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**DECLARATION OF UNIT OWNERSHIP
AND COVENANTS, CONDITIONS AND RESTRICTIONS ESTABLISHING AND
GOVERNING**

SWAN VIEW CONDOMINIUMS

This Declaration of Unit Ownership and Covenants, Conditions and Restrictions Establishing and Governing Swan View Condominiums is made by MNM, LLC ("Declarant").

RECITALS:

A. Declarant is the owner of that certain real property situated in Flathead County, State of Montana, which is more particularly described on Exhibit A attached hereto and incorporated herein by this reference.

B. Declarant desires to submit and subject the Property, together with all buildings and improvements now or hereafter constructed thereon, and all easements, privileges, rights and appurtenances appurtenant thereto, to condominium unit ownership pursuant to the Unit Ownership Act, Title 70, chapter 23 of Montana Code Annotated.

C. Declarant desires to establish for its own benefit and for the mutual benefit of all future Owners of the Property, or any part thereof, certain covenants, conditions, restrictions, easements, rights, privileges, assessments, and liens as set forth herein which shall run with and be a burden upon the Property, together with all buildings and improvements now or hereafter constructed thereon.

D. Declarant intends that the Owners, Mortgagees, and all other persons hereinafter acquiring any interest in the Property, together with all buildings and improvements now or hereafter constructed thereon, shall at all times enjoy the benefits of, and shall hold their interest subject to, the Declaration, which is recorded in furtherance of establishing a plan of unit ownership for the Property, together with all buildings and improvements now or hereafter constructed thereon; and for establishing rules for the use, occupancy, management, and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property, together with all buildings and improvements now or hereafter constructed thereon, and the quality of life therein.

NOW, THEREFORE, Declarant, for the purposes hereinafter set forth, declares as follows:

**ARTICLE I
DEFINITIONS**

As used herein, unless the context otherwise requires, the following terms shall have the following definitions.

Section 1.1 "Act" shall mean the Unit Ownership Act of Title 70, Chapter 23 of the Montana Code Annotated ("MCA"), pertaining to condominiums in the State of Montana, as the same may be amended from time to time.

Section 1.2 "Administrative Regulations" shall mean and refer to the rules and regulations, if any, adopted by the Board pursuant to this Declaration.

Section 1.4 "Articles" shall mean the articles of incorporation of the Association, as they may be amended from time to time.

Section 1.5 "Assessments" shall mean the charges against Owners and Units pursuant to Article VI.

Section 1.6 "Association" shall mean the Swan View Condominium Owners Association, Inc., and its successors and assigns.

Section 1.7 "Board" or "Board of Directors" shall mean the board of directors of the Association elected or appointed pursuant to the Declaration, Articles and Bylaws, and serving as the governing body of the Association.

Section 1.8 "Building" shall mean and refer to each of the structures to be located on the Property and forming a part of the Property, pursuant to this Declaration.

Section 1.9 "Bylaws" shall mean the Bylaws adopted by the Association pursuant to the Articles, and Title 70, Chapter 23, MCA, and Title 35, Chapter 2, MCA, for the purpose of regulating the affairs of the Association, as the same may be amended from time to time.

Section 1.10 "Common Elements" shall mean the "common elements," as that term is defined in §70-23-102(3), MCA, including, but not limited to, the land on which the Building is constructed, the foundations, floors, roofs and bearing walls of the Building, any wall that forms a boundary between two Units, roofing material, siding material, exterior doors and windows, any HVAC systems or utility services such as water and sewer piping and electrical, phone, television and utility wiring and conduits which are not located within a Unit, and all other portions of the Property, except the Units. A "Common Element" is considered either a "General Common Element" or a "Limited Common Element," as defined below, but a "Common Element" cannot be both a "General Common Element" and a "Limited Common Element."

Section 1.11 "Common Expenses" shall mean the actual and estimated costs for: (A) maintenance, management, operation, repair, preservation and replacement of the Common Elements which are maintained by the Association; (B) deficiencies arising by reason of unpaid Assessments;

(C) management and administration of the Association, including, but not limited to, compensation paid by the Association to accountants, attorneys, employees, and management companies and agents; (D) utilities (other than separately metered utilities for the Units), trash pickup and disposal, landscaping and care of ground, snow removal, and other related services; (E) insurance and bonds required by the Declaration or any additional insurance and bonds obtained by the Board in its discretion; (F) the establishment of reasonable reserves as the Board shall deem appropriate in its discretion; and (G) any other expenses incurred by the Association or the Board pursuant to the Declaration, the Bylaws, or the Administrative Regulations, as the same may be amended from time to time, in furtherance of the purposes of the Association or in discharge of the duties and powers of the Association.

Section 1.12 "Condominium Documents" shall mean the Declaration, the Articles, the Bylaws, and the Administrative Regulations.

Section 1.13 "Covenants, Conditions and Restrictions" shall mean the covenants, conditions, assessments, easements, liens and restrictions set forth in this Declaration.

Section 1.14 "Declarant" shall mean MNM, LLC, and its successors and assigns. If Declarant wishes to assign its status as "Declarant" under this Declaration, such an assignment shall be in a writing which includes a specific reference to such status as "Declarant."

Section 1.15 "Declaration" shall mean this Declaration of Unit Ownership and Covenants, Conditions and Restrictions, including Exhibits attached hereto and hereby incorporated herein by reference, and any and all amendments and supplements thereto.

Section 1.16 "General Commons Elements" shall mean all Common Elements that are not Limited Common Elements.

Section 1.17 "Limited Common Elements" shall mean a portion of the Common Elements specifically designated in the Declaration as a limited common element allocated by the Declaration or by operation of the Act for the exclusive use of one or more but fewer than all of the Units. Limited Common Elements shall include any improvements that are attached to or associated with a single Unit or that are designed to serve a single Unit, but located outside the Unit's boundaries, such as decks, courtyards, patios, balconies, exterior stairs, utility or HVAC equipment not located within the boundaries of a Unit but serving a single Unit, awnings, shutters, window boxes, doorsteps, stoops, porches, exterior entryways, or other fixtures or improvements designed to serve a single Unit, but located outside the Unit's boundaries.

Section 1.18 "Majority" or "Majority of Owners" shall mean the Owners of Units to which more than fifty percent (50%) of the undivided ownership of the Common Elements is appurtenant, irrespective of the total number of Owners. Likewise, any specified fraction or percentage of the Members shall mean the owners of Units to which that fraction or percentage of undivided ownership of the Common Elements is appurtenant.

Section 1.19 "Member" shall mean an Owner of a Unit in Swan View Condominiums. If a Member is a corporation, partnership, limited liability company or other entity, the Member shall be represented by an authorized officer, partner, member, manager, agent or employee of such Member.

Section 1.20 "Mortgage" shall mean any recorded, filed or otherwise perfected mortgage, deed of trust or other instrument against a Unit given in good faith and for valuable consideration as security for the performance of an obligation, but does not mean any instrument creating or evidencing solely a security interest in personal property arising under the Montana Uniform Commercial Code. "Mortgagee" means a person secured by a Mortgage, including a trustee and beneficiary under a deed of trust; and "Mortgagor" means the party executing a Mortgage. "First Mortgage" means a Mortgage which is the first and most senior of all Mortgages upon the same Unit. "First Mortgagee" means the Mortgagee under a First Mortgage.

Section 1.21 "Occupant" shall mean a person or persons, other than a Member, in rightful possession of a Unit, including, but not limited to, tenants, lessees, agents, family members, guests, licensees, invitees, or employees.

Section 1.22 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of equitable or beneficial title (or legal title if the same has merged) of any Unit. Declarant shall be considered the record Owner of any Unit prior to its initial conveyance by Declarant. "Owner" does not mean persons or entities who hold an interest in a Unit merely as security for the performance of an obligation, specifically including, but not limited to a person who is selling under a contract for deed or similar document in which the contract or an abstract of the contract is recorded in the Flathead County Clerk and Recorder's Office, in which case the person selling such interest shall be considered a person holding an interest for security, and the person buying such interest shall be considered a Member of the Association, unless the contract specifically provides otherwise.

Section 1.23 "Person" shall mean a natural individual, corporation, partnership, limited liability company, trustee or other entity capable of holding title to real property.

Section 1.24 "Plan" shall mean the plans for Swan View Condominiums shown as Exhibit C attached hereto and hereby incorporated by reference, and any and all amendments and supplements thereto.

Section 1.25 "Property" shall mean the property described on Exhibit A attached hereto, the Units, the Common Elements, including the Buildings, all improvements and permanent fixtures of whatsoever kind situated or located thereon, and all easements, rights, privileges and appurtenances appurtenant thereto, intended for the mutual use, benefit and enjoyment of the Owners.

Section 1.26 "Swan View Condominiums" shall mean the Property submitted to the Act upon the recording of the Declaration.

