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Debbie Pierson, Flathead County MT by DD

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
WHITEFISH HILLS VILLAGE**

ARTICLE I. DECLARATION – PURPOSES

Section 1.1 **Property:** The initial property which is subject to the Declaration of Covenants, Conditions and Restrictions is described as follows:

Whitefish Hills Village, Phase 1, Subdivision, according to the map or plat thereof, on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

The property is owned by Whitefish Village, LLC (the “Declarant”). The Declarant anticipates developing Whitefish Hills Village in phases, and additional property may be added to this Declaration from time to time by Declarant.

Section 1.2 **General Purposes:** The purpose of this Declaration is to insure the best use of the property and the most appropriate development and improvement of each Lot within the property; to protect the Owners against such improper use of surrounding Lots as will depreciate the value of their Lot; to preserve so far as is practicable the nature of the property; to prevent the construction of inappropriate structures; to insure the highest and best development of the property; to encourage and secure the building of attractive homes thereon with appropriate locations; to secure and maintain adequate setbacks and adequate free space between structures; and in general to provide adequately for a high quality of improvements on the property and thereby to enhance the values of improvements by Owners.

Section 1.3 **Declaration:** To further the general purposes herein expressed, Whitefish Village, LLC (the “Declarant”) for itself and its successors and assigns, hereby declares that the real property described in Section 1.1 above, and all property added to this Declaration by the Declarant, shall at times be owned, held, used and occupied subject to the provisions contained in this Declaration and to the covenants, conditions and restrictions contained herein.

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ARTICLE II. DEFINITIONS

Section 2.1 **Articles:** Articles shall mean the Articles of Incorporation of Whitefish Hills Village Homeowners Association, Inc., as the same may be amended from time to time.

Section 2.2 **Bylaws:** Bylaws shall mean the Bylaws of Whitefish Hills Village Homeowners Association, Inc., as the same may be amended from time to time.

Section 2.3 **Common Area:** Common Area means the property which is subject to this Declaration, but excludes the individual Lots within the property. Thus, the Common Area includes any areas shown on any plat of property within Whitefish Hills Village as roads, common areas, open space or open area and other property intended for the common use, benefit and enjoyment of the Owners and such other persons as may be permitted to use the Common area under the terms of this Declaration or any contract with the Homeowners Association. Initially, the Common Area includes Open Spaces A, B, & C, Stelle Lane, Whitefish Village Drive, and Hills Lookout Court as shown on the plat of Whitefish Hills Village, Phase 1, Subdivision, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

Section 2.4 **Common Expenses:** Common Expenses means (i) the expenses of maintaining the roads which are part of the Common Area within Whitefish Hills Village, (ii) the expenses of maintaining and operating the Water System to serve the Owners, (iii) premiums for the liability insurance carried by the Homeowners Association, (iv) all other expenses incurred by the Homeowners Association in administering, servicing, conserving, managing, paying property taxes upon, maintaining, repairing or replacing the Common Area and any improvements located on it, (v) all expenses incurred by the Homeowners Association in administering and managing the Homeowners Association and this Declaration, (vi) all expenses incurred by the Homeowners Association in any other activities undertaken for the common benefit of all or some of the Owners; and (vii) all expenses lawfully determined to be Common Expenses by the Board of Directors of the Homeowners Association, as provided in this Declaration and in the Articles and Bylaws.

Section 2.5 **Declarant:** Declarant shall mean Whitefish Village, LLC. Declarant may assign some or all of its rights under this Declaration to a third party by a written instrument specifically referring to such rights recorded in the records of Flathead County, Montana. Such instrument may specify the extent and portion of the rights or interests as Declarant which are being assigned, in which case the initial Declarant shall retain all other rights as Declarant.

Section 2.6 **Declaration:** Declaration shall mean this Declaration of Covenants, Conditions and Restrictions of Whitefish Hills Village, as it may be amended from time to time.

Section 2.7 **First Mortgage:** First Mortgage means any mortgage, deed of trust, trust indenture, contract for deed, or other similar financial encumbrance granted by an Owner to secure a debt, which is recorded in the office of the Clerk and Recorder of Flathead County, Montana, which encumbers a Lot, and which is first in priority among all such mortgages, deeds



of trust, trust indentures or other similar financial encumbrances. There can only be one First Mortgage with respect to a Lot.

Section 2.8 Homeowners Association: Homeowners Association shall mean Whitefish Hills Village Homeowners Association, Inc., and its successors and assigns.

Section 2.9 Lot: Lot shall mean each parcel within the property described in Section 1.1, above, which is designated as a Lot on a plat of the property, including any such parcel owned by Declarant. The boundaries and acreage of each Lot are delineated on a plat, and each Lot is identified by the number noted on the plat. The roads and Common Areas shown on any plat are not considered Lots. Any parcel of property owned, held or used by the Homeowners Association or owned, held or used in common by the Owners shall not be considered a Lot.

Section 2.10 Owner: Owner shall mean the person or persons, entity or entities who own of record, according to the real property records of Flathead County, Montana, fee simple title to a Lot, except that a person purchasing a Lot under a contract for deed which is recorded (or an abstract of which is recorded) in the records of Flathead County, Montana, shall be considered the Owner of the Lot. The term "Owner" shall include Declarant to the extent it is the owner of fee simple title to a Lot.

Section 2.11 Period of Declarant Control: Period of Declarant Control shall mean the period beginning on the date this Declaration is first recorded in the office of the Clerk and Recorder of Flathead County, Montana, and ending on the date on which the Declarant has sold one hundred percent (100%) of the Lots within Whitefish Hills Village (including all phases) and the Declarant has notified the Homeowners Association in writing that Declarant has determined that no additional property shall be added to Whitefish Hills Village. The Period of Declarant Control may be reinstated or extended by agreement between Declarant and the Homeowners Association upon such terms and conditions as the parties may agree. After the termination of the Period of Declarant Control, Declarant, if still an Owner, will continue to have all the rights and duties ordinarily given to Owners under this Declaration.

Section 2.12 Water System: The Water System means the water wells, pumps, main water lines and other equipment and facilities for providing a domestic water supply to Whitefish Hills Village Lots and Common Area. The Water System does not include the service lines running from the house located on each Lot to the water meters and shut-off valve located near the property line of each Lot.

