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Paula Robinson, Flathead County MT by NC 2/24/2014 4:32 PM

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CERTIFICATE OF AMENDMENT OF EAGLE RIDGE ESTATES COVENANTS, CONDITIONS AND RESTRICTIONS, FLATHEAD COUNTY, MONTANA

Whereas Section 10.3 of the EAGLE RIDGE ESTATES COVENANTS, CONDITIONS AND RESTRICTIONS (abbreviated as "Covenants" herein) recorded on March 29, 2004, as recording number 200408909410, provides that, after the period of developer control has ended, the Covenants may be amended by the owners of sixty percent of the lots, and

Whereas the period of developer control has ended, and

Whereas the consent of the owners may be reflected either in a written consent or by vote at a regular or special meeting of the members of the Homeowners' Association, or by a combination thereof,

Whereas, between October 2, 2013 and December 16, 2013, the owners of sixty percent or more of the lots signed written consents to the following amendments to the EAGLE RIDGE ESTATES COVENANTS, CONDITIONS AND RESTRICTIONS, and none of those consents have been revoked,

Whereas the EAGLE RIDGE ESTATES COVENANTS, CONDITIONS AND RESTRICTIONS, Section 10.3 provides that the Association shall record a sworn statement certifying that the required consent was received to these amendments,

Now therefore the undersigned, as authorized officers of the Association hereby certify that the following amendments[1] have received the required consent of the owners of 60% or more of the lots:

AMENDMENT TO **Section 2.14 Fencing.** No fence shall be over six (6) feet in height. There shall be no fence forward of the front ~~rear~~ of the house over 3' in height. All fencing must be approved by the Design Review Board. Chain-link fence is prohibited.

AMENDMENT TO **Section 2.17 Vehicles.** No trailers, trucks exceeding one-ton capacity, unsightly, wrecked or inoperable vehicles, school or other buses, chassis, motors, tires, boats, motor homes, recreational vehicles, including four-wheelers, snowmobiles, motorcycles, camper shells, or other motorized equipment, or transport devices, or construction equipment, airplanes or parts or components of any of the foregoing items or anything else that is required by law to be titled (collectively "vehicle(s)" herein) shall be parked or allowed to remain upon any of the said lots ~~unless~~ for more than an aggregate of 72 hours in a continuous 7-day period. To park any of the above for up to 72 hours, an Owner must register online at a website approved by the Board of Directors and identify the days of use in advance. If an exception to the 72 hour limit is needed, the Board of Directors pre-approval must be obtained. This 72 hour limit does not apply to vehicles placed in a garage or in a location expressly authorized by the Design Review Committee and hidden ~~screened~~ from view. No vehicle shall be parked ~~upon or encroach upon the Common Area.~~ on, remain in, or encroach upon, in whole or in part, a road, sidewalk, path, right of way or Common Area. No vehicle shall be parked or remain on the lot of someone who is not an owner of the vehicle, without the express permission of the lot Owner.

No outdoor maintenance, service, rebuilding, dismantling, painting or repair work shall be performed except washing and polishing.

AMENDMENT TO **SECTIONS 6.1** AND **6.3** AND ADDITION OF NEW SECTION **6.1(b)** RELATING TO VOTING:

Section 6.1(a) Membership in the Association. The members of the Homeowners Association shall consist of the owners of each lot of the Subdivision. Each owner covenants and agrees that he/she will automatically be and will remain a member of the "Eagle Ridge Estates Homeowners Association Inc." (known as the "Association") so

[1] Deletions are represented by lines ~~striking through~~ deleted words. Additions are represented by underlining.

long as the property owner retains any ownership interest in any lot located within this Subdivision. By accepting the conveyance of the property, the owner binds himself to abide by this Declaration, the Articles of Incorporation and Bylaws of the Association, and the reasonable rules and regulations of the Association which may be adopted by the Board of Directors from time to time. Upon sale of a lot, the membership associated with that lot shall be deemed automatically transferred from the former lot owner to the purchaser of such lot. Such transfer shall not relieve the former lot owner of any obligations incurred by such former lot owner prior to the transfer. For the purposes of membership in the Association, the purchaser under any contract for deed notice of which is recorded in the real estate records of Flathead County, Montana, shall be considered the owner.