Section 1.27 "Unit" shall mean each of the portions of the Property which consist of one or more rooms situated in a Building comprising a part of the Property and designed or intended for independent use as a Unit, as shown on Exhibit C attached hereto, together with the respective fractional interests in the Common Elements appurtenant thereto. The initial fractional interests associated with each Unit are shown on Exhibit B attached hereto. These fractional interests may be reduced in the event of an Expansion. The term "Unit" shall include any future Expansion Units.

Each Unit shall consist of an individual air space unit bounded by the interior face of the unfinished perimeter walls, ceilings, and floors of the Unit, and the doors and windows thereof. For the purpose of defining a Unit, the terms set forth above shall be defined as follows:

- a. "unfinished perimeter wall" means the interior surfaces of the studs, supports and other wooden, metal or similar structural materials which constitute the interior face of a wall of a Unit.
- b. "unfinished perimeter ceiling" means the beams, joists and wooden or other structural materials that constitute the interior face of the ceiling of a Unit.
- c. "unfinished perimeter floor" means the beams, floor joists and floor deck material that constitute the interior face of the floor of a Unit.

A Unit shall include any drywall, sheetrock, wall paneling, wood, tile, paint, paper, carpeting or any other wall, ceiling or floor covering, windows, window glass and window frames, shutters, awnings, doorsteps, stoops and doors, door glass and door frames. A Unit shall further include fixtures and hardware and all improvements contained within the unfinished perimeter walls, ceilings and floors. A Unit shall include any heating and refrigerating elements or related equipment, utility lines and outlets, electrical and plumbing fixtures, pipes and all other related equipment required to provide heating, air-conditioning, hot and cold water, electrical or other utility services to the Unit and located within the unfinished walls, ceilings and floors; provided, however, that a Unit shall not include any of the structural components of the Building or utility or service lines located within the Unit but serving more than one Unit.

The physical boundaries of a Unit shall be considered to be the proper boundaries regardless of the settling, rising, or lateral movement of the Buildings and regardless of any variances between the boundaries shown on the Plan and the actual physical boundaries for any Unit. "Unit" as used herein shall have the same meaning as that defined in §70-23-101(15), MCA, as the same may be amended from time to time.

ARTICLE II SUBMISSION OF THE PROPERTY

Section 2.1 Submission of the Property. Declarant hereby submits the Property to the Act. As to other parcel(s), land, building(s), including unit(s) and common elements therein and thereon, improvements, fixtures and structures thereon, and all easements, rights, privileges, and appurtenances belonging thereto, not yet submitted to the Act, the submission shall be automatic upon annexation by the Declarant. Such annexation shall be at the sole discretion of the Declarant and not subject to approval by the Members. All Units shall be owned, leased, sold, conveyed and encumbered, or otherwise held or disposed of, subject to the Declaration.

Section 2.2 Rights and Obligations. Each grantee of Declarant, by the acceptance of a deed of conveyance, each purchaser, at any time, under any agreement for sale of a Unit, by execution of such an agreement for sale, and each Mortgagee, by the acceptance of any instrument conveying any interest in the Property as security for the performance of an obligation, accepts the same subject to the Declaration, and the jurisdiction, rights, obligations, duties and powers created or

reserved by the Declaration. All rights, benefits, privileges and easements of every character hereby granted, created, reserved, relocated or declared, and all impositions and obligations hereby imposed, shall be deemed and taken to be covenants running with the land and equitable servitudes and shall be binding upon and shall inure to the benefit of any grantee, purchaser or any Person having at any time any interest or estate in the Property in like manner as though the provisions of the Declaration were recited and stipulated at length in each and every deed of conveyance, purchase contract or other instrument of transfer, and each such grantee shall be entitled to bring, and shall be subject to, an action for the recovery of damages, or for injunctive relief, or both, resulting from any breach of any such provisions, and each such grantee further acknowledges that the Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners.

**ARTICLE III
DESCRIPTION OF THE BUILDINGS,
THE UNITS AND THE COMMON ELEMENTS
AND THE NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP**

Section 3.1 Name. The project shall be known as "Swan View Condominiums."

Section 3.2 Estates of an Owner. The Property is hereby divided into Units, each consisting of a separate fee simple interest in a Unit and an undivided fee simple interest in the Common Elements. The initial undivided fractional interests in the Common Elements associated with each Unit are shown on Exhibit B attached hereto.

Section 3.3 Title. Title to a Unit may be held or owned by any entity and in any manner in which title to any other real property may be held or owned in the State of Montana, including, but not limited to, joint tenancy or tenancy in common.

Section 3.4 Inseparability. No part of a Unit or of the legal rights comprising ownership of a Unit may be separated from any other part thereof during the period of ownership prescribed herein, so that each Unit and the undivided interest in the Common Elements appurtenant to such Unit shall always be conveyed, devised, encumbered, and otherwise affected only as a complete Unit. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Unit or any part thereof shall be presumed to be a gift, devise, bequest, transfer, encumbrance, or conveyance, respectively, of the entire Unit together with all appurtenant rights created by law or the Declaration.

Section 3.5 Partition Not Permitted. The Common Elements shall be owned in common by all the Owners of Units, and no Owner may bring any action for partition thereof.

Section 3.6 Units. The cubic content space of each of the Units in Swan View Condominium is set forth on the Plan. The identifying numbers of the Units in Swan View Condominium are Units 1, 2, 3, 4 and 5 (shown as Suite-1, Suite-2, Suite-3, Suite-4 and Suite-5, respectively, on Exhibit C attached hereto).

Section 3.7 Certain Limited Common Elements. The following are Limited Common Elements. This listing is not intended to be exclusive:

a. The HVAC systems, hot water heaters, and any other mechanical equipment that serves a single Unit. The HVAC systems are presently located in the crawlspace of the building.

Section 3.8 Fractional Interest in the Common Elements. The fractional interest hereby allocated to each Unit, which interest shall constitute an undivided interest in the Common Elements appurtenant to each such Unit, shall be a fraction, the numerator of which is the Unit's square footage (excluding Common Elements) and the denominator of which is the sum of the square footage of all Units (excluding the Common Elements). The initial fractional interest allocated to each Unit is shown on Exhibit B attached hereto.

Section 3.9 Description of the Building. The building is shown on Exhibit C, attached hereto. It consists of a single-story wood frame building with an attic and crawlspace, built on a concrete foundation. The principal materials of which the building is constructed are wood and wood products, with concrete for the foundation.

ARTICLE IV MAINTENANCE

Section 4.1 Maintenance of Units. Each Owner shall furnish and be responsible for, at such Owner's own expense, normal maintenance (including painting and cleaning) of the Owner's Unit. The Association shall furnish and be responsible for, at the Association's expense, all repairs, and replacements to all building components (including fixtures, permanently installed machinery and equipment, and any other item that is screwed, bolted, nailed, wired, plumbed or otherwise affixed to the building) within each Owner's Unit (whether such building components are part of the Common Elements, General Common Elements, Limited Common Elements or the Unit). The Association's obligation shall include but not be limited to: (A) the repair and replacement of all partitions, walls and doors (interior and exterior), all lath, furring, wallboard, sheetrock, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting the finished surfaces of floors, ceilings, or walls; (B) repair and replacement of all window and door glass; (C) maintenance, repair and replacement of, in an open and unobstructed condition, all sewer and drainage pipes, water and other utility lines serving an Owner's respective Unit between the points at which the same enter the respective Unit and the points when the same join the utility lines serving other Units; and (D) repair and replacement of cabinets, toilets, sinks, hot water tanks, lighting fixtures or other similar items serving a Unit. An Owner may make non-structural alterations within such Owner's Unit, but an Owner shall not make any structural or exterior alterations of the Common Elements or Limited Common Elements, except as otherwise provided in this Declaration or, for any alterations not addressed in this Declaration, as permitted by the Board.

Section 4.2 Maintenance of Common Elements. The Association shall furnish and be responsible for, as part of the Common Expenses, the maintenance, repair, and replacement of the Common Elements, including the General and Limited Common Elements, except that the Association may elect to require each Owner to be responsible for normal maintenance (including painting and cleaning) of the Limited Common Elements associated with the Owner's Unit. The

costs of maintenance, repair and replacement of the General Common Elements shall be assessed to the Owners in proportion to their respective fractional interests in the Common Elements. The costs of maintenance, repair and replacement of the Limited Common Elements shall be assessed to the Owners of the Units which are associated with the Limited Common Elements.

Section 4.3 Owner Default in Maintenance. If an Owner fails to so maintain such Owner's Unit or make repairs thereto in such a manner as may be deemed reasonably necessary in the judgment of the Board to preserve the attractive appearance and protect the value of the Property, or if an Owner shall fail to observe any provision of this Declaration, then the Board shall give written notice to such Owner stating with particularity the nature of the default and the corrective action which the Board determines to be required and requesting that the same be carried out within a period of fifteen (15) days after the giving of such written notice. If such Owner fails to carry out such action within the period specified by the notice, the Board may cause such action to be taken and shall levy a special Assessment for the cost thereof to such Owner, such special Assessments to be due and payable within thirty (30) days after the Board gives written notice thereof and to be secured by the Assessment lien created in Section 6.2.