Section 2.13 Whitefish Hills Village: Whitefish Hills Village shall mean all of the real property located in Flathead County, Montana, described in Section 1.1, above, as well as all real property which in the future becomes part of the Whitefish Hills Village. Additional real property within Flathead County, Montana, may become part of Whitefish Hills Village in the future, as provided in Article IX, below, and in such event shall be deemed to be within Whitefish Hills Village and subject to all of the provisions contained in this Declaration.



ARTICLE III. HOMEOWNERS ASSOCIATION

Section 3.1 **Homeowners Association:** The Homeowners Association shall act as a homeowners association for Whitefish Hills Village.

Section 3.2 **Powers:** The Homeowners Association shall have all such powers as permitted by the laws of the State of Montana, provided that the Homeowners Association shall be subject to and abide by the provisions of this Declaration, as the same may be amended from time to time.

Section 3.3 **Membership:** All Owners of the Lots within Whitefish Hills Village shall be members of the Homeowners Association. The Owners of any Lot shall automatically become members of the Homeowners Association and shall remain a member until such time as the ownership of such Lot ceases for any reason, at which time the corresponding membership in the Homeowners Association shall automatically cease.

Section 3.4 **Owners' Address:** Upon acquiring a Lot, the Owners of the Lot shall immediately inform the Homeowners Association of their names and of one address to which notices from the Homeowners Association should be sent. The Owners shall be responsible for informing the Homeowners Association of any change of address.

Section 3.5 **Voting:** There shall be one vote for each Lot. If a person or entity owns more than one Lot, that person or entity shall have as many votes as the number of Lots owned by that person or entity. If more than one person or entity has an ownership interest in a single Lot, such persons or entities must decide among themselves how the vote for that Lot shall be cast.

Section 3.6 **Management During Period of Declarant Control:** During the Period of Declarant Control, Declarant may appoint, remove and replace from time to time any or all of the directors and officers of the Homeowners Association. If Declarant so elects, Declarant may from time to time relinquish, either on a temporary or permanent basis, the right to appoint all or a portion of the directors and officers of the Homeowners Association; provided that any such relinquishment shall be expressed in writing to the Homeowners Association.

ARTICLE IV. COMMON AREA

Section 4.1 **Common Area:** The Homeowners Association shall maintain the open space portions of the Common Areas so they will be an attractive and useful amenity for the Owners.

Section 4.2 **Easements over all Common Areas:** The Owners shall have an easement for use and enjoyment of all of the Common Areas, subject to such rules and regulations as the Homeowners Association may develop from time to time, and also subject to the rights reserved to Declarant and the reserved rights of any third parties with respect to the Common Area. Declarant reserves and shall have an easement over all of the Common Area for ingress, egress, a trail system, and utilities. Declarant may grant further easements to others for such use of the Common Areas. A portion of the open space shall be devoted by the Declarant for the use of a maintenance facility, and



for storage of the Lot Owners boats or recreational vehicles. The maintenance facility shall be for the use of the caretaker and maintenance personnel for a staging, storage, and maintenance of equipment used in maintaining the grounds, roads, trails, utilities, and water system, within or outside Whitefish Hills Village property.

Section 4.3 Retained Easement for Roads: Declarant reserves and shall have an easement over all of the roads for ingress, egress and utilities. Declarant may permit others to use the roads and grant further easements to others for use of the roads.

Section 4.4 Road Maintenance: The roads within Whitefish Hills Village shall be maintained, repaired and replaced by the Homeowners Association, including plowing of snow. The roads shall be maintained in good condition to allow year-around access to all Lots. During the Period of Declarant Control, no gates, other impediments, or signage may be placed on any roads without the prior written consent of Declarant. The Homeowners Association may elect to landscape and/or maintain portions of road right- of-way not actually used for road purposes.

Section 4.5 Property Taxes: It is acknowledged that, for property tax purposes, Flathead County and the State of Montana may allocate to each Lot a fractional, proportional portion of the value attributable to the Common Areas. By accepting a deed to a Lot, the Owner agrees to this mechanism for property taxation and agrees to pay a proportional share (as allocated by Flathead County and the State of Montana) of the taxes attributable to the value of the Common Areas, while at the same time allowing the Homeowners Association to administer and control the Common Areas.

Section 4.6 No Dedication to the Public: Nothing in this Declaration or any other document relating to Whitefish Hills Village will be construed as a dedication to public use, or a grant to any public municipal or quasi-municipal authority or utility, or an assumption of responsibility for the maintenance of any Common Area by such authority or utility, absent an express written agreement to that effect. The roads within Whitefish Hills Village shall be private roads, designated by the County Commissioners as "Public Access Easements".

Section 4.7 Approval of Declarant: During the Period of Declarant Control, no construction of improvements shall take place within the Common Area nor shall any other changes or alterations be made to the Common Area or the uses within the Common Area without the prior written consent of the Declarant.

ARTICLE V. WATER SYSTEM

Section 5.1 Water System: Each Lot shall be served by a Water System owned and operated by the Homeowners Association. Each structure designed for occupancy will connect to the Water System. No individual wells shall be permitted on any Lots.

Section 5.2 Initial Construction: Declarant shall be responsible for the initial drilling of the wells; installation of pumps and other equipment; and construction of the water mains, the shutoff valve (curb stop) located at or near the property line of each Lot, and the portion of the service line running between the water main and the shutoff valve. Each Owner shall be



responsible for the initial construction of the portion of the service line running from the shutoff valve to the residence and all other water facilities located on that Owner's Lot, including but not limited to a water meter of the type specified by the Homeowners Association to be located in a vault at the shut-off valve for access for reading. The shutoff valve for each Lot may be located (a) near the Lot within the utility easements shown on the plat or (b) on the Lot itself. If the shutoff valve is located within the utility easement shown on the plat, the Owner shall have an easement for access, construction, maintenance, repair and replacement of the service line running from the house to the shutoff valve. If the shutoff valve is located on the Lot itself, the Homeowners Association shall have an easement over the Lot for access, construction, maintenance, repair and replacement of the Water System from the main water lines up to and including the shutoff valve where it is located on the Lot.

