancy from local government officials.
- j. **Limited Common Areas.** "Limited Common Areas" shall mean all Real Property, its improvements, fixtures, and appurtenances owned by the Association, or Unit Owners for the common use and enjoyment of the Members of the Association; but specifically reserved or designed for use of less than all Condominium Units, as more specifically described in Section 3(d) of this Amended and Restated Declaration.
- k. **Member.** "Member" shall mean and refer to every person or entity who is a Member of the Association as described in Section 8 of this Amended and Restated Declaration.
- l. **Owner.** "Owner" shall mean and refer to every person or entity who is a record Owner of a fee, or undivided fee interest in any Condominium Unit which is subject to this Amended and Restated Declaration.
- m. **Permitted User.** "Permitted User" shall mean Owners, their families, guests, or lessees.
- n. **Rules and Regulations.** "Rules and Regulations" shall mean the specific rules, regulations, and policies that may be adopted by the Board from time to time for governance and management of the Real property including Common Areas, Limited Common Areas, and Condominium Units.
- o. **Real Property.** "Real Property" shall mean and refer to that certain Real Property, located in Lake County, Montana, which is more particularly described in Paragraph One (1) of the Recitals of this Amended and Restated Declaration.

2. DECLARATION

- a. **Declaration.** Owners hereby maintain the Real Property and its improvements to the form of ownership and use provided by Title 70, Chapter 23, of the Montana Code Annotated, hereinafter referred to as the "Montana Unit Ownership Act." Owners further declare that all of the Real Property described herein and all present and future Owners of Condominium Units shall be subject to, and shall comply

with the provisions of this Declaration, the Bylaws, and the Rules and Regulations adopted by the Association, as these instruments may be amended from time to time. The valid execution of a purchase contract by a buyer or the acceptance of a deed thereto shall constitute acceptance of the provisions of such instruments by such Owner. All Owners shall be responsible for insuring compliance by their tenants, family members, other occupants of their Condominium Unit and their guests.

- b. **Conveyances Subject to Declaration.** All duly recorded easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits, and privileges which are granted, created, reserved or declared by this Amended and Restated Declaration, along with the Bylaws of the Association and its Rules and Regulations, shall be deemed to be covenants appurtenant, running with the Real Property, and shall at all times inure to the benefit of and be binding on any person having at any time any interest or estate in the Real Property, and such person or entities, respective heirs, successors, representatives or assigns. All Unit Ownership shall be subject to the creation and reservation of all of the easements, restrictions, conditions, covenants, reservations, liens, charges, benefits and privileges which are granted, created, served or declared herein even if such is not fully and completely set forth in their entirety in any conveyance, lease, mortgage, deed of trust or other evidence of obligation.
- c. **Submission to Unit Ownership.** One of the purposes of this Amended and Restated Declaration is to submit the Real Property under the Montana Unit Ownership Act, and the definition of terms in this Amended and Restated Declaration and the Bylaws of the Association shall be those definitions used in the Montana Unit Ownership Act, except as otherwise provided herein. The Real Property included within the project shall be named "The River Landing Condominiums".

3. DESCRIPTION OF PROJECT AND COMMON AREA

- a. **Description of Project.** The project presently consists of four Buildings and others to be built which will contain a total of no more than twenty (20) Condominium Units, including garages. Up to eight (8) of the Buildings will each contain one Condominium Unit on a single level. There are presently seven (7) other unit sites shown on the recorded plan. Three of the six Buildings contain four Condominium Units on four levels, two Units being on the upper two levels (Units 1A, 1C, 2A, 2C, 3A and 3C) and two Units on the lower two levels (Units 1B, 1D, 2B, 2D, 3B and 3D). The location of the Buildings and each Condominium Unit shall be as shown on the floor and site plans recorded with this Amended and Restated Declaration and attached hereto as Exhibit "A" other than the page depicting the Main Floor Plan of Units 'A' and 'C', which is attached to this Third Amendment as Revised Exhibit "A" Main Floor Plan Units 'A' and 'C'. Attached to this Amended and Restated Declaration is an architect/engineer/surveyor's statement as required by Montana Code Annotated §70-23-306. The Buildings are or will be

constructed of wood frame construction with siding, concrete foundations, and shingle roofs. Interior walls are or will be constructed of sheetrock. The Owner and Permitted Users have the exclusive right to occupy the Condominium Units and the non-exclusive right to use and enjoy the Common Areas and Limited Common Areas as specified in the Declaration, subject to the limitations, covenants, conditions, restrictions and easements set forth herein. Owners intend to maintain a common scheme and plan for the use, enjoyment, repair, maintenance, restoration, remodeling and improvement of the Condominium Units and for the payment of taxes, assessments, insurance premiums and other expenses pertaining thereto, and hereby declare that the Condominium Units are and shall be held, conveyed, hypothecated, encumbered, occupied and improved subject to the limitations, covenants, conditions, restrictions and easements set out in this Amended and Restated Declaration, all of which are declared to be in furtherance of a plan established for the purpose of enhancing the value, desirability and enjoyment of the Real Property and the Condominium Units therein to be conveyed. All such limitations, covenants, conditions, restrictions and easements are intended to run with the land, to-wit, each Condominium Unit covered by the Amended and Restated Declaration, and each Owner and each Owner's successors and assigns are and shall be bound by the Amended and Restated Declaration. The project consists of up to seven buildings to be built on a single level. Two unit sites are owned by third parties, five unit sites are owned by the Association.

- b. **Condominium Unit.** Each Condominium Unit consists of some or all of the elements depicted in the plans and specifications for each as more particularly depicted and designated on the floor plans recorded with this Amended and Restated Declaration and is described as the dwelling space, bounded and contained within the Interior, unfinished, surfaces of the perimeter walls, floors, roof, ceiling, windows, doors, deck surfaces, and patios of each Condominium Unit, which are attached to and/or incorporated in each particular Condominium Unit inclusive of fixtures and improvements. Utility lines and pipes which serve only one Condominium Unit shall be a part of it from the interior of the Condominium Unit to the point where the same are metered or, in the case of un-metered lines or pipes, where they join lines or pipes serving other Condominium Units.
- c. **Common Areas.** Appurtenant to each Condominium Unit, but not a part thereof is a fee estate of an undivided interest, determined based upon the percentages as set out in Exhibit "B". The Common Area includes the Limited Common Areas as described in this Article. The Common Areas include the Real Property on which the Buildings are located, including the components of such structures; elevators; landscaping; docks; recreation areas; maintenance areas; parking areas; pathways; sidewalks; and driveways located on the Real Property; all installations of apparatus for utility or other services existing for the common use; and all other elements of the Buildings or Real Property necessary or convenient to its existence, maintenance or safety or otherwise normally in common use, but specifically excluding the Condominium Units.

- d. **Limited Common Areas (Boat Slips).** The Limited Common Areas are those elements of the Common Area that are reserved or designed specifically for the use of a certain Condominium Units but not all of the Condominium Units, including, utility lines (electric, telephone and data lines), water and septic lines, pipes and systems, entrances, exits, underground sprinkler systems, grinder pumps, fire suppression system, related area and mechanical rooms, utility lines and pipes, and driveways, which serve a certain Condominium Unit or Units, but not all of the Condominium Units. Other than as stated herein, the Limited Common Areas are reserved for the exclusive use and under the exclusive control of the Condominium Unit or Units which they serve or benefit, as illustrated in Exhibit "A" (excepting that areas designated as Limited Common Areas on such plat are hereby removed) and/or as stated in this Amended and Restated Declaration. Further, without limiting the foregoing, the Condominium Units may have, as part of their Limited Common area, a boat slip and the dock space surrounding it. Each slip is owned by an Owner who was transferred the slip by designation on the deed of the Condominium Unit to the Owner. Such boat slip(s) and surrounding dock area shall be appurtenant to the Unit and may be transferred with the Unit to the Owners heirs, successors and assigns. A boat slip and surrounding dock space may not be transferred separately from the Condominium unless the boat slip is conveyed to another Owner and made appurtenant to that Unit. In such event, the Owners shall pay any and all costs or fees incurred by the Association in reviewing and documenting such transfer.
- e. **Ownership of Common Areas.** The undivided interest in the Common Areas hereby established and which shall be conveyed with each respective Condominium Unit is based upon the percentages as set out in Exhibit "B." The Owners, their heirs, successors, assigns and grantees, covenant and agree that the undivided interest in the Common Area and the fee titles to each respective Condominium Unit shall not be separated from or separately conveyed or encumbered from one another, and shall be deemed conveyed with each respective Condominium Unit even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to the respective Condominium Unit.
- f. **Appurtenances.** The Condominium Units hereby established include or have appurtenant to them an undivided interest in the Common Areas, an undivided interest in Limited Common Areas and all easements appurtenant to the respective Condominium Units as described in this Declaration and/or as illustrated on the floor plans filed herewith.
- g. **Phasing.** It is anticipated that additional Buildings will be built, provided as follows:
 - i. **Improvements.** The additional Buildings and Condominium Units to be constructed shall be consistent with the then existing Condominium Units, in terms of quality of construction, floorplan, color, building, and materials subject to approval by the Architectural Committee.

h. **Further Development.** Nothing herein shall require the Association to develop Buildings, Condominium Units, limited common area or common area. Any additional development must be approved by two-thirds of all Owners.