Section 4.4 Entry by Association. The Board or its duly authorized agent shall have the right at all times upon reasonable notice (and at any time without notice in case of an emergency) to enter upon or in any Unit to abate any infractions, to make repairs, or to correct any violation of the Declaration, Bylaws or Administrative Regulations. If, in the case of an emergency, it becomes necessary to forcibly enter a Unit because no means of access was provided by the Owner, the Association, its directors, officers, employees and agents shall not be liable for any damage done to the Unit as a result of the exercise of this right of entry. The party exercising this right of entry shall see that reasonable measures are taken to secure the Unit until the Owner shall be notified that the Unit has been entered.

Section 4.5 Utilities. It is anticipated that all utilities (except water and sewer service) for individual Units will be metered separately to each Unit and such utility charge shall be the responsibility of the respective Owners. For any utilities that are not metered separately to each Unit, the cost of such utilities shall be a Common Expense and may be assessed to the Units (a) equally to each Unit, (b) in proportion to each Unit's undivided percentage ownership interest in the Common Elements, (c) based on usage, or (d) in any other manner deemed reasonable by the Board.

ARTICLE V ASSOCIATION

Section 5.1 Association. The Association has been, or will be formed, and shall have all the powers set forth in the Articles, Bylaws, Declaration, and Administrative Regulations. The Association shall serve as the governing body for all of the Owners and shall make provisions for the maintenance, repair, replacement, administration and operation of the Common Elements and improvements thereon (including furnishings and equipment related thereto) and shall keep the same in good, clean, attractive and sanitary condition, order and repair, and shall make provisions for assessment of Common Expenses, acquisition of common area public liability and property coverage (casualty) insurance and disposition of such insurance proceeds, and other matters as provided in the Act, Declaration, Articles and Bylaws.

Section 5.2 Membership. Each Owner shall automatically be a member of the Association. Such membership shall automatically terminate when an Owner ceases for any reason to be an Owner, and the new Owner shall likewise automatically become a member in the Association. Membership in the Association may not be separated from ownership of a Unit.

Section 5.3 Powers. The Association shall have all the powers of a nonprofit corporation organized under Title 35, chapter 2, MCA, concerning nonprofit corporations, subject only to such express limitations on the exercise of such powers as are set forth in the Articles, the Bylaws and this Declaration. The Association shall have the power to do any lawful thing that may be authorized, required, or permitted to be done by a condominium owners association or under the Declaration, the Articles and the Bylaws, and to do and perform any act that may be necessary or proper for or incidental to, the exercise of any of the powers of the Association. The Association's powers shall include, but not be limited to, the power to (A) commence and maintain actions or restrain and enjoin any actual or threatened breach of the Declaration and enforce by mandatory injunction or otherwise all of the provisions of the Declaration; (B) pay taxes, capital improvement Assessments or special Assessments and other liabilities which are or would become a lien on any portion of the Property owned or maintained by the Association; (C) levy Assessments and perfect and enforce liens as hereinafter provided; (D) enter into contracts including, but not limited to, management contracts; (E) perform the duties set forth herein, including, but not limited to, maintenance and repair of the Common Elements and the obtaining of common area public liability and property coverage (casualty) insurance; (F) adopt, amend and repeal Administrative Regulations as it deems reasonable; and (G) impose and collect fines or other charges as it deems reasonable for violations of the Declaration, Articles, Bylaws or Administrative Regulations.

Section 5.4 Personal Liability. No member of the Board, or any officer of the Association, or Declarant (including any and all partners, officers, directors, employees, or authorized agents of Declarant or its partners, affiliates, or parent company or its subsidiaries or affiliated companies), shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of any such person or entity if such person or entity has, on the basis of such information as may be possessed by him or it, acted in good faith without wilful or intentional misconduct.

Section 5.5 Voting. The votes in the Association shall be allocated based upon the Owner's percentage interest in the Common Elements. If a person or entity owns more than one Unit, that person or entity shall have the combined votes associated with all such Units owned. If more than one person or entity has an ownership interest in a single Unit, such persons or entities must decide among themselves how the votes for that Unit shall be cast. In the case of multiple owners of a single Unit, unless informed otherwise in writing, it shall be assumed that any owner shall be permitted to cast votes and otherwise act for that Unit in matters concerning the Association.

Section 5.6 Board of Directors. The governing body of the Association shall be the Board of Directors. Except as otherwise provided in the Declaration, the Bylaws, or the Administrative Regulations, the Board may act in all instances on behalf of the Association. The Board shall act to adopt the Bylaws.

Section 5.7 Manager. The Board may employ a manager to manage, operate and maintain the Common Elements, with such of the administrative functions and such other powers and duties as the Board may delegate from time to time and for such fees as the Board may establish consistent with other provisions of the Declaration. The manager may be the Declarant or an entity related to the Declarant.

Section 5.8 Administrative Regulations. The Board may adopt, repeal, amend or modify Administrative Regulations in furtherance of the Bylaws or Declaration. Any Owner desiring to propose amendments, modifications, new Administrative Regulations or repeal of existing Administrative Regulations must do so by written submission to the Board for its action.

ARTICLE VI ASSESSMENTS

Section 6.1 Agreement to Pay Assessments. Declarant, for each Unit owned by it, and for and as the Owner of the Property and every part thereof, hereby covenants, and each Owner of any Unit by the acceptance of a deed therefore, whether or not it be so expressed in the deed, shall be deemed to covenant and agree with each other and with the Association to pay Assessments to the Association for the purposes provided in the Declaration. Such Assessments shall be fixed, established and collected from time to time as provided for in this Article.

Section 6.2 Creation of Lien and Personal Obligation For Assessments. Each Owner of any Unit, by acceptance of a deed or other instrument creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other instrument, is deemed to covenant and agree to pay to the Association, such Assessments to be fixed, established and collected from time to time as provided in this Declaration. The Assessments, together with interest thereon, late charges, attorneys' fees, court costs and all other costs of collection incurred by the Association in collecting or attempting to collect delinquent assessments, whether or not suit is filed, shall be a continuing lien upon the Unit against which each such Assessment is made in favor of the Association. Each such Assessment, together with such interest, late charges, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Unit at the time the Assessment becomes due.

Section 6.3 Purpose of Assessments. The Assessments levied by the Association shall be used for the purposes of promoting the health, safety and welfare of the Owners, the management, maintenance, care, operation, repair, preservation, and replacement of the Property, enhancing the quality of life and the value of the Property including, but not limited to, the improvement and maintenance of the services and facilities devoted to this purpose and related to the use and enjoyment of the Common Elements, the management and operation of the Association, or in furtherance of any other duty or power of the Association.

Section 6.4 Annual Assessments. (a) The Board may levy upon and subsequently collect from each Owner an Annual Assessment for each Unit. The Annual Assessment shall reflect the Board's estimate of the requirements of the Association to cover Common Expenses including,

without limitation, the cost of maintenance, repair and operation of the Common Area; expenses of management and operation of the Association; premiums for insurance coverage as deemed desirable or necessary by the 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 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) Each Owner will be responsible for that Owner's share of the Annual Assessments, which will be divided among the Units included in the project under this Declaration from time to time, in proportion to each Unit's undivided percentage ownership interest in the Common Elements, except that if the Board determines in good faith that a portion of the Annual Assessment benefits fewer than all the Units, such portion shall be assessed only against the benefited Units.

(c) Payment of the Annual Assessment shall be due and payable either annually or in installments, as the Board may provide.

Section 6.5 Special Assessments. (a) The Board may, from time to time, levy upon and subsequently collect from each Owner a Special Assessment for each Unit.

(b) Each Owner will be responsible for that Owner's share of the Special Assessments, which will be divided among the Units included in the project under this Declaration from time to time, in proportion to each Unit's undivided percentage ownership interest in the Common Elements, except that if the Board determines in good faith that all or a portion of the Special Assessment benefits fewer than all the Units, in which case all or such portion shall be assessed only against the benefited Units.

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

Section 6.6 Default Assessments. (a) Any cost or expense (including attorneys fees) incurred by the Association as a result of the failure of an Owner to abide by the provisions of this Declaration, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to this Declaration, or any interest, late charge, fine or other monetary obligation of an Owner under this Declaration (other than Annual or Special Assessments) constitutes a Default Assessment.

(b) Default Assessments are levied against the Unit or Units of an Owner who incurs a Default Assessment.

(c) Default Assessments shall be immediately due and payable by the Owner, upon notice from the Association of the amount of the Default Assessment.

