Return to: Ogle & Worm, PLLP
P.O. Box 899
Kalispell, MT 59903

0007810 0009532 - 0009538 0009540 - 0009542

201600013840
Page: 1 of 47
Fees: $329.00
Debbie Pierson, Flathead County MT by DD 7/14/2016 2:55 PM

DECLARATION OF COVENANTS, CONDITIONS EASEMENTS AND RESTRICTIONS FOR MARINA TOWN HOMES

Table of Contents

DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR MARINA TOWN HOMES .....

RECITALS: .....

ARTICLE I: DEFINITIONS .....

ARTICLE II: PROPERTY SUBJECT TO DECLARATION .....

ARTICLE III: EASEMENTS AND RIGHTS OF ENJOYMENT IN COMMUNITY AREAS AND ASSOCIATION SERVICES .....

ARTICLE IV: LOT AND COMMUNITY AREAS LAND USE RESTRICTIONS .....

ARTICLE V: ORGANIZATION OF ASSOCIATION .....

ARTICLE VI: MEMBERSHIPS AND VOTING .....

ARTICLE VII: COVENANT FOR ASSESSMENTS AND CREATION OF LIEN .....

ARTICLE VIII: ENFORCEMENT OF PAYMENT OF ANNUAL ASSESSMENTS, SPECIAL ASSESSMENTS, MAINTENANCE CHARGES AND ASSESSMENT LIENS .....

ARTICLE IX: USE OF FUNDS; BORROWING POWER; OTHER ASSOCIATION DUTIES .....

ARTICLE X: MAINTENANCE .....

ARTICLE XI: RIGHTS AND POWERS OF ASSOCIATION .....

ARTICLE XII: INSURANCE AND FIDELITY BONDS .....

ARTICLE XIII: DAMAGE OR DESTRUCTION .....

ARTICLE XIV: CONDEMNATION .....

ARTICLE XV: MORTGAGEE REQUIREMENTS .....

ARTICLE XVI: TERM; AMENDMENT TERMINATION .....

ARTICLE XVII: MISCELLANEOUS .....

DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR MARINA TOWN HOMES

THIS DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR Marina Town Homes is made effective this 1st day of July, 2016 by the undersigned owners of property in Marina Town Homes.

RECITALS:

WHEREAS, the undersigned are the record owners of the real property situated in Flathead County, Montana, that is more particularly described in Article I, Paragraph 1 of this Declaration below.

WHEREAS, the undersigned desire to record this Declaration of Covenants, Conditions, Easements and Restrictions and to subject all the real property described below to the Conditions, Covenants and Restrictions herein set forth, each and all of which are intended for the benefit of said property, and for each owner thereof, and shall inure to the benefit of and pass with said property, and each and every parcel thereof, and shall apply to and be binding upon the successors in interest to said property, and any owner thereof.

All persons or corporations who now or shall hereafter acquire any interest in and to the below described property shall be held to agree and covenant with the owner of any of the property located in the tracts herein below described, or any parcel thereof, with their heirs, successors and assigns, to conform to and observe the following Conditions, Covenants, Easements and Restrictions as to the use thereof, and as to the maintenance of dwellings and improvements thereon.

A. Owners are the Owners of a certain tract and Lots of real property located in Flathead County, Montana, more particularly described in Article I hereof as Marina Town Homes.

B. Marina Town Homes is an attractive development within the Harbor Village Community that possesses great natural beauty. Marina Town Homes Owners intend to preserve this attractiveness through the terms of this Declaration. This Declaration is intended to provide comprehensive land planning, preservation of the natural environment, harmonious and appealing landscaping, improvements, and the establishment of a governing association known as Marina Town Homes Homeowners Association.

C. Each Owner shall be an Owner of a Lot as described in Article I and shall be a member of Marina Town Homes Homeowners Association.

D. By this Declaration, the Owners intend to establish a common scheme and plan for the possession, use, enjoyment, repair, maintenance, restoration, and improvement of property in Marina Town Homes, and the interests therein conveyed and to establish thereon a planned unit development.

NOW, THEREFORE

ARTICLE I: DEFINITIONS

The following words, phrases or terms used in this Declaration (including that portion hereof headed 'Recitals") shall have the following meanings:

1. " Land (Lots) Subject to this Declaration" shall mean, refer to, and consist of the following described parcels of real property situated in Flathead County, State of Montana:

   Lot 1A of Harbor Village at Eagle Bend – Phase 4B

   Lot 1B of Harbor Village at Eagle Bend – Phase 4B

   Lot 2A of Harbor Village at Eagle Bend – Phase 4B

   Lot 2B of Harbor Village at Eagle Bend – Phase 4B

   Lot 3A of Harbor Village at Eagle Bend – Phase 4B

   Lot 3B of Harbor Village at Eagle Bend – Phase 4B

   Lot 4A of Harbor Village at Eagle Bend – Phase 4B

   Lot 4B of Harbor Village at Eagle Bend – Phase 4B

   Lot 5B of Harbor Village at Eagle Bend – Phase 4B

   Lot 6A of Harbor Village at Eagle Bend – Phase 4B

   Lot 6B of Harbor Village at Eagle Bend – Phase 4B

2. "Annual Assessment" shall mean the charge levied and assessed each year against each Lot and Owner pursuant to Article VII, Section 2, hereof.

3. "Articles" shall mean the Articles of Incorporation of the Association as the same may from time to time be amended or supplemented.

4. "Assessment" shall mean any of the following: the Annual Assessment and any Special Assessment, Town Home Assessments and/or Maintenance Charge.

5. "Assessment Lien" shall mean the lien created and imposed by Article VII.

6. "Assessment Period" shall mean the term set forth in Article VII, Section 7.

7. "Association" shall mean Marina Town Homes Homeowners Association, Inc., a Montana nonprofit mutual benefit corporation formed to administer and enforce the Covenants and to exercise the rights, powers and duties set forth in this Declaration, its successors and assigns.

8. "Association Areas" shall mean those Areas of the Marina Town Homes Development that Members of the Marina Town Homes Home Owners Association agree that the Membership shall pay, in equal share for their ongoing maintenance through an Annual Assessment and or Special Assessment in accordance with Article VII, Section 2, 4 and 5. Areas to include landscaped grounds, exteriors of Town Homes Units, stairwells, elevators, asphalt (excluding snow removal) and sidewalks, with the understanding that Areas may be amended from time to time in accordance with Article VII, Section 4-5.

9. "Board" shall mean the Board of Directors of the Association.

10. "Bylaws" shall mean the Bylaws of the Association as the same may from time to time be amended or supplemented.

11. "Community Areas," shall mean those areas of the Harbor Village Community within which the Marina Town Homes Development is located that the Marina Town Homes Home Owners Association may agree to pay in a share of annual maintenance and upkeep, e.g., Pavilion, Community roadways and Community entrances.

12. "Community Expenses" shall mean and refer to those costs and expenses connected with the maintenance and operation of Harbor Village Community Areas that with the maintenance and operation of Harbor Village Community Areas that the Association agrees to share on an annual basis with other Harbor Village Associations.

13. "Community Facilities" shall mean Improvements located in Harbor Village Community Areas.

14. "Covenants" shall mean the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements set forth herein.

15."Declaration" shall mean this DECLARATION OF COVENANTS, CONDITIONS EASEMENTS AND RESTRICTIONS FOR Marina Town Homes of Harbor Village at Eagle Bend West PH 4, as amended or supplemented from time to time.

16. "Deed" shall mean a deed or other instrument conveying fee simple title in a Lot.

17. "Dwelling Unit" shall mean any building or portion of a building situated upon an Owner's Lot and designed and intended for use and occupancy, by a Single Family, as a Town Home residence.

18. "Eligible Mortgagee" shall mean and refer to a Mortgagee that has requested notice of certain matters from the Association in accordance with XV, Section 1 of this Declaration.

19. "First Mortgage" shall mean any Mortgage which is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

20. "First Mortgagee" shall mean any person named as a Mortgagee under a First Mortgage, or any successor to the interest of any such person under a First Mortgage, which First Mortgage is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

21. "Harbor Village Community" shall mean the larger community within which the Marina Town Homes Development is located.

22. "Improvements" shall mean any upgrade to Dwelling Units, outbuildings, walkways, roads, driveways, utilities, exterior lighting, landscaping, trees, fixtures, equipment and other improvements upon Marina Town Home Lots.

23. "Landscaping" shall mean that portion of Association Lots that is improved with lawn, ground cover, shrubbery, trees and the like.

24. "Lease" shall mean a written lease or sublease for the leasing or rental of a Dwelling Unit

25. "Lot" shall mean any area of real property, including improvements, within Harbor Village at Eagle Bend West Phase 4B according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

26. "Maintenance Charges" shall mean any and all costs assessed pursuant to Article X, Sections 2, 5 and 6.

27. "Manager" shall mean such person or entity retained by the Board of Directors to perform certain functions of the Board pursuant to this Declaration or the Bylaws.

28. "Marina Town Homes" shall mean those Lots of Harbor Village at Eagle Bend West Phase 4B described in this Declaration.

29. "Member" shall mean any person holding a Membership in the Association pursuant to this Declaration.

30. "Membership" shall mean a membership in the Association and the rights granted to the Owners pursuant to Article VI to participate in the Association.

31. "Mortgage" shall mean any mortgage, deed of trust, or other document pledging any portion of a Lot or an interest therein as security for the payment of a debtor obligation.

32. "Mortgagee" shall mean a beneficiary of a Mortgage as well as a named Mortgagee.

33. "Municipal Authority" shall mean the applicable governmental entity or municipality which has jurisdiction over some part of Marina Town Homes.

34. "Owner" shall mean any person(s) or entity(s) who are (is) record holder of legal, beneficial or equitable title to the fee simple interest of any Marina Town Home Lot including, without limitation, one who is buying a Lot under a recorded contract, but excluding others who hold an interest therein merely as security.

35."Recording" shall mean placing an instrument of public record in the office of the County Recorder of Flathead County, Montana and "Recorded" shall mean having been so placed of public record.

36. "Residence Lot" shall mean each of the Marina Town Home Lots described in this Declaration and shown on the Eagle Bend West Phase 4B plat recorded in the office of the County Recorder of Flathead County, Montana.

37. "Resident" shall mean:

(a) Each Owner of, and each tenant or lessee actually residing on, a Lot and

(b) Members of the immediate family of each Owner, tenant or lessee referred to in subparagraph (a) actually living in the same household with such Owner, tenant or lessee.

38. "Roadway System" shall mean the system of internal roadways that were platted for Marina Town Homes.