4. PROPERTY RIGHTS AND OBLIGATIONS

a. **Easements.** The Association and its agents and employees shall have a non-exclusive right and easement in, to and over the Common Areas and Limited Common Areas for the purpose of carrying out the Association's duties as set forth throughout this Declaration. Additionally, there shall exist for the benefit of each Condominium Unit, along with the Association, its agents and employees, and as a burden on the other Condominium Units, the following easements, provided such easements shall not be considered or determined to be encumbrances either on the general Common Areas, the Limited Common Areas, or on the Condominium Units for purposes of marketability of title.

- i. Easement through the general Common Areas for ingress and egress for all persons making use of such Common Areas in accordance with the terms of this Declaration; each Owner shall have an unrestricted right of ingress and egress across the Common Areas to his or her Condominium Unit.
- ii. Easements through the Condominium Units and Common Areas for maintenance, repair and replacement of the Condominium Units and Common Areas. Use of these easements, however, for access to the interior of Condominium Units shall be limited to reasonable hours, except that access may be had at any time in case of emergency.
- iii. Every portion of a Condominium Unit which contributes to the structural support of one or more of the buildings shall be burdened with an easement of structural support for the benefit of the Common Areas and the other Condominium Units in the Buildings.
- iv. Easements through the Condominium Units and Common Areas for all facilities for the furnishing of utility services within the Buildings, which facilities shall include but not be limited to conduits, ducts, plumbing and wiring; provided that the easements for such facilities through a Condominium Unit shall be only substantially in accordance with the plans of the Buildings and as such facilities may exist as of the date of this Declaration.
- v. Easements for encroachments (and maintenance thereof) of any portion of the general Common Areas or Limited Common Areas upon a Condominium Unit or Condominium Units so long as they stand, and easements for encroachments (and maintenance thereof) of any portion of a

Condominium Unit upon the general Common Areas, Limited Common Areas, and upon an adjoining Condominium Unit, so long as they stand.

- b. **Delegation of Use.** Any Owner may delegate his right of enjoyment to the Common Areas to his guests or tenants who reside in or are visiting such Owner's Condominium Unit. All such persons shall be subject to the Rules and Regulations concerning use of the Common Area as the Association may adopt. Each Owner shall be responsible to assure his guests and tenants abide by the terms of this Declaration, the Articles of Incorporation of the Association, its Bylaws and any Rules and Regulations which it might adopt. Any Owner who has delegated his right of occupancy to his Condominium Unit may continue to use the Common Areas, subject to the Rules and Regulations of the Association.
- c. **Lease of Condominium Unit.** Any Owner shall have the right to lease his Condominium Unit upon such terms and conditions as the Owner may deem advisable subject to this Section. All leases shall be in writing, shall have a minimum initial term of no less than thirty (30) days, and shall provide that the lease is subject to the terms of this Declaration, the Articles of Incorporation of the Association, its Bylaws and any Rules and Regulations which it might adopt. All such leases shall provide that any failure of a lessee to comply with the terms of this Declaration, the Articles of Incorporation of the Association or its Bylaws or any Rules and Regulations adopted by the Association shall be a default under the lease or rental agreement. There should be no subletting, and no more than four (4) leases per unit per calendar year. Leases must be submitted to the Board of Directors for verification purposes and tenants are limited to two times the number of bedrooms in the unit that is being leased. If any lease does not contain the foregoing provisions, such provisions shall nevertheless be deemed to be a part of the lease and binding upon the Owner and the lessee by reason of their being stated in this Declaration. Unit owners should provide lessees copies of the Bylaws, this Declaration, and the Rules and Regulations as part of their lease agreement and shall provide a copy of such lease to the Association before the tenancy commences. If any lessee or occupant of a Unit violates or permits the violation by his guests and invitees of any provisions hereof or of the Bylaws or the Rules and Regulations of the Association, and the Board determines that such violations have been repeated and that a prior written notice to cease has been given, the Board may give notice to the lessee or occupant of the Unit and the Owner thereof to forthwith cease such violations; and if the violation is thereafter repeated, the Board shall have the authority, on behalf and at the expense of the Owner, to evict the tenant or occupant if the Owner fails to do so after notice from the Board and an opportunity to be heard. The Board shall have no liability to an Owner or tenant for any eviction made in good faith, nor shall the Association, by exercise of this provision, have any liability to the tenant for conduct of the Owner which may violate relevant landlord-tenant law. The Association shall have a lien against the Owner's Unit for any costs incurred by it in connection with such eviction, including reasonable attorney's fees, which may be collected and foreclosed by the Association in the same manner as Assessments are collected and foreclosed herein.

Any failure of a lessor or lessee to comply with the terms of this Declaration, the Articles of Incorporation of the Association or its Bylaws or Rules and Regulations adopted by the Association shall be a default enforceable by the Association against such lessee and the Owner of such Condominium Unit. Each Owner covenants and agrees that in the event he or she leases their Condominium Unit to a tenant or tenants or allows individuals other than him or herself to reside therein that they shall continue to be responsible for all the acts and omissions of such persons.

5. USE RESTRICTIONS

- a. **Property Use.** The use for which each Condominium Unit is intended is that of a residential, recreational condominium. All uses are subject to all applicable zoning and other applicable restrictions imposed by the City of Polson and Lake County. No business use is permitted, except for those types of home businesses or commercial activities which may be carried out from within the Condominium Unit, and do not involve customers, vendors, or suppliers coming to the residence. Regardless of this provision for business use, the use of each Unit shall remain primarily residential. No change of use of a Unit shall be permitted.
- b. **Association's Use.** Notwithstanding any provision herein contained to the contrary, from the date of this Amended and Restated Declaration, it shall be expressly permissible for the Association to maintain upon the Real Property Common Areas such facilities as in the opinion of the Association may be reasonably required, convenient or incidental to the furtherance of the Association's duties and obligations, all of which shall be approved by the Owners.
- c. **General Prohibitions and Rules.** All use and occupancy of the Condominium Units and the Common Areas shall be subject to and governed by the Rules and Regulations as adopted by the Directors of the Association, which Rules and Regulations shall not be inconsistent with the terms of this Amended and Restated Declaration. The Rules and Regulations shall be filed with the Clerk and Record of Lake County, State of Montana. Every Owner, his guests, employees, invitees, and tenants shall adhere strictly to the Rules and Regulations as adopted by the Directors of the Association pursuant to this Section or otherwise under this Amended and Restated Declaration. The Owners reserve the right to amend the Rules and Regulations by a majority vote of the members voting at a meeting called for that purpose.
- d. **Alteration.** The Condominium Units were designed in a common theme.
 - i. The purpose of the common theme is so the Property stays uniform throughout all Condominium Units. Therefore, no Owner shall alter any of the Common Area or Limited Common Area without the prior written consent of the Association's Architectural Control Committee.

- ii. Nothing shall be done by any Owner within the Real Property which would impair the structural integrity of any improvement located upon the Real Property. The interior plan of the Unit may be changed by its Owner, with the exception of the bearing walls which may not be moved, and no Unit may be subdivided. Prior to any alterations or improvements, however, the Owner(s) of the unit to be altered shall give at least thirty (30) days notice to the Association of the intent to alter the Unit, together with all necessary information to conclusively establish that such alteration shall not impair the structural integrity of any of the Common Elements of the Building. Notwithstanding any rights to remodel the Units, load bearing walls may not be moved or structurally altered.
- iii. No Owner shall make any change, modification, alteration or addition to the design, structure or color scheme of any Condominium Unit's exterior without first obtaining the prior written consent of the Architectural Control Committee and the City of Polson.
- iv. The removal, modification and alteration of fixtures, equipment, trees, shrubs, plantings and other landscaping improvements from the Common Area or Limited Common Area by an Owner shall be prohibited without the express written approval of the Architectural Control Committee.
- v. No antenna shall be permitted on the exterior of a Unit except small satellite dishes or other antennas no larger than one meter in diameter at such location as approved by the Architectural Control Committee, for which. The Owner shall be responsible for maintenance. Upon sale of the Unit and/or the removal of the dish, the Owner shall be responsible for repairing or restoring the point of attachment to its original condition.

e. **Imperiling of Insurance.** Nothing shall be done within the Real Property which might result in an increase in the premiums for or which might cause cancellation of insurance obtained for any portion of the Real Property, except with the prior written consent of the Association.

f. **Violations of Law.** Nothing shall be done within the Real Property which would be in violation of any statute, rule, ordinance, regulation, permit or validly imposed requirement of any governmental body, specifically including but not limited to federal, state or local laws regarding the use and disposal of toxic materials and hazardous wastes and applicable zoning ordinances and regulations. It is the responsibility of the Owner to know and adhere to the terms and conditions of this Declaration, and applicable city/county standards. If there is an inconsistency between any provision in this Declaration and any applicable zoning regulation, the more restrictive provision shall control.

g. **Nuisances.** No noxious or offensive activity shall be carried on upon the Real Property nor shall anything be done thereon which may be or may become an

annoyance or nuisance to the Owners, their families, tenants or agents. No activity shall be conducted on any part of the Real Property which is or might be unsafe or hazardous to any person or the Real Property. No parties or gatherings shall take place on the docks or Common Areas after 10:00 p.m. local time.

