

After recording return to:
William VanCanagan
Datsopoulos, MacDonald & Lind, P.C.
201 W. Main Street, Suite 201
Missoula, MT 59802
Phone: (406) 728-0810

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR THE ALPENGLOW ON FLATHEAD
TOWNHOMES AND BYLAWS OF
THE ALPENGLOW ON FLATHEAD HOMEOWNERS ASSOCIATION**

This Declaration of Covenants, Conditions, Restrictions and Easements for the Alpenglow on Flathead Townhomes and Bylaws of the Alpenglow on Flathead Homeowners Association (this “**Declaration**”) is made this 31st day of October 2022 (the “**Effective Date**”), by Montana Riverfront Limited Partnership (“**Declarant**”).

RECITALS

WHEREAS, Declarant owns in fee simple the property legally described as:

A PORTION OF GOVERNMENT LOT 6 OF SECTION 4, TOWNSHIP
22 NORTH, RANGE 20 WEST, P.M.M., LAKE COUNTY, MONTANA,
FURTHER SHOWN AND DESCRIBED AS TRACT 1 ON CERTIFICATE
OF SURVEY NO. 7565-RB, ON FILE IN THE OFFICE OF THE CLERK
AND RECORDER OF LAKE COUNTY, MONTANA.

(together with all improvements thereto, the “**Property**”); and

WHEREAS, Declarant has established this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall administration, maintenance and preservation of the Property as a residential community; and

WHEREAS, Declarant desires to create the Association to administer and enforce this Declaration; and

WHEREAS, Declarant desires to establish certain covenants, conditions, restrictions and easements in order to promote, preserve and enhance the value and desirability of the Property and to facilitate the continuing care and maintenance thereof, and in furtherance thereof, intends to submit the Property to the provisions of this Declaration;

NOW, THEREFORE, Declarant, as the legal title holder of the Property, hereby declares that the Property, including all Units thereon, shall be owned, transferred, held, sold, conveyed and accepted subject to the following provisions of this Declaration, which shall be deemed to be

covenants running with the land and which shall be binding upon and inure to the benefit of all Owners, mortgagees and any other Persons from time to time having or acquiring any right, title or interest in the Property or any portion thereof, including any Unit.

Article 1 **Incorporation**

The foregoing recitals and all exhibits attached to this Declaration are incorporated into and made part of this Declaration as if fully set forth in this Article 1.

Article 2 **Definitions**

Capitalized terms not defined elsewhere in this Declaration shall have the meanings set forth below:

2.1 **2022 Dollars.** Any reference to "2022 Dollars" shall mean dollars adjusted for annual inflation, beginning on the anniversary date of this Declaration, commensurate with those benchmarks established by the Consumer Price Index.

2.2 **Act.** Title 70, Chapter 23, of the Montana Code Annotated.

2.3 **Assessments.** The Annual Assessments, Special Assessments, and Specific Assessments provided for in Section 8.10.

2.4 **Association.** The Alpenglow on Flathead Homeowners Association, a Montana non-profit corporation, and its successors and assigns.

2.5 **Board.** The body responsible for governance and operation of the Association, selected as provided herein and generally serving the same role as the board of directors of a non-profit, mutual benefit corporation under Montana law.

2.6 **Bylaws.** The bylaws of the Association set forth herein, generally serving the purposes of the bylaws of a non-profit, mutual benefit corporation and homeowners' association under Montana law.

2.7 **Common Elements.** Those portions of the Property and all improvements and appurtenances thereto intended for the common use and enjoyment of more than one, or all, Owners, including, but not limited to (i) the land comprising the Property designated as a common element (excluding land under the boundaries of any designated Unit) including all shared improvements and amenities thereon, (ii) shared roadways, driveways, sidewalks and pathways, (iii) shared Utility Facilities; (iv) those portions of the Units which contribute to the structural support, enclosure, or exterior appearance of the Units, including, without limitation, exterior walls and façade, Party Walls, foundations, structural members and beams, and roofing; (vi) lawns, foundation plantings, and other exterior landscaping; (vii) any water rights appurtenant to the Property; and (viii) any Limited Common Elements.

2.8 **Common Expenses.** The actual and estimated expenses incurred, or anticipated to be incurred, by the Association in connection with providing Association Maintenance and Services or in carrying out the powers or responsibilities of the Association as provided in this Declaration.

2.9 **Director.** A director serving on the Board of the Association, as designated or elected under Section 8.3.

2.10 **Eligible Mortgagee.** The holder of a first security interest (or an insurer or guarantor of such interest) in a Unit which has notified the Association in writing of the Eligible Mortgagee's name and address and that it holds such security interest in a Unit. Such notice will be deemed a request that the Eligible Mortgagee be given the notices and other rights described in Article 11.

2.11 **Floor Plans.** The preliminary floor plans for the Units attached hereto as Exhibit "C-2", to be replaced by the final, certified floor plans to be recorded in accordance with Section 4.2 below.

2.12 **Limited Common Elements.** Any area, improvement, or Utility Facility appurtenant to, or serving, one Unit exclusively and located outside of such Unit's boundaries, including, without limitation, the areas depicted on the Plat as "Limited Common Elements".

2.13 **Owner.** One or more Persons who hold record title to any Unit or an interest as a purchaser under a contract for deed for any Unit. "Owner" shall not include a Person holding an interest merely as security for the performance of an obligation, or a Person who is a seller under a contract for deed for any Unit. Where this Declaration imposes responsibility for conduct of an Owner and where otherwise appropriate given the context, the term "Owner" shall include such Owner's occupants, tenants, guests, contractors, invitees and licensees.

2.14 **Party Wall.** A wall, including the foundation, studs, insulation, sheetrock, and roof thereof, forming a partition or separation between any two Units.

2.15 **Person.** A natural person, a corporation, a partnership, a trustee, or any other legal entity.

2.16 **Plat.** The plat or site plan depicting the Property and designating the Units as Townhouses "1" through "8", and containing floor plans for Units, attached hereto as Exhibit "A".

2.17 **Property.** The real property legally described in the Recitals including both Units and all improvements. The Property will be known as the "Alpenglow on Flathead Townhomes".

2.18 **Proportionate Share.** Each Unit's proportionate ownership of the Common Elements, voting power, and responsibility for Common Expenses. Each Unit's Proportionate Share is one eighth (1/8).

2.19 **Turnover Date.** A date, to be designated by Declarant, which shall be no more than ninety (90) days following the date upon which Declarant has transferred all Units to Owners, and

upon which Declarant no longer owns any interest in the Property. Declarant shall give written notice to all Owners not less than ten (10) days prior to the Turnover Date.

2.20 **Unit.** A townhome unit and all other property, improvements, fixtures, finishes, furnishings, and equipment which are exclusively appurtenant to or exclusively serving such unit, situated upon or within an area designated on the Plat as a "Lot". The locations and boundaries of the Units are depicted on the Plat as Lots 1 through 8, as such boundaries may be modified through amendments to this Declaration in accordance with Sections 4.1 and 4.2 below.

2.21 **Utility Facilities.** All culverts, ditches, drains, hydrants, lines, meters, pipes, pumps, structures, tanks, valves, and other improvements and facilities providing, or used primarily in connection with the provision of, domestic water, electricity, fire suppression, irrigation, natural gas, propane, sewer, stormwater drainage, telecommunications, television, trash removal, wastewater, or other utility services to the Property.

Article 3

Legal Framework; Term, Binding Nature

3.1 **Submission of Property.** Declarant hereby submits the Property and all improvements thereto to the townhome form of ownership and use provided by the Act. This Declaration and the accompanying exhibits, in combination, are intended to serve as the townhome declaration, covenants, and bylaws as provided for in the Act. The acceptance of a deed or any other interest to any Unit or any other part of the Property shall constitute acceptance of the provisions of this Declaration.

3.2 **Term and Binding Nature.** This Declaration and the covenants, conditions, and restrictions contained herein shall run with and bind the Property and the Units constructed thereon, and shall inure to the benefit of and be enforceable by Declarant, the Association, any Owner, and their respective legal representatives, heirs, successors, and assigns in perpetuity.