Section 6.7 Remedies for Nonpayment of Assessments. 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 Association may take any or all of the following actions:

- (a) Assess a reasonable late charge for each delinquency at uniform rates set by the Board from time to time;
- (b) Charge interest from the date of delinquency at uniform rates set by the Board from time to time, not to exceed the maximum rate of interest permitted by 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 Unit and foreclose as set forth in more detail below.

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

Section 6.8 Assessment Lien. Any Assessment chargeable to a Unit will constitute a lien on the Unit, effective on the due date of the Assessment. If the Assessment is not paid within thirty (30) days of its due date, the Association may prepare and record a written lien statement with respect to the Unit, setting forth the name of the Owner, the legal description of the Unit, the name of the Association, and the delinquent Assessments amounts then owing. Any such statement will be signed by an officer or director of the Association, and will be served upon the Owner of the Unit by mail to the address that the Association has in its records for the Owner. Thirty days following the mailing of such notice to the Owner, the 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 Association will have the power to bid on a Unit at foreclosure sale and to acquire, hold, lease, mortgage and convey the Unit.

Section 6.9 Liability for Assessments. All Owners of a Unit 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. All successors to the fee simple title of a Unit, except as provided in Section 6.10 and Section 6.11, 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 Association under Section 6.12.

Section 6.10 Priority of Lien for Assessments. 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 Unit 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 Unit 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 Unit free of any claims for unpaid Assessments, interest, late charges, costs, expenses, and attorney's fees against the Unit which accrue prior to the time such First Mortgagee or purchaser acquires title to the Unit. Any such person who acquires title will be subject to Assessments which are levied thereafter.

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 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 6.11 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 6.12 Statement of Status of Assessments. On written request, the 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 Unit in which the Owner, designee or mortgagee has an interest. The information contained in such statement, when signed by an officer or director of the Association, will be conclusive upon the 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.

ARTICLE VII COMMON ELEMENTS; EASEMENTS

Section 7.1 Use of Common Elements. Every Owner is hereby granted and shall have and enjoy a perpetual, non-exclusive easement for access to and from his or her Unit and for the use and enjoyment of the General Common Elements and of the Limited Common Elements that pertain to the Owner's Unit, which easement is appurtenant to and will pass with the title to every Unit, subject to the provisions set forth in this Declaration. Such right and easement shall extend to each Owner and the Owner's agents, family members, tenants, guests, licensees, invitees or employees. Such right and easement shall be subject to such limitations, restrictions, and Administrative Regulations as may from time to time be promulgated by the Board.

Section 7.2 Public Utilities. Each Owner, the Association and the Declarant is hereby granted, reserves and shall have and enjoy a perpetual, non-exclusive easement for utilities over and across the Property including the Building, including but not limited to installation and maintenance of lines, cables, wires, conduits, pipes or other devices for electricity, cable television, power, telephone, public sewers, storm water drains, water systems, sprinkling systems, sanitary sewer, drainage facilities, water heating, gas, and any similar public or quasi-public improvements, facility or other public utilities needed to serve the Property. The Association may grant utility easements to others, provided that any such grants do not adversely affect the utility services to the existing Units.

Section 7.3 Association's Right to Use of Common Elements. The Association shall have a nonexclusive easement to make such use of the Common Elements as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration.

Section 7.4 Grant of Easements to Others. The Association, acting through the Board and its officers, shall have authority to grant and convey easements over and across the Common Elements to third parties consistent with the overall character and use of the Property, so long as such easements do not substantially interfere with the use of the Property by the Owners.

ARTICLE VIII COVENANTS, CONDITIONS AND RESTRICTIONS

Section 8.1 Violation of Declaration. No Person shall use or cause to be used any portion of the Property in any manner which would violate any of the terms set forth in this Declaration. Any Person owning, using or having an interest in the Property or any portion thereof and their tenants, lessees, guests and invitees shall comply with all the conditions on use of the Property set forth in this Declaration.

Section 8.2 Commercial Use of Units. Swan View Condominiums is a commercial condominium project. All Units shall be used only for commercial, and not residential purposes.

Section 8.3 Type of Use Permitted. The Swan View Condominiums are for commercial, not residential use. All Units may be used for professional or other office-type uses. Other commercial uses that generate volumes of traffic and need for parking that are similar to the existing office uses and that do not unduly disturb other Owners in their use of their Units are also permitted. Restaurants and general retail stores are not permitted uses. Other uses that generate volumes of traffic and need for parking in excess of the existing office uses or that unduly disturb

other Owners in their use of their Units are not permitted uses. If asked to do so, the Board of Directors shall receive information from any Owner wishing to engage in a proposed particular use as to the nature of that use and how that use will impact the other Owners' use of their Units, including but not limited to traffic and parking. After hearing such information as any Owner may wish to provide, the Board of Directors shall make a determination as to whether such proposed use is permitted or not permitted under this Section. The determination of the Board of Directors shall be final. If the Owner who is proposing a specific use is also on the Board of Directors, such Owner shall not vote in the determination of whether the use is permitted.

Section 8.4 No Competing Use. No Unit shall be used in a manner that competes with the business of another Unit. For purposes of this Section a Unit shall be considered to compete with another Unit if the main business of a Unit is substantially the same as the main business of another Unit.

Section 8.5 Use of General Common Elements. There shall be no obstruction of the General Common Elements, nor shall anything be stored on any part of the General Common Elements without the prior written consent of the Association, except as specifically provided herein. Outdoor sales of merchandise or activities, including, but not limited to, placing benches, tables or chairs or serving food on sidewalks, in the parking lot or elsewhere outside shall not be permitted.

Section 8.6 Signs. The Owner of each Unit shall be permitted to place one exterior sign on the outside of the Building indicating the name of the business conducted in the Unit. All signs must be approved in writing in advance by the Board of Directors. Except for signs approved by the Board of Directors, no sign of any nature whatsoever shall be displayed or placed in any Unit, in any window of a Unit or on any part of the Common Elements.

Section 8.7 Prohibition of Certain Activities. Nothing shall be done or kept in any Unit or in the Common Elements or any part thereof which would result in the cancellation of the insurance on the Property. No damage to, or waste of, the Common Elements or any part thereof shall be committed by any Owner or any Occupant, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste. No Owner or Occupant shall engage in activity within the Property in violation of any law, ordinance, statute, rule or regulation of any local, county, state or federal body. No nuisance or unreasonably offensive or noxious activity shall be permitted within any Unit or in the Common Elements or any part thereof which is the source of significant annoyance or embarrassment to, or which significantly offends or disturbs, other Owners or which materially interferes with the peaceful enjoyment or possession and proper use of any Unit or the Common Elements.

Section 8.8 Parking. Initially, it is not anticipated that parking spaces will be allocated to specific Units. No Owner shall use a Unit in such a manner as to cause more than the Owner's share of the parking spaces to be used on a regular basis. In the future, the Board may elect to allocate specific parking spaces for the exclusive use of individual Units or the Board may elect to regulate parking in any other manner determined by the Board to insure that each Owner is allowed to use that Owner's fair share of the parking spaces.

Section 8.9 External Fixtures. No external items such as, but not limited to, television and radio antennas, satellite dishes, solar panels, flag poles, clotheslines, wiring, insulation, air

conditioning equipment, water softening equipment, fences, awnings, ornamental screens, screen doors, porch or patio or balcony enclosures, or sunshades, other than those approved by the Board, and any replacements thereof, shall be constructed, erected or maintained on the Property, including the Building.

Section 8.10 Window Covers. All window coverings visible from the exterior of the Building shall be of a neutral color or otherwise compatible with the exterior decor of the Building.

Section 8.11 Noise and Odors. No unreasonably loud noise or objectionable odor that disturbs other Owners shall be permitted. No radio, stereo, amplifier, broadcast or loudspeaker units of any kind shall be placed upon or be directed to the outside of the Building without the prior written approval of the Board.

Section 8.12 Unsightly Items. All rubbish, debris or unsightly materials or objects of any kind shall be regularly removed from Units and the Common Elements and shall not be allowed to accumulate therein or thereon. Trash and garbage shall be placed in containers for removal from the Property in accordance with Administrative Regulations applicable thereto adopted by the Board.

Section 8.13 Rental and Leases. Any Owner who shall rent or lease his or her Unit shall be responsible for assuring compliance by the tenants with the Declaration, the Bylaws and the Administrative Regulations. Failure by an Owner to take legal action, including the institution of a forcible entry and detainer proceeding against his or her tenant who is in violation of the Declaration, the Bylaws or the Administrative Regulations after receipt of written demand so to do from the Board, shall entitle the Association, to take any and all such action including the institution of proceedings in forcible entry and detainer on behalf of such Owner against his tenant and the Owner hereby assigns his rights as a landlord to enforce such defaults. Any expenses incurred by the Association, including attorneys' fees and costs of suit, shall be repaid to it by such Owner.

