

DRUMMAN CONST. INC.  
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## Declaration of Covenants, Conditions and Restrictions for Westwood Park Community Association

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THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 1st day of January, 2007 by the developers of the Westwood Community Association.

The Covenants, Conditions and Restrictions for Westwood Community Association was recorded  
July 10, 2009, by form of the foregoing Amended and Restated Declaration of Covenants, Conditions, and Restrictions.

NOW, THEREFORE, the Declaration of Covenants, Conditions and Restrictions is hereby stated as follows:  
Article I - Definitions

Section 1. "Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, which by the terms of this Declaration or by contract or agreement with any Neighborhood become the responsibility of the Association. The office of any property manager employed by or contracting with the Association, if located on the Properties, or any public rights-of-way within or adjacent to the Properties, may be part of the Area of Common Responsibility. The Area of Common Responsibility shall include such emergency access easement areas dedicated for use of public agencies.

Section 2. "Association" shall mean and refer to Westwood Community Association, its successors and assigns. The "Board of Directors" or "Board" shall be the elected body having its normal meaning under Montana corporate law. The use of the term "association" or "associations" in lower case shall refer to any townhome association or other owners association having jurisdiction over any part of the Properties.

Section 3. "Base Assessment" shall mean and refer to assessments levied against all Units in the Properties to fund Common Expenses.

Section 4. "By-Laws" shall mean and refer to the By-Laws of Westwood Community Association, attached hereto as Exhibit "D" and incorporated herein by reference, as they may be amended from time to time.

Section 5. "Common Area" shall mean an inclusive term referring to all General Common Area and all Community Facilities as defined herein.

Section 6. "Common Expenses" shall mean and include the actual and estimated expenses incurred by the Association for the general benefit of all Unit Owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, and the Articles of Incorporation of the Association.

Section 7. "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board of Directors and the Architectural Review Committee.

Section 8. "General Common Area" shall mean all real and personal property, which the Association now or hereafter owns or otherwise holds for the common use and enjoyment of all Owners.

Section 9. "Master Land Use Plan" shall mean and refer to the plan for the development of the PUD and final Plat as approved by the City of Kalispell, MT.

Section 10. "Member" shall mean and refer to a Person entitled to membership in the Association, as provided herein.

Section 11. "Mortgage" shall mean and refer to a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

Section 12. "Mortgagee" shall mean and refer to a beneficiary or holder of a Mortgage.



Section 13. "Mortgagor" shall mean and refer to any Person who gives a Mortgage.

Section 14. "Assessments" shall mean assessments levied against the Units in the community to fund Expenses.

Any Assessment shall be levied equally against all Units in the association benefiting from the services supported thereby, provided that in the event of assessments for exterior maintenance of structures, or insurance on structures, or replacement reserves which pertain to particular structures, such assessments for the use and benefit of particular Units shall be levied on a pro rata basis among the benefited Units.

Section 15. "Community Expenses" shall mean and include the costs and estimated expenses incurred by the Association for the benefit of Owners of Units within the association, which may include a reasonable reserve for capital repairs and replacements, all as may be specifically authorized from time to time by the Board of Directors and as more particularly authorized herein.

Section 16. "Westwood Community Facilities" shall mean the recreational facilities located within the Properties and reserved for Westwood residents as described in Article XVI of this Declaration.

Section 17. "Owner" shall mean and refer to one (1) or more Persons who hold the record title to any Unit, which is part of the Properties, including Parcel Developers, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale or memorandum thereof, and the contract specifically so provides, then the purchaser (rather than the fee owner) will be considered the Owner. If a Unit is subject to a written lease with a term in excess of one (1) year and the lease specifically so provides, then upon filing a copy of the lease with the Board of Directors the lessee (rather than the fee owner) will be considered the Owner for the purposes of exercising all membership privileges in the Association.

Section 18. "Parcel Developer" shall mean any Person who takes title to any portion of the Properties for the purpose of development and sale.

Section 19. "Person" means a natural person, a corporation, a partnership, a trustee, or other legal entity.

Section 20. "Properties" shall mean and refer to the real property described in Exhibit "A" attached hereto, together with such additional property as is hereafter subjected to this Declaration by a Supplemental Declaration.

Section 21. "Special Assessment" shall mean and refer to assessments levied in accordance with Article X, Section 4 of this Declaration.

Section 22. "Supplemental Declaration" shall mean an amendment or supplement to this Declaration recorded in the Recorder's Office of Flathead County, Montana, which, subjects additional property to this Declaration or imposes, expressly or by reference, additional restrictions and obligations on the land described therein, or both.

Section 23. "Unit" shall mean a portion of the Properties, whether developed or undeveloped, intended for development, use, and occupancy as an attached or detached residence for a single family, and shall, unless otherwise specified, include within its meaning (by way of illustration, but not limitation) townhouse units, patio or zero lot line homes, as well as vacant land intended for development as such, all as may be developed, used, and defined as herein provided or as



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provided in Supplemental Declarations covering all or a part of the Properties. The term shall include all portions of the lot owned, including any structure thereon. A list of Units is attached to this Declaration and incorporated herein as Exhibit C.

In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to contain the number of Units designated for such parcel on the Master Land Use Plan, whichever is more recent, until such time as a certificate of occupancy is issued on all or a portion thereof by the local government entity having jurisdiction, after which the portion designated in the certificate of occupancy shall constitute a separate Unit or Units as determined above and the number of Units on the remaining land, if any, shall continue to be determined in accordance with this paragraph.

Section 24. "Voting Group" shall mean one (1) or more Voting Members who vote on a common slate for election of directors to the Board of Directors of the Association if the context permits the group of Members whose Units are represented by thereby.

Section 25. "Voting Member" shall mean and refer to a Unit Owner. Article II -

### **Property Rights**

Every Owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the Common Area, subject to any restrictions or limitations contained in this Declaration as it may be amended from time to time, including, but not limited to, Article XVI, and to any restrictions or limitations contained in any deed conveying such property to the Association. Any Owner may delegate his or her right of enjoyment to the members of his or her family, tenants, and social invitees, as applicable, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Unit shall be deemed to have delegated all such rights to the Unit's lessee, unless otherwise specified in writing to the Secretary of the Association.

### **Article III - Membership and Voting Rights**

Section 1. Membership. Every Owner, as defined in Article I, shall be deemed to have a membership in the Association.

No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Unit owned. In the event the Owner of a Unit is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the By-Laws. The membership rights of a Unit owned by a corporation, partnership, or land trust shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary, subject to the provisions of this Declaration and the By-Laws.

Section 2. Voting. The Association shall have one (1) class of membership. Members shall be entitled to one (1) equal vote for each Unit in which they hold the interest required for membership under Section 1 hereof; there shall be only one (1) vote per Unit. Unless otherwise specified in this Declaration or the By-Laws, the vote for each Unit shall be exercised by the Voting Member, as defined in Article I, representing the Neighborhood of which the Unit is a part.

In any situation where a Member is entitled personally to exercise the vote for his Unit and more than one (1) Person holds the Interest in such Unit required for membership, the vote for such Unit shall be exercised as those persons determine among themselves and advise the Secretary



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of the Association in writing prior to any meeting. In the absence of such advice, the Unit's vote shall be suspended if more than one (1) Person seeks to exercise it.

#### **Article IV - Maintenance**

**Section 1. Association's Responsibility.** The Association shall maintain and keep in good repair the Area of Common Responsibility, such maintenance to be funded as hereinafter provided. This maintenance shall include, but need not be limited to, snow removal, as applicable, and maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures, and improvements situated upon the Common Areas, including all private streets within the Properties, and such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, or by a contract or agreement for maintenance thereof by the Association, or by that certain Covenant to Share Costs recorded by Declarant in the Office of the Recorder of Deeds of Flathead County, Montana, on certain commercial properties adjacent to the Properties.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of General Common Areas shall be a Common Expense to be allocated among all Units as part of the Base Assessment. All costs associated with maintenance, repair and replacement of Community Facilities shall be a Community Expense assessed as a Community Assessment solely against all Units within the Association, notwithstanding that the Association may be responsible for performing such maintenance hereunder. The actual monthly fee paid by each lot owner will be determined by the HOA.

**Section 2. Owner's Responsibility.** Each Owner shall maintain his or her Unit, and all structures, parking areas, landscaped easements within the Owner's property line and other improvements comprising the Unit, in a manner consistent with the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to a the Community Association pursuant to any additional declaration of covenants applicable to such Unit. If any Owner fails properly to perform his or her maintenance responsibility, the Association may perform it and assess all costs incurred by the Association against the Unit and the owner thereof in accordance with Article X, Section 4 of this Declaration; provided, however, except when entry is required due to an emergency situation, the Association shall afford the owner reasonable notice and an opportunity to cure the problem prior to entry.

#### **Article V - Insurance and Casualty Losses**

**Section 1. Insurance.** The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk casualty insurance, if reasonably available, for all insurable improvements on the Common Area. If blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

The Board shall also obtain a public liability policy covering the Common area, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have at least a One Million (\$1,000,000.00) Dollar single person limit as respects bodily injury and property damage, a Three Million (\$3,000,000.00) Dollar limit per occurrence, if reasonably available, and a Five Hundred Thousand (\$500,000.00) Dollar minimum property damage limit.