Section 5.3 Maintenance and Operation: (a) On completion, the Water System will be owned, operated, repaired, maintained, and replaced by the Homeowners Association. The Water System shall be operated in conformance with the applicable rules and regulations of the Montana Department of Environmental Quality (or its successor agency). When required by such regulations, the Homeowners Association shall contract with a licensed operator to operate the Water System.

(b) Each Owner shall be responsible for the operation, repair, maintenance and replacement of the portion of the service line running from the shutoff valve to the residence and all other water facilities located on that Owner's Lot. Each Owner agrees to install, operate, repair, maintain and replace the water facilities for which the Owner is responsible in such a manner as to cause no injury to other property or the overall Water System, and to be in compliance with any rules and regulations adopted by the Homeowners Association concerning the Water System. Each Owner shall be responsible for all costs of any maintenance, repair or replacement of plumbing or water damage which may occur within any structure on the Owner's Lot.

Section 5.4 Water Service Charges: Each Owner shall pay to the Homeowners Association such amounts for water service as may be set from time to time by the Homeowners Association, including usage charges; the cost of maintenance, repair and operation of the Water System; costs of electricity or other utilities; expenses of retaining a certified water operator; water sampling and testing; all costs of compliance with applicable governmental regulations concerning domestic water systems; all costs of maintaining the water produced by the Water System in a safe and hygienic condition; payment of any deficit remaining from a previous Assessment period; and the creation or supplementing of a reserve fund for general, routine maintenance, repairs and replacement of the Water System on a periodic basis, as needed; and all other fees and charges deemed necessary or appropriate by the Board of Directors. All such charges shall be considered Water Assessments, as provided in Article VI, below. In no event shall the Declarant or the purchaser of a Lot from Declarant be charged a hook-up fee or similar fee for hooking onto the Water System.

Section 5.5 Usage Charges: The Homeowners Association may charge for water usage by making an equal charge to all Lots which are hooked up to the Water System, by metered water usage, or by any other means or methods deemed appropriate by the Board of Directors. Each Owner shall be responsible for furnishing a water meter of the type specified by



the Homeowners Association and for the installation, operation, repair, maintenance and replacement of the water meter so that the water meter will at all times be in compliance with the specifications of the Homeowners Association. Each Owner shall cooperate in permitting the Homeowners Association to periodically read the water meter to determine water usage.

Section 5.6 Use of Water: The Water System is intended for domestic household and yard and garden use only, and not for any form of commercial irrigation or for household heating and cooling. The irrigated area per lot must be limited to 0.25 Acres per the DEQ approval. No Owner shall sell, transport or utilize water from the Water System on any property other than the Owner's Lot (except in the event of an emergency). The Homeowners Association may use water in connection with its maintenance of the Common Areas or for other purposes. If the Water System has excess capacity, the Homeowners Association may deal with the excess capacity in any manner it shall see fit, provided that water service to the Lots is not unreasonably impaired.

Section 5.7 Limited Warranty by Declarant: Declarant warrants the Water System for a period of one year from substantial completion of the Water System. During this warranty period, Declarant will repair or replace any portion of the Water System that is defective. In addition, Declarant hereby assigns all warranty rights that Declarant may have from any engineers, well drillers, contractors and suppliers ("third party providers") in connection with the construction of the Water System to the Homeowners Association. THE LIMITED WARRANTY OF DECLARANT AND THE ASSIGNMENT OF ALL WARRANTIES FROM THIRD-PARTY PROVIDERS IS IN LIEU OF AND REPLACES ANY IMPLIED WARRANTY OF MERCHANTABILITY, HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE FROM DECLARANT, AND DECLARANT MAKES NO IMPLIED WARRANTY OF MERCHANTABILITY, IMPLIED WARRANTY OF HABITABILITY, IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, OR IMPLIED WARRANTY OF ANY KIND CONCERNING THE WATER SYSTEM.

Section 5.8 Dedication of Water System: The Homeowners Association, acting through the Board of Directors, shall have the power to dedicate or transfer all or any part of the Water System to any water district, municipality, public agency, authority or utility authorized to operate a water system, subject to such conditions as may be agreed to by the Homeowners Association.

ARTICLE VI. ASSESSMENTS

Section 6.1 Assessments: Each Owner of any Lot, by acceptance of the deed to a Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay to the Homeowners Association assessments for Common Expenses as provided herein, including Annual Assessments, Special Assessments, Water Assessments and Default Assessments (collectively "Assessments"). The Assessments shall be used exclusively to promote the recreation, health, safety, and general welfare of the Owners and occupants of Whitefish Hills Village.

Section 6.2 Annual Assessment: (a) The Board of Directors may levy upon and subsequently collect from each Owner an Annual Assessment for each Lot. The Annual Assessment shall reflect the Board's estimate of the requirements of the Homeowners Association to cover items including, without limitation, the cost of maintenance, repair and operation of the Common Area; expenses of management; premiums for insurance coverage as deemed desirable or necessary by the



Homeowners Association; snow removal, landscaping, care of grounds and common lighting within the Common Area; routine renovations within the Common Area; common water and utility charges for the Common Area; legal and accounting fees; management fees; expenses and liabilities incurred by the Homeowners Association under or by reason of this Declaration; payment of any deficit remaining from a previous Assessment period; and the creation or supplementing of a reserve fund for general, routine maintenance, repairs and replacement of improvements within the Common Area on a periodic basis, as needed.

(b) The Annual Assessment shall be equal for each Lot, unless the Board of Directors determines in good faith that a portion of the Annual Assessment benefits fewer than all the lots, in which case such portion shall be assessed only against the benefitted Lots. Road maintenance, repair and replacement shall be considered to benefit all Lots equally, and such costs shall be apportioned equally among all Lots. The assessments shall include funds for the Stelle Lane maintenance and Reserve fund; interior roads and general maintenance; and an interior subdivision road reserve fund. An assessment rate sheet will be provided to lot owners by the Board of Directors.

Section 6.3 Special Assessment: (a) The Board of Directors may, from time to time, levy upon and subsequently collect from each Owner a Special Assessment for each Lot. Special assessments may be levied for capital improvements or acquisitions, extraordinary expenses or for such other purposes as the Board of Directors may determine.

