

This is an amendment to the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Flanders Mill # ~~25839298~~, dated 3/7/2016.
2539298 (W)

Page 9 – **Article II, Section 2.18**

Future Development. If developed as currently planned, at full completion the Project will contain 292 lots (individually a “Lot” and collectively the “Lots”) intended for single-household residential use, 18 Townhome Units, 16 Auxiliary Dwelling Units, approximately 9.1 acres of R-4 Multi-Household Apartments, and 4.4 acres of PLI (Public Lands Institutional) and all related Common Open Spaces, and Tracts for the construction of common use facilities to serve the Project. Declarant reserves the right to make changes to future phases of the Project and, while Declarant intends and expects to complete the Project, nothing herein creates an obligation on the Declarant to develop future phases.

Page 10 - **Article IV, Section**

Capitol Contribution. Upon closing, property owner is to pay a one-time fee of \$300 for each property purchased payable to the Flanders Mill Homeowners Association capital contribution fund. These funds are intended to fund future maintenance items within the Flanders Mill Development.

Page 22 – **Article VIII, Section 8.4**

Fences. ~~One of the primary goals of the Project is to create an atmosphere that is open and friendly. Because of the importance of this goal perimeter lot fencing will not be allowed in this subdivision. Dog runs, kennels, and electric invisible fence are to be used for constraining dogs.~~ The Committee will approve fencing consistent with the Design Regulations Guidelines (Section 4). To the extent applicable, allowed fencing dimensions and styles shall be compatible with those adopted in the Park Master Plan for the Project.

Page 23 – **Article VII, Section 8.9**

No Storage Sheds. ~~Storage needs should be anticipated in the planning stage and will be required to be an integral part of the design of the garage so that all storage is within the garage or attached structure. The Committee will approve accessory buildings consistent with the Design Regulations Guidelines (Section 3).~~

2604096

Page: 1 of 2 01/22/2018 11:13:52 AM Fee: \$24.00
Charlotte Mills - Gallatin County, MT MISC



In Witness Whereof, the Declarant has caused this Declaration to be executed by its duly authorized agent this 9th day of January, 2018.


Flanders Mill, LLC

Walter Wolf
WALTER WOLF, managing member

STATE OF MONTANA)

County of Gallatin)

Wendy Wilson

	WENDY WILSON
	Notary Public
	for the State of Montana
	Residing at: Belgrade, Montana
	My Commission Expires: September 20, 2019

The foregoing Declaration was acknowledged before me by Walter Wolf, managing member of Flanders Mill, LLC., this 9th day of January, 2018.



**DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS AND RESERVATION OF EASEMENTS
FOR FLANDERS MILL**

TABLE OF CONTENTS

ARTICLE I DEFINITIONS 2

ARTICLE II DESCRIPTION OF PROJECT, DIVISION OF PROPERTY, CREATION
OF PROPERTY RIGHTS, FUTURE DEVELOPMENT 5

2.1 Description of Project 5

2.2 Application of Declaration to the Project. 5

2.3 Easements; Dedication of Common Open Space 5

2.4 Easements to Accompany Conveyance of Lot 5

2.5 Delegation of Use 6

2.6 Conveyance of Common Open Space to Association; Reservations of
Easements 6

2.7 Owners’ Rights and Easements for Utilities..... 6

2.8 Annexation of Additional Property..... 6

2.9 Party Walls..... 7

2.10 Maintenance Easement 7

2.11 Drainage Easements..... 8

2.12 Other Easements 8

2.13 Rights of Entry and Use..... 8

2.14 Partition of Common Open Space 8

2.15 No Subdivision of Lots 8

2.16 No View Rights..... 8

2.17 All Easements Part of Common Plan..... 9

2.18 Future Development..... 9

ARTICLE III ASSOCIATION ADMINISTRATION, MEMBERSHIP AND VOTING
RIGHTS 9

3.1 Association to Own and Manage Common Open Spaces 9

3.2 Membership 9

3.3 Transferred Membership..... 9

3.4 Membership Voting Rights..... 10

3.5 Association Operation..... 10

ARTICLE IV MAINTENANCE AND ASSESSMENTS..... 10

4.1 Creation of the Lien and Personal Obligation of Assessments..... 100

4.2 Purpose of Assessments 11

4.3 Assessments 11

4.4 Restrictions on Increases in Regular and Special Assessments..... 11

4.5 Notice and Quorum for Action Authorized Under Section 4.4 12

4.6 Division of Assessments 12

4.7 Date of Commencement of Regular Assessment; Due Dates..... 12

4.8 Effect of Nonpayment of Assessments 13

4.9 Transfer of Lot, by Sale or Foreclosure 13

4.10 Priorities; Enforcement; Remedies 13

4.11 Unallocated Taxes..... 14

ARTICLE V DUTIES AND POWERS OF THE ASSOCIATION	14
5.1 <u>Duties</u>	14
5.2 <u>Powers</u>	16
ARTICLE VI ARCHITECTURAL CONTROL	18
6.1 <u>Lots Subject to Architectural Controls.</u>	18
6.2 <u>Purpose of Architectural Controls and Committee.</u>	19
6.3 <u>Modifications to Existing Improvements.</u>	19
ARTICLE VII USE RESTRICTIONS	19
7.1 <u>Use of Lot</u>	19
7.2 <u>Nuisances</u>	19
7.3 <u>Parking on Public Streets.</u>	19
7.4 <u>Parking in Common Open Spaces</u>	19
7.5 <u>Commercial Activity</u>	19
7.6 <u>Storage</u>	20
7.7 <u>Signs</u>	20
7.8 <u>Animals</u>	20
7.9 <u>Garbage and Refuse Disposal</u>	20
7.10 <u>Antennas</u>	20
7.11 <u>Power Equipment and Car Maintenance</u>	20
7.12 <u>Liability of Owners for Damage to Common Open Space</u>	20
7.13 <u>Leasing of Lots</u>	21
7.14 <u>Commonly Metered Utilities</u>	21
7.15 <u>Activities Causing Increase in Insurance Rates</u>	21
7.16 <u>Temporary Structures</u>	21
7.17 <u>Owner’s Right and Obligation to Maintain and Repair</u>	21
7.18 <u>Timeshare and Fractional Ownership Prohibition</u>	21
7.19 <u>High Groundwater Note</u>	21
ARTICLE VIII PROJECT DEVELOPMENT REQUIREMENTS	22
8.1 <u>Driveways</u>	22
8.2 <u>Driveway Swale Prohibitions</u>	22
8.3 <u>Kennels</u>	22
8.4 <u>Fences</u>	22
8.5 <u>Privacy Screening</u>	22
8.6 <u>Antennas and Satellite Dishes</u>	22
8.7 <u>Exterior Lighting</u>	22
8.8 <u>Utilities</u>	23
8.9 <u>No Storage Sheds</u>	23
8.10 <u>Temporary Structures</u>	23
8.11 <u>Solid Waste Containers</u>	23
8.12 <u>Recreational Vehicles</u>	23
ARTICLE IX INSURANCE; DAMAGE OR DESTRUCTION; CONDEMNATION.....	23

9.1	<u>Insurance</u>	23
9.2	<u>Damage or Destruction</u>	24
9.3	<u>Condemnation</u>	25
ARTICLE X GENERAL PROVISIONS.....		25
10.1	<u>Enforcement</u>	25
10.2	<u>Invalidity of Any Provision</u>	26
10.3	<u>Term</u>	26
10.4	<u>Amendments</u>	26
10.5	<u>Limitation of Restrictions on Declarant</u>	26
10.6	<u>Termination of Any Responsibility of Declarant</u>	27
10.7	<u>Owners' Compliance</u>	27
10.8	<u>Notice</u>	28
10.9	<u>No Discrimination</u>	28
10.10	<u>Alternative Dispute Resolution</u>	28
10.11	<u>Number; Gender</u>	28
10.12	<u>Captions</u>	28
10.13	<u>Exhibits</u>	28
10.14	<u>Compliance with FHA, VA, FHLMC or FNMA Requirements</u>	28
10.15	<u>Power of Attorney</u>	28
ARTICLE XI ENFORCEMENT.....		28
11.1	<u>Priority and Defined Terms</u>	28
11.2	<u>Enforcement and Non-waiver</u>	29
ARTICLE XII SPECIAL DECLARANT RIGHTS.....		29
12.1	<u>Transfer of Special Declarant Rights</u>	29
12.2	<u>Models, Sales Offices and Management Offices</u>	30
12.3	<u>Construction of Improvements</u>	30
12.4	<u>Other Covenants Prohibited</u>	30
12.5	<u>Master Planned Community</u>	30
12.6	<u>Equal Treatment</u>	30
12.7	<u>Right to Use Common Open Space for Special Events</u>	30
12.8	<u>Amendment</u>	31
ARTICLE XIII REQUIREMENTS OF CITY OF BOZEMAN.....		31

**DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS AND RESERVATION OF EASEMENTS
FOR FLANDERS MILL SUBDIVISION**

This Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements for Flanders Mill Subdivision (“Declaration”) is made this _____ day of February, 2016 by Flanders Mill LLC, a Montana limited liability company (“Declarant”).

WHEREAS, Declarant is the owner of the real property (“Property”) described in Exhibit A and intends to develop the Property in accordance with the provisions set forth herein,

NOW, THEREFORE, Declarant hereby declares that all the real property in the Project shall be developed in accordance with a common scheme and general plan and subject to the following declarations, limitations, easements, restrictions, covenants, and conditions which are imposed as equitable servitudes pursuant to a general plan for the development of the Project for the purpose of enhancing and protecting the value, desirability and attractiveness off the Project as a first-class residential development. These restrictions, covenants, conditions and easements shall run with the Property and be binding on Declarant and its successors and assigns, and on all parties having or acquiring any right, title or interest in or to the Property or any part thereof, and their respective heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I
DEFINITIONS**

The terms in this Declaration and the exhibits to this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below:

1.1 “Flanders Mill Architectural Committee (FMAC)” shall be the committee described in Section 6.3.

1.2 “Articles” shall mean and refer to the Articles of Incorporation of the Association, as amended from time to time.

1.3 “Assessment” shall mean that portion of the cost of maintaining, improving, repairing, operating and managing the Project, which is to be paid by each Owner as determined by the Association, and shall include regular and special assessments, and each Owner’s share of Common Expenses.

1.4 “Association” shall mean and refer to the Flanders Mill Homeowners Association, Inc. a Montana non-profit mutual benefit corporation, the Members of which shall be the Owners of Lots in the Project.