3.3 **Certifications and Approvals.** Attached hereto as Exhibit "B" is a certification from the City of Polson that the Units are exempt from review under Section 76-3-203, M.C.A. Recorded concurrently herewith are the following certifications and approvals: (i) municipal facilities exclusion certification from the Montana Department of Environmental Quality in accordance with Section 76-4-127, M.C.A.; (ii) approval of the Montana Department of Revenue in accordance with Section 70-23-304, M.C.A.; and (iii) Lake County Treasurer's Certificate pursuant to Section 7-4-2613(1)(a)(ii).

3.4 **Subdivision Exclusion.** The Property is located within a growth policy area of a first-class municipality and qualifies for a municipal facilities subdivision review exclusion in accordance with Section 76-4-125, M.C.A.

Article 4

Construction & Alteration of Units

4.1 **General Description of Units.** Each Unit will be one- or two-stories, constructed of wood frame on a concrete slab, without basements. Each Unit will be clad in wood, stone, and/or wood fiber siding. Units may be modular or manufactured. The approximate square footage of

each Unit on Lots 1 through 4 will be approximately 1,210 square feet and the approximate square footage of each Unit on Lots 5 through 8 will be 1,440 square feet. The foregoing Unit descriptions are not binding and shall not be construed to dictate or restrict the layout, location, size, or materials of any Unit to be constructed, and Final Floor plans may depart from the preliminary Floor Plans, provided that any material changes to Unit layouts, locations, sizes, or materials from those described in this Declaration or depicted on the preliminary Floor Plans or Plat shall be evidenced by one or more amendments to this Declaration as may be required by the Act and Section 4.2 below, which amendment(s) shall include final Floor Plans, and, if appropriate, an amended Plat showing any changes to the boundaries between the Unit and its Limited Common Elements as hereinafter described. The areas labeled "Unit" and "Limited Common Elements" on the Plat together constitute the area of an Owner's exclusive use, and the exterior perimeter of such area shall be the boundaries within which such Owner may locate and construct the Unit and its appurtenant improvements. The final location and boundaries of the Unit shall be coterminous with the footprint of the Unit as constructed within such area, including roof overhangs, decks, and balconies, and the remaining area within such exterior perimeter shall constitute Limited Common Elements. The amended Plat shall depict such final location and boundaries. Construction of, and alterations to, Units by Owners other than Declarant are governed by Section 4.3.

4.2 Certification of Floor Plans; Amendment of Declaration. In accordance with Section 306 of the Act, the Owner of each Unit shall, within thirty 30 days from the date of completion of the Unit or from the date of the first occupancy of the Unit, whichever first occurs, record an amendment or supplement to this Declaration containing (i) a revised description of such Unit and final Floor Plans for such Unit, (ii) a verified statement of a registered architect, registered professional engineer, or registered professional land surveyor certifying that such floor plans fully and accurately depict the layout of the floors of the Unit and the date construction of the Unit was completed, substantially in the form attached hereto as Exhibit "C-2", and (iii) if the location or boundaries of the Unit have changed from those depicted on the Plat (to the extent permitted by Section 4.1 above), an amended Plat showing the final location and boundaries. Provided such amendment is limited to complying with Section 306 of the Act, such amendment may be filed by the Owner of the Unit or by the Declarant without the consent or approval of any other Owner.

4.3 Appearance Review.

(A) Design Standards. All Units and all other improvements to the Property shall be constructed, installed, maintained, repainted, renovated and remodeled in accordance with generally applicable design guidelines established by Declarant and administered by the Board. The design guidelines may govern the exterior height, massing, footprint, building materials, colors, and other exterior features of Units and appurtenant improvements (including, without limitation, fencing and accessory structures and the attachment of antennae or satellite dishes). The purposes of the design guidelines are to establish a plan for architectural unity and to enhance and preserve the value of the Property and all Units thereon. The Declarant and the Board may amend the design guidelines from time to time in furtherance of these purposes.

(B) Submission of Plans and Specifications. Excepting Units owned by Declarant, no site work or preparation shall be commenced, no Unit or other structure shall be started, constructed, installed, or maintained, nor shall any addition, renovation, or remodeling thereto or change or alteration thereto, be made, until complete plans and specifications therefor have been submitted to and approved in writing by the Board. Such plans and specifications shall include the following as applicable (collectively, the “**Plans and Specifications**”):

- (i) a dimensioned site plan including the location of all existing and proposed structures, improvements, walkways, driveways, and parking areas;
- (ii) a site grading and contour plan;
- (iii) a utility plan showing the location of all existing and proposed utility facilities serving the Unit;
- (iv) schematic floor plans with dimensions and floor areas;
- (v) elevations of all sides of each structure including specifications for all exterior building materials, fixtures, finishes, and colors;
- (vi) material samples for exterior siding, paint and stain samples, roofing materials and other samples as deemed necessary by the Board;
- (vii) a landscaping plan;
- (viii) an amended Plat, if the location or boundaries of the Unit will depart from those depicted on the Plat, to the extent permitted by Section 4.1 above; and
- (ix) such other information as the Board may reasonably request.

(C) Review of Plans and Specifications. The Board may require the payment of a reasonable fee application fee for review of Plans and Specifications, which shall be deposited into the Association’s general fund. Approval or disapproval by the Board shall be in writing, and a denial shall be accompanied by specific reasons for such denial based on nonconformance with design guidelines then in effect. The Board may grant variations from design guidelines then in effect upon good cause shown. If the Board fails to approve or deny a written request for approval within sixty (60) days of the submission of all required Plans and Specifications and payment of required fees, then the Board shall be deemed to have approved the submitted Plans and Specifications; provided, however, that no approval shall ever be deemed to be given for any improvement or feature that is in conflict with design guidelines then in effect.

(D) No Board Liability. The Board shall not be liable to any Owner for any damage, loss or prejudice suffered as a result of the performance by the Board of

its responsibilities hereunder, provided the Board has acted in good faith. The Board will not review the Plans and Specifications for, and shall have no liability whatsoever relating to, compliance with applicable codes and regulations, the quality of design or materials, the adequacy of space or facilities, the integrity of structures or enclosures, or the existence of design or construction defects.

(E) Construction. All construction shall be undertaken in substantial conformance with the Plans and Specifications approved by the Board. Any material changes to or departures from the Plans and Specifications following approval by the Board shall require review and approval of the Board according to the procedures provided for in this Declaration.

Article 5

Restrictions on Use of Property

5.1 Primarily Residential Use. The Property shall be used primarily for private, residential purposes and enclosed garage storage purposes. Lawful home occupations are permitted to the extent they do not involve clients or customers regularly visiting the Property or other activity that results in unreasonable disturbance or inconvenience to other Owners. In no event shall business identification or advertising signs be posted on the Property.

5.2 General Prohibitions. No noxious, offensive, or illegal activity shall be undertaken on the Property, nor shall anything be done therein or thereon, either willfully or negligently, which may be or become an unreasonable interference with any other Owner's use and enjoyment of such other Owner's Unit. No activities shall be conducted on the Property which are or might be unsafe or hazardous to humans, animals, or property.

5.3 Leasing. All leases shall be in writing, and all tenants and occupants shall be informed, in writing, of the use restrictions contained in this Declaration. The Owner shall provide the Board with the name and contact information of any tenants or other occupants of the Unit.

5.4 Insurance Rates. No Owner shall undertake any activity on the Property which would increase the rate of insurance or cause the cancellation of insurance on any Unit.

5.5 Animals. No animals of any kind shall be raised, bred, or kept on the Property except that dogs and cats kept as pets, not to exceed a total of two (2) pets per Unit, are permitted. Such pets shall not be permitted to become a nuisance or annoyance to the other Owners. All pets must be kept indoors between dusk and dawn. Pets must be leashed when outside and shall not be permitted to roam the Property. Animal waste shall be removed and disposed of promptly by the Owner, and/or their Tenant(s)/Guest(s).

5.6 Personal Property.

(A) In general, all personal property shall be kept indoors, except outdoor furniture and barbeque grills rated for outdoor use.