(b) Any Special Assessment shall be equal for each Lot, unless the Board of Directors determines in good faith that all or a portion of the Special Assessment benefits fewer than all the Lots, in which case all or such portion shall be assessed only against the benefitted Lots. Road maintenance, repair and replacement shall be considered to benefit all Lots equally, and such costs shall be apportioned equally among all Lots.

(c) Payment of the Special Assessment shall be due and payable as the Board of Directors may provide.

Section 6.4 Water Assessment: (a) The Board of Directors may levy and collect assessments relating to the operation, maintenance, repair, and replacement of the Water System, as provided in Article V.

(b) Water Assessments shall be assessed and apportioned to each Lot as may be determined by the Board of Directors, as provided in Article V.

(c) The initial Water Assessment shall be in the sum of \$420 per year for usage, and \$100 per year for maintenance. This shall be adjusted as necessary from time to time by the Board of Directors.

(d) Payment of the Water Assessment shall be due and payable in quarterly installments, or annually or otherwise, as the Board of Directors may provide.

(e) Water Assessments shall be payable beginning with the commencement of construction on a Lot, and shall be prorated accordingly.



Section 6.5 **Default Assessment:** (a) Any cost or expense (including attorney's fees) incurred by the Homeowners Association as a result of the failure of an Owner to abide by the provisions of this Declaration, or any expense of the Homeowners Association which is the obligation of an Owner or which is incurred by the Homeowners Association on behalf of the Owner pursuant to this Declaration, or any interest, late charge or other monetary obligation of an Owner under this Declaration (other than Annual, Special or Water Assessments) constitutes a Default Assessment.

- (b) Default Assessments are levied against the Lot or Lots of an Owner who incurs a Default Assessment.
- (c) Default Assessments shall be immediately due and payable by the Owner, upon notice from the Homeowners Association of the amount of the Default Assessment.

Section 6.6 **Remedies for Nonpayment of Assessment:** Any installment of an Assessment which is not paid within thirty (30) days after its due date will be delinquent. In the event of such delinquency, the Homeowners Association may take any or all of the following actions:

- (a) Assess a late charge for each delinquency at uniform rates set by the Board of Directors from time to time;
- (b) Charge interest from the date of delinquency at uniform rates set by the Board of Directors from time to time, but not to exceed the maximum rate of interest allowed by applicable law;
- (c) Suspend the voting rights of the Owner during any period of delinquency;
- (d) Accelerate all remaining Assessment installments for the fiscal year in question so that unpaid Assessments for the remainder of the fiscal year will be due and payable at once;
- (e) Bring an action against any Owner personally obligated to pay the delinquent Assessment charges;
- (f) File a statement of lien with respect to the Lot and foreclose as set forth in more detail below.
- (g) For a delinquent Water Assessment, water service to the Lot may be suspended after giving the Owner 10 days' written notice that the service will be suspended unless the delinquent Water Assessments are paid.

The remedies provided under this Declaration will not be exclusive, and the Homeowners Association may enforce any other remedies to collect delinquent Assessments as may be provided by law.

Section 6.7 Assessment Lien: Any Assessment chargeable to a Lot will constitute a lien on the Lot, effective the due date of the Assessment. If the Assessment is not paid within thirty (30) days of its due date, the Homeowners Association may prepare and record a written lien statement with respect to the Lot, setting forth the name of the Owner, the legal description of the Lot, the name of the Homeowners Association, and the delinquent Assessments amounts then owing. Any such statement will be signed by an officer, director or agent of the Homeowners Association, and will be served upon the Owner of the Lot by mail to the address that the Homeowners Association has in its records for the Owner. Thirty days following the mailing of such notice to the Owner, the Homeowners Association may proceed to foreclose the statement of lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Montana. The Homeowners Association will have the power to bid on a Lot at foreclosure sale and to acquire, hold, lease, mortgage and convey the Lot.

Section 6.8 Liability for Assessment: All Owners of a Lot are personally responsible, jointly and severally, for all Assessments which become due at the time of their ownership, including interest, late charges, costs, expenses and attorney's fees incurred in collection of such Assessments. Sale or transfer of a Lot by an Owner shall not relieve the Owner from personal responsibility for payment of unpaid Assessments incurred prior to the sale or transfer. All successors to the fee simple title of a Lot, except as provided in Section 6.11 and Section 6.12, will be jointly and severally liable with the prior Owner or Owners for any and all unpaid Assessments, including interest, late charges, costs, expenses and attorney's fees incurred in collection of such Assessments. However, any successor will be entitled to rely on the statement of status of Assessments given by the Homeowners Association under Section 6.11.

Section 6.9 Priority of Lien for Assessment: The lien of the Assessments will be superior to and prior to any homestead exemption provided now or in the future by the laws of the State of Montana, and to all other liens and encumbrances *except* the following:

- (a) Liens and encumbrances recorded before the date of the recording of this Declaration;
- (b) Liens for real estate taxes and other governmental assessments or charges duly imposed against the Lot by a Montana governmental or political subdivision or special taxing district, or any other liens made superior by statute; and
- (c) The lien for all sums unpaid on a First Mortgage recorded before the date of filing of a written lien statement for delinquent Assessments, including any and all advances made by the First Mortgagee, even though some or all of such advances may have been made subsequent to the date of filing of a written lien statement for delinquent Assessments. Any First Mortgagee who acquires title to a Lot by virtue of foreclosing the First Mortgage or by virtue of a deed or assignment in

lieu of such a foreclosure, or any purchaser at a foreclosure sale of the First Mortgage, will take the Lot free of any claims for unpaid Assessments, interest, late charges, costs, expenses, and attorney's fees against the Lot which accrue prior to the time such First Mortgagee or purchaser acquires title to the Lot.

All other persons who hold a lien or encumbrance of any type not described in subsection (a), (b) or (c), above, will be deemed to consent that their lien or encumbrance will be subordinate to the Homeowners Association's future liens for Assessments, interest, late charges, costs, expenses and attorney's fees, as provided in this Article, whether or not such consent is specifically set forth in the instrument creating any such lien or encumbrance.