Section 8.14 Alterations, Additions or Improvements. Except as otherwise provided in this Declaration, no alterations of any Common Elements or any additions or improvements thereto shall be made by any Owner, without the prior written approval of the Board. Any Owner may make nonstructural alterations, additions or improvements within the interior of such Owner's Unit without the prior written approval of the Board, but such Owner shall be responsible for any damage to any other Units or the Common Elements which may result from such alteration, addition or improvement.

Section 8.15 Interior. Each Owner shall have the right to decorate interior surfaces of the walls, ceiling and floors from time to time as such Owner may see fit at such Owner's sole expense and shall be responsible for maintaining the interior of his Unit, including, without limitation, interior walls, window, glass, ceilings, floors and fixtures, appurtenances thereto, in a clean, sanitary and attractive condition, and good state of repair.

ARTICLE IX INSURANCE

Section 9.1 Authority to Purchase. All insurance policies relating to the Common Elements will be purchased by the Association or its duly authorized agent. The Association, Board of Directors and Declarant will not be liable for failure to obtain any coverage required by this Article or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage is available only at unreasonable cost.

Section 9.2 Deductible. The deductible, if any, on any insurance policy purchased by the Association may be treated as a Common Expense payable from Annual Assessments or Special Assessments (allocable to all of the Units or to only some of the Units, if the claims for damages arise from the negligence of particular Owners), or as an item to be paid from any working capital reserves established by the Board of Directors.

Section 9.3 Physical Damage Insurance. The Association will obtain casualty insurance for such insurable Units, Common Elements, General Common Elements and Limited Common Elements and with such coverages, limits, deductibles and other terms and conditions as the Board may determine from time to time. Owners (or their tenants) shall be responsible for obtaining their own insurance covering the contents of their Unit and any business interruption insurance desired by the Owner.

Section 9.4 Liability Insurance. The Association will obtain a comprehensive policy of public liability insurance and property damage insurance with such coverages and limits as the Board of Directors may from time to time determine, insuring each member of the Board of Directors, the Association, and the respective employees, agents, and all persons acting as agents against any liability to the public or the Owners (and their guests, invites, tenants, agents, and employees) arising in connection with the ownership, operation, maintenance, or use of the Common Elements and any other areas under the control of the Association. Declarant will be included in the coverage as an additional insured in Declarant's capacity as an Owner or Director. The Owners will be included as additional insureds, but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements. Owners (or their tenants) shall be responsible for obtaining public liability insurance for their Units and business operations.

The Board of Directors will review the coverage limits from time to time, but, generally, the Board will carry such amounts of insurance usually required by private institutional mortgage lenders on projects similar to the Swan View Condominium project, and in no event will such coverage be less than \$2,000,000.00 for all claims for bodily injury or property damage arising out of one occurrence.

Section 9.5 Fidelity Coverage. Fidelity bonds or insurance coverage may be maintained by the Association to protect against dishonest acts on the part of its officers, directors, trustees, and employees, and on the part of all others who handle or are responsible for handling the funds of or administered by the Association. In addition, if responsibility for handling funds is delegated to a Manager, such bonds or insurance coverage may be required for the Manager and its officers, employees, and agents, as applicable. Such fidelity bonds or insurance coverage will name the Association as an obligee or insured and will be written in such amount as the Board may determine appropriate.

Section 9.6 Provisions Common to Physical Damage Insurance, Liability Insurance, and Fidelity Insurance. Any insurance coverage obtained by the Association under the provisions of this Article above will be subject to the following provisions and limitations:

- a. The named insured under any such policies will include Declarant, until all of the Units have been conveyed. The Association, as attorney-in-fact for the Owners, or the authorized representative of the Association, will have exclusive authority to negotiate losses under such policies.
- b. Each Owner will be an insured person with respect to liability arising out of the Owner's interest in the Common Elements or membership in the Association.
- c. The policies will contain a waiver by the insurer of any right to claim by way of subrogation against Declarant, the Board of Directors, the Association and any Owner and their respective agents, employees, or tenants, and in the case of Owners, members of their households.

Section 9.7 Personal Liability Insurance of Officers and Directors. To the extent obtainable at reasonable cost, appropriate officers' and directors' personal liability insurance will be obtained by the Association to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as such officers and directors on behalf of the Association.

Section 9.8. Worker's Compensation Insurance. If the Association hires any employees, the Association will obtain worker's compensation or similar insurance with respect to such employees in the amounts and forms as may now or hereafter be required by law.

Section 9.9 Other Insurance. The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it will deem appropriate with respect to the Association's responsibilities and duties.

Section 9.10 Insurance Obtained by Owners. Each Owner will have the right to obtain insurance for such Owner's benefit, at such Owner's expense, covering the Owner's Unit and improvements, personal property and personal liability. However, no insurance coverage obtained by an Owner will operate to decrease the amount which the Association, on behalf of all Owners, may realize under any policy maintained by the Association or otherwise affect any insurance coverage obtained by the Association or cause the diminution or termination of that coverage. Any such insurance obtained by an Owner will include a waiver of the particular insurance company's right of subrogation against Declarant, the Board of Directors, the Association and other Owners.

ARTICLE X DAMAGE OR DESTRUCTION

Section 10.1 Estimate of Damages or Destruction. As soon as practical after an event causing damage to or destruction of any part of the Common Elements, unless such damage or destruction is minor and only affects General Common Elements, the Association will obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part of the Common Elements so damaged or destroyed. "Repair and reconstruction" as used in

this Article will mean restoring the damaged or destroyed improvements to substantially the same condition in which they existed prior to the damage or destruction.

Section 10.2 Repair and Reconstruction. As soon as practical after obtaining estimates, the Association will diligently pursue to completion the repair and reconstruction of the damaged or destroyed Common Elements. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Owner will be necessary. Assessments of the Association will not be abated during the period of insurance adjustments and repair and reconstruction.

Section 10.3 Funds for Repair and Reconstruction. The proceeds received by the Association from any hazard insurance will be used for the purpose of repair, replacement and reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may levy, assess and collect in advance from all Owners, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair and reconstruction.

Section 10.4 Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Association and the amounts received from any Special Assessments constitute a fund for the payment of the costs of repair and reconstruction after casualty. It will be deemed that the first money disbursed in payment for the costs of repair and reconstruction will be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance will be distributed to the Owners in proportion to the contributions each Owner made as a Special Assessment to the Association or, if no Special Assessments were made, then in proportionate shares on the basis of the percentage interests in the Common Elements, first to the Mortgagees and then to the Owners, as their interests appear.

Section 10.5 Decision Not to Rebuild. If Owners representing at least two-thirds ($2/3$'s) of the votes in the Association agree in writing not to repair and reconstruct damage to the Common Elements and no alternative improvements are authorized, then and in that event the Property will be restored to its natural state and maintained as an undeveloped portion of the Common Elements by the Association in a neat and attractive condition, and any remaining insurance proceeds will be distributed in proportionate shares on the basis of the percentage interests in the Common Elements, first to the Mortgagees and then to the Owners, as their interests appear.

Section 10.6 Damage or Destruction Affecting Units. In the event of damage or destruction to any Unit, the Owner thereof will promptly repair and restore the damaged Unit to its condition prior to such damage or destruction. If such repair or restoration is not commenced within 180 days from the date of such damage or destruction, or if repair and reconstruction is commenced but then abandoned for a period of more than 90 days, then the Association may, after notice and hearing, impose a fine accruing at the rate of \$100.00 per day or such other rate imposed by the Board in compliance with the Act, charged against the Owner of the Unit until repair and reconstruction is commenced, unless the Owner can prove to the satisfaction of the Association that such failure is due to circumstances beyond the Owner's control, excluding financial hardship. Such fine will be a Default Assessment and lien against the Unit.

ARTICLE XI CONDEMNATION

Section 11.1 Rights of Owners. Whenever all or any part of the Common Elements is taken or conveyed in lieu of and under threat of condemnation by any authority having the power of condemnation or eminent domain, each Owner will be entitled to notice of the taking, but the Association will act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

Section 11.2 Partial Condemnation; Distribution of Award; Reconstruction. The award made for such taking will be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Elements on which improvements have been constructed, then, unless, within 90 days after receipt of the award from such taking, the Owners representing at least two-thirds (2/3's) of the votes in the Association otherwise agree, the Association will restore or replace such improvements so taken on the remaining land included in the Common Elements to the extent lands are available therefor, in accordance with plans approved by the Board of Directors. If such improvements are to be repaired or restored, the provisions in Article X above regarding the disbursement of funds with respect to casualty damage or destruction that is to be repaired will apply. If the taking does not involve any improvements on the Common Elements, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds will be distributed in proportionate shares on the basis of the percentage interests in the Common Elements, first to the Mortgagees and then to the Owners, as their interests appear.

Section 11.3 Complete Condemnation. If all of the Property is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance of condemnation, then the condominium regime created by this Declaration will terminate, and the portion of the condemnation award attributable to the Common Elements will be distributed in proportionate shares on the basis of the percentage interests in the Common Elements, first to the Mortgagees and then to the Owners, as their interests appear.