(B) The Declarant and Board may establish reasonable and generally applicable rules and regulations permitting certain other personal property to be kept outdoors,

provided that in any event, no Owner shall permit the accumulation of excess personal property of any kind outdoors, and all personal property kept outdoors shall be maintained in a neat and orderly condition at all times.

(C) No clothesline or similar device shall be allowed outdoors, and no clothing, rugs or other items shall be cleaned or hung to dry outdoors.

(D) The sidewalks, entrances and all Common Elements must not be obstructed by any item which would inhibit entrance to the Property or any Unit (including, without limitation, bicycles, wagons, chairs, benches, tables and other personal property).

(E) Bicycles must be stored in the exterior lockers attached to each Unit.

5.7 Landscaping. No Owner shall plant or grow any type of plant, tree, shrubbery, flower or vine on Property, nor remove or alter any existing planting or other landscape feature, without written permission from the Board. The Board may elect for the Association to maintain all exterior landscaping (including, without limitation, foundation plantings and Unit yards) and charge the cost thereof to the Owners as a Common Expense.

5.8 Vehicles, Garages and the Driveways. A vehicle which cannot operate on its own power shall not remain on the Property longer than twenty-four (24) hours. Only emergency repairs shall be made to vehicles on the Property. No commercial vehicle shall be parked on the Property overnight. Boats, trailers, and recreation vehicles shall not be parked on the property (other than within closed garages) for longer than forty-eight (48) hours. None of the Declarant, Board or Association shall be responsible for any damage to any vehicle or other personal property parked on the Property. Any vehicle or other personal property parked or kept in violation of these restrictions may be removed from the Property without notice at the Owner's expense. Exterior parking spaces are for the parking of vehicles only and shall not be used for storage or other purposes.

5.9 Window Coverings. Drapes and curtains with light colored liners are permitted on exterior windows and doors. Under no circumstance shall such material as aluminum foil, plastic wrap, cardboard, or other temporary or unsightly window covering be permitted.

5.10 Noise. Care shall be exercised in the use of musical instruments, radios, television, or other sound equipment so as not to disturb other residents.

5.11 Refuse. No accumulation of salvage, scrap or waste shall be permitted anywhere on the Property. Garbage and trash shall be kept in approved covered containers, concealed from public view except on pickup days, and removed by 6:00 p.m. on the day of pickup. If large items such as old furniture or quantities of moving cartons, etc. are to be discarded, Owners must contact the property manager for special handling at such Owner's expense.

5.12 Hazardous or Flammable Materials. No hazardous materials shall be kept or stored on any portion of the Property at any time. Toxic and flammable materials shall be limited to reasonable household chemicals and cooking fuels, which shall be stored in a safe and secure

manner at all times. Bonfires, firepits and fireworks are expressly prohibited, except for a firepit provided by the Declarant as shown on the development site plan.

5.13 Boats and Marina.

- (A) Units are not to be used for the purpose of storing, cleaning, or repairing watercraft, except watercraft may be stored in Unit owners' garages.
- (B) Any Owner causing damage to boats, docks, slips, shoreline, or areas adjacent thereto will be responsible for all costs of repairs.
- (C) All boats shall carry liability insurance against damage to persons or property with such limits as the Association may from time to time establish, and the owner thereof shall, upon request, furnish appropriate evidence that such insurance is in full force and effect.
- (D) All boats must be seaworthy, fully sound, in insurable condition, registered, and in compliance with all local, state, and federal regulations, and capable of getting underway within one (1) hour after notice.
- (E) It is the responsibility of the Owner to keep his or her boat in such condition that it does not become unsightly or in the opinion of the Board reflect unfavorably on the appearance of the Property or marina.
- (F) The rules of the road and the navigation laws of the United States shall apply to all boats in the marina.
- (G) Boats must be operated at "No Wake" speed when running parallel to or approaching the Property in order to minimize shoreline erosion.
- (H) Owners must immediately clean up all litter and debris. Boating equipment, gas or oil containers, etc. are not permitted unless in tamper-proof boxes, which must be approved by the Board before installation.
- (I) Extension cords are not allowed in the marina, and hoses, ropes or other obstacles are not allowed to cross docks, piers, or walkways.
- (J) Each Unit shall have one (1) appurtenant boat slip, which shall be considered a Limited Common Element appurtenant and exclusive to such Unit. Boat slips are to be numbered and assigned to specific Units by Declarant, and the rights thereto shall transfer with the deed to a Unit and cannot be severed from title to a Unit. Boat slips are not to be used by or leased to third parties.
- (K) The finger pier between slips is for the use of boats on each side.
- (L) Boats in violation of this Declaration or any other rules and regulations adopted by the Board may be removed at the Owner's expense.

- (M) Overnight stays on boats are prohibited.
- (N) Fueling of boats in any slip or mooring area is strictly prohibited.

5.14 Waterfront.

- (A) The waterfront of the Property and its facilities are for the use of Owners and their guests only.
- (B) Any Owner using the waterfront facilities must immediately remove any personal items and haul away trash.
- (C) No portion of the waterfront shall be used as an exclusive use area by any Owner. No furnishings or other amenity shall be installed or placed on the waterfront without the permission of the Board.
- (D) Fishing from the docks is permitted, unless permission is revoked by the Board for cause.
- (E) Cleaning of fish and game is prohibited in Common Elements and in the marina.
- (F) Swimming from docks is permitted at the sole risk of the individual. Boats shall not enter designated swimming areas on the waterfront.
- (G) Open fires are expressly prohibited on any boat, in the marina or on the waterfront area, except for a firepit which may be installed by the Declarant.

Article 6
Maintenance

6.1 Maintenance by the Association. The Association shall be responsible for the maintenance, repair, and replacement, as applicable, of all Common Elements, other than those Limited Common Elements which the Board determines should be maintained by the Owners exclusively benefiting from such Limited Common Elements. The Association's maintenance shall include, without limitation, exterior siding, roofing, exterior paving, hardscaping, lighting, walkways, and sidewalks, including mowing, planting, landscaping, watering, irrigation, and snow removal within the Common Elements. The Association may also contract for utilities and services benefiting all Units, including, without limitation, water, sewer/septic, irrigation and landscaping, and television and internet service. The responsibilities of the Association as set forth in this Section 6.1 are collectively referred to as "**Association Maintenance and Services**". The Association Maintenance and Services shall be performed regularly and as necessary and appropriate, in the reasonable determination of the Board, to keep the Common Elements in good order and repair.

6.2 Maintenance by the Owners. Each Owner shall maintain his or her Unit in good order and repair at all times. Each Owner shall be responsible for, at such Owner's own expense, cleaning, clearing, fixing, maintaining, patching, repairing, replacing, and servicing (i) all

improvements comprising such Owner's Unit (excluding only those improvements which are designated herein as Common Elements), including, without limitation, doors and door frames, garage doors and motors, windows and window frames, balconies, patios, decks, stairs, floors, ceilings, interior walls, the interior sheetrock surfaces of Party Walls, cabinetry, plumbing lines and fixtures, electrical systems, indoor and outdoor lighting, facilities for natural gas, heating and air conditioning systems, fencing, landscaping, irrigation, and all other improvements, fixtures, finishes, furnishings and equipment, appurtenant to or serving such Unit exclusively; and (ii) all Limited Common Elements appurtenant to or serving such Owner's Unit that the Association elects not to maintain as described in Section 6.1 above. In addition, each Owner shall be responsible to pay all costs of additional Association Maintenance and Services becoming necessary as a result of any action or omission by such Owner.

6.3 Nature of Obligation. Nothing contained in this Declaration shall be construed to impose a contractual liability upon the Association, but the Association's liability shall be limited to damages resulting from gross negligence or willful misconduct. The respective obligations of the Association and Owners set forth in this Declaration shall not be limited, discharged, or postponed by reason of the fact that any such maintenance, repair or replacement is required to cure a defect in material or workmanship in the construction of the Units, nor because they may become entitled to proceeds under policies of insurance. No Owner shall have a claim against the Association for any work ordinarily the responsibility of the Association, but which the Owner has performed or paid for, unless such an arrangement shall have been duly approved in advance by the Association. Nothing contained in Section 6.1 shall be construed to limit an Owner's liability or responsibility for damages caused to the Property by such Owner or its occupants, tenants, guests, invitees or licensees.