1.5 “Board” or “Board of Directors” shall mean and refer to the governing body of the Association.

1.6 “Bylaws” shall mean and refer to the Bylaws of the Association, as amended from time to time.

1.7 “Committee” shall mean and refer to the Flanders Mill Architectural Committee (FMAC).

1.8 “Common Open Space” shall mean and refer to the portions of the Project and all improvements thereon designated from time to time in this Declaration or in any supplemental declaration, which is to be owned by the Association or which is actually owned by the Association. Common Open Spaces within the Project are identified on the subdivision plats.

1.9 “Common Expenses” means and includes the actual and estimated expenses of operating the Common Open Space (and pursuing, implementing, and executing the intent, purposes, business and affairs of the Association) and any reasonable reserve for such purposes as found and determined appropriate by the Board, and all sums designated Common Expenses by or pursuant to this Declaration, the Articles, Bylaws or Rules. Common Expenses shall also include costs and reserves (if appropriate) incurred by the Association in connection with maintaining the Project and any areas at or adjacent to the Project that the Association is otherwise required to maintain as required by City of Bozeman, Montana, or any other governmental agency with jurisdiction thereof. Funds to pay all Common Expenses may be collected as part of Assessments, as provided herein. Common Expenses include street lighting, maintenance and upkeep of the water features and wetlands of the Project, landscaping and maintaining the Common Open Spaces, landscaping and maintaining the streets and medians (including snow removal), maintenance and upkeep of any community center or recreational facility, if any, and all expenses associated with utilities and water for the Common Open Spaces, except for any such facilities or infrastructure maintained by the City of Bozeman.

1.10 “Declarant” shall mean and refer to Flanders Mill, LLC a Montana Limited Liability Company qualified to do business in the State of Montana, and any successor or assign that expressly assumes the rights and duties of the Declarant hereunder in a recorded written document.

1.11 “Declaration” shall mean and refer to this Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Flanders Mill, as amended or supplemented from time to time.

1.12 “Design Regulations and Guidelines” shall mean and refer to the Flanders Mill Subdivision Design Regulations and Guidelines dated _____, 2016, as amended from time to time by Declarant or the Committee.

1.13 “Development Period” shall mean and refer to the period of time during which the Declarant is entitled to exercise Development Rights and Special Declarant Rights. The Development Period commenced at the time the final plat for the first phase was filed and shall terminate on the later of the following to occur: (a) ninety percent (90%) of the Lots in the Project are sold from Declarant to third parties; or (b) seventeen years from the date the final plat for the first phase was filed. Alternatively, Declarant may deliver written notice to the Association that Declarant is voluntarily relinquishing its Development Rights and Special Declarant Rights under this Declaration at any time at Declarant’s sole discretion.

1.14 “Development Rights” shall mean and refer to the rights reserved to the Declarant to (a) submit additional property to be subject to the Declaration; (b) create Lots and Common Area; (c) subdivide Lots or convert Lots into Common Open Space; (d) amend the Design Regulations and

Guidelines; and (e) amend this Declaration, as further set forth in Article XII. Development Rights may be exercised in all or any portion of the Project at any time within the Development Period.

1.15 “Initial Phase” shall mean the Final Plat of Flanders Mill Subdivision, Phase 1, located in Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Gallatin County, Montana.

1.16 “Lot” or “Residential Lot” shall mean any legally subdivided parcel within the Project which is intended for single-household residential use and the development and maintenance thereon of a Residential Unit as described herein. As used herein, the term “Lot” shall not include Common Open Spaces, Common Open Space Lots, Parks or Tracts which are designated on the Plat Maps. Residential Lots are normally designated as numbered lots on recorded Plat Maps.

1.17 “Member” shall mean and refer to a person entitled to membership in the Association as provided herein, and “Membership” shall refer to such entitlement.

1.18 “Owner” or “Owners” shall mean and refer to the record Owner, whether one or more Persons, of fee simple title to any Lot which is a part of the Project, but excluding those Persons having an interest merely as security for the performance of an obligation. If a Lot is sold under a contract of sale and the contract is recorded, the purchaser, rather than the fee owner, shall be considered the “Owner” from and after the date the Association receives written notice of the recorded contract.

1.19 “Person” means a natural person, a corporation, a partnership, a trust, or other legal entity.

1.20 “Project” shall mean and refer to the property listed on Exhibit A, as modified from time to time and all of the improvements thereon.

1.21 “Project Documents” shall mean and refer to the basic organizational and governance documents of the Association, including the Articles of Incorporation, Bylaws, and this Declaration.

1.22 “Public Park” shall mean and refer to those areas identified on the subdivision plats as Public Parks which have or will be dedicated to and maintained by the City of Bozeman for the use and enjoyment of the general public.

1.23 “Rules” shall mean and refer to the rules adopted from time to time by the Association pursuant to Article V.

1.24 “Special Declarant Rights” shall mean and refer to the rights of Declarant described in Article XII.

1.25 “Unit” or “Residential Unit” shall mean and refer to any single-household residence and related improvements constructed upon a Residential Lot.

ARTICLE II
DESCRIPTION OF PROJECT, DIVISION OF PROPERTY, CREATION OF PROPERTY RIGHTS, FUTURE DEVELOPMENT

2.1 Description of Project. The Project is a development consisting of the property on Exhibit A, including but not limited to, the Common Open Spaces and Public Park, the Residential Lots, the creek and wetlands and all improvements thereon. The Project is intended to be developed in phases. All phases are subject to the terms of this Declaration.

2.2 Application of Declaration to the Project. All of the Property shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of and which shall run with title to the real property subjected to this Declaration. This Declaration shall be binding on all parties having any right, title, or interest in the Property or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof

2.3 Easements; Dedication of Common Open Space. Each Lot shall have appurtenant to it as the dominant tenement an easement over all Common Open Space Lots and Common Open Spaces for ingress, egress, use and enjoyment, and for the construction, maintenance, operation and use of utilities, subject to the rights and easements in favor of Declarant as provided herein, and to the following provisions:

A. The right of the Association to discipline Members and to suspend the voting rights of a Member for any period during which any Assessment against his Lot remains unpaid, and for any infraction of the Articles, Bylaws, this Declaration or the Rules, in accordance with the provisions of this Declaration.

B. The right of the Association to dedicate, or transfer all or any part of the Common Open Space to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by Board of Directors shall be subordinate to the rights of the Members of the Association, and no such dedication, or transfer shall be effective unless an instrument signed or approved by two-thirds of the voting power of the Association.

C. The right of the Association to grant easements under, in, upon, across, over, above or through any portion of the Common Open Space for reasonable purposes, as approved by the Board, which are beneficial to the Association or the Project or the development of it.

D. Easements for work and activities necessary to complete construction, development and marketing of the Project, including all parcels annexed or to be annexed, as more particularly described in section 2.7.

The foregoing easements are granted and reserved subject to the condition that their use and enjoyment shall not unreasonably interfere with the use, occupancy or enjoyment of all or any material part of the Lot servient to them or to which they are appurtenant.

2.4 Easements to Accompany Conveyance of Lot. Easements that benefit or burden any Lot shall be appurtenant to that Lot and shall automatically accompany the conveyance of such Lot, even though the description in the instrument of conveyance may refer only to the fee title to the Lot.

2.5 Delegation of Use. Any Owner may delegate, in accordance with the Rules, his or her right of enjoyment to the Common Open Space and facilities to the members of his or her household, guests, tenants, or contract purchasers, who occupy such Owner's Lot.

2.6 Conveyance of Common Open Space to Association; Reservations of Easements. On or before conveyance of title to the last Lot in a particular phase of the Project, Declarant shall convey the Common Open Space in that phase to the Association to be held for the benefit of the Members of the Association and Public. Whenever any Common Open Space is conveyed by Declarant to the Association, an easement is automatically reserved (whether or not expressed in the conveyance document) over, under and through such Common Open Space for the benefit of remaining portions of the Property that have not yet been conveyed, for ingress, egress, access and all utilities and similar appurtenances, and for the construction, marketing and sale of Lots and/or improvements on such remaining portions of the Annexed Property. Use of such portions of the Property shall be subject to the obligation to pay an equitable share of regular and special Assessments as provided in Article IV.

2.7 Owners' Rights and Easements for Utilities. The rights and duties of the Owners of Lots within the Project with respect to sewer, drainage, water, irrigation water, electric, gas, television and telephone equipment, cables and lines (collectively "utility facilities") shall be as follows:

A. Whenever utility facilities are installed within the Project, which utility facilities or any portion thereof lie in or upon a Lot or Lots owned by other than the Owner of a Lot served by said utility facilities, the Owners of any Lots served by such utility facilities shall have the right of reasonable access for themselves or for utility companies or providers to repair, to replace and generally maintain said utility facilities as and when the same may be necessary, due to failure or inability of the Board to take timely action to make such repairs or perform such maintenance.

B. Whenever utility facilities are installed within the Project which serve more than one Lot, the Owner of each Lot served by said utility facilities shall be entitled to the full use and enjoyment of such portions of said utility facilities as service his Lot.

C. In the event of a dispute between Owners with respect to the repair or rebuilding of said utility facilities, or with respect to the sharing of the cost thereof, then, upon written request of one (1) Owner addressed to the other Owner(s), the matter shall be submitted first to the Board for mediation, and thereafter, if the dispute remains unresolved, to binding arbitration pursuant to the rules of the American Arbitration Association.

2.8 Annexation of Additional Property. Declarant reserves the right from time to time to add additional property ("Annexed Property") to the Project. This right is irrevocable. Declarant shall not be required to add such additional lands to the Project and Declarant may add a portion or all thereof at Declarant's discretion. Declarant reserves an easement through the Common Elements herein described for access, ingress and egress, and for utility and service lines, and the hookup to existing access and utility and service lines. The manner of subjecting the Annexed Property to this Declaration shall be accomplished by the filing of record in the office of the County Clerk and Recorder for Gallatin County an amendment to the legal description of the lands covered by this Declaration. Any Annexed Property shall be deemed annexed to the Project and made subject to the Declaration and the jurisdiction of the Association, and shall be held, sold, leased, transferred, occupied and conveyed subject to the terms, provisions, covenants, conditions, restrictions, reservations and easements of this Declaration. The right

of unilateral annexation provided for in this paragraph constitutes a covenant running with the land, and is as such enforceable by any successor or assignee of Declarant who acquires any part of the Annexed Property, and who assumes the role of Declarant.