Section 6.1(b) Following the Period of Developer Control, Directors shall be elected annually by the members at the HOA annual meeting. Each lot shall have one vote per open board position. Cumulative voting is not allowed: nominees can receive no more than one vote per lot. Nominees must receive a majority of votes present in order to be elected. In the event that more nominees than the number of open board positions receive a majority of the votes, the nominees who received the most votes will be appointed until all open positions are filled. In the event that multiple nominees are vying for the board positions and no majority is achieved after the first round of voting, the nominee receiving the least number of votes will be eliminated and another vote will be held with the remaining nominees. A "none of the above" vote will be allowed. This process of elimination and re-balloting will continue until all positions are filled with nominees receiving a majority of the votes. The total number of directors comprising the board of directors may be increased or decreased based on the election results or from time to time by act of the board of directors, but the number of directors shall not be less than 3 directors or more than 7 directors. If, after the voting process detailed above, the homeowners have not elected at least 3 directors, the floor will open for new nominees and the voting will be redone. Each director shall hold office until the election or appointment and qualification of their successor and is also subject to re-election at least every 3 years. At the first board meeting following the annual meeting, the board will elect officers and establish staggered terms of up to 3 years for all board members. If a director resigns, their replacement shall hold office only until the next annual meeting of the HOA.

Section 6.2 Membership Dues. ~~Membership dues for the Homeowners Association are initially $150.00 per calendar year. The first year dues are paid upon closing.~~ Dues will be calculated on a pro-rated basis for a partial year's ownership. The dues will be

evaluated yearly in relation to projected expenses for the year and are subject to change by the Board of Directors.

Section 6.3 Voting. The Owner(s) of each lot shall be entitled to a single vote in the Association for each lot owned, ~~except that the Developer shall be entitled to three (3) votes for each lot owned by the Developer~~. When more than one person holds an interest in any lot, all such persons shall be members of the Association. The vote for such lot shall be exercised as they or a majority of them determine, but in no event shall more than one (1) vote be cast with respect to any lot. ~~; except the Developer may cast three (3) votes for each lot it holds~~.

Section 6.6 Assessments. Each property owner (~~except the Developer, as to lots owned by the Developer and not yet sold~~) agrees to pay to the Association such annual dues and assessments as the Board of Directors shall determine. Such dues and assessments may include amounts for operation of the Association, payment of taxes and insurance on Common Properties, Common Properties maintenance, utilities, and snow removal , a fund for acquisition or replacement of capital improvements, legal and accounting fees, reasonable reserves and any and all other matters determined to be appropriate by the Association for the benefit of the owners and approved or assessed in accordance with the applicable rules and procedures of the Association. The Association dues and assessments shall be the same for each lot of the Subdivision, except as follows:

> If the Board of Directors determines in good faith that a portion of dues and assessments benefit fewer than all the lots, such portion shall be assessed only against the benefited lots. Road maintenance repair and replacement shall be considered to benefit all lots equally among all lots.

Section 6.8 Collection of Assessments. Assessments shall be the personal responsibility of the owners of each lot. In addition, assessments shall be a lien on each lot. Failure to pay assessments will result in a lien statement being filed by the Board of Directors, which shall describe the lot, state the amount of the unpaid assessment and the date of such assessment. If any assessment is not paid when due, the assessment shall accrue interest at fifteen percent (15%) or at the maximum legal rate, if less, per annum until paid (or such other legal rate as the Board of Directors may establish from time to time). A lot owner whose lot is subject to such lien must pay the assessment, interest, costs for preparation of the lien and lien release, and all recording fees before

the lien is released. The Association is empowered to initiate any legal action to enforce payment of any past-due assessments, dues, or fees including an action to foreclose any lien on a Subdivision lot. This lien may also be foreclosed in the manner of foreclosure for mortgages. In the event of litigation, the prevailing party shall be entitled to attorney's fees and costs. The voting rights of an owner whose assessments are delinquent shall be suspended during the period of delinquency.

Section 6.10 Protection of First Mortgage. No violation or breach of, or failure to comply with, any provision contained in this Declaration and no action to enforce any such provision shall affect defeat, render invalid or impair the lien of any First Mortgage on any property taken in good faith and for value and perfected by recording in the office of the Clerk and Recorder of Flathead County, Montana, prior to the time of recording in said office of a written lien statement for delinquent assessments. No violation, breach, failure to comply or action to enforce this Declaration shall affect, defeat, render invalid or impair the title or interest of the holder of any First Mortgage or result in any liability, personal or otherwise, of any such holder or purchaser. Any purchaser upon foreclosure shall, however, take subject to this Declaration. Furthermore, from the date of foreclosure or acceptance of a deed in lieu thereof, any holder of a First Mortgage who acquires title or the right thereto (directly or indirectly through a subsidiary or affiliated entity) shall be responsible for all dues and assessments accruing thereafter, and the Association may file liens as provided in this Declaration.