6.4 Keys. For the mutual benefit and protection of the Owners, the Association shall have the right to retain a key to each Unit for emergency use only (e.g., fire, water breaks, rodent or pest infestations, or other circumstances presenting the potential to cause injury to persons or damage to property).

Article 7 **Easements**

7.1 Easement for Unintentional Encroachments. In the event that, by reason of construction, settlement or shifting, any Unit (or any water, electric, gas or other utility pipe or conduit or portion of utility system) encroaches from time to time upon any portion of any other Unit, easements for the maintenance of such encroachment are hereby established and shall exist for the benefit of the Owner of the Unit so encroaching; provided, however, that in no event shall an easement for any encroachment be created in favor of any Owner if such encroachment or use materially interferes with the reasonable use and enjoyment of the Unit burdened thereby or such encroachment results from the negligent or willful conduct of the Owner of the Unit so encroaching.

7.2 Easements for Support and Enclosure. An easement appurtenant to each Unit for structural support and enclosure in and to all shared structural members, footings, foundations, columns, beams, roofing, siding, or any other supporting or enclosing components located in or

constituting a part of any other Unit is hereby granted, reserved, declared and created for the benefit of the Owner of each Unit which may be affected thereby.

7.3 Easement for Maintenance and Enforcement. A blanket easement over the Property is hereby granted in favor of Declarant and the Association for the purpose of exercising their respective rights and performing their respective duties under this Declaration. The authorized representatives of Declarant and the Association or the Board, or of the management company for the Property, shall be entitled to reasonable access to, over and through the Property as may be required in connection with Association Maintenance and Services.

7.4 Easement for Ingress and Egress. An easement for ingress and egress is hereby granted in favor of the Association and each Owner over and across all roadways, driveways, sidewalks, pathways and trails on the Property providing access to any Unit, Limited Common Element, or Common Element.

7.5 Easement for Utilities. A blanket easement over the Property (excluding within or under any building) is hereby granted in favor of the Association and the providers of utility services to the Property, including, without limitation, water, wastewater, sewer, electricity, gas, trash, television, and telecommunication services, for the purposes of providing such services and installing, maintaining, repairing and replacing facilities necessary for the provision of such services. The Owner whose Unit is served by such facilities or services shall be responsible for repairing any damage caused by, and for restoring the Property to a condition equal to or better than it existed prior to, such installation, maintenance, repair or replacement. The Owner whose Unit is served by such facilities shall cause any work to be conducted in a good and workmanlike manner and in a manner that is considerate of the rights of the other Owners to use and enjoy their Units free of unreasonable disruption or nuisance.

7.6 General Provisions. All easements and rights described in this Declaration are non-exclusive easements appurtenant to and running with the land and, so long as the Property and Units are subject to the provisions of this Declaration, shall remain in full force and effect (except where early termination is otherwise provided in this Declaration) and shall inure to the benefit of and be binding on Declarant, its successors and assigns, and any Owner, purchaser, Eligible Mortgagee and other Person having an interest in the Property, Unit, or any part or portion thereof. Reference in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Article, or described in any other part of this Declaration, shall be sufficient to create and reserve such easements and rights to respective grantees, Eligible Mortgagees and trustees of such Unit ownerships as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

Article 8 **The Association**

8.1 Formation, Function and Responsibility of Association. The Association shall be a mutual benefit corporation having the name (or a name similar thereto) the "Alpenglow on Flathead Homeowners Association" and shall be the governing body for the Association and all Owners. The Association shall not be deemed to be conducting a for-profit business of any kind.

All applicable provisions of this Declaration shall be deemed to constitute the Bylaws of the Association.

8.2 Association Membership. Membership in the Association shall be appurtenant to and may not be separated from ownership of a Unit, except as may otherwise be required by law. Ownership of a Unit shall be the sole qualification to be a member of the Association. Each Owner, by acceptance of a deed or other conveyance of a Unit, thereby becomes a member, whether or not this declaration of such membership is made a part of, incorporated by reference or expressed in said deed or conveyance. Where a Unit has multiple owners, such owners shall designate in writing a single Person to act as the representative member on behalf of all such Owners with regard to Association membership.

8.3 Board of Directors.

(A) Designation and Election of Directors.

(i) Number of Directors. The Board shall consist of three (3) Directors.

(ii) Designation by Declarant. Declarant shall have the right to appoint the Persons who shall initially serve as Directors or exercise the powers of the Board as provided herein until the Turnover Date.

(iii) Term. The term of each Director shall expire annually, provided that nothing herein shall prevent any Person from being appointed or elected to successive terms.

(iv) Appointment and Election. Upon the Turnover Date, and at each annual meeting of the Owners thereafter, the Owners shall, voting in accordance with their Proportionate Shares, elect three (3) Directors to the Board. All Directors shall serve without compensation.

(v) Resignation and Removal. Any Person may resign as a Director upon written notice to the Board, and the Owners may at a meeting of the Owners approve of the removal of a Director where such Director has committed gross negligence or willful misconduct. Upon resignation or removal of a Director, the remaining two Directors shall appoint another Person to serve the remainder of the resigning Director's term. If there are not two remaining Directors or the remaining Directors cannot agree on a replacement Director, then the question shall be submitted to a vote of the Owners.

(vi) Majority Vote. Except as otherwise provided in this Declaration, all matters requiring approval of the Owners shall require approval of the Owners holding a majority of all Proportionate Shares.

(B) Meetings of the Board. The Board shall meet at least once annually but may meet more often at its discretion. The Directors may agree on meeting dates in writing. In addition, any Director may call a meeting of the Board upon not less

than ten (10) days prior written notice to the Owners, provided no Director may call more than one Board meeting in any thirty (30) day period. The presence of two (2) Directors constitutes a quorum. The Board may meet without notice in the event of a bona fide emergency where best efforts have been given to notify all Directors or where all Directors are present. A majority vote of all Directors is required for Board action. The Board shall keep minutes of all Board meetings.

8.4 Meetings of the Owners. There shall be an annual meeting of the Owners, the date and time of which shall be determined by the Board and written notice thereof shall be given to all Owners not less than thirty (30) days in advance. At the annual meeting, the Board shall provide to the Owners a summary of Association finances and a budget for Common Expenses and Assessments for the ensuing calendar year as provided herein. Any two Directors or the Owners holding at least twenty-five percent (25%) of all Proportionate Shares may call a special meeting of the Owners upon not less than thirty (30) days prior written notice to all Owners. Such notice shall specify the purpose of such special meeting.

8.5 Officers. The Board may elect from among its members a President who shall preside over all meetings and who shall be the chief executive officer of the Board and Association, and a Secretary and Treasurer who shall keep minutes of all meetings. All Officers shall serve without compensation.

8.6 General Powers of the Board. Except as expressly otherwise provided by the Association's articles of incorporation or this Declaration or otherwise required by law, all power and authority to act on behalf of the Association both pursuant to this Declaration and otherwise shall be vested in its Board and its officers under the direction of the Board. The Board shall have the following powers which shall be exercised or authorized by a unanimous vote of both Directors:

- (i) To levy Assessments as set forth in Section 8.10.
- (ii) To prepare and approve an annual budget for Common Expenses.
- (iii) To enter into contracts on behalf of, and to purchase or secure in the name of, the Association any materials, supplies, insurance, equipment, fixtures, labor, services and advice required by the terms of this Declaration, or which in its reasonable opinion shall be necessary or proper for the operation or protection of the Association and the Units.
- (iv) To maintain one or more bank accounts (granting authority as the Board shall desire to one or more Persons to draw upon such accounts), and generally, to have all the powers necessary and incidental to the operation and management of the Association.
- (v) To adjust the amount, collect and use any insurance proceeds to repair damaged or replace lost property; and if proceeds are insufficient to repair damaged or replace lost property, to assess the Owners of the Units to cover the deficiency.

