

DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

This Declaration, made on the date hereinafter set forth by JOHNSTON EXCAVATING, INC., hereinafter referred to as "Declarant".

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in the County of Gallatin, State of Montana, which is more particularly described as:

SEE EXHIBIT "A" ATTACHED

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purposes of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall insure the benefit of each owner thereof.

ARTICLE I - DEFINITIONS:

Section 1. "Association" shall mean and refer to Bridger Peaks Estates Homeowners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the properties, including contract seller, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Property" or "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any plat of land shown upon any recorded subdivision map of the properties with the exception of the streets or other dedicated property.

Section 5. "Declarant" shall mean and refer to Johnston Excavating, Inc., its successors and assigns, if such successors or assigns acquire more than one undeveloped Lot from the Declarant to the purpose of development.

ARTICLE II - PROPERTY RIGHTS:

Section 1. The property rights of the lot owners are subject to

the following provisions:

- a. The right of the Association to suspend the voting rights and any other right for any period during which any assessment against his Lot remains unpaid; and to suspend such infraction of its published rules and regulations after hearing by the Board of Directors of the Association;
- b. The right of access or rights of easement granted for public utilities of any and all kinds, including light, water, power, gas and telephone services;
- c. The movement or removal of trees in the park area or on private Lots must be approved by the Board of Directors of the Association.

Section 2. Delegation of Use. Any owner may delegate in accordance with the By-Laws, his property rights and facilities to the members of his family, his guests, his tenants, or contract purchasers who reside on the property.

#### ARTICLE III - MEMBERSHIP AND VOTING RIGHTS:

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership.

Class A. Class A member(s) shall be all owners with the exception of the Declarant. Class A members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote of such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of the following event: When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership.

#### ARTICLE IV - COVENANT FOR MAINTENANCE ASSESSMENT:

Section 1. Creation of the Lien for Personal Obligation of Assessments. The Owner of any Lot by acceptance of a Contract of Sale or a deed therefor, whether or not it shall be so expressed in such deed or contract, is deemed to covenant and agree to pay to the Association (a) annual assessments or charges and (b) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a



continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement, maintenance and prevention of damage to the property and improvements thereon.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$15.00 per Lot. Notwithstanding any other provision herein, no Lot owned by Declarant shall be subject to annual or special assessments unless and until such Lot has been sold or transferred to a third party. Thereafter, annual assessments shall be determined by the Board of Directors provided, however, that from and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may not be increased each year more than ten per cent (10%) above the maximum assessment for the previous year without the vote or written assent of fifty-one per cent (51%) of each class of membership.

Section 4. Special Assessment for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement in the subdivision, including fixtures and personal property related thereto, provided that any such assessment shall have the vote or written assent of fifty-one per cent (51%) of each class of members.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Any action authorized under Sections 3 and 4 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than ten (10) days in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite fifty-one per cent (51%) of each class of members, members who were not present in person or by proxy may give their assent in writing, provided the same is received by the appropriate officers of the Association not later than thirty (30) days from the date of such meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all deeded Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall be levied on the first day of the month following the closing of the sale to an individual Owner. Voting rights attributable to property interest shall not vest until assessments against those interests have been levied by the Association.



The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each deeded Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specific Lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten per cent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, foreclose the lien against the property, or avail itself any remedy allowed under the laws of the State of Montana.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure, or any proceeding in lieu thereof, 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 Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V - MAINTENANCE:

Owners are required to construct and maintain sidewalks on their property according to the City Ordinances of Bozeman.

Owners are required to establish lawn or other suitable landscaping for their Lot. They shall also mow, irrigate and otherwise maintain their Lot so that the landscaping does not detract from the general appearance of the subdivision in the opinion of the Board of Directors. The owners of lots shall control weeds and all noxious plants on their lots, provided however that they shall not use poison harmful to humans or animals and enjoyment of the occupants of said property.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject. For purposes of this Article, maintenance and repair caused by willful acts of the Owners shall include maintenance and repairs required as a result of utility repairs or other actions of contractors or agents of the Owner performed outside the boundary of his Lot.

The covenants and restrictions of this Declaration on exterior maintenance shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association and the Owner of any Lot subject to



this Declaration, and shall further inure to the benefit of Gallatin County, a body politic, as a third party beneficiary, with equal rights of enforcement vested in the County of Gallatin.

The owner of each lot shall also be assessed a fee for the improvement and/or maintenance of park land adjacent to said subdivision when and if a park maintenance district is created.

ARTICLE VI - UTILITIES:

Section 1. Refuse Disposal. No part of the above-described property shall be used or maintained as a dumping ground for rubbish, trash or garbage. All waste shall be kept in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall comply with all applicable laws and regulations.

Section 2. Easements. At no time will patios, barbecues or other permanent structures be erected upon any utility easement within the exterior boundary of a Lot. Fencing of a permanent nature shall be permitted only if it is of a type that is easily and quickly removed in the form of panels, gates or other similar units of construction.

Section 3. Reservation of Utility Easements. Each Lot in the above-described property shall be subject to an easement for the purposes of constructing, operating, maintaining, enlarging, reducing, removing, laying or relaying lines and related facilities and equipment for utilities including but not limited to those providing heat, communication and electrical power.

ARTICLE VII - ARCHITECTURAL CONTROLS:

Section 1. Temporary Structures, Trailers Forbidden. No structure of a temporary character, mobile home, trailer, basement, tent, shack, garage or any other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently. All structures must be maintained in a reasonable manner to present a neat and attractive exterior appearance. Landscaping plans shall be submitted to the Board of Directors for their approval and the landscaping shall be completed within twelve (12) months after the Owners first occupy their residence.

Section 2. Minimum Residence Requirements. No single-family dwelling shall be constructed or permitted on any Lot of less than 1,100 square feet. It is the intention of this covenant to insure that all dwellings shall be of a quality workmanship and materials substantially the same as, or better than, other dwellings in the development. All plans must be approved by the Board of Directors or their assigned representatives.

Section 3. Accessory Buildings. All accessory buildings, such as garages and storage buildings, shall be architecturally compatible with the residence on or being constructed on the Lot.

Section 4. Fencing. The type of fencing around lot shall be determined and approved by the Board of Directors. Fences must be of a good quality and construction and must be kept in good repair so as to preserve utility and appearance.

Section 5. There is hereby created an Architectural Committee, which is hereinafter referred to as the "Committee" or the "Architectural Committee", which shall consist of three (3) persons. The first Committee shall be appointed by Declarant with the subsequent members to be appointed by the majority vote of the lot owners, each owner or owners to have one (1) vote after the Committee appointed by Declarant shall either resign or when 100% of the total lots in the subdivision are sold, whichever shall occur first.

Section 6. Each member of the Committee shall serve until they resign or are replaced by the Owners Association at any annual or special meeting. At any meeting of the Owners Association a majority vote of those present or voting by proxy may replace a member of the Architectural Committee.

Section 7. The Committee may make such reasonable rules and by-laws and adopt such procedures as it deems necessary to carry out its functions, which rules, by-laws and procedures may not be inconsistent with the provisions of these covenants.

Section 8. No building, construction, landscaping, parking, fence, wall or other improvement shall be placed, constructed, erected, repaired, restored, reconstructed, altered, remodeled, added to or maintained on any lot or area until building and site plans and specifications, and such other information as the Committee may reasonably require, including, without being limited to, colors, building materials and models, have been submitted to, and approved by, a majority of the Committee in writing; nor may the same be commenced until the Committee shall have issued a permit allowing for such improvements.

Section 9. No mobile homes or modular construction shall be allowed and all construction shall be new on the site, e.g., previously built homes may not be moved into the subdivision and placed on a new foundation.