Premiums for all insurance on the Common Area shall be Common Expenses of the Association and shall be included in the Base Assessment, as defined in Article I and as more particularly described in Article X, Section 1. The policy may contain a reasonable deductible, and, in the case of casualty insurance, the amount thereof shall be added to the face amount of the policy in



determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

All insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for the respective benefited parties, as further identified in (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

- A. All policies shall be written with a company licensed to do business in Montana which, holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating.
- B. All policies on the Common Area shall be for the benefit of the Association and its Members.
- C. Exclusive authority to adjust losses under policies obtained by the Association on the Properties shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- D. In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.
- E. All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Flathead County, Montana area.
- F. The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:
  - o *a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners, and their respective tenants, servants, agents, and guests;*
  - o *a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;*
  - o *a statement that no policy may be cancelled, invalidated, suspended, or subject to non-renewal on account of any one or more individual Owners;*
  - o *a statement that no policy may be cancelled, invalidated, suspended, or subject to non-renewal on account of the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or Mortgagee;*
  - o *that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and*
  - o *that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or non-renewal.*

Section 2, Individual Insurance. By virtue of taking title to a Unit subject to the terms of this Declaration; each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Unit(s) and structures constructed thereon meeting the same requirements as set forth in Section 1 of this Article V for insurance on the Common Area. Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of structures comprising his Unit, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner

consistent with the original construction or such other plans and specifications as are approved in accordance with Article XI of this Declaration. The Owner shall pay any costs of repair or reconstruction, which is not covered by



insurance proceeds. In the event that the structure is totally destroyed, the Owner may decide not to rebuild or to reconstruct, in which case the Owner shall clear the Unit of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction and thereafter the Owner shall continue to maintain the Unit in a neat and attractive condition consistent with the Community-Wide Standard.

### Section 3. Damage and Destruction.

- A. Immediately after damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing, adjustment and negotiation of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Properties to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.
- B. Any damage or destruction to the Common Area shall be repaired or reconstructed unless the Voting Members representing at least seventy-five (75%) percent of the total vote of the Association whose common property is damaged, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Area or common property of a Neighborhood Association shall be repaired or reconstructed.
- C. In the event that it should be determined in the manner described above that the damage or destruction to the Common Area or to the common property of any neighborhood Association shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Properties shall be restored to their natural state and maintained by the Association, or the Neighborhood Association, as applicable, in a neat and attractive condition consistent with the Community-Wide Standard.

Section 4. Disbursement of Proceeds. If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Area shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Unit and may be enforced by such Mortgagee.

Section 5. Repair and Reconstruction. If the damage or destruction to the Common Area for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Voting Members, levy a special assessment against all Owners on the same basis as provided for Base Assessments.



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## **Article VI - No Partition**

Except as is permitted in the Declaration or amendments thereto, there shall be no physical partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Properties or any part thereof seek any judicial partition unless the Properties have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property, which *may or may not* be subject to this Declaration.

## **Article VII - Condemnation**

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Voting Members representing at least two-thirds (2/3) of the total Association vote) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking Voting Members representing at least seventy-five (75%) percent of the total vote of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefore, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

## **Article VIII - Annexation of Additional Property**

Section 1. Annexation with Approval of Voting Members. Subject to the consent of the owner thereof, the Association may annex any property described on Exhibit "B", to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of Voting Members or alternates representing a majority of the votes of the Association present at a meeting duly called for such purpose.

Annexation shall be accomplished by filing of record in the Office of the Recorder of Deeds of Flathead County, Montana, a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the property being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The relevant provisions of the By-Laws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Section 2 and to ascertain the presence of a quorum at such meeting.



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## **Article IX -- Rights and Obligations of the Association**

### **Section 1 -- Common Area**

The Association, subject to the rights of the owners set forth in this Declaration, shall be responsible for the exclusive management and control of the common area and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the community-wide standard. This includes the emergency turn around on the east side that serves as access to Lots 5, 6 and 7 along with the sidewalk along the rock retaining wall.

### **Section 2 - Personal Property and Real Property for Common Use**

The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within the properties conveyed to it by the Declarant.

### **Section 3 - Rules and Regulations**

The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the properties, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use any recreational facilities on the common area. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be provided in the by-laws of the Association.

The Association, through the Board, by contract or other agreement, shall have the right to enforce county ordinances or permit Flathead County and the City of Kalispell to enforce ordinances on the properties for the benefit of the Association and its members.

### **Section 4 -- Implied Rights**

The Association may exercise any other right or privilege given to it expressly by this Declaration or the by-laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

### **Section 5 - Governmental Interests**

The Association shall permit the Declarant reasonable authority to designate sites within the properties for fire, police, water, and sewer facilities.



## Article X - Assessments

Section 1. Creation of Assessments. There are hereby created assessments for Association expenses as may from time to time specifically be authorized by the Board of Directors to be commenced at the time and in the manner set forth in Section 7 of this Article. There shall be three (2) types of assessments: (a) Base Assessments to fund Common Expenses for the benefit of all Members of the Association; (b) Special Assessments as described in Section 4 below.



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Base Assessments shall be levied equally on all Units. Special Assessments shall be levied as provided in Section 4 below. Each Owner, by acceptance of a deed or recorded contract of sale to any portion of the Properties, is deemed to covenant and agree to pay these assessments.

All assessments, together with interest at a rate not to exceed the highest rate allowed by Montana law as computed from the date the delinquency first occurs, costs, and reasonable attorneys' fees, shall be a lien on the land and shall be a continuing lien upon the Unit against which each assessment is made until paid. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Unit, and if title to such Unit is held in trust, then each beneficiary thereof shall also be jointly and severally liable therefore. Upon the sale of a Unit, the Seller shall be responsible for all assessments due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid as to any particular Unit. Such certificate shall be conclusive evidence of payment to the Association of such assessment therein stated to have been paid. The Association may require the advance payment of a processing fee not to exceed Fifty (\$50.00) Dollars for the issuance of such certificate.

Assessments shall be paid in such manner and on such date as may be fixed by the Board of Directors. Each Owner, by acceptance of a deed to his or her Unit, acknowledges that all Base Assessments and Neighborhood Assessments levied hereunder are annual assessments due and payable in advance on the first day of the fiscal year; provided, the Board may permit any assessment to be paid in installments. If any Owner is delinquent in paying any assessment or other charges levied on his Unit, the Board may revoke the privilege of paying in installments and require all annual assessments to be paid in full immediately. Unless the Board otherwise provides, the Base Assessment and any Neighborhood Assessment may be paid in monthly installments.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by non-use of Common Areas or abandonment of the Unit. The obligation to pay assessments is a separate and independent covenant on the part of the each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort rising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Section 2. Computation of Base Assessment. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budget shall reflect and include such amounts as are properly charged to and to be received from the owners of that commercial property which is subject to that certain Covenant to Share Costs recorded in the Recorder of Deeds of Flathead County, Montana. The budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared.

The Base Assessment to be levied for the coming year against each Unit subject to assessment under Section 7 below shall be computed by dividing the budgeted Common Expenses by the total number of Units submitted to this Declaration. The Board shall cause a copy of the Common Expense budget and notice of the amount of Base Assessment to be levied against each Unit for



the following year to be delivered to each Owner at least thirty (30) days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved at a meeting of the Voting Members by the vote of Voting Members or their alternates representing at least a majority of the total vote in the Association. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Voting Members as provided for special meetings in Article II, Section 4, of the By-Laws.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

Section 3. Computation of Assessments. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a separate budget covering the estimated Expenses to be incurred by the Association during the coming year, and for the Community Facilities described in Article XVI hereof. The Board shall be entitled to set such budget only to the extent that this Declaration or the By-Laws specifically authorizes the Board to assess certain costs as an Assessment. Such budget may include a capital contribution establishing a reserve fund for repair and replacement of capital items within the Community, as appropriate.

In the event the proposed budget is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

Section 4. Special Assessments. In addition to the assessments authorized in Section 1 of this Article, the Association may levy a Special Assessment or Special Assessments from time to time; provided, such assessment shall have the affirmative vote or written consent of Voting Members or their alternates representing at least fifty-one (51 %) percent of the vote in the Association. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

The Association may also levy a Special Assessment against any Member to reimburse the Association for costs incurred in bringing a Member and his Unit into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the By-Laws, and the Association rules, which Special Assessment may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing.

Section 5. Lien for Assessments. Upon recording of a notice of lien on any Unit, there shall exist a perfected lien for unpaid assessments prior and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien may be enforced by suit, judgment, and foreclosure.

The Association, acting on behalf of the Owners, shall have the power to bid for the Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Unit is owned by the Association following foreclosure: (a) No right to vote shall be exercised on its behalf; (b) no assessment shall be assessed or levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid Common Expenses and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.



Section 6. Capital Budget and Contribution. The Board of Directors shall annually prepare a capital budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within and distributed with the budget and assessment, as provided in Section 2 of this Article.

Section 7. Date of Commencement of Assessments. The assessments provided for herein shall commence as to each Unit on the first day of the month following transfer of title to the Unit. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual Base Assessment shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Unit.

Section 8. Subordination of the Lien to First Mortgages. The lien of assessments, including interest, late charges (subject to the limitations of Montana law), and costs (including attorney's fees) provided for herein, shall be subordinate to the lien of any first Mortgage upon any Unit. The sale or transfer of any Unit shall not affect the assessment lien; provided, however, the sale or transfer of any Unit pursuant to judicial or non-judicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from lien rights for any assessments thereafter becoming due. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Unit obtains title pursuant to remedies under the Mortgage, its successors and assigns shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Units, including such acquirer, its successors and assigns.