- (vi) To adopt reasonable rules and regulations governing the use, maintenance and administration of the Units, Limited Common Elements and Common Elements for the health, comfort, safety and general welfare of the Owners and for the protection of property values.
- (vii) To engage the services of a property manager or managing agent.
- (viii) To enforce the provisions of this Declaration and the rules and regulations adopted pursuant hereto in any manner permitted by law, and to recover attorneys' fees and costs from any Owner whose breach or violation of this Declaration or such rules and regulations results in any enforcement action.
- (ix) In addition to all other rights and remedies, to impose fines upon Owners who breach or violate this Declaration, or the rules and regulations adopted pursuant hereto in an amount not less than \$100 and not more than \$500, in 2022 Dollars, per violation. For continuing violations, each day that a violation continues after written notice from the Board shall constitute a separate violation and subject to an additional fine.
- (x) To exercise any and all other powers, rights and authorities of a non-profit mutual benefit corporation or homeowners' association under Montana law for the common benefit of the Property and the Owners.

8.7 Liability of Declarant, the Board and Officers. None of Declarant, the Directors or the officers of the Association shall be liable to the Association or the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever, and, to the fullest extent permitted by law, the Association and the Owners shall indemnify, defend and hold harmless Declarant and each of the Directors and officers of the Association from and against, all claims, demands, costs, fees, suits, judgments and other liabilities arising out of acts or omissions of Declarant, the Directors or the officers of the Association acting pursuant to this Declaration, unless such act or omission is found by a court of competent jurisdiction to be ineligible for indemnification under applicable law. No provision of this Declaration shall be construed to limit indemnification to which Declarant, a Director or officer would otherwise be entitled under applicable law. The Association shall procure and maintain directors and officer's liability insurance coverage on all directors and officers in such an amount as the Association deems reasonable and necessary under the circumstances.

8.8 Books and Records. The Board shall maintain the following records of the Association available for inspection, examination and copying during normal business hours by Owners:

- (i) This Declaration and any amendments, and any rules and regulations adopted by the Board.
- (ii) Receipts and invoices for Association expenses, if any, for the previous three years.

- (iii) All contracts and other agreements entered into by the Association, if any.
- (iv) The minutes of all meetings of the Board and the Owners for the previous three years.

8.9 Insurance.

(A) The Board shall have the authority to, and shall, obtain and maintain at all times insurance for the Association and the Board as is reasonable and prudent, which insurance shall include, at a minimum: (i) insurance covering damage to those structures on the Property constituting Common Elements (excluding Unit interiors from the studs inward, which shall be the responsibility of each Unit Owner pursuant to Section 8.9(B) below (*i.e.*, a “studs-out” policy); (ii) general liability insurance covering the Association and the Board and their agents and employees; (iii) insurance required by applicable law; and (iv) such other insurance as the Board may deem reasonable or prudent including, without limitation, directors’ and officers’ liability insurance, and insurance required to cause the Property to comply with prevailing secondary mortgage market financing guidelines. The premiums for all such insurance shall be Common Expenses.

(B) Each Owner shall obtain and maintain at all times a condominium unit owner’s insurance policy covering, at a minimum: (i) physical damage to the interior of his or her Unit from the studs inward with a minimum coverage amount of \$100,000 in 2022 Dollars (*i.e.*, a “studs-in” policy); and (ii) premises liability with a minimum coverage amount of \$500,000 in 2022 Dollars. Such policies shall be without contribution with respect to the policies of casualty insurance obtained by the Board for the benefit of all Owners as above provided. The Board may adopt additional rules and regulations setting forth specific requirements for the terms and conditions applicable to Unit Owner’s insurance policies. The Association shall be named as an additional loss payee on casualty policies and additional named insured on liability policies. Each Owner shall deliver to the Association certificates evidencing the same upon the Board’s request.

8.10 Assessments.

(A) In General; Lien for Assessments. Each Owner of a Unit, by acceptance of a deed to, or other interest in, a Unit, whether or not it shall be so expressed in any such deed or other conveyance for such Unit, hereby covenants and agrees to pay Assessments and other costs and fees levied pursuant to this Declaration. Such Assessments, costs and fees, not paid when due, together with interest thereon at the rate of twelve percent (12%) per annum, late fees in the amount of five percent (5%) of the total amount past due, and costs of collection (including, without limitation, attorneys’ fees incurred in respect thereto whether or not suit shall be instituted), shall be a charge and a continuing lien upon the Unit against which such levy is made.

(B) Purpose of Assessments. The Assessments levied by the Association shall be used for the purpose of promoting the health, safety and welfare of the Owners and, in particular, for (i) Common Expenses; (ii) the establishment of such reasonable reserves for Association Maintenance and Services as the Board deems appropriate (provided that, at a minimum, sufficient reserves shall be established to comply with prevailing secondary mortgage market financing guidelines); (iii) the performance of the duties of the Board as set forth in this Declaration, including the enforcement of the provisions thereof; and (iv) in general, carrying out the purposes of the Association as stated herein and in the articles of incorporation of the Association.

(C) Annual Assessments. Initial Annual Assessments have been fixed by Declarant. Prior to each annual meeting of the Owners, the Board shall estimate the total amount necessary to pay the Common Expenses for the ensuing calendar year (which estimate shall include a reasonable amount considered by the Board to be desirable for reserves) (the “**Annual Assessment**”) and, if an increase in Annual Assessments is warranted, shall notify each Owner in writing as to the amount of such Owner’s Proportionate Share thereof. On or before January 1st of the ensuing year, and on the first day of each and every month of said year, each such Owner shall be liable for and obligated to pay one-twelfth of such Owner’s share of the total Annual Assessment.

(D) Declarant’s Assessment Obligations. Prior to the Turnover Date, the Declarant shall have no obligation to furnish assessments of any kind as defined in this Declaration.

(E) Special Assessments. The Board may at any time or from time-to-time levy Special Assessments against Units and the Owners thereof. Special Assessments shall be levied for the purpose of defraying, in whole or in part, the cost incurred by the Association for any Association Maintenance and Services not provided for in the Annual Assessment for the then current calendar year. Special Assessments may be approved at a meeting of the Board called and held in accordance with the provisions of this Declaration. Special Assessments shall be allocated to the Owners of the Units according to their Proportionate Shares.

(F) Specific Assessments. The Board shall have the power to levy Specific Assessments against a particular Unit and the Owner thereof as follows (provided that such Owner has received notice of the proposed Specific Assessment and an opportunity to be heard at a meeting of the Board): (i) to cover costs incurred in bringing a nonconforming Unit into compliance with this Declaration or any rules or regulations of the Association; and (ii) to cover costs or liabilities incurred as a consequence of the conduct of the Owner, including, without limitation, misuse of or damage to any portion of the Common Elements resulting in additional Association Maintenance and Services.

(G) Nonpayment of Assessments. Any Assessment which is not paid when due shall be deemed delinquent, with no requirement for notice to the delinquent

Owner. If an Assessment is not paid within 10 days after the delinquency date, such Assessment shall be subject to interest and late fees as provided in Section 8.10(A) from the delinquency date. If an Owner fails to pay when due any Assessment, charge, fee, cost, or other amount authorized to be charged to the Owner hereunder, such amount shall constitute a default hereunder and a lien on the Unit of such Owner. The Board shall, in the name of and on behalf of the Association, have all rights and remedies to enforce such collection as permitted by law, including bringing an action at law or in equity against such Owner and foreclosing the aforesaid lien. All expenses of the Association in connection with such action or proceedings, whether or not suit shall be instituted, including attorneys' fees and court costs and other fees and expenses shall be charged to and assessed against such Owner (and shall constitute a personal liability of such Owner) and shall be added to and deemed part of that Owner's Assessment.

(H) Subordination of Lien to Mortgage. The lien for Assessments provided for herein shall be subordinate to the lien of any prior, recorded first mortgage or trust deed on a Unit made to any bank, savings and loan association or other bona fide lender, except for the amount of any Assessments which becomes due and payable from and after the date such lender obtains title to or possession of such Unit pursuant to a decree of foreclosure or any other proceeding in lieu of foreclosure. Such transfer of title or possession shall not relieve any Owner from personal liability for any Assessments.

