

**AMENDED DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR GALLATIN HEIGHTS SUBDIVISION  
GALLATIN COUNTY, MONTANA**

This Amended Declaration of Covenants, Conditions, and Restrictions for the Gallatin Heights Subdivision is made this 21<sup>st</sup> day of MARCH, 2018, by GALLATIN HEIGHTS, LLC, authorized to do business in the State of Montana, whose principal place of business and post office address is 10-B Pinebrook Road, Park City, UT 84098, hereinafter referred to as the "Declarant."

Declarant is the owner of land in Gallatin County, State of Montana described in Exhibit "A" attached hereto and made a part hereof ("Gallatin Heights Phase 1"). Declarant is the owner of land in Gallatin County, State of Montana described in Exhibit "B" attached hereto and made a part hereof ("Gallatin Heights Phases 2 - 5"). All of the land described in Exhibits "A" and "B" is collectively referred to as "Gallatin Heights". Declarant intends to develop the land with single family residences, commercial, light industrial, public parks and private open space. Gallatin Heights will be a community consisting of single family detached homes that will combine elements of Craftsman, Prairie, and Bungalow styles which allow for flexibility while at the same time making them ideal styles for compatible contemporary design. The Declarant intends to develop Gallatin Heights in five (5) phases and to impose mutually beneficial restrictions and guidelines under a general plan of improvement for the benefit of all of the Lots within Gallatin Heights in accordance with the applicable laws of the State of Montana and Gallatin County.

Declarant desires to replace, supersede and amend all other Declarations of Covenants, Conditions, and Restrictions for the Gallatin Heights Subdivision, specifically Gallatin County Clerk and Recorder Document Number 2316618, dated November 20, 2008, filed December 5, 2008.

Declarant hereby declares that all land described in Exhibit "A" shall be held, sold, conveyed, encumbered, leased, occupied and improved, subject to the Gallatin Heights Covenants, meaning the covenants, conditions, and restrictions set forth in this declaration and any subsequent amendments hereto, all of which are intended to enhance the desirability and attractiveness of the land. These covenants, conditions, and restrictions shall run with the land and shall be binding upon all persons having or who acquire any right, title or interest in and to the land, and shall inure to the benefit of the Declarant, the Association, and each person who becomes an owner of the land.

**ARTICLE I**  
**DEFINITIONS**

**SECTION 1.** The following words when used in this declaration or any supplemental declaration (unless the context shall prohibit) shall have the following meanings.

- a. "Architect" shall mean a person registered to practice architecture in the State of Montana.

- b. "Architectural Guidelines" shall have the meaning provided in the preamble (Purpose and Intent) of Article V of this Declaration.
- c. "Architectural Review Committee" shall mean the committee created under Article III of this Declaration.
- d. "Association" shall mean the Gallatin Heights Community Association, and its successors and assigns which shall serve and may be referred to as the Homeowners' Association.
- e. "Board" shall mean the Board of Directors of the Association.
- f. "By-Laws" shall mean the by-laws of the Association.
- g. "County" shall mean Gallatin County, State of Montana, and its appropriate departments, officials, and boards.
- h. "Covenants" shall mean this Declaration of Covenants, Conditions and Restrictions, together with any subsequent amendments or additions.
- i. "Declarant" shall mean GALLATIN HEIGHTS, LLC or such other person entity or corporation who GALLATIN HEIGHTS, LLC may be, by a recorded document, designated as the Declarant.
- j. "Lot" shall mean and refer to only that land so divided into a lot, tract or parcel that is; (a) described in Exhibit "A" and "B" or hereafter annexed subject to the Gallatin Heights Covenants and; (b) designated by the Declarant for commercial or residential use. The term lot does not include any portion of the Parks or Open Space.
- k. "Parks" shall mean all land and interest therein which has or may be conveyed to Gallatin County or any other governmental agency, including but not limited to all lands identified as public parks as delineated on the final plats of the Gallatin Heights Subdivision. The word "Parks" when used herein in the singular form may refer to a portion of the total Parks delineated on the final plat of the Gallatin Heights Subdivision. Any portion of the designated Parks may be transferred to an appropriate organization subject to the restriction governing the maintenance and improvements of Parks contained herein. The word "Parks" does not include any private open space. Parks shall be maintained and improved consistent with the provisions of these covenants governing maintenance of parks and improvements of parks. All Parks are hereby declared to be dedicated to be public use and available for the use and enjoyment of the public.
- l. "Gallatin Heights Architectural Review Committee", also referred to as the ARC, shall mean the committee of three members who review building proposals for conformance to the provisions of these covenants and approves, conditionally approves, or rejects the same.

- m. "Gallatin Heights" shall include all land described in Exhibits "A" and "B", together with such other land as may be annexed pursuant to the provisions of these Covenants.
- n. "Open Space" shall include all areas delineated as such on the final plats of Gallatin Heights Subdivision. Open space, including the detention / retention ponds, shall remain in the ownership and control of the Association. These lands shall be transferred to the Association, and maintained by the Association for the use and benefit of the Owners.
- o. "Owner" also referred to as lot owner, member and home owner, shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to in any lot which is a part of Gallatin Heights, or in any individual unit on a Commercial Lot, including contract purchasers, but excluding those having such interest merely as security of the performance of an obligation.

**ARTICLE II**  
**LAND SUBJECT TO THIS DECLARATION**

**SECTION 1.** The land described in Exhibit "A" attached hereto and described as Gallatin Heights Phase 1 shall be held, sold, conveyed, leased, encumbered, occupied and improved subject to this Declaration. The Declarant reserves the right to subject the land described in Exhibit "B" attached hereto and described as Gallatin Heights Phases 2 – 5 to the terms and conditions of these Covenants at a later time. The entire property shall be known as "Gallatin Heights".

**SECTION 2.** The Declarant may, pursuant to the following provisions of the section, from time to time and in Declarant's sole discretion, annex to Gallatin Heights all or any part of the land described in future exhibits (not then constituting a part of Gallatin Heights) owned by Declarant at the time of such annexation.

- a. The annexation of such land shall be effectuated by Declarant recording a declaration describing the land to be annexed; setting forth such additional limitations, restrictions, covenants and conditions as are applicable to such land; and declaring the land is to be held, sold, conveyed, encumbered, leased, occupied and improved subject to the Gallatin Heights covenants.
- b. Upon the annexation becoming effective, the annexed land shall become a part of Gallatin Heights.
- c. The declaration described in Section 2a above may include, but is not limited to, the following:
  - 1) A designation of land classifications as provided for by the Declarant;
  - 2) A declaration of restrictions applicable exclusively to a specified area.
- d. Only the land described in Exhibit "A" and "B" and land specifically annexed as provided for in this section shall be deemed subject to the Gallatin Heights Covenants, whether or not

shown on any subdivision map filed by Declarant or described or referred to in any document executed or recorded by Declarant. Nothing herein, or in any amendment hereto, shall be deemed a representation, warranty or commitment by the Declarant committing the Gallatin Heights Covenants to any land Declarant may now own or hereafter acquire except that land described in Exhibit "A" and "B" or as annexed thereto.

### **ARTICLE III**

#### **ARCHITECTURAL REVIEW COMMITTEE**

##### **SECTION 1. CREATION - MEMBERSHIP**

There is hereby created an Architectural committee which is herein referred to as the Gallatin Heights Architectural Review Committee (the "ARC"), which shall consist of three (3) persons, appointed by the Declarant. On or after seventy five percent (75%) of the homes have been constructed in Gallatin Heights, one of the members may be chosen by a majority of the Owners, as shall be determined by the Owners, by notice in writing to the Homeowner's Association. On or after ninety percent (90%) of the homes have been constructed in Gallatin Heights, two of the members may be chosen by a majority of the Owners, as shall be determined by the Owners, by notice in writing to the Homeowner's Association. At (100%) build-out of the project, all of the members shall be chosen by a majority of the Owners. ARC members shall serve three (3) year terms. The ARC may consist of the same persons who are the Board of Directors of the Association.

##### **SECTION 2. SELECTION**

If no successor is appointed on or before the expiration of an individual member's term, he shall be deemed to have been re-appointed for another term. On the death or resignation of an individual member, a replacement shall be selected by the remaining members of the ARC to fill out the unexpired term.

##### **SECTION 3. PURPOSE**

The ARC shall be responsible to enforce the architectural guidelines established herein 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 and the architectural guidelines included herein.

##### **SECTION 4. ARC REVIEW**

No construction, reconstruction, alteration, remodeling, landscaping, fence, wall or other improvement shall be placed, constructed, erected, repaired, restored, reconstructed, altered, remodeled, added to or maintained on any lot until building drawings, plans and specifications (which must have been prepared by a professional, well versed in all construction, reconstruction, alteration or remodeling), and such other information as the ARC may reasonably require, including without being limited to, colors, building materials, plans and elevations, have been submitted to,

and approved by, a majority of the ARC in writing; nor may the same be commenced until the ARC shall have issued approval allowing for such improvements.

**SECTION 5. CONFORMITY TO CODES and COUNTY APPROVAL**

The ARC shall require that all construction comply with the provisions of the following standard codes or their amendments:

- International Conference of Building Officials
- National Plumbing Code
- National Electrical Code
- National Fire Protective Association
- Gallatin County Subdivision Regulations

The powers and approvals of the ARC shall be subject to the powers and necessary approvals of the County.

**SECTION 6. AUTHORITY TO APPROVE**

The ARC shall have the authority to reject the materials, designs and colors submitted with plans, or the plans themselves, if they are not compatible with the rest of the subdivision, or are inappropriate, incomplete or defective.

**SECTION 7. VARIANCES**

The ARC shall have the authority to grant variances to the house locations, setback requirements, minimum height, minimum square footage, and where, in its discretion, it believes the same to be appropriate and necessary and where the same will not be injurious to the rest of the subdivision or against current building codes or the GALLATIN COUNTY SUBDIVISION REGULATIONS.

**SECTION 8. SUBSTANTIAL COMPLIANCE**

All improvements, construction, reconstruction, alterations, remodeling or any activity requiring the approval of the ARC must be completed in substantial compliance with the plans and specifications initially approved by the ARC and for which approvals have been issued.

**SECTION 9. ENFORCEMENT**

The ARC 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 as more particularly set forth in Section 8 and shall have the authority to revoke or suspend building approvals and/or order the suspension or cessation of any construction or work in the violation of these covenants or of any approvals issued by the ARC.