Section 6.10 Protection of First Mortgage: No violation or breach of, or failure to comply with, any provision contained in this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any First Mortgage on any property taken in good faith and for value and perfected by recording in the office of the Clerk and Recorder of Flathead County, Montana, prior to the time of recording in said office of an instrument describing such property and listing the name or names of the Owner or Owners and giving notice of such violation, breach or failure to comply. No violation, breach, failure to comply or action to enforce this Declaration shall affect, defeat, render invalid or impair the title or interest of the holder of any First Mortgage or the title or interest acquired by any purchaser upon foreclosure of any First Mortgage or result in any liability, personal or otherwise, of any such holder or purchaser. Any such purchaser upon foreclosure shall, however, take subject to this Declaration.

Section 6.11 Statement of Status of Assessments: On written request, the Homeowners Association will furnish to an Owner or his designee or to any mortgagee a statement setting forth the amount of unpaid Assessments then levied against the Lot in which the Owner, designee or mortgagee has an interest. The information contained in such statement, when signed by an officer, director or agent of the Homeowners Association, will be conclusive upon the Homeowners Association, the Board, and every Owner as to the person or persons to whom such statement is issued and who rely on it in good faith.

Section 6.12 Declarant's Responsibility for Assessments: Notwithstanding the foregoing, the Declarant, although a member of the Homeowners Association, shall not be responsible at any time for payment of any of the Assessments, unless and until Declarant completes construction of a home on any such Lot owned by Declarant. Declarant shall be responsible for Assessments only as to those Declarant-owned lots upon which homes have been constructed. The Declarant, however, shall pay \$300 to the Whitefish Hills Village Homeowner's Association upon the sale of any unimproved lot owned by the Declarant (subsequent to the date of recording of this amendment). With respect to unimproved Lots, in no event shall the Declarant be responsible for the payment of the costs of any improvements, for other Special Assessments, nor any other costs whatsoever, save for the \$300 per Lot fee for each unimproved Lot sold by Declarant. So long as Declarant owns any Lots, any increase in the Annual Assessment and any Special Assessment shall require the Declarant's written consent. Further, the Declarant shall in no event be liable for any Assessment levied in whole or in part to purchase any lot from the Declarant or to finance any litigation or other claim

against the Declarant, any costs of investigating and preparing such litigation or claim, or similar related costs.

ARTICLE VII. PROTECTIVE COVENANTS

Section 7.1 **Land Use:** The property may be used only for single-family residential purposes. No professional business, manufacturing business or commercial activity may be conducted on any Lot in Whitefish Hills Village. There shall be no commercial use on the property. Rentals for a term of one month or more shall not be considered commercial use. Home office or related uses which do not result in increased vehicular traffic shall not be considered commercial use.

Section 7.2 **No Subdivision of Lots:** No Lot shall be further subdivided in any manner. A change in boundary lines between adjacent owners shall not be considered subdivision. Two or more contiguous Lots may be combined to form a smaller number of Lots.

Section 7.3 **Structures:** There shall be no more than one single family residence and associated buildings per Lot. Each residential unit shall include, at a minimum, a two-car garage. A guest house or guest facilities are allowed, if in compliance with zoning. All structures shall be limited to be constructed within the building envelope approved by the Architectural Control Committee for the lot.

Section 7.4 **Set backs:** There shall be no buildings of any kind within 35 feet of the front lot line and 25 feet from the side and rear lot lines. No live trees over 3 inches diameter breast height shall be cut within the setbacks without the Architectural Review Committee approval. Vegetation removal on any lot other than for construction shall be kept to a minimum.

Section 7.5 **Dwelling size:** The single family residential dwelling on each Lot must have a ground floor area, excluding open porches, basements, and garages, of not less than 1400 square feet of finished living area. No portion of any building shall be more than 35 feet from the ground, as measured from the average existing grade of the building site, as determined prior to any site preparation. However, the Architectural Review Committee may grant variances to these requirements.

Section 7.6 **Dwelling Construction:** All dwellings shall be constructed on the Lot and no trailer homes, mobile homes, modular homes, or prefabricated homes of any kind or type shall be placed on a Lot. All structures shall be constructed of new materials. However, suitable used materials such as used brick or beams may be utilized, provided that advance approval has been obtained from the Architectural Review Committee. All construction, once begun, shall be completed within 12 months after the start of construction. The dwelling shall not be occupied until such time that the above work is completed and all building debris is removed. There shall be no burying of construction debris on any Lot or Common Area in Whitefish Hills Village. If construction activity on any Lot should cause damage to the roads or improvements, the cost or repair shall be solely borne by the owner of said Lot. All construction shall conform to the

Uniform Fire Code and Uniform Building Code. A portable outhouse or "porta potty" must be provided and maintained by the Lot Owner during the time of construction. A driveway with gravel shall be constructed on each Lot prior to site preparation, excavating of basement, or septic field. The driveway shall be paved prior to or within 90 days of occupancy (weather permitting). The Homeowners Association may adopt rules and regulations governing construction, including trash and debris removal, sanitary facilities, parking areas, restoration of damaged areas, fire protection and other construction activities. No building materials, vehicles or other items of personal property shall be stored on any Lot prior to commencement of construction of the dwelling.

Section 7.7 Exterior Finishes: No structure on any Lot shall have a roof or exterior siding which is silver or metallic colored, reflective, or shiny. Only Class A or B roofing materials, as rated by the National Fire Protection Association, shall be allowed on all structures. Use of wood shakes for roofing is prohibited. All building exterior colors shall be "earth tones".

Section 7.8 Condition and Reconstruction: Each structure, once constructed on a Lot, shall be kept in the same condition as at the time of its initial construction, excepting normal wear and tear. All structures shall be preserved and of pleasant appearance by maintaining paint, stain or sealer as needed. If any structure is damaged in any way, the owner shall exercise due diligence to rebuild, repair or restore the structure to its appearance and condition prior to the casualty. Reconstruction shall be completed within 9 months of the casualty.

Section 7.9 No Temporary Structures: No structure of a temporary character, trailer, basement, tent, garage, barn, or other outbuilding shall be used on any Lot at a time as residence, either temporarily or permanently. Provided, however, during construction of a dwelling, construction trailers may be used for purposes of construction.