39. "Rules" shall mean the rules for Marina Town Homes, adopted by the Board.

40. "Single Family" shall mean a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of persons not all so related, who maintain a common household in a Dwelling Unit.

41. "Special Assessment" shall mean any assessment levied and assessed pursuant to Article VII, Section 5.

42. "Town Homes Maintenance Expenses" shall mean and refer to those costs and expenses arising out of or connected with the maintenance of Marina Town Homes Units and Lots.

43. "Town Homes Expense Fund" shall mean and refer to those costs and expenses arising out of or connected with the maintenance and Landscaping of Marina Town Homes and agreed to shared Harbor Village Community Area expenses that determine assessment made to Owners of Marina Town Homes Lots.

44. "Town Homes Reserve Fund" shall mean and refer to projected long term costs to maintain, replace or repair Marina Town Homes, including, yet not limited to, roof and Town Homes exteriors; elevators; stairwells and asphalt.

45. "Town Homes Unit" shall mean the Dwelling Unit upon a Town Homes Lot.

ARTICLE II: PROPERTY SUBJECT TO DECLARATION

Section 1: General Declaration Creating Marina Town Homes Home Owners Association. The Owners hereby declare that all of the real property within Marina Town Homes as defined in Article I is declared and shall be subject to this Declaration for the purpose of enhancing and perfecting the value, desirability and attractiveness of Marina Town Homes, and every part thereof.

Section 2: Association Bound. These Covenants are binding upon and shall benefit the Association, and are binding upon and benefit all Owners, their heirs, personal representatives, successors and assigns.

ARTICLE III: EASEMENTS AND RIGHTS OF ENJOYMENT IN ASSOCIATION AND COMMUNITY AREAS AND ASSOCIATION SERVICES

Section 1: Easements of Enjoyment. Subject to the limitations contained in this Article III and elsewhere in this Declaration, every Owner shall have a right and easement of enjoyment in and to the Association Areas which shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

(a) Suspension of Rights. The right of the Association to suspend the voting rights and right to the use of the Association Areas by any Member (i) for any period during which any Assessment against its Lot remains delinquent (ii) for a period not to exceed 60 days for any infraction of this Declaration or the Marina Town Homes Rules, and (iii) for successive 60-day periods if any such infraction is not corrected during any prior 60-day suspension period.

(b) Guest Limitations. The right of the Association to impose reasonable limitations on the number of guests per Member, who at any given time are permitted to use the Areas.

(c) Rules. The right of the Association to regulate the use of the Association Areas through the Marina Town Homes Rules. The Marina Town Homes Rules shall be intended, in the absolute discretion of the Board, to enhance the preservation of the Association Areas and the safety and convenience of the users thereof, or otherwise shall serve to promote the best interests of the Owners and Residents. The Marina Town Homes Rules may limit or prohibit the use of certain Association Areas as described in this Article III.

(d) Limited Use Association Areas. The right of the Association to restrict the use of the Association Areas to Members of the Association and guests. The Association shall establish a committee of participating Members, who shall have the authority to establish specific rules and regulations for such limited use.

(e) Municipal Authority Uses. The right of the applicable Municipal Authority and any other governmental or quasi-governmental body having jurisdiction over Marina Town Homes, to access and rights of ingress and egress over and across the Roadway System, any parking area, walkway, or open area contained within Marina Town Homes Development, for purposes of providing police and fire protection and providing other governmental or municipal services.

Section 2: Reservation of Rights Regarding Utilities. The Owners and the Association reserve the right to grant non-exclusive and specific, as well as blanket easements, in, on, over, under and through Marina Town Homes property, to private and public utility companies for all utility services and purposes. Each grantee of rights to use a utility easement shall be liable for damage to property or injury to persons arising from any use made by such grantee within the utility easement area to which the grantee has

been granted rights. The Association reserves the right to abandon any easement or right of way which is no longer reasonably necessary for the proper functioning of the Marina Town Homes Development.

Section 3: Easements for Encroachments. If any part of a Marina Town Home Lot encroaches upon another Lot, an easement for such encroachment and for the maintenance of the same shall and does exist, provided, however, except as otherwise prohibited or limited in this Declaration, each Owner shall have an unrestricted right of ingress or egress to and from its Lot.

Section 4: Declaration of Use. Each Member shall, in accordance with this Declaration and the Marina Town Homes Rules, and the limitations therein contained, be deemed to have extended its right of enjoyment in the Association Areas to the members of its family, its tenants or lessees, its guests or invitees or to its tenant's family, guests or invitees.

ARTICLE IV: LOT AND ASSOCIATION AREAS LAND USE RESTRICTIONS

Section 1: Covenants, Conditions, Easements and Restrictions. The following covenants, conditions, restrictions and reservations of easements and rights shall apply to all Marina Town Homes Lots, the Owners and Residents, as applicable.

(a) Architectural Control. No improvements (whether temporary or permanent), landscaping, alterations, repairs excavation, grading or other work which in any way alters the exterior appearance of any property within Marina Town Homes from its natural state existing on the date this Declaration is recorded shall be made or done without the prior approval of the Board of Directors, except as otherwise expressly provided in this Declaration. No building, fence, wall, Dwelling Unit or other Improvement shall be commenced, erected, maintained, improved, altered or made without the prior written approval of the Board. All subsequent additions to or changes or alterations in any building, Dwelling Unit or other Improvement, including exterior color scheme, and all changes in the grade of Lots, shall be subject to the prior written approval of Board

(b) Additional Requirements of Architectural Control. Notwithstanding the specific enumeration of certain requirements with respect to construction activities with respect to Lots, each Owner shall be subject to all of the provisions and requirements of the Board.

(c) Fencing. No owner may fence their Lot.

(d) Animal Regulations.

(i)No animals, livestock, reptiles, insects, poultry or other animals of any kind, shall be kept on any Lot except that usual and ordinary domestic dogs, cats, fish, and birds inside bird cages, may be kept as household pets on any Lot provided that they are not kept, bred, or raised therein for commercial purposes or in unreasonable quantities or sizes.

(ii)As used in this Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets per Lot provided the Board may determine in its sole discretion that a reasonable number of pets in a given situation may be more or less than two.

(iii) The Board shall have the right to prohibit the maintenance of any animal which constitutes, in the opinion of the Board, a nuisance to any other Owner.

(iv) Animals belonging to Owners, Residents, or their licensees, tenants or invitees, within the Marina Town Homes Development must be kept indoors or on a leash held by a person capable of controlling the animal.

(v) Any Owner shall be liable to each and all remaining owners, their families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon a Lot by such Owner or by such Owner's family, tenants, or guests. Each Owner shall be responsible to clean up after their animals that have soiled the Property or any public street abutting the Property.

(e) Temporary Occupancy and Temporary Buildings. No trailer, tent, garage or temporary building structures of any kind, shall be used at any time for a residence, either temporary or permanent.

(f) Common Walls. Town Homes Units share a common wall with other adjoining Town Homes Units. Each wall which is built as part of the original construction (or reconstruction) of the Town Homes Units upon the Town Homes Lots and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. The cost of reasonable repair and maintenance of a party wall shall be shared equally by the Owners who make use of the wall. If a party wall is destroyed or damaged by fire or other casualty, the provisions of Article XIII hereof shall apply. Notwithstanding any other provision of this Section 1 of Article IV, an Owner who by his negligent or willful act causes a party wall to be damaged shall bear the entire cost of furnishing repairs to the party wall. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title. In the event of any dispute arising concerning a party wall, or under the provisions of this Section, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

(g) Landscaping of Town Homes Lots. The standard landscaping of the Lots shall be maintained by the Association in accordance with the annual maintenance plan and annual budget. The cost thereof shall be included in the Town Homes Expenses borne by the Owners of Lots collectively in accordance with Article VII, Section 3 hereof. In the event that the need for maintenance or repair of a Lot's Landscaping is caused through the willful or negligent acts of its Owner or through the willful or negligent acts of the family, guests, invitees or tenants of the Owner of the Lot needing such maintenance or repair, the cost of such exterior maintenance shall be a Maintenance Charge assessed to the Owner of the Lot.

(h) Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot and no odors or loud noises shall be permitted to arise or emit there from, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental

to any other property in the vicinity thereof or to its occupants. Normal maintenance activities and parking in connection with maintenance activities on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots shall be kept in a neat and tidy condition during maintenance periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials will be piled only in such areas as may be approved by the Board. In addition, any equipment and building materials stored or kept on any maintenance activity may be kept only in areas approved by Board, which may also require screening of the storage areas. The Board in its sole discretion shall have the right to determine the existence of any such nuisance.

(i) Diseases and Insects. No Owner shall permit anything or condition to exist upon any Lot which shall induce, breed or harbor infectious plant and animal diseases or noxious insects.

(j) Maintenance and Repair of Improvements on Lots. No Improvements on any Lot shall be permitted to fall into disrepair and each such Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any Improvement is damaged or destroyed, then, subject to the approvals required by Subsection 1(a) above, such Improvements shall be immediately repaired, rebuilt or demolished

(k) Antennas. No antenna, satellite receiving station or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors on any Lot, whether attached to a building or structure or otherwise, unless approved by the Board. No towers, exposed or outside radio, television or other electronic antennae, shall be allowed or permitted to remain on any Lot.

(l) Trash Collection and Removal. No garbage or trash shall be placed or kept on any Lot. All rubbish, trash and garbage shall be removed regularly from the Lots by Owners and shall not be allowed to accumulate thereon. Provided, however, the Association reserves the right to contract for garbage pickup either from Lots or from other pickup locations for all of Marina Town Homes and treat the cost thereof as an Association Expense.

(m) Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Lot, to include balconies.

(n) Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except (i) such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of a building, appurtenant structures, or other improvements; or (ii) that which Owners or the Association may require for the operation and maintenance of marina Town Homes Home Owners Association.

(o) Signs. No signs whatsoever (including, but not limited to political and similar signs) shall be erected or maintained on any Lot except with the approval of the Board and except:

(i) Signs required by legal proceedings

(ii) Not more than two (2) identification signs for individual Dwelling Units, each with the approval of the Board.

(iii) Signs (including "for sale" signs) the nature, number and location of which have been approved in advance and in writing by the Board.

(p) Restriction on Further Subdivision, Property Restrictions and Rezoning. No Lots shall be further subdivided or separated into smaller Lots or parcels by any Owner. No portion less than all of any such Lot, nor any easement or other interest therein, shall be conveyed or transferred by any Owner. No portion of a Lot (i.e. less than the entire Lot) may be rented or leased to any third party. No further covenants, conditions, easements or restrictions shall be recorded by any Owner or other person against any Lot without the provisions thereof having been first approved by the Board and any evidenced thereon shall be null and void. No application for rezoning of any lot, and no applications for variances or use permits, shall be filed with a Municipal Authority unless the proposed use of the Lot complies with this Declaration and the Owners obtains the prior written consent of the Board.