- h. **Signs.** No advertising signs, billboards, or unsightly objects shall be erected, placed, or permitted to remain on any part of the Real Property other than the following permitted signs:
 - i. Permanent entry signs identifying the River Landing Condominiums, may be located at any of the entries into the Property;
 - ii. One sign identifying the owner of a Condominium Unit, no larger than 72 square inches, and which shall only be mounted on the wall immediately outside the Condominium Unit entry door;
 - iii. Two signs advertising a Condominium Unit as "For Sale" or "For Lease", which shall be no larger than 576 square inches each. No more than one of the permitted signs may be placed to be seen from the lake; and
 - iv. Such other signs as might be required by law (e.g., signs indicating handicapped parking).

Excepting "For Sale" or "For Lease" signs, before installation, plans for any proposed signage on the property shall be reviewed, approved and permitted by the appropriate agencies and the Architectural Control Committee. All applicable fees will be paid prior to installation of signage.

- i. **Fencing.** Before installation, plans for proposed fencing on the property be reviewed, approved and permitted by the Architectural Control Committee. All applicable fees will be paid prior to installation of fencing.
- j. **Exterior Lighting.** Headlight screens have been installed. The Association shall maintain the headlight screens. All exterior lighting shall be shielded and of such a design to minimize the visual impact to surrounding properties and designed to restrict excessive light and glare so as not to extend beyond the property line or be a nuisance.
- k. **Pets.** No animals of any kind shall be raised, bred or kept on any of Property, provided however as follows:
 - i. the presence and use of service animals for the handicapped or disabled shall be permitted upon the Real Property and within the Condominium Units.

- ii. each Owner may keep up to either two dogs, two cats or one dog and one cat.

Such permitted animals shall remain within the Condominium Unit of their Owner, and shall be permitted outdoors, only when leashed and under the control of their owner. Such permitted animals may not be kept on decks (unless owners are present) or limited common areas, other than when leashed and/or under the control of their owner. All Owners with cats shall provide indoor litter boxes for their cats within such Owner's Condominium Unit. All animals kept in any Condominium Unit shall be properly fed, watered, vaccinated, and sheltered from the elements in such a manner as shall be consistent with their good health. Each owner or person responsible shall treat and care for such animals in a humane and merciful fashion, so that other persons in the area shall not be required to tolerate or condone inhumane treatment of the animals. Animal manure shall be immediately removed following its deposit upon the Real Property and properly disposed of, so as not to become obnoxious, offensive, or a nuisance to the Association, in its maintenance efforts or to other Owners or occupants of the Real Property. All carcasses of dead animals shall be removed immediately. No commercial sales or breeding of any animals shall be permitted in any Condominium Unit. No outdoor kennels are permitted.

1. **Unsightly Uses.** Refuse piles or other unsightly objects and materials shall not be placed or remain upon the Common Area or any Limited Common Area. The Association shall have the right to enter upon any Condominium Unit, Common Area, or Limited Common Area to remove such refuse piles or other unsightly objects and materials at the expense of the Owner and upon due notice to the Owner. Such entry shall not be deemed a trespass and incurred expenses may be collected and foreclosed by the Association in the same manner as Assessments are collected and foreclosed as provided for herein.
- m. **Parking/Vehicles.** No vehicle of any type shall be parked anywhere on the Common Area or Limited Common Area except within the locations designated as parking areas by the Association unless approved by the Board of Directors. Non-functioning or non-licensed vehicles shall not be parked on the Common or Limited Common Areas. Any vehicles, trailer, or other items shall not be parked in Common Area longer than three (3) consecutive days unless owned by Owner or Permitted User. There shall be no assembling, repairing or disassembling of vehicles in the parking areas, or other maintenance of vehicles, other than in event of an emergency. Provided the Association, by rule, may enact stricter parking regulations and/or assign parking spaces among the Condominium Units on an equitable basis. This provision is not intended to preclude the entry of construction, maintenance, delivery, moving, or other such service vehicles while they are being utilized in connection with service to a Condominium Unit, Common Area, or Limited Common Area. Service vehicles may not be parked on property overnight except in an emergency. Motorcycles shall be parked and treated as other vehicles herein. Bicycles may not be locked to the Common Areas e.g. power poles,

fencing, support beams, utility lines, lighting fixtures, etc. The Board of Directors shall have the discretion to authorize exceptions to these parking and vehicle rules.

- n. **Boat Moorage.** The Association shall regulate the dock space in a fair and equitable manner. No boat or watercraft of any type be moored anywhere on the Common Area or Limited Common Area except within the boat slip which is a limited common area appurtenant to the Unit of the boat's owner or in common locations as designated by the Association. Boats or watercrafts are to be lessor of twenty-six (26) feet or the length of the boat slip. There shall be no assembling, repairing or disassembling of boats or watercraft on the Common Area or Limited Common Area, other than in event of an emergency. No unsightly boats or watercraft shall be parked, moored or allowed to remain on any of the Common Area or Limited Common Area. Provided the Association, by rule, may enact more strict regulations.
- o. **Construction Liens.** No labor performed or materials furnished with the consent or at the request of an Owner, his agent, contractor subcontractor shall create any right to file a construction lien against the Condominium Unit of any other Owner, who does not request or consent to the same, or against any interests in the Common Area or Limited Common Area. Each contracting or consenting Owner shall indemnify, defend and hold harmless the Association and each of the other Owners from and against liability arising from the claim of any lien or against the Condominium Units for labor performed for materials furnished at the request of the contracting or consenting Owner. At the written request of any Owner, the Association shall enforce such indemnity by collecting from the contracting or consenting Owner the amount necessary to discharge any such lien and all costs incidental thereto including attorney's fees and expenses. Said expenses may be added to such Owners regular assessments.
- p. **Garbage.** The Association shall contract for garbage removal service and provide proper garbage containers for collection of garbage.
- q. **Clear Vision Triangle.** A clear vision triangle shall exist at the intersection of the driveways and 7th Ave. W., and 6th St. W. The clear vision triangle shall be defined by lines extending 30 feet from the intersection of the right of-way along the lot lines. No visual obstruction more than 3 feet in height above grade shall be permitted in the clear vision triangle. Trees may be permitted in the clear vision triangle, provided all branches are pruned to a height of at least 8 feet above grade.
- r. **Violations.** In the event of violation of any prohibitions or restrictions contained in the Declaration, by any Owner, his family, guests or tenants, such violation shall obligate said Owner to reimburse the Association for the cost and expense expended by it in order to cure the violation, enforce this Declaration and/or restore the property to its original state together with a displacement fee, in such amount as established by the Association. In the event such violation results in a delayed

access for another Owner, such charges shall be treated as assessments pursuant to Section 9 against such Owner and his ownership interest.

6. ARCHITECTURAL CONTROL

- a. **Appointment of Architectural Control Committee.** The Association shall establish an Architectural Control Committee to serve the functions as described in this Article. Members of the Architectural Control Committee shall be appointed and serve as set forth in the Bylaws and Rules and Regulations of the Association.
- b. **Restrictions.** No alteration, as described in Section 5(e), to a Condominium Unit, Common Area, Limited Common Area shall be permitted until the plans and specifications showing the nature, kind, shape, height, materials and location of such have been submitted and approved in writing as to conformity to the provisions of this Declaration and to the quality of workmanship and materials and conformity and harmony of design with the existing Buildings, topography, finished ground elevation by the Architectural Control Committee.
- c. **Review and Approval.** The owner seeking Architectural Control Committee approval must first submit all plans and specifications as described in Section 5(e) and otherwise requested by the Architectural Control Committee. The Owner is to give notice to adjacent units and provide proof of notice to the Architectural Committee. If the Architectural Control Committee fails to approve or disapprove such design and location within 30 days after all said plans and specifications have been submitted and received by it for consideration, such approval will be deemed denied. All plans and specifications which must be submitted in writing for approval hereunder shall be submitted by United States mail, commercial carrier (ie Federal Express, UPS or similar company) or electronically to the Architectural Control Committee in care of the Association at its general business address as shall be set forth in the Bylaws of the Association or such other address that may be communicated to Owners. Members of the Architectural Control Committee shall not be entitled to any compensation for the services they perform. The Architectural Control Committee shall be under no obligation to review any such change to a Condominium Unit, without such signed written consents of each Owner of the respective Condominium Unit to be so modified. The owner of a Condominium Unit directly adjacent to the Unit proposing the alteration shall be notified of the request by the Architectural Control Committee and given no less than 10 days' notice before the request is considered by the Architectural Control Committee to comment on the proposed change.