(I) Failure to Levy or Notify. Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay Assessments. In such event, each Owner shall continue to pay Assessments on the same basis as during the last year for which an Assessment was made, if any, until a new Assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

(J) Withholding of Payment as Remedy; Non-Use. No Owner shall be entitled to withhold, offset or abate Assessments for any reason without prior approval of the Board in cases where money is owed by the Association to one or more Owner(s). In no event shall Assessments be offset or abated on account of interruption to services provided by the Association or third parties. The Proportionate Shares have been determined taking into account each Owner's approximate benefit from Association Maintenance and Services, and no Owner is entitled to reduced or waived Assessments or modified Proportionate Shares due to such Owner's refusal to accept Association Maintenance and Services or due to such Owner's lack of benefit from Association Maintenance and Services.

(K) Commencement of Assessments and Initial Contribution. The obligation for Assessments with respect to each Unit shall not commence until the earlier to occur of: (i) sale or transfer of such Unit by the Declarant to any Person not succeeding to the rights of Declarant hereunder; or (ii) the date such Unit is first occupied as a residence. With respect to any Unit for which the obligation for Assessments has

not yet commenced, Declarant, in its sole discretion may choose, but shall have no obligation, to contribute such Unit's Proportionate Share of actual Common Expenses incurred by the Association.

Article 9
Party Wall Rights & Obligations

9.1 Rights. Each Owner shall have the obligations, rights and privileges set forth in this Article, as well as those not inconsistent herewith, embraced within the general rules of law regarding party walls. Each Owner shall have the right to use Party Walls for support of such Owner's Unit, including any replacement thereof, and the rebuilding of a Party Wall, including all pipes, conduits and ducts located herein.

9.2 Restrictions. Each Owner shall refrain from using Party Walls in any manner that interferes with the equal use and enjoyment thereof by the other Owners. No openings shall be made through a Party Wall other than for wall-mounted furnishings and decorations. Except for wall-mounted televisions, wall-mounted or in-wall devices that could cause noise or vibration, such as speakers, are expressly prohibited in and on Party Walls. No Owner shall take any action that diminishes the structural integrity of such Party Wall, its fire resistance, or its sound-deadening quality.

9.3 Damage. If any Party Wall is damaged or destroyed due to the act or omission of an Owner, such Owner shall, at its own cost, promptly repair or reconstruct the same to a condition at least as good as that which existed prior to such damage or destruction in accordance with plans approved by the Board. If such Owner shall fail, within a reasonable time after such damage or destruction, to perform such repair or reconstruction, the Board may cause such repair or reconstruction to be performed, and the cost thereof, along with all other reasonable costs and expenses incurred by the Board, the Association, and other Owners in connection with such damage or destruction, shall be charged to the Owner who, through act or omission, caused such damage or destruction.

9.4 Disagreement. In the event of a disagreement between the Owners of contiguous Units with respect to their Party Wall rights and obligations, upon the written request of either Owner, the matter shall be adjudicated by the Board, whose decision with respect thereto shall be final and binding.

Article 10
Damage or Destruction

10.1 Damage to Unit. In the event of damage to or destruction of any Unit or Limited Common Element by fire or other casualty, the Owner thereof shall, at its own cost and within a reasonable time after such damage or destruction, repair or reconstruct the same in conformance with the original plans and applicable law and governmental regulations. The exterior of the Unit or Limited Common Element shall be substantially the same in quality, design and appearance as the Unit or Limited Common Element's original construction.

10.2 Failure to Repair. In the event that any Owner shall fail, within a reasonable time after the occurrence of the damage or destruction referred to herein to perform the necessary repair

or reconstruction, then the Board may cause such repair or reconstruction (or any part thereof) to be performed in the manner and as provided herein, and the cost thereof shall be charged to such Owner as a Specific Assessment.

10.3 Insufficient Insurance. The Owner shall not be relieved of his or her obligation to repair or reconstruct his or her Unit by reason of such Owner's failure to carry sufficient insurance or the fact that proceeds received by the Owner from the insurer are not sufficient to cover the cost thereof. If insurance proceeds are insufficient to repair or reconstruct the Unit, such Owner shall pay the deficiency and such repair or reconstruction shall be undertaken as provided herein.

10.4 Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Article 11

Rights of Eligible Mortgagees

11.1 Mortgages. This Article is intended for the benefit of each Eligible Mortgagee, and, except for the rights of Declarant, which shall govern and control in each instance, to the extent any other provisions of this Declaration are inconsistent or in conflict with this Article, the latter shall govern and control.

(A) Upon request in writing to the Association by an Eligible Mortgagee, the Association shall furnish each Eligible Mortgagee a written notice of any default by an Owner of that Owner's obligations under this Declaration which is not cured within 30 days. Any Eligible Mortgagee who comes into possession of the Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure shall, to the extent permitted by law, take such property free of any claims for unpaid Assessments or charges in favor of the Association against the mortgaged Unit which become due prior to (i) the date of the transfer of title or (ii) the date on which the holder comes into possession of the Unit, whichever occurs first.

(B) Upon request in writing, each Eligible Mortgagee shall have the right:

(i) During normal business hours, to examine current copies of this Declaration, the articles of incorporation of the Association, rules and regulations and the books, records and financial statements of the Association;

(ii) to receive, without charge and within a reasonable time after such request, a copy of the audited financial statement for the Association for the preceding fiscal year; provided, however, that if no such statement is available, any Eligible Mortgagee shall be entitled to have an audited financial statement prepared at its own expense;

(iii) to receive written notice of any decision by the Members to make an amendment to this Declaration or the articles of incorporation;

(iv) to receive written notice of any lapse, cancellation or modification of any insurance policy or fidelity bond maintained by the Association;

(v) to receive written notice of any action which would require the consent of a specified percentage of Eligible Mortgagees; and

(vi) to receive written notice of any casualty or condemnation affecting the Common Elements or the Unit in which the Eligible Mortgagee holds an interest.

(C) No provision of this Declaration or the articles of incorporation of the Association or any similar instrument pertaining to the Property or the Units therein shall be deemed to give an Owner or any other party priority over the rights of the Eligible Mortgagees pursuant to their mortgages in the case of distribution to Owners of insurance proceeds or condemnation awards.

(D) Unless the Eligible Mortgagees of all of the Units have given their prior written approval, neither the Association nor the Owners shall:

(i) by act or omission, abandon or terminate the townhome regime;

(ii) change the Proportionate Shares or obligations of any Owner for purposes of levying Assessments or charges or allocating distributions of insurance proceeds or condemnation awards; or

(iii) use insurance proceeds for loss to any portion of the Property for any purpose other than repair, replacement, or reconstruction.

(E) Unless at least two-thirds of the Eligible Mortgagees, based on one vote per Unit, have given their prior written approval, neither the Association nor the Owners shall be entitled to do or permit any of the following:

(i) Amend this Declaration to change any rights of Eligible Mortgagees, including without limitation, changes to insurance and fidelity bond requirements; or to impose a right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey such Owner's Unit.

(ii) Abandon, partition, subdivide, encumber, sell or transfer the Common Elements or any part thereof (except for the granting of easements for public utilities or for other purposes consistent with the intended use of the Property); or

(iii) Remove the Property from the provisions of this Declaration.

(F) Whenever required, the consent of a Eligible Mortgagee shall be deemed granted unless the party seeking such consent is advised to the contrary in writing by the Eligible Mortgagee within 30 days after making the request for consent,

provided such request was delivered by certified or registered mail, return receipt requested.

Article 12

General Provisions

12.1 Rights of Declarant Prior to Turnover. Until the Turnover Date, all rights, titles, powers, privileges, trusts, duties and obligations vested in or imposed upon the Board in the Act and in this Declaration shall be held and performed solely by the initial Board designated by Declarant. As provided in Section 8.3(A)(ii), prior to the Turnover Date, the initial Board shall consist of three (3) Directors selected by the Declarant.