Section 9. Capitalization of Association. Upon acquisition of record title to a Unit by the first purchaser thereof other than the Declarant or an owner who purchases solely for the purpose of having a dwelling constructed solely for resale, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixty (1/6) of the amount of the annual Base Assessment per Unit for that year as determined by the Board. Such contribution shall not be considered advance payment of assessment and shall be in addition to, not in lieu of, assessments then or thereafter coming due. This amount shall be deposited into the purchase and sales escrow and disbursed from there to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to the terms of this Declaration and the By-Laws.

Section 10. Exempt Property. Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Base Assessments and Special Assessments:

- (a) all Common Area; and
- (b) all property dedicated to and accepted by any governmental authority or public utility, including, without limitation, public schools, public streets, and public parks, if any.

## Article XI - Architectural Standards

The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction the architectural plans, specifications and description



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as set forth by TKP Architects and Denman Construction regarding materials and colors of materials deemed satisfactory and in congruence with Westwood Park planned unit development elevation drawings, treatments, and other architectural elements as approved by Kalispell City Council. and as follows:

"The design of housing types and lot sizes are townhouses in a two and three unit configuration. The perimeter of Westwood Park contains lots for single family dwellings. Specific elements of the architecture have been submitted with the PUD application in the form of drawings and elevations. The narrative also describes the elements as the exterior style being a slightly rustic theme utilizing artificial stone, subtle timber details and vertical wood siding. Colors would be natural, weathered earth tones with colored accents and asphalt or metal roofs. Metal roofs may not be silver. The housing would be a mix of single and two story dwellings and would generally be between 1500 and 2100 square feet. The setbacks from the external property boundaries, public rights of way and between the buildings generally meet the intent of the zoning and would provide adequate light and air within the development."

No construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, no exterior alteration or modification of existing improvements, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements below have been fully met, and until the approval of the appropriate committee has been obtained.

Fencing has been carefully considered and will be kept to a minimum. Fencing may only be in the back yard and within the property lines. They may not encroach into the setback area between buildings. Fence heights to not exceed 60" and must be built of vinyl. All fences must be approved by the Board of Directors. These restrictions are set forth solely to maintain the open character of Westwood Park and continue focus on space, neighbors and community.

## **Article XII - Use Restrictions**

The Properties shall be used only for residential, recreational, and related purposes which may include, without limitation, offices for any property manager retained by the Association or business offices for the Association as may more particularly be set forth in this Declaration, amendments hereto or subsequently recorded declarations creating Neighborhood Associations subject to this Declaration. The declaration or other creating document for any Neighborhood Association may impose stricter standards than those contained in this Article. The Association, acting through its Board of Directors, shall have standing and the Power to enforce such standards.

The Association, acting through its Board of Directors, shall have authority to make and to enforce standards and restrictions governing the use of the Properties, in addition to those contained herein, and to impose reasonable user fees for use of Common Areas facilities. Such regulations and use restrictions shall be binding upon all Owners and occupants until and unless overruled, cancelled or modified in a regular or special meeting of the Association by the vote of Voting Members representing a majority of the votes in the Association.

**Section 1. Signs.** No sign of any kind shall be erected within the Properties without the written consent of the Board of Directors. The Board of Directors shall have the right to erect signs as they, in their discretion, deem appropriate. Notwithstanding the above, no signs, flags, banners or similar items advertising or providing directional information with respect to activities being conducted outside the Properties shall be permitted within the Properties.

**Section 2. Parking and Garages.** Vehicles shall be parked only in the garages or in the driveways, if any, serving the Units or in appropriate spaces or designated areas in which parking may or may not be assigned and then subject to such reasonable rules and regulations as the Board of Directors, or the Neighborhood Committee or Neighborhood Association having concurrent jurisdiction over parking areas within a Neighborhood may adopt. In the event there are areas with private streets, the Association may designate certain on-street parking areas for visitors or guests subject to reasonable rules. Oversize commercial vehicles, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked in garages only. Parking where visible from the street or other Units is not allowed. They may however be parked for up to two days for cleaning and preparation for use.

**Section 3. Occupants Bound.** All provisions of the Declaration, By-Laws and of any rules and regulations or use



restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and invitees of any Unit. Every Owner shall cause all occupants of his or her Unit to comply with the



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Declaration, By-Laws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations thereof and any losses or damage to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Unit are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto. Nothing herein shall be construed to impose any criminal liability on any Owner for actions of third parties.

**Section 4. Animals and Pets.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Properties, except that dogs, cats, or other usual and common household pets not to exceed two (2) may be permitted in a Unit. Residents with pets must comply with all local ordinances or regulations of the City of Kalispell, Montana. This Declaration incorporates local regulation by reference and the Board may enforce such regulations by a fine against the Owner. However, those pets which are permitted to roam free, or, in the sole discretion of the Association, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Units or the owner of any portion of the Properties shall be removed upon request of the Board; if the owner fails to honor such request, the pet may be removed by the Board. No pets shall be kept, bred, or maintained for any commercial purpose.

**Section 5. Nuisance.** No portion of the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Properties *that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property.* There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties.

**Section 6. Unsightly or Unkempt Conditions.** It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Unit. Without limiting the generality of the foregoing, residents shall not engage in automotive or mechanical maintenance, other than replacement of basic fluids and service, that involves the repair of motor vehicles or other mechanical devices.

**Section 7. Antennas.** No exterior antennas, aerials, satellite dishes, or other apparatus for the transmission of television, radio, or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Common Area without the prior written consent of the Board or its designee. One small satellite dish may be installed per unit, provided care is taken to minimize its visual impact and the dish is painted to match the unit.

**Section 8. Clotheslines, Garbage Cans, Tanks, Etc.** All clotheslines, garbage cans, above-ground tanks, and other similar items shall be located or screened so as to be concealed from view of neighboring Units, streets, and property located adjacent to the Unit. All rubbish, trash, and garbage shall be regularly removed from the Properties and shall not be allowed to accumulate thereon.

**Section 9. Subdivision of Unit.** No Unit shall be subdivided or its boundary lines changed except with the prior written approval of the Board of Directors of the Association.

**Section 10. Guns.** The discharge of firearms within the Properties is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size.

**Section 11. Irrigation.** No sprinkler or irrigation systems of any type which draw upon water from creeks, streams, rivers, lakes, ponds, wetlands, canals or other ground or surface waters within



the Properties shall be installed, constructed or operated within the Properties unless prior written approval has been received from the ARC. All sprinkler and irrigation systems shall be subject to approval in accordance with Article XI of this Declaration. Private wells are prohibited on the Properties.

Section 12. Tents, Trailers and Temporary Structures. No tent, utility shed, shack, trailer or other structure of a temporary nature shall be placed upon a Unit or any part of the. Properties.

Section 13. Drainage and Septic Systems. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No person may obstruct or re-channel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves a perpetual easement across the Properties for the purpose of altering drainage and water flow; provided, such easement right shall not be exercised in such a manner as to unreasonably interfere with the use of any Unit without the affected Unit Owner's consent. Septic systems are prohibited on the Properties.

Section 14. Tree Removal. No trees shall be removed, except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved in accordance with Article XI of this Declaration.

Section 15. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 16. Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Properties, except for temporary lines as required during construction and high voltage lines if required by law or for safety purposes.

Section 17. Air Conditioning Units. Except as may be permitted by the Board or its designee, no window air conditioning units may be installed in any Unit.

Section 18. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any portion of the Properties. Exterior sculpture, fountains, flags, and similar items must be approved in accordance with Article XI of this Declaration.

Section 19. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the appropriate committee pursuant to Article XI hereof.

Section 20. Lakes and Water Bodies. All ponds and streams within the Properties, if any, shall be aesthetic amenities only, and no other use thereof, including, without limitation, fishing, swimming, playing, or use of personal flotation devices, shall be permitted. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, or streams within the Properties.

Section 21. Playground. Any playground or other play areas or equipment furnished by the Association or erected within the Properties shall be used at the risk of the user, and the Association shall not be held liable to any person for any claim, damage, or injury occurring thereon or related to use thereof.

Section 22. Fences. No dog runs, animal pens or fences of any kind shall be permitted on any Unit except as approved in accordance with Article XI of this Declaration.

**Section 23. Business Use.** No trade or business may be conducted in or from any Unit, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve persons coming onto the Properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or parttime; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefore. Notwithstanding the above, the leasing of a Unit shall not be considered a trade or business within the meaning of this Section.

**Section 24. On-Site Fuel Storage.** No on-site storage of gasoline, heating or other fuels shall be permitted on any part of the Properties except that up to five (5) gallons of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment.

**Section 25. Leasing.**

(a) **Definition.** "Leasing", for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity, or emolument.

(b) **Leasing Provisions.**

(i) **General.** Units may be leased only in their entirety. No transient tenants may be accommodated in a Unit. All leases shall be in writing and shall be for an initial term of no less than thirty (30) days, except with the prior written consent of the Board of Directors. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within ten (10) days of execution of the lease, as required by Article XIII, Section 12 of this Declaration. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the rules and regulations, and the lessee shall be subject to and shall comply with all the terms thereof. The Board may adopt reasonable rules regulating leasing and subleasing.

### **Article XIII - General Provisions**

**Section 1. Term.** The covenants and restrictions of this Declaration shall run with and bind the properties, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any properties subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded



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within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same (subject to Article XIV hereof), in which case this Declaration shall be modified or terminated as specified therein.