2.9 Party Walls:

A. General Rules of Law to Apply: Each wall (or fence) that is built as part of original construction, is located on the boundary line with an adjacent Lot and either is used in common with the adjacent Lot or abuts against a similar wall on the adjacent Lot shall constitute a party wall. To the extent not inconsistent with 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.

B. Sharing of Repair and Maintenance: The cost of reasonable repairs and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

C. Destruction by Fire or Other Casualty: If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use; provided, however, that the Owner or Owners whose negligent act or omission proximately caused the damage or destruction shall ultimately be responsible for such restoration.

D. Weatherproofing: Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

E. Right to Contribution Runs with Land: 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.

F. Arbitration: In the event of any dispute arising concerning a party wall, or concerning the provisions of this section, upon written request of one Owner addressed to the other Owner, the matter shall be submitted first to the Board of Directors for mediation, and thereafter, if the dispute remains unresolved, to binding arbitration pursuant to the rules of the American Arbitration Association.

G. Easement for Maintenance. Each owner who shares a party wall with another owner shall have an easement on the other owners' property for the sole purpose of access to perform maintenance or repairs to the party wall with such rights only to be exercised upon reasonable notice to the other party and only to the minimum extent necessary to perform such maintenance or repair.

2.10 Maintenance Easement. An easement over each Lot as the servient tenement is reserved by Declarant in favor of each other Lot as the dominant tenement, and in favor of the Association, for the purpose of allowing the Association's agents the right, but not the obligation, to enter the Lot to perform such maintenance, if any, as the Association may do in accordance with the provisions of this Declaration.

2.11 Drainage Easements. An easement over and under each Lot as the servient tenement is reserved by Declarant in favor of each other Lot and the Association for the purpose of allowing the Association's agents the right, but not the obligation, to enter the Lot to maintain that portion of any storm drainage system located thereon. No Owner or occupant shall commit any act that would interfere with the operation of any drainage system (including drainage swales) installed on the Owner's Lot. The Owner shall maintain the system free of debris and other obstacles at all times. Reciprocal appurtenant easements between each Lot and the Common Open Space and between adjoining Lots are reserved for the flow of water in the storm drainage system.

2.12 Other Easements. The Common Open Space and each Lot are subject to all easements, dedications, and rights of way granted or reserved in, on, over and under the Project as shown on any Plat Map for the Project, and as otherwise provided or contemplated in this Declaration.

2.13 Rights of Entry and Use. The Lots and Common Open Space shall be subject to the following rights of entry and use:

A. The right, but not the obligation, of the Association's agents to enter any Lot to cure any violation of this Declaration, the Articles, Bylaws or Rules, provided that the Owner has received notice and a hearing as required by the Bylaws (except in the case of an emergency) and the Owner has failed to cure the violation or take steps necessary to cure the violation within thirty (30) days after the finding of a violation by the Association;

B. The access rights of the Association to perform maintenance as provided in Section 5.2E;

C. The easements described in this Article II;

D. The right of the Association's agents to enter any Lot to perform maintenance to the extent described herein; and

E. The rights and easements of the Declarant during construction and sales as described in herein.

2.14 Partition of Common Open Space. Unless approved in writing by Declarant, prior to the end of the Development Period, there shall be no subdivision or partition of the Common Open Space, nor shall any Owner seek any partition or subdivision thereof. Nothing herein shall be construed to prohibit partition of a joint tenancy or co-tenancy in any Residential Lot.

2.15 No Subdivision of Lots. There shall be no further division of any Residential Lot without written approval of Declarant and the Board, which approval may be withheld or conditioned in the discretion of Declarant and the Board, and which approval would be subject to the Laws of the State of Montana and Gallatin County.

2.16 No View Rights. This Declaration is not intended and shall not in any way confer or grant (or be construed to confer or grant) to any Residential Lot or Residential Unit or the Owner thereof any right to the maintenance of any view, viewscape or scenic corridor or area. Each Owner, by acceptance of a deed to his or her Lot, acknowledges and agrees that no representations or warranties have been made concerning any view, present or future, that may be enjoyed from all or any portion of

the Project or such Owner's Lot or Unit, and that the same may change and/or be affected or obstructed by construction or installation of improvements, structures, fences, walls and/or landscaping by Declarant or other owners of property within or outside the Project and/or the growth of trees, landscaping and/or vegetation within or outside the Project. This Declaration does not contain any provisions intended to protect the view from any Lot or Unit or any other portion of the Project.

2.17 All Easements Part of Common Plan. Whenever any easements are reserved or created herein, such easements shall constitute equitable servitudes for the mutual benefit of all property in the Project, even if only certain Lots are specifically mentioned as subject to or benefiting from a particular easement, and when easements referred to herein are subsequently created or reserved by deeds or conveyances, such easements are to be considered to be part of the common plan created by this Declaration for the benefit of all property Owners within the Project.

2.18 Future Development. If developed as currently planned, at full completion the Project will contain 292 lots (individually a "Lot" and collectively the "Lots") intended for single-household residential use, 18 Townhome Units, 16 Auxiliary Dwelling Units, approximately 5.42 acres of R-4 Multi-Household Apartments, and 4.4 acres of PLI (Public Lands Institutional) and all related Common Open Spaces, and Tracts for the construction of common use facilities to serve the Project. Declarant reserves the right to make changes to future phases of the Project and, while Declarant intends and expects to complete the Project, nothing herein creates an obligation on the Declarant to develop future phases.

ARTICLE III ASSOCIATION ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS

3.1 Association to Own and Manage Common Open Spaces. The Association shall own and manage the Common Open Space in accordance with the provisions of this Declaration, the Articles, Bylaws and Rules. Declarant shall provide Common Open Space noxious weed control, litter removal and implementation of the "Riparian Management Plan" (Exhibit C) until the Association accepts maintenance responsibility.

3.2 Membership. The Owner of a Lot shall automatically upon becoming the Owner of same, be a Member of the Association, and shall remain a Member thereof until such time as his ownership ceases for any reason, and consents to such membership in the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Membership shall be held in accordance with this Declaration, the Articles, Bylaws and Rules. Declarant shall be a Member of the Association for all Lots owned by Declarant and all parcels designated in the Master Plan to become Lots in the future.

3.3 Transferred Membership. Membership in the Association shall not be transferred, encumbered, pledged, or alienated in any way, except upon the sale or transfer of the Lot to which it is appurtenant, and then only to the purchaser, in the case of a sale, or to a Mortgagee that has foreclosed or received a deed in lieu of foreclosure, in the case of an encumbrance. On any transfer of title to an Owner's Lot, Membership shall automatically pass with such transfer. A Mortgagee shall not have

Membership rights until it obtains title to the Lot through foreclosure or deed in lieu thereof. Any attempt to make a prohibited transfer is void. No Member may resign his Membership. On receipt of notice of a transfer, the Association shall record the transfer on its books.

3.4 Membership Voting Rights. There shall be two classes of voting rights.

A. Class A. Class A members shall be the owners of the single-household and townhouse lots. Class A members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an ownership interest in any Lot, all such persons shall be Members, but no more than one vote shall be cast with respect to any Lot. The vote for any such Lot shall be exercised as the Members holding an interest in such Lot determine among themselves.

B. Class B. Class B members shall be the owners of the multi-household lots. Class B members shall be entitled to one (1) vote for every ten (10) units constructed on a Lot. When more than one person holds an ownership interest in any Lot, all such persons shall be Members, but no more than one vote shall be cast with respect to any Lot. The vote for any such Lot shall be exercised as the Members holding an interest in such Lot determine among themselves.

3.5 Association Operation. The Association shall be governed and operated by a Board of Directors consistent with this Declaration and the Association's Articles of Incorporation and Bylaws. Declarant shall have the right to appoint all members of the Board of Directors until such time as the Development Period terminates or Declarant voluntarily relinquishes control at an earlier date as provided herein. After the Development Period, Declarant shall transition the governance of the Association via the Board of Directors to the other Owners who shall elect the Board in the manner provided in the Bylaws.

ARTICLE IV MAINTENANCE AND ASSESSMENTS

4.1 Creation of the Lien and Personal Obligation of Assessments. Subject to the exception for Declarant as provided in Section 4.7, each Owner of any Lot by acceptance of a deed or conveyance thereto, whether or not it shall be so expressed in such deed or conveyance, covenants and agrees:

(1) to pay to the Association regular and special Assessments, to be established and collected as hereinafter provided; and

(2) to allow the Association to enforce any Assessment lien established hereunder by non-judicial proceedings under a power of sale or by any other means authorized by law.

The regular and special Assessments, together with interest, late charges, collection costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such Assessment is made, the lien to become effective upon recordation of a notice of delinquent Assessment. Each such Assessment, together with interest, late charges, collection costs, and reasonable attorneys' fees, shall also be the personal obligation (joint and several) of each Person who was the Owner of such property at the time when the Assessment fell due. No Owner of a Lot may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Open Spaces or by the abandonment of his Lot.

The interest of any Owner in the amounts paid pursuant to any Assessment upon the transfer of ownership shall pass to the new Owner. Upon the termination of these covenants for any reason, any amounts remaining from the collection of such Assessments after paying all amounts properly charged against such Assessments shall be distributed to the then Owners on the same pro rata basis on which the Assessments were collected.

4.2 Purpose of Assessments. The Assessments levied by the Association shall be used to pay Common Expenses, to promote the economic interests, recreation, health, safety and welfare of Owners in the Project, and to enable the Association to perform its obligations hereunder.

4.3 Assessments:

A. Regular Assessments: The Board shall annually establish and levy regular Assessments in an amount that the Board estimates will be sufficient to raise the funds needed to pay Common Expenses and perform the duties of the Association during each fiscal year. The regular Assessments shall include a portion for reserves in such amounts as the Board in its discretion considers appropriate to meet the costs of the future repair, replacement or additions to the major improvements and fixtures that the Association is obligated to maintain and repair. Reserve funds shall be deposited in a separate account and the signatures of at least two (2) Persons, who shall either be Members of the Board or one officer who is not a Member of the Board and one Member of the Board, shall be required to withdraw monies from the reserve account. Except to the limited extent otherwise provided herein, reserve funds may not be expended for any purpose other than repairing, restoring, maintaining or replacing the major components that the Association is obligated to maintain without the consent of Owners holding a majority of the voting power either at a duly held meeting or by written ballot.