(q) Utility Easements. There is hereby created a blanket easement upon, across, over and under each Lot for ingress to, egress from, and the installation, replacing, repairing and maintaining of, all utility and service lines and systems, including, but not limited to gas, telephone, electricity, television cable or communication lines and systems, etc., as such utilities may be installed. Pursuant to this easement, a providing utility or service company may install and maintain facilities and equipment on the property and affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of Improvements on the Lots. Notwithstanding anything to the contrary contained in this Subsection, no electrical lines or other utilities or service lines may be installed or relocated on any Lot except as initially programmed and approved by the Declarant or the Board. No lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, and cable information highways, shall be erected, placed or maintained anywhere in or upon any Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on Improvements or other structures as approved by the Declarant or the Board, except for:

(i) Boxes on the ground for electrical or communication connections, junctions, transformers and other apparatus customarily used in connection with such underground lines, wires and other devices, and

(ii) Such above ground electrical apparatus as may be convenient or necessary reasonably on the site for the operation of the municipal pump station.

(r) Utility Charges. Each Owner shall pay for all applicable hook-up fees, service charges and other charges on utility services which are separately billed or metered to a Dwelling Unit by the utility or other party furnishing such service. The Association is to pay for all electric, gas, telephone and other utility charges for the Association Areas.

(s) Notice of Intended Conveyances. It shall be the duty and responsibility of an Owner who has entered into an agreement to convey a Lot to notify the Association in writing prior to the conveyance being completed:

(i) To facilitate the collection by the Association of any Assessments, fees or other amounts due under the provisions of this Declaration.

(ii) To permit the Association to review its files and to inspect the Lot to assure compliance with this Declaration and the Marina Town Homes Home Owners Association Rules.

(iii) To review permits issued by the Association which must be corrected or updated prior to or in connection with the conveyance.

The notice shall state the name and address of the proposed transferee. If the notice required by this Section is not given, the title conveyed shall be subject to all claims and charges of the Association existing prior to the conveyance, whether or not the transferee had actual notice thereof, and the transferee shall be responsible to the Association for outstanding fees and other charges and for correcting any violations of this Declaration, the Marina Town Homes Home Owners Association Rules or permits issued by the Association.

(t) Additional Improvements. In the event the Association is required by a Municipal Authority to develop additional Improvements, all Owners shall proportionately share the development expenses, costs and charges. Said proportionate share shall be calculated on a per Lot basis, and shall be due thirty (30) days prior to construction.

(u) Trucks, Trailers, Campers and Boats. No motor vehicle classed by manufacturer rating as exceeding 3/4-ton, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, boat, boat trailer or other similar equipment or vehicle may be parked, used as a living unit, maintained, constructed, reconstructed or repaired on any Lot in the Marina Town Homes Development.

(v) Motor Vehicles. No automobile, motorcycle, motorbike or other motor vehicle shall be constructed, reconstructed or repaired upon any Lot in the Marina Town Homes Development and no inoperable vehicle may be stored or parked on any such Lot; provided, however, that the provisions of this Section shall not apply to: (i) emergency vehicle repairs; (ii) temporary construction of any improvement approved by the Board; and (iii) vehicles parked in garages. All vehicles operated in Marina Town Homes shall be properly licensed, inspected and maintained so as not to create a dangerous situation, become a nuisance, nor emit unreasonable smoke, oil or noise. Motorized vehicles may not be operated in any manner that could cause unreasonable damage or harm to the natural environment and landscape of Marina Town Homes, provided, however, golf carts may also be operated on the Roadway System. Inoperative vehicles may not be parked on the Roadway System. Garage doors shall not be left open overnight. The Board shall have the power to restrict the use of any vehicle which may create any nuisance. All drivers of vehicles must be legally licensed. All motorized vehicles shall be restricted to the Roadway System and designated pathways except where a motorized vehicle may be necessary for maintenance of Marina Town Homes Home Owners Association. All vehicles of owners shall be parked

in garages or on the driveway of the residence of the owner. No vehicles shall be parked on sidewalks at any time and no vehicles shall be parked on the roadways overnight.

(w) Drainage. No Owner or Resident shall interfere with or obstruct the drainage pattern over its Lot from or to any other Lot as that pattern may exist as of the date of recording this Declaration or as may be established by the marina Town Homes Home Owners Association.

(x) Right of Entry. During reasonable hours, any member of the Board or any authorized representative of the Board, shall have the right to enter upon and inspect any Lot, and the improvements thereon, except for the interior portions of any Dwelling Unit for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with and such persons shall not be deemed guilty of trespass by reason of such entry.

(y) Health, Safety and Welfare. In the event additional uses, activities and facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners and Residents, the Board may make rules restricting or regulating their Presence on Marina Town Homes Home Owners Association, as part of the architectural rules.

(z) Leases. In order to prevent transient occupancy of Lots and/or Dwelling Units, any lease agreement between an Owner and a lessee respecting a Lot or Dwelling Unit shall be in writing and shall be subject in all respects to the provisions of this Declaration, the Articles and Bylaws. Owners are to provide a copy of the Declaration of Covenants, Conditions, Easements and Restrictions for Marina Town Homes and are to review this document with the lessee. No lease shall be for a period of less than one (1) month. Any failure by the lessee to comply with the terms of such documents shall be a default under the lease. Copies of all such lease agreements shall be furnished to the Association prior to commencement of the Lease term. Other than the foregoing, there is no restriction on the right of any Owner to lease its Lot or Dwelling Unit. Owners shall be responsible to insure that their lessees comply with all the terms and provisions of this Declaration and such Owners shall pay any expense incurred by the Association as a result of their lessees' failure to comply.

(aa) Wildlife Harassment. Any harassing of wildlife which may live on the lands or in the waters within or near Marina Town Homes is prohibited. Owners and Residents shall be responsible for their pets, children and guests complying with this provision.

(ab) No Hazardous Activities. No hazardous activities shall be conducted on any Lot. No open fires shall be lighted or permitted on a Lot except in a contained barbecue unit well attended and in use for cooking purposes.

(ac) No Annoying Lights, Sounds or Odors. No light shall be omitted from any Lot or Dwelling Unit that is not shielded or above the eve line and that is unreasonably bright or causes unreasonable glare. No sound shall be emitted from any Lot or Dwelling Unit that is unreasonably loud or annoying including but without limitation, speakers, horns, whistles, bells or other sound devices, with the exception of security devices and/or fire alarms used exclusively to protect any of the property or Dwelling Units. No odors shall be emitted from any Lot or Dwelling Unit that are noxious or offensive to others.

(ad) Residential Use. Marina Town Homes, is exclusively restricted to residential uses and those related uses permitted under this Declaration. No business or industry shall be conducted on a Lot except as expressly permitted hereunder. Use of a portion of a Dwelling Unit as a business office or for other business purposes may be allowed only as such terms and conditions as the Board may determine.

(ae) Illegal Activities. No Owner shall Permit any use of a Lot in violation of any applicable Municipal Authority ordinance, or other law or regulation to which Marina Town Homes Home Owners Association, is subject.

(af) Disclaimer Regarding Fire and Police Protection. Each Owner who purchases a Lot acknowledges that the Marina Town Homes Development is located in an area of Flathead County, Montana, where the level of police and fire protection, as well as other public services, is less than would be available in a more populated or more highly developed area. Each Owner assumes the risk of less responsive municipal services including police protection, fire protection and delivery of emergency medical services. The Association shall not have any liability to the Owners and Residents as a result of any delay or failure of any person or entity to provide adequate or timely fire protection, police protection, emergency medical and other similar services to the Owners.

Section 2: Variances. The Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article or if it determines in its discretion (a) either (i) that a restriction would create an unreasonable hardship or burden on an Owner or (ii) that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete and (b) that the activity permitted under the variance will not have any material adverse affect on the Owners and Residents of Marina Town Homes and is consistent with the high quality of life intended for Owners and Residents of Marina Town Homes.

ARTICLE V: ORGANIZATION OF ASSOCIATION

Section 1: Formation of Association. The Association shall be a nonprofit Montana corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

Section 2: Board of Directors and Office. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws as the same may be amended from time to time. The Board shall be composed of no fewer than three (3) and no more than five (5) persons. The Board may also appoint various committees and appoint a Manager who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Association. The Board shall determine the compensation to be paid to the Manager. The Board's responsibilities shall include, but shall not be limited to, the following:

(a) administration, including administrative support as required for any appointed committee;

(b) preparing and administering an operational budget;

(c) establishing and administering and adequate reserve fund;

(d) scheduling and conducting the annual meeting and other meetings of the Members;

(e) collecting and enforcing the assessments;

(f) performing accounting functions and maintaining records;

(g) promulgation and enforcement of the Marina Town Homes Home Owners Association Rules.

(h) maintenance of the Association Areas; and

(i) all the other duties imposed upon the Board pursuant to this Declaration, the Bylaws, the Articles and the Marina Town Homes Rules.

Section 3: The Marina Town Homes Homeowners Association Rules. By a majority vote, the Board may, from time to time and subject to the provisions of this Declaration, adopt amend and repeal rules and regulations to be known as the Marina Town Homes Home Owners Association Rules. Marina Town Homes Home Owners Association Rules may restrict and govern the use of any area by any Owner or Resident provided, however, that the Marina Town Homes Home Owners Association Rules shall not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or the Bylaws.

Section 4: Personal Liability. No member of the Board or of any committee of the Association, no officer of the Association and no Manager or other employee of the Association shall be personally liable to any Member or to any other person, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board, the Manager, any representative or employee of the Association or any committee, committee member or officer of the Association; provided, however, the limitations set forth in this Section 4 of Article V shall not apply to any person who has failed to act in good faith or has engaged in willful or intentional misconduct.

Section 5: Professional Management. The Association may carry out through the Manager those of its functions that are properly subject to delegation. The Manager so engaged shall be an independent contractor and not an agent or employee of the Association, shall be responsible for managing Marina Town Homes Home Owners Association for the benefit of the Association and the Owners, and shall, to the extent permitted by law and by the terms of the agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself.