Section 2. Amendment. This Declaration may be amended only by the affirmative vote (in person or by alternate) or written consent, or any combination thereof, of Voting Members representing seventy-five percent of the Unit Owners. In addition, the approval requirements set forth in Article XIV hereof shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the Office of the Recorder of Deeds of Flathead County, Montana.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Section 3. indemnification. The Association shall indemnify every officer, director, and committee member against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director, or committee member in connection with any action, suit, or other Proceeding (including *settlement of any suit or proceeding, if approved by the then Board of Directors*) to which he or she may be a party by reason of being or having been an officer, director, or committee member. The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such *contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member, or former officer, director, or committee member may be entitled.* The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 4. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment and for maintenance of encroachments as between each Unit and such portion or portions of the Common Area adjacent thereto or as between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary between each Unit and the adjacent portion of the Common Area or as between said adjacent Units, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of an Owner, tenant, or the Association.

Section 5. Easements for Utilities, Etc. There is hereby reserved for Association, and the designees of each (which may include, without limitation, Flathead County, Montana, and any utility), blanket easements upon, across, over, and under all of the Common Areas and, to the extent shown on any plat, over the Units for ingress, egress, installation, replacing, repairing, and maintaining cable television systems, security, and similar systems, roads, walkways, bicycle pathways, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas, and electricity.



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Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier easements across all Units for ingress, egress, installation, reading, replacing, repairing, and maintaining water meter boxes. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties, except as may be approved by the Association's Board of Directors.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement over the Properties without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Properties.

The Board shall have, by a two-thirds (2/3) vote of either the Board of Directors or the Owners, the Power to dedicate portions of the Common Area to the City of Kalispell, Montana, or to any other local, state, or federal governmental entity, for utility or other purposes subject to such approval requirements as may be contained in Article XIV, Section 3 of this Declaration.

Section 6. Severability. invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 7. Right of Entry. The Association shall have the right, but not the obligation, to enter into any Unit for emergency, security, and safety, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter a Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board.

Section 8. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five (75%) percent of the Voting Members. in the case of such a vote, and notwithstanding anything contained in this Declaration or the Articles of Incorporation or By-Laws of the Association to the contrary, a Voting Member shall not vote in favor of bringing or prosecuting any such proceeding unless authorized to do so by a vote of seventy-five (75%) percent of all Members of the neighborhood represented by the Voting Member. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens) rules and regulations adopted by the Board of Directors, (b) the imposition and collection of assessments as provided in Article X hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 9. Cumulative Effect; Conflict. The covenants, restrictions, and provisions of this Declaration shall be cumulative with those of any neighborhood Association and the Association may, but shall not be required to, enforce the latter; provided, however, in the event of conflict between or among such covenants and restrictions, and provisions of any articles of incorporation, By-Laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, those of any Neighborhood Association shall be subject and subordinate to those of the Association. The foregoing priorities shall apply, but not be limited to, the liens for assessments created in favor of the Association.

Section 11. Use of the Words "Westwood Park" or "Westwood Park Association". No Person shall use the words "Westwood" or "Westwood Park Association" or any derivative thereof in any



printed or promotional material for commercial purposes, which represents their activities or materials as endorsed by the Board of Directors or constituting official communications of the Association without the prior written consent of the Board of Directors. However, Owners may use the terms "Westwood" or "Westwood Park Association" in printed or promotional matter where such term is used solely to specify that particular property is located within Westwood.

**Section 12. Notice of Sales and Leases.** Any Owner who intends to sell or lease his or her Unit shall provide written notice to the board of Directors within ten (10) days of entering into an agreement for the sale or lease. Such notice shall include the names of the purchaser or lessee and all occupants of the Unit, their mailing addresses, if other than the Unit address, as well as any other information which may reasonably be required by the Board. This Section shall not be deemed to give the Association or any person a right of first refusal or any other such right with respect to any Unit.

**Section 13. Enforcement.** Subject to the requirements of Article III, Section C.6 of the By-Laws, the Association, acting through the Board of Directors, and any aggrieved Unit Owner, shall have the right to enforce the terms of this Declaration, the By-Laws, the rules and regulations of the Association or any decision of the Association made pursuant to the foregoing, subject to the requirements of Article III, Section C.6 of the By-Laws.

#### **Article XIV -- Mortgagee Provisions**

The following provisions are for the benefit of holders of first Mortgages on Units in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

**Section 1. Notices of Action.** An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Unit number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

- a. any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;
- b. any delinquency in the payment of assessments or charges owned by an Owner of a Unit subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Unit of any obligation under the Declaration or By-Laws of the Association which is not cured within sixty (60) days;
- c. any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or
- d. any proposed action which would require the consent of a specified percentage of eligible holders.

#### **Section 2 - Amendments to Documents**

(a) The consent of Voting Members representing at least sixty-seven (67%) percent of the votes and the approval of the eligible holders of first Mortgages on sixty-seven (67%) percent of the Units subject to a Mortgage held by an eligible holder, shall be required to terminate the Association for reasons other than substantial destruction or condemnation. Any election to terminate the Association after substantial destruction or a substantial taking in condemnation

shall require the approval of the Voting Members as specified above and the eligible holders of first Mortgages on fifty-one (51 %) percent of the Units subject to Mortgages held by such eligible holders.

(b) Any restoration or repair of the Properties after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the eligible holders of first Mortgages on Units to which at least fifty-one (51%) percent of the Units subject to Mortgages held by such eligible holders are allocated.

(c) The consent of Voting members representing at least sixty-seven (67%) of the votes and the approval of eligible holders of first Mortgages on fifty-one (51 %) percent of the Units subject to a Mortgage held by an eligible holder, shall be required materially to amend any provisions of the Declaration, By-Laws, or Articles of Incorporation of the Association or to add any material provisions thereto, which establish, provide for, govern, or regulate any of the following:

- (i) voting;
- (ii) assessments, assessment liens, or subordination of such liens;
- (iii) reserves for maintenance, repair, and replacement of the Common Area;
- (iv) insurance or fidelity bonds;
- (v) rights to use the Common Area;
- (vi) responsibility for maintenance and repair of the Properties;
- (vii) expansion or contraction of the Properties or the addition, annexation, or withdrawal of Properties to or from the Association (as provided in Articles II and VIII of this Declaration);
- (viii) boundaries of any Unit;
- (ix) leasing of Units;
- (x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Unit;
- (xi) establish of self-management by the Association where professional management has been required by an eligible holder; or
- (xii) any provisions included in the Declaration, By-Laws, or Articles of Incorporation which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Units.

Section 3. Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply *in addition to* and *not in lieu of the foregoing*. Unless at least two-thirds (2/3) of the first Mortgagees or Voting Members representing at least two-thirds (2/3) of the total Association vote entitled to be cast thereon consent, the Association shall not:

- a. by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly, except as provided in Article XVI, (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Area, and leasing of the Westwood Park Facilities pursuant to Article XVI hereof, shall not be deemed transfers within the meaning of this subsection);
- b. change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Unit (A decision, including contracts, by the Board or provisions of any declaration subsequently recorded on any portion of the Properties regarding assessments for Neighborhoods or other similar areas shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this Declaration.);
- c. by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Units and of the Common Area (The issuance and amendment of architectural



standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision.);

- d. fail to maintain insurance, as required by this Declaration; or
- e. use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 4. No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 5. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

Section 6. Amendment by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

Section 7. Applicability of Article XIV. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or Montana law for any of the acts set out in this Article.

Section 8. Failure of Mortgagee to Respond. Any Mortgagee who receives notice of and a written request from the Board to respond or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, with a return receipt requested.

#### **Article XV - Board of Directors' Rights**

Any or all of the special rights and obligations of the Board of Directors may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Board of Directors and duly recorded in the Recorder's Office of Flathead County, Montana. Nothing in this Declaration shall be construed to require the Board of Directors or any successor to develop any of the property set forth in Exhibit "B" in any manner whatsoever.

No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Board of Directors' review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration

of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Board of Directors.



EXHIBIT "A"



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Paula Robinson, Flathead County MT by JL

Located in SW ¼, NE ¼ & NW ¼, SE ¼ of SEC 12, T28N, R22W of Flathead County.