B. Special Assessments: The Board may at any time levy a special assessment in order to raise funds for unexpected operating or other costs, insufficient operating or reserve funds, or such other purposes as the Board in its discretion considers appropriate. Special Assessments shall be allocated among the Lots in the same manner as regular Assessments, except in the case of an Assessment levied by the Board against a Member to reimburse the Association for costs incurred in bringing the Member and his Lot into compliance with provisions of the Project Documents.

4.4 Restrictions on Increases in Regular and Special Assessments. The Board may not impose a regular Assessment on any Lot which is more than twenty percent (20%) greater than the regular Assessment for the immediate preceding fiscal year, or levy a special Assessment to defray the cost of any action or undertaking on behalf of the Association which in the aggregate exceeds ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year, without the vote or written assent of Members casting a majority of the votes at a meeting of the Association at which a quorum is present. Any meeting of the Association for purposes of complying with this section 4.4 shall be conducted in accordance with the Montana Non-Profit Corporation Act. The Board may increase regular Assessments by more than twenty percent (20%) over the regular Assessment for the immediate preceding fiscal year only if the Board has complied with the provisions set forth in the Bylaws and this Declaration.

Notwithstanding the foregoing, the Board, without Membership approval, may increase regular Assessments or levy special Assessments necessary for an emergency situation. For purposes of this section, an emergency situation is one of the following:

- (1) an extraordinary expense required by an order of a court;
- (2) an extraordinary expense necessary to repair or maintain the Project or any part of it for which the Association is responsible where a threat to personal safety on the Project is discovered;
or
- (3) an extraordinary expense necessary to repair or maintain the Project or any part of it for which the Association is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget, provided, however that prior to the imposition or collection of the Assessment, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process and the resolution shall be distributed to the Members with the notice off the Assessment.

The Association shall provide by first-class mail or electronic means if permitted via the Bylaws and the Montana Nonprofit Corporations Act notice to Owners of any increase in the regular or special Assessments of the Association not less than thirty (30) nor more than Sixty (60) days prior to the increased Assessment becoming due.

4.5 Notice and Quorum for Action Authorized Under Section 4.4. Any action authorized under section 4.4, which requires a vote of the Membership, shall be taken at a meeting called for that purpose, written notice of which shall be sent to all Members not less than ten (10) nor more than sixty (60) days in advance of the meeting, specifying the place, day and hour of the meeting and, in the case of a special meeting, the nature of the business to be undertaken. The action may also be taken without a meeting pursuant to the provisions of the Bylaws.

4.6 Division of Assessments. All Assessments, both regular and special, shall be levied equally among the Lots, except that all townhouse lots shall pay assessments at a rate which equals 70% of the assessment allocated to a single-household lot and multi-household lots shall pay assessments at a rate of 30% of the assessment allocated to a single-household lot multiplied by the number of units constructed on such multi-household lot. Regular Assessments shall be collected on a monthly basis unless the Board directs otherwise. Special Assessments may be collected in one payment or periodically as the Board shall direct.

4.7 Date of Commencement of Regular Assessment; Due Dates. The regular Assessments provided for herein shall commence as to each Lot in the Initial Phase on the first day of the month following the conveyance from Declarant of the Lot to an Owner in the Initial Phase. In subsequent phases, the regular Assessments against each Lot in each phase shall commence on the first day of the month following the conveyance from Declarant of the Lot to an Owner in such phase. However, in no case shall any Lot owned by the Declarant be subject to any assessment, whether Regular Assessment or Special Assessment, at any time while owned by Declarant. As Lots in each phase become subject to Assessments, the Board shall determine whether the amount of regular Assessments payable by all Owners will change and, if so, the amount of such change, and the Board shall then send out revised Assessment notices as appropriate. Subject to the provisions of section 4.3, the Board of Directors shall use its best efforts to fix the amount of the regular Assessments against each Lot and send written notice thereof to every Owner at least forty-five (45) days in advance of each fiscal year, provided that failure to comply with the foregoing shall not affect the validity of any Assessment levied by the Board. The

due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association stating whether the Assessments on a specified Lot have been paid. Such a certificate shall be conclusive evidence of such payment.

4.8 Effect of Nonpayment of Assessments. Any Assessment not paid within fifteen (15) days after the due date shall be delinquent, shall bear interest at the rate of ten percent (10%) per annum from thirty (30) days after the due date until paid, and shall incur a late payment penalty in an amount to be set by the Board from time to time, such interest and penalties not to exceed the maximum permitted under Montana law.

4.9 Transfer of Lot, by Sale or Foreclosure. Sale, transfer or foreclosure of any Lot shall not affect the Assessment lien. If a Lot is transferred, both the grantee and the grantor shall remain liable to the Association for all unpaid Assessments against the Lot through and including the date of the transfer. The grantee shall be entitled to a statement from the Association, dated as of the date of transfer, setting forth the amount of the unpaid Assessments against the Lot to be transferred and the Lot shall not be subject to a lien for unpaid Assessments in excess of the amount set forth in the statement; provided, however, the grantee shall be liable for any Assessments that become due after the date of the transfer.

4.10 Priorities; Enforcement; Remedies.

(a) If an Owner fails to pay an Assessment when due, the Association has the right, and option, to bring legal action against the Owner to enforce collection of the unpaid and past-due Assessment, or may impose a lien on the Lot owned by Owner, or both. Suit to recover a money judgment for unpaid Assessments and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same. Before the Association may place a lien upon a Lot, the Association shall notify the Owner in writing by certified mail of the fee and penalty procedures of the Association, provide an itemized statement of the charges owed by the Owner, including the principal owed, any late charges, and the method of collection, any attorneys' fees, and the collection practices used by the Association, including the right of the Association to the reasonable costs of collection. The Association may record a notice of delinquent Assessment and establish a lien against the Lot of the delinquent Owner prior and superior to all other liens except (1) all taxes, bonds, Assessments and other levies which, by law, would be superior thereto, and (2) the prior lien or charge of any Mortgage of record (meaning any recorded Mortgage or deed of trust with first priority over other Mortgages or deeds of trust) made in good faith and for value. The notice of delinquent Assessment shall state the amount of the Assessment, collection costs, attorney's fees, late charges and interest, a description of the Lot against which the Assessment and other sums are levied, the name of the record owner, and the name and address of the trustee authorized by the Association to enforce the lien by sale. The notice shall be signed by any officer of the Association or any management agent retained by the Association and shall be mailed in the manner required under Montana law to all record owners of the Lot no later than 10 days after recordation.

(b) After the expiration of thirty days following the recordation of the lien, an Assessment lien may be enforced in any manner permitted by law, including sale by the court or sale by the trustee designated in the notice of delinquent Assessment. Any sale by the trustee shall be conducted in accordance with the provisions of Montana law applicable to the exercise of powers of sale in Mortgages and deeds of trust, or in any other manner permitted by law. Nothing herein shall preclude

the Association from bringing an action directly against an Owner for breach of the personal obligation to pay Assessments.

(c) The Association, acting on behalf of the Owners, shall have the power to bid for the Lot at a foreclosure sale, and to acquire and hold, lease, mortgage and convey the same.

(d) The Board may temporarily suspend the voting rights of a Member who is in default in payment of any Assessment, after notice and hearing, as provided in the Bylaws.

(e) To the extent allowed under Montana law, the Association may file a lien against a Lot for fines and penalties for violation of restrictions, as well as monetary penalties imposed by the Association to reimburse the Association for costs incurred for repair of damage to Common Open Space or facilities for which the Owner, or guests or tenants of an Owner, were responsible.

(f) The Association is not empowered to cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of his Lot on account of the failure by the Owner to comply with provisions of the Project Documents or Rules, except by judgment of a court or a decision arising out of binding arbitration or on account of a foreclosure or sale under power of sale for failure of the Owner to pay Assessments duly levied by the Association.

(g) Each Owner waives, to the maximum extent permitted by law, the benefit of any Montana homestead or exemption laws in effect when any Assessment or installment becomes delinquent or a lien is imposed.

4.11 Unallocated Taxes. In the event that any taxes are assessed against the Common Open Space, or the personal property of the Association, rather than against the Lots, said taxes shall be included in the Assessments made under the provisions of section 4.1 and, if necessary, a special Assessment may be levied against the Lots in an amount equal to said taxes, to be paid in two (2) installments, thirty (30) days prior to the due date of each tax installment.

ARTICLE V DUTIES AND POWERS OF THE ASSOCIATION

5.1 Duties. In addition to the duties enumerated in the Articles and Bylaws, or elsewhere provided for in this Declaration, and without limiting the generality thereof, the Association, acting through its Board of Directors, shall perform the following duties:

A. Maintenance: The Association shall maintain and repair the Common Open Space, all improvements and landscaping thereon, all mitigation areas, and all property owned by the Association, including but not limited to the landscaping, Riparian Areas, and water features contained within the Common Open Space. The Association shall also pay all Common Expenses, as defined herein which will include but not be limited to Trail maintenance, Common Open Space maintenance, irrigation water for Common Open Spaces, snow removal on streets, and Trails, and arrange for the maintenance of all areas for which Common Expenses are payable (but not for any streets, driveways or parking areas within the multi-household lots which shall be the sole responsibility of the owners of such lots). In all instances, all facilities and improvements which are required to be installed pursuant to the final plat approvals by the City of Bozeman must be maintained in good condition in accordance with Section 38.38 of the Bozeman Municipal Code.

The responsibility of the Association for maintenance and repair described above shall not extend to repairs or replacements arising out of or caused by the willful or negligent act or omission of any Owner, or his guest, tenant, invitee or pet. Any such repairs or replacements not covered by insurance carried by the Association shall be made by the responsible Owner, provided the Board approves the Person or entity actually making the repairs and the method of repair. If the responsible Owner fails to take the necessary steps to make the repairs within a reasonable time under the circumstances, the Association shall cause the repairs to be made and charge the cost thereof to the responsible Owner, which costs shall bear interest at the rate of ten percent (10%) per annum (but no greater than the maximum rate allowed by law) until paid in full. If such repair is covered by the insurance carried by the Association, the Association shall be responsible for making the repairs, and the responsible Owner shall pay any deductible pursuant to the insurance policy. If the Owner fails to make such payment, then the Association may make such payment and shall charge the responsible Owner, which charge shall bear interest at the rate of ten percent (10%) per annum (but no greater than the maximum rate allowed by law) until paid in full. If the Owner disputes the charge, the Owner shall be entitled to a notice and a hearing as provided in the Bylaws before the charge may be collected.