Section 10. The Committee shall require that all construction complies with the provisions of the following standard codes or their amendments:

- (1) Uniform Building Code;
- (2) International Conference of Building Officials;
- (3) National Plumbing Code;
- (4) National Electric Code;
- (5) National Fire Protective Association;
- (6) Bozeman Building Code.

Section 11. The Committee shall have the authority to reject materials, designs submitted with plans, or the plans themselves if they are



Section 4. Recreational Equipment. All campers, trailers, motor homes and the like shall only be parked on the lots, but subject, nevertheless, to the limitations of Section 2 and 3 above. In no event shall such equipment be parked on roads. All recreation vehicles and equipment may not be parked

of construction. Section 3. Commercial Vehicles. No lot shall be used for the parking or storage of any commercial trucks, large commercial vehicles, or other heavy equipment, except as may be necessary during reasonable periods

of the Owner of a lot or the occupants thereof as the case may be. Section 2. Storage of Equipment. No lot shall be used for the storage of any inoperable vehicle, machinery or equipment. No lot shall be used for storage of any articles, vehicles, equipment or other personal use property of any quantity in excess of the immediate needs and personal use

Section 1. Animals. Within the above-described property, no livestock or poultry, and by way of illustration, and not by way of limitation, or raised for any reason. Dogs, cats or other household pets may be kept in reasonable numbers provided they are confined to the lot of their Owner. Household pets may not be kept, bred or maintained for any commercial purposes. Pets cannot be allowed to become a nuisance or annoyance to neighboring property Owners, nor can they be allowed to wander at large or molest wildlife or birds.

ARTICLE VIII - USE RESTRICTIONS:

Section 15. The Committee or the individual members thereof may not be held liable by any person for any damages which may result from Committee action taken pursuant to these covenants, including, but not by way of limitation, damages which may result from correction, amendment, change or rejection of plans, the issuance of building permits, or any delays associated with such action on the part of the Committee.

Section 14. The Committee may require reasonable fees to be paid with the filing of plans and specifications and the issuance of building permits.

Section 13. The Committee shall have the power, authority, standing and right to enforce these covenants in any court of law or equity when it reasonably believes the same have been violated, and shall have the authority to revoke or suspend building permits and/or order suspension or cessation of any construction or work in violation of these covenants or of any permit issued by the Committee.

Section 12. All improvements, construction, reconstruction, alterations, remodeling, or any activity requiring the approval of the Committee must be completed in substantial compliance with the plans and specifications initially approved by the Committee. All such construction must be completed within one (1) year from the date construction is commenced.

not compatible, or are inappropriate, with the rest of the subdivision.



in front yards for more than one (1) week. Permanent storage must be enclosed in garage or otherwise screened area. Screening design must be approved by the Board of Directors.

Section 5. Offensive Activity.

- a. No noxious or offensive activity shall be carried on upon any portion of the above-described property, nor shall anything be done thereon which may be, or may become, an annoyance to the neighborhood.
- b. No fireworks of any kind may be bought, brought into, discharged or stored on the above-described property.
- c. No firearms shall be discharged on the above-described property.

Section 6. Mineral Development. No mining, quarrying or excavating except for excavation necessary to construct or place improvements on the above-described property.

ARTICLE IX - GENERAL PROVISIONS:

Section 1. Effects of Covenants on Mortgage. A breach of any of the foregoing provisions, conditions, restrictions or covenants shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value on any Lot, or portion of any Lot, and any improvements thereon, but said provisions, conditions, restrictions and covenants shall be binding upon and effective against any Owner thereof whose title thereto was acquired by foreclosure, trustee sale or otherwise.

Section 2. Incorporation by Reference. In any conveyance of the lands covered hereby, it shall be sufficient to insert a provision therein to the effect that the conveyance is subject to the restrictions and covenants contained in this document, without setting forth such restrictions and covenants verbatim or in substance in such conveyance.

Section 3. Enforcement. Enforcement of these covenants shall be by procedure of law or in equity against any person or persons violating or attempting to violate any covenants, and the legal proceedings may be either to restrain the violation of the covenants or to recover damages, or both. Each person who has been found by a Court of competent jurisdiction to have violated one or more of these covenants shall be liable for all attorney's fees and costs incurred in connection with the litigation. The failure of any Owner or Owners of any Lot or Lots to enforce any of the restrictions set forth in this document at the time of its violation, shall in no event be deemed a waiver of the right to do so thereafter. The restrictions set forth herein shall be personally binding upon any person, persons or corporations, only with respect to breaches committed during its, his or their ownership of or title to any of said tracts and any part thereof.

Section 4. Severability. Invalidation of any of these covenants by a Judgment or a Court Order shall in no way affect any of the other provisions, but they shall remain in full force and effect.





EXHIBIT "A"

A tract of land being a portion of Certificate of Survey Number 1005, situated in the E½E½ of Section 10, Township 2 South, Range 5 East, P.M.M., Gallatin County, Montana, and being more particularly described as follows, to-wit:

Beginning at a point which is West 649.90 feet from the Northeast corner of Section 10, Township 2 South, Range 5 East, P.M.M., Gallatin County, Montana; thence from the true point of beginning, South 00°28'12" West a distance of 2265.00 feet; thence East a distance of 130.00 feet; thence South 00°28'12" West a distance of 495.49 feet; thence North 89°52'31" West along the South right-of-way of West Babcock Street a distance of 500.00 feet; thence North 00°28'12" East a distance of 494.41 feet; thence West a distance of 150.00 feet; thence North 00°28'12" East a distance of 780.00 feet; thence East a distance of 260.00 feet; thence North 00°28'12" East a distance of 1485.00 feet; thence East a distance of 260.00 feet to the true point of beginning.

INDEXED  
PLATTED

191298

State of Mont., County of Gallatin, ss Filed for record November 1st 19 88  
 at 3:30P M., and recorded in Book 103 of MISCALLEANOUS page 2870  
Gerald R. Wins Recorder. By Andrea H. Hammond Deputy

RT: James Johnstone  
 \$50.00 pd



WAIVER OF RIGHT TO PROTEST  
PARTICIPATION IN A PARKS MAINTENANCE DISTRICT

We, the undersigned, owners of the real property situated in the County of Gallatin, State of Montana, and more particularly described as follows:

Bridger Peaks Estates Subdivision located on a portion of Certificate of Survey No. 1005 situated in the E $\frac{1}{2}$  E $\frac{1}{2}$ , Section 10, T2S, R5E, P.M.M., Gallatin County, Montana.

IN CONSIDERATION of receiving Final Plat approval from the City of Bozeman, along with accompanying rights and privileges and for other and valuable consideration, the receipt of which is hereby acknowledged, in recognition of the use to the park in Block 28 of Valley Unit Subdivision Phase I that will be generated by the development of the above-described property, have waived and do hereby for ourselves, our heirs, personal representatives, successors and assigns, waive the right to protest the creation of a parks maintenance district for the purpose of maintaining and developing the park in Block 28 of Valley Unit Subdivision Phase I, or to make any written protest against the proposed work or against the extent or creation of a parks maintenance district to be assessed in response to a duly passed resolution of intention to create a parks maintenance district which would include the above-described property.

This waiver shall be a covenant running with the land and shall not expire.

We warrant that we are lawfully seized and possessed of the real property described above and we have a lawful right to convey the property or any part of it.

DATED this 20 day of October, 1988.

JOHNSTON EXCAVATING, INC.