CERTIFICATE OF DEDICATION

WE, THE UNDERSIGNED PROPERTY OWNERS, DO HEREBY CERTIFY THAT WE HAVE CAUSED TO BE SURVEYED, SUBDIVIDED AND PLATTED INTO LOTS, BLOCKS, STREETS AND ALLEYS, AS SHOWN BY THE PLAT HERETO ANNEXED, THE FOLLOWING DESCRIBED LAND IN THE CITY OF KALISPELL, MONTANA, TO-WIT:

A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER AND IN THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 28 NORTH, RANGE 22 WEST, PRINCIPAL MERIDIAN, MONTANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER SOUTH ONE-SIXTEENTH CORNER OF SAID SECTION 12 AND WHICH POINT IS INDICATED BY A FOUND 5/8" RE-BAR AND WHICH POINT IS THE TRUE POINT OF BEGINNING;

THENCE N00°40'03"E, ON AND ALONG THE WEST BOUNDARY OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, A DISTANCE OF 767.74 FEET TO A FOUND 3/4" IRON PIPE; THENCE N89°58'43"E, AND LEAVING SAID WEST BOUNDARY, A DISTANCE OF 144.53 FEET TO A FOUND 3/4" IRON PIPE; THENCE N00°39'26"E, A DISTANCE OF 302.65 FEET TO A FOUND 3/4" IRON PIPE; THENCE N00°42'46"E, A DISTANCE OF 289.43 FEET TO A FOUND 1/2" RE-BAR AND WHICH POINT LIES ON THE SOUTH RIGHT-OF-WAY BOUNDARY OF TWO MILE DRIVE AND WHICH POINT IS IN THE MIDST OF A CURVE; THENCE EASTERLY, ON A CURVE TO THE LEFT (DELTA = 06°51'57", RADIUS = 500.00 FEET AND RADIAL BEARING = N00°30'04"W), AN ARC LENGTH OF 59.92 FEET TO A FOUND 5/8" RE-BAR; THENCE S00°01'51"E, AND LEAVING SAID SOUTHERLY RIGHT-OF-WAY BOUNDARY, A DISTANCE OF 416.88 FEET TO A POINT AND WHICH POINT LIES ON THE CENTERLINE OF SPRING CREEK; THENCE SOUTHERLY, ON AND ALONG SAID CENTERLINE OF SPRING CREEK, THE FOLLOWING TWENTY-THREE COURSES: S44°01'24"E, A DISTANCE OF 20.52 FEET TO A POINT; S05°22'31"W, A DISTANCE OF 17.34 FEET TO A POINT; S18°24'45"E, A DISTANCE OF 51.80 FEET TO A POINT; S12°57'31"E, A DISTANCE OF 42.38 FEET TO A POINT; S39°59'47"E, A DISTANCE OF 41.53 FEET TO A POINT; S03°52'58"E, A DISTANCE OF 31.23 FEET TO A POINT; S39°15'13"E, A DISTANCE OF 33.15 FEET TO A POINT; S23°33'20"E, 28.47 FEET TO A POINT; S32°39'17"W, A DISTANCE OF 24.02 FEET TO A POINT; S35°54'21"E, A DISTANCE OF 26.57 FEET TO A POINT; S21°34'23"W, A DISTANCE OF 20.16 FEET TO A POINT; S40°11'15"E, A DISTANCE OF 30.42 FEET TO A POINT; S15°04'00"E, A DISTANCE OF 17.83 FEET TO A POINT; S27°06'17"E, A DISTANCE OF 73.73 FEET TO A POINT; S14°57'58"E, A DISTANCE OF 35.10 FEET TO A POINT; S83°57'28"E, A DISTANCE OF 10.76 FEET TO A POINT; S45°47'33"E, A DISTANCE OF 113.34 FEET TO A POINT; S64°07'41"E, A DISTANCE OF 70.64 FEET TO A POINT; S48°07'18"E, A DISTANCE OF 57.92 FEET TO A POINT; S53°46'21"E, A DISTANCE OF 37.46 FEET TO A POINT; N88°41'23"E, A DISTANCE OF 23.79 FEET TO A POINT; S64°08'16"E, A DISTANCE OF 17.14 FEET TO A POINT; S29°27'06"E, A DISTANCE OF 6.98 FEET TO A POINT; THENCE S57°59'07"E, AND LEAVING SAID CENTERLINE, A DISTANCE OF 206.62 FEET TO A FOUND 1/2" RE-BAR; THENCE S89°27'59"W, A DISTANCE OF 415.96 FEET TO A POINT; THENCE S00°09'22"W, A DISTANCE OF 207.89 FEET TO A FOUND 1/2" RE-BAR AND WHICH POINT LIES ON THE SOUTH BOUNDARY OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE S89°33'20"W, ON AND ALONG SAID SOUTH BOUNDARY, A DISTANCE OF 412.50 FEET TO THE TRUE POINT OF BEGINNING.

THIS TRACT CONTAINS 8.959 ACRES OF LAND AND SUBJECT TO AND TOGETHER WITH THOSE EASEMENTS AS SHOWN HEREON AND SUBJECT TO AND TOGETHER WITH THE COMMON AREA AS SHOWN ON THIS SUBDIVISION PLAT AND SUBJECT TO AND TOGETHER WITH ALL APPURTENANT EASEMENTS OF RECORD.

**\* Corrected wch**

THE ABOVE DESCRIBED TRACT OF LAND IS TO BE KNOWN AND DESIGNATED AS SUBDIVISION PLAT OF "WESTWOOD PARK", AND THE LANDS INCLUDED IN CORPORATE DRIVE AS SHOWN ON SAID PLAT ARE HEREBY GRANTED AND DONATED TO THE USE OF THE PUBLIC FOREVER.

AND WE FURTHER CERTIFY THAT THE TRACTS ARE WITHIN A MASTER PLANNED AREA AND THAT MUNICIPAL SERVICES FOR WATER SUPPLY, SEWAGE DISPOSAL AND SOLID WASTE DISPOSAL ARE AVAILABLE TO SAID TRACTS OF LAND; THEREFORE, THESE TRACTS OF LAND ARE EXEMPT FROM REVIEW BY THE MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY PURSUANT TO SECTION 17.36.603, A.R.M.

UTILITY EASEMENT CERTIFICATE

THE UNDERSIGNED HEREBY GRANTS UNTO EACH AND EVERY PERSON, FIRM, OR CORPORATION, WHETHER PUBLIC OR PRIVATE, PROVIDING OR OFFERING TO PROVIDE TELEPHONE, TELEGRAPH, ELECTRIC POWER, GAS, CABLE TELEVISION, WATER OR SEWER SERVICES TO THE PUBLIC, THE RIGHT TO THE JOINT USE OF AN EASEMENT FOR THE CONSTRUCTION, MAINTENANCE, REPAIR, AND REMOVAL OF THEIR LINES AND OTHER FACILITIES, IN, OVER, UNDER AND ACROSS EACH AREA DESIGNATED ON THE PLAT AS "10-FOOT & 15-FOOT UTILITY EASEMENT" TO HAVE AND TO HOLD FOREVER.

CRAIG DENMAN

CONNIE DENMAN

DATED THIS 7th DAY OF May, 2007.

## **EXHIBIT "B"**

### **AMENDED BY-LAWS OF WESTWOOD PARK COMMUNITY ASSOCIATION**

#### **Article I**

##### **Name, Principal Office, and Definitions**

Section 1. Name. The name of the Association shall be Westwood Park Community Association, (hereinafter sometimes referred to as the "Association").

Section 2. Principal Office. The principal office of the Association in the State of Montana shall be located in Flathead County.

Section 3. Definitions. The words used in these By-Laws shall have the same meaning as set forth in that Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Westwood Park Community Association (said Declaration, as amended, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), unless the context shall prohibit.

#### **Article II**

##### **Association: Membership, Meetings, Quorum, Voting, Proxies**

Section 1. Membership. The Association shall have one (1) class of membership, as more fully set forth in the Declaration, the terms of which pertaining to membership are specifically incorporated herein by reference.

Section 2 Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors either within the Properties or as convenient thereto as possible and practical.

Section 3. Annual Meetings. Meetings shall be of the Voting Members or their alternates. Regular annual meetings shall be set by the Board so as to occur at least ninety (90) but not more than one hundred twenty (120) days before the close of the Association's fiscal year on a date and at a time set by the Board of Directors.

Section 4. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of a quorum of the Board of Directors or upon a petition signed by Voting Members representing at least ten (10%) percent of the total votes of the Association. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 5. Notice of Meetings. Written or printed notice stating the place, day, and hour of any meeting of the Voting members shall be delivered, either personally or by mail, to each Voting Member entitled to vote at such meeting, not less than ten (10) nor more than fifty (50) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.



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## AMENDED BY-LAWS OF WESTWOOD PARK COMMUNITY ASSOCIATION

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in the case of a special meeting or when required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Voting Member at his address as it appears on the records of the Association, with postage thereon prepaid.

**Section 6. Waiver of Notice.** Waiver of notice of a meeting of the Voting Members shall be deemed the equivalent of proper notice. Any Voting Member may, in writing, waive notice of any meeting of the Voting Members, either before or after such meeting. Attendance at a meeting by a Voting Member or alternate shall be deemed waiver by such Voting Member of notice of the time, date, and place thereof, unless such Voting Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted thereat unless objection to the calling or convening of the meeting, of which proper notice as not given, is raised before the business is put to a vote.

**Section 7. Adjournment of Meetings.** If any meeting of the Association cannot be held because a quorum is not present, a majority of the Voting Members who are present at such meeting, either in person or by alternate, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Voting Members in the manner prescribed for regular meetings.

The Voting Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Voting Members to leave less than a quorum, provided that Voting Members or their alternates representing at least twenty-five (25%) percent of the total votes of the Association remain in attendance, and provided further that any action taken is approved by at least a majority of the Members required to constitute a quorum.

**Section 8. Voting.** The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated herein.

**Section 9. Proxies.** Voting Members may not vote by Proxy, but only in person or through their designated alternates.

**Section 10. Majority.** As used in these By-Laws, the term "majority" shall mean those votes, owners, or other group as the context may indicate totaling more than fifty (50%) percent of the total number.

**Section 11. Quorum.** Except as otherwise provided in these By-Laws or in the Declaration, the presence in person or by alternate of the Voting Members representing a majority of the total vote of the Association shall constitute a quorum at all meetings of the Association. Any provision in the Declaration concerning quorums is specifically incorporated herein.