~~**ARTICLE IX**~~
~~**Expansion**~~

~~**Section 9.1 Developer May Expand.** Developer reserves the right, but will not be obligated, to expand the effect of this Declaration to include additional property. The consent of the existing owners, the Association or the Board of Directors of the Association will not be required for any such expansion, and Developer may proceed with such expansion without limitation at its sole discretion.~~

~~**Section 9.2 Declaration of Annexation.** Any expansion may be accomplished by recording a Declaration of Annexation and one or more additional plats in the records of the Clerk and Recorder of Flathead County, Montana. The Declaration of Annexation will describe the real property to be annexed, submitting it to this Declaration. Upon such annexation, each lot in the annexed property will be allocated~~

~~one vote and liability for the assessments equal to the liability allocated to each of the previous lots, and the proportionate voting interest and allocation of common expenses for the previous lots will be adjusted accordingly. Upon such annexation, each owner of a lot in the annexed property shall automatically become a member of the Association. Such Declaration of Annexation will not require the consent of the existing owners, the Association or the Board of Directors of the Association. Any such expansion will be effective upon the filing for record of such Declaration of Annexation, unless otherwise provided therein. The expansion may be accomplished in stages by successive supplements or in one supplemental expansion. Upon the recording of any such Declaration of Annexation, the definitions used in this Declaration will be expanded automatically to encompass the annexed property.~~

~~**Section 9.3 Supplemental Covenants.** A Declaration of Annexation may add supplemental covenants peculiar to the annexed property, or delete or modify provisions of this Declaration as it applies to the annexed property. However, this Declaration may not be modified with respect to that portion of the property already subject to this Declaration, except as provided below for amendment.~~

~~**Section 10.2 Amendment During Period of Developer Control.** During the Period of Developer Control, this Declaration may be amended by Developer as provided in this Section. Developer shall prepare the form of amendment. The form of amendment and a notice of the Owners' rights under this Section shall be mailed to each Owner by first class mail, postage prepaid to the address of the owner on the records of the Homeowner's Association. Unless written objection is received by Developer from the owners holding 80% or more of the votes within 30 days of the mailing of the notice to the owners, the action proposed to be taken by the Developer shall be considered approved and shall become final. If such objection is not timely received, the Developer shall then record in the records of Flathead County, Montana, a document stating the action taken, together with a sworn statement certifying that notice was given to the owners as required herein and that fewer than 80% of the owners objected to the action.~~

Section ~~10.3~~ 10.2 Amendment after Period of Developer Control. After the Period of Developer Control, this Declaration may be amended or repealed as provided in this Section. Any amendment shall require the consent of the owners of sixty percent (60%) of the lots. Such consent may be evidenced by written consent or by vote at a regular or special meeting of the members of the Homeowner's Association, or by a

combination of written consents and votes. If such consent is received, the Association shall then record in the records of Flathead County, Montana, a document stating the action taken, together with a sworn statement certifying that the required consent was received.

Section ~~10.4~~ 10.3 Unilateral Amendment by ~~Developer~~ Board of Directors. ~~At any time, before or after the Period of Developer Control, so long as Developer owns a lot, Developer~~ The Board of Directors may unilaterally amend this Declaration (1) if such amendment is solely to comply with applicable law or correct a technical or typographical error, (2) if such amendment does not adversely alter any substantial rights of any owner or mortgagee, or (3) in order to meet the guidelines or regulations of a lender or insurer including, but not limited to, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration or the Veterans Administration or any similar agency. Such amendments shall not require approval of any Owners.

As President of Eagle Ridge Estates Homeowners Association, I hereby certify under penalty of perjury under the laws of the State of Montana that the above amendments received the written consent of the owners of sixty percent or more of the lots in the Eagle Ridge Estates Subdivision during the period from October 2, 2013 to December 16, 2013. I further certify that, as of this date, none of said consents have been revoked. I further certify that all other provisions of the Covenants recorded on March 29, 2004, remain in full force and effect. I certify also that I am authorized to execute this Certificate on behalf of the Association.

1/22, 2014 Alan J West

Alan West, President

As Secretary of Eagle Ridge Estates Homeowners Association I hereby likewise certify and attest to the above representations of the President of the Association. I further certify that Alan West is the President of the Association, and that he has the authority to execute this Certificate.

1/22, 2014 Kathy Morel

Kathy Morel, Secretary

STATE OF MONTANA
SS:
COUNTY OF FLATHEAD

Alan West appeared before me on January 22, 2014, and swore to the truth of the above statements under penalty of perjury under the laws of the State of Montana and signed or acknowledged his signature above.

Print name: Kalie R. Just
Notary Public for the State of Montana
Residing at: Kalispell, Montana
My commission expires: December 15, 2015

KALIE R. JUST
NOTARIAL SEAL
STATE OF MONTANA

KALIE R. JUST
NOTARY PUBLIC for the
State of Montana
Residing at Kalispell, Montana
My Commission Expires
December 15, 2015

STATE OF MONTANA
SS:
COUNTY OF FLATHEAD

Kathy Morel appeared before me on January 22, 2014, and swore to the truth of the above statements under penalty of perjury under the laws of the State of Montana and signed or acknowledged her signature above.

Print name: Kalie R. Just
Notary Public for the State of Montana
Residing at: Kalispell, Montana
My commission expires: December 15, 2015

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STATE OF MONTANA

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