BY: J. David Johnston  
 J. DAVID JOHNSTON, President

KERIN AND ASSOCIATES

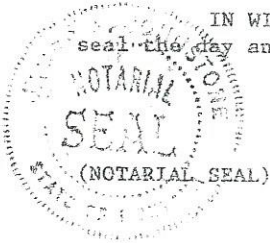
BY: Richard T. Kerin  
 Richard T. Kerin, President



STATE OF MONTANA )  
 ) ss.  
County of Gallatin )

On this 17th day of October, 1988, before me, a Notary Public for the State of Montana, personally appeared J. DAVID JOHNSTON, known to me to be the President of Johnston Excavating, Inc., the corporation that executed the foregoing Waiver of Protest, and acknowledged to me that he executed the same for and on behalf of said corporation.

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

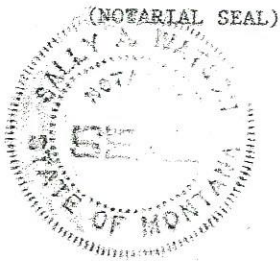


J. David Johnston  
Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My Commission Expires: 1-11-1991

STATE OF MONTANA )  
 ) ss.  
County of Gallatin )

On this 20th day of October, 1988, before me, a Notary Public for the State of Montana, personally appeared RICHARD T. KERIN, known to me to be the President of Kerin and Associates, the corporation that executed the foregoing Waiver of Protest, and acknowledged to me that he executed the same for and on behalf of said corporation.

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



Sally A. Watson  
Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My Commission Expires: 1-27-91



191299

State of Mont., County of Gallatin, ss filed for records November 1st, 1988  
at 3:31 P M. and recorded by 103 of MISCELLANEOUS page 2890  
Gerald R. Wiser Recorder. By Andrea H. Hammond Deputy

RT: James Johnstone  
\$10.00 pd



WAIVER OF RIGHT TO PROTEST  
CREATION OF SPECIAL IMPROVEMENT DISTRICTS  
FOR IMPROVEMENTS TO WEST BABCOCK STREET AND DURSTON ROAD

We, the undersigned, owners of the real property situated in the County of Gallatin, State of Montana, and more particularly described as follows:

Bridger Peaks Estates Subdivision located on a portion of Certificate of Survey No. 1005 situated in the E $\frac{1}{2}$  E $\frac{1}{2}$ , Section 10, T2S, R5E, P.M.M., Gallatin County, Montana.

IN CONSIDERATION of receiving Final Plat approval from the City of Bozeman, along with accompanying rights and privileges and for other and valuable consideration, the receipt of which is hereby acknowledged, in recognition of the traffic that will be generated by the development of the above-described property, have waived and do hereby for ourselves, our heirs, personal representatives, successors and assigns, waive the right to protest the creation of one or more special improvement districts for improvements to WEST BABCOCK STREET AND DURSTON ROAD or to make any written protest against the proposed work or against the extent or creation of the district to be assessed in response to a duly passed resolution of intention to create one or more special improvement districts which would include the above-described property.

This waiver shall be a covenant running with the land and shall not expire.

We warrant that we are lawfully seized and possessed of the real property described above and that we have a lawful right to convey the property or any part of it.

DATED this 21 day of October, 1988.

JOHNSTON EXCAVATING, INC.

BY: David Johnston  
 J. David Johnston, President

KERIN AND ASSOCIATES

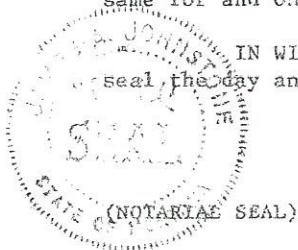
BY: Richard T. Kerin  
 Richard T. Kerin, President



STATE OF MONTANA )  
 ) ss.  
County of Gallatin )

On this 7 day of October, 1988, before me, a Notary Public for the State of Montana, personally appeared J. DAVID JOHNSTON, known to me to be the President of Johnston Excavating, Inc., the corporation that executed the foregoing Waiver of Protest, and acknowledged to me that he executed the same for and on behalf of said corporation.

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



*James Johnston*  
Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My Commission Expires: 2-11-1991

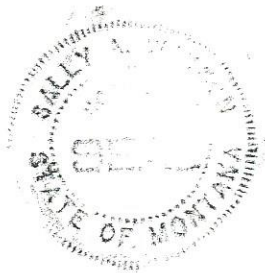
STATE OF MONTANA )  
 ) ss.  
County of Gallatin )

On this 20<sup>th</sup> day of October, 1988, before me, a Notary Public for the State of Montana, personally appeared RICHARD T. KERIN, known to me to be the President of Kerin and Associates, the corporation that executed the foregoing Waiver of Protest, and acknowledged to me that he executed the same for and on behalf of said corporation.

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

(NOTARIAL SEAL)

*Sally A. Watson*  
Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My Commission Expires: 1-27-91



191300

State of Mont., County of Gallatin, ss Filed for record November 1st 1988  
at 3:32 P.M. and recorded in Book 103 of MISCELLANEOUS page 2882  
Gerold R. Jones Recorder. By Sandra A. Hemmard Deputy

RT: James Johnstone  
\$10.00 pd



129... 1080

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
BRIDGER PEAKS TOWNHOUSE

This is a Declaration of Covenants, Conditions and Restrictions regulating and controlling the use and development of real property, is made effective this 31 day of December, 1992 by Kenneth Walker and Jane Walker, hereinafter referred to as "Declarants."

1. **PURPOSE.** Declarant is the owner of certain real property ("property") located in Gallatin County, Montana, which property is more particularly described as follows:

A tract of land being a portion of Certificate of Survey No. 1005, situated in the NE 1/4 of Section 10, Township 2 South, Range 5 East, P.M.M., City of Bozeman, Gallatin County, Montana and being further described as follows:

Beginning at a point which is west a distance of 519.90 feet and S 00 28'12" W a distance of 2265.00 feet from the northeast corner of Section 10, such point also being the northeast corner of Lot 8, Block 13A, of Bridger Peaks Estates Subdivision - Phase 3; thence from said true point of beginning S 00 28' 12" W a distance of 360.49 feet to a point on the northerly right-of-way of Babcock Street; thence along line N89 52'34" W a distance of 499.99 feet to a point on the easterly line of Valley Unit Subdivision Phase 1; thence along line N 00 28'12" E a distance of 359.41 feet, thence N 90 00'00" E a distance of 500.00 feet to the true point of beginning. The tract being 4.13 acres along with and subject to any existing easements.

2. **DECLARATION.** Declarant hereby declares that the property described above, and any part thereof, shall be owned, sold, conveyed, encumbered, leased, used, occupied and developed subject to the following covenants, conditions, and restrictions which are sometimes referred to hereafter as the "covenants". The covenants shall run with the property, and shall be binding upon all parties having or acquiring any legal or equitable interest in or title to the property, and shall inure to the benefit of every owner of any part of the property. The acquisition of an ownership interest in a unit in Bridger Peaks Townhouses signifies that the Owner accepts, ratifies and agrees to comply with these covenants.

The townhouses which are governed by these covenants shall be built in phases of varying sizes. No townhouse shall be subject to these covenants until such time as a certificate of occupancy is issued for the unit, at which time the townhouse will be considered incorporated into the development. The owner shall thereafter be assessed for common expenses and the owner shall have a vote in Association matters, as set forth below.

NOW, THEREFORE, Declarant declares as follows:

Declarant and all subsequent purchasers, successors, personal representatives, heirs and assigns, must belong to the Bridger Peaks Townhouse Owners' Association. All owners shall be subject to the covenants set forth herein, which shall also function as the By-laws of the Bridger Peaks Townhouses Owner's Association.