SECTION 10. FEES

The ARC may require reasonable fees to be paid with the filing of plans and specifications and the issuance of building approval to defray its expenses and the expenses of inspections and enforcement of the provisions of these covenants.

SECTION 11. LIABILITY

The ARC, or the individual members thereof, may not be held liable by any person for any damages which may result from ARC 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, suspension or enforcement of building permit or any delays associated with such action on the part of the ARC.

**ARTICLE IV**  
**DESIGN REVIEW PROCESS**

The following design review process shall apply to all Lots within the Gallatin Heights Subdivision.

SECTION 1. SUBMISSION OF PLANS BEFORE CONSTRUCTION

No residence, commercial building, fence, wall, garage, outbuilding, landscape improvements, or other structure shall be made, erected, altered or permitted to remain upon the Lots until written plans and specifications showing the design, nature, kind, color, dimensions, shape, elevations, material, use and location of the same shall have been submitted and approved, in writing, by a majority of the ARC as to compliance with these Covenants, as well as appropriate County review & permitting.

SECTION 2. GENERAL REQUIREMENTS

Submit two copies of the required documents for each design review and the appropriate design review fee made out to the Gallatin Heights HOA. Submittals shall be made to:

Gallatin Heights Architectural Review Committee  
C/O Management Associates, Inc.  
682 Ferguson, #6  
Bozeman, MT 59718

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- a. The design review cycle begins on Monday of each week. Submittals must be received by noon on Friday of the previous week. All documents must be dated and labeled with "Gallatin Heights Architectural Review Committee" and specific project title, Lot number, and address.

- b. Upon ARC review, the owner will be notified within ten (10) business days after the start of the review cycle date that the design has been approved, approved with conditions, or disapproved. Submittals deemed incomplete will be returned.
- c. The reasons for approval with conditions, and disapproval shall be clarified for the owner in writing. If the ARC does not contact the owner within ten (10) business days of the review commencement date, the application shall be deemed "disapproved".
- d. Request for withdrawal of an application may be made without prejudice, provided the request for withdrawal is made in writing to the ARC. If an application has been denied, or the approval is subject to conditions that the owner feels are unacceptable, the owner may request a hearing before the ARC to justify his/her position. The ARC will consider the Owner's arguments and facts and notify the owner of its final decision within ten (10) days of the hearing.

### SECTION 3. COMPLETION OF IMPROVEMENTS

Any structure approved, must be erected and completed within one (1) year from the date of approval. If any structure is commenced and is not completed in accordance with the plans and specifications within one year, the Board of the Association, at their option, may take such action as may be necessary, in their judgment, to improve the appearance so as to make the property harmonious with other properties and to comply with these Covenants, including completion of the exterior or the combination thereof, or removing the uncompleted structure or similar operations. The Owner is responsible for any expenditure during this process. A lien on the property may be recorded and shall be enforceable by an action at law. In lieu thereof, the Association may take such action as is available by law, including an injunction, or and action for damages. If construction of a structure is not commenced within one year after approval, the approval shall be deemed denied and a new approval must be obtained prior to the commencement of construction. The landscaping provided in the landscaping plan must be completed within one (1) year of the completion of the construction authorized.

### SECTION 4. LIABILITY AND VARIANCES.

In reviewing and approving plans and specifications, the ARC shall take into consideration the suitability of the proposed building or other structure, the materials used for construction, its harmony with the surroundings, and the effect of the building on other structures, as planned, as viewed from adjacent or neighboring lots. The ARC shall use reasonable judgment in reviewing and approving all such plans and specifications, but shall not be liable to any person for its actions in connection with submitted plans and specifications, unless it is shown that the ARC acted with malice or wrongful intent.

Neither the Association, the Declarant, the Board of Directors, the ARC nor the individual members thereof, may be held liable to any person for any damages for any action taken pursuant to

these Covenants, including but not limited to, damages which may result from correction, amendment, changes or rejection of plans and specifications, the issuance of approvals, or any delays associated with such action on the part of the ARC.

Further, the ARC may, upon application, grant a variance from the Architectural Guidelines, provided that the intent of these Covenants is complied with. All variance requests pertaining to the ARC approvals must be made in writing to the ARC. Any variance granted shall be considered unique and will not set any precedent for future decisions. The ARC, in reviewing and considering an application for a variance, shall consider the nature of the hardship claimed, the impact on the adjacent lot owners, the impact on Gallatin Heights, and any proposed mitigations for the impacts. The ARC shall have the duty and power to make the final decision on the granting of the variance, without any liability being incurred or damages being assessed due to any decision of the ARC.

#### SECTION 5. REVIEW PROCEDURES.

The following procedures outline the review process to be conducted by the ARC for homes constructed in Gallatin Heights.

a. **SKETCH DESIGN REVIEW**

In addition to verifying the required setbacks, this review checks the designs for correct interpretation of the Architectural Guidelines. Simultaneously with the submission of any initial building plans for any lot, the owner thereof must also submit to the ARC a landscape plan.

Submittal Form Required: **Form A** - Sketch Review Application.

Submittal Fee: \$50 for Residential Units / \$500 for Commercial Buildings.

Minimum Submittal Requirements – Site Plan (including parking lot layouts for commercial buildings), floor plan, exterior elevations, and conceptual landscape plan.

b. **CONSTRUCTION DESIGN REVIEW.**

This review checks the construction documents for compliance with the Architectural Guidelines and verifies that the previous ARC recommendations have been incorporated. Conformity to applicable local regulations and building codes, as well as obtaining appropriate permits is the responsibility of the architect and/or builder.

Submittal Form Required: **Form B** - Construction Design Review Application.

Submittal Fee: \$75 for Residential Units / \$125 for Residential Units if no Sketch Design Submittal / \$750 for Commercial Buildings.

Minimum Submittal Requirements – All architectural construction documents representing those documents that would be submitted to the County for a building permit, including the floor plan, all elevations, site plan, exterior materials list, and soils report. The landscape plan must set forth in detail the landscaping to be installed, placed or planted on such lot, including paths, walks, shrubs, trees, rocks,



walls or any feature to be incorporated into a landscape design or plan, and such landscape plan must be approved prior to commencement of construction or landscape installation.

#### SECTION 6. CONSTRUCTION COMMENCEMENT.

Construction may not commence until all necessary permits are obtained and fees collected. A copy of Form B - Construction Design Review Application bearing the ARC approval letter or stamp must be obtained before construction can begin on any home or building.

The ARC reserves the right to inspect any improvements for compliance during any stage of construction. The ARC is empowered to enforce its policy as set forth in the Architectural Guidelines and these Covenants by any action, in law or equity, to ensure compliance.

#### SECTION 7. MINOR CHANGES

It is anticipated that owners may wish to make improvements or modifications to their buildings or property during initial construction or at a future date. A change may be executed upon receipt of Form C – “Application for Change(s)” bearing the ARC stamp of approval. The fee for reviewing minor changes shall be \$50 and shall accompany the submittal.

### ARTICLE V ARCHITECTURAL GUIDELINES

#### SECTION 1. PURPOSE AND INTENT

Gallatin Heights will be a community consisting of single family detached homes and commercial development. The residential areas will combine elements of Craftsman, Prairie, and Bungalow styles which allow for flexibility while at the same time making them ideal styles for compatible contemporary design. Commercial buildings will be designed to blend in with the character of the residential neighborhoods. It is intended that these Architectural Guidelines (the “Architectural Guidelines”) will provide for visual and architectural variety while creating a cohesive neighborhood that is complimentary to the surrounding community.

The ARC shall be governed by the following guidelines in its consideration of plans and specifications submitted for its approval:

- a. The Gallatin Heights subdivision is located in a rural area of the County and all improvements in the subdivision must harmoniously combine, and not be inconsistent with, the rural character of the surrounding area. It is an objective of the development to be compatible with and complimentary to adjacent properties and their uses.

- b. In considering any plans and specifications, the ARC shall examine the suitability of the same to the site, including the materials of which it is to be constructed, as well as the relationship of the same to the neighborhood and the adjacent properties.
- c. All plans and specifications shall be in full compliance with all of the terms and provisions of these Covenants, except for any variances, which have been granted by the ARC for such plans and specifications.

## SECTION 2. RESIDENTIAL DESIGN STANDARDS

### 1. STYLES

The Gallatin Heights Architectural Guidelines incorporate elements from the following architectural styles.

- a. Craftsman Style- Craftsman style homes -are identified by some of the following features:
  - 1. Character and Form
    - i. Moderate roof pitches.
    - ii. Simple, clean forms.
    - iii. One and two story elements combined to provide variety in the elevation.
    - iv. Entry Porches.
    - v. Battered columns and wall treatments.
  - 2. Materials
    - i. Wood, brick, and stone.
  - 3. Detail Elements
    - i. Horizontal groupings of multi-paned windows with trim details.
    - ii. Shingle siding and /or other siding detail treatments.
    - iii. Bracketed beam out-lookers or beam ends.
    - iv. Tapered or battered column bases at porch areas
    - v. Multiple wood porch columns.
- b. Prairie Style- Prairie style homes are identified by some of the following features:
  - 1. Character and Form
    - i. Moderate roof pitches and hipped roof forms.
    - ii. Simple, clean forms.
    - iii. One and two story elements combined to provide variety in the elevation.
    - iv. Strong porch emphasis at the entry combined with low walls.

2. Materials
    - i. Wood, brick and stucco (as an accent material).
  3. Detail Elements
    - i. Horizontal groupings of multi-paned windows and trim details.
    - ii. Low walls at porch areas.
    - iii. Front facing dormer or hip roof element over entry area.
    - iv. Horizontal banding of wood or stucco trim.
    - v. Wider columns using stucco or brick.
- c. Ranch Style- Ranch style homes are identified by some of the following features:
1. Character and Form
    - i. Shallower and less steep roof pitches.
    - ii. Simple, clean forms with horizontal gable roofs running parallel to the street or front of the lot.
    - iii. Generous porch elements.
    - iv. Very lineal or horizontal in design and forms.
  2. Materials
    - i. Wood, stucco, brick, and stone.
  3. Detail Elements
    - i. Horizontal elements such as brick or siding wainscot.
    - ii. Generous porch elements with post and beam details.
    - iii. Large window panes and window trim details.
    - iv. Bracing and post and beam connections.
    - v. Brick and post details at porches or entry elements.