ARTICLE XII ASSOCIATION AS ATTORNEY-IN-FACT

Section 12.1 Appointment of Association as Attorney-In-Fact. Each and every Owner hereby irrevocably constitutes and appoints the Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place, and stead for the purpose of dealing with the Common Elements for all purposes, including but not limited to collecting insurance proceeds as provided in Article IX, the occurrence of damage or destruction as provided in Article X or a complete or partial taking as provided in Article XI above. Acceptance by any grantee of a deed or other instrument of conveyance from Declarant or from any Owner will constitute appointment of the Association as attorney-in-fact as provided in this Article. As attorney-in-fact, the Association will have full and complete authorization, right, and power to make, execute and deliver any contract, assignment, deed, easement, waiver or other instrument with respect to the interest of any Owner that may be

necessary or appropriate to exercise the powers granted to the Association as attorney-in-fact. This appointment is deemed coupled with an interest and may not be revoked by any Owner.

ARTICLE XIII DURATION AND AMENDMENT

Section 13.1 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 maximum period permitted by law, or until the provisions contained in this Declaration are amended or terminated as provided below, whichever first occurs.

Section 13.2 Amendment. This Declaration may be amended at any time by Owners representing two-thirds (2/3's) of the votes in the Association, by votes cast in person or by proxy at a meeting duly called for such purpose, or by written ballot, or by a combination of votes at a meeting and votes by written ballot (with the votes by written ballot included in determining whether a quorum is present). Notice of any such meeting shall be given to all Members at least fourteen (14) days in advance and shall set forth the purpose of the meeting. Any such amendment shall become effective when an instrument is filed for record in the real estate records of Flathead County, Montana, together with a certification signed by two of the officers of the Association attesting to the approval of the amendment by the required number of Members. The instrument need not be signed by the Members. Any amendment shall be binding upon every Owner and every Unit Ownership whether the burdens thereon are increased or decreased thereby, and whether the Owner of each and every Unit Ownership consents thereto or not.

Section 13.3 Termination. This Declaration may be terminated with the written consent of all of the Owners recorded in the real estate records of Flathead County, Montana. In addition, this Declaration may be terminated if Owners representing at least 90% of the votes in the Association determine that the property is obsolete in whole or in part at a meeting duly called for such purpose, or by written ballot, or by a combination of votes at a meeting and votes by written ballot (with the votes by written ballot included in determining whether a quorum is present). Notice of such meeting shall be given to all Members at least fourteen (14) days in advance and shall set forth the purpose of the meeting. Any termination shall become effective when an instrument is filed for record in the real estate records of Flathead County, Montana, together with a certification signed by two of the officers of the Association attesting to the approval of the termination by the required number of Members. The instrument need not be signed by the Members. Upon termination, the property shall be either sold, with the net proceeds being divided among the Owners in accordance with their respective ownership interests in the Common Elements, or the Owners shall become owners of the property as tenants in common, with each Owner's interest in the property being equal to the Owner's percentage interest in the Common Elements.

**ARTICLE XIV
MISCELLANEOUS**

Section 14.1 Enforcement. The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all provisions of this Declaration, or any amendments thereto, including the rights to prevent a violation of the Declaration and the right to recover damages and other sums for such violations. The Association or any Owner shall also have the right to enforce by proceedings at law or in equity the provisions of the Bylaws and Administrative Regulations and any respective amendments thereto.

Section 14.2 No Waiver. Failure by the Association or by any Owner to enforce any provision contained herein, or contained in the Bylaws or Administrative Regulations, in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement as to any such future breach of the same or any other provision contained herein.

Section 14.3 Cumulative Remedies. All rights, options and remedies of the Association, and the Owners or the First Mortgagees under the Declaration are cumulative, and no one of them shall be exclusive of any other. The Association, the Owners and the First Mortgagees shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief which may be provided by law, whether or not stated in the Declaration.

Section 14.4 Severability. If any provision of the Declaration or any paragraph, sentence, clause, phrase or word or application thereof to any person or circumstance is invalidated by a court of competent jurisdiction, such invalidity does not affect the validity of the remainder of the Declaration, and the application of any provision, paragraph, sentence, clause, phrase or word to any person or other circumstance shall not be affected thereby and the same shall remain in full force and effect.

Section 14.5 Construction. The provisions of the Declaration shall be liberally construed to effectuate its purpose of creating a plan for the development of a condominium community and for the maintenance of the Property. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

Section 14.6 Gender and Number. Whenever the context of the Declaration requires, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and the neuter, and vice versa.

Section 14.7 Nuisance. The result of every act or omission whereby any provision contained in the Declaration or any provision contained in the Bylaws or Administrative Regulations is violated in whole or in part is hereby declared to be and shall constitute a nuisance, and every remedy allowed at law or in equity against a nuisance, either public or private, shall be applicable with respect to the abatement thereof and may be exercised by the Association or any Owner. Such remedy shall be deemed cumulative to all other remedies set forth in the Declaration and shall not be deemed exclusive.

Section 14.8 Attorneys' Fees. In the event any action is instituted to enforce any of the provisions contained in the Declaration, Bylaws, or Administrative Regulations, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment reasonable attorneys' fees and costs of suit.

Section 14.9 Notices. Any notice to be given to an Owner, a First Mortgagee or the Association under the provisions of the Declaration shall be in writing and shall be delivered personally, by first class United States mail, postage prepaid, or by overnight delivery service. Any notice so deposited in the United States mail shall be deemed delivered seventy-two (72) hours after such deposit. Notice by overnight delivery service shall be deemed delivered when it is actually delivered.

a. Notice to an Owner shall be to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such Owner's Unit. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners, and upon delivery to one of the co-Owners shall be deemed delivered to all such co-Owners.

b. Notice to a First Mortgagee shall be to the most recent address furnished by such First Mortgagee in writing to the Association for the purpose of such notice or, if no such address shall have been furnished, to any office of the First Mortgagee.

c. Notices to the Association shall be to the office of the statutory registered agent of the Association on record with the Montana Secretary of State.

Section 14.10 Agent for Service of Process. Service of process in the cases provided for in MCA 70-23-901 may be made upon SWAN VIEW CONDOMINIUM OWNERS ASSOCIATION, INC. at the office of the statutory registered agent of SWAN VIEW CONDOMINIUM OWNERS ASSOCIATION, INC. on record with the Montana Secretary of State, which is initially Christa Nadeau, 104 Jewel Basin Court – Suite 2, Bigfork, MT 59911. The agent for such service of process may be changed by recording a document as provided in MCA 70-23-902.

Section 14.11 Effect of Declaration. This Declaration is made for the purposes set forth in the recitals in the Declaration, and Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of the Declaration, or as to the compliance of any of these provisions with public laws, ordinances, regulations and the like applicable thereto. Declarant shall have no liability whatsoever if any of the provisions of the Declaration, Articles, Bylaws or Administrative Regulations are determined to be unenforceable in whole or in part or under certain circumstances.

Section 14.12 Personal Covenant. To the extent the acceptance of a conveyance of a Unit creates a personal covenant between the Owner of such Unit and Declarant, other Owners or the Association, such personal covenant shall terminate and be of no further force or effect from and after the date when a Person ceases to be an Owner except to the extent the Declaration provides for personal liability with respect to the Assessments incurred during the period a Person is an Owner,

and except with respect to acts and omissions taking place prior to the time the Person ceases to be an Owner.

Section 14.13 Nonliability of Officials. To the fullest extent permitted by law, neither the Board nor any officer or director of the Association shall be liable to any Owner or the Association for any damage, loss, or prejudice suffered or claimed on account of any decision, approval or disapproval, course of action, act, omission, error, or negligence if such Board member or officer acted in good faith.

Section 14.14 Owner Liability and Indemnification. Each Owner shall be liable to the remaining Owners and to the Association for any damage to the Common Elements that may be sustained by reason of the negligence of that Owner or any occupant of that Owner's Unit and the agents, family members, tenants, guests, licensees, invitees or employees of such Owner or occupant, but only to the extent that any such damage is not covered by property coverage (casualty) insurance in favor of the Association. Each Owner, by acceptance of a deed for a Unit, agrees personally and for that Owner or any occupant of that Owner's Unit and the agents, servants, family members, tenants, guests, licensees, invitees or employees of such Owner or occupant, to indemnify each and every other Owner, and to hold such other Owners harmless from, and to defend such Owners against, any claim of any person for personal injury or property damage occurring within the Unit of that particular Owner, including any exclusive easement areas, if any, except to the extent: (A) that such injury or damage is covered by liability insurance in favor of the Association or any other Owner, or (B) the injury or damage occurred by reason of the willful or negligent act or omission of the Association or other Owner or other Person temporarily visiting such Unit.

Section 14.15 Conflicting Provision. In the case of any conflict between the Declaration, Articles, Bylaws, or Administrative Regulations, this Declaration shall control.