3. **DEFINITIONS.** The following terms and phrases used in these covenants shall be defined as follows:

a. "Association" shall mean the Bridger Peaks Townhouses Owner's Association, or its successor in interest, and shall consist of the owners of the individual townhouses, or their delegated tenants.

b. "Common Elements or Common Areas" shall include all of the common improvements in the Bridger Peaks Townhouse, including the private roadway within the property which provides access to individual townhouses, gates, fences, utilities, those areas around the perimeter of the property which are not included in the deed for individual units, but which are common to all units, including the grass and trees thereon, as well as all other improvements that are built on, or appurtenant to, the property and available for the use of the Association members.

c. "Common Services" shall mean the maintenance of driveways, including snow removal services, utility line maintenance or repair, as well as maintenance of the landscaped areas of the Common Areas.

d. "Owner" shall mean the record owner of a townhouse within the Bridger Peaks Townhouse, including a contract purchaser, but excluding anyone having an interest in a unit as security for the performance of an obligation.

e. "Townhouse" shall refer to any of the individual units within Bridger Peaks Townhouse, and the real property upon which each individual unit is situated.

f. "Association Member" or "Member" shall refer to any townhouse owner or a tenant, provided that the tenant has been delegated by the Member to act in the place of the Member.

4. **USE AND ENJOYMENT.** Each owner or tenant shall have the right to the quiet and peaceful possession of his or her townhouse, and the appurtenant common elements, subject to the following:

a. **Authorized use.** Only single-family residential use shall be permitted, and no commercial, industrial or other non single-family residential use shall be permitted on or within any townhouse bound by these covenants, except as allowed by local ordinance or zoning regulations.

b. **Maintenance.** Each lot affected by these Covenants, and all improvements thereon, shall be maintained in a clean, safe and sightly condition. Boats, tractors, vehicles other than automobiles, campers, whether or not on a truck, and other recreational vehicles or equipment, shall be stored upon the property for no more than 10 days unless stored in the garage of an individual townhouse. Snow removal equipment, garden and maintenance equipment shall be kept at all times, except when in actual use, within the individual townhouses. Refuse, garbage and trash shall be kept at all times in covered containers, and any such container shall be kept within the individual townhouses, except as necessary for pick-up by an authorized hauler. No grass, shrub or tree clippings or plant waste, scraps, refuse or trash shall be kept, stored or allowed to accumulate on the property.

c. **Noxious or Offensive Activities.** No noxious or offensive activity shall be permitted on the property.

d. **Signs.** No signs shall be placed upon the property or within any townhouse, except that an owner may permit one realtor's sign to be placed upon the property adjacent to or within an individual townhouse for purpose of the sale of the individual townhouse.



e. Common Drive. The common drive on the property shall be a private road at all times, for the use and enjoyment of the owners, tenants and their guests, as well as to allow access by emergency vehicles. No owner, tenant or guest shall be allowed to park any vehicle upon, or otherwise restrict passage of any other person or vehicle upon the common driveways.

f. Alterations. Any owner who desires to change the exterior appearance of his or her townhouse in any way, including painting, new construction or remodeling, shall first obtain the consent of the Association, which shall have the sole discretion to approve or disapprove such alteration; except that an owner may repaint an individual townhouse using the same paint colors and color scheme without prior consent of the Association. In exercising its discretion, the Association shall attempt, to the extent possible, to preserve uniformity of design, construction and paint color on the property, and the Association shall further attempt to insure that adjoining owners are not adversely affected. In addition, should any alteration affect the structural integrity or bearing capacity of a party wall, no such alteration shall be allowed without the consent of the owner(s) of the contiguous residence sharing the party wall.

g. Animals and pets. The owner or tenant of any townhouse affected by these covenants may keep no more than two domestic pets within his or her townhouse. Such pets shall be kept in strict compliance with all applicable statutes or ordinances governing the control and care of pets, and such pets shall not be housed upon any common areas, nor shall any pets be allowed to roam freely upon the common areas. All animal wastes shall be promptly removed by the pet owners, regardless of whether such waste is found on the owner's lot or otherwise. In addition, any owner of a pet kept in any townhouse affected by these covenants shall be liable for any intentional or negligent damage caused to any person or property as a result of the presence of a pet or pets upon the property.

5. **ASSOCIATION AND BOARD OF DIRECTORS.**

a. Every owner of a townhouse unit in Bridger Peaks Townhouse shall be a member of the Association; except that an owner may delegate the rights and duties of membership to an authorized tenant.

b. Each townhouse shall be entitled to one vote in the Association for every matter coming before the Association for a vote. Votes for individual townhouses shall not be split, but an owner may give to another owner or an authorized representative a proxy to represent the owner at any meeting of the Association.

c. The members of the Association shall govern the activities of the Association directly, without a Board of Directors, unless 2/3 of the members vote to establish a Board of Directors, in which case the Board shall serve for such period or periods and upon such conditions as the Association may establish. The Association, or the Board acting in its place, shall elect officers, who shall be entitled to carry on the administration of the Association, including execution of all documents necessary to conduct the business of the Association, and shall be further vested with the powers that the Association may, from time-to-time confer upon the officers. The officers of the Association shall consist initially of a president, a vice president, a secretary and a treasurer. The latter two offices may be combined. All officers shall be elected for terms of one year.

d. The Association shall be responsible for the enforcement of these covenants and the maintenance of the Bridger Peaks Townhouse. Unless otherwise required by this declaration, or any amendments hereto, a majority of those members present in person or represented by proxy shall be sufficient to determine any question brought before the association.

e. The Association shall meet at least annually to conduct the business of the Association, including the establishment of assessments and the awarding of maintenance contracts, as well as any other business that may properly come before the Association. In order to conduct any business at an Association meeting, a quorum shall be present, which shall consist of more than half of the owners entitled to cast votes at the meeting either in person or by proxy. At least ten days prior to the annual meeting, or any special meeting, the Secretary of the Association, or such other person as may be responsible for sending notices to members, shall send to each member a written notice of the time and place of the meeting, and the agenda to be followed.

f. The Declarants shall reserve the right to establish the date of the initial meeting of the Association, which shall take place within 30 days of the date upon which the third townhouse is conveyed. At the time of the initial meeting of the Association, the membership shall then designate the dates for the annual meetings thereafter.

g. Special meetings of the Association may be held upon the request of any of the officers, or of any three members of the Association. Such request shall be submitted in writing to the Secretary of the Association and shall specify the reason for such meeting and the matters to be raised. Only matters set forth in the petition or request may be brought before such meeting unless 75% of the aggregate interest present agrees otherwise.

h. The Association shall, at the initial meeting and thereafter, establish a budget and charge an assessment to the owners for maintenance of the common areas of the Bridger Peaks Townhouse, and for the safety and convenience of the owners. All such assessments shall be due and payable immediately upon the mailing of notice of assessment, and any assessment not paid within thirty days shall be considered delinquent. The Association shall have the right to suspend the voting rights of any member who is delinquent in paying such assessments. In addition, the Association shall have the right to place a lien upon the property of any delinquent owner in the manner provided in the Montana Unit Ownership Act, and such lien may be foreclosed in the manner provided therein. Such lien shall be subordinate to any first mortgage upon the individual townhouse. In the event of a sale of the townhouse, the lien shall remain affixed, but in the event of a foreclosure by a lender holding a first mortgage on the townhouse, a foreclosure sale shall extinguish the assessment lien if the foreclosure sale does not produce sufficient funds to satisfy the assessment lien.

i. The Declarants shall determine the initial assessments for the Association; provided, however, that until three of the units in Phase I are sold, the maximum assessment per townhouse affected hereby shall be the sum of \$ 50.00 per month. After three units in Phase I are sold, a majority of the owners present at the annual meeting, or a special meeting called for that purpose, may establish the assessments for the upcoming year, in an amount necessary to maintain the common elements. Each owner shall be required to pay his or her proportionate share of such assessment, within the time set forth above.

j. In addition to the annual assessments authorized above, the Association may, from time-to-time, levy special assessments for the construction, repair or replacement of capital improvements upon the property. Such action shall require the approval of a majority of those members present and qualified to vote for such assessment.

k. Neither the Association, the Board, nor any member thereof shall be liable to any party for any action or inaction with respect to any provision of these covenants, provided that the Board and each member thereof has acted in good faith.