## 2. ARCHITECTURAL STANDARDS WHICH APPLY TO ALL LOTS

The following requirements shall apply to all lots in Gallatin Heights.

- a. Lot Types. Gallatin Heights contains the following lot types within the development per Exhibit "C", "Lot Type Exhibit". Various standards within the Guidelines apply to specific lot types. The lot types are described as follows:
  1. Lot Type I- Standard Single Family Lots
  2. Lot Type II- Half Acre Single Family Lots
  3. Lot Type III- Estate Single Family Lots

## 4. Lot Type IV- Ranchette Single Family Lots

d. Minimum Finished Square Footages. The following above ground minimum finished square footages shall apply to all homes constructed in Gallatin Heights.

1. Standard Single Family Detached Homes (Lot Type I)-
  - i. Single Story Homes- 1,300 square feet
  - ii. Two Story Homes- 1,700 square feet
2. Half Acre Single Family Detached Homes (Lot Type II)-
  - i. Single Story Homes- 1,650 square feet
  - ii. Two Story Homes- 2,000 square feet
3. Estate Single Family Detached Homes (Lot Type III)-
  - i. Single Story Homes- 1,900 square feet
  - ii. Two Story Homes- 2,300 square feet
4. Ranchette Single Family Detached Homes (Lot Type IV)-
  - i. Single Story Homes- 2,300 square feet
  - ii. Two Story Homes- 2,500 square feet

Variances to the minimum square footage requirements may be granted on a case by case basis by the ARC based on design merit.

f. Exterior Materials. Exterior materials allowed within Gallatin Heights shall include the following:

1. Painted or stained wood sidings including horizontal or vertical sidings, board and batten sidings, and shingle siding. Plywood and/or T-111 type siding materials will not be allowed.
2. "Hardi Board," prefinished hardboard, or other simulated wood cement board painted or stained sidings. Aluminum or vinyl siding materials will not be allowed.
3. Brick.
4. Stone, including "cultured stone".
5. Stucco when used as an accent material and not as the primary elevation material.
6. Metal clad sidings when used as an accent material.

- g. Porches. Front porches shall be required on all homes constructed within Gallatin Heights. Open and closed porch railing details are encouraged. In the case of closed porch railing details, use of the same material as the adjacent form is preferred. Front stoops shall be constructed of brick, concrete, or stone. Wood may be used only when constructed to give the appearance of a solid mass. Main entry doors are to be placed within the porch area to provide adequate cover from weather.
- h. Roof Elements. The following requirements shall apply to roof forms and roofing materials used in Gallatin Heights.
1. General- The principal roof shall be a symmetrical hip or gable form with a pitch between 4:12 and 10:12. Steeper roofs are permitted when complimentary to the overall design and approved by the ARC. Flat roofs comprising less than 30% of the total roof area are permitted on all buildings. Flat roofs used as balconies on street facades shall be enclosed with solid railings and integrated with the design. Shed dormers shall have a pitch of at least 3:12. Hip dormers shall have the same pitch as the main roof volume.
  2. Roof Materials- Pitched roofs shall be clad with cedar shingles, natural slate, artificial slate, or asphalt/fiberglass shingles with materials and complimenting color approved by the ARC. Metal roofing shall be allowed as an accent material or as approved by the ARC.
  3. Facia, Soffits, and Eaves- Facia shall be a 6" minimum dimension. Overhanging eaves shall be a minimum of 24" except in the case of gable ends, where they may be reduced to a minimum of 12". Closed soffits may be of wood, vinyl, or aluminum.
  4. Roof Appurtenances- Roof top equipment is not allowed. Roof vents shall not face a public street, where practical. Skylights and solar panels shall be applied parallel and flat to the roof and are not to be on any roof parallel or facing the street.
  5. Gutters- Gutters shall be made of painted metal or copper of a color and finish that blends with the finish color scheme. Gutters shall be half-round or rectangular and downspouts shall be circular or rectangular.
  6. Chimneys- Chimneys shall be constructed of wood, stone, brick or stucco. Prefabricated metal flues shall be concealed within a chimney. Chimney caps may extend no more than 16" above the chimney top.
- i. Garages. Minimum two (2) car garages are required on all homes. The maximum size of an attached two car garage shall be seven hundred (700) gross

square feet unless a variance is approved by the ARC based on additional review and design merit. The maximum size of a detached two car garage shall be seven hundred (700) gross square feet unless a variance is approved by the ARC based on additional review and design merit. Three car and larger garage sizes shall be as approved by the ARC.

- j. Building Height / Stories. All homes within Gallatin Heights shall be limited to a maximum of (2.5) floors (excluding any daylight, walkout, or standard basements). Detached garages shall be limited to (2) floors.
- k. Decks and Porches. Decks must face only rear yards. Decks may continue in side yards but may not extend more than 36” from the side yard-facing façade unless approved by the ARC. The space below first floor elevated decks visible from nearby streets or public spaces shall be wood lattice of a non-diagonal design. Upper level decks must be integral to the design and over first floor space.
- l. Exterior Colors and Material Use. All facades of a building shall be made of the same materials and similarly detailed. Facades may change their primary material only at a band change. The intent of the regulation is that facades appear to have heavier materials on the bottom and lighter materials above (i.e., concrete and masonry shall be below wood or stucco). The color palette of the body of the house shall be in earth tones or as approved by the ARC based on color scheme merit or historical precedent. All trim, frames, doors, and windows shall be in a compatible accent color. Residential color schemes must be varied from the adjacent properties, in each direction. All exterior wood shall be painted or stained (wood front doors excluded).
- m. Structures. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Central Valley Fire District. The separation between all structures protected by approved fire sprinkler systems and all detached, non-sprinkler protected structures, including accessory buildings, shall be a minimum of 50 feet.
- n. Accessory Dwelling Units. Accessory Dwelling Units (ADU’s) are permitted on Lot Types II, III and IV, and require specific ARC approval. The following conditions apply to ADU’s:
  - a. The principal dwelling or the ADU must be physically occupied as a principal residence by at least one of the owners of record (minimum 50% fee simple ownership interest). No more than one of the dwellings (principal dwelling or ADU) may be rented by non-owners at the same time.
  - b. ADU’s are acceptable either above detached garages or at grade located behind the principal dwelling.

- c. At least one additional off-street parking space must be provided.
- d. ADU's shall require a separate driveway from the main house. Driveways may be constructed of concrete, asphalt, decomposed granite, or gravel. However, if decomposed granite or gravel is used, the driveway approach to the property line shall be constructed of concrete or asphalt to prevent soft surface materials from entering the street.
- e. The occupancy of the ADU shall not exceed three persons.
- f. Only one ADU may be created per lot.
- o. Lighting. All exterior lighting must be free of glare and shall be fully shielded or shall be indirect lighting. No lighting shall shine beyond a property's lot line. All exterior residential lighting must be incandescent. All exterior lighting of all lots shall be limited to maximum 60-watt incandescent bulbs and of such focus and intensity so as to not cause disturbance of adjacent lots or the night sky.
- p. Basements. Due to high groundwater on portions of the Gallatin Heights subdivision, basements are not recommended without first consulting an engineer licensed in the State of Montana and qualified in the certification of residential and commercial construction.
- q. Sidewalks. All lot owners are required to install concrete sidewalks along all lot street frontages at the time of construction, or within twelve (12) months of the closing on their Lot, whichever comes first.
- r. Driveways. All internal lots shall be limited to one driveway access except for Lot Types II, III, and IV in the event an ADU is constructed. Each access must be at least seventy-five (75) feet from the nearest intersecting county road. To allow for emergency vehicle access to structures, Lot Owners shall provide a driveway meeting the following requirements as approved by the CVFD: a minimum unobstructed driving surface of 12 feet for driveways less than 300 feet long and a 16 foot driving surface for any driveway over 300 feet long; a vertical clearance of 15 feet; and a four foot zone of reduced vegetation on each side of the driving surface.

For driveways longer than 300 feet, the Lot Owner shall provide a turnaround including but not limited to a drive-through, cul-de-sac, or hammerhead turnaround. All gates, bridges, culverts and related constructs affecting access shall be a minimum of two feet wider on each side of the driveway. The entire driveway shall have a 30-ton minimum rating for two-axle trucks including all bridges, culverts and all other constructs of the driveways.

Driveways constructed of asphalt material may not be allowed on Lot Type I. Driveways constructed of asphalt material will be permitted on Lot Types II – IV.

- s. Landscaping. All lot owners must install two (2) street trees, a minimum of 2” in diameter and measured at a point 3” from the ground, within six months of occupancy of any dwelling constructed on the lot.
- t. Addressing Posted. As per CVFD requirements, addressing on all homes and commercial buildings shall be contrasting on the structure and reflective on the street. Number size shall be four-inch (4”) minimum height.
- u. Fire Protection / Sprinkler Systems: As per CVFD requirements, in the instance a Lot Owner intends to build a structure with a fire protection sprinkler system, the system shall comply with the CVFD requirements

3. SITE DESIGN REQUIREMENTS

The following site design requirements Gallatin Heights shall be complied with:

- a. Central Valley Fire District Approval: All site plans must be submitted for review and approval by the Central Valley Fire District before submittal to the ARC.
- b. Site Design. All homes within Gallatin Heights shall adhere to the site design requirements established by the Gallatin County for homes within the Gallatin Heights subdivision, including, but not limited to permitted uses, lot coverage and floor area requirements, minimum yard requirements, main building and out building placement, and building heights. In addition to the County requirements, the following requirements shall apply to the individual Lot Types within Gallatin Heights.

1. Standard Single Family Detached Lots (Lot Type I).

- a. Standard Yard Requirements
  - i. Front Yard- 20 feet
  - ii. Rear Yard- 20 feet
  - iii. Side Yard- 10 feet
  - iv. Permitted Encroachments- front porches, steps, balconies, stoops, and covered walkways may encroach up to 5’ into the front yard setback based on design merit.
- b. Attached Garages
  - i. Street facing garages-



1. The façade with the garage vehicle entrance shall not be extended more than 8' in front of the porch façade of the dwelling containing the main entry unless the garage is less than 50% of the total front façade width and/or includes an offset design of the third car garage in the case of a three car garage.