12.2 Manner of Giving Notices. Notices provided for in this Declaration to be given in writing and addressed to the address of each Owner's Unit unless otherwise provided herein. Any Owner may designate a different address, addresses, or email address for notices by giving written notice thereof to the other Owner. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail or when delivered in person or via email with written acknowledgment of the receipt thereof, or when posted on such Owner's Unit or deposited in such Owner's mailbox at such address as is designated pursuant hereto. Service of process for purposes of Section 70-23-901 of the Act shall be given to the Declarant at 48901 U.S. Highway 93, Suite A, Polson, Montana 59860, or to such other Person as the Board may approve in writing from time to time.

12.3 Partial Invalidity. The invalidity of any covenant, restriction, condition, limitation or any other provision of this Declaration, or any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.

12.4 Perpetuities and Other Invalidity. If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of (i) the rule against perpetuities or some analogous statutory provisions, (ii) the rule restricting restraints on alienation, or (iii) any other statutory or common law rules imposing time limits, then such provision shall continue only until 21 years after the death of the survivor of the now living lawful descendants of the person holding the office of the President of the United States of America as of the Effective Date.

12.5 No Waivers. No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

12.6 Amendments.

(A) By Declarant. Prior to the Turnover Date, except as otherwise provided in this Declaration, and to the fullest extent permitted by law, Declarant reserves the right and power to amend this Declaration in its sole discretion. Specifically, but without limiting the foregoing, Declarant may record an amendment to this Declaration (i) to comply with prevailing secondary mortgage market financing guidelines, and (ii) to correct clerical or typographical or similar errors in this Declaration or any exhibit hereto. In furtherance of the foregoing rights of

Declarant to amend this Declaration, a power coupled with an interest is hereby reserved and granted to Declarant to vote in favor of, make or consent to such an amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Unit, and the acceptance thereof, shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record such amendments. The right of Declarant to act pursuant to rights reserved or granted under this Section 12.6(A) shall terminate at such time as Declarant no longer holds or controls title to any portion of the Property.

(B) By Owners. Except as provided in Section 12.6(A) above, this Declaration may only be amended by the Owners if, following the Turnover Date, a written instrument that is signed and acknowledged by the Owners of not less than seventy-five percent (75%) of all Units and their Eligible Mortgagees.

12.7 Declarant's Reserved Rights. Nothing in this Declaration shall limit, and no Owner or the Association shall do anything to interfere with, the right of Declarant to construct and complete the construction of Units and other improvements to the Property, or to alter the foregoing or its construction plans and designs, or to construct additional improvements as Declarant deems advisable in the course of development of the Property so long as any Declarant owns an interest in any Unit. The rights of Declarant hereunder shall include, but shall not be limited to, the right to install and maintain such structures, displays, signs, billboards, flags and sales offices as may be reasonably necessary for the conduct of its business of completing the work and disposing of the Units by sale, resale, lease or otherwise. Declarant shall be entitled to the non-exclusive use of the exterior of the Property, without further cost for access, ingress, egress, use or enjoyment, in order to perform work, show the Property to prospective purchasers or tenants, and exercise other rights of Declarant. In the event of any conflict or inconsistency between the provisions of this Section and any other provision of this Declaration, the former shall govern and control.

12.8 Waiver of Dissolution and Partition. To the fullest extent permitted by law, each Owner hereby irrevocably releases and waives any right of dissolution of the Association or partition of the Property or any part thereof.

12.9 Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate the purposes stated in the Recitals.

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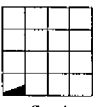
EXHIBIT "A"
PLAT OF TOWNHOME

Attached - Sheet 2 only.

By: SANDS SURVEYING, Inc.
 2 Village Loop
 Kalispell, MT 59901
 (406) 755-6481

CERTIFICATE OF SURVEY

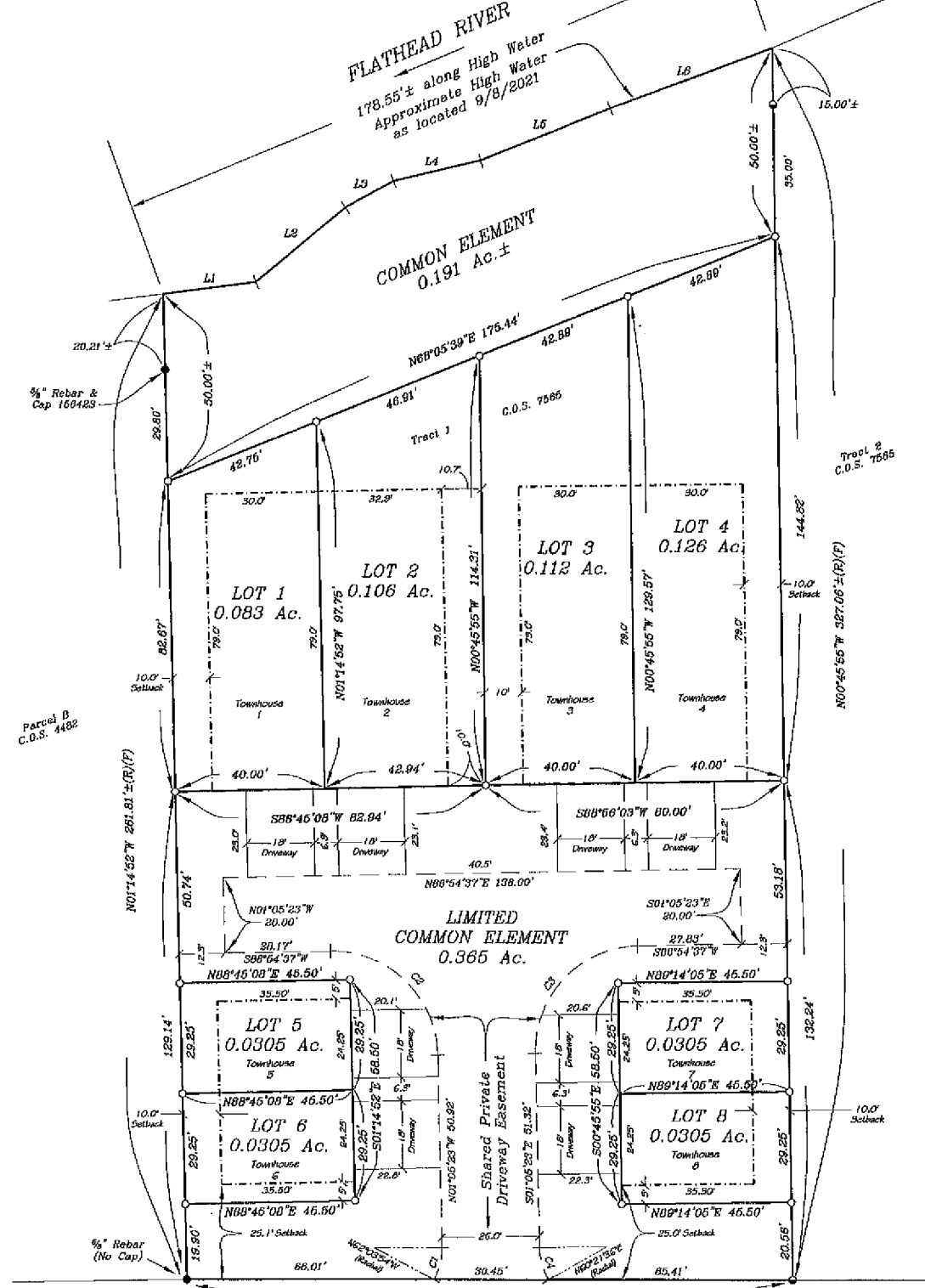
IN GOV'T. LOT 6 of
 SEC. 4, T.22N., R.20W., P.M.,M., CITY of POLSON, LAKE COUNTY, MONTANA



JOB NO: 550801
 DRAWING DATE: APRIL 12, 2022
 COMPLETED DATE: / /
 FOR: SCOTT NELSON
 OWNER: MONTANA RIVERFRONT LIMITED PARTNERSHIP

SCALE: 1" = 20'
 20' 10' 0' 20' 40'