1. The fiscal year of the Association shall run from January 1 through December 31 of each year.

6. **LIABILITY OF OFFICERS.**

No officer of the Association shall be liable to the Association or any of the members or Owners or any third party for harm, injury, loss or damage suffered because of any action taken or omitted to be taken by him or her while serving as an officer in good faith if:

- a. The officer exercised and used the same degree of care and skill as a prudent person would have exercised or used under the circumstances in the conduct of his or her own affairs, or
- b. Took or did not take action in reliance upon advice of counsel or upon statements or information of other Owners or employees of the Association which he or she has reasonable grounds to believe.

7. **ENFORCEMENT OF COVENANTS.**

a. In the event of any violation or threatened violation of these covenants, the affected person or entity, including any Owner or the Owners Association, may enforce these covenants by legal proceedings in a court of law or equity, including the seeking of injunctive relief and damages. In association with such legal proceedings or as a separate remedy, such Owner, or the Owners Association may enter upon the property in question and remove, remedy or abate the violation or threatened violations after first having given proper notice and a reasonable opportunity for the violator to take action to comply with these covenants as set forth below, provided that such self-help remedy can be effected without a breach of the peace or any violation of law. Included within the self-help remedy shall be the right to remove any vehicle kept upon the property in violation of Article 4.b.. In the event that any such vehicle is towed, the owner of the vehicle shall be required to reimburse the association for all towing fees and other expenses incurred.

b. Notice as required above shall be in writing and shall be served on the person or entity concerned and shall specify the violation or threatened violation, identify the property, demand compliance with the terms and conditions of these covenants and shall state the action which will be taken under the above paragraph if the violation or threatened violation is not abated, remedied or satisfied. If such notice cannot be personally served after a reasonable effort to locate the person or entity to be served, service may be had by posting a copy of such notice at a conspicuous place on the property which is the subject of such violation and mailing a copy of the notice by Certified Mail, return receipt requested, to the last known address or address of record of the violator. The violator shall have 30 days from the date of posting and mailing of the same, within which to comply with these covenants before any party may engage in self help, abatement, entry or commencement of litigation as provided in the above paragraph; except that if the offending condition is a violation of Article 4.b., 4.c., 4.d. 4.e., or 4.g., the notice may allow a period of not less than three (3) days to remedy the offending condition before self-help may be utilized.

c. No Owner or member of the Owner's Association or Committee shall be liable to any person or entity for any proper entry, self-help or abatement of a violation or threatened violation of these covenants and all Owners shall be deemed to have waived any and all rights or claims to or for damages for any loss or injury resulting from action taken to properly abate, remedy or satisfy any violation or threatened violation of these covenants. Exception to the above shall exist for loss, injury or damage for intentionally wrongful acts.

d. Actual costs, expenses and reasonable attorney's fees connected with correcting, remedying, abating, preventing or removing any violation or threatened violation of these covenants incurred either through litigation, entry or self help shall constitute a claim by the individual Owner or the Owner's Association initiating such action against the Owner of the property which is the subject of such violation or threatened violation. Such claim shall be enforceable through appropriate Court action.

8. **PARTY WALLS.** Party walls and the foundations for party walls have been placed between the units located on the property, which will be governed by these covenants. Each unit owner, during his or her ownership of a unit, shall enjoy the right, privilege or easement to use such party wall and foundation for so long as the same remains standing, upon the following terms and conditions:

a. Should the residences on the property described above be so constructed that the foundation or party walls for the same extend over the boundary of that lot and onto the lot of the adjoining unit, the foundation and party wall of such building so extended shall remain as situated and shall be construed and deemed to be a party wall between such properties so that in the event an encroachment exists, neither party shall be compelled to take down or remove such party wall for so long as the same shall remain standing, and such encroachment shall be deemed permissive, with no adverse or prescriptive rights created on the property which shall suffer the encroachment.

b. Notwithstanding the effects of Article 9, below, the provisions of this Article shall continue in effect from and after the date of the execution of this Declaration and for so long as the foundations and party walls shall stand and shall constitute an easement and covenant of record running with the land, for the mutual use and benefit of each lot affected by this Declaration.

c. Each wall which is built as a part of the original construction of the homes upon the properties and placed on the dividing line between the lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply.

d. The cost of reasonable repair and maintenance of a party wall shall be equally shared by the owners who make use of the wall, in proportion to such use.

e. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use. Such restoration shall be without prejudice, however, to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

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

g. In the event of any dispute arising concerning a party wall, or under the provisions of this declaration, each party shall



choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. Such arbitration shall be conducted under the rules of the American Arbitration Association and the decision of the arbitrators shall be binding upon the parties.

9. AMENDMENT-VARIANCE. Amendments to these Covenants, other than those Covenants affecting the rights of any owners in party walls, may be made upon an affirmative vote of the Owners of at least 75% of the townhouses affected by these Covenants, at a regularly scheduled or special meeting.

10. DURATION OF COVENANTS. All of the covenants, conditions and restrictions set forth herein shall continue and remain in full force and effect at all times against the property and the Owners and purchasers, except as set forth in paragraph 8 hereof.

11. SEVERABILITY. Any decision by a Court of competent jurisdiction invalidating any part or paragraph of these covenants shall be limited to the part or paragraph affected by the decision of the Court, and the remaining paragraphs and the covenants, conditions and restrictions therein shall remain in full force and effect.

12. ACCEPTANCE OF COVENANTS. Every Owner or purchaser of a tract within the property shall be bound by and subject to all of the provisions of this Declaration and every Owner or purchaser through his or her purchase or ownership expressly accepts and consents to the operation and enforcement of all of the provisions of this Declaration.

DATED this 31 day of December, 1992.

By Kenneth Walker Jane Walker  
KENNETH WALKER JANE WALKER

STATE OF MONTANA )  
County of Gallatin )

On this 19 day of December, 1992, before me, a Notary Public in and for the State of Montana, personally appeared KENNETH WALKER AND JANE WALKER, known to me to be the persons of whose names are subscribed to the within instrument and acknowledged to me that he executed the same on behalf of the corporation.

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

Bernadette Stough  
Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My commission expires July 27, 1993



INDEXED  
Platted

257824

State of Mont., County of Gallatin, ss Filed for record January 19, 1993  
at 10:15 A.M. and recorded in Book 129 of MISCELLANEOUS page 1080  
Shelley M. Cheney Recorder. By Barbara Glass Deputy

RT: Ken Walker  
2203 Lea Ave  
Bozeman, Mt. 59715  
Fee: 24.00 pd



PLATTED J1

2410691

Page: 1 of 3 03/15/2012 08:06:45 AM  
Charlotte Mills - Gallatin County, MT

Fee: \$31.00  
MISC



AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS OF BRIDGER PEAKS TOWNHOUSES.

This Amendment to Declaration of Covenants, Conditions and Restrictions for Bridger Peaks Townhouses made and entered into on this fifth day of March 2012, by the "Owners" signing hereto, hereinafter referred to as "Declarant".