2. Secondary, but complimentary, in design to the main building façade.

ii. Corner lot garages-

1. Side entered garages are encouraged.

2. Half Acre Single Family Detached Lots (Lot Type II)

a. Standard Yard Requirements

- |      |             |         |
|------|-------------|---------|
| i.   | Front Yard- | 30 feet |
| ii.  | Rear Yard-  | 30 feet |
| iii. | Side Yard-  | 15 feet |

iv. Permitted Encroachments- front porches, steps, balconies, stoops, and covered walkways may encroach up to 5' into the front yard setback based on design merit.

b. Attached Garages

i. Street Facing Garages

1. The façade with the garage vehicle entrance shall not be extended more than 8' in front of the porch façade of the dwelling containing the main entry unless the garage is less than 50% of the total front façade width and/or includes an offset design of the third car garage in the case of a three car garage.

2. Secondary, but complimentary, in design to the main building façade.

3. Rear positioned or side positioned garages are encouraged.

ii. Corner lot garages-

1. Side entered garages are encouraged.

c. Detached Garages

- i. Detached garages are encouraged in the Lot Type II area. Locating detached garages behind the main home is encouraged. Detached garages should be designed to be complimentary to the main home's architecture and utilize similar exterior materials and detailing. All detached garages will require ARC approval.

3. Estate Single Family Detached Lots (Lot Type III)

a. Standard Yard Requirements

- i. Front Yard- 30 feet
- ii. Rear Yard- 30 feet
- iii. Side Yard- 25 feet

- iv. Permitted Encroachments- front porches, steps, balconies, stoops, and covered walkways may encroach up to 5' into the front yard setback based on design merit.

b. Attached Garages

i. Street Facing Garages

- 1. The façade with the garage vehicle entrance shall not be extended more than 8' in front of the porch façade of the dwelling containing the main entry unless the garage is less than 50% of the total front façade width and/or includes an offset design of the third car garage in the case of a three car garage.
- 2. Secondary, but complimentary, in design to the main building façade.
- 3. Rear positioned or side positioned garages are encouraged.

ii. Corner lot garages-

- 1. Side entered garages are encouraged.

c. Detached Garages

- i. Detached garages are encouraged in the Lot Type III area. Locating detached garages behind the main home is encouraged. Detached garages should be designed to be complimentary to the main home's architecture and utilize similar exterior materials and detailing. All detached garages will require ARC approval.

- 4. Ranchette Single Family Detached Lots (Lot Type IV)
  - a. Standard Yard Requirements
    - i. Front Yard- 30 feet
    - ii. Rear Yard- 30 feet
    - iii. Side Yard- 30 feet
  - b. Homes and accessory buildings located on these lots shall be required to fit within the “building envelopes” as identified on the final plat for the subdivision.
  - c. Attached Garages
    - i. Street Facing Garages
      - 1. The façade with the garage vehicle entrance shall not be extended more than 8’ in front of the porch façade of the dwelling containing the main entry unless the garage is less than 50% of the total front façade width and/or includes an offset design of the third car garage in the case of a three car garage.
      - 2. Secondary, but complimentary, in design to the main building façade.
      - 3. Rear positioned or side positioned garages are encouraged.
    - ii. Corner lot garages-
      - 1. Side entered garages are encouraged for the above listed site designs.
  - d. Detached Garages
    - i. Detached garages are encouraged in the Lot Type IV area. Locating detached garages behind the main home is encouraged. Detached garages should be designed to be complimentary to the main home’s architecture and utilize similar exterior materials and detailing. All detached garages will require ARC approval.

#### 4. YARD LANDSCAPING REQUIREMENTS

The following landscape requirements shall apply to all lots in Gallatin Heights.

- a. **Definitions.** The landscape areas for lots within Gallatin Heights shall be defined as follows.
1. **Front Yard.** The areas from the front of the home (including garage, if attached) to the street (including the park strip area), and from side lot line to side lot line.
  2. **Side Yard Corridor:** The area from the side of the house to the side lot line, less the Front Yard and Rear Yard.
  3. **Rear Yard:** The area from the back of the structure extending to the rear property line.
  4. **Park Strip:** The area between the street and the sidewalk.
- b. **Yard Landscaping.** Each site owner will be required to meet the minimum landscape requirements outlined in this section.

1. **Plant Material.** Front Yards shall require a minimum of (2)- 2” caliper trees and one planting bed adjacent to the house perimeter containing a mix of shrubs. Shrub areas shall have a top layer of landscape rock, mulch or bark. All grass areas shall be required to be installed with sod and an underground irrigation system. At a minimum, Front and Side Yard Corridor areas will be required to have sod and an underground irrigation system. Deciduous and evergreen trees are encouraged in the Side Yard Corridor. All irrigated areas will require underground irrigation systems. The use of native plant species and drought tolerant landscaping is encouraged. Trees and shrubs shall not touch any buildings. Trees shall not overhang roofs near chimneys and flues.

Lot owners will be responsible to landscape the Park Strip areas in front of their lot and to install the sidewalk fronting their lot. All lot owners are required to landscape and install street trees per the “Gallatin Heights Street Tree Plan” or as approved by the ARC. New trees must be planted at least 30' away from intersections. The maximum height under utility lines is 25'.

Corner lots are required to install trees in both Park Strip areas located on their lot.

- c. **Yard Maintenance.** Commencing with the transfer of any land in Gallatin Heights from Declarant, the Lot Owner shall cause all the land to be maintained in a neat appearance at all times. Grass shall be cut not less than every two weeks and trees, bushes and hedges shall be trimmed at such intervals as are necessary to maintain the attractiveness of Gallatin Heights.

### **SECTION 3. COMMERCIAL USES AND DESIGN STANDARDS**

## 1. COMMERCIAL USES

The Commercial Lot, including improvements and buildings constructed upon this lot, shall be used for commercial purpose consistent with a "neighborhood commercial center", and offices, provided such use, improvement, or building design has received approval from the Declarant and the ARC, as applicable, and subject to such conditions as it may require for health, safety, noise, general appearance, and other criteria established by the Declarant and/or the ARC. It is the intent of the Declarant that facilities constructed on the Commercial Lot service the needs of the immediate surrounding community and are not to be regional in nature or serve a regional purpose.

## 2. RESTRICTED USES

The following uses are specifically prohibited:

- a. Junk yards, wrecking yards, or recycling facilities.
- b. Oil, gas, or other petroleum refining operations.
- c. Motor vehicle maintenance or service facilities.
- d. Bowling alleys, video arcades, game rooms, pool halls, or other establishments whose primary activities may involve the sale or consumption of alcoholic beverages. Restaurants using a limited use on-premises liquor or beer / wine license shall be allowed. Limited use shall mean hours of sales and alcohol sales will not be the primary activity of such establishment. No gaming machines will be allowed.
- e. Private clubs, sororities, fraternities, or lodges.
- f. Hotels or motels.
- g. Mobile home parks
- h. Businesses which have or are designated to use hazardous materials.
- i. Commercial animal raising or feeding operations.

## 3. BASIC BUILDING REQUIREMENTS / EXTERIOR STYLE

Commercial buildings designed within the Gallatin Heights subdivision shall be at a scale and design character that is complimentary to the residential character of the overall project. The exterior of all commercial buildings within the Gallatin Heights subdivision shall be constructed of wood, masonry, painted hard board, or stucco (including Dryvit type systems). Siding and roofing materials may be constructed of steel, provided the material use is approved by the ARC . Vinyl or aluminum sidings are not allowed.

## 4. SITE DESIGN REQUIREMENTS

- a. Central Valley Fire District Approval: All site plans and structures must be submitted for review and approval by the Central Valley Fire District before submittal to the ARC. As per CVFD requirements, any structure over 3,600 square feet or with a building height greater than 35 feet shall be subject to additional requirements for fire protection water

supplies (amount, delivery rate, and location) as described according to the construction and square footage of the structure in the current edition of Fire Code adopted by the State of Montana.

- b. Building Setbacks. The minimum building setbacks for the commercial lot within Gallatin Heights shall adhere to the following requirements. All setbacks are measured to the property line of the lot (the "Property Line"). The Property Line shall be defined as the front, side or rear yard boundary of the lot.

i. Front Yard Setback-	30'
ii. Side Yard Setback-	20'
iii. Rear Yard Setback-	30'
iv. Corner Sideyard Setback-	30'

The ARC reserves the right to require greater setbacks than those indicated if conditions warrant. The ARC also reserves the right to reduce setback requirements to allow buildings to be built adjacent to one another or to cross a lot line in the instance that multiple adjacent lots are purchased by a single Owner. Any requirements above or below the minimum will be indicated by the ARC at the time of Sketch Plan review.

- c. Exceptions To Setback Requirements. The following improvements are specifically exempted from the setback requirements stated above.

- i. Roof overhangs provided they do not extend more than three feet (3') into the setback area.
- ii. Steps and walkways, provided that a minimum of seventy-five percent (75%) of the setback area is maintained in a landscaped condition.
- iii. Fences.
- iv. Landscaping.
- v. Parking areas.
- vi. Building signage, parking signs, and signs identifying the business, subject to approval by the ARC.
- vii. Lighting, subject to the approval of the ARC.

- d. Parking Areas. Parking areas shall be designed to adequately accommodate the parking needs of the Owner / Occupant, the employees, and its visitors. It is the intent of this provision to eliminate the need for on-street parking. On-street parking will not be allowed on Valley Center Road or Jack Rabbit Lane. If parking requirements increase as a result of a change in use, additional parking shall be provided so as to satisfy the intent of this section. All parking areas shall be paved surfaces consisting of asphalt or concrete. Each parking space shall be designated by lines painted upon the paved surface and shall be adequate in size. All parking areas shall provide adequate driveways and space for the movement of vehicles.