7. THE ASSOCIATION

- a. **General Duties and Responsibilities.** The Association has been incorporated as a non-profit corporation and designated to be the manager of the Common Area. Any purchaser of a Condominium Unit by their acceptance of a deed thereto, shall be deemed to have ratified and approved such designation and management. The

Association shall perform the duties required of it hereunder. The Association shall have the following duties, rights and powers:

- i. To collect monthly or periodic assessments, prorated as provided by this Declaration, from the Owners and to collect delinquent assessments by suit or otherwise and to collect such other assessments as are herein authorized.
- ii. From the funds collected, to provide and pay for the maintenance, management, insurance, taxes and other such expenses as are enumerated in this Declaration.
- iii. To lease, acquire and sell real or personal property in pursuit of the Association's obligations and duties.
- iv. To enter into and upon the Condominium Units when necessary, with as little inconvenience as possible to the occupants concerned in connection with the duties outlined in this Declaration.
- v. To enjoin or seek damages from the Owners for violations of this Declaration, the Articles of Incorporation of the Association, the Bylaws or the rules adopted by the Association pursuant to this Amended and Restated Declaration.
- vi. To employ office staff, cleaning and maintenance staff, security, workmen and others; to contract for services to be performed, including those of the manager, if deemed desirable; to purchase supplies and equipment; to enter into contracts; and generally to have the powers of a property manager in connection with the matters herein set forth, except that the Association may not encumber or dispose of the fee title of any Owner except to satisfy a lien, award or judgment against such Owner for violation of this Amended and Restated Declaration.
- vii. The Association shall not enter into any contract or management agreement for the furnishing of services (other than utility services), or for materials or supplies, the term of which contract exceeds two years; and further provided that any contract or management agreement entered into by the Association shall be terminable by the Association for cause upon 30 days or less written notice and without cause upon 90 days or less written notice (again excluding those for utilities).
- viii. To protect and defend the Real Property from loss or damage by suit or otherwise.
- ix. To employ counsel, attorneys, auditors or accountants in connection with the legal or accounting matters of the Association in connection with the

audit of its books and records, and, upon proper request, have prepared an audited financial statement.

- x. To deposit the funds of the Association which are not necessary for the immediate disbursement into a savings account of a national or state bank earning a standard rate of interest and insured by the Federal Deposit Insurance Corporation.
- xi. To file legal protests, formal or informal, with authorities against granting by such authorities of any zoning ordinance or variance as to any property within a reasonable proximity of the Real Property which might affect the value of any Owner's interest in the Real Property.
- xii. To establish and maintain reasonable rules and regulations regarding the use of the Common Areas by the Owners, lessees, invitees or guests.
- xiii. Paint, repair, replace and maintain in neat, safe, attractive, sanitary, up to date and orderly condition, all portions of the Common Areas as defined and described in this Amended and Restated Declaration, including (but without limiting the generality of the foregoing) all exterior portions of any building on the Real Property, equipment, fencing, plantings, landscaping in and upon the Common Area, including weeding and replacement of dead or dying vegetation in a timely manner.
- xiv. Pay all real and personal property taxes and assessments which the Association is required to pay, if any, pursuant to the terms and provisions of this Amended and Restated Declaration, the Articles of Incorporation of the Association, and its Bylaws, unless separately assessed to the owners.
- xv. Obtain any other material, supplies, furniture, labor, services, maintenance, repairs, structural alterations, and insurance which the Association is required to pay for pursuant to the terms and provisions of this Amended and Restated Declaration or by law.
- xvi. Grant such licenses, easements, and rights-of-way for sewer lines, water lines, underground conduits, storm drains, and other public utility purposes over those portions of the Common Area upon which no building or other structure has been erected as may be necessary and appropriate for the orderly maintenance, preservation and enjoyment of the Common Area or for the preservation of the health, safety, convenience, and welfare of the Owners. The right to grant such licenses, easements, and rights-of-way is hereby expressly reserved to the Association.
- xvii. The Association shall make available to all Owners, lenders and the holders and insurers of the first mortgage on any Unit, current copies of this Declaration, Bylaws and other rules governing the Real Property, and other

books, records and financial statements of the Association. The Association also shall further make available to prospective purchasers of one or more Units current copies of the Amended and Restated Declaration, Bylaws, prior, valid, recorded unit layouts and site plans, other rules governing the Condominium Units and Common Areas, and the most recent annual financial statement, if such is prepared. The term "make available" shall at mean available for inspection and copying upon request, during normal business hours or under other reasonable circumstances if available, on a website available to Members only. The Association shall, upon written request from any of the agencies or corporations which has an interest or prospective interest in the Unit, prepare and furnish within a reasonable time an audited financial statement of the Association for the immediately preceding fiscal year.

- xviii. To do such other acts as reasonably necessary to carry out the functions of a condominium owners association.
- b. **Board of Directors.** The affairs of the Association shall be managed by its Board of Directors. The Board of Directors shall consist of no less than three (3) individuals, each of whom shall be a Member of the Association and said board shall be elected at each annual meeting by the Members of the Association as provided in the Bylaws. Board Member terms shall be three years, with each position staggered so that one Board Member is elected each year.
- c. **Membership.** Every person or entity who is an Owner of a Fully Constructed and Completed Condominium Unit, including buyers under a contract for deed shall be a Member of the Association. The foregoing is intended to exclude persons or entities who hold an interest merely as security for performance of an obligation. Membership shall be appurtenant to and may not be separate from ownership, except as may otherwise be provided for at law. Being an Owner shall be the sole qualification for Membership. The Association, if it acquires an interest in a Condominium Unit which would otherwise qualify it for Membership, shall not be considered a Member either for voting or assessment purposes.
- d. **Voting Rights.** Members of the Association shall be entitled to one vote for each Condominium Unit in which they hold an ownership interest which qualifies for Membership, as long as the Owner(s) is/are not delinquent in payment of dues, regular assessments, and special assessments owed to the Association. When more than one person or entity owns an interest in any Condominium Unit which qualifies for Membership, the vote of such Condominium Unit shall be exercised as such persons or entities determine, but in no event may more than one vote per Condominium Unit. In the event multiple owners of a Unit cannot agree on the exercise of their vote, the vote allocated to that Unit may be cast only in accordance with the agreement of a majority of such multiple Owners. If only one of the multiple Owners of a Unit is present at the meeting of the Association, that Owner is entitled to cast any and all votes allocated to that Unit. There is majority

agreement if any one of the multiple Owners casts the vote(s) allocated to that Unit without protest being made promptly to the person presiding by any of the other Owners of the Unit. In the case of a protest of the vote cast by one of the multiple Owners, and absent a majority agreement, the vote or votes cast shall be disregarded and the multiple Owners shall lose their right to vote on the matter in question.

- e. **Consent to Membership.** Acceptance of a deed, notice of purchaser's interest or other documentation evidencing an ownership interest in a Condominium Unit shall be deemed to act as consent to Membership in the Association by the acquiring Owner. The recording of a deed or other document evidencing an ownership interest shall be *prima facie* evidence of acceptance of that document by the receiver of the interest transferred.
- f. **Indemnification.** The manager, employees, directors and officers of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon them in connection with any proceeding to which they may become party or in which they may become involved by reason of having acted as such upon behalf of the Association, provided that this indemnification shall not apply if said person is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided further than in the event of a settlement, the indemnification herein shall apply only when the Association approves such settlement and reimbursement as being in the best interests of the Association. The foregoing rights of Indemnification shall be in addition to and not exclusive of all other rights to which such person may be entitled.
- g. **Limitation Upon Liability.** Notwithstanding the duty of the Association to maintain and repair parts of the Real Property, the Association shall not be liable for injury or damage other than the normal costs of the maintenance and repair caused by any latent condition of the Real Property by the conduct of the owners or other persons by casualties for which insurance pursuant to these Amended and Restated Declarations is not required, or for which insurance is not provided by the Association.

8. ASSESSMENTS

- a. **Assessments.** Each Owner, by acceptance of a deed, agrees to pay the Association general, specific and special assessments to be fixed, established and collected from time to time as herein provided. Such assessments, together with interest and the cost of collection in the event of delinquency as allowed in this Article, also shall be the personal obligation of the respective Owner at the time when the assessment was made.
- b. **Purpose of Assessments.** The assessments levied by the Association shall be based upon and used exclusively for cost and expense of the management, maintenance, repair, replacement of the and improvements Common Area, the Limited Common

Area, and for the performance of all other duties and obligations incurred by the Association pursuant to this Declaration and such expenses as the Association, in its opinion, shall determine to be necessary and desirable including the establishment, maintenance, and funding of cash reserves.

c. **Budget.** The Association shall establish a budget in the following manner:

- i. **Preparation.** At least sixty (60) days after the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year, including, a capital contribution to establish a reserve fund in accordance with a budget separately prepared. The Board shall annually prepare the reserve budget which takes into account the number and nature of depreciable assets owned by the Association, the expected life of each asset, and their expected repair or replacement cost.
- ii. **Notices.** The Board shall send a copy of the preliminary annual budget and notice of the amount of the assessments for the upcoming year to be delivered to each Owner as soon as possible after its completion.
- iii. **Approval.** The preliminary annual budget and assessment shall automatically become effective at the adjournment of the annual budget meeting unless disapproved at the annual budget meeting by at least fifty-one percent (51%) of the Owners in the Association.
- iv. **Failure to Approve Budget.** If the preliminary budget and assessment is disapproved or the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the next year.
- d. **General Assessments.** The assessments levied against the Condominium Units shall be prorated and charged to each Condominium Unit in the percentages as set forth in Exhibit "B".
- e. **Specific Assessments.** Throughout this Amended and Restated Declaration certain costs and expenses incurred by the Association shall be attributed to one or more, but not all Owners, such specific assessments shall be specifically assessed against the Owner and Condominium Unit incurring such cost and expense. Among these specific assessments, are the costs of capital improvements to the boat slips which are Limited Common Area. Provided, such costs attributable to any boat slips kept by the Association as Common Area and not made appurtenant to any particular Condominium Unit, shall be shared among all Condominium Units. Dock assessments are to be paid as follows:
 - i. ten percent (10%) shall be paid by the Association.