WHEREAS, the Declarant filed with the Clerk and Recorder for the County of Gallatin, State of Montana, a Declaration of Covenants, Conditions and Restrictions for Bridger Peaks Townhouses dated the 31st day of December, 1992, and recorded on or about the 19th day of January, 1993, at Film 129, page 1080, et seq. ("Declaration"); and

WHEREAS, the Declarant seeks to amend the Declaration so as to provide the Bridger Peaks Townhouses Owners' Association; and

WHEREAS, Declarant desires to amend the Declaration as specifically set forth herein.  
NOW, THEREFORE, the Declarant hereby amends the Declaration as follows:

Section 4.b., of the Declaration is hereby deleted and replaced with the following:

Maintenance. Each lot affected by these Covenants, and all Improvements thereon, shall be maintained in a clean, safe, and sightly condition. Boats, tractors, vehicles other than automobiles, campers, whether or not on a truck, and other recreational vehicles or equipment, shall be stored upon the property for no more than 10 days unless stored in the garage of an individual townhouse. Snow removal equipment, garden and maintenance equipment shall also be kept in garage at all times, except when in actual use, within the individual townhouses, in the driveway or city street. Refuse, garbage and trash shall be kept at all times in covered containers, and any such container shall be kept within the individual townhouses, except as necessary for pick-up by an authorized hauler. No grass, shrub or tree clippings or plant waste, refuse or trash shall be kept, stored or allowed to accumulate on the property.

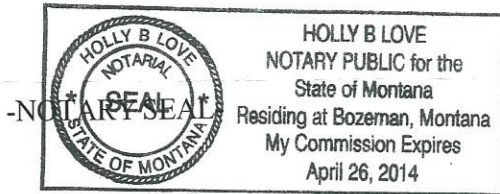
An Owner shall maintain and keep in repair his/her own Townhouse and the fixtures thereof, including siding and roofing material, and all landscaping appurtenant to each Townhouse. An Owner shall do no act nor any work that will impair the structural soundness or integrity of the buildings. If any exterior surface is damaged, it shall be replaced with similar material and of a similar color that is common with the other Townhouses. No Owner may repair, change, alter or remodel the exterior of his Townhouse without the prior written approval of the Board of Directors of the Association and/or the Architectural Review committee. Board of Directors may require a licensed and insured contractor to do all repairs and work. All repairs must be made within a reasonable period determined at the time of the situation. If these conditions are not met, the Association will make the repair and bill the Owner under the terms set forth in Section 7.g.

STATE OF MT )

County of Gallatin ) : ss

On this 12<sup>th</sup> day of March, 2012, before me personally appeared\* known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as his free act and deed.

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



Holly B Love

Notary Public for the State of

Residing at:

My commission expires

\* David J. Carlson, President <sup>HBL</sup>  
of Bridger Peak Townhouses HOA



2410691

Page: 1 of 3 03/15/2012 08:06:45 AM  
Charlotte Mills - Gallatin County, MT

Fee: \$31.00  
MISC



AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS OF BRIDGER PEAKS TOWNHOUSES.

This Amendment to Declaration of Covenants, Conditions and Restrictions for Bridger Peaks Townhouses made and entered into on this fifth day of March 2012, by the "Owners" signing hereto, hereinafter referred to as "Declarant".

WHEREAS, the Declarant filed with the Clerk and Recorder for the County of Gallatin, State of Montana, a Declaration of Covenants, Conditions and Restrictions for Bridger Peaks Townhouses dated the 31st day of December, 1992, and recorded on or about the 19th day of January, 1993, at Film 129, page 1080, et seq. ("Declaration"); and

WHEREAS, the Declarant seeks to amend the Declaration so as to provide the Bridger Peaks Townhouses Owners' Association; and

WHEREAS, Declarant desires to amend the Declaration as specifically set forth herein. NOW, THEREFORE, the Declarant hereby amends the Declaration as follows:

Section 4.b., of the Declaration is hereby deleted and replaced with the following:

Maintenance. Each lot affected by these Covenants, and all Improvements thereon, shall be maintained in a clean, safe, and sightly condition. Boats, tractors, vehicles other than automobiles, campers, whether or not on a truck, and other recreational vehicles or equipment, shall be stored upon the property for no more than 10 days unless stored in the garage of an individual townhouse. Snow removal equipment, garden and maintenance equipment shall also be kept in garage at all times, except when in actual use, within the individual townhouses, in the driveway or city street. Refuse, garbage and trash shall be kept at all times in covered containers, and any such container shall be kept within the individual townhouses, except as necessary for pick-up by an authorized hauler. No grass, shrub or tree clippings or plant waste, refuse or trash shall be kept, stored or allowed to accumulate on the property.

An Owner shall maintain and keep in repair his/her own Townhouse and the fixtures thereof, including siding and roofing material, and all landscaping appurtenant to each Townhouse. An Owner shall do no act nor any work that will impair the structural soundness or integrity of the buildings. If any exterior surface is damaged, it shall be replaced with similar material and of a similar color that is common with the other Townhouses. No Owner may repair, change, alter or remodel the exterior of his Townhouse without the prior written approval of the Board of Directors of the Association and/or the Architectural Review committee. Board of Directors may require a licensed and insured contractor to do all repairs and work. All repairs must be made within a reasonable period determined at the time of the situation. If these conditions are not met, the Association will make the repair and bill the Owner under the terms set forth in Section 7.g.



Section 7.g. is hereby added to the Declaration as follows:

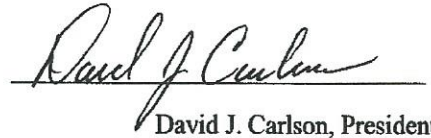
g. Upon delivery of any cost, expense and reasonable attorney's fees connected with correcting, remedying, abating, preventing or removing any violation of these covenants. These costs, expenses and attorney's fees shall be a lien on the Owner's Townhouse until paid. The Board of Directors of the Association may record a notice of the lien with the Clerk and Recorder of Gallatin County, Montana. Such notice shall be signed by one of the Directors or its authorized agent. In the event of non-payment after recording the notice of lien, the Association may foreclose the line in a manner provided by law. The Association may bring an action against the Owner obligated to pay the cost, expense and attorney's fees and may foreclose a lien against the Owner's Townhouse to recover all unpaid cost, expense and attorney's fees, interest and late charges. In the event of an action to collect unpaid costs, expenses and attorney's fees, the Association shall be entitled to recover its costs of preparing and filing the lien, interest, penalties and other late charges, costs, and attorney's fees.

Except as specifically amended by these amendments, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, at least seventy-five percent (75%) of the Owners have executed this Amendment as follows:

The undersigned, as President of Bridger Peaks Townhouses HOA, hereby consents to the foregoing Amendment of the Declaration and, as amended herein, hereby acknowledges and agrees that the Declaration is in full force and effect and hereby ratifies the same.

Dated this 12 day of MARCH, 2012.

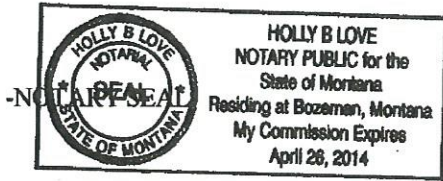
  
David J. Carlson, President



STATE OF MT )  
County of Gallatin : ss

On this 12<sup>th</sup> day of March, 2012, before me personally appeared\*  
known to me to be the person whose name is subscribed to the foregoing instrument, and  
acknowledged to me that he executed the same as his free act and deed.

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



Holly B Love

Notary Public for the State of  
Residing at:  
My commission expires

\* David J. Carlson, President <sup>HBC</sup>  
of Bridger Peak Townhouses HOA



DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

This Declaration, made on the date hereinafter set forth by JOHNSTON EXCAVATING, INC., hereinafter referred to as "Declarant".

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in the County of Gallatin, State of Montana, which is more particularly described as:

SEE EXHIBIT "A" ATTACHED

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purposes of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall insure the benefit of each owner thereof.

ARTICLE I - DEFINITIONS:

Section 1. "Association" shall mean and refer to Bridger Peaks Estates Homeowners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the properties, including contract seller, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Property" or "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any plat of land shown upon any recorded subdivision map of the properties with the exception of the streets or other dedicated property.