B. Owners shall be responsible for keeping their Lots in good maintenance and repair. If the responsible Owner fails to take the necessary steps to keep its Lot in good repair and well maintained, make the repairs within a reasonable time under the circumstances, but no more than 90 days, the Association shall cause the repairs to be made and charge the cost thereof to the responsible Owner, which costs shall bear interest at the rate of ten percent (10%) per annum (but no greater than the maximum rate allowed by law) until paid in full. If such repair is covered by the insurance carried by the Association, the Association shall be responsible for making the repairs, and the responsible Owner shall pay any deductible pursuant to the insurance policy. If the Owner fails to make such payment, then the Association may make such payment and shall charge the responsible Owner, which charge shall bear interest at the rate of ten percent (10%) per annum (but no greater than the maximum rate allowed by law) until paid in full. Insurance: The Association shall obtain and maintain such policy or policies of insurance as are required by section 9.1 of this Declaration.

C. Discharge of Liens: The Association shall discharge by payment, if necessary, any lien against the Common Open Space and charge the cost thereof to the Member or Members responsible for the existence of the lien after notice and hearing as provided in the Declaration.

D. Assessments: The Association shall fix, levy, collect and enforce Assessments as set forth in Article IV hereof.

E. Payment of Expenses and Taxes: The Association shall pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes, assessments and governmental charges levied or imposed upon, or which are or may become a lien against, the property of the Association.

F. Enforcement: The Association shall be responsible for the enforcement of this Declaration, the Articles, Bylaws and Rules. In the event an Owner fails to comply with any Project Documents, the Association has the right to enter upon such Owner's Lot, remedy the lack of compliance and assess the costs incurred by the Association to such Owner.

G. Operation of Common Open Space and Creation of Rules: The Association shall maintain and operate the Common Open Space of the Project in accordance with all applicable municipal, state, and federal laws, statutes and ordinances, as the case may be. The Association shall also, as a separate and distinct responsibility, exert reasonable efforts to endeavor to ensure that third parties (including Owners and their guests) utilize the Common Open Space in accordance with the aforementioned regulations. The Association shall, when it becomes aware of any violation of the aforementioned regulations, endeavor to expeditiously correct such violations,

H. Inspection and Maintenance Guidelines: The Board shall adopt inspection and maintenance guidelines for the periodic inspection and maintenance of the Common Open Space improvements and landscaping and any other improvements outside the Common Open Space which the Association has the responsibility to maintain. The Board periodically and at least once every two years shall review and update the inspection and maintenance guidelines. The Board shall take all appropriate steps to implement and comply with the inspection and maintenance guidelines.

I. Preparation of Financial Documents: The Board shall cause the preparation of budgets and financial statements as required by the Bylaws.

5.2 Powers. In addition to the powers enumerated in the Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the following powers:

A. Utility Service: The Association shall have the authority (but not the obligation) to obtain, for the benefit of all of the Owners, all utilities and utility services including, without limitation, water, sewer, gas, electric service, refuse collection and cable access television.

B. Easements: The Association shall have the right to grant easements under, in, upon, across, over, above or through any portion of the Common Open Space for reasonable purposes, as approved by the Board, which are beneficial to the Association or the Project or the development of same.

C. Manager: The Association may employ a manager or other Persons and contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, except for the responsibility to levy fines, impose discipline, hold hearings, file suit, record or foreclose liens, or make capital expenditures.

D. Adoption of Rules: The Board shall have the right to adopt, promulgate and enforce reasonable rules and regulations (“Rules”), not in conflict or inconsistent with this Declaration relating to the Project and all aspects thereof including, without limitation, the operation, maintenance, use and enjoyment of the Project, the Common Open Spaces and individual Lots. It is the intent of this section that the Board have broad discretion with respect to the Rules and that the Board’s authority in this regard be construed liberally in order to effectuate the objectives of the Board with respect to the Rules. In general, the objectives of the Board should be to promote and enhance the Project, its attractiveness and economic viability, and provide for the orderly operation, maintenance, repair and upkeep of the Project, including procedures relating to the conduct of Association business. Written copies of such Rules and any schedule of fines and penalties adopted by the Board shall be furnished to Owners. Anything contained herein to the contrary notwithstanding, until ninety percent (90%) of the

Lots planned for the overall Project (including subsequently planned phases), the adoption or amendment of any Rules shall require the consent of Declarant.

E. Access: For the purpose of performing construction, maintenance or emergency repair for the benefit of the Common Open Space or the Owners in common and/or to perform maintenance work which the Lot Owner has failed to perform as provided herein, the Association's agents or employees shall have the right, after reasonable notice to the Owner thereof, to enter any Lot at reasonable hours and at any necessary time in the event of an emergency. Such entry shall be made with as little inconvenience to the Owner as practicable and, except as otherwise provided herein, any damage caused thereby shall be repaired by the Board at the expense of the Association.

F. Assessments, Liens, Penalties, and Fines: The Board shall have the power to levy and collect Assessments in accordance with the provisions of Article IV hereof. The Association may impose fines or take disciplinary action against any Owner for failure to pay Assessments or for violation of any provision of the Project Documents and the unrecorded Rules adopted by the Board or the Association. Penalties may include but are not limited to fines, temporary suspension of voting rights, rights to the use of recreational facilities (except those open to members of the public), if any, or other appropriate discipline, provided the Member is given notice and a hearing as provided in the Bylaws before the imposition of any fine or disciplinary action. The Board shall have the power to adopt a schedule of reasonable fines and penalties for violations of the terms of this Declaration, and for violations of any Rules adopted pursuant to section 5.2D. The penalties prescribed may include suspension of all rights and privileges of Membership; provided, however, that suspension for failure to pay Assessments shall be for a maximum period of thirty (30) days, renewable by the Board for an additional thirty (30) day period or periods until paid; and provided further that suspension for infraction of Rules or violation of this Declaration, other than for failure to pay Assessments, shall be limited to a maximum period of thirty (30) days per infraction or violation, and shall be imposed only after a hearing before the Board. The Board may extend said period for an additional period or periods in the case of a continuing infraction or violation, and no hearing need be held for such extension. Written copies of Rules and the schedule of penalties shall be furnished to Owners. The Board shall assess fines and penalties and shall enforce such Assessments as appropriate under applicable law.

G. Enforcement: The Board shall have the power to enforce this Declaration, the Articles, Bylaws and Rules.

H. Acquisition and Disposition of Property: The Board shall have the power to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real or personal property in connection with the affairs of the Association. Except to the extent authorized herein, any transfer of fee title to Association property shall be by document signed or approved by two-thirds (2/3) of the total voting power of the Members of the Association.

I. Contracts: The Board shall have the power to contract for goods and/or services for the Project including Common Open Spaces subject to limitations set forth in the Bylaws, or elsewhere herein.

J. Delegation: The Association, the Board, and the officers of the Association shall have the power to delegate their authority and powers to committees, officers or employees of the

Association, or to a manager employed by the Association, provided that the Board shall not delegate its responsibility:

- (1) To make expenditures for capital additions or improvements chargeable against the reserve funds;
- (2) To conduct hearings concerning compliance by an Owner or his tenant, lessee, guest or invitee with the Declaration, Bylaws or Rules promulgated by the Board;
- (3) To make a decision to levy monetary fines, impose special Assessments against individual Lots, temporarily suspend an Owner's rights as a Member of the Association or otherwise impose discipline;
- (4) To make a decision to levy regular or special Assessments; and
- (5) To make a decision to bring suit, record a claim of lien or institute Foreclosure proceedings for default in payment of Assessments.

K. Appointment of Trustee: The Association, or the Board acting on behalf of the Association, has the power to appoint or designate a trustee to enforce Assessment liens by sale as provided in section 4.10.

L. Litigation/Arbitration: Subject to the terms and provisions of Article X, the Association shall have the power to institute, defend, settle or intervene in litigation, arbitration, mediation or administrative proceedings in matters pertaining to (A) enforcement of the Project Documents, (B) damage to the Common Open Spaces, (C) damage to the separate interests which the Association is obligated to maintain or repair, or (D) damage to the separate interests which arises out of or is integrally related to damage to the Common Open Spaces or separate interests that the Association is obligated to maintain or repair.

M. Other Powers: In addition to the powers contained herein, the Board may exercise the powers granted to a nonprofit mutual benefit corporation under Montana law.

ARTICLE VI ARCHITECTURAL CONTROL

6.1 Lots Subject to Architectural Controls. All Lots are subject to architectural review to determine compliance with the Design Regulations and Guidelines, the Declaration and the other Project Documents. No structure shall be placed, erected, or installed upon any Lot, and no improvements (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements, and planting or removal of landscaping materials) shall take place except in compliance with this Declaration and approval of the Flanders Mill Architectural Committee (FMAC) ("Committee"); provided, however, that homes constructed by and for Declarant do not require Committee approval. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed structures and improvements shall be submitted to the Committee for review in accordance with the Design Regulations and Guidelines.

6.2 Purpose of Architectural Controls and Committee. The purpose and intent of this Article VI and the Design Regulations and Guidelines (Exhibit D) is to empower the Declarant to preserve property values within the Project. Until the end of the Development Period, the Declarant shall act as the FMAC, but may delegate that authority to the Association and a separately created Committee. A copy of the Design Regulations and Guidelines are attached, but owners should check with the FMAC for any updated versions. To the extent any building or landscape design provisions in this Declaration conflict with the Design Regulations and Guidelines, the Design Regulations and Guidelines shall control.

6.3 Modifications to Existing Improvements. Any Owner may remodel, paint or redecorate the interior of structures on his or her Lot without approval. Modifications to the exterior of a structure (and the interior of screened porches, patios, and similar portions of a structure visible from outside the structure on a Lot) shall be subject to review by the FMAC. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to repair or rebuild in accordance with originally approved plans and specifications.

ARTICLE VII USE RESTRICTIONS

In addition to all of the covenants, conditions and restrictions contained herein, the use of the Project and each Lot therein is subject to the following:

7.1 Use of Lot. Lots in the Project shall be used for purposes of constructing and maintaining single-household residential units and purposes reasonably incidental thereto and for no other purposes, except for those lots specifically designated for multi-household structures which may only be used for residential, multi-household uses, and shall be used and maintained in compliance with this Declaration, the Articles, Bylaws and Rules. Use of Lots shall at all times be in compliance with the conditions of approval of the Project by City of Bozeman, Montana, and any applicable regulations of the City of Bozeman, including the Unified Development Ordinance.