ARTICLE VI: MEMBERSHIPS AND VOTING

Section 1: Owners of Lots. Every Owner of a Lot shall be a Member of the Association and by so being a Member shall be subject to Assessment. Membership in the Association is irrevocable and it is binding on any future Owner to who the Lot is legally conveyed and shall be so disclosed upon the transfer of said Lot. Each Owner shall have one Membership for each Lot owned by the Member. Upon recordation of this Declaration, there are eleven (11) Lots in Marina Town Homes. Each such

Membership shall be appurtenant to and may not be separated from Ownership of the Lot to which the Membership is attributable. There shall be only one Membership for each Lot in which Membership shall be shared by any joint owners of or owners of undivided interests in a Lot.

Section 2. Right to Vote. No change in the ownership of a Membership shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each such Membership must be cast as a unit; fractional votes shall not be allowed. In the event that a Membership is owned by more than one person or entity and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, their vote on the matter in question shall be determined by majority vote of such Owners. If any Member casts a vote representing a certain Membership, it will thereafter be conclusively presumed for all purposes that such Member was acting with the authority and consent of all other owners of the same Membership unless objection thereto is made at the time the vote is cast. The right to vote will also require that the Member is current with all Assessments and that all billed Assessments have been paid in full.

Section 3. Cumulative Voting for Board Members. In any election of the members of the Board, every owner of a Membership entitled to vote at such an election shall have the number of votes for each membership equal to the number of directors to be elected. Each Member shall have the right to cumulate its votes for one candidate or to divide such votes among any number of the candidates. The candidates receiving the highest number of vote, up to the number of the Board members to be elected, shall be deemed elected.

Section 4. Membership Rights. Each Member shall have the rights, duties and obligations set forth in this Declaration and such other rights, duties and obligations as are set forth in the Articles and Bylaws, as the same may be amended from time to time.

Section 5: Transfer of Membership. The rights and obligations of the Owner of a Membership in the Association shall not be assigned, transferred, pledged, designated, conveyed or alienated in any way except upon transfer of ownership to an Owner's Lot and then only to the transferee of ownership to the Lot. A transfer of ownership to a Lot may be affected by deed, intestate succession, testamentary disposition, foreclosure of a Mortgage or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Montana. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Lot shall operate to transfer the Membership(s) appurtenant to said Lot to the new Owner thereof.

ARTICLE VII: COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

Section 1: Creation of Lien and Personal Obligation of Assessments and Maintenance Charges. Each Owner by acceptance of a deed or other conveyance of a Lot (whether or not it shall be so expressed in such deed or conveyance) is deemed to covenant and agree, to pay to the Association the following assessments and charges: (1) Annual Assessments established by this Article VII, (2) and Special Assessments for capital improvements or other extraordinary expenses or costs established by this

Article VII and (3) Maintenance Charges established by Article X. All such Assessments shall be established and collected as hereinafter provided. The Annual Assessments, Special Assessments and Maintenance Charges, together with interest, costs and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing servitude and lien upon the Lot against which each such Assessment is made. The Annual and Special Assessments against each Lot shall be based on a pro rata share per Lot as described in Section 4 hereof. Maintenance charges assessed against each lot shall be based on a pro rata share per Lot as described in Section 4 hereof. Townhome Assessments shall be established and collected for each Townhome Lot based upon the procedures established in Section 4 hereof. All such Annual and Special Assessments and Maintenance Charges, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time when the Assessment or charge fell due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them.

Section 2:

(a) Annual Assessments. Owners of Lots shall be responsible for Annual Assessments to cover the cost for Maintenance of Association Areas and those Community Areas expenses that the Association may agree to share. Annual Assessments shall be computed and assessed against all Town Homes Lots as follows:

i. expenses for maintenance of Association Areas and those Community Areas that the Association may agree to share;
ii. premiums for insurance that the Association is required or permitted to maintain hereunder;
iii. any deficit remaining from a previous period
iv. creation of an adequate contingency reserve;
v. major maintenance reserve/or sinking fund;
vi. creation of a Town Homes reserve fund for maintenance, repairs and replacement of those items that must be replaced on a periodic basis;
vii. other expenses and liabilities that may be incurred by the Association for the benefit of Owners under or by reason of this Declaration.

Such shall constitute the Town Homes Maintenance Expenses and all funds received from Assessments under this Section 2(a) shall be part of Town Home Maintenance Expense Fund. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for Town Homes reserve expenses that together constitute the Town Home Expense Fund.

(b) Apportionment. Association Expenses shall be apportioned equally among and assessed to Owners of all Lots equally in accordance with Section 3 of this Article.

(c) Annual Budget. Annual Assessments shall be determined on the basis of a fiscal year beginning January I and ending December 31 next following, and, on or before November I of each year thereafter, the Board shall prepare and furnish to each Member, or cause to be prepared and furnished to each

Member, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated Association Expenses for such fiscal year, anticipated receipts (if any) and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the Annual Assessment for the upcoming fiscal year and as the major guideline under which the Marina Town Homes Homeowners Association, Inc. as shall be operated during such annual period.

(d) Notice and Payment. Except with respect to the first fiscal year, the Board shall notify each Owner in writing as to the amount of the Annual Assessment against his or her Lot on or before December 1 each year for the fiscal year beginning on January I next following. Except as otherwise provided by the Board, each Annual Assessment shall be payable in four equal quarterly installments, one such installment due on the first day of each quarter during the fiscal year to which the Assessment relates; provided, however, the Annual Assessment for the first fiscal year shall be based upon such portion of the first fiscal year remaining from and after the date of this Declaration. All unpaid installments of any Annual Assessment shall bear interest at the rate established by the Board not to exceed eighteen percent (18%) per annum fifteen (15) days after the date each such installment became due until paid and the Member shall be liable for all costs, including attorneys' fees incurred by the Association in collecting the same. In addition, in the event that any installment of the Annual Assessment is not paid within fifteen (15) days of the date such installment becomes due, the Association may, at its option, and upon fifteen (15) days prior written notice to the Member, accelerate the due date for all remaining unpaid installments of the Annual Assessment for the remainder of the fiscal year and all accrued but unpaid interest thereon. Payment of the Annual Assessment installments so accelerated shall be due at the expiration of said fifteen (15) day notice period and interest shall accrue on the entire sum at the rate established by the Board not to exceed eighteen percent (18%) per annum from such date until paid in full. The failure of the Board to give timely notice of any Annual Assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Member from the obligation to pay such Assessment or any other Assessment but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such Assessment shall have been given to the Member in the manner provided in this Declaration.

(e) Inadequate Funds. In the event that the Town Homes Expense Fund proves inadequate at any time for whatever reason, including nonpayment of any Member's Assessment, the Board may, on behalf of the Association, levy Special Assessments in accordance with the procedure set forth in Article VII, Section 4 below, except that the vote therein specified shall be unnecessary.

Section 3: Uniform Rate of Assessment. The amount of any Annual or Special Town Homes Maintenance Assessment against each Lot shall be fixed at a uniform rate per Lot.

Section 4: Special Assessments for Capital Improvements and Extraordinary Expenses. In addition to the Annual Assessments, authorized above, the Association may levy, in any Assessment Period, a Special Assessment applicable to that period only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Association or, other Community Areas, including fixtures and personal property related thereto, or for the purpose of defraying other extraordinary expenses, provided that any such Assessment shall have the assent of

more than fifty percent (50%) of the votes of a quorum of Members who are voting in person or by proxy at a meeting duly called for such purposes or by written approval of fifty one (51%) of Members. The provisions of this Section are not intended to preclude or limit the Assessment, collection or use of Annual Assessments, for the aforesaid purposes.

Section 5: Notice and Quorum for Any Action Authorized Under Section 4. Written notice of any meeting called for the purpose of taking any action authorized under section 4 of this Article shall be sent to all Members no less than five (5) days nor more than thirty (30) days in advance of meeting. At the first such meeting, a majority of the votes entitled to be cast on a matter constitute a quorum of Members for action on that matter. Once a Member is represented for any purpose at a meeting, the Member is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of the meeting. If a quorum exists, action on a matter is approved if the votes cast favoring the action exceed the votes cast opposing the action. If the required quorum is not present, another meeting may be called subject to the same notice requirement. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

Section 6: Establishment of Assessment Period. The period for which the Annual Assessments are to be levied (the "Assessment Period") shall be the calendar year. The Board in its sole discretion from time to time may change the Assessment Period by written notice to the Owners specifying the new Assessment Period.

Section 7: Rules Regarding Billing and Collection Procedures. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making the Assessments provided herein and for the billing and collection Assessments and charges, pursuant to Article X, Section 2, 3 and 4, provided that said procedures are not inconsistent with the provisions hereof. The failure of the Association to send a bill to a Member shall not relieve any Member of its liability for any Assessment or charge under this Declaration, but the Assessment Lien therefore shall not be foreclosed or otherwise enforced until the Member has been given not less than fifteen (15) days written notice prior to such foreclosure or enforcement, at the address of the Member on the records of the Association, that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after the delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the ownership of a Membership changes during an Assessment Period; successor Owners of Lots shall be given credit for prepayments, on a prorated basis, made by prior Owners. In case the Owner of a Membership becomes liable for payment of an increased sum pursuant to this Article during the Assessment Period, the Owner shall notify the Association but its failure to notify the Association shall not relieve such Owner of the liability for such amounts.

Section 8: Town Homes Reserve Fund. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of those Association Areas and Community Areas the Association may be obligated to maintain, repair or replace. The reserve Fund shall be maintained out of Annual Assessments for Town Home Expenses.

Section 9: Evidence of Payment of Assessments. Upon receipt of a written request by a Member or any other person, the Association within a reasonable period of time thereafter shall issue to such Member or other person a written certificate stating (a) that all Assessments(including interest, costs and attorneys' fees, if any, as provided in Sections 2 and 3 above) have been paid with respect to any specified Lot as of the date of such certificate, or (b) if any Assessments have not been paid, the amount of such Assessments (including interest, costs and attorneys' fees, if any) due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or Mortgagee on, the Lot in question.

Sectio10: Tax Collection from Lot Owners by Flathead County. Each Owner is levied a tax on their Lot by Flathead County that is their sole responsibility to pay.

ARTICLE VIII: ENFORCEMENT OF PAYMENT OF ANNUAL ASSESSMENTS, SPECIAL ASSESSMENTS, MAINTENANCE CHARGES AND OF ASSESSMENT LIEN

Section 1: Association as Enforcing Body. The Association, as the agent and representative of the Members, shall have the exclusive right to enforce the provisions of this Declaration. However, if the Association shall fail or refuse to enforce this Declaration or any provision hereof for an unreasonable period of time after written request to do so, then any Member may enforce them at its own expense by any appropriate action, whether in law or in equity.