Section 5. "Declarant" shall mean and refer to Johnston Excavating, Inc., its successors and assigns, if such successors or assigns acquire more than one undeveloped Lot from the Declarant to the purpose of development.

ARTICLE II - PROPERTY RIGHTS:

Section 1. The property rights of the lot owners are subject to



continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement, maintenance and prevention of damage to the property and improvements thereon.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$15.00 per Lot. Notwithstanding any other provision herein, no Lot owned by Declarant shall be subject to annual or special assessments unless and until such Lot has been sold or transferred to a third party. Thereafter, annual assessments shall be determined by the Board of Directors provided, however, that from and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may not be increased each year more than ten per cent (10%) above the maximum assessment for the previous year without the vote or written assent of fifty-one per cent (51%) of each class of membership.

Section 4. Special Assessment for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement in the subdivision, including fixtures and personal property related thereto, provided that any such assessment shall have the vote or written assent of fifty-one per cent (51%) of each class of members.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Any action authorized under Sections 3 and 4 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than ten (10) days in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite fifty-one per cent (51%) of each class of members, members who were not present in person or by proxy may give their assent in writing, provided the same is received by the appropriate officers of the Association not later than thirty (30) days from the date of such meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all deeded Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall be levied on the first day of the month following the closing of the sale to an individual Owner. Voting rights attributable to property interest shall not vest until assessments against those interests have been levied by the Association.



this Declaration, and shall further inure to the benefit of Gallatin County, a body politic, as a third party beneficiary, with equal rights of enforcement vested in the County of Gallatin.

The owner of each lot shall also be assessed a fee for the improvement and/or maintenance of park land adjacent to said subdivision when and if a park maintenance district is created.

ARTICLE VI - UTILITIES:

Section 1. Refuse Disposal. No part of the above-described property shall be used or maintained as a dumping ground for rubbish, trash or garbage. All waste shall be kept in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall comply with all applicable laws and regulations.

Section 2. Easements. At no time will patios, barbecues or other permanent structures be erected upon any utility easement within the exterior boundary of a Lot. Fencing of a permanent nature shall be permitted only if it is of a type that is easily and quickly removed in the form of panels, gates or other similar units of construction.

Section 3. Reservation of Utility Easements. Each Lot in the above-described property shall be subject to an easement for the purposes of constructing, operating, maintaining, enlarging, reducing, removing, laying or relaying lines and related facilities and equipment for utilities including but not limited to those providing heat, communication and electrical power.

ARTICLE VII - ARCHITECTURAL CONTROLS:

Section 1. Temporary Structures, Trailers Forbidden. No structure of a temporary character, mobile home, trailer, basement, tent, shack, garage or any other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently. All structures must be maintained in a reasonable manner to present a neat and attractive exterior appearance. Landscaping plans shall be submitted to the Board of Directors for their approval and the landscaping shall be completed within twelve (12) months after the Owners first occupy their residence.

Section 2. Minimum Residence Requirements. No single-family dwelling shall be constructed or permitted on any Lot of less than 1,100 square feet. It is the intention of this covenant to insure that all dwellings shall be of a quality workmanship and materials substantially the same as, or better than, other dwellings in the development. All plans must be approved by the Board of Directors or their assigned representatives.

Section 3. Accessory Buildings. All accessory buildings, such as garages and storage buildings, shall be architecturally compatible with the residence on or being constructed on the Lot.



not compatible, or are inappropriate, with the rest of the subdivision.

Section 12. All improvements, construction, reconstruction, alterations, remodeling, or any activity requiring the approval of the Committee must be completed in substantial compliance with the plans and specifications initially approved by the Committee. All such construction must be completed within one (1) year from the date construction is commenced.

Section 13. The Committee shall have the power, authority, standing and right to enforce these covenants in any court of law or equity when it reasonably believes the same have been violated, and shall have the authority to revoke or suspend building permits and/or order suspension or cessation of any construction or work in violation of these covenants or of any permit issued by the Committee.

Section 14. The Committee may require reasonable fees to be paid with the filing of plans and specifications and the issuance of building permits.

Section 15. The Committee or the individual members thereof may not be held liable by any person for any damages which may result from Committee action taken pursuant to these covenants, including, but not by way of limitation, damages which may result from correction, amendment, change or rejection of plans, the issuance of building permits, or any delays associated with such action on the part of the Committee.

#### ARTICLE VIII - USE RESTRICTIONS:

Section 1. Animals. Within the above-described property, no livestock or poultry, and by way of illustration, and not by way of limitation, no horses, cows, sheep, pigs, goats, chickens or turkeys, may be kept, bred or raised for any reason. Dogs, cats or other household pets may be kept in reasonable numbers provided they are confined to the Lot of their Owner. Household pets may not be kept, bred or maintained for any commercial purposes. Pets cannot be allowed to become a nuisance or annoyance to neighboring property Owners, nor can they be allowed to wander at large or molest wildlife or birds.

Section 2. Storage of Equipment. No Lot shall be used for the storage of any inoperable vehicle, machinery or equipment. No Lot shall be used for storage of any articles, vehicles, equipment or other personal property of any quantity in excess of the immediate needs and personal use of the Owner of a Lot or the occupants thereof as the case may be.

Section 3. Commercial Vehicles. No Lot shall be used for the parking or storage of any commercial trucks, large commercial vehicles, or other heavy equipment, except as may be necessary during reasonable periods of construction.

Section 4. Recreational Equipment. All campers, trailers, motor homes and the like shall only be parked on the Lots, but subject, nevertheless, to the limitations of Section 2 and 3 above. In no event shall such equipment be parked on roads. All recreation vehicles and equipment may not be parked







This is a Declaration of Covenants, Conditions and Restrictions regulating and controlling the use and development of real property, is made effective this 31 day of December, 1992 by Kenneth Walker and Jana Walker, hereinafter referred to as "Declarants."

1. **PURPOSE.** Declarant is the owner of certain real property ("property") located in Gallatin County, Montana, which property is more particularly described as follows:

A tract of land being a portion of Certificate of Survey No. 1005, situated in the NE 1/4 of Section 10, Township 2 South, Range 5 East, P.M.M., City of Bozeman, Gallatin County, Montana and being further described as follows:

Beginning at a point which is west a distance of 519.90 feet and S 00 28'12" W a distance of 2265.00 feet from the northeast corner of Section 10, such point also being the northeast corner of Lot 8, Block 13A, of Bridger Peaks Estates Subdivision - Phase 3; thence from said true point of beginning S 00 28' 12" W a distance of 360.49 feet to a point on the northerly right-of-way of Babcock Street; thence along line N89 52'34" W a distance of 499.99 feet to a point on the easterly line of Valley Unit Subdivision Phase 1; thence along line N 00 28'12" E a distance of 359.41 feet, thence N 90 00'00" E a distance of 500.00 feet to the true point of beginning. The tract being 4.13 acres along with and subject to any existing easements.

2. **DECLARATION.** Declarant hereby declares that the property described above, and any part thereof, shall be owned, sold, conveyed, encumbered, leased, used, occupied and developed subject to the following covenants, conditions, and restrictions which are sometimes referred to hereafter as the "covenants". The covenants shall run with the property, and shall be binding upon all parties having or acquiring any legal or equitable interest in or title to the property, and shall inure to the benefit of every owner of any part of the property. The acquisition of an ownership interest in a unit in Bridger Peaks Townhouses signifies that the Owner accepts, ratifies and agrees to comply with these covenants.