7.2 Nuisances. No noxious, illegal, or seriously offensive (to a reasonable Person) activities shall be carried on upon any Lot, or in any part of the Project, nor shall anything be done thereon which may be or may become a serious annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the Owners or his respective Lot.

7.3 Parking on Public Streets. Parking on public streets within the Project is subject to the provisions of Chapter 34 of the Bozeman Municipal Code, as may be amended from time to time.

7.4 Parking in Common Open Spaces. Parking of vehicles (recreational, transportation or otherwise) shall be allowed on the Common Open Space only in designated areas and in compliance with the Rules and this Declaration.

7.5 Commercial Activity. No business, professional or commercial activity shall be conducted on any Lot, except for Declarant's activities in connection with development of the Project and marketing and sales of the Lots as provided or contemplated herein. Nothing in this section is intended to restrict or prohibit Owners from using portions of their homes or units for home offices and related purposes such as operations of personal computers, the internet and similar equipment and facilities, so long as such activities do not materially increase the volume of vehicular traffic into the

Project, are conducted within the home or unit, and there are no signs or other indications of home-based business activities occurring on the premises.

7.6 Storage. No machinery, equipment, trailer, boats, recreational vehicles or other personal property shall be stored on the Common Open Space or Lots except in compliance with the Rules and this Declaration.

7.7 Signs. No signs shall be displayed to the public view on any Lot or on any portion of the Project except such signs as are allowed by the Rules and this Declaration. This provision shall not apply to Declarant.

7.8 Animals. No animals, pets or insects of any kind shall be raised, bred, or kept on any Lot or in the Common Open Space except that no more than three (3) usual and ordinary household pets such as dogs or cats provided they are not kept, bred, or maintained for any commercial purposes, and are kept under reasonable control at all times. No dangerous or poisonous animals, pets or insects of any kind shall be allowed in the Project. No pets shall be allowed in the Common Open Space except as may be permitted by Rules which shall include, without limitation, the requirement that such pets be maintained under control. After making a reasonable attempt to notify the Owner, the Board may cause any pet found within the Common Open Space in violation of the Rules or this Declaration to be removed to a pound or animal shelter under the jurisdiction of the city or county, by calling the appropriate authorities, whereupon the Owner may, upon payment of all expenses connected therewith, repossess the pet. Owners shall prevent their pets from soiling the Common Open Space or other's property and shall promptly clean up any mess left by their pets. Owners shall be fully responsible for any damage caused by their pets.

7.9 Garbage and Refuse Disposal. All rubbish, trash and garbage shall be regularly removed from the Lots, and shall not be allowed to accumulate thereon. Trash, garbage and other waste must be kept in appropriate containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition, and shall be screened from view of neighboring Lots, Common Open Spaces and streets. No toxic or hazardous materials shall be disposed of within the Project by dumping in the garbage containers or down the drains, or otherwise.

7.10 Antennas. Antennas shall be authorized on Lots for purposes of transmitting or receiving radio, video, television and related signals, to the extent allowed by the Rules and approved by the Committee.

7.11 Power Equipment and Car Maintenance. No offensive power equipment, hobby shops, or recreational vehicle, truck, car, motorcycle or boat maintenance (other than emergency work) or similar maintenance shall be conducted or stored outside of a garage. The Association shall have sole discretion in determining what constitutes "offensive" under this Section 7.11; provided however, the Association recognizes that the reasonable use of lawnmowers, string trimmers, power washers and other power tools that are operated in the normal course of conducting maintenance and repair of the grounds and structures on a Lot at reasonable hours are not offensive. All hazardous waste shall be disposed of properly by each Owner.

7.12 Liability of Owners for Damage to Common Open Space. The Owner of each Lot shall be liable to the Association for all damage to the Common Open Space improvements (including

landscaping) caused by such Owner, his agents, employees, guests, invitees or pets, except for that portion of damage covered by insurance carried by the Association. The responsible Owner shall be charged with the cost of repairing such damage (including interest thereon) as described in section 5.1A.

7.13 Leasing of Lots. No Owner shall be permitted to lease his Unit for any period less than one hundred eighty (180) days. Any lease shall be in writing and shall be subject in all respects to the provisions of the Declaration, the Bylaws and the Rules, and any failure of the tenant to comply with the foregoing shall be a default under the lease, regardless of whether the lease so provides. In the event of such a default, the Owner immediately shall take all action to cure the default including, if necessary, eviction of the tenant. All Owners leasing their Lots shall promptly notify the Secretary of the Association in writing of the names of all tenants and Members of tenant's household occupying such Lot and of the address and telephone number where the tenant and such Owner can be reached. Owners remain fully responsible for any Lessee's non-compliance with the Declaration, Bylaws and Rules.

7.14 Commonly Metered Utilities. The Board may establish restrictions regarding the individual use of any utility on a common meter, if any, and may impose reasonable charges for the individual use thereof.

7.15 Activities Causing Increase in Insurance Rates. Nothing shall be done or kept on any Lot or in any improvements constructed thereon, or in the Common Open Space, which will increase any applicable rate of insurance or which will result in the cancellation of insurance on any Lot or any part of the Common Open Space, or which would be in violation of any law.

7.16 Temporary Structures. No structure, facility or appurtenance of a temporary character shall be placed upon any Lot except in accordance with the Rules.

7.17 Owner's Right and Obligation to Maintain and Repair. Each Owner shall, at his sole cost and expense, maintain and repair his Unit and Lot and all improvements and lawn and landscaping thereon, including snow removal, keeping the same in good condition. In the event an Owner of any Lot shall fail to so maintain his Lot, the Association's agents may, after notice and a hearing as provided in the Bylaws, enter the Lot and perform the necessary maintenance. The cost of such maintenance shall immediately be paid to the Association by the Owner of such Lot, together with interest at the rate of twelve percent (12%) per annum (but not to exceed the maximum interest rate authorized by law) from the date the cost was incurred by the Association until the date the cost is paid by the Owner.

7.18 Timeshare and Fractional Ownership Prohibition. No Lot or Lots or any portion thereof in the Project shall be leased, subleased, occupied, rented, let, sublet, or used for or in connection with any time sharing or fractional agreement, plan, program or arrangement, including, without limitation, any so called "vacation license," "travel club," "extended vacation," or other membership or time interval ownership arrangement. This section shall not be construed to limit the personal use of any Lot or any portion thereof in the Project by any Owner or his or her social or familial guests.

7.19 High Groundwater Note. Owners are hereby informed that areas of high groundwater and outside shallow flooding areas may exist within the Project.

It is recommended that Owners consult with a qualified Consulting Professional Engineer licensed in the State of Montana prior to initiating construction of full or partial basements in order to

determine if groundwater could impact the planned structure and what mitigation actions might be taken.

ARTICLE VIII PROJECT DEVELOPMENT REQUIREMENTS

In addition to the Design Regulations and Guidelines and the architectural review process, the following requirements must be met for the development of any Lot.

8.1 Driveways. All driveways and parking areas shall be surfaced in concrete.

8.2 Driveway Swale Prohibitions. No Lot owner shall fill or obstruct the natural flow of any borrow ditch or drainage swale with the exception of the materials placed for the location of the driveway culvert. No borrow ditches may be filled.

8.3 Kennels. In general, kennels are discouraged in favor of the “invisible fence” system. A kennel shall not exceed 300 square feet. Kennels or dog runs must be placed within the area allowable for side or rear yard fencing. Kennels shall be integrated into the dwelling (attached) to avoid isolation and to provide as much aesthetic appeal as possible. Kennels shall not be higher than six (6’) feet in height and must be built using the same building materials as Privacy Screening. Chain link kennels may be allowed if they are screened in a manner approved by the Committee. Kennels must be kept clean and free from obnoxious odors or undue barking dogs. All kennels and dog runs must be approved by the Committee.

8.4 Fences. One of the primary goals of the Project is to create an atmosphere that is open and friendly. Because of the importance of this goal perimeter lot fencing will not be allowed in this subdivision. Dog runs, kennels, and electric invisible fence are to be used for constraining dogs. The Committee may approve fencing consistent with the Design Regulations Guidelines. To the extent applicable, allowed fencing dimensions and styles shall be compatible with those adopted in the Park Master Plan for the Project.

8.5 Privacy Screening. Privacy screens will be allowed but must be constructed of wood siding, stucco, brick, or stone, and they shall be an integrated part of the main building. Privacy Screening shall not extend into more than 1/3 of the required setback on the front or sides, nor more than 1/3 of the setback on the rear elevation, nor be more than 1/3 the width of the structure on the front (street) or rear elevation, nor 2/3 the length on the side elevations, unless a greater setback is required to comply with Section 38.21.060 of the Bozeman Municipal Code. Plans for privacy screening must be submitted and approved by the Committee.

8.6 Antennas and Satellite Dishes. Only smaller dishes of the latest technology (not exceeding two feet in diameter) will be allowed. Such dishes must be hidden from view and shall require Committee approval.

8.7 Exterior Lighting. Incandescent or residential fluorescent lighting is encouraged, and the use of mercury vapor, and obtrusive flood lighting is prohibited. Each house will provide a single street light which will be standardized for the entire subdivision and will be located at the inside corner of the driveway and the front yard setback. These street lights will be a free standing decorative light. All light fixtures shall be arranged to deflect down and/or away from adjoining properties or streets. They

will be placed at a minimum height of six (6') feet measured from the top of the sidewalk adjacent to it to the bottom of the light fixture itself. Light fixtures must incorporate cut-off shield to direct light downward. Fixtures should be compatible with architecture and site design. Luminaries shall not be visible from adjacent streets or properties. Locations must be approved by the Committee.

8.8 Utilities. All utilities including, but not limited to, natural gas, electricity, telephone and cable T.V. shall be located underground.

8.9 No Storage Sheds. Storage needs should be anticipated in the planning stage and will be required to be an integral part of the design of the garage so that all storage is within the garage or attached structure.

8.10 Temporary Structures. No temporary structures, trailers, campers, motor homes, tents, shacks, or similar structures shall be used as a residence on any Lot.

8.11 Solid Waste Containers. All solid waste containers must be stored out of view except during reasonable periods prior to and after pick-up, and only on day of pick-up.