Section 2: Association's Remedies to Enforce Payment of Annual Assessments and Special Assessments and Maintenance Charges. If any Member fails to pay any Assessment the Association may enforce the payment of any Assessment, and/or Assessment Lien by taking either or both of the following actions, concurrently or separately (and by exercising either of the remedies hereinafter set forth, the Association does not prejudice or waive its right to exercise the other remedy):

(a) Bring an action at law and recover judgment against the Member personally obligated to pay the Assessments. (b) Foreclose the Assessment Lien against the Lot in accordance with the then prevailing Montana law relating to the foreclosure of trust indentures (including the right to recover any deficiency) including by judicial action or by advertisement or any other means permitted by law, and the Lot may be redeemed after foreclosure sale if provided by law.

Notwithstanding subordination of an Assessment Lien as described in Section 3 of this Article VIII, the delinquent Member shall remain personally liable for the Assessments and related costs after its membership is terminated by foreclosure or deed in lieu of foreclosure or otherwise.

Section 3: Subordination of Assessment Lien to First Mortgage, Priority of Lien. The assessment Lien provided for herein shall be subordinate to any First Mortgage and shall also be subject and subordinate to liens for taxes and other public charges which by applicable law are expressly made superior. Except

as above provided, the Assessment Lien shall be superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each Lot Sale or transfer of any Lot shall not affect the Assessment Lien; provided, however, that if the sale or transfer is pursuant to foreclosure of a First Mortgage to which the Assessment Lien is subordinate, or pursuant to any sale or proceeding in lieu thereof, the purchaser at the Mortgage foreclosure or deed of trust of sale, or any grantee taking by deed in lieu of foreclosure, shall take the Lot free of any Assessment Lien for all Assessments that have accrued up to the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure; provided, however that such First Mortgage foreclosure sale purchaser of grantee shall take subject to all applicable Assessments, and the Assessment Lien therefore accruing subsequent to the date of issuance of a sheriff's or trustee's deed or deed given in lieu of foreclosure.

Section 3: Costs to be Born by Member in Connection with Enforcement of Payment of any Assessments. In any action taken pursuant to Section 2 of this Article, the Member shall be personally liable for, and the Assessment Lien shall be deemed to secure the amount of, any outstanding Assessments, together with interest and the Association's collection costs and attorneys' fees, including those costs and fees specified in Article VII, Sections 2 and 3.

ARTICLE IX: USE OF FUNDS: BORROWING POWER; OTHER ASSOCIATION DUTIES

Section 1: Purposes for Which Association's Funds May Be Used. The Association shall apply all funds and property collected and received by it (including all Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of the Marina Town Homes development, and the Owners and Residents by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by manner or method whatsoever of any kind, all land, properties, improvements, facilities, services, projects, programs, studies and systems, within the Marina Town Homes Development, which may be necessary, desirable or beneficial to the general common interests of Marina Town Homes Development, the Owners and the Residents. The following are some, but not all, of the areas in which the Association may seek to aid, promote and provide for such common benefit; maintenance of the Association Areas and public rights-of-way and drainage areas within Marina Town Homes Development: maintenance of landscaping on Town Homes Lots and recreation, liability insurance, communications, operation of Association areas, utilities, public services, safety and indemnification of officers and directors of the Association and payment of sums due, if any, under Municipal Authority Agreements. The Association also may expend its funds as permitted under the laws of the State of Montana.

Section 2: Borrowing Power. The Association may borrow money in such amounts, at such rates, upon such terms and security, for such periods of time as is necessary or appropriate.

Section 3: Association's Rights in Spending Funds From Year to Year. The Association shall not be obligated to spend in any year all the sums received by it in such year (whether by way of any Assessment, fees or otherwise), and may carry forward as surplus any balances remaining. The

Association shall not be obligated to reduce the amount of any Assessment, as applicable, in the succeeding year if a surplus exists from a prior year and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

Section 4: Administration of Maintenance Charges. The Association is authorized to bill for, sue for, collect, administer and disburse all Assessment Charges and the payment thereof shall be secured by the Assessment Lien.

Section 5: Town Homes Reserve Funds. From the Annual Assessments received by the Association, the Board shall establish an adequate reserve fund for the maintenance, repair and replacement of the Association Areas.

ARTICLE X: MAINTENANCE

Section 1: Association Areas. The Association, or its duly delegated representative, shall maintain and otherwise manage all Areas, including, but not limited to, landscaping, walkways, and the buildings and structures, if any, located upon said properties.

The Board shall use a reasonably high standard of care in providing for the repair, management and maintenance of said property so that the Marina Town Homes will reflect a high grade of ownership. In this connection the Association may, subject to any applicable provisions on Special Assessments for capital improvements:

(a) Reconstruct, repair, replace or refinish any improvement or portion thereof upon Association Areas;

(b) Construct, reconstruct, repair, replace or refinish any road improvement or surface upon any portion of the Association Areas used as a trail, walk, or driveway or except that no permanent Improvements shall be made by the Association on any Association Area that is not on an Association Lot;

(c) Replace injured and diseased trees and other vegetation in any Association Area, and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;

(d) Place and maintain upon any Association Area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof;

(e) Provide services and maintenance including snow plowing, except for each Lot's driveway, repair work, asphalt, tree and vegetation maintenance, maintenance and repair of all Association amenities and any related required maintenance; and

(f) Do all such other and further acts that the Board deems necessary to preserve and protect the Association Areas and the beauty thereof, in accordance with the general purposes specified in this Declaration.

The Board shall be the sole judge as to the appropriate maintenance of all Association Areas and other properties maintained by the Association. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of said properties shall be taken by the Board or by its duly delegated representative.

The Board may cause the Association to contract with others for the performance of the maintenance and other obligations of the Association under this Article X and, in order to promote uniformity and harmony of appearance, the Board may also cause the Association to contract to provide maintenance services to Owners of Lots having such responsibilities in exchange for the payment of such fees as the Association and Owner may agree upon.

The Association shall enter into a cost sharing agreement with owners of other real estate using the Roadway System for access to and from such real estate and benefitting from other Community Areas.

Section 2: Assessment of Certain Costs of Maintenance and Repair of Association Areas. In the event that the need for maintenance or repair of Association Areas, maintained by the Association, is caused through the willful or negligent act of any Owner, Resident, or any family, guests, invitees or tenants of such persons, the cost of such maintenance or repairs is a Maintenance Charge and shall be added to and become a part of the Assessment to which such Owner and the Owner's Lot is subject and shall be secured by the Assessment Lien. Any charges or fees to be paid by the Owner of a Lot pursuant to Section 1 of this Article X in connection with a contract entered into by the Association with an Owner for the performance of an Owner's maintenance responsibilities is a Maintenance Charge and shall also become a part of such Assessment and shall be secured by the Assessment Lien.

Section 3. Maintenance and Use of Town Homes Lots. The Association shall maintain and repair the exteriors of al Town Homes Units as follows: paint, repair, replacement and care of roofs, doors, gutters, downspouts, exterior building surfaces, and the cost thereof shall be included in the Town Homes Maintenance Expenses borne by the Owners of Town Homes Lots collectively as set forth in Article VII, Section 3 hereof. Such exterior maintenance shall not include glass surfaces and window screens. The Association shall have a right of entry to any Town Homes Units to perform emergency repairs or do other work necessary for exterior maintenance of the Town Homes Unit. In the event that the need for maintenance or repair of a Town Homes Unit exterior is caused through the willful or negligent acts of its Owner or through the willful or negligent acts of the family, guests, invitees or tenants of the Owner of the Town Homes Lot needing such maintenance or repair, the cost of such exterior maintenance shall be a Maintenance Charge assessed to the Owner of the particular Town Homes Lot.

ARTICLE XI: RIGHTS AND POWERS OF ASSOCIATION

Section 1: Association's Rights and Powers as Set Forth in Articles and Bylaws. In addition to the rights and powers of the Association set forth in this Declaration, the Association shall have such rights and powers as are set forth in its Articles and Bylaws or permitted under applicable state law. Such rights and powers, subject to the approval thereof by any agencies or institutions deemed necessary by the

Association, may encompass any and all things which a natural person could do or which now or hereafter may be authorized by law, provided such Articles and Bylaws are not inconsistent with the provisions of this Declaration and are necessary, desirable or convenient for effectuating the purposes set forth in this Declaration. A copy of the Articles and Bylaws of the Association shall be available for inspection at the office of the Association during reasonable business hours.

Section 2: Association's Rights of Enforcement of Provisions of This and Other Instruments. The Association, as the agent and representative of the Owners and Members shall have the right to enforce, by any proceeding at law or in equity, the Covenants set forth in this Declaration and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in any contract, deed, declaration or other instrument which (a) shall have been executed pursuant to, or subject to, the provisions of this Declaration, or (b) otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Association. In the event suit is brought or arbitration is instituted or an attorney is retained by the Association to enforce the terms of this Declaration or other document as described in this Section 2 and the Association prevails, the Association shall be entitled to recover, in addition to any other remedy, reimbursement for attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith including but not limited to the Association's administrative costs and fees. Said attorneys' fees, costs and expenses shall be the personal liability of the breaching Owner and shall also be secured by the Assessment Lien against said Owner's Lot If the Association should fail to act within a reasonable time, any Owner shall have the right to enforce the Covenants set forth in this Declaration.

Section 3: Contracts with Others for Performance of Association's Duties. Subject to the restrictions and limitations contained herein, the Association may enter into contracts and transactions with others provided that the transaction or contract is fair and reasonable.

Section 4: Change of Use of Association Areas Land and Procedure Therefore. Upon (a) adoption of a resolution by the Board stating that in the Board's opinion the then present use of a designated part of the Association Areas or of the Association's interest in other Community Areas is no longer in the best interests of the Owners and Residents and (b) the approval of such resolution by a majority of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose and (c) the approval of such resolution by the Owners of the Lots on which the Association Areas are, the Board shall have the power and right to change the use thereof (and in connection therewith, construct, reconstruct, alter or change the buildings, structures and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided such new use (i) shall be for the benefit of the Owners and Residents, and (ii) shall be consistent with any deed restrictions (or zoning regulations) restricting or limiting the use of the Association Land.