**Section 12. Conduct of Meetings.** The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.



Section 13. Action Without a Meeting. Any action required by law to be taken at a meeting of the Voting Members, or any action which may be taken at a meeting of the Voting Members, may be taken without a meeting if written consent setting forth the action so taken is signed by all of the Voting Members entitled to vote with respect to the subject matter thereof, and any such consent shall have the same force and effect as a unanimous vote of the Voting Members.

### Article III

Board of Directors: Number, Powers, Meetings

A. Composition and Selection.

Section 1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one (1) vote. Spouses who are both Members may not serve on the Board at the same time. In the case of an Owner which is a corporation or partnership, the person designated in writing to the secretary of the Association as the representative of such corporation or partnership shall be eligible to serve as a director.

Section 2. Number of Directors. There shall be seven (3) directors of the Association whom the Voting Members shall elect in the manner described in Section 4 of this Article III. The number of Directors elected by the Voting Members shall equal the relative percentages of single family and multi-family Units.

Section 3. Election and Term of Office.

(a) At each annual meeting of the membership, directors shall be elected by the Voting Members to serve for a term of one (1) year.

(b) Each Voting Member shall be entitled to cast one (1) vote with respect to each vacancy to be filled from each slate on which such Voting Member is entitled to vote. There shall be no cumulative voting. The directors elected by the Voting Members shall hold office until their respective successors have been elected by the Association. Directors may be elected to serve any number of consecutive terms.

Section 5 . Removal of Directors and Vacancies. Any director elected by the Voting Members may be removed, with or without cause, by the vote of Voting Members holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. A director who was elected at large solely by the votes of Voting Members may be removed from office prior to the expiration of his or her term only by the votes of a majority of Voting Members. Upon removal of a director, a successor shall then and there be elected by the Voting Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Any director elected by the Voting Members who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of any assessment or other charge due the Association for more than thirty (30) days may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Board to fill the vacancy for the remainder of the term. in the event of the death, disability, or resignation of a director, a vacancy may be declared by the Board, and it may appoint a successor, Any director appointed by the Board shall be selected from the Voting Group represented by the director who vacated the position and shall serve for the remainder of the term of such director.

B. Meetings.



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Section 1, Organizational Meetings. The first meeting of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

Section 2. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least four (1) such meeting shall be held during each fiscal year

Section 3. Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President of the Association or by any two (2) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (c) by telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (d) by telegram, charges prepaid. All such notices shall be given at the director's telephone number or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (7) days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph shall be delivered, telephoned, or given to the telegraph company at least seventy-two (72) hours before the time set for the meeting.

Section 4. Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 5. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 6. Compensation. No director shall receive any compensation from the Association for acting as such unless approved by Voting Members representing a majority of the total vote of the Association at a regular or special meeting of the Association; provided any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors.

Section 7. Conduct of Meetings. The President shall preside over all meetings of the board of Directors, and the Secretary shall keep a minute book of meetings of the Board of Directors, recording herein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.



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Section 8. Open Meetings. Subject to the provisions of Section 9 of this Article, all meetings of the Board shall be open to all Voting Members except for the portion of any meeting held:

- (a) to discuss litigation when an action against or on behalf of the particular master association has been filed and is pending in a court or administrative tribunal, or when the board of the master association finds that such an action is probable or imminent;
- (b) to consider information regarding appointment, employment or dismissal of an employee; or
- (c) to discuss violations of rules and regulations of the master association or unpaid common expenses owed to the master association .

Voting Members other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Voting Member may speak.

Section 9. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

Section 1. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles, or these By-Laws directed to be done and exercised exclusively by the Voting Members or the membership generally.

The Board of Directors shall delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board of Directors.

In addition to the duties imposed by these By-Laws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to and shall be responsible for the following, in way of explanation, but not limitation:

- (a) preparation and adoption, subject to Article X, Sections 2 and 3 of the Declaration, of annual budgets in which there shall be established the contribution of each Owner to the Common Expenses and Neighborhood Expenses;
- (b) making assessments to defray the Common Expenses and Neighborhood Expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment; provided, unless otherwise determined by the Board of Directors, the annual assessment for each Unit's proportionate share of the Common Expenses shall be payable in equal monthly installments, each such installment to be due and payable in advance on the first day of each month for said month;
- (c) providing for the operation, care, upkeep, and maintenance of all of the Area of Common Responsibility;
- (d) designating, hiring, and dismissing the personnel necessary for the maintenance, operation, repair, and replacement of the Association, its property, and the Area of Common Responsibility



and, where appropriate, providing for the compensation of such personnel and for the purpose of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association; provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending rules and regulations;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the other provisions of the Declaration and these ByLaws after damage or destruction by fire or other casualty;

(i) enforcing by legal means the provisions of the Declaration, these By-Laws, and the rules and regulations adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(j) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(k) paying the cost of all services rendered to the Association or its Members and not chargeable directly to specific Owners;

(l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred;

(m) making available to any prospective purchaser of a Unit, any Owner of a Unit, any first Mortgagee, and the holders, insurers, and guarantors of a first Mortgage on any Unit, current copies of the Declaration, the Articles of Incorporation, the By-Laws, rules governing the Unit and all other books, records, and financial statements of the Association; and

(n) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties.

## Section 2, Management Agent.

(a) The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these By-Laws, other than the powers set forth in subparagraphs (a), (b), (f), (g), and (i) of Section 1 of this Article.

(b) No management contract may have a term in excess of one (1) year and must permit termination by either party without cause and without termination fee on ninety (90) days' or less written notice.



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Section 3. Accounts and Reports. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

- (a) accrual account, as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) cash accounts of the Association shall not be commingled with any other accounts;
- (d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association;
- (e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;
- (f) financial reports shall be prepared for the Association at least annually containing:

- (i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;
- (ii) a statement reflecting all cash receipts and disbursements for the preceding period;
- (iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;
- (i) a balance sheet as of the last day of the preceding period; and
- (v) a delinquency report listing all Owners who are delinquent in paying the monthly installments of assessments at the time of the report and describing the status of any action to collect such installments which remain delinquent (A monthly installment of the assessment shall be considered to be delinquent on the fifteenth (15th) day of each month unless otherwise determined by the Board of Directors);

(g) an annual report consisting of at least the following shall be distributed to all members within one hundred twenty (120) days after the close of the fiscal year: (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year. The annual report referred to above shall be prepared on an audited or reviewed basis, as determined by the Board, by an independent public accountant; provided, upon written request of any holder, guarantor or insurer of any first Mortgage on a Unit, the Association shall provide an audited financial statement.

(h) the Association shall maintain copies of all minutes of meetings of the Voting Members and the Board, for at least seven (7) years; ballots, if any, for any election of directors or other matters voted upon by the Voting Members, for at least one (1) year; copies of all contracts, leases and other agreements entered into by the Association; and such other records as are available for inspection by members of a not-for-profit corporation pursuant to Montana General law.

Section 4. Borrowing. The Board of Directors shall have the power to borrow money for the purpose of maintenance, repair or restoration of the Area of Common Responsibility without the approval of the Voting Members of the Association. The Board shall also have the power to borrow money for other purposes; provided, the Board shall obtain Voting Member approval in the same manner provided in Article X, Section 4, of the Declaration for special assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities and the total amount of such borrowing exceeds or would exceed five (5%) percent of the budgeted gross expenses of the Association for that fiscal year.



## Section 5. Rights of the Association.

(a) With respect to the Area of Common Responsibility, and in accordance with the Articles of Incorporation and the Declaration, the Association shall have the right to contract with any person for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or Neighborhood and other owners or residents associations, both within and without the Properties. Such agreements shall require the consent of two-thirds (2/3) of all directors of the Association,

(b) The Association, acting alone or in conjunction with other owners associations, shall have the right, upon the vote of a majority of the Board of Directors, to make available special services to the Owners and occupants of Units within the properties on a fee basis, such as, but not limited to, shuttle bus service or similar transportation services.

Section 6. Enforcement. The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the property of the violating Owner, and to suspend an Owner's right to vote or to use the Common Area for violation of any duty imposed under the Declaration, these By-Laws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Unit or to suspend an Owner's right to vote due to nonpayment of assessments. In the event that any occupant of a Unit violates the Declaration, By-Laws, or a rule or regulation and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Declaration, By-Laws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) Notice. Prior to imposition of any sanction hereunder, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than ten (10) days within which the alleged violator may present a written request to the Covenants Committee, if any, or Board of Directors for a hearing; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within ten (10) days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed.

(b) Hearing. If a hearing is requested in a timely manner, the hearing shall be held in executive session affording the Owner a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, Director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. The Board of Directors or the Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the ten (10) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(d) Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Association, acting through the Board of Directors, may elect to enforce any provision of the Declaration, these By-Laws, or the rules and regulations of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above; provided, judicial proceedings shall be instituted before any construction on a Unit may be altered



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or demolished by the Association. In any such action, to the maximum extent permissible, the owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

#### **ARTICLE IV Officers**

Section 1. Officers. The officers of the Association shall be a President, Vice President, Secretary/Treasurer, to be elected from among the members of the Board. The Board of Directors may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

Section 2. Election, Term of Office, and Vacancies. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Voting Members, as herein set forth in Article III. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 3. Removal. Any officer may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby.

Section 4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time specifically be conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

Section 5. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All checks, drafts, or other orders for the payment of money, notes or other evidence of indebtedness issued in the name of the Association shall be signed by such officers) or agent(s) of the Association and in such manner, including facsimile signature, as shall from time to time be determined by resolution of the Board of Directors.