8.12 Recreational Vehicles. Recreational vehicles and boats may not be stored or parked at any location within the Project except within a fully enclosed garage or designated area approved by the Association so as not to be visible from the Common Open Space or from any other Lot within the Project.

ARTICLE IX INSURANCE; DAMAGE OR DESTRUCTION; CONDEMNATION

9.1 Insurance. The Association shall obtain and maintain the following insurance:

(1) A hazard policy insuring all improvements, equipment, and fixtures owned by the Association, unless the Board determines, in its sole discretion, that such insurance is not necessary;

(2) a comprehensive general liability policy insuring the Association, its agents, the Owners and their respective household Members, against liability incident to the ownership or use of the Common Open Space or any other Association owned or maintained real or personal property (in occurrence version form if obtainable); the amount of general liability insurance which the Association shall carry at all times shall be not less than the minimum amounts required by Montana law;

(3) workers' compensation insurance to the extent required by law (or such greater amount as the Board deems necessary); the Association shall obtain a Certificate of Insurance naming it as an additional insured in regard to workers' compensation claims from any independent contractor who performs any service for the Association, if the receipt of such a certificate is practicable;

(4) Fidelity bonds or insurance covering officers, directors, and employees that have access to any Association funds;

(5) Officers and directors liability insurance, to the extent deemed appropriate by the Board in its discretion. ;

(6) Flood insurance if the Project is located in an area designated by an appropriate governmental agency as a special flood hazard area; and

(7) Such other insurance as the Board in its discretion considers necessary or advisable.

Each Owner appoints the Association or any insurance trustee designated by the Association to act on behalf of the Owners in connection with all insurance matters arising from any insurance policy maintained by the Association, including without limitation, representing the Owners in any proceeding, negotiation, settlement or agreement. Any insurance maintained by the Association shall contain “waiver of subrogation” as to the Association and its officers, directors and Members, the Owners and occupants of the Lots (including Declarant) and Mortgagees, and cross-liability and severability of interest coverage insuring each insured against liability to each other insured. The Association shall periodically (and not less than once every three years) review all insurance policies maintained by the Association to determine the adequacy of the coverage and to adjust the policies accordingly.

All individually owned insurance shall contain a waiver of subrogation as to the Association and its officers, directors and Members, the Owners and occupants of the Lots and Mortgagees, and all Members are deemed to have waived subrogation rights as to the Association and/or other Members, whether or not their policies so provide.

Each Owner shall be responsible for obtaining, maintaining and paying for such insurance as the Owner may deem reasonably necessary with respect to fire, casualty and liability involving such Owner’s Lot and all improvements and property thereon. All such individually carried insurance shall contain a waiver of subrogation by the carrier as to the other Owners, the Association, Declarant, and the Mortgagees of such Lot.

The Association shall make available to Members upon request copies of the Association’s policies to enable Members to insure their Lots without duplicating insurance carried by the Association.

The Association, and its directors and officers, shall have no liability to any Owner or Mortgagee if, after a good faith effort, it is unable to obtain the insurance required hereunder, because the insurance is no longer available or, if available, can be obtained only at a cost that the Board in its sole discretion determines is unreasonable under the circumstances, or the Members fail to approve any Assessment increase needed to fund the insurance premiums. In such event, the Board immediately shall notify each Member and any Mortgagee entitled to notice that the insurance will not be obtained or renewed.

9.2 Damage or Destruction. If any improvements or landscaping on any Lot are damaged or destroyed by fire or other casualty, the Owner of such Lot may repair or reconstruct the improvement only in accordance with the plans and specifications approved by the Association or its representative as provided herein including but not limited to approval by the Committee. In the event that such an Owner elects not to rebuild any structures, said Owner shall be responsible for promptly removing from the Lot any and all debris, including any portion of a structure which may remain standing after partial damage or destruction, and the Owner shall landscape the Lot in the manner approved by the Committee and the Association. If an Owner fails to pay the cost of required demolition or re-landscaping, the Association may elect to pay for the uninsured portion of the cost and shall have the right to assess the Owner for the cost thereof and to enforce the Assessment as provided in this Declaration.

If Common Open Space improvements are damaged or destroyed by fire or other casualty, the improvements shall be repaired or reconstructed substantially in accordance with the original as-built plans and specifications, modified as may be required by applicable building codes and regulations in force at the time of such repair or reconstruction, and subject to such alterations or upgrades as may be approved by the FMAC, unless either of the following occurs: (1) the cost of repair or reconstruction is more than fifty percent (50%) of the current replacement cost of all Common Open Space improvements, available insurance proceeds are not sufficient to pay for at least eighty-five percent (85%) of the cost of such repairs or reconstruction, and three-fourths (3/4) of the total voting power of the Association vote against such repair and reconstruction; or (2) available insurance proceeds are not sufficient to substantially repair or reconstruct the improvements within a reasonable time as determined by the Board, a special Assessment levied to supplement the insurance fails to receive the requisite approval (if such approval is required) as provided in section 4.4, and the Board, without the requirement of approval by the Owners, is unable to supplement the insurance by borrowing on behalf of the Association sufficient monies to enable the improvements to be substantially repaired or reconstructed within a reasonable time.

If the Common Open Space improvement is not repaired or reconstructed in accordance with the foregoing, all available insurance proceeds shall be disbursed among all Owners and their respective Mortgagees in the same proportion that the Owners are assessed, subject to the rights of the Owners' Mortgagees, after first applying the proceeds to the cost of mitigating hazardous conditions on the Project, making provision for the continuance of public liability insurance to protect the interests of the Owners until the property can be sold, and complying with all other applicable requirements of governmental agencies.

9.3 Condemnation. If all or any part of a Lot (except the Common Open Space) is taken by eminent domain, the award shall be disbursed to the Owner of the Lot, subject to the rights of the Owner's Mortgagees. If the taking renders the Lot uninhabitable, the Owner shall be divested of any further interest in the Project, including Membership in the Association, and the interest of the remaining Owners shall be adjusted accordingly. If all or any part of the Common Open Space is taken by eminent domain, the proceeds of condemnation shall be used to restore or replace the portion of the Common Open Space affected by condemnation, if restoration or replacement is possible, and any remaining funds, after payment of any and all fees and expenses incurred by the Association relating to such condemnation, shall be distributed among the Owners in the same proportion as such Owners are assessed. The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Open Space or part thereof.

ARTICLE X GENERAL PROVISIONS

10.1 Enforcement. Subject to the provisions and requirements of Article X, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration, the Articles and the Bylaws, and in such action shall be entitled to recover reasonable attorneys' fees as are ordered by the Court. The Association has the right to record a Notice of Violation against the Lot of an Owner who is not in compliance with the provisions of the Project Documents.

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 thereafter.

10.2 Invalidity of Any Provision. Should any provision or portion hereof be declared invalid or in conflict with any law of the jurisdiction where this Project is situated, the validity of all other provisions and portions hereof shall remain unaffected and in full force and effect.

10.3 Term. The covenants and restrictions of this Declaration shall run with and bind the Project, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners of the Lots, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions in whole or in part, or to terminate the same; provided, however, that the Declaration may not be terminated until such time as the City of Bozeman releases the Project from the obligation to maintain the Common Open Spaces and other facilities installed pursuant to the final plat approvals.

10.4 Amendments. Prior to sale of ninety percent (90%) of the Lots planned for the overall Project (including subsequently planned phases), the Declarant may amend this Declaration without the consent of the Owners or the Association. After sale of ninety percent (90%) of the Lots planned for the overall Project (including subsequently planned phases), this Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of Members representing a majority of the total voting power of the Association, unless another percentage is specified herein; provided, however, that the Declaration may not be amended in any manner which would place it out of compliance with Article 38.38 of the Bozeman Municipal Code, as may be amended from time to time. Any amendment must be certified in a writing executed and acknowledged by the Association President or Vice President and recorded in the Gallatin County Clerk & Recorder's Office. No amendment shall adversely affect the rights of the holder of any Mortgage of record prior to the recordation of such amendment.

10.5 Limitation of Restrictions on Declarant. Declarant is undertaking the work of construction of improvements upon the Project. The completion of that work and the sale of said Lots are essential to the establishment and welfare of the Project as a residential community. In order that said work may be completed and said Project be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

A. Prevent Declarant, its contractors, or subcontractors from doing on the Project or any Lot, whatever is reasonably necessary or advisable in connection with the completion of said work;
or

B. Prevent Declarant or its representatives from erecting, constructing and maintaining on the Project (except upon Lots owned by others), such structures as may be reasonable and necessary for developing said Project as a residential community and disposing of the same by sale, including a sales office and design center; or

C. Prevent Declarant from conducting on the Project (except upon Lots owned by others) its business of completing said work and of establishing a plan of residential ownership and of disposing of the Lots and units by sale; or

D. Prevent Declarant from maintaining or displaying such signs, pennants and flags(s) on the Project (except upon Lots owned by others) as may be necessary for the sale, lease or disposition thereof, or

E. Subject Declarant to the architectural control provisions of Article VI for the construction of any improvement on the Project.

F. Prevent Declarant from exercising the following rights: Declarant reserves and shall have the right and easement, both while Declarant is still the Owner of Lots in the Project and thereafter, to enter upon the Project, and all portions thereof, for purposes of inspecting and correcting any alleged defect in the design or construction of improvements in the Project.

The foregoing rights of Declarant shall, except as provided in Section 10.5.F, terminate upon the sale by Declarant of all Lots in the Project. Until such time, said rights shall constitute easements reserved by Declarant for the benefit of Declarant and any Lots or property owned by Declarant within the Project.

So long as Declarant, or its successors and assigns, owns one or more of the Lots described herein, Declarant, or its successors and assigns, shall be subject to the provisions of this Declaration. Declarant shall make reasonable efforts to avoid disturbing the use and enjoyment of Lots and the Common Open Space by their Owners, while completing any work necessary to said Lots or Common Open Space.

10.6 Termination of Any Responsibility of Declarant. In the event Declarant shall convey all of its rights, title and interest in and to the Project to any successor Person or entity, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such successor Person or entity shall be obligated to perform all such duties and obligations of the Declarant.

10.7 Owners' Compliance. Each Owner, tenant or occupant of a Lot shall comply with the provisions of this Declaration, and (to the extent they are not in conflict with the Declaration) the Articles, Bylaws and Rules, and the decisions and resolutions of the Association or the Board, as lawfully amended from time to time. Failure to comply with any such provisions, decisions, or resolutions shall be grounds for an action (1) to recover sums due, (2) for damages, (3) for injunctive relief, (4) for costs and attorney fees, or (5) any combination of the foregoing.