- e. Storage and Loading Areas. Storage, maintenance, and loading areas shall conform to the following requirements.
- i. Outside storage of materials, supplies, or equipment (including trucks or other motor vehicles) (the "Storage Items") shall be permitted if the following conditions are met.
    1. The Storage Items are incidental to the activities regularly conducted on the premises. In the case of an Owner who generally has all inventory inside of such premises and who may hold an annual outdoor sale of inventory, such Owner may have said inventory outside of the building on the Lot for a temporary period not to exceed two (2) weeks per calendar year.
    2. The area where the Storage Items are stored is to be integrated into the design of the building unless otherwise approved by the Declarant or the ARC.
    3. The area is screened and is not in conflict with the architectural design and appearance of neighboring structures.
  - ii. Provisions shall be made on each site for any necessary vehicle loading and unloading. No on-street vehicle loading and unloading shall be permitted.
  - iii. Loading dock areas shall be set back, recessed, and/or screened so as not to be visible from neighboring properties or streets and in no event shall a loading dock be closer than twenty feet (20') from a side or rear property line or thirty feet (30') from a front property line.
- f. Fences. The ARC reserves the right to approve the location and design of all fences and no fence shall be constructed without ARC approval.
- g. Garbage / Storage Areas. All trash, garbage, and waste shall be stored in dumpsters or containers enclosed, covered, and screened from view. All storage areas shall be screened from view. The location of all storage areas and screening methods shall be indicated on the Site Plan.

## 5. BUILDING DESIGN REQUIREMENTS

- a. Building Façade and Form. Building facades shall be designed to compliment the residential character of the Gallatin Heights development. Elements such as pitched roofs, porches, entry features, timber bracing details, and the use of exterior materials similar to the residential structures are encouraged.
- b. Building Size. Commercial buildings shall have a minimum ground floor area of two thousand five hundred square feet (2,500 sf), excluding any basements.
- c. Building Height. The maximum building height allowed, as measured from the center of the Lot, shall be forty feet (40') measured to the highest point of the coping of a

sloping roof, the deck line of a mansard roof, or to the average height level between the eave and the ridge of a gable or hip roof.

- d. Building Materials. The following materials are allowed for commercial buildings in the Gallatin Heights development
- i. Wood Sidings (excluding plywood or T-111 Sidings)
  - ii. Masonry
  - iii. Painted hard board sidings
  - iv. Stucco
  - v. Steel / metal sidings provided that metal clad buildings are constructed so as not to have the appearance of a “metal building”.

Exposed foundations of concrete or masonry construction shall not have an exposed surface which exceeds eight inches (8”) above finished grade unless suitably faced with rock, brick, or other suitable veneers.

- e. Exterior Colors. The roof, siding, and exterior of all commercial buildings shall be stained or painted in earth tones or natural forest colors such as shades of brown, gray, green, blue-gray, or blue-green so as to blend into the natural landscape to the greatest extent possible. Light or bright colors such as white, yellow, pink, purple, or neon-type colors are prohibited.
- f. Roofs. The roofs of structures shall be sloped and have proper drainage. Flat roofs shall be appropriately screened with parapets, copings, or other treatments. Gable and hip roofs shall be minimum pitch of 6:12. Pitched roofing materials may include architectural shingles, non-reflective metal, galvanized metal, or concrete tiles. All rain gutters and exposed flashing shall be colored or painted to match the hue of the roof and siding colors.

## 5. LANDSCAPE REQUIREMENTS

All areas of the Commercial Lot, excluding parking lots, storage areas, and the building footprint shall be landscaped (the “Landscaped Area”). Landscaped Areas will include a mix of trees, shrubs, ground covers, and turf areas and include an underground irrigation system. Landscaped Areas fronting Valley Center Road and Jack Rabbit Lane shall be required to plant street trees in the park strip in accordance with the requirements of the Declarant. A detailed landscape plan shall be submitted for approval by the ARC. The final landscape plan shall be approved with the Final Design Review submittal.

## 6. SIGNAGE

No signs shall be allowed on the Commercial Lot unless approved by the ARC. Allowable signs are informational signs, vehicular control signs, signs identifying the building or business of the Owner / Occupant of the building, temporary development signs, or



temporary short term sale of leasing signs. Details of all proposed signage should be submitted to the ARC with the Final Design Review Package.

#### SECTION 4. COMPLIANCE WITH THE PROVISIONS OF THIS SECTION

Each Owner grants to Declarant and reserves to Declarant, a lien upon the lot of the Owner to secure the faithful performance by the Owner of the requirements and restrictions contained in these Covenants. If any Owner shall fail to comply with the provisions of this Article V or any other requirement for building location, setback, design, landscaping or construction within 10 days after Declarant shall have deposited in the United States postal system a notice to the Owner of the failure to comply, Declarant shall have the right to cause the necessary work to be done and to have a lien placed upon the Lot of the non-complying Owner for the reasonable cost of such work plus an additional amount equal to 10% of the cost of such work. If within 30 days the non-complying Owner does not pay to Declarant the sum secured by the lien, then Declarant may foreclose the lien in compliance with the mortgage foreclosure laws of the State of Montana for the aggregate of (I) the reasonable cost of such work (II) a sum equal to 10% of such work, and (III) all cost incurred by Declarant in foreclosing the lien, including a reasonable attorney's fee. Declarant is in no way precluded from seeking any remedy available to Declarant pursuant to the laws of Montana, including but not limited to immediate, temporary and permanent injunctive relief.

### ARTICLE VI GALLATIN COUNTY REQUIRED COVENANTS

The restrictions referenced below and embedded in this Declaration were imposed by Gallatin County as conditions of preliminary plat approval. These covenants may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and without the express written consent of the governing body of Gallatin County.

<b>REQUIRED COVENANT</b>	<b>ARTICLE</b>
Noxious Weeds	VII Section 33
Notice of Adjacent Agricultural Land	IX Section 12
Fences	VII Section 28
Structures and Fire	V Section I.2.2 (m)
Site Plan Approval by Central Valley Fire District	V Section I.2.3 (a)
Interior Subdivision Roads	VIII Section 13(e) & V Section I.2.2 (q)
Parks and Open Space Maintenance	VIII Section 13(d)
Ditch Maintenance Agreement	VIII Section 13(f)
Irrigation Ditches	VII Section 21
Fire Protection Water Supply	VII Section 22
Open Space Fire Management	VIII Section 13(i)

Further Subdivision	VII Section 29
Street Trees	V Section I.2.2 (r) & VII Section 31
Barn	VIII Section 13(h)
Animal Rights	VII Section 10

**ARTICLE VII**  
**RESTRICTIONS ON ALL LOTS**

The following restrictions on use apply to all Lots within Gallatin Heights.

**SECTION 1. Zoning Regulations.** The lawfully enacted zoning regulations of the County, and any building, fire, and health codes are in full force and effect in the Subdivision, and no Lot may be occupied in a manner that is in violation of any such statute, law, or ordinance.

**SECTION 2. No Mining Uses.** The property within the Subdivision shall be used for residential purposes only, and no mining, drilling, prospecting, mineral exploration or quarrying activity will be permitted at any time.

**SECTION 3. Restrictions on Signs.** No signs will be permitted on any Lot or within the Subdivision, except for traffic control signs placed by the County or temporary signs warning of some immediate danger, or as described herein. Signs indicating the Lot or improvements therein are for sale may be placed on individual lots and no such sign may exceed three square feet. Notwithstanding the foregoing, the Declarant may erect signs within the Subdivision during the marketing of the Subdivision announcing the availability of homes or Lots and giving sales information.

**SECTION 4. Additional Improvements.** No Additional Improvements shall be constructed on any Lot unless such Additional Improvement conforms with all applicable building requirements and other requirements of the County and such Additional Improvements are approved by the ARC.

**SECTION 5. Antennas.** All antennas must be enclosed within the structure. Any satellite dishes must not be any larger than 36 inches in diameter and are to be installed in the back half of the house in a manner so that they are not directly visible from adjoining Lots or the street. Solar panels will be permitted and must lie flat against the roof and may not differ in pitch or color from the roof surface on which they are mounted. Any other objects will need prior written approval of the ARC.

**SECTION 6. No Used or Temporary Structures.** No previously erected, used, or temporary structure, mobile home, trailer house, or any other non-permanent structure may be installed or maintained on any Lot except as noted in Section 9.

**SECTION 7. Number of Dwellings.** Only one principal Dwelling may be constructed on any Lot. All principal Dwellings shall have an attached or detached garage for at least two cars. Accessory Dwelling Units (ADU's) shall require approval by the ARC pursuant to Article V Section 2. Any other structures proposed on any Lot shall require approval by the ARC.

**SECTION 8. Completion Required Before Occupancy.** No Dwelling may be occupied prior to its completion.

**SECTION 9. No Other Construction.** No Additional Improvements, including but not limited to garages, storage units, or other out buildings, may be made to any Lot without the prior approval of the ARC.

**SECTION 10. Animals.** No animal rights (except household pets) shall be granted to any lots within the Gallatin Heights Subdivision. No more than two (2) cats, dogs or other common household pets may be kept; provided, however that they are not kept, bred or maintained for any commercial purpose. All dogs shall be on a leash at all times when off the Owner's property. OWNERS ARE RESPONSIBLE TO KEEP ALL PETS OFF OF ADJACENT AGRICULTURAL PROPERTIES. THE HOA SHALL HAVE THE RIGHT TO FINE OR REPORT OWNERS TO THE LOCAL AUTHORITIES WHO VIOLATE THIS PROVISION.

**SECTION 11. Underground Utilities.** All new gas, electrical, telephone, television, and any other new utility lines installed by the Declarant or its assigns in the Subdivision are to be underground, including lines within any Lot which service installations entirely within that Lot, unless required otherwise by the appropriate utility company. No propane tanks or oil tanks may be installed on any Lot except for temporary heat during construction.

**SECTION 12. Service Yards.** There shall be no clothes lines, service yards, or storage yards. Exterior mechanical equipment must be screened in a manner so that it is not visible from adjoining Lots.

**SECTION 13. Maintenance of Property.** All Lots, and the Improvements on them, shall be maintained in a clean, sanitary, attractive and marketable condition at all times. No Owner shall commit waste of any kind to his Lot or the Improvements thereon.

**SECTION 14. No Noxious or Offensive Activity.** No noxious or offensive activity shall be carried out on any Lot, including the creation of loud or offensive noises or odors that detract from the reasonable enjoyment of nearby Lots.

**SECTION 15. No Hazardous Activity.** No activity may be conducted on any Lot that is, or would be considered by a reasonable person to be unreasonably dangerous or hazardous, or which would cause the cancellation of a conventional homeowner's insurance policy. This includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous materials in excess of those reasonable and customary for household uses, the discharge of firearms or fireworks (unless authorized by County ordinance), and setting open fires (other than properly supervised and contained barbecues).