Section 7.10 Outbuildings: Only an outbuilding with a 400 maximum square floor feet shall be allowed. An outbuilding on a Lot shall be constructed in keeping with the construction and architecture of the other buildings located on the Lot and shall present an exterior appearance similar to the other buildings located on the Lot. All outbuildings shall be kept and maintained in good condition, repair, and appearance. The Architectural Review Committee must approve the size, location and design of any outbuilding prior to construction. The Architectural Review Committee may grant variances to the provisions of this section.

Section 7.11 Utilities and Heating: All utilities shall be placed underground. No structure in Whitefish Hills Village shall use wood or coal as a primary heat source. No structure in Whitefish Hills Village shall use the water from the Whitefish Hills Village Water System as a source for heating or cooling.

Section 7.12 Antennas, Poles, and Other Structures: No antennas, poles, cellular telephone towers, communication towers, or other structures shall be erected unless approved by the Architectural Review Committee. Any satellite dish receiver must be 24 inches or less in diameter.

Section 7.13 **House Numbers:** Owners shall maintain house numbers either on the house itself or at the driveway entrance. All house numbers shall be visible from the driveway entrance. Declarant or the Homeowners Association may develop standard house numbering plaques or signposts, and if such standard house numbering is developed, all Lots shall be so numbered.

Section 7.14 **Fire Clearance Measures:** In construction and landscaping of houses, Owners shall create and maintain defensible space/vegetative clearance measures around structures that are in compliance with the Wildland Urban Interface Standards for the purpose of reducing fire danger. (These can be obtained at the Flathead County Planning and Zoning, or the Montana Department of State Lands offices)

Section 7.15 **Fences:** No fence shall be over five feet in height. There shall be no fence forward of the front of the house. The appearance, height, location and construction materials of all fences must be approved by the Architectural Review Committee prior to construction.

Section 7.16 **Vehicles:** All vehicles shall be parked in the garages or driveways and no vehicle shall be parked on roadways or the common area except on a temporary basis. The parking or storage of campers, camping trailers, recreational vehicles, pickup campers, trucks over one-ton, boats, snowmobiles, trailers, or unlicensed vehicles is prohibited unless in an enclosed garage or screened from view in a structure that has been approved by the Architectural Review Committee. No outdoor maintenance, service, rebuilding, dismantling, painting, or repair work shall be performed on any vehicle outside of an enclosed garage, except for washing and polishing. No abandoned or inoperable vehicles shall be parked on any Lot.

Section 7.17 **Animals:** Dogs (no more than 2) or cats (no more than 2) or other small household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. No livestock of any kind shall be raised, bred or kept on any lot. Household pets, such as dogs, must be contained upon the Owner's Lot and such pet may not be permitted to run at large at any time. All pet enclosures must be located in the rear of the house no closer than 25 feet from any lot line, and must be attached to the house. No dog which barks and can be heard on any frequent or continuing basis, shall be kept on any Lot. Owners shall be responsible to clean up after their pets. Pets constituting a nuisance may be ordered by the Homeowners Association Board to be kept within the residence of the Owner or ordered expelled from Whitefish Hills Village. All pet enclosures must be reviewed and approved by the Architectural Review Committee for height, materials, and location prior to construction.

Section 7.18 **Wildlife:** Feeding of deer or other wildlife is prohibited, as it will attract mountain lions and bears and endanger people, property, and other wildlife. Owners are encouraged to contact Montana Fish, Wildlife & Parks for stewardship practices as they relate to interactions with wildlife.

Section 7.19 **Nuisances:** No nuisance or unreasonably offensive or noxious activity, including noises (such as those from sound systems, bells, whistles or other sound devices) and activities or objects that create an offensive odor, nor any other use, activity or practice shall be permitted on or within any lot which is the source of significant annoyance or embarrassment to,

or which significantly offends or disturbs, residents of Whitefish Hills Village or which materially interferes with the peaceful enjoyment or possession and proper use of any property by its residents. As used herein, the term "nuisance" shall not include any activities of Declarant or its agents, contractors or designees, which are reasonably necessary to the development of and construction in Whitefish Hills Village.

Section 7.20 Garbage and Refuse Disposal: Owners shall arrange for weekly pick-up of garbage by only one private garbage contractor. The Homeowners Association may elect to take over selection of a garbage contractor and may assess each Lot for an equitable share of the cost of garbage collection. All rubbish, trash, garbage and waste shall be kept in bear-proof garbage receptacles. All garbage receptacles and the areas in the vicinity of the receptacles shall be kept in clean and sanitary condition. Garbage receptacles shall be put out on day of pick-up and put away the same day. No disposal of garbage, rubbish, leaves or debris shall be allowed on any vacant Lot or Common Area. No burning or burying of trash will be allowed on any Lot or Common Area.

Section 7.21 Signs: No signs, billboards, banners, or advertising devices of any nature except as may be authorized by the Architectural Review Committee shall be erected or maintained on any part of Whitefish Hills Village, except for (a) a "For Sale" sign, not larger than five square feet, placed on a Lot which is for sale and (b) a builder's sign placed on a Lot during the course of construction of a dwelling. The foregoing restrictions shall not apply to the business activities or advertising of the Declarant while any Lots remain unsold.

Section 7.22 Drainage Control: Reasonable precaution shall be taken during construction and thereafter, to prevent erosion and drainage problems. All disturbed soil areas shall be re-vegetated within a reasonable time in such a fashion as to minimize erosion. Driveways shall be constructed so as not to interfere with drainage. During construction, measures must be taken to accommodate any changes in the flow of water, from or through the Lot and onto adjacent Lots, provided that any such measures are approved in advance by the Architectural Review Committee.

Section 7.23 Soil Removal: No soil shall be removed from any lot including topsoil, sand and gravel except for soil removed by Declarant. All excess soils become the property of the Declarant, at Declarant's option.

Section 7.24 Lot Landscaping: Basic landscaping, including finish grading, seeding or sodding, must be completed prior to or within 90 days after date of occupancy (weather permitting). Each Owner shall have the responsibility to maintain the grounds of his Lot including the mowing of grass, removal of weeds, and proper trimming of bushes and trees. Each Owner is responsible for re-vegetation of disturbed areas on that Owner's Lot and for the control and eradication of noxious weeds on that Owner's Lot in accordance with the requirements of the Flathead County Weed and Parks Department or successor agency. If the Homeowners Association shall receive complaints from other Owners, then, and in that event, it shall have the right to notify the Owner, and if the Owner does not immediately maintain his Lot, the Homeowners Association may have such maintenance of the grounds of the Lot performed

as the Homeowners Association shall determine as being reasonable, and the charges shall be assessed against the Lot as a Default Assessment.