ARTICLE XII: INSURANCE AND FIDELITY BONDS

Section 1. Hazard Insurance. The Association shall at all times maintain in force insurance meeting the following requirements: A "master" or "blanket" type policy of property insurance shall be maintained covering all insurable improvements consisting of the Dwelling Units from the studs-out and other

Association Areas, including building exterior, roof structure, utility systems, elevators, stairwells, and all other structures and/or systems from the "studs-out" of each Town Homes Unit. Insurable items shall also include property and supplies maintained by the Association but excludes land, foundations, excavations, and other items normally not covered by such policies. To the extent such insurance is reasonably attainable, the Association shall secure and maintain a policy of fire and extended or "all-risk" coverage insurance for the full-replacement value of all of the Dwelling Units from the studs-out and other Association Areas. The insurance required of the Association pursuant to this Section 1. shall be kept in full force and effect at all times, and the full replacement value of the insured property shall be predetermined on an annual basis. Depending on the nature of the insured property and the requirements, if any, imposed by institutional mortgages having an interest in such property, the policies maintained by the Association pursuant to this section shall contain a blanket endorsement or their equivalent, an extended coverage endorsement, vandalism, malicious mischief, and special form endorsement. The policies required hereunder shall be in such amounts as shall be determined by the Board and shall name as insured the Association, all Owner/Members, and all mortgagees as their respective interests may appear. Premiums for such policies shall be deemed a common expense of the Association and allocated equally among the Town Homes Unit Owners as part of the Association dues.

Section 2. Flood Insurance. If any part of the Association Areas comes to be situated in a Special Flood Hazard Area as designated on a Flood Insurance Rate Map, a "master" or "blanket" policy of flood insurance shall be maintained covering the improvements located on the Dwelling Units from the studs-out and other Association Areas, and any machinery and equipment related thereto in an amount deemed appropriate by the Board.

Section 3. Fidelity Bonds. The Association shall at all times maintain in force and pay the premiums for "blanket" fidelity bonds for all officers, Members, and employees of the Association and for all other persons handling or responsible for funds of or administered by the Association. Furthermore, where the Association has delegated some or all of the responsibility for the handling of funds to a Manager, the Manager shall provide "blanket" fidelity bonds, with coverage identical to such bonds required of the Association, for the Manager's officers, employees and agents handling or responsible for funds of or administered on behalf of, the Association. The total amount of fidelity bond coverage required shall be based upon the Association's best business judgment and shall be not less than the estimated maximum of funds, including reserve funds, in the custody of the Association, or the Manager, as the case may be, at any given time during the term of each bond.

Section 4. Liability Insurance. The Association shall maintain in force, and pay the premium for a policy providing comprehensive general liability insurance coverage covering all of the Dwelling Units from the studs-out and other Association Areas. Such coverage shall be for at least One Million Dollars ($1,000,000) for bodily injury, including deaths of persons, and property damage arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Association Areas, and legal liability arising out of lawsuits related to employment contracts of the Association. Such policy shall provide that it may not be canceled or substantially

modified, by any party, without at least thirty (30) days prior written notice to the Association at its address
of record.

Section 5. Insurance Trustees and General Requirements Concerning Insurance. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured on behalf of the 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 (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance. Each Owner hereby appoints the Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Association, as his or her attorney-in-fact for the purpose of purchasing and maintaining such insurance, including the collection and appropriate disposition of the proceeds thereof, the negotiation of losses and execution of releases of liability, the execution of all documents, and the performance of all other acts necessary to accomplish such purpose. The Association, or any Insurance Trustee, shall receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for the use and benefit of the Association, Owners and their Mortgagees, as their interests may appear.

Each insurance Policy maintained, pursuant to the foregoing Sections 1, 2, 3 and 4, shall be written by an insurance carrier that is licensed to transact business in the State of Montana.

Section 6. Lot Improvements and Interior of Dwelling Units NOT insured by the Association. The Association shall have no duty or responsibility to procure or maintain any fire, liability, extended coverage or other insurance covering the "walls-in" interior of any Dwelling Unit or any other Improvements located on a Town Homes Lot, or with respect to any acts and events occurring thereon. Accordingly, each Owner is responsible for procuring adequate coverage for fire, extended coverage, liability and other insurance which shall be of a type and in an amount commonly required by private institutional mortgage investors in the area in which the Lot is located. Said coverage should include "drywall-in" tenant improvements including, but not limited to drywall, wall coverings, floor coverings, cabinetry, appliances, lighting fixtures, other interior utility fixtures such as heating and air conditioning equipment, any upgrades over original construction such as granite counter tops, hard wood flooring, and wall paper. Coverage should also include furniture and personal possessions including valuables. Each Owner is responsible for their own liability coverage for any incident originating within their Town Homes Unit and Association assumes no responsibility for such occurrence.

Section 7. Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the Association Areas and improvements thereon which may have

been damaged or destroyed. In addition, such policies shall be reviewed to determine their compliance with the provisions of this Declaration.

Section 8. Other insurance by the Association. The Board may obtain such additional insurance as it deems necessary or appropriate to adequately protect the Association and its directors, officers, Members, employees, agents, and contractors from risks that can be reasonably anticipated given the nature of the Association Areas and of the responsibilities and services the Association is obliged to discharge. This may include Directors and Officers Liability Insurance (D&O) and such additional insurance on its' personal property as the Board of the Association deems appropriate or as required by institutional mortgagees.

Section 9. Other Insurance procured by Town Home Owners. An Owner may carry whatever personal liability insurance desired with respect to the ownership of the Town Homes Lot or within the interior of the Town Homes Unit.

Section 10. Association insurance is Primary. In the event that both the Association and Town Homes Owner policies cover the same property (overlapping insurance), the Association's insurance shall be deemed PRIMARY.

Section 11. Payment of Deductibles. In the event of a covered loss resulting from the negligence of a Town Homes Owner, the Board shall reserve the right to assess the entire deductible amount required by the Association policy to the Town Homes Owner.

Section 12. Excess Loss/Non-Covered Loss.
In the event of a covered loss in excess of insurance proceeds paid to the Association, OR a non-covered loss, all Town Homes Owners may, at the sole discretion of the Board be responsible for and assessed a pro-rata amount to be paid to the association within whatever time period the Board deems appropriate.

Section 13. No Waiver of Subrogation Rights for Contracts.
The Board shall not enter into any contracts that require it waive its right to subrogate (Waiver of Subrogation). Such contracts shall include any contract with a manager or management company, contractors, sub-contractors etc. In the event that the Association has just, reasonable cause to enter into an agreement in which the other contracting party refuses to remove the requirement that the Association waive its' right of Subrogation, the Board may share the terms of such agreement with the Association's Insurer in an effort to procure approval and a specific endorsement permitting coverage under such agreement. The Board shall have the authority to pay an additional premium, if deemed reasonable and necessary, for said endorsement.

Section 14. Copies of Policies. Copies of all insurance policies (or certificates thereof showing the premiums thereon to have been paid) maintained by the Association shall be retained by the Association at its principal office and shall be available for inspection by Town Home Owners at any reasonable time.

Section 15. Adjustment of Losses. The Board is hereby appointed as the Attorney In Fact by each Owner to negotiate and agree on the value and extent of any loss under any policy carried by or maintained by the Association pursuant to Article XVIII, Section 1.

Section 16. Insurance Disclosure. Even if a loss is covered the Town Homes Owner may be responsible for paying all or a portion of any deductible or excess loss that applies depending on the governing documents. ASSOCIATION MEMBERS SHOULD CONSULT WITH THEIR INDIVIDUAL INSURANCE AGENT OR BROKER FOR APPROPRIATE ADDITIONAL COVERAGE.

ARTICLE XIII: DAMAGE OR DESTRUCTION

Section 1: Association as Attorney in Fact. Each and every Owner hereby irrevocably constitutes and appoints the Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place, and stead for the purpose of dealing with the improvements on the Association Areas upon damage or destruction as provided in this Article or a complete or partial taking as provided in Article XV below. Acceptance by any grantee of a deed or other instrument of conveyance from any Owner shall constitute appointment of the attorney-in-fact as herein provided. As attorney-in-fact, the Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, assignment, deed, waiver, or other instrument with respect to the interest of any Owner which may be necessary or appropriate to exercise the powers granted to the Association as attorney-in-fact. All insurance proceeds shall be payable to the Association except as otherwise provided in this Declaration.

Section 2: Estimate of Damages or Destruction. As soon as practical after an event causing damage to or destruction of any part of the Association Areas in Marina Town Homes the Association shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part of the Association Areas so damaged or destroyed. "Repair and reconstruction" as used in this Article XIII shall mean restoring the damaged or destroyed improvements to substantially the same condition in which they existed prior to the damage or destruction.

Section 3: Repair and Reconstruction. As soon as practical after obtaining estimates, the Association shall diligently pursue to completion the repair and reconstruction of the damaged or destroyed improvements. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Owner shall be necessary. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

Section 4: Funds for Repair and Reconstruction. The proceeds received by the Association from any hazard insurance shall be used for the purpose of repair, replacement, and reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may, pursuant to Article VII, Section 4 above, levy, assess, and collect in advance from all Owners, without the necessity of a special vote of the Owners, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further

levies may be made in like manner if the amounts collected prove insufficient to complete the repair and reconstruction.

Section 5: Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Association and the amounts received from any Special Assessments provided for in Article VII, Section 4 above constitute a fund for the payment of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to the contributions each Owner made as a Special Assessment to the Association under Section 4 above, or, if no Special Assessments were made, then in equal shares per Lot, first to the Mortgagees and then to the Owners as their interests appear.

Section 6: Decision Not to Rebuild. If Owners representing at least sixty-seven percent (67%) of the votes of each class of Members in the Association agree in writing not to repair and reconstruct and no alternative improvements are authorized, then and in that event the Association Areas shall be restored to their natural state and maintained as an undeveloped portion of the Association Areas by the Association in a neat and attractive condition, and any remaining insurance proceeds shall be distributed in equal shares per Lot first to the Mortgagees, and then to the Owners, as their interests appear.

Section 7: Notice to First Mortgagees. The Association shall give timely written notice to any holder of any First Mortgage on a Lot who requests such notice in writing in the event of substantial damage to or destruction of any part of the Association.

ARTICLE XIV: CONDEMNATION

Section 1: Rights of Owners. Whenever all or any part of the Association Areas shall be taken or conveyed in lieu of and under threat of condemnation, each Owner shall be entitled to notice of the taking, but the Association shall act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

Section 2: Partial Condemnation; Distribution of Award; Reconstruction. The award made for such taking shall be payable to the Association as Trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Association Areas on which improvements have been constructed, then, unless within sixty days after such taking Declarant and Owners representing at least sixty-seven percent (67%) of the votes in the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining areas included in the Association Areas to the extent areas are available therefore, in accordance with plans approved by the Board of Directors. If such improvements are to be repaired or restored, the provisions in Article XIV above regarding the disbursement of funds in respect to casualty damage or destruction that is to be repaired shall apply. If the taking does not involve any improvements on the Association Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is

completed, then such award or net funds shall be distributed in equal shares per Lot, first to the Mortgagees and then to the Owners, as their interests appear.