The townhouses which are governed by these covenants shall be built in phases of varying sizes. No townhouse shall be considered to be subject to these covenants until such time as a certificate of occupancy is issued for the unit, at which time the townhouse will be considered incorporated into the development. The owner shall thereafter be assessed for common expenses and the owner shall have a vote in Association matters, as set forth below.

NOW, THEREFORE, Declarant declares as follows:

Declarant and all subsequent purchasers, successors, personal representatives, heirs and assigns, must belong to the Bridger Peaks Townhouse Owners' Association. All owners shall be subject to the covenants set forth herein, which shall also function as the By-laws of the Bridger Peaks Townhouses Owner's Association.

3. **DEFINITIONS.** The following terms and phrases used in these covenants shall be defined as follows:
- a. "Association" shall mean the Bridger Peaks Townhouses Owner's Association, or its successor in interest, and shall consist of the owners of the individual townhouses, or their delegated tenants.
  - b. "Common Elements or Common Areas" shall include all of the common improvements in the Bridger Peaks Townhouse, including the private roadway within the property which provides access to individual townhouses, gates, fences, utilities, those areas around the perimeter of the property which are not included in the deed for individual units, but which are common to all units, including the grass and trees thereon, as well as all other improvements that are built on, or appurtenant to, the property and available for the use of the Association members.
  - c. "Common Services" shall mean the maintenance of driveways, including snow removal services, utility line maintenance or repair, as well as maintenance of the landscaped areas of the Common Areas.
  - d. "Owner" shall mean the record owner of a townhouse within the Bridger Peaks Townhouse, including a contract purchaser, but excluding anyone having an interest in a unit as security for the performance of an obligation.
  - e. "Townhouse" shall refer to any of the individual units within Bridger Peaks Townhouse, and the real property upon which each individual unit is situated.
  - f. "Association Member" or "Member" shall refer to any townhouse owner or a tenant, provided that the tenant has been delegated by the Member to act in the place of the Member.
4. **USE AND ENJOYMENT.** Each owner or tenant shall have the right to the quiet and peaceful possession of his or her townhouse, and the appurtenant common elements, subject to the following:
- a. **Authorized use.** Only single-family residential use shall be permitted, and no commercial, industrial or other non single-family residential use shall be permitted on or within any townhouse bound by these covenants, except as allowed by local ordinances or zoning regulations.
  - b. **Maintenance.** Each lot affected by these Covenants, and all improvements thereon, shall be maintained in a clean, safe and sightly condition. Boats, tractors, vehicles other than automobiles, campers, whether or not on a truck, and other recreational vehicles or equipment, shall be stored upon the property for no more than 10 days unless stored in the garage of an individual townhouse. Snow removal equipment, garden and maintenance equipment shall be kept at all times, except when in actual use, within the individual townhouses. Refuse, garbage and trash shall be kept at all times in covered containers, and any such container shall be kept within the individual townhouses, except as necessary for pick-up by an authorized hauler. No grass, shrub or tree clippings or plant waste, scraps, refuse or trash shall be kept, stored or allowed to accumulate on the property.
  - c. **Noxious or Offensive Activities.** No noxious or offensive activity shall be permitted on the property.
  - d. **Signs.** No signs shall be placed upon the property or within any townhouse, except that an owner may permit one realtor's sign to be placed upon the property adjacent to or within an individual townhouse for purpose of the sale of the individual townhouse.



1. The fiscal year of the Association shall run from January 1 through December 31 of each year.

6. **LIABILITY OF OFFICERS.**

No officer of the Association shall be liable to the Association or any of the members or Owners or any third party for harm, injury, loss or damage suffered because of any action taken or omitted to be taken by him or her while serving as an officer in good faith if:

- a. The officer exercised and used the same degree of care and skill as a prudent person would have exercised or used under the circumstances in the conduct of his or her own affairs, or
- b. Took or did not take action in reliance upon advice of counsel or upon statements or information of other Owners or employees of the Association which he or she has reasonable grounds to believe.

7. **ENFORCEMENT OF COVENANTS.**

a. In the event of any violation or threatened violation of these covenants, the affected person or entity, including any Owner or the Owners Association, may enforce these covenants by legal proceedings in a court of law or equity, including the seeking of injunctive relief and damages. In association with such legal proceedings or as a separate remedy, such Owner, or the Owners Association may enter upon the property in question and remove, remedy or abate the violation or threatened violations after first having given proper notice and a reasonable opportunity for the violator to take action to comply with these covenants as set forth below, provided that such self-help remedy can be effected without a breach of the peace or any violation of law. Included within the self-help remedy shall be the right to remove any vehicle kept upon the property in violation of Article 4.b.. In the event that any such vehicle is towed, the owner of the vehicle shall be required to reimburse the association for all towing fees and other expenses incurred.

b. Notice as required above shall be in writing and shall be served on the person or entity concerned and shall specify the violation or threatened violation, identify the property, demand compliance with the terms and conditions of these covenants and shall state the action which will be taken under the above paragraph if the violation or threatened violation is not abated, remedied or satisfied. If such notice cannot be personally served after a reasonable effort to locate the person or entity to be served, service may be had by posting a copy of such notice at a conspicuous place on the property which is the subject of such violation and mailing a copy of the notice by Certified Mail, return receipt requested, to the last known address or address of record of the violator. The violator shall have 30 days from the date of posting and mailing of the same, within which to comply with these covenants before any party may engage in self help, abatement, entry or commencement of litigation as provided in the above paragraph; except that if the offending condition is a violation of Article 4.b., 4.c., 4.d. 4.e., or 4.g., the notice may allow a period of not less than three (3) days to remedy the offending condition before self-help may be utilized.

c. No Owner or member of the Owner's Association or Committee shall be liable to any person or entity for any proper entry, self-help or abatement of a violation or threatened violation of these covenants and all Owners shall be deemed to have waived any and all rights or claims to or for damages for any loss or injury resulting from action taken to properly abate, remedy or satisfy any violation or threatened violation of these covenants. Exception to the above shall exist for loss, injury or damage for intentionally wrongful acts.

d. Actual costs, expenses and reasonable attorney's fees connected with correcting, remedying, abating, preventing or removing any violation or threatened violation of these covenants incurred either through litigation, entry or self help shall constitute a claim by the individual Owner or the Owner's Association initiating such action against the Owner of the property which is the subject of such violation or threatened violation. Such claim shall be enforceable through appropriate Court action.

8. **PARTY WALLS.** Party walls and the foundations for party walls have been placed between the units located on the property, which will be governed by these covenants. Each unit owner, during his or her ownership of a unit, shall enjoy the right, privilege or easement to use such party wall and foundation for so long as the same remains standing, upon the following terms and conditions:

a. Should the residences on the property described above be so constructed that the foundation or party walls for the same extend over the boundary of that lot and onto the lot of the adjoining unit, the foundation and party wall of such building so extended shall remain as situated and shall be construed and deemed to be a party wall between such properties so that in the event an encroachment exists, neither party shall be compelled to take down or remove such party wall for so long as the same shall remain standing, and such encroachment shall be deemed permissive, with no adverse or prescriptive rights created on the property which shall suffer the encroachment.

b. Notwithstanding the effects of Article 9, below, the provisions of this Article shall continue in effect from and after the date of the execution of this Declaration and for so long as the foundations and party walls shall stand and shall constitute an easement and covenant of record running with the land, for the mutual use and benefit of each lot affected by this Declaration.

c. Each wall which is built as a part of the original construction of the homes upon the properties and placed on the dividing line between the lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply.

d. The cost of reasonable repair and maintenance of a party wall shall be equally shared by the owners who make use of the wall, in proportion to such use.

e. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use. Such restoration shall be without prejudice, however, to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

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

g. In the event of any dispute arising concerning a party wall, or under the provisions of this declaration, each party shall