#### **ARTICLE V Committees**

Section 1. General. Committees are hereby authorized to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present. Each committee shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

#### **ARTICLE VI Miscellaneous**



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Section 1. Fiscal Year. The fiscal year of the Association shall be set by resolution of the Board of Directors. In the absence of such a resolution, the fiscal year shall be the calendar year.

Section 2. Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Montana law, the Articles of Incorporation, the Declaration, or these By-Laws. Notwithstanding the adoption of Robert's Rules, the President of the Association shall vote on all matters for decision by the Board of Directors.

Section 3. Conflicts. If there are conflicts between the provisions of Montana law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Montana law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

Section 4. Books and Records.

(a) Inspection by Members and Mortgagees. The Declaration, By-Laws, Articles of Incorporation, and any amendments to the foregoing, the rules and regulations of the Association, the membership register, books of account (including annual reports and financial statements), and minutes of meetings of the Members, the Board, and committees shall be made available for inspection and copying by any holder, insurer or guarantor of first Mortgages on Units, Member of the Association, or their duly appointed representatives at any reasonable time and for a purpose reasonably related to his or her interest in a Unit at the office of the Association or at such other place within the Properties as the Board shall prescribe.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requested.

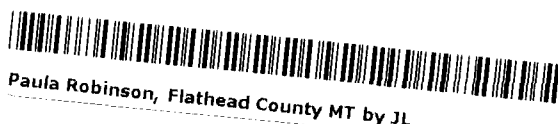
(c) Inspection by Directors. Every Director shall have the absolute right of any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and a copy of relevant documents at the expense of the Association.

Section 5. Notices. Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States Mail, first class postage prepaid:

(a) if to a Member or Voting Member, at the address which the Member or Voting Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Member or Voting Member; or

(b) if to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

Section 6. Amendment. These By-Laws may be amended only by the affirmative vote (in person or by alternate) or written consent, or any combination thereof, of Voting Members representing seventy-five (75%) percent of the Unit Owners. In addition, the approval requirements set forth in Article XIV of the Declaration shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed



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percentage of affirmative votes required for action to be taken under that clause. No amendment shall be effective until an amendment is recorded with the Office of the Recorder of Deeds of Flathead County, MT

WESTWOOD PARK COMMUNITY ASSOCIATION

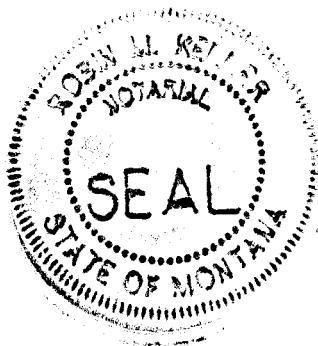
DATED this 10th day of July, 2009.

Westwood Park Community Association

By:

WCR =  
William C. Rice

Vice President of Denman Construction



State of Montana

County of Flathead

Subscribed and sworn to (or affirmed ) before me this 10th day

of July, 2009, by William C. Rice

Robin M. Keller

Notary Public Signature

Robin M. Keller

Printed Name

Kalispell, MT

Residence

November 7, 2009

Expiration



Paula Robinson, Flathead County MT by JL

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Page: 1 of 10  
Fees: \$90.00  
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Paula Robinson, Flathead County MT by SS

Return after recording to:  
Jay T. Johnson  
P.O. Box 7370  
Kalispell, MT 59904

**REAFFIRMATION OF AND SUBMISSION OF PROPERTY TO  
THE  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
WESTWOOD PARK COMMUNITY ASSOCIATION**

This Reaffirmation of and Submission of Property to the Declaration of Covenants, Conditions and Restrictions for Westwood Park Community Association (Reaffirmation) is entered into by Craig Denman and Connie Denman ("Denman"), Sally Sova ("Sova"), Kathaleen A. Young ("Young"), Edward J. Croymans ("Croymans") and Gerald D. Wabschall and Carole A. Wabschall ("Wabschall").

WHEREAS, Denman intended to make that certain real property located in Flathead County, Montana, and more particularly described on Exhibit A attached hereto and incorporated herein (the "Property," which is now known as the Corrected Subdivision Plat of Westwood Park, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana), subject to all of the terms, covenants, conditions and restrictions contained in the Declaration of Covenants, Conditions and Restrictions for Westwood Park Community Association dated January 1, 2007, and recorded on July 10, 2009, as Document No. 200900020054 in the Clerk and Recorder's office of Flathead County, Montana (the "Declaration");

WHEREAS, Denman was the record owner of all of the Property except for Lots 9B and 9C of the Corrected Subdivision Plat of Westwood Park, at the time the Declaration was recorded and is currently the record owner of all but four (4) lots within the Property;

WHEREAS, Sova purchased Lot 9B of the Corrected Subdivision Plat of Westwood Park on April 11, 2008, and is currently the title owner of said property;

WHEREAS, Young purchased Lot 9C of the Corrected Subdivision Plat of Westwood Park on May 20, 2009, and is currently the title owner of said property;

0503506, 0503507, 0503508, 0503509 thru 0503525  
0503497, 0503498, 0503499, 0503501 thru 0503505,  
0670960



WHEREAS, Croymans purchased Lot 1 of the Corrected Subdivision Plat of Westwood Park on April 15, 2010 and is currently the title owner of said property;

WHEREAS, Wabschall purchased Lot 9A of the Corrected Subdivision Plat of Westwood Park on July 15, 2009, and is currently the title owner of said property;

WHEREAS, Ordinance No. 1548 dated August 15, 2005, recorded on August 11, 2006 as Document No. 200622308330 in the Flathead County Clerk and Recorder's office, requires that "covenants, conditions, and restrictions for the [Westwood Park] subdivision shall be provided that include a provision for the private conservation and maintenance of common areas as well as compliance with the approved planned unit development elevation drawings, treatments and other architectural elements." The Declaration is the document which complies with the foregoing requirement.

WHEREAS, the Declaration was inadvertently recorded without the original notarized signatures of Denman and was inadvertently recorded after the sales of Lot 9B to Sova and 9C to Young and without the notarized signatures of Sova and Young;

WHEREAS, Denman, Sova, Young, Croymans and Wabschall make this Reaffirmation of and Submission of Property to the Declaration of Covenants, Conditions and Restrictions for Westwood Park Community Association to confirm the submission of all of the Property to the Declaration and to reaffirm all of the terms, covenants, conditions and restrictions set forth in the Declaration and their application to the Property effective as of the original recording date of the Declaration, namely July 10, 2009.

NOW, THEREFORE, the parties agree and state as follows:

1. Effect of Recitals. Denman, Sova, Young, Croymans and Wabschall acknowledge that the Recitals listed above are true, accurate and correct and are hereby incorporated by reference into this Reaffirmation of and Submission of Property to the Declaration of Covenants, Conditions and Restrictions for Westwood Park Community Association.

2. Reaffirmation and Re-Submission of Property by Denman. Denman hereby unconditionally reaffirms, restates and acknowledges the terms, covenants, conditions and restrictions set forth in the Declaration and hereby declares that the Property (excluding Lots 9B and 9C) was and is submitted to the Declaration and that such Declaration is binding upon the Property and is and has been in full force and effect from the date recorded, July 10, 2009, as Document No. 200900020054 in the Clerk and Recorder's office of Flathead County, Montana, and that Denman was the record owner of all of the Property (excluding Lots 9B and 9C) at the time of the recording of the Declaration.




3. Reaffirmation and Submission of Property by Sova. Sova hereby submits Lot 9B of the Corrected Subdivision Plat of Westwood Park, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana, to the Declaration and declares that the Declaration was and is binding upon Lot 9B as if it had initially been submitted and made subject to the Declaration on the Declaration's original recording date of July 10, 2009.

4. Reaffirmation and Submission of Property by Young. Young hereby submits Lot 9C of the Corrected Subdivision Plat of Westwood Park, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana, to the Declaration and declares that the Declaration was and is binding upon Lot 9C as if it had initially been submitted and made subject to the Declaration on the Declaration's original recording date of July 10, 2009.


5. Reaffirmation and Submission of Property by Croymans. Croymans hereby submits Lot 1 of the Corrected Subdivision Plat of Westwood Park, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana, to the Declaration and declares that the Declaration was and is binding upon Lot 1 as if it had initially been submitted and made subject to the Declaration on the Declaration's original recording date of July 10, 2009.

6. Reaffirmation and Submission of Property by Wabschall. Wabschall hereby submits Lot 9A of the Corrected Subdivision Plat of Westwood Park, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana, to the Declaration and declares that the Declaration was and is binding upon Lot 9A as if it had initially been submitted and made subject to the Declaration on the Declaration's original recording date of July 10, 2009.

Denman:

  
\_\_\_\_\_  
Craig Denman

Dated: May 24, 2011

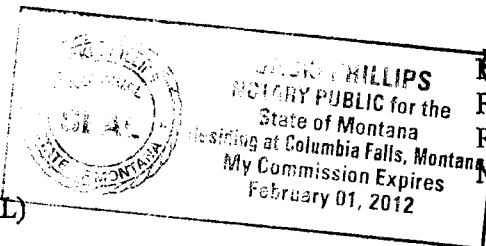
  
\_\_\_\_\_  
Connie Denman

Dated: May 24, 2011



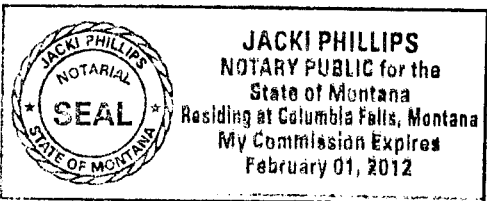
STATE OF Montana )  
 )SS  
County of Flathead )

This instrument was acknowledged before me on the 24 day of May,  
2011, by CRAIG DENMAN.