In the event of a violation of the Project Documents, the Association may record a Notice of Violation against the Lot of the non-complying Owner. Upon recording a Notice of Violation, the Association shall have complete discretion in deciding whether, when and how to proceed with enforcement, and any delay after recording a Notice of Violation shall not give rise to a defense of waiver or estoppel in favor of a noncomplying Owner. The Association may take action to enforce compliance against a subsequent Owner who acquires a Lot with a recorded Notice of Violation. The right of the Association to record a Notice of Violation shall be in addition to all other rights and remedies the Association may have at law or under the Project Documents.

All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in this Declaration, or in the Articles or the Bylaws, shall be deemed to be binding on all Owners, their successors and assigns.

10.8 Notice. Any notice permitted or required by the Declaration, Articles or Bylaws, whether or not such section requiring the notice so states, may be delivered personally, by mail, or by electronic means if such electronic means and methods are in accordance with the Montana Nonprofit Corporation Act. If delivery is by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, first class or registered, postage prepaid, addressed to the person to be notified at the current address given by such person to the Secretary of the Board or addressed to the Lot of such person if no address has been given to the Secretary.

10.9 No Discrimination. No Owner shall, either directly or indirectly, forbid or restrict the conveyance, encumbrance, leasing, or mortgaging, or occupancy of his Lot to any person of a specified race, sex, adulthood, marital status, color, religion, ancestry, physical handicap, sexual orientation, or national origin.

10.10 Alternative Dispute Resolution. Alternative dispute resolution procedures shall be applicable and implemented as provided in Article XI hereof.

10.11 Number; Gender. The singular and plural number and the masculine, feminine and neuter gender shall each include the other where the context requires.

10.12 Captions. The captions and headings herein are for convenience only and shall not be used to limit or expand the terms or provisions hereof.

10.13 Exhibits. All Exhibits are deemed incorporated herein by reference as though set forth in full.

10.14 Compliance with FHA, VA, FHLMC or FNMA Requirements. If Declarant chooses a financing program that involves Mortgage insurance issued by a government agency such as the FHA or VA, or involves first Mortgage sales to an agency such as FHLMC or FNMA, the Association, the Board and each Owner shall take reasonable steps to satisfy the requirements of such program and/or agency including, without limitation, initiating and completing amendments to the Project Documents.

10.15 Power of Attorney. Each Owner hereby appoints the Declarant as his or her attorney-in-fact, and grants the Declarant all necessary authority so that the Declarant may file any amendment authorized by the process described herein.

ARTICLE XI ENFORCEMENT

11.1 Priority and Defined Terms. The terms and provisions of this Article shall have priority over and supersede any inconsistent terms or provisions contained in any other Articles or portions of this Declaration. The defined (initially capitalized) terms contained in this Article shall be in addition to defined terms set forth in Article I hereof.

11.2 Enforcement and Non-waiver. The Declarant, Association or any Owner shall have a right of action against any Owner, and any Owner shall have a right of action against the Association, to enforce by proceedings at law or in equity, all restrictions, conditions, covenants and reservations, now or hereafter imposed by the provisions of the Project Documents or any amendment thereto, including the right to prevent the violation of such restrictions, conditions, covenants, or reservations and the right to recover damages or other dues for such violation except that Owners shall not have any right of enforcement concerning liens for Assessments. The Association shall have the exclusive right to the enforcement of provisions relating to architectural control and the Rules, unless the Association refuses or is unable to effectuate such enforcement, in which case any Owner who otherwise has standing shall have the right to undertake such enforcement. Failure of the Association, Declarant or any Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE XII SPECIAL DECLARANT RIGHTS

Declarant reserves the following Declarant Rights during the Development Period (“Special Declarant Rights”), which may be exercised, where applicable, anywhere within the Project:

- A. To complete any improvements indicated on plat maps or development plans filed with the Declaration or otherwise a part of the preliminary plat approval granted by the City of Bozeman as may be amended from time to time.;
- B. To maintain sales offices, management offices, signs advertising on the Project as set forth in section 13.3;
- C. To use easements through the Common Open Space for the purpose of making improvements within the Project;
- D. To merge or consolidate the Association with another common interest community of the same form of ownership or make it subject to a master association;
- E. To operate a resale or rental office on site after all the Lots have been developed, sold and completed; and
- F. To exercise any rights granted to the Declarant by these Covenants.

12.1 Transfer of Special Declarant Rights.

A. Assignment. Declarant may assign any Special Declarant Rights, Development Rights, or other special rights and obligations of Declarant set forth in this Declaration or the Bylaws to any affiliate of Declarant, or Declarant may allow any affiliate of Declarant to exercise such rights on behalf of Declarant. The method of exercising such rights shall be subject to the agreement of the parties thereto, which shall not require recordation in the public records of the Office of the Clerk and Recorder of Gallatin County.

B. Transfer. Any or all Special Declarant Rights identified in this section, Development Rights, or any of the other special rights and obligations of Declarant set forth in this

Declaration or the Bylaws may be transferred in whole or in part to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the Bylaws. No such transfer shall be effective unless it is in a written instrument signed by Declarant and duly recorded as a public record in the Office of the Clerk and Recorder of Gallatin County.

12.2 Models, Sales Offices and Management Offices. During the Development Period, Declarant may maintain and carry on upon any Lot owned by Declarant or any portion of the Common Open Space such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the sale of Lots and construction of Units on the Lots, including, but not limited to, business offices, signs, model units, marketing trails, and sales offices. Declarant shall have easements for access to and use of such facilities. Declarant's unilateral right to use the Common Open Space for purposes stated in this section shall not be exclusive and shall not unreasonably interfere with use of such Common Open Space by Owners unless leased pursuant to a lease agreement with the Association providing for payment of reasonable rent.

12.3 Construction of Improvements. Declarant and its employees, agents and designees shall also have a right and easement during the Development Period over and upon all of the Common Open Space for the purpose of making, constructing and installing such improvements to the Common Open Space as it deems appropriate in its sole discretion.

12.4 Other Covenants Prohibited. During the Development Period, no Person shall record any declaration of covenants, conditions and restrictions, or similar instrument affecting any portion of the Project without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by Declarant and recorded as a public record in the Office of the Clerk and Recorder of Gallatin County.

12.5 Master Planned Community. Each Owner, by accepting title to a Lot and becoming an Owner, and each other Person, by acquiring any interest in the Lots, acknowledges awareness that the Project is a master planned community, the development off which is likely to extend over many years, and agrees not to protest or otherwise object to changes in any conceptual or master plan for the Project.

12.6 Equal Treatment. So long as Declarant owns any property described in Exhibit A, the Association shall not, without prior written consent of Declarant, adopt any policy, rule or procedure that amends or eliminates and of the rights reserved to the Declarant.

12.7 Right to Use Common Open Space for Special Events. As long as Declarant owns any property described in Exhibit A (as amended from time to time), Declarant shall have the right to use all Common Open Space, including any recreational facilities, for up to eight days each year to sponsor special events for charitable, philanthropic, political or marketing purposes as determined by Declarant in its sole discretion. Any such event shall be subject to the following conditions.

A. The availability of the facilities at the time a request is submitted to the Association;

B. Declarant shall pay all costs and expenses incurred and shall indemnify the Association against any loss or damage resulting from the special event; and

C. Declarant shall return the facilities and personal property owned by the Association and used in conjunction with the special event to the Association in the same condition as existed prior to the special events.

Declarant shall have the right to assign the rights contained in this section 13.8 to charitable organizations or foundations selected by Declarant. Declarant's right to use the Common Open Space for special events shall be enforceable by injunction, by any other remedy in law or equity, and by the terms of this Declaration.

12.8 Amendment. This Article shall not be amended without the prior written consent of Declarant so long as Declarant owns any property described in Exhibit A (as amended from time to time).

ARTICLE XIII REQUIREMENTS OF CITY OF BOZEMAN

The following conditions have been imposed on the Project by the City of Bozeman, and shall not be amended or revoked without the consent of the Owner in accordance with the amendment procedures of this Declaration, and the City Commission:

A. Sidewalks meeting the requirements of the City of Bozeman shall be constructed on all public street frontages of a Lot prior to the occupancy of any structure on such Lot. Upon the third anniversary of the recording of the final plat for any phase of the Project, any lot owner who has not constructed the required sidewalks shall, without further notice, construct within 30 days the required sidewalk for that owner's Lot or Lots, regardless of whether other improvements have been made upon the lot. In the event the lot owner does not comply with these requirements or any related requirements imposed by the Design Regulations and Guidelines, the Declarant, or the HOA, may take steps to install the sidewalks and shall assess the landowner for such expenses, with such assessment to constitute a lien on the property to be enforced in any manner as provided herein and/or in accordance with Montana law.

B. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days' notice from the property owners' association, the association may cause the noxious weeds to be controlled.

The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.

C. All areas disturbed by construction shall be re-seeded with vegetation types approved by the Gallatin County Weed Control Officer.

D. All public and private structures shall be properly designed in accordance with the International Building Code (IBC).

E. There shall be no filling, draining, excavating, dredging, mining, drilling or removal of topsoil, loam, peat, sand, gravel, rock, minerals or other materials within the boundaries and the wetland mitigation areas.

F. There shall be no building of roads or paths nor any change in the topography of the Land within the boundaries and the wetland mitigation areas.

G. There shall be no removal, destruction, or cutting of trees or plants, spraying with biocides, insecticides, pesticides or herbicides (except to control noxious weeds), grazing of animals, farming, tilling of soil, or other agricultural activity within the boundaries and the wetland mitigation areas.

H. There shall be no operation of snowmobiles, motorcycles, all-terrain vehicles or any other type of motorized vehicles on the Land within the boundaries and the wetland mitigation areas.

IN WITNESS WHEREOF, Declarant has executed this Declaration this 19th day of August, 2011.

DECLARANT:

FALNDERS MILL, LLC,

By: _____

Walter Wolf

HOMELANDS DEVELOPMENT COMPANY, LLC, a
Nevada limited liability company, its Managing
Member

STATE OF Montana)
 :SS
COUNTY OF Gallatin)

This instrument was acknowledged before me on _____ IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public for the State of _____
My commission expires: _____

EXHIBIT A
Legal Description

EXHIBIT B
Overall Project Map

EXHIBIT C

Riparian Management Plan

EXHIBIT D

Design Regulations and Guidelines