Section 3: Complete Condemnation. If all of the Marina Town Homes Development is taken, condemned, sold or otherwise disposed of in lieu of or in avoidance of condemnation, the regime created by this Declaration shall terminate and the portion of the condemnation award attributable to the Association Areas shall be distributed to Owners on an equal basis.

ARTICLE XV: MORTGAGEE REQUIREMENTS

Section 1: Notice of Action. Upon written request made to the Association by a Mortgagee which written request shall identify the name and address of such Mortgagee, and Lot number or address of the Dwelling Unit, any such Mortgagee, insurer or governmental guarantor shall be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of Marina Town Homes, or any Lot on which there is a Mortgage held by such Mortgagee;

(b) Any delinquency in the payment of Assessments or charges owed by an Owner, whose Lot is subject to a Mortgage held by such Mortgagee, which default remains uncured for a period of sixty (60) days; and

(c) Any lapse or cancellation of any insurance policy or fidelity bond maintained by the Association.

Section 2: Matters Requiring Prior Eligible Mortgagee Approval. Except as provided elsewhere in this Declaration, the prior written consent of Owners entitled to vote at least sixty-seven percent (67%) of the votes of Members in the Association (unless pursuant to a specific provision of this Declaration the consent of Owners entitled to vote a greater percentage of the votes in the Association is required, in which case such specific provisions shall control), and Eligible Mortgagees holding Mortgages on Lots having at least fifty-one percent (51 %) of the votes of the Lots subject to Mortgages held by Eligible Mortgagees shall be required to:

(a) Abandon or terminate the legal status of Marina Town Homes, after substantial destruction or condemnation occurs. Termination of the legal status of Marina Town Homes, for any other reason shall be agreed to by Eligible Mortgagees holding at least sixty-seven percent (67%) of the Mortgages on Lots.

(b) Amend any material provision of the Declaration, Articles or Bylaws; which establishes, provides for, governs or regulates any of the following (an addition or amendment to such documents shall not be considered material if it is for the purpose of correcting technical errors or for clarification only):

(i) voting rights;

(ii) increases in Assessments that raise the amount assessed above the prior year by more than 25 %, Assessment Liens, or the priority of Assessment Liens;

(iii) reductions in reserves for maintenance, repairs and replacement of Association Areas;

(iv) responsibility for maintenance and repairs:

(v) hazard or fidelity insurance requirements;

(vi) imposition of any restrictions of Owner's right to sell or transfer his or her Lot; and

(vii) restoration or repair of Marina Town Homes, (after damage or partial condemnation) in a manner other than that specified in the Declaration; or

(viii) any provisions that expressly benefit Mortgagees.

Any Mortgagee, who receives a written request from the Association to approve additions or amendments to the constituent documents and who fails to deliver or post to the Association a negative response within thirty (30) days shall be deemed to have approved such request, provided the written request was delivered by certified or registered mail, with a "return receipt" requested.

Section 3: Availability of Property Documents and Financial Statements. The Association shall maintain and have current copies of the Declaration, Articles, Bylaws, and other rules concerning Marina Town Homes, as well as its own books, records, and financial statements available for inspection by Owners or by holders of Mortgages that are secured by Lots. Generally, these documents shall be available during normal business hours.

Section 4: Subordination of Lien. The lien or claim against a Lot for unpaid Assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Town Home, and the First Mortgagee thereunder which comes into possession of or which obtains title to the Townhome shall take the same free of such lien or claim for unpaid assessment or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure. No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage or as not to burden a First Mortgagee which comes into possession or which obtains title shall be collected or enforced by the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Town Home affected or previously affected by the First Mortgage concerned.

Section 5: Payment of Taxes. In the event any charges which may or have become a lien on the Association Areas are not timely paid, or in the event the required hazard insurance described in Section I of Article XIII lapses, is not maintained, or the premiums therefore are not paid when due, any First Mortgagee or any combination of First Mortgagees may jointly or singly, pay such charges or secure such insurance. Any First Mortgagee that expends funds for any of such purposes shall be entitled to immediate reimbursement therefore from the Association.

Section 6: Priority. No provision of this Declaration or the Articles gives or may give an Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of

a distribution to Owners of insurance proceeds or condemnation awards for loss to or taking of all or any part of the Lots, Parcels or the Association Areas.

ARTICLE XVI: TERM: AMENDMENT& TERMINATION

Section 1: Term: Method of Termination. This Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect for a term of fifty (50) years from the date this Declaration is recorded. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Members casting eighty percent (80%) of the total votes cast at an election held for such purpose or otherwise approved in writing within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension. The Declaration may be terminated at any time if eighty percent (80%) of the votes cast by the Members shall be cast in favor of termination at an election held for such purpose. Anything in the foregoing to the contrary notwithstanding, no vote to terminate (or amend as provided in Section 2 below) this Declaration shall be effective unless and until written consent to such termination or amendment has been obtained, within a period from six (6) months prior to such vote to six (6) months after such vote, from First Mortgagees on fifty-one percent (51%) of the Lots upon which there are such First Mortgages. If the necessary votes and consents are obtained, the Board shall cause to be recorded with the County Recorder of Flathead County, Montana, a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon these Covenants shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

Section 2: Amendments. This Declaration may be amended by recording with the County Recorder of Flathead County, Montana, a Certificate of Amendment, duly signed and acknowledged as required for a Certificate of Termination in Section I of this Article. The Certificate of Amendment shall set forth in full the amendment adopted, and, except as provided in this Section 2 of this Article, shall certify that an election duly held pursuant to the provisions of the Articles and Bylaws the Members casting sixty-seven percent (67%) of the votes of the Members at the election voted affirmatively for the adoption of the amendment Within twenty-five (25) years from the date of recording this Declaration and so long as the Declarant is the owner of any Lot in Marina Town Homes, this Declaration may be amended or terminated only with the written approval of the Owners.

ARTICLE XVII: MISCELLANEOUS

Section 1: Interpretation of the Covenants. Except for judicial construction, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by the Covenants and provisions hereof.

Section 2: Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

Section 3: Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

Section 4: References to the Covenants in Deeds. Deeds or any instruments affecting any Lot or any part of Marina Town Homes may contain the Covenants herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any deed or instrument, each and all of the Covenants shall be binding upon the grantee-Owner or other person claiming through any instrument and its heirs, executors, administrators, successors and assigns.

Section 5: List of Owners and Eligible Members. The Board shall maintain up-to-date records showing: (i) the name of each person who is an Owner, the address of such person, and the Lot that is owned by him; (ii) the name of each person or entity who is an eligible Mortgagee, the address of such person or entity and the Lot that is encumbered by the Mortgage held by such person or entity. In the event of any transfer of a fee or undivided fee interest in a Lot, either the transferor or transferee shall furnish the Board with evidence establishing that the transfer has occurred and that the deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Flathead County, Montana. The Board may for all purposes act and rely on the information concerning Owners and Lot ownership which is thus acquired by it or, at its option, the Board may act and rely on current ownership information respecting any Lot(s) that is obtained from the office of the County Recorder of Flathead County, Montana. The address of an Owner shall be deemed to be the address of the Lot owned by such person unless the Board is otherwise advised. The list of Owners shall be made available by the Board to any Owner for noncommercial purposes upon such Owner's written request and such Owner's payment of any copying charges.

Section 6: General Obligations. Each Owner shall enjoy and be subject to all rights and duties assigned to Owners pursuant to this Declaration.

Section 7: Rights of Action. The Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with the provisions of the Declaration or the decisions of the Association. Owners shall have a similar right of action against the Association.

Section 8: Successors and Assigns. Any reference in this Declaration shall include any successors or assigns of an owner's rights and powers hereunder.

Section 9: Gender and Number. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

Section 10: Captions and Titles. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

Section 11: Notices. Any notice permitted or required to be delivered as provided herein may be delivered either personally, by mail, by facsimile or by electronic communication. If delivery is made by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to such person at the address given by that person to the Association for the purpose of service of such notice or to the address of the lot of such person if no address has been given. Such address may be changed from time to time by notice in writing received by the Association. Notice to the Board shall also be delivered or mailed to the Association.

Section 12: Consent of Lieu of Vote. In any case in which this Declaration requires for authorization or approval of a transaction, the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast at least the stated percentage of all Membership votes outstanding in connection with the class of membership concerned. The following provisions shall govern any application of this Section 13:

(a) all necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Member;

(b) the total number of votes required for authorization or approval under this Section 13 shall be determined as of the date on which the last consent is signed;

(c) except as provided in the following sentence, any change in ownership of a Lot which occurs after consent has been obtained from the Owners thereof shall not be considered or taken into account for any purpose. A change in ownership that would otherwise result in an increase in the total number of Class A votes outstanding shall, however, be effective in that regard and shall entitle the new Owner to give or withhold its consent;

(d) unless the consent of all Members whose Memberships are appurtenant to the same Lot are secured the consent of none of such Members shall be effective.

Section 13: Liability for Willful or Negligent Damage. Maintenance, repair or replacement of all or any part of the Association Facilities arising out of or caused by the willful or negligent act of an Owner or Resident shall be done at said Owner's expense or a Maintenance Charge therefore shall be made against its Lot.

Section 14: Enforcement. The Association, or any owner shall have the right to enforce, by any proceeding in law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any

Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so hereafter.

Section 15: Enforcement of Covenants. In the event of any act or condition of non-compliance of the covenants contained in this Declaration by an Owner, the Association shall provide to the Owner a notice on non-compliance and demand that said Owner take any and all steps necessary to correct said act or condition of non-compliance within fifteen (15) days. If the Owner fails to terminate or correct the non-complying act or condition within fifteen (15) days, then the Association or their duly authorized agents, in furtherance of the general health, welfare and safety of the Owners, shall have the right to undertake any and all action that they in their sole discretion deem necessary and reasonable under the circumstances in order to terminate or correct the act or condition of noncompliance including without limitation, obtaining legal or equitable relief including injunctions or orders of specific performance and/or entering upon the premises for the purpose of removing any non-complying Improvement, nuisance or garbage, Landscaping, restoring the Lot and Improvements thereon to a clean, attractive and well maintained state, and terminating any unsafe or hazardous activity. In the event of an emergency arising from any act or condition of non-compliance which the Association determines to constitute or pose a health hazard or dangerous condition threatening the life or safety of any persons, the Association or their duly authorized agent shall be entitled to immediately undertake any and all action that it determines in its sole discretion to be reasonable and necessary, without notice to the Owner, in order to terminate, eliminate, remove or correct the dangerous or hazardous non-complying act or condition including, without limitation, obtaining legal or equitable relief including injunctions or orders of specific performance and/or entering upon the premises in order to undertake corrective action. The Owner of the Lot on which any such non-complying act or condition exists shall solely be responsible for repaying to the Association any and all costs incurred by the Association, including attorney's fees and costs of court, in terminating or correcting the non-complying act or condition on the Lot. The Association shall further be entitled to a lien upon said Owner's Lot in the amount of such costs, including attorney's fees and costs of court, the creation, maintenance and foreclosure of which lien is to be governed by the same terms and conditions as those governing the creation, maintenance and foreclosure of liens for unpaid Assessments to the Association as set forth in this Declaration.