- ii. The remaining ninety percent (90%) to be paid by the owners of the sixteen (16) boat slips. One-sixteenth (1/16) shall be assigned to each boat slip owner.
- iii. Maintenance and repair of the boat slips (not including lifts) up to a maximum of \$2,500.00 per year shall be paid by the Association as a general operating expense.
- f. **Special Assessments.** In addition to the assessments authorized above, the Association may levy special assessments for the purpose of defraying the costs of any construction, operating shortfalls, unexpected structural repairs or replacement or capital improvements to the Common Area or Limited Common Area, including necessary fixtures related thereto. If any special assessment exceeds \$2,000.00 per Condominium Unit, per year, the same must have assent of a majority of the Owners voting, as provided by the Bylaws in person, by proxy, or electronically at a meeting duly called for such purpose or at the annual meeting. Notice shall be sent and voting shall take place as provided by the Bylaws.
- g. **Obligation Created.** The assessments levied by the Association shall be the personal obligation of the Owners and all sums assessed but unpaid shall constitute a lien against the Condominium Unit on which they are assessed and any rental income it may earn and may be collected by the Association in the manner provided in this Amended and Restated Declaration for the collection of Assessments.
- h. **Non-Payment of Assessments.**
 - i. Assessments and fees shall be due and payable on such date and shall become delinquent unless paid on the dates as the Association may establish by rule. All unpaid assessments and fees shall be subject to a late charge for non-payment as may be determined from time to time by the Association. If such fees or assessments are not paid within thirty days after the due date, they shall bear interest from the date of the delinquency at the rate of ten percent per annum. Failure to make payment within thirty days of the due date thereof shall also cause the full amount of such Owner's estimated annual assessment for the remainder of that year to become due and owing at once, at the option of the Association. In the event it shall become necessary for the Association to collect any delinquent assessments or fees, whether by foreclosure of a lien hereinafter created or otherwise, the delinquent Owner shall pay in addition to the assessment and late charge and interest herein provided, all costs of collection, including actual attorney's fee and costs incurred by the Association in enforcing payment.
 - ii. The Association is hereby granted a lien against the Owner's Condominium Unit for any payment or payments which the Owner fails to make as required by this Declaration; provided, however, that (a) such lien shall be effective only upon recordation of a notice thereof in the office of the Clerk

and Recorder of Lake County, Montana, and each Owner, by accepting a deed to his Condominium Unit, designates any one of the officers of the Association or its duly appointed manager as agent with full irrevocable power and right to record a notice of said lien in favor of the Association; (b) a lien accruing hereunder shall be foreclosed in the same manner as provided by the laws of the State of Montana for foreclosure of mortgages on real property; and (c) such lien shall be subject and subordinate to and shall not affect the right of a holder of any recorded first mortgage now or hereafter placed on the Unit in good faith and for value. The lien hereby given shall also be a lien upon all of the rents and profits of the encumbered Condominium Unit. In the event of a foreclosure, the Owner shall be required to pay reasonable rental to the Association for occupying the same during the period of the foreclosure, and if after the filing of a foreclosure action, the Owner's Condominium Unit is left vacant, the board may take possession and rent said Condominium Unit or apply for appointment of a receiver for the Condominium Unit without notice to the Owner. In addition to the lien herein granted, the Association shall have the right to bring an action at law against any Owner who fails to pay any amounts assessed against his Condominium Unit and obtain judgment for the amount of the assessments due plus costs as herein provided. The Association shall have the power to bid at the foreclosure sale, and if title is obtained, hold, lease, mortgage and encumber or convey the same.

- iii. In the event an Owner is in default on any obligation secured by an encumbrance on his Condominium Unit, the Association at its option, may pay the amount on said obligation and file a lien against the Condominium Unit in the manner as provided for herein for unpaid assessments or fees.
- iv. Sale or transfer of any interest by an Owner shall not affect or release any lien granted the Association herein.
- v. In the case of the conveyance of a Condominium Unit pursuant to foreclosure proceedings by a first mortgage holder or by a deed in lieu of foreclosure to the same, such transfer of title shall extinguish the lien on the Condominium Unit for all unpaid assessments made by the Association becoming due before the date of transfer of title or date of first possession, whichever comes first. The amount remaining unpaid with respect to which the lien is extinguished shall be deemed to be a Common Area expense collectible from all the owners as such, without prejudice to the right of the Association to recover such amount from the transferor Owner.
- vi. **Waiver of Homestead.** By purchasing a Unit a Unit Owner agrees that any filed Homestead Exemption does NOT apply to any amounts owed under the Governing Documents, including but not limited to Assessments and all court costs, monies, attorney's fees and judgment interest owed to

the Association as a result of any case involving the Association where the Association is awarded such case, including the costs of collection.

9. MAINTENANCE

- a. **Maintenance By Owner.** Every Owner of a Condominium Unit shall be responsible for the following:
 - i. all cleaning, maintenance, upkeep and repair to the interior of each Owner's Condominium Unit;
 - ii. all damages to the Owner's Condominium Unit, other Condominium Units, the Common Area or Limited Common Area, resulting from such Owner's intentional or negligent acts or omissions; and
 - iii. all taxes and assessments on his Condominium Unit.
 - iv. bear the cost of replacement of doors allowing access to the Condominium Unit
 - v. the cost of replacement of windows and glass in the Condominium Units.
- b. **Maintenance by Association.** The Association shall be responsible for the following:
 - i. the care, operation, management and repair of the Common Area, including but not limited to keeping the same in good, clean, updated, attractive and sanitary order and repair, including but not limited to the maintenance of all landscaping, fencing, weeding and replacement of any dead or dying vegetation in a timely manner and the care and maintenance of all sidewalks, curbs and gutters;
 - ii. making available to the Common Area and each of the Condominium Units, water, sewer, electric, gas, telephone and all other necessary utility services;
 - iii. remove snow, ice and other materials from the driveways, parking areas and walkways;
 - iv. keep the Real Property safe, attractive and desirable;
 - v. make necessary or desirable alterations, improvements and upgrades to the Common Area.
- c. **Non-Waiver.** Nothing herein shall be construed as a waiver of any right by the Association to recover for any damage or expenses incurred as the result of the willful or negligent action or omission of an Owner or any person.

- d. **Duty to Inspect and Notify of Defects.** Each Owner shall have the duty to make reasonable inspections of his Condominium Unit and Limited Common Areas from time to time, to determine if said Condominium Unit or Limited Common Areas contain any obvious defects including improper drainage for which the Association may be liable to repair. In the event of discovery of such a defect, the Owner also shall have the duty to give written notice of the defect to the Association immediately.
- e. **Duty to Repair.** In the event a defect may affect the Condominium Unit of any other Owner or the Common Area, the party responsible under this Declaration shall repair the same in a workmanlike fashion within a reasonable time following its discovery. Upon the failure of such Owner to so repair defects that are such Owner's responsibility, the Association shall have the right, in its discretion, to enter into and upon the Condominium Unit and effect such repair, the cost of which shall be chargeable to such Owner by assessment or otherwise.
- f. **Willful or Negligent Acts.** In the event that any maintenance, repair or other work is required because of the intentional or negligent action or lack of action of any Owner, his family, guests, tenants, invites, lessees or licensees and such maintenance, repair or other work is not covered or paid for by insurance for the benefit of the Association, the Association may perform such work or cause the same to be performed at such Owner's cost and expense and may make an assessment to recover payment thereof against such Owner, provided, except in the event of emergency, such Owner shall be given ten days' prior notice within which to perform the required maintenance, repair or work. Should weather or other circumstances outside the control of the Owner preclude completion of work within the 10 day period, the Owner may instead give written notice to the Association of his intent to complete the work or repair, the reason for the delay, and an estimated time of completion.

10. DAMAGE AND DESTRUCTION OF UNIT

- a. **Duty to Rebuild.** If all or any portion of any Condominium Unit or Common Area or Limited Common Area is damaged or destroyed by fire or other casualty, it shall be the duty of the Association to rebuild, repair, or reconstruct said Condominium Unit in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty, except as may be provided in Section 12.
- b. **Time Limitation.** The Association shall be obligated to proceed with all due diligence hereunder and commence reconstruction within three months after the damage occurs and complete reconstruction within six months after damage occurs, unless prevented by causes beyond its reasonable control.