PURPOSE: TOWNHOUSE SURVEY
 per MCA 76-3-203(2)



CURVE TABLE			
CURVE	RADIUS	DELTA	LENGTH
C1	18.00'	20°00'20"	8.84'
C2	28.00'	00°00'00"	43.98'
C3	28.00'	00°00'00"	43.98'
C4	18.00'	20°34'01"	8.87'

LINE TABLE (R)(F)	
LINE	BEARING
L1	N82°44'49"E
L2	N50°09'17"E
L3	N61°28'17"E
L4	N76°18'19"E
L5	N68°03'43"E
L6	N68°55'02"E

Acreage Table:	
8 Townhouse Lots	0.549 Ac.
Common Element	0.191 Ac. ±
Limited Common Element	0.365 Ac.
TOTAL PROPERTY	1.105 Ac. ±

- LEGEND:**
- Set 1/2"x24" Rebar & Cap (192305)
 - Found 1/2" Rebar & Cap (192365)
 - Found (as noted)
 - (F) Found Information
 - (R) Record Information Per C.O.S. 7505
 - Building Envelope

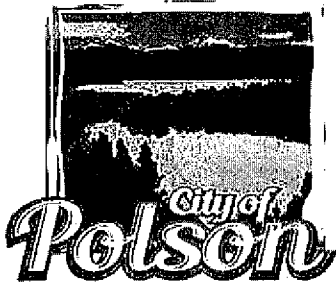
Doc# 602532

7th Avenue West

BY: DEB

EXHIBIT "B"
CITY OF POLSON EXEMPTION CERTIFICATE

Attached.



CITY OF POLSON

Planning & Building Department
106 1st Street E. | Polson, MT 59860
T: 406-883-8214 | F: 406-883-8238
E: bp@cityofpolson.com
W: www.cityofpolson.com

October 11, 2022

Sands Surveying, Inc.
Attn: Eric H. Mulcahy
2 Village Loop Road
Kalispell, MT 59901

RE: Zoning Conformance Permit #22-0064 – 800 7th Ave West (Tract 1 of COS 7565-RB)
Application for Subdivision Exemption form for the Townhouse Survey
Zoning Compliance Review – Montana Riverfront Limited Partnership

Dear Mr. Mulcahy,

Thank you for submitting a Zoning Conformance application for the proposed townhouse survey and development located at 800 7th Avenue West. Following review of your application, staff has found that the townhouse survey conforms with all applicable zoning regulations and is therefore **approved** for zoning conformance subject to the following terms and conditions:

1. This approval is **valid** for the townhouse survey revised on September 22, 2022 pursuant to MCA 76-3-203(2) which allows for the creation of eight (8) lots to be used as condominiums, townhomes, townhouses, or conversions as defined in MCA 70-23-10.
2. This approval is **valid** for the installation of common and limited common elements to include roads, curbs, gutters, stormwater infrastructure, sidewalks, trails, utilities, irrigation facilities, landscaping and other common elements listed in the declaration of unit ownership located outside of the 20-foot shoreline buffer of the Flathead River. Additional review and approval from the City of Polson is required for all improvements within the 20-foot shoreline buffer.
3. Prior to issuance of any certificate of compliance or occupancy, all necessary improvements to include roads, sidewalks, utilities, and landscaping shall be installed in compliance with the Polson Development Code and approved plans.
4. Access to the property and lots shall meet all requirements of the Polson Fire Department.
5. The proposed water, sewer and stormwater improvements shall obtain all necessary approvals from the Montana Department of Environmental Quality and comply with conditions of approval outlined in the City Engineer's approval letter dated August 3, 2022. Alteration of the approved plans must have prior written authorization from the City of Polson.
6. Five days prior to beginning construction of the proposed water, sewer and stormwater improvements, notice shall be provided to the City of Polson Public Works Department.
7. Prior to beginning construction, please provide confirmation to the City of Polson Planning Department from Slopeside Engineering that the recommendations from the November 18,

2019 Geotechnical Investigation are still valid, or provide a reevaluation from Slopeside Engineering for the current proposal.

8. Prior to issuance of any future building permits on the property, the applicant shall pay all applicable impact fees as determined by City of Polson development policies and the current impact fee schedule as defined in Chapter 2, Article 6, Division 8 of the Polson Municipal Code. Pursuant to Section 2.06.881 of the municipal code, the applicant shall pay 50 percent of the total calculated impact fees for new development for which water and sewer extensions are required.
9. The applicant shall pay all accrued city engineer review fees associated with review of the Alpenglow on Flathead Engineering Report.
10. This approval is not valid for construction of the condominiums, townhomes or townhouses to begin. The landowner is responsible for obtaining all necessary zoning conformance and building permits from the City of Polson prior to beginning.
11. Prior to issuance of a building permit, all applicable building fees and the remaining portion of impact fees as determined by City of Polson development policies shall be required to be paid for that specific building.
12. It is the current and future landowner(s) responsibility to comply with the specification standards of the Resort Zoning District, performance and multiple family dwelling standards of the Polson Development Code, fire and building codes adopted by the City of Polson, City of Polson ordinances and state law.
13. It is the landowners responsibility to comply with all private covenants, easements, agreements, conditions and restrictions.
14. The City of Polson reserves the right to revoke approvals, terminate or enjoin the use of the property, and order any structures removed if the applicants violate any conditions of zoning conformance approval.
15. This approval is valid for one (1) year. The applicant shall demonstrate conformance within one (1) year or request and obtain an extension prior to the permit expiring, or reapply. If voluntary compliance is not achieved a notice of violation may be issued.

If you have any questions, please do not hesitate to email or schedule an appointment with the Building and Planning Department.

Sincerely,

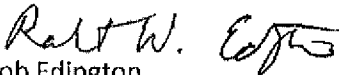

Rob Edington
City Planner

EXHIBIT "C-1"
CERTIFICATION OF FLOOR PLANS

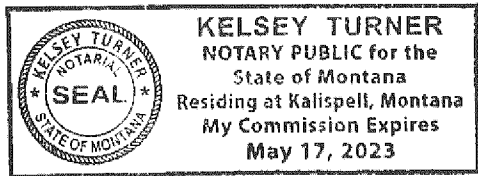
Pursuant to Montana Code Annotated §70-23-306, the undersigned states as follows:

1. I am a/an surveyor architect (check one) licensed and registered in the State of Montana.
2. I have reviewed the floor plans to be recorded in conjunction with the Declaration of Covenants, Conditions, Restrictions and Easements for the Alpenglow on Flathead Townhomes and Bylaws of the Alpenglow on Flathead Homeowners Association, attached hereto.
3. The floor plans are an accurate copy of the plans filed with and approved by the City or County officers having jurisdiction to issue building permits or accurately represent the buildings as now exist on the property that is the subject of this declaration.
4. The floor plans fully and accurately depict the layout, location, unit designation and dimensions of each unit constructed or to be constructed on the real property.

By: *Dia Sullivan*
 Print Name: DIA SULLIVAN
 Licensed Surveyor Architect (check one)

STATE OF MONTANA)
 COUNTY OF Flathead)

This instrument was acknowledged before me on this 31st day of October, 2022, by Dia Sullivan.



Kelsey Turner
 (Notary signature)
Kelsey Turner
 (Name-typed, stamped or printed; Title)
Kalispell, MT
 (Residing at)
 My commission expires May 17, 2023

EXHIBIT "C-2"
PRELIMINARY FLOOR PLANS

Attached.

DEPARTMENT OF REVENUE APPROVAL

The Declaration of Covenants, Conditions, Restrictions and Easements for the Alpenglow on Flathead Townhomes and Bylaws of the Alpenglow on Flathead Homeowners Association has been reviewed in accordance with Section 70-23-304, M.C.A. The undersigned representative for the Department of Revenue hereby verifies that the name "Alpenglow on Flathead Townhomes" complies with Section 70-23-303, M.C.A. and that all taxes and assessments due or payable pertaining to the property described in the preceding Declaration have been paid.

DATED this 6th day of December 2022.

State of Montana
Department of Revenue

By: 

Name: Wayne Freeman

Title: Lead APPRAISER