Section 7.25 Common Landscaped Areas: All areas landscaped throughout Whitefish Hills Village which landscaping was furnished by the Declarant, his successor or assignees, or by the Homeowners Association, shall be maintained by the Homeowners Association and shall include planting, ground cover, bedding, lighting, and irrigation. The Homeowners Association shall be responsible for re-vegetation of disturbed areas on the Common Area and for the control and eradication of noxious weeds on the Common Area in accordance with the requirements of the Flathead County Weed and Parks Department or successor agency.

Section 7.26 Hunting and Fireworks: Hunting and target shooting is strictly prohibited within Whitefish Hills Village. No discharge of firearms or projectiles is permitted in Whitefish Hills Village. Fireworks are prohibited.

Section 7.27 Driveways: All driveways must be paved, with asphalt, concrete or other surfaces approved by the Architectural Review Committee, from the street pavement to the garage within one year of occupancy.

Section 7.28 Fuel Tanks: No fuel tanks above or below the ground are allowed on any occupied Lot. However, Propane tanks are permitted, but must not be visible from the roadway.

Section 7.29 Outdoor Lighting: Ground level lighting of patio, deck, driveway and entryway areas on any Lot that do not light areas outside such Lot or create glare are permitted. No other exterior lighting is permitted except as may be authorized by the Architectural Review Committee, or as required by existing zoning regulations.

Section 7.30 Traffic Safety: For the elimination of traffic hazards and to promote traffic safety, no hedge or shrub planting which obstructs sight lines at elevations between three (3) and six (6) feet above the roadway shall be placed or be permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in case of a round property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight items.

Section 7.31 Wells: Every Lot shall connect onto the Whitefish Hills Village Water System. No other wells will be permitted in Whitefish Hills Village.

Section 7.32 Well Protection Zone: A well protection zone is hereby established for the purpose of restricting the area within a one hundred feet radius of the water supply wells to secure water quality for the residents of Whitefish Hills Village. The following activities shall be prohibited within the well protection zone:

- (a) Construction or operation of on-site sewage disposal systems that utilize absorption of the waste into the soil,
- (b) Storage of disposal of toxic and/or hazardous wastes, chemicals or hydrocarbons such as fuel and oils.
- (c) Application of lawn fertilizer, pesticide, herbicide or insecticide.
- (d) Storage or disposal of solid wastes.

Section 7.33 **Central Mail Delivery:** All mail delivery within Whitefish Hills Village shall be at the central mail facility. Likewise, all newspapers shall also be delivered to the central mail facility, and no newspaper tubes shall be maintained anywhere else within Whitefish Hills Village.

Section 7.34 **Compliance with County Zoning Regulations:** Whitefish Hills Village is an approved Planned Unit Development. With the exception of the minimum lot size; if the land use restrictions and bulk and dimensional requirements of this Declaration are more restrictive, they will apply. Otherwise the development will comply with the land use and dimensional requirements of Flathead County's SAG-5 Zoning Classification.

ARTICLE VIII. ARCHITECTURAL REVIEW

Section 8.1 **Review:** In order to maintain harmony of external design and location in relation to surrounding structures, topography and native vegetation and to otherwise assist in achieving the general purposes of this Declaration, the following activities shall be subject to architectural review:

- (a) Site preparation.
- (b) Construction of any dwelling, structure, fence or other improvement on any Lot.
- (c) Exterior modification of any dwelling, structure, fence or other improvement.

None of these activities shall be undertaken without prior written approval of the Architectural Review Committee. Alterations or remodeling which are completely within a dwelling or structure and which do not change the exterior appearance of the structure are not subject to architectural review.

Section 8.2 **Architectural Review Committee:** The Architectural Review Committee shall consist of one or more persons. During the Period of Declarant Control, the

members of the Architectural Review Committee shall be appointed by Declarant, and may include Declarant or parties related to Declarant. After the Period of Declarant Control, the members of the Architectural Review Committee shall be appointed by the Board of Directors of the Homeowners Association. The party appointing the members of the Architectural Review Committee may remove any such members and replace any members who are so removed.

Section 8.3 Application: Prior to undertaking any activities that are subject to architectural review, the Owner shall provide the Architectural Review Committee with two sets of detailed plans and specifications concerning the proposed improvement, including the following:

- (a) Site plans showing the location of house, outbuildings, septic field, driveway or other structure proposed to be built or revised. The plans must also show finished grade elevations.
- (b) Building plans including floor plans for all floors, cross-sections, and elevations showing all dimensions and finished square footage.
- (c) Plans shall include exterior colors, materials, and finishes and indicate any outdoor lighting.

The Architectural Review Committee may require that the applicant submit additional materials reasonably required to perform its review function. The Architectural Review Committee may charge a fee for review of the plans.

Section 8.4 Action by Committee: Upon receipt of plans and other material, the Architectural Review Committee shall review the proposed improvement to determine whether it is in accordance with the goals stated in Section 8.1 and is otherwise in conformance with this Declaration. The Architectural Review Committee shall respond to the proposal in writing within 30 days of receipt of all required materials, stating its approval or the reasons for its disapproval. If the Architectural Review Committee does not respond within the 30-day period, the plans shall be deemed approved. The Architectural Review Committee may monitor construction to ensure that the approved plans are being followed.

Section 8.5 Guidelines: The Architectural Review Committee may, but shall not be required to develop guidelines for its architectural review.

Section 8.6 Liability: Neither the Declarant, the Homeowners Association, the Architectural Review Committee nor their respective members, officers, directors, employees or agents shall be responsible or liable for the defects in any plans or specifications submitted, revised or approved under this Article, nor for any defects in construction pursuant to such plans and specifications. Approval of plans and specifications under this Article shall not be deemed in lieu of compliance by Owner with applicable building codes or other governmental laws or regulations.