11. DAMAGE OR CONDEMNATION OF COMMON AREA

- a. **Damage to Common Area.** Damage to or destruction of all or any portion of the Common Area shall be handled in the following manner:
 - i. In the event of damage or destruction to the Common Area, and if the insurance proceeds are sufficient to effect total restoration, then the Association shall cause such Common Area to be repaired and reconstructed substantially as it previously existed.
 - ii. If the insurance proceeds are within \$5,000.00 or less of being sufficient to effect total restoration to the Common Area, then the Association shall cause such Common Area to be repaired and reconstructed substantially as it previously existed, and the difference between the insurance proceeds and the actual cost shall be levied as a special assessment against each of the Owners on the basis of the ownership interest as set forth in Section 9(e).
 - iii. If the insurance proceeds are insufficient by more than \$5,000.00 to effect total restoration to the Common Area, then by written consent or vote of a majority of the owners, they shall determine whether:
 - a. to rebuild and restore the Common Area to substantially the same condition as it existed prior to damage, and to raise the necessary funds over the insurance proceeds by levying a special assessment against each of the Owners, on the basis of the ownership interest set forth in Section 9(e);
 - b. to rebuild and restore the Common Area in a way which utilizes all available proceeds and an additional amount not to exceed Five Thousand Dollars (\$5,000.00) and which is less expensive than rebuilding and restoring the Common Area to substantially the same manner as it existed prior to being damaged; or
 - c. to not rebuild and to distribute the available insurance proceeds equally to the Owners and mortgagees of the Condominium Units as their interests may appear.
 - iv. If reconstruction or restoration has not actually commenced within one year from the date of any damage to which this Section is applicable, then the covenant against partition provided shall terminate and be of no further force and effect.
 - v. A condemnation award affecting all or a part of the structural Common Area which is not apportioned among the Owners by court judgment or by agreement between the condemning authority and each of the affected

Owners shall be distributed among the affected Owners and their respective mortgagees according to the relative values of the Condominium Units, or interest therein, affected by the condemnation as determined by independent appraisal in accordance with a procedure set forth herein. In any condemnation proceeding, the Association shall represent the Unit Owners in all proceedings, negotiations, and settlements relative to the common areas. Any awards or payments for Common Areas shall be payable to the Association, in Trust, and distributed as identified herein.

- vi. In the event of partial or total destruction of the structural Common Area, and an election by the Owners not to rebuild, insurance proceeds received by the Association on account of the destruction of the Common Area shall be distributed by the Association among Owners and their respective mortgagees proportionately according to the respective fair market value of the Condominium Units at the time of the destruction as determined by an independent appraisal in accordance with a procedure set forth herein.
- vii. In the event of a condemnation award distribution, or a distribution of insurance proceeds as specified in Section 12(a) (v) and (vi), the Association shall obtain the services of a real estate appraiser holding an M.A.I. designation from the American Institute of Real Estate Appraisers who shall appraise and determine the value of each Condominium Unit affected. A determination by said appraiser shall be conclusive and the Association shall make all distributions based on such appraisal.

12. COVENANT AGAINST PARTITION

- a. **Covenant Against Partition.** By acceptance of his deed, each Owner shall be deemed to covenant for himself and for his heirs, representatives, successors and assigns, that he will not institute legal proceedings to effect judicial partition of his interest in the Real Property from the remainder of the Development, other Units, or from Common Areas or Limited Common areas, unless the Real Property has subsequent to this Amended and Restated Declaration been removed from under the Montana Unit Ownership Act. In such event of removal from the Act, and absent the institution of a partition action, all owners shall be tenants in common, owning their individual Units, with ownership interests in Common Areas and Limited Common Areas as identified in Exhibit "B". Nothing herein shall prevent co-owners of a particular Unit or Units from availing themselves of their rights under partition as between themselves, so long as said action does not result in the creation of an additional Unit, and does not result in the severance of the percent ownership interest in the Common Areas and Limited Common Areas, which are to remain appurtenant to the Unit or Units in question. Furthermore, no Owner shall by act or omission seek to abandon, subdivide encumber, sell or transfer the Common Areas and no other person shall have the right to have them otherwise divided.

13. INSURANCE

- a. **Association Insurance.** The Association shall procure from generally acceptable insurance carriers and pay premiums for the following insurance coverages:
 - i. The Association shall obtain and maintain a “studs out” fire and casualty insurance policy with extended coverage, without deduction for depreciation, in an amount as near as possible to the full replacement value of its Building (excluding the improvements covered by each Owner’s “studs in” policy). Such insurance shall be maintained for the benefit of the Association, its members, and mortgagees, as their interests may appear as named insureds, subject, however, to loss payment requirements as set forth herein. The Owners hereby waive and release all claims against the Association, its board of directors, agents, employees, and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by the negligence of or breach of any agreement by said persons or entities, but only to the extent of the insurance proceeds received and compensation for such loss.
 - ii. A policy or policies of liability insurance covering the Association, its board of directors, and all their agents and employees against any liability to the public or any Owner, his invitees and/or tenants arising from or incident to the ownership, occupation, use, maintenance and/or repair of the Common Area or Condominium Units, out of any acts of the Association, and out of any employment relationship between the Association and its employees, if any, with policy limits no less than \$1,000,000.00 per occurrence. If obtainable a cross liability endorsement insuring each insured against liability to the other insured shall be acquired. Limits of liability on such policies shall be set by the Association on such limits and coverage shall be reviewed at least annually by the Association and increased or decreased in its discretion.
 - iii. To the extent necessary to comply with any applicable Workman's Compensation laws.
 - iv. Such other insurance as the Association may deem desirable for the benefit of the Owners or of itself.
 - v. If a loss is attributable to the negligence of an owner, such owner shall be responsible for the deductible paid on any of the Association's insurance policies.
 - vi. The terms of this Article shall not be interpreted to compel the Association to acquire insurance for the Owner's personal property, whether stored in

such Owner's Condominium Unit or in any part of the Common Areas or Limited Common Areas. Each Owner is responsible to acquire such "studs in" insurance covering his or her own personal property and liability as such Owner deems appropriate.

- vii. The Association, on behalf of the Treasurer or any other officer or Director, or management agent, who handles or is responsible for funds administered by or on behalf of the Association, may provide a bond for the faithful discharge of his duties in such sum and with a surety or sureties as the Board of Directors shall determine is appropriate, but no less than three months aggregate assessments plus reserves. The cost of any such bond shall be paid for by the Association and shared as a common expense of the Association.
- viii. The Association shall obtain and maintain such insurance as called for herein, in its name as insured on behalf of the Owners (in proportion to their respective interests as set out in Exhibit "B") or there may be named by the Board of Directors, as an insured, on behalf of the Owners Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee, who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance, and to perform such other functions necessary to accomplish such purpose. Such trustee shall hold such policies and the proceeds therefrom in trust for the Association, the Owners and their respective mortgagees as their respective interests may appear of record. The Association shall provide to the Owners and their mortgagees, upon request, certificates or other evidence of the existence of such insurance as required by this Section. All such policies shall provide that they cannot be or substantially modified with first providing 10 days prior written notice to the Association, the Owners and their eligible first mortgagees.

b. **Unit Owners' Insurance.** Each Unit Owner shall procure and maintain, and shall provide the Board upon request with a certificate of insurance showing that the Unit Owner has in full force and effect (provided that the Board shall have no obligation to request such certificates or to monitor Unit Owner insurance, and none of the Association or the Board shall have any liability with respect thereto), the insurance itemized below, which shall be maintained on a primary basis, and the cost of which shall be the sole and exclusive responsibility of the Unit Owner.

- i. It is the responsibility of each Owner to obtain and maintain "studs in" insurance for the full replacement value of all improvements comprising the Unit and upon all other property and improvements belonging to such Owner for which its Association has not purchased insurance in accordance with Association's Insurance per above.

- ii. Liability insurance on an occurrence from claims for bodily injury, death or property damage occurring on, in or about the Unit and insuring the Unit Owner's liability with a limit of not less than One Million Dollars and Zero Cents (\$1,000,000.00).
- iii. Each Unit Owner shall have the right to carry other insurance for such Unit Owner's own benefit. All policies carried by the Unit Owners (a) shall contain waivers of subrogation of claims against the Association, its officers and directors; and (b) shall not adversely affect or diminish any liability under any insurance obtained by the Association. Each Unit Owner may seek to add Deductible Assessment coverage to their personal insurance policy form, where available and at the sole cost of such Unit Owner, to cover those potential Association deductibles which may be assessed to any one or more Unit Owner.

14. GENERAL PROVISIONS

- a. **Enforcement.** The Association or the Owner of any Condominium Unit shall have the right to enforce by proceedings at law or in equity all of the covenants and provisions now or hereafter imposed by this Declaration and the Association's Bylaws and Rules and Regulations, respectively, including, without limitation, the right to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of said covenants, to enjoin or prevent them from doing so, to cause said violation to be remedied, and/or to recover damages for said violation. The result of every act or omission whereby any of the covenants contained in this Declaration or the provisions of the Association's Bylaws and Rules and Regulations are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Owner, by the Association, or by its successors in interest. The remedies hereby provided for breach of the covenants contained in this Declaration or the provisions of the Association's Bylaws and Rules and Regulations shall be deemed cumulative, and none of such remedies shall be deemed exclusive. The failure of the Association to enforce any of the covenants contained in this Declaration or the provisions of the Bylaws and Rules and Regulations shall not constitute a waiver of the right to enforce the same thereafter. A breach of the covenants contained in this Declaration or of the provisions of the Bylaws and Rules and Regulations shall not affect or impair the lien or charge of any bona fide mortgage or deed of trust made in good faith and for value on any Condominium Unit or the improvements thereon; provided, however, that any subsequent Owner of such property shall be bound by said covenants, whether or not such Owner's title was acquired by foreclosure, a trustee's sale, or otherwise. Following notice and hearing, the Association shall have the right and power to assess monetary penalties against a Member and/or suspend said Member's voting rights for the period during which any assessment against his Condominium Unit

remains unpaid or for any violation of this Declaration, the Bylaws or for infraction of the Rules and Regulations enacted by the Association.