Section 16: No Public Right or Dedication. Nothing contained in the Declaration shall be deemed to be a gift or dedication of all or any part of Marina Town Homes to the public, or for any public use. This will include, but not be limited to, non-owner use of Association Areas and/or usage of the Roadway System for non-owner use and any other use of the amenities without Association approval.

Section 17: Counterpart Execution. This Declaration may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All counterparts shall be construed together and shall constitute one Declaration, but in making proof hereof it shall only be necessary to produce one such counterpart

In witness whereof the following Lot Owners have executed this Declaration on the dates so indicated below, effective as of the date first written above.

EXECUTED this 27th, of May 2016, by WILLIAM G. LITTLEFIELD and ELIZABETH M. LITTLEFIELD, owners of Lot 1A of Harbor Village at Eagle Bend-Phase 4B, according to the official plat thereof, filed in Official Records of Flathead County, Montana.

William G. Littlefield

Elizabeth M. Littlefield

STATE OF Georgia)
:ss.
County of Forsyth)

This instrument was acknowledged before me on this 27th day of May, 2016, by WILLIAM G. LITTLEFIELD and ELIZABETH M. LITTLEFIELD.

CHERYL PRUITT NOTARY PUBLIC FORSYTH COUNTY, GEORGIA

Cheryl Pruitt
Notary Public for the State of Georgia

EXECUTED this 22, of April 2016, by GWEN SUTHERLAND, TRUSTEE OF THE GEORGE DANIELI IRREVOCABLE TRUST, owner of Lot 1B of Harbor Village at Eagle Bend-Phase 4B, according to the official plat thereof, filed in Official Records of Flathead County, Montana.

Gwen Sutherland, Trustee
Gwen Sutherland, Trustee of the
George Danieli Irrevocable Trust

STATE OF Montana)
:ss.
County of Flathead)

This instrument was acknowledged before me on this 22 day of April, 2016, by GWEN SUTHERLAND, TRUSTEE OF THE GEORGE DANIELI IRREVOCABLE TRUST.

SERENA ZAVALA NOTARIAL SEAL STATE OF MONTANA

SERENA ZAVALA
NOTARY PUBLIC for the
State of Montana
Residing at Bigfork, MT
My Commission Expires
August 11, 2018.

Notary Public for the State of Montana

EXECUTED this 22ND, of June, 2016, by VAN E. JOHNSON and LINDA M. JOHNSON, owners of Lot 2A of Harbor Village at Eagle Bend-Phase 4B, according to the official plat thereof, filed in Official Records of Flathead County, Montana.

Van E. Johnson

Linda M. Johnson

STATE OF Montana)
:ss.
County of Flathead)

This instrument was acknowledged before me on this 22 day of June, 2016, by VAN E. JOHNSON and LINDA M. JOHNSON.

PAMELA STODDARD
NOTARY PUBLIC for the
State of Montana
Residing at Bigfork, Montana
My Commission Expires
March 15, 2020

Notary Public for the State of Montana

EXECUTED this 6, of June 2016, by MICHAEL BOLOGNA and VINCENT BOLOGNA, owners of Lot 2B of Harbor Village at Eagle Bend-Phase 4B, according to the official plat thereof, filed in Official Records of Flathead County, Montana.

Michael Bologna

Vincent Bologna

STATE OF California (San Pedro, CA.)
:ss.
County of Los Angeles

This instrument was acknowledged before me on this 6th day of June, 2016, by MICHAEL BALOGNA and VINCENT BOLOGNA.

PATRICK JAMES MEEHAN
Commission # 2048024
Notary Public - California
Los Angeles County
My Comm. Expires Nov 4, 2017

Notary Public for the State of California

EXECUTED this 20th of May 2016, by Marcia Van Wye Member/Manager of JOHNNY ROCKETT ENTERPRISES, LLC, owner of Lot 3A of Harbor Village at Eagle Bend-Phase 4B, according to the official plat thereof, filed in Official Records of Flathead County, Montana.

JOHNNY ROCKETT ENTERPRISES, LLC

BY: Marcia Van Wye

STATE OF Montana)
:ss.
County of Flathead)

This instrument was acknowledged before me on this 20th day of May, 2016, by Marcia Van Wye, Member/Manager of JOHNNY ROCKET ENTERPRISES, LLC.

KATHLEEN H. ROBERTS
NOTARY PUBLIC for the
State of Montana
Residing at Kalispell, Montana
My Commission Expires
January 23, 2020

Kathleen H Roberts
Notary Public for the State of Montana

EXECUTED this 2ND, of MAY 2016, by Member/Manager of GILLIAND ENTERPRISES, LLC, owners of Lot 3B of Harbor Village at Eagle Bend-Phase 4B, according to the official plat thereof, filed in Official Records of Flathead County, Montana.

GILLIAND ENTERPRISES, LLC

By

STATE OF MONTANA)
:ss.
County of FLATHEAD)

This instrument was acknowledged before me on this 2ND day of MAY, 2016, by Member/Manager of GILLIAND ENTERPRISES, LLC.

KATHLEEN H. ROBERTS
NOTARY PUBLIC for the
State of Montana
Residing at Kalispell, Montana
My Commission Expires
January 23, 2020

Notary Public for the State of Montana

EXECUTED this 26th, of April 2016, by CRAIG S. COLLINS AND SUSAN C. DECOT COLLINS, CO-TRUSTEES OF THE CRAIG S. COLLINS AND SUSAN C. DECOT COLLINS LIVING TRUST AGREEMENT DATED AUGUST 14, 2007, owners of Lot 4A of Harbor Village at Eagle Bend-Phase 4B, according to the official plat thereof, filed in Official Records of Flathead County, Montana.

Craig S. Collins, Co-Trustee of the
Craig S. Collins and Susan C. Decot Collins
Living Trust Agreement dated August 14, 2007

Susan C. Decot Collins, Co-Trustee of the
Craig S. Collins and Susan C. Decot Collins
Living Trust Agreement dated August 14, 2007

STATE OF Nevada)
:ss.
County of Carson City

This instrument was acknowledged before me on this 26th day of April, 2016, by CRAIG S. COLLINS AND SUSAN C. DECOT COLLINS, CO-TRUSTEES OF THE CRAIG S. COLLINS AND SUSAN C. DECOT COLLINS LIVING TRUST AGREEMENT DATED AUGUST 14, 2007.

S. ROGERS
NOTARY PUBLIC
STATE OF NEVADA
My Commission Expires: 11-01-18
Certificate No: 14-15094-3

Notary Public for the State of Nevada

EXECUTED this 23, of June 2016, by KENNETH SEARLE AND SUSAN SEARLE, CO-TRUSTEES OF THE KENNETH AND SUSAN SEARLE FAMILY TRUST UDT DATED APRIL 10, 2014, owners of Lot 4B of Harbor Village at Eagle Bend-Phase 4B, according to the official plat thereof, filed in Official Records of Flathead County, Montana.

Kenneth Searle, Co-Trustee of the Kenneth and Susan Searle Family Trust UDT dated April 10, 2014

Susan Searle, Co-Trustee of the Kenneth and Susan Searle Family Trust UDT dated April 10, 2014

STATE OF Montana
County of Flathead) :ss.

This instrument was acknowledged before me on this 23 day of June, 2016, by KENNETH SEARLE AND SUSAN SEARLE, CO-TRUSTEES OF THE KENNETH AND SUSAN SEARLE FAMILY TRUST UDT DATED APRIL 10, 2014.

THOMAS R COWLES
NOTARY PUBLIC for the
State of Montana
Residing at Kalispell, Montana
My Commission Expires
October 29, 2019

Notary Public for the State of Montana

EXECUTED this 20, of MAY 2016, by GERALD P. CURRAN AND KATHLEEN A. CURRAN, TRUSTEES OF THE GERALD P. AND KATHLEEN A. CURRAN FAMILY LIVING TRUST, owners of Lot 5B of Harbor Village at Eagle Bend-Phase 4B, according to the official plat thereof, filed in Official Records of Flathead County, Montana.

Gerald P. Curran, Trustee of the
Gerald P. and Kathleen A. Curran
Family Living Trust

Kathleen A. Curran, Trustee of the
Gerald P. and Kathleen A. Curran Family
Living Trust

STATE OF Montana)
:ss.
County of Flathead)

This instrument was acknowledged before me on this 20 day of May, 2016, by GERALD P. CURRAN AND KATHLEEN A. CURRAN, TRUSTEES OF THE GERALD P. AND KATHLEEN A. CURRAN FAMILY LIVING TRUST.

SERENA ZAVALA
NOTARY PUBLIC for the
State of Montana
Residing at Bigfork, MT
My Commission Expires
August 11, 2018.

Notary Public for the State of Aug 11 2018

EXECUTED this 19, of May 2016, by DAVID W. HAFER and BOBBIE K. HAFER, owners of Lot 6A of Harbor Village at Eagle Bend-Phase 4B, according to the official plat thereof, filed in Official Records of Flathead County, Montana.

David W. Hafer

Bobbie K. Hafer

STATE OF MONTANA)
:ss.
County of FLATHEAD)

This instrument was acknowledged before me on this 19 day of MAY, 2016, by DAVID W. HAFER and BOBBIE K. HAFER.

KATHLEEN H. ROBERTS
NOTARY PUBLIC for the
State of Montana
Residing at Kalispell, Montana
My Commission Expires
January 23, 2020

Notary Public for the State of Montana

EXECUTED this 1, of July 2016, by PIERCE DAVID ANTHONY, owners of Lot 6B of Harbor Village at Eagle Bend-Phase B, according to the official plat thereof, filed in Official Records of Flathead County, Montana.

Pierce David Anthony

STATE OF Montana)
:ss.
County of Fergus)

This instrument was acknowledged before me on this 1 day of July, 2016, by PIERCE DAVID ANTHONY.

VICKIE L. SKELTON
NOTARY PUBLIC for the
State of Montana
Residing at Sun River, Montana
My Commission Expires
JULY 08, 2018

Notary Public for the State of Montana