**SECTION 16. No Unsightliness.** No unsightliness is permitted on any Lot. This shall include, without limitation, the open storage of any building materials (except during the construction of any Dwelling unit or addition); open storage or parking of farm or construction equipment or inoperable motor vehicles; accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; household refuse or garbage except as stored in tight containers in an enclosure such as a garage; and the storage or accumulation of any other material, vehicle, or equipment on the Lot in a manner that it is visible from any other Lot or any public street.

**SECTION 17. No Annoying Lights.** No outdoor lighting shall be permitted except for lighting that is designed to aim downward and limit the field of light to the confines of the Lot on which it is installed. This shall not apply to street lighting maintained by the County or other public agencies.

**SECTION 18. No Annoying Sounds.** No speakers, or other noise making devices may be used or maintained on any Lot which create noise that might reasonably be expected to be unreasonably or annoyingly loud from adjoining Lots, except for security or fire alarms.

**SECTION 19. Sewer Connection Required.** All Lots are served by sanitary sewer service, and no cesspools, septic tanks, or other types of waste disposal systems are permitted on any Lot. All Dwelling units must be connected to the sanitary sewer system.

**SECTION 20. Wastewater / Sewer Facilities.** Except as expressly provided in the Rules and Regulations of the Four Corners County Water and Sewer District, each Owner shall use only wastewater capacity made available to any Lot by and through the Utility Solutions, LLC, or its successors and assigns, and/or the Four Corners County Water and Sewer District, and each owner shall connect, disconnect, and/or reconnect wastewater or sewer system as Utility Solutions, LLC, or its successors and assigns, and/or the Four Corners County Water and Sewer District may direct from time to time. No Owner shall alter, disturb, operate, or otherwise affect any equipment used or useful for the collection of wastewater/sewer, except as expressly permitted by the Rules and Regulations of the Four Corners County Water and Sewer District.

**SECTION 21. Use of Water.** Except as expressly provided in the Rules and Regulations of the Four Corners County Water and Sewer District, each Owner shall use only that water and water supply made available to any Lot by and through Utility Solutions, LLC, or its successors and assigns, and/or the Four Corners County Water and Sewer District, and each owner shall connect, disconnect, and/or reconnect his tap into that water and water supply system as Utility Solutions, LLC, or its successors and assigns, and/or the Four Corners County Water and Sewer District may direct from time to time.

No Owner shall alter, disturb, operate, or otherwise affect any well, wellhead, pump, or other equipment used or useful for the provision or distribution of water or a water supply, except as expressly permitted by the Rules and Regulations of the Four Corners County Water and Sewer District. It is expressly prohibited on any lot within the Subdivision that an Owner has a cross-connection between the potable water system and the non-potable, secondary irrigation system.

SECTION 22. Fire Protection Water Supply. Utility Solutions, LLC and/or the Four Corners County Water and Sewer District shall be responsible for the maintenance of the fire protection water supply.

SECTION 23. No Fuel Storage. No fuel oil, gasoline, propane, or other fuel storage tanks may be installed or maintained on the property. Dwellings shall be heated with natural gas, solar, or electric heat. Propane or other such containerized fuels may be used only during construction of the Dwelling until the permanent heating system is installed and operational. Notwithstanding the foregoing, propane tanks for outdoor barbecues shall be permitted.

SECTION 24. Drainage. No Owner shall alter the direction of natural drainage from his Lot, nor shall any Owner permit accelerated storm run-off to leave his Lot without first using reasonable means to dissipate the flow energy.

SECTION 25. Vehicles Restricted to Roadways. No motor vehicle will be operated on the Subdivision except on improved roads and driveways. No snowmobiles, ATV's, or dirt bikes shall be operated within the Gallatin Heights Subdivision.

SECTION 26. Kennels. No kennel or dog run may be placed closer than 20 feet to any Dwelling other than that of the Owner of the kennel. No wire fencing shall be allowed which is unscreened from the view of adjoining Lots.

SECTION 27. No Transient Lodging Uses. The Lots are to be used for residential housing purposes only, and shall not be rented in whole or in part for transient lodging purposes, boarding house, "bed and breakfast", or other uses for providing accommodations to travelers. No lease of any Dwelling on a Lot shall be for a period of less than 30 days. No Dwelling on a Lot shall be subjected to time interval ownership.

SECTION 28. Fences. The design and location of all fences must be approved by the ARC. Allowable fence types would include wood, masonry, vinyl, and chain link (as approved by the ARC). All wood fences must have a sealer, stain or paint applied in order to protect the wood from moisture and UV rays.

Maximum fence height shall be 6'-0" unless a variance is requested and granted by the ARC. No fences are allowed in required vehicle vision triangles. No fences are allowed in Front Yards unless approved by the ARC. Any fencing installed by the Declarant shall be left in place and shall not be modified by the Lot Owner.

All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. The Homeowner's Association will maintain all existing boundary fences around the subdivision, including no trespassing signs. Any existing agricultural fences and no-trespass signs located along boundaries with adjacent properties shall be maintained as-is and shall not be altered in any way.

Lots which back up to Jackrabbit Lane, Valley Center Road, or Hulbert Road shall be subject to the following additional fencing requirements:

- a. No solid fencing will be allowed within twenty (20) feet of the rear property line or along the rear property line of lots that back up to these roadways.
- b. Any rear yard fencing installed along these roadways by the Declarant shall remain undisturbed. Additional rear yard fencing in these areas shall provide a five (5) foot buffer for maintenance and repairs to any existing fencing.
- c. No rear yard fencing along these roadways shall encroach into any drainage area or borrow pit/ditch without prior ARC approval. It is preferred that these areas are kept free from fencing for maintenance purposes.
- d. Maximum fence height shall be five (5) feet.
- e. Fence design shall be an open design with posts, rails, and wire mesh or some comparable material. Jack rail fencing to match the existing jack rail fence is encouraged.

SECTION 29. No Re-Subdivision. Further subdivision of residential lots within the Subdivision is prohibited.

SECTION 30. Landscaping. Each Owner shall be responsible for installation of landscaping on his lot within 12 months of initial occupancy of the Lot's dwelling.

SECTION 31. Street Trees. Each owner shall install two (2) street trees, a minimum of 2" in diameter and measured at a point 3' from the ground, within six months of occupancy of any dwelling constructed on the lot. No street tree installed by Declarant shall be altered or removed, and Owners are required to maintain all street trees on their Lots in good condition and replace any dead or diseased trees installed by Declarant. All new plantings of any such tree shall be at least two inch (2") caliper.

SECTION 32. Parking, RV/Automobiles. Boats, trailers, vehicles larger than a standard pick-up, tractors, campers, recreational vehicles, motorcycles, etc. when not in actual use, shall be kept in a screened area in a side-yard. Recreational vehicles as defined in this section shall be allowed to be parked in home driveways for a period of no more than three (3) consecutive days during the time frame of Memorial Day to Labor Day. No vehicles will be allowed to extend into the sidewalk area of the driveway. No parking shall be permitted of these vehicle types on the public streets or right-of-way. All automobiles shall be parked in their respective garages, or on the driveways leading to the garage. The Owners understand and agree that the Association may tow the above mentioned vehicles off the public streets at the owner's expense. Any recreational vehicle storage area located in a side yard will require a concrete (Lot Type I) or asphalt (Lot Types II-IV) driveway to access this area. No soft surface or gravel driveways will be allowed.

**SECTION 33. Weed Control.** The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by Lot Owners on their respective Lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District. The Lot Owner shall be responsible for the control of the state and county declared noxious weeds on his or her own Lot. Both unimproved and improved Lots shall be managed for noxious weeds. In the event an owner shall not control the weeds and noxious plants, the Association, after ten days written notice to an owner to control the same, may cause the weeds or noxious plants to be controlled, and may assess the lot owner for the costs thereof. The Association is responsible for control of state and county declared noxious weeds in the subdivision parks, open spaces, community areas, trails and roadways.

**SECTION 34. Accessory Buildings.** Accessory buildings shall be defined as any buildings detached from the home on the lot, excluding detached garages, and would include Accessory Dwelling Units (ADU's), barns and storage facilities for maintenance equipment or larger vehicles. Accessory buildings are allowed on Lot Types II, III and IV (subject to the provisions of Article V), and shall require approval by the ARC. Accessory buildings are not allowed on Lot Type I. Accessory buildings should be designed to be complimentary to the main home's architecture and utilize similar exterior materials and detailing.

**SECTION 35. Storage Sheds.** Storage Sheds shall be allowed on all Lot Types conditioned upon receiving ARC approval prior to installation / construction. Storage Sheds shall comply with the following requirements:

- |    |                     |  |
|----|---------------------|--|
| a. | Maximum Size-       | 8' x 12' or 100 square feet (Lot Type I)<br>20' x 20' or 400 square feet (Lot Types II-IV)   |
| b. | Structure Type-     | Pre-fabricated or site constructed.  |
| c. | Uses-               | Storing of gardening equipment or other equipment consistent with normal yard maintenance. In no event shall a storage shed be used for the storage of RV's, automobiles, or other vehicles. |
| d. | Maximum Height-     | 8' (Lot Type I)<br>12' (Lot Types II-IV)   |
| e. | Exterior Materials- | Colors to generally match the colors found on the home.  |
| f. | Location-           | Lot Type I- no closer than three (3) feet to any side or rear property line.<br>Lot Types II-IV- no closer than the side and rear setback lines as defined for the particular lot type.      |

Any Storage Shed that is proposed for construction shall require the submittal of a site plan, floor plan, elevations (or photos and spec sheets in the case of a pre-fabricated storage shed), and exterior colors to the ARC for approval.

**SECTION 36. Mammoth Ditch.** Pursuant to that certain Ditch Crossing and Maintenance Agreement (the "Maintenance Agreement") entered into between the Mammoth Ditch Company and

the Declarant on February 20, 2008, the Declarant or its assigns, the Association and its Owners shall be subject to the terms of the Maintenance Agreement. The Maintenance Agreement prohibits any unauthorized encroachments on the Mammoth Ditch and its maintenance easements including, but not limited to: a) diverting water in any amount by any method from any ditches or improvements; b) placing any structure, permanent or temporary, within the bed, banks or easement for the ditch or lateral or which goes over or across the ditch or lateral, including natural objects such as trees, shrubs and boulders or other vegetation; and c) using the ditch or laterals for any reason not approved by Mammoth Ditch Company, including recreational use.