(SEAL)  Jacki Phillips  
Notary Public for the State of MT  
Print Name: Col Falls  
Residing at: Col Falls  
My Commission Expires: 2-1-2012

STATE OF Montana )  
 )SS  
County of Flathead )

This instrument was acknowledged before me on the 24 day of May,  
2011, by CONNIE DENMAN.

(SEAL)  Jacki Phillips  
Notary Public for the State of MT  
Print Name: Col Falls  
Residing at: Col Falls  
My Commission Expires: 2-1-2012



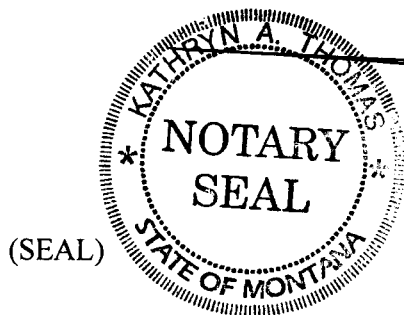
Sova:

Sally Sova  
Sally Sova

Dated: 6/8/11

STATE OF Montana  
County of Flathead

This instrument was acknowledged before me on the 8<sup>th</sup> day of June, 2011, by SALLY SOVA.



Kathryn A. Thomas  
Notary Public for the State of Montana  
Print Name: Kathryn A. Thomas  
Residing at: Bigfork  
My Commission Expires: June 19, 2012



Young:

Kathaleen A. Young  
Kathaleen A. Young

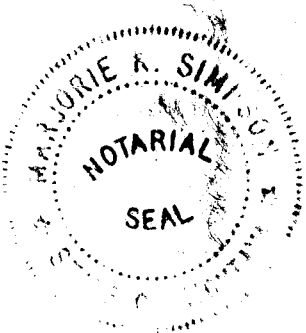
Dated: 5/26/11

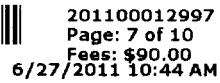
STATE OF Montana  
County of Flathead :SS

This instrument was acknowledged before me on the 26 day of May,  
2011, by KATHALEEN A. YOUNG.

Marjorie K. Simpson  
Notary Public for the State of Montana  
Print Name: Marjorie K. Simpson  
Residing at: Katispell  
My Commission Expires: 5/15/12

(SEAL)





Edward J. Croyman

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WABSCHALL:

Gerald D. Wabschall  
Gerald D. Wabschall

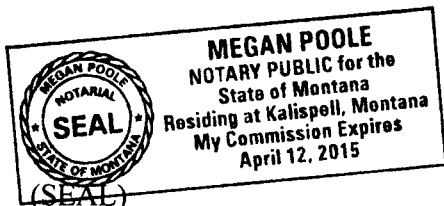
Dated: 6.14.11

Carole A. Wabschall  
Carole A. Wabschall

Dated: 6.14.11

STATE OF MT )  
:SS  
County of Flathead )

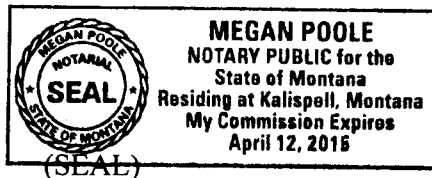
This instrument was acknowledged before me on the 14 day of June, 2011, by GERALD D. WABSCHALL.



Megan Poole  
Notary Public for the State of MT  
Print Name: Megan Poole  
Residing at: Kalispell  
My Commission Expires: 4.12.15

STATE OF MT )  
:SS  
County of Flathead )

This instrument was acknowledged before me on the 14 day of June, 2011, by CAROLE A. WABSCHALL.



Megan Poole  
Notary Public for the State of MT  
Print Name: Megan Poole  
Residing at: Kalispell  
My Commission Expires: 4.12.15



## EXHIBIT A

A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER AND IN THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 28 NORTH, RANGE 22 WEST, PRINCIPAL MERIDIAN, MONTANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER SOUTH ONE-SIXTEENTH CORNER OF SAID SECTION 12 AND WHICH POINT IS INDICATED BY A FOUND 5/8" RE-BAR AND WHICH POINT IS THE TRUE POINT OF BEGINNING;

THENCE  $N00^{\circ}40'03''E$ , ON AND ALONG THE WEST BOUNDARY OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, A DISTANCE OF 767.74 FEET TO A FOUND 3/4" IRON PIPE; THENCE  $N89^{\circ}58'43''E$ , AND LEAVING SAID WEST BOUNDARY, A DISTANCE OF 144.53 FEET TO A FOUND 3/4" IRON PIPE; THENCE  $N00^{\circ}39'26''E$ , A DISTANCE OF 302.65 FEET TO A FOUND 3/4" IRON PIPE; THENCE  $N00^{\circ}42'46''E$ , A DISTANCE OF 289.43 FEET TO A FOUND 1/2" RE-BAR AND WHICH POINT LIES ON THE SOUTH RIGHT-OF-WAY BOUNDARY OF TWO MILE DRIVE AND WHICH POINT IS IN THE MIDST OF A CURVE; THENCE EASTERLY, ON A CURVE TO THE LEFT (DELTA =  $06^{\circ}51'57''$ , RADIUS = 500.00 FEET AND RADIAL BEARING =  $N00^{\circ}30'04''W$ ), AN ARC LENGTH OF 59.92 FEET TO A FOUND 5/8" RE-BAR; THENCE  $S00^{\circ}01'51''E$ , AND LEAVING SAID SOUTHERLY RIGHT-OF-WAY BOUNDARY, A DISTANCE OF 416.00 FEET TO A POINT AND WHICH POINT LIES ON THE CENTERLINE OF SPRING CREEK; THENCE SOUTHERLY, ON AND ALONG SAID CENTERLINE OF SPRING CREEK, THE FOLLOWING TWENTY-THREE COURSES:  $S44^{\circ}01'24''E$ , A DISTANCE OF 20.52 FEET TO A POINT;  $S05^{\circ}22'51''W$ , A DISTANCE OF 17.34 FEET TO A POINT;  $S16^{\circ}24'45''E$ , A DISTANCE OF 51.00 FEET TO A POINT;  $S12^{\circ}57'31''E$ , A DISTANCE OF 42.38 FEET TO A POINT;  $S39^{\circ}59'47''E$ , A DISTANCE OF 41.53 FEET TO A POINT;  $S03^{\circ}52'58''E$ , A DISTANCE OF 31.25 FEET TO A POINT;  $S89^{\circ}45'13''E$ , A DISTANCE OF 33.18 FEET TO A POINT;  $S23^{\circ}33'20''E$ , 28.47 FEET TO A POINT;  $S32^{\circ}34'17''W$ , A DISTANCE OF 24.02 FEET TO A POINT;  $S35^{\circ}54'21''E$ , A DISTANCE OF 26.57 FEET TO A POINT;  $S21^{\circ}34'23''W$ , A DISTANCE OF 20.16 FEET TO A POINT;  $S40^{\circ}11'5''E$ , A DISTANCE OF 30.42 FEET TO A POINT;  $S15^{\circ}04'00''E$ , A DISTANCE OF 17.88 FEET TO A POINT;  $S27^{\circ}06'17''E$ , A DISTANCE OF 78.73 FEET TO A POINT;  $S45^{\circ}57'58''E$ , A DISTANCE OF 33.10 FEET TO A POINT;  $S83^{\circ}57'25''E$ , A DISTANCE OF 10.76 FEET TO A POINT;  $S45^{\circ}47'53''E$ , A DISTANCE OF 118.34 FEET TO A POINT;  $S64^{\circ}07'45''E$ , A DISTANCE OF 70.64 FEET TO A POINT;  $S48^{\circ}00'10''E$ , A DISTANCE OF 57.92 FEET TO A POINT;  $S63^{\circ}46'21''E$ , A DISTANCE OF 37.46 FEET TO A POINT;  $N88^{\circ}41'23''E$ , A DISTANCE OF 23.79 FEET TO A POINT;  $S64^{\circ}08'16''E$ , A DISTANCE OF 17.14 FEET TO A POINT;  $S39^{\circ}12'06''E$ , A DISTANCE OF 6.48 FEET TO A POINT; THENCE  $S57^{\circ}59'07''E$ , AND LEAVING SAID CENTERLINE, A DISTANCE OF 206.62 FEET TO A FOUND 1/2" RE-BAR; THENCE  $S04^{\circ}27'54''W$ , A DISTANCE OF 415.96 FEET TO A POINT; THENCE  $S00^{\circ}09'22''W$ , A DISTANCE OF 287.89 FEET TO A FOUND 1/2" RE-BAR AND WHICH POINT LIES ON THE SOUTH BOUNDARY OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE  $S89^{\circ}33'20''W$ , ON AND ALONG SAID SOUTH BOUNDARY, A DISTANCE OF 412.50 FEET TO THE TRUE POINT OF BEGINNING.

The above-described property is now known as The Corrected Subdivision Plat of Westwood park, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

EXHIBIT "G"  
to  
Agreement for Deed in Lieu of Foreclosure

(See following form of Consent to Pledge and Assignment of Limited Liability Company  
Distributions – DOS Properties, LLC)



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Fees: \$90.00  
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