- b. **Waiver.** Acceptance of a deed for a Condominium Unit shall constitute a waiver of the right to protest a future Special Improvement District for improvements benefiting River Landing Condominiums, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land.
- c. **Severability.** The invalidity of any provision of this Amended and Restated Declaration shall not affect in any manner the validity or enforceability of the remainder of the Amended and Restated Declaration. No provision in this Declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number or duration of violations which may occur.
- d. **Construction.** The provisions of this Amended and Restated Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of the Real Property and for its maintenance. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.
- e. **Singular Includes the Plural.** Whenever the context of this Declaration may so require, the singular shall include the plural, and the masculine shall include the feminine and neuter.
- f. **Withdrawal of Property.** Association reserves the right to amend this Declaration with consent of two-thirds of the Owners, for the purpose of removing property then owed by the Association from the coverage of this Declaration, as a result of any changes in the Association plans for the Property.
- g. **Replatting.** Association may amend the plat of the Property with the consent of two-thirds of the Owners.
- h. **Amendments.** This Amended and Restated Declaration may be waived, abandoned, terminated, modified, altered, changed or amended only by written instrument executed by Sixty Seven Percent (67%) of the Owners, unless other higher percentages are required by law. All Owners and all mortgagees of a Condominium Unit, by acceptance of a deed, mortgage or trust indenture to any Condominium Unit, shall be deemed to consent to any such waiver, abandonment, termination, modification, alteration, change or amendment. The approval of Eligible Mortgage Holders shall be implied if such mortgage holder does not respond to a written proposal to amend this Declaration or the Bylaws within 60 days after it receives proper notice of such proposal. provided such notice was delivered by certified mail or registered mail, return receipt requested.

- h. **Notices.** Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally, by mail or electronic communication. If delivery is made by registered or certified mail, it shall be deemed to have been delivered when deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the Condominium Unit of such person if no address has been given to the Association. If the notice is sent electronically, it shall be demanded to have been delivered when the electronic transmission is sent. If such notice is so sent by regular mail, it shall be deemed to have been delivered when received. Such addresses may be changed from time to time by notice in writing to the Association.
- i. **Attorney's Fees.** If any Owner defaults in making a payment or assessments or in the performance or observance of any provision of this Amended and Restated Declaration, and the Association has obtained the services of an attorney in connection therewith, the Owner covenants and agrees to pay to the Association any costs or fees incurred, including reasonable attorney's fees, regardless of whether legal proceedings are instituted, the Owner shall also pay the cost of the suit, in addition to the aforesaid costs and fees. This provision for recovery of attorney's fees shall apply also to any proceedings in bankruptcy or other insolvency proceedings.
- j. **Rights and Obligations.** Each Owner shall have all of the rights and duties afforded to any Owner under the terms of this Declaration, the Bylaws and the Rules and Regulations adopted by the Association, and Montana law, further provided such Owners of unbuilt Units have such development rights as to allow them to build and complete such Units, in keeping with the plans and specifications associated with prior recorded unit layout and site plans, and provided Architectural approval as provided for herein.
- k. **Notice to Holders, Guarantors, and Insurer's of Mortgages or other Liens on Condominium Units.** Upon written request from a holder, insurer or guarantor of a first mortgage on any Condominium Unit, the Directors of the Association shall provide said holder, insurer or guarantor with timely written notice of:
 - i. Any proposed action that requires the consent of a specified percentage of Eligible Mortgage Holders;
 - ii. Any condemnation loss of any casualty loss which affects a material portion of the project or which affects any Condominium Unit on which there is a first mortgage held, insured or guaranteed by such holder, insurer or guarantor;
 - iii. Any delinquency in the payment of assessments or charges owed by an Owner of a Condominium Unit subject to the mortgage of such eligible

holder, insurer or guarantor, where such delinquency has continued for a period of 60 days;

- iv. Any lapse, cancellation or material modification of any insurance policy maintained by the Association; and
- v. Any requested books, records, and financial statements of the Association.

[SIGNATURES ON FOLLOWING PAGE]

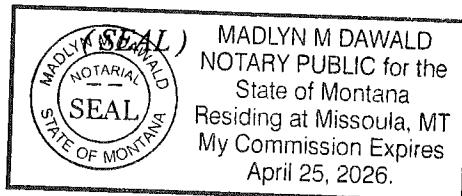
IN WITNESS WHEREOF, the Member caused this Declaration to be made and executed on this 1st day of August 2023.

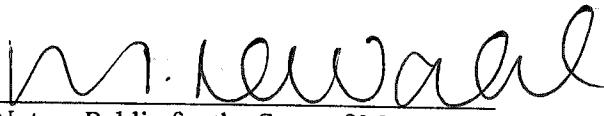
By: 
Howard Chandler
Board of Directors Member

STATE OF MONTANA)
County of Missoula)
:ss

On this 1st day of August 2023, the undersigned, Hoard Chandler, as member of River Landing Condominium Owners Association, Inc., personally appeared before me and is known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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

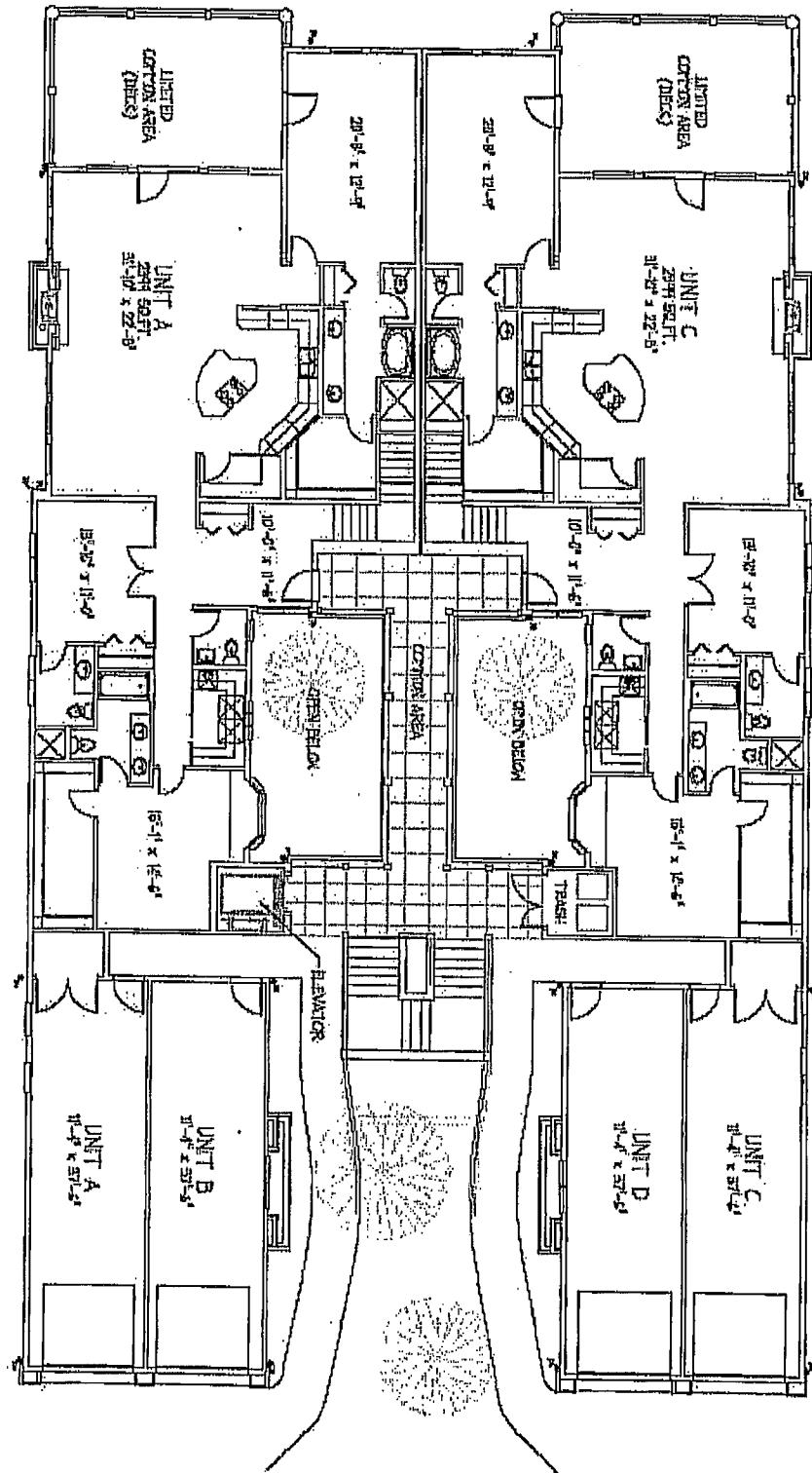



Notary Public for the State of Montana

Revised Exhibit "A Main Floor Plan Units 'A' and 'C' "