ARTICLE XV RIGHT OF FIRST REFUSAL

Section 15.1 Grant of Right of First Refusal. For good and valuable consideration, the receipt of which is acknowledged, each Owner (the "Selling Owner") hereby grants to the other Owners (the "Other Owners") the right of first refusal to purchase each Unit. If a Selling Owner receives an offer to purchase a Unit from a third party and desires to sell the Unit, then the Selling Owner shall notify the Other Owners in writing, stating the terms and conditions upon which the sale to the third party would take place, providing a copy of the signed buy/sell agreement between the Selling Owner and the prospective purchaser, identifying the prospective purchaser (and its principals if the prospective purchaser is an entity), and stating the proposed use that the prospective purchaser wishes to make of the Unit. The Other Owners shall have thirty (30) days in which to elect to purchase the Unit on the same terms and conditions. If all of the Other Owners wish to participate in the purchase, the Other Owners shall each participate in proportion to their respective interests in the Common Elements. If more than one, but fewer than all of the Other Owners elect to participate in the purchase, the electing Other Owners shall each participate in proportion to their respective interests in the Common Elements. If only one Other Owner elects to purchase, that Other Owner shall be the sole purchaser. If any of the Other Owners elects to purchase the Unit, the transaction will be closed no sooner than sixty (60) days after the election of such Other Owner(s) to purchase the Unit. The closing will be on the same terms and conditions as provided in the buy/sell agreement

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**EXHIBIT A
TO
DECLARATION OF UNIT OWNERSHIP
AND COVENANTS, CONDITIONS AND RESTRICTIONS ESTABLISHING AND
GOVERNING**

SWAN VIEW CONDOMINIUMS

Legal Description of the Property Subject to the Declaration of Unit Ownership and Covenants,
Conditions and Restrictions Establishing and Governing Swan View Condominiums:

Lot 9 of Jewel Basin Plaza, according to the official plat thereof, filed in the Official Records
of Flathead County, Montana.

200708113570

**EXHIBIT B
TO
DECLARATION OF UNIT OWNERSHIP
AND COVENANTS, CONDITIONS AND RESTRICTIONS ESTABLISHING AND
GOVERNING**

SWAN VIEW CONDOMINIUMS

Designation of Units and Fractional Ownership of Common Elements Associated with Each Unit:

<u>Unit Number:</u>	<u>Square Footage</u>	<u>Percentage of Ownership of Common Elements:</u>
1	832	24.40%
2	878	25.75%
3	810	23.75%
4	437	12.85%
5	452	13.25%
TOTAL:	3,409	100.00%

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**EXHIBIT C
TO
DECLARATION OF UNIT OWNERSHIP
AND COVENANTS, CONDITIONS AND RESTRICTIONS ESTABLISHING AND
GOVERNING**

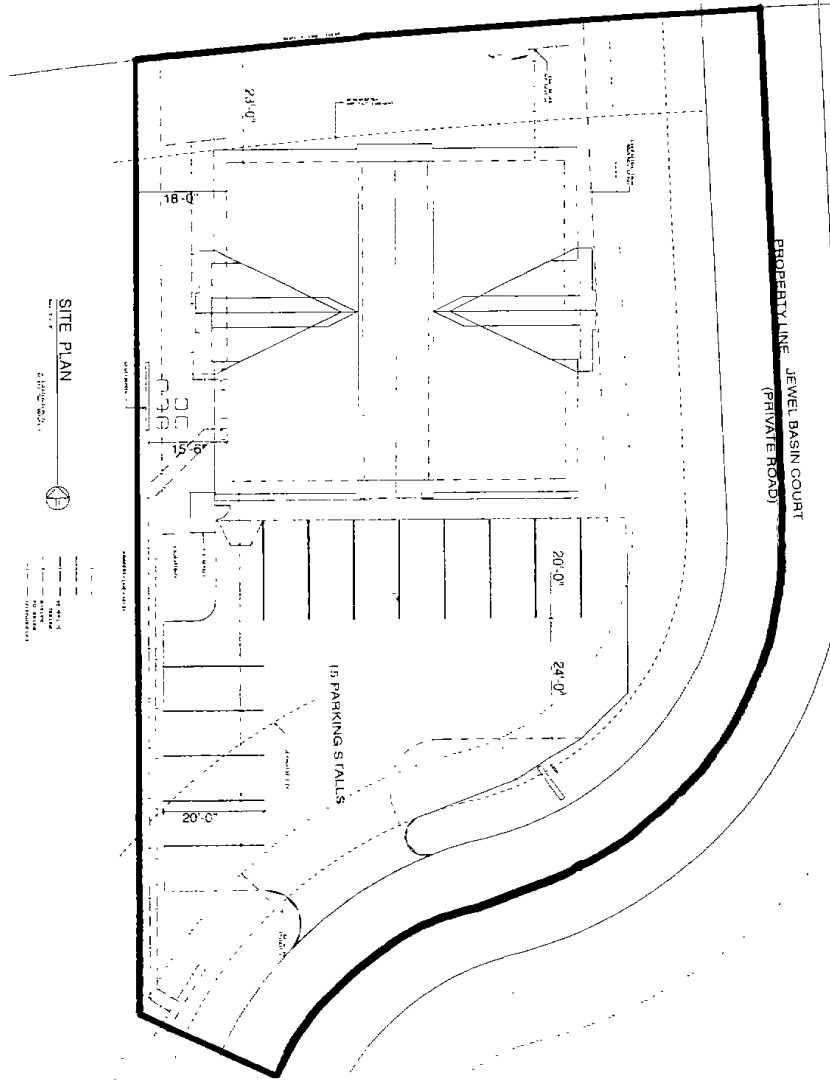
SWAN VIEW CONDOMINIUMS

The Plans that comprise this Exhibit C are itemized as follows:

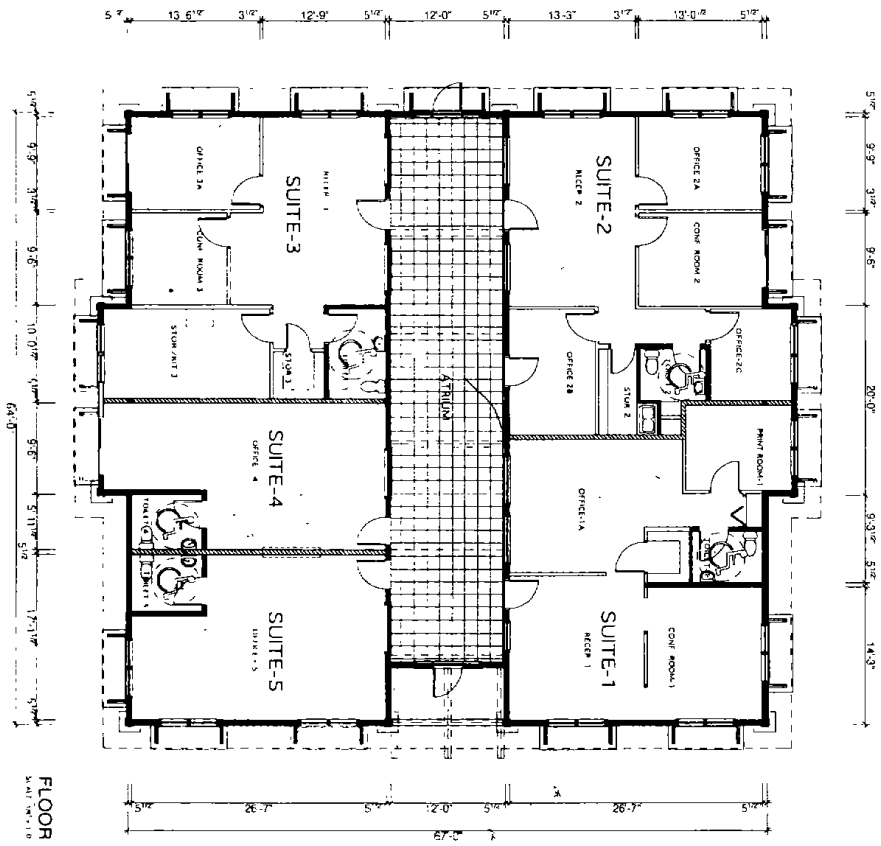
SITE PLAN	Page 1
FLOOR PLAN OF UNITS	Page 2
ELEVATIONS OF BUILDING	Pages 3-6
BUILDING SECTION	Page 7.

The floor plan of the Units identifies Units 1, 2, 3, 4 and 5 as Suite-1, Suite-2, Suite-3, Suite-4 and Suite-5, respectively. The atrium shown on the floor plan is one of the General Common Elements.