ARTICLE IX. EXPANSION

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

Section 9.2 **Declaration of Annexation:** Any expansion may be accomplished by recording a Declaration of Annexation and one or more supplemental plats in the records of the Clerk and Recorder of Flathead County, Montana. The Declaration of Annexation will describe the real property to be annexed, submitting it to this Declaration. Upon such annexation, each Lot in the annexed property will be allocated one vote and liability for the Common Expenses equal to the liability allocated to each of the other Lots, and the proportionate voting interest and allocation of Common Expenses for the other Lots will be adjusted accordingly. Upon such annexation, each Owner of a Lot in the annexed property shall automatically become a member of the Homeowners Association. Such Declaration of Annexation will not require the consent of Owners, the Homeowners Association, or the Board of Directors of the Homeowners Association. Any such expansion will be effective upon the filing for record of such Declaration of Annexation, unless otherwise provided therein. The expansion may be accomplished in stages by successive supplements or in one supplemental expansion. Upon the recordation of any such Declaration of Annexation, the definitions used in this Declaration will be expanded automatically to encompass the annexed property. Such Declaration of Annexation may add supplemental covenants peculiar to the annexed property, or delete or modify provisions of this Declaration as it applies to the annexed property. However, this Declaration may not be modified with respect to that portion of the property already subject to this Declaration, except as provided below for amendment.

Section 9.3 **Expansion of Water System / Approval of DEQ:** The Water System will be initially constructed to be sufficient to serve up to 88 Lots. If Declarant wishes to annex property into Whitefish Hills Village in excess of a total of 88 Lots, Declarant shall undertake such improvements or additions to the Water System as may be necessary to serve the excess Lots in any such expansion. Any such improvements or additions to the Water System to serve more than 88 Lots shall require the review and approval of the Montana Department of Environmental Quality.

ARTICLE X. DURATION AND AMENDMENT

Section 10.1 **Duration of Declaration:** The provisions of this Declaration are intended to be easements and covenants running with the land, and are intended to be perpetual, except as amended or terminated as provided below. If any provision contained in this Declaration is subject to the laws or rules sometimes referred to as the rule against perpetuities or the rule prohibiting unreasonable restraints on alienation, such provisions shall continue and

remain in full force and effect for the period of 21 years following the death of the last to die of the Declarants and the now living children of the Declarants, or until the provisions contained in this Declaration are amended or terminated as provided below, whichever first occurs.

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

Section 10.3 **Amendment after Period of Declarant Control:** After the Period of Declarant Control, this Declaration may be amended or repealed as provided in this Section 10.3. Any amendment shall require the consent of the Owners of sixty percent (60%) of the Lots. Such consent may be evidenced by written consent or by vote at a regular or special meeting of the members of the Homeowners Association, or by a combination of written consents and votes.

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

ARTICLE XI. MISCELLANEOUS

Section 11.1 **Effect of Provisions of Declaration:** Each provision contained in this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision contained in this Declaration, and any necessary exception or reservation or grant of title, estate, right or interest to effectuate any provision contained in this Declaration: (a) shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any real property within Whitefish Hills Village is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument; (b) shall, by virtue of acceptance of any right, title or interest in any real property within Whitefish Hills Village by an Owner or the Homeowners Association, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner or Homeowners Association, as the case may be, and, as a personal

covenant, shall be binding on such Owner or Homeowners Association and such Owner's or Homeowners Association's respective heirs, personal representatives, successors and assigns; (c) shall be deemed a real covenant by Declarant, for itself, its successors and assigns, and also an equitable servitude, running, in each case, as a burden with and upon the title to each parcel of real property within , including property that may hereafter become part of Whitefish Hills Village; and (d) shall be deemed a covenant, obligation and restriction secured by a lien, binding, burdening and encumbering the title to each parcel of real property within Whitefish Hills Village, which lien with respect to any Lot shall be deemed a lien in favor of Declarant.

Section 11.2 Enforcement and Remedies: Each provision contained in this Declaration shall be enforceable by the Homeowners Association or by any Owner who has first made written demand on the Homeowners Association to enforce such provision and 30 days have lapsed without appropriate action having been taken by the Homeowners Association. Any enforcement action may be by a proceeding for such relief as may be provided at law or in equity, including but not limited to a temporary or permanent injunction and/or a suit or action to recover damages.

Section 11.3 Limited Liability: Neither the Declarant, the Homeowners Association, the Architectural Review Committee or, their respective officers, directors, employees or agents shall be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice.

Section 11.4 Successors and Assigns: Except as otherwise provided herein, the provisions contained in this Declaration shall be binding upon and shall inure to the benefit of Declarant, the Homeowners Association, and each Owner and their respective heirs, personal representatives, successors and assigns.

Section 11.5 Severability: Invalidity or unenforceability of any provision contained in this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.

Section 11.6 Captions: The captions and headings in this instrument are for convenience only and shall not be considered in construing any provisions of this Declaration.

Section 11.7 Construction: When necessary for proper construction, the masculine of any word used in any provisions contained in this Declaration shall include the feminine or neuter gender, and the singular the plural, and vice versa.

Section 11.8 No Waiver: Failure to enforce any provision contained in this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration.

Section 11.9 Attorneys' Fees: In the event of a dispute arising under any provision contained in this Declaration, the prevailing party shall be entitled to its reasonable costs and attorneys' fees incurred.



DATED this 9 day of September, 2016

Signature of Declarant:

WHITEFISH VILLAGE, LLC

By: _____

STATE OF MONTANA)

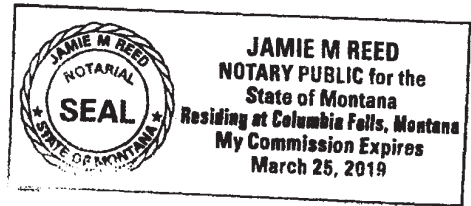
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COUNTY OF FLATHEAD)

On this 9 day of September, 2016, before me a Notary Public for the State of Montana, personally appeared

Tiber Toth, member
of WHITEFISH VILLAGE, LLC, known to me to be the person(s) whose name(s) are subscribed to the foregoing instrument and acknowledged to me that they executed the same.

Jamie M. Reed
Notary Public for the State of Montana
Printed name of Notary
Residing at _____
My commission expires ____/____/____



SEE T-10