MAIN FLOOR PLAN UNITS "A" AND "C"

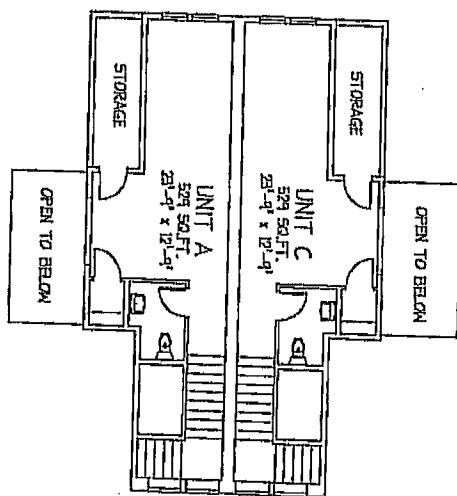
SCALE 1" = 1'-0"



EXHIBIT

A

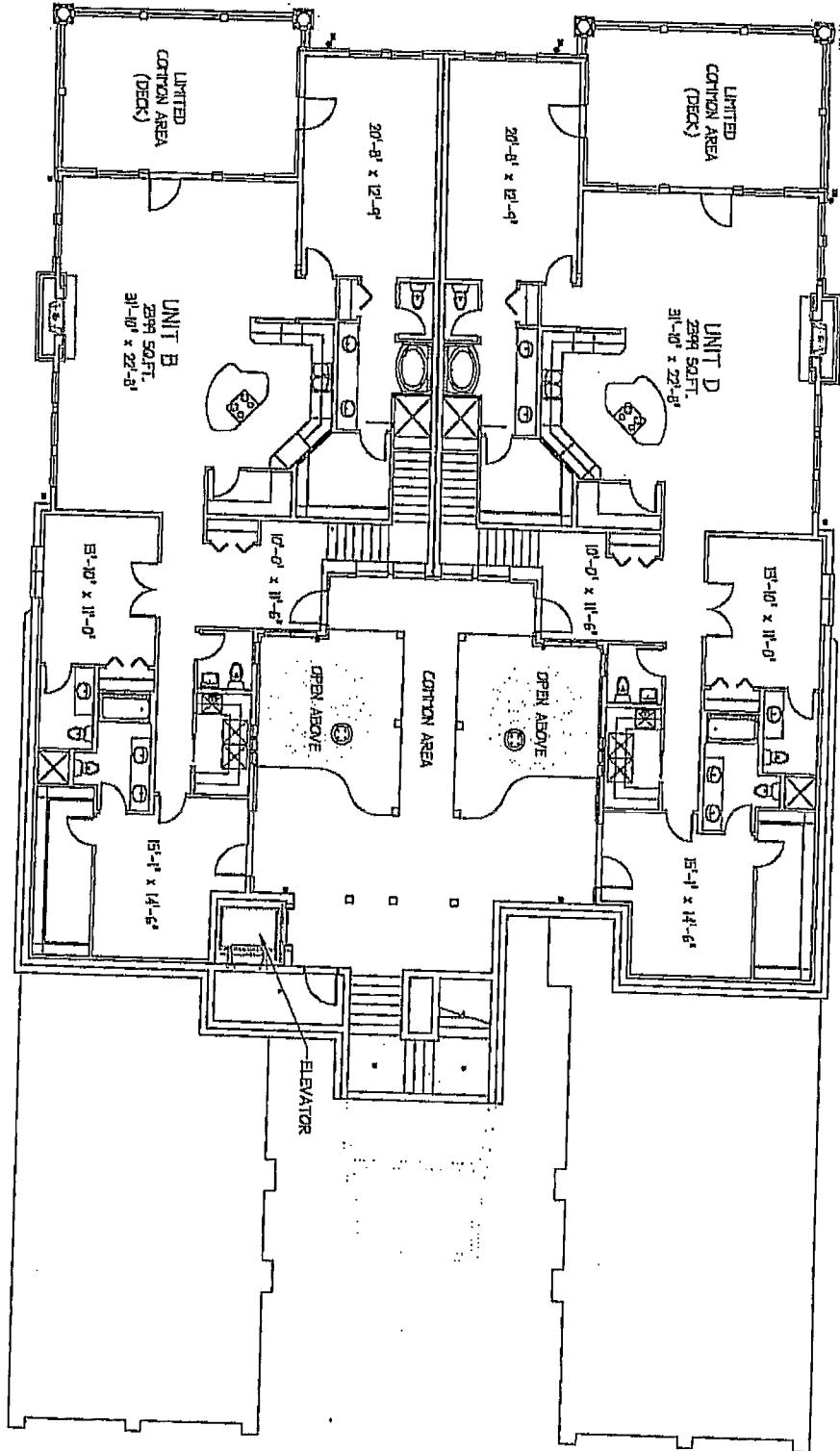
474656

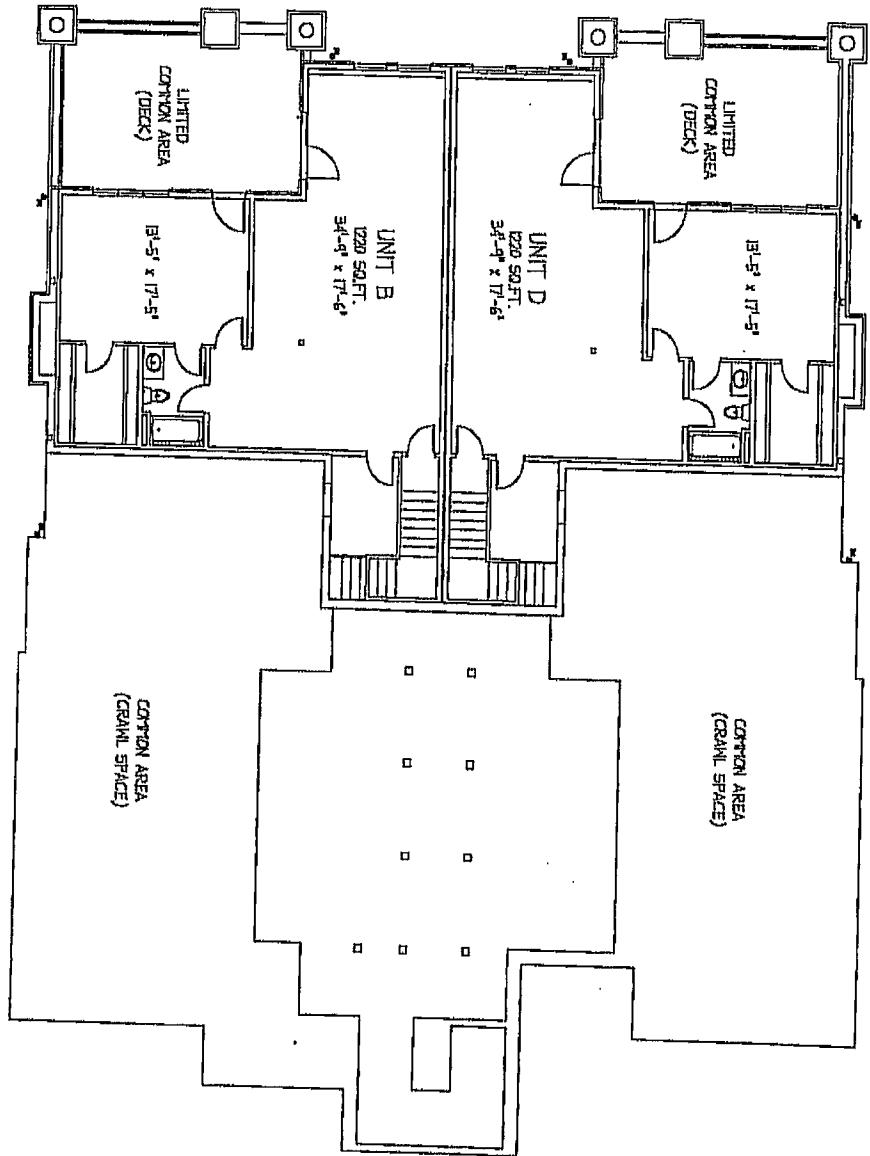


UPPER FLOOR PLAN UNIT "A" AND "C"
SCALE: 1/8" = 1'-0"

MAIN FLOOR PLAN UNITS "B" AND "D"

SCALE: $\frac{1}{8}$ " = 1'-0"





LOWER FLOOR PLAN UNIT "B" AND "D"
SCALE: $\frac{1}{8}$ " = 1'-0"

474556

474656

EXHIBIT "B"

Unit No.	Percent
1A	5.00%
1B	5.00%
1C	5.00%
1D	5.00%
2A	5.00%
2B	5.00%
2C	5.00%
2D	5.00%
3A	5.00%
3B	5.00%
3C	5.00%
3D	5.00%
4	5.00%
5	5.00%
6	5.00%
7	5.00%
8	5.00%
9	5.00%
10	5.00%
11	5.00%
TOTAL	100.00%

DECLARATION OF CONDOMINIUM, COVENANTS, CONDITIONS AND RESTRICTIONS
FOR THE RIVER LANDING CONDOMINIUMS
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EXHIBIT

B