**ARTICLE VIII**  
**HOMEOWNERS ASSOCIATION**

**DECLARANT SHALL NOT BE RESPONSIBLE TO PAY ANY AMOUNT OF ASSESSMENTS OR DUES WHILE CONTROLLING GALLATIN HEIGHTS. DECLARANT SHALL HAVE ALL CONTROL, AS PROVIDED HEREIN, UP UNTIL IT VOLUNTARILY TRANSFERS GALLATIN HEIGHTS TO THE CONTROL OF THE HOMEOWNERS ASSOCIATION OR MORE THAN 90% OF THE TOTAL AMOUNT OF LOTS HAVE BEEN SOLD TO UNRELATED THIRD PARTIES. AT SUCH TIME THE FIRST ANNUAL MEETING SHALL BE HELD IN ACCORDANCE WITH THE PROVISIONS BELOW.**

**SECTION 1.** The Gallatin Heights Community Association is charged with the duties and empowered with the rights set forth herein and By-Laws that may be adopted for governing the Board of Directors.

**SECTION 2.** Every Lot Owner shall be a member of the Association. Membership shall be appurtenant to and may not be separate from the ownership of any lot. Each Owner shall be responsible for advising the Association of its acquisition of ownership, of their mailing address, and of any changes of ownership or mailing address. The address of the Association shall be 10-B Pinebrook Road, Park City, UT 84098. The address of the Association may be changed by the Board of Directors upon notice to the Owners.

**SECTION 3.** The Association, acting through its Board of Directors, shall have the power and authority to take such actions as shall be necessary or reasonable to care for, protect and maintain the easements, parkways, boundary fences, drainage easements, and open space; to enforce these Covenants; to collect assessments; to set annual and/or special meetings; and to act in any other matters set forth herein or which may serve the development, including the formation of special improvement districts, either public or private, for such improvements as the Association shall approve.

The Association shall hold an annual meeting each year at such date, place and time as shall be set by the Board of Directors. At the annual meeting, the members shall review and approve a budget for the next year, shall elect Directors to fill any expired term or vacant position, and shall conduct such other business as shall be reasonable or necessary to carry out the purpose of the



Association. The members shall have the authority to set the number of Directors, which number shall not be less than three or more than seven.

SECTION 4. The Association shall have two classes of membership. Declarant shall be the only Class A member and shall be entitled to cast three (3) votes for each Lot it owns in the election of Trustees and for any other matter that is presented to the Association. All other Owners shall be Class B Members and shall be entitled to cast one vote for each Lot he or she owns in the election of Trustees and for any other matter that is presented to the Association. In the case of a Lot with multiple Owners, the Owners will agree among themselves how the vote applicable to that Lot will be cast, and if no agreement can be reached, no vote will be received from that Lot. Any of the multiple Owners appearing at the meeting in person or by proxy is deemed to be acting with proper authority for all of the other Owners of that Lot unless the other Owners are also present or have filed written objections to that Owner's representation of the other Owners of the Lot in question.

SECTION 5. The annual meeting of the Board of Directors shall be held immediately after the annual meeting of the members. At the annual meeting, the Directors shall elect a President, Vice-President and Secretary-Treasurer for the Association from among the Directors, except that the Secretary-Treasurer may be a member who is not a Director.

SECTION 6. For the purpose of determining membership, at any meeting a person or entity shall be deemed to be a member upon the recording of a duly executed deed to that owner, or upon the recording of a Notice of Purchaser's Interest or an Abstract of Contract for Deed showing a contract purchase by an owner. The legal title retained by the vendor selling under contract shall not be considered a member.

Foreclosure of a mortgage, trust indenture or the termination or foreclosure of a contract for deed wherein title is vested in the mortgage, beneficiary or original seller on a contract, or repossession for any reason of a lot or unit sold under a contract shall terminate the vendee's membership, whereupon all rights to such membership shall vest in the legal owner.

SECTION 7. The Board of Directors shall serve for a term to be set by a simple majority of the membership, which shall not be for less than one year. Each director shall serve until replaced by his or her successor. Any vacancy on the Board of Directors occurring before the next annual meeting of the members shall be filled by the remaining directors.

SECTION 8. The Board of Directors shall have the power and responsibility of acting on behalf of the Association and its members as shall be reasonably necessary to carry out the purposes of the Association and enforce these Covenants. The Directors shall act by majority vote.

SECTION 9. The Board of Directors shall serve as officers which shall be designated by a simple majority of the members at the annual meeting unless and until a majority of the members vote to have officers elected separate and apart from the directors.

SECTION 10. The duties of each of the offices shall be as follows:

- a. **President.** The President shall preside over all meetings of the Association. He or she shall call the membership together whenever necessary. The President shall be the general administrative and executive officer of the Association, and shall perform such duties as may be specified, and exercise such powers as may be delegated to the office of President by the Board of Directors.
- b. **Vice-President.** The Vice-President shall exercise the powers of the President in the absence of the President.
- c. **Secretary.** The Secretary shall give notice of all meetings of the Association, and shall keep a record of the proceedings of the meetings of the Association. The Secretary shall be authorized to sign on behalf of the Association, all records, documents and instruments when such are authorized to be signed by the Association.
- d. **Treasurer.** The Treasurer shall keep and maintain adequate and correct accounts of the accounts, properties, and business of the Association, including accounts of its assets, liabilities, receipts, disbursements, gains and losses of the Association. The Treasurer shall prepare and report such periodic accountings as shall be required by the Association.

The Secretary and the Treasurer may be the same person.

**SECTION 11.** A vacancy in any office of the Association shall be filled by appointment by the Board of Directors until the next annual meeting or the successor is duly appointed or elected.

**SECTION 12.** The annual meeting of the Association shall occur on or before April 30<sup>th</sup> of each year. Any special meetings may be called by the President, or in the absence of the President, by the Vice-President. Special meetings may be called at any time upon the initiative of the Board of Directors. Owners may call a Special meeting when a Petition signed by fifty percent (50%) of the membership interest outstanding and eligible to vote at the time has been presented to any member of the Board of Directors. Notice of annual and special meetings shall be mailed to owners at the address for each owner which is listed as such on the official plats and records at the office of the Assessor's or Clerk and Recorder, Gallatin County, Montana, or at such address as shall be designated, in writing, by any owner. The presence of members, in person or by written proxy, representing 50% of the total votes of the membership shall constitute a quorum.

**SECTION 13.** If proposed action is favored by a majority of the votes cast at a meeting, but such vote is less than the requisite 50% of the members, members who were not present in person or by proxy may give their assent to any action in writing, provided the same is received by the Secretary of the Association not later than thirty (30) days from the date of such meeting wherein the action was voted upon.

**SECTION 14.** The Association shall have the rights, obligation and duties, subject to the Gallatin Heights Covenants, to do and perform each and every one of the following for the benefit of the Owners and for the maintenance and improvement of Gallatin Heights.

- a. The Association shall accept title to all Private Open Space and other land from time to time conveyed to it. The Association may also acquire and accept title to any other property, real, personal or mixed. All maintenance and/or improvement of Parks shall be consistent with and in conformance with the Gallatin Heights Master Park Plan, which outlines the installation of landscaping improvements, trail/bike path improvements and maintenance and upkeep of the parks and trails approved by Gallatin County in conjunction with the Gallatin Heights Subdivision.
- b. All common open space areas identified on the final plat of the Gallatin Heights Subdivision designated as "Parks" shall be available for the enjoyment and use of the residents, guests and public visiting Gallatin Heights. The Parks are dedicated to the public use and shall be dedicated to the County.
- c. The Association shall pay all real property taxes and assessments levied upon the Private Open Space.
- d. The Association shall be responsible for the maintenance of all Parks and Private Open Space within the subdivision in accordance with the Gallatin Heights Master Park Plan. The Association shall contract for the maintenance of the Parks and Private Open Space.
- e. The Association shall maintain all interior roads in the Subdivision, and may contract for the maintenance of the interior roads.
- f. The Association shall be responsible for the maintenance of all ditches within the subdivision per the approved and recorded Ditch Maintenance Agreements.
- g. The Association shall be responsible for the Operation and Maintenance of Stormwater Facilities and Structures pursuant to the Montana Department of Environmental Quality's requirements, herein incorporated into these Covenants as attached Exhibit "D".
- h. The Association shall preserve and maintain the existing barn.
- i. The Association shall administer an open space fire management plan approved by the Central Valley Fire District.
- j. The Association may obtain and maintain in force such insurance policies as the Board may deem appropriate.

- k. The Association shall have all powers set forth in the Gallatin Heights Covenants including, without limitation, the power to levy assessments, to make contracts and to acquire and dispose of property, and shall take such action, whether or not expressly authorized by the Gallatin Heights Covenants as may be necessary to enforce the Gallatin Heights Covenants.
  
- l. The Association shall have the power and authority to enter upon any lot, for the purpose of maintaining and repairing any lot if the Owner fails to maintain and repair the lot as required by the Covenants or for the purpose of removing any improvement constructed, reconstructed, refinished, altered or maintained upon such area in violation of these Covenants. Furthermore, the Association shall not be liable to the lot owner for trespass, damage or otherwise, that occurs while they are enforcing the covenants as provided herein. The Association may maintain and repair any roads, sidewalks, parks, linear trail or public areas in or adjoining Gallatin Heights including landscaping and planting the same and repairing improvements thereon when public authorities, in the opinion of the Board have failed to do so in a manner befitting the standards of the community. The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of Gallatin Heights Covenants, or to enforce by mandatory injunction or otherwise all of the provisions of the Gallatin Heights Covenants.