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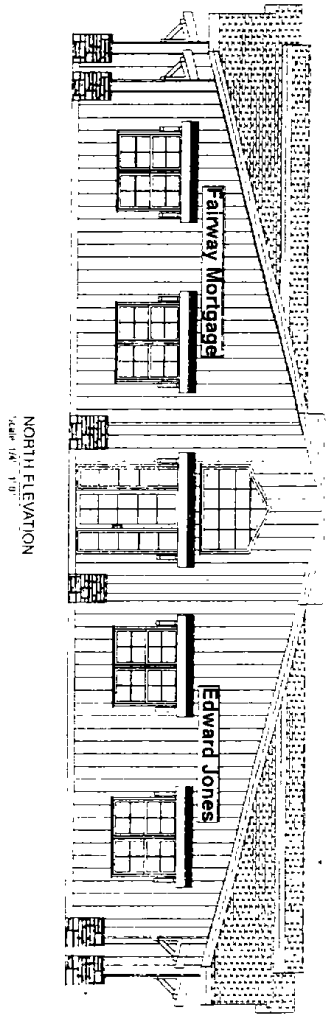
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FLOOR PLAN
SCALE: 1/8" = 1'-0"

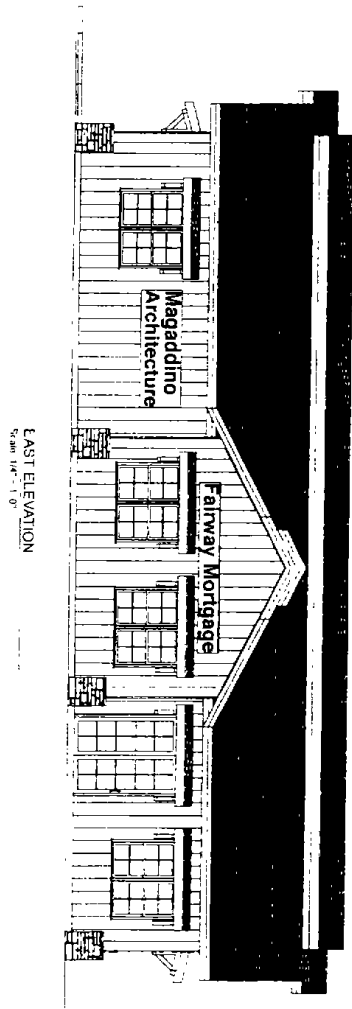


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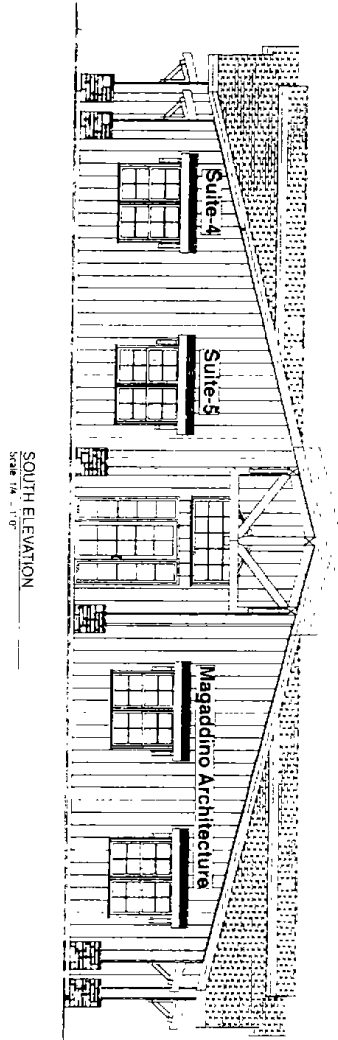


NORTH ELEVATION
Scale: 1/4" = 1'-0"

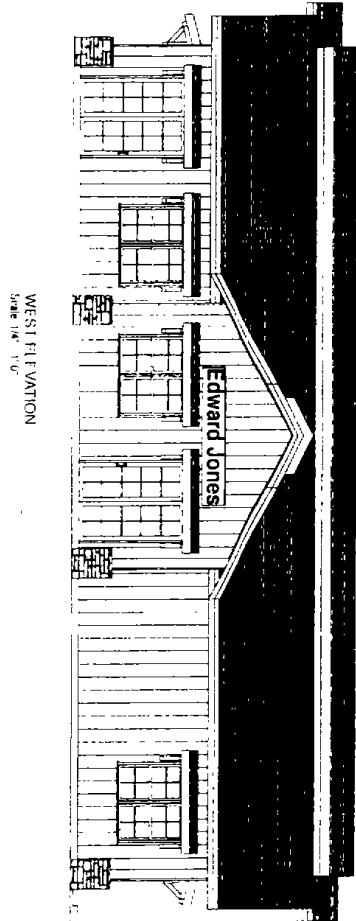
2007081 13570



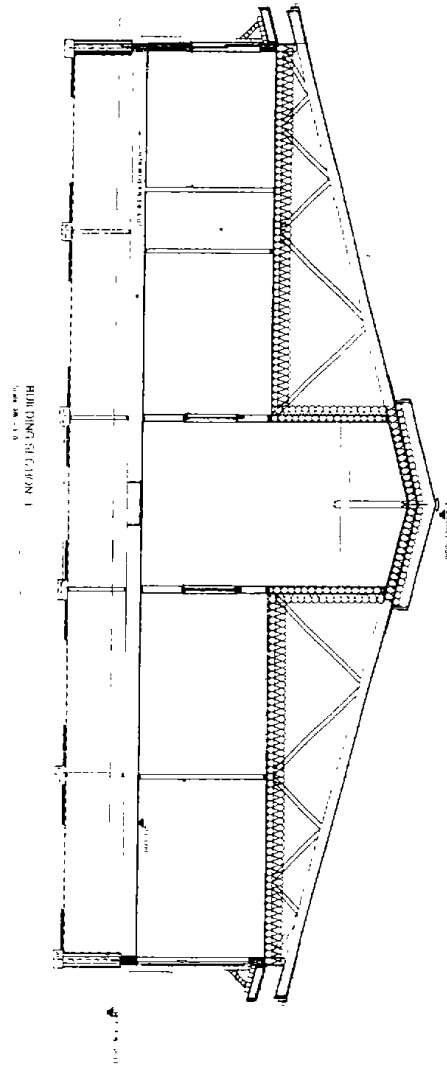
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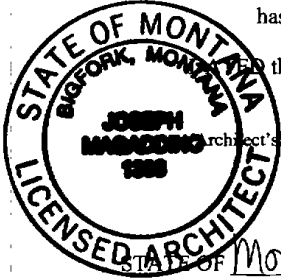


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ARCHITECT'S CERTIFICATION

I, JOE MAGADDINO, being a licensed architect who reviewed the plans for Swan View Condominiums attached to the foregoing This Declaration of Unit Ownership and Covenants, Conditions and Restrictions Establishing and Governing Swan View Condominiums, do hereby certify as follows:

1. I have reviewed the plans attached as Exhibit C and they are an accurate copy of the plans filed with and approved by any governmental officers having jurisdiction to issue building permits.
2. The plans attached as Exhibit C fully and accurately depict the layout, location, unit designation and dimensions of each Unit, as built. The basic structure of the Units has been completed as of the date of this Certification.



this 19th day of March, 2007.

Joe Magaddino

 Joe Magaddino

STATE OF Montana
 County of Flathead :ss

On this 19th day of March, 2007, before me, the undersigned, a Notary Public for the State aforesaid, personally appeared Joe Magaddino, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

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



REBECCA WELCH
 NOTARY PUBLIC-MONTANA
 Residing at Bigfork, Montana
 My Comm. Expires June 15, 2010
 (Notary Seal)

Rebecca Welch

 Notary Public for the State of Montana
Rebecca Welch
 [print or type name of notary]
 Residing at Bigfork MT
 My Commission expires 06/15/2010

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Plat Room
Flathead County, Montana
800 S. Main St.
Kalispell, MT 59901
(406) 758-5510

This Form is for ^{CONDOS}~~Subdivisions~~ Only

BY : _____

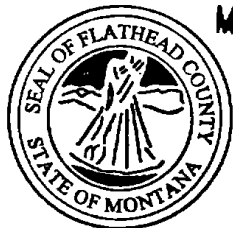
FOR : MNM LLC

DATE : 3/21/2007

DESCP : SWAN VIEW CONDO on L.9 Jewel PURPOSE : CONDO
Basin Plaza 24-27-20

YEARS	ASSESSOR #
<u>2003 thru 2006</u>	<u>0764800</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

I hereby certify that there are no outstanding taxes on the property assigned the assessor numbers listed above, for the years indicated for each assessor number.



MAR 21 2007 Maia Kabe

Deputy Treasurer
(seal)

2007081 | 3570

CERTIFICATION BY DEPARTMENT OF REVENUE

The Swan View Condominium declaration has been reviewed by
Tami Kingery being an agent of the Department
of Revenue for Flathead County, Montana, as described in 70-23-304 MCA.
The attached declaration is approved as to the facts that the name is proper
under 70-23-303 MCA and that the taxes due and payable on the property
have been paid.

Dated this 22nd day of March 2007

Signature Tami Kingery