In fulfilling any of its duties under the Gallatin Heights Covenants, including its duties for the maintenance, repair, operation or administration of the Parks and Open Space, and to the extent necessary by the failure of the Owners of private areas, or in exercising any of its rights to construction improvements of other work upon any Parks, the Association shall have the power and authority:

- 1. To contract and pay for, or otherwise provide for, construction, maintenance and repair of all improvements on such terms and conditions as the Association, shall deem appropriate and to pay and discharge all liens arising out of any work;
  
- 2. To obtain, maintain and pay for such insurance policies or bonds as the Board may deem to be appropriate for the protection or benefit of Gallatin Heights, the Association, the members of the Board, the members of the ARC, or the Owners;
  
- 3. To contract and pay for, or otherwise provide for, such utility services including, but without limitation, water, sewer, trash, electrical, telephone and gas services as may from time to time be required;
  
- 4. To contract and pay for, or otherwise provide for the services of architects, engineers, attorneys and certified public accountants or such other professional or nonprofessional services as the Board may deem necessary;

5. To contract and pay for, or otherwise provide for, fire, police and such other protection services as the Board deems necessary for the benefit of Gallatin Heights, any property located with Gallatin Heights, or the Owners;
  6. To contract and pay for, or otherwise provide for, such materials, supplies, furniture, equipment and labor to the extent the Board deems necessary, and to pay and discharge any and all liens placed upon any Parks on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration.
- m. The Board shall be required to grant and convey to any third parties easements or rights-of way in, on, over or under any Parks or Open Space without payment to the Association when requested by Declarant. The Board shall also have the power and authority to grant and convey to any third parties, on such terms as the Board may approve, parcels or strips of land from any Parks. The Board may not grant or convey land from any Park land or common open space which would jeopardize the land required by the subdivision.
- n. The Board may from time to time employ the services of a manager to manage the affairs of the Association. The Board may delegate to the manager any of its powers under the Gallatin Heights restrictions, provided, however, the Board cannot delegate to such manager the power to execute any contract binding on the Association for a sum in excess of \$1,000.00; nor for the performance of any work or services, which work or services are not to be completed within 60 days; nor the power to sell, convey, mortgage or encumber any property of the Association.
- o. The Board shall have the right to pay, compromise or contest any or all taxes and assessments levied against all or any part of the Parks or common open space, or upon any personal property belonging to the Association.
- p. Enforcement of these covenants by Declarant, ARC, Board, Owner or any party having standing, shall include for the party seeking enforcement and prevailing in such enforcement, an award of costs, fees and reasonable attorney's fees.

**SECTION 15.** The Board from time to time and subject to the provisions of Gallatin Heights Covenants may adopt, amend and repeal rules and regulations to be known as Gallatin Heights Rules governing:

The use of Parks and Open Space, including without limitations the recreational facilities;  
The use of roads;  
The collection and disposal of refuse;  
The burning of open fires;  
The maintenance of animals within Gallatin Heights.

**SECTION 16.** No member of the Board shall be personally liable to any Owner, guest, leasee or to any other persons, including the Declarant, for any error or omission of the Association, its

representatives and employees, ARC or the manager, provided, however, that such member according to the actual knowledge possessed by him, acted in good faith.

**ARTICLE IX**  
**ASSESSMENTS**

**SECTION 1.** Owners of any residential lot or commercial unit by acceptance of a purchase and sale agreement, or deed therefore, whether or not it shall be so expressed in any such deed, or any other conveyance, shall be deemed to covenant and agree to pay to the Association the Owner's proportionate share of assessments established and collected from time to time as hereinafter provided.

**SECTION 2.** The Owner's proportionate share of the assessments and special assessments shall be assessed in the following manner:

- a. Each residential Lot Owner or member will be assessed equally at one share each. Assessments to Owners of residential lots will commence immediately after the transfer of title from the Declarant to the Owner. No assessments will be levied against lots owned by the Declarant which do not have a completed home. The Board shall have the right to determine and refine the specifics and timing of assessments to residential lot owners.
- b. Each commercial unit owner or member will be assessed equally at one share each. Assessments to Owners of commercial lots will commence immediately after the transfer of title from the Declarant to the Owner. In the event that a multi-unit building is constructed on a Commercial Lot, then each individual unit on the Commercial Lot shall be assessed one share at the time of legal transfer of that unit. The Board shall have the right to change the number of shares at which each commercial unit owner is assessed, and shall have the right to determine and refine the specifics and timing of assessments to commercial unit owners.

**SECTION 3.** At least 30 days prior to the commencement of each fiscal year, the Board shall fix the amount of the assessment for such fiscal year and shall, at that time, prepare a roster of the lots and assessments applicable thereto. Written notice of the assessment shall be sent to every Owner subject thereto.

**SECTION 4.** The assessments levied by the Board on behalf of the Association shall be used exclusively for the purpose of financing the Association functions and duties. Assessments shall include, but not be limited to, maintenance of fences, trails, linear park, weed control and other improvements. The Association is responsible for the weed control, mowing, care and maintenance of the common areas, park land, detention facilities, including the trail system consistent with the Open Space Management plan. The Association shall contract once a year with a professional landscaping company to perform such maintenance. The Association may use the provision of these Covenants for collecting funds to pay for such maintenance.

**SECTION 5.** If at any time and from time to time during any fiscal year, the assessment proves inadequate for any reason, including nonpayment of any Owner's share thereof, the Board may levy a further assessment in the amount of such actual or estimated inadequacy which shall be assessed to the Owners in the manner set forth herein.

**SECTION 6.** In addition to the assessment 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 upon the Parks and Open Space, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of fifty one percent (51%) of the votes of each class of members who vote in person or by proxy at a meeting duly called for this purpose.

**SECTION 7.** The Board shall also levy an assessment against any Owner, as a direct result of whose acts or failure or refusal to act or otherwise to comply with the Gallatin Heights Covenants for monies expended by the Association in performing its functions under Gallatin Heights Covenants and By-Laws. Such assessment shall be in the amount so expended and shall be due and payable to the Association when levied. Monies so expended shall include, without limitation, reasonable engineers', architects', attorneys' and accountants' fees incurred by the Association.

**SECTION 8.** Each assessment shall be a separate, distinct and personal debt and obligation of the Owner against who it is assessed, and each Owner by acceptance of a purchase and sale agreement, deed or lease, shall be deemed to covenant and agree to pay the same to the Association. If the Owner does not pay such assessment or any installment thereof when due, the Owner shall be deemed in default and the amount of the assessment not paid, together with the amount of any subsequent default, plus interest at twelve percent (12%) per annum and costs, including reasonable attorney's fees, shall be and become a lien upon the lot of such Owner upon recordation by the Association of a notice of default. The Association assessment lien may be foreclosed through suit by the Association in like manner as a mortgage of real property, and the Association shall have power to bid on the lot at foreclosure sale and to acquire and hold, lease, mortgage or convey the lot. A suit to recover a money judgment of unpaid assessments shall be maintainable without foreclosing or waiving the lien securing the same. The foregoing remedies shall be in addition to any other remedies provided by law for the enforcement of such assessment obligation.

**SECTION 9.** The Parks as defined herein and such portions of Gallatin Heights as may be conveyed or dedicated to and accepted by a municipality, public utility, State of Montana, the County of Gallatin shall be exempt from assessments.

**SECTION 10.** When requested by an Owner, the Association shall execute a certificate stating the indebtedness secured by the Association lien upon the lot of the Owner, and such certificate shall be conclusive upon the Association and the Owners in favor of such persons who rely therein in good faith as to the amount of such indebtedness as of the date of the certificate. The Association shall be entitled to a reasonable fee as a condition to issuing the certificates.

**ARTICLE X**  
**MISCELLANEOUS PROVISIONS**

**SECTION 1.** The provisions of these Covenants shall be binding for a term of ten (10) years from the date these Covenants were originally created and may be modified, altered or amended during that term only by the Declarant at the Declarant's sole option with no approval by the Association necessary. After that initial ten (10) year term, the Covenants shall be automatically extended for successive periods of ten (10) years not to exceed three (3) such extensions unless an instrument agreeing to amend, revoke or terminate the term, has been signed by the Owners of seventy-five percent (75%) of the lots in Gallatin Heights. Any covenant required by Gallatin County as a condition of subdivision approval shall not be altered or amended without the agreement of the governing body (city, county, or state agency). This Amended Declaration of Covenants, Conditions, and Restrictions for the Gallatin Heights Subdivision shall apply to all Phases located in Gallatin Heights and shall replace and supersede Gallatin County Clerk and Recorder Document Number 2316618, dated November 20, 2008, filed December 5, 2008.

In addition to the rights reserved to the Declarant to modify or supplement the Gallatin Heights Covenants with respect to Gallatin Heights, the Gallatin Heights Covenants, may, at any time, be amended or replaced upon the happening of all the following events:

- a. The vote of Owners having not less than three-quarters (3/4) of the total votes of each Class of Owners (Class A and Class B) of lots then within Gallatin Heights Covenants at a meeting of the Association duly held. The notice of the meeting shall state that the purpose of the meeting is to consider the amendment or repeal of the Gallatin Heights Covenants, giving the substance of any proposed amendments or indicating the provisions to be repealed, as the case may be; and
- b. The recordation of a certificate of the Secretary or an Assistant Secretary of the Association setting forth in full the amendment or amendments to the Gallatin Heights so approved, including any portion or portions thereof repealed, and certifying that said amendment or amendments have been approved by vote of the Owners pursuant these covenants.
- c. After the initial ten (10) year term for these Covenants, or after 75% of the lots in Gallatin Heights have been sold, whichever first occurs, the provisions of these Covenants may be changed or amended or additional Covenants added, in whole or in part, upon approval of seventy-five percent (75%) of the votes of the Association at a meeting duly noticed and called for that purpose; provided that, the dedications or easements for roads, utilities and common areas shall not be changed without the unanimous consent of all of the owners affected by the change. Any covenant required as a condition of subdivision approval shall not be altered or amended without the agreement of the governing body (city, county, or state agency).

Any change of these Covenants shall be effective upon the filing and recording of such an instrument in the office of the Gallatin County Clerk and Recorder. Any



change in these Covenants shall not affect existing structures and uses of the lots.

SECTION 2. All the limitations, conditions, and restrictions contained in these covenants of Gallatin Heights shall run with the land and shall be binding on all parties and persons claiming under them for a ten (10) year period beginning at the date of filing of this document, at which time the same shall be automatically extended for successive periods of ten (10) years (as described in Section 1, above), unless the record Owners of lots then within Gallatin Heights having not less than three-fourths (3/4) of the total votes record an instrument terminating the Gallatin Heights Covenants within one (1) year prior to the commencement of any such period. Any such termination shall take effect upon expiration of the period during which it is given. Prior to the expiration to these Covenants, the Association may vote, pursuant to the provisions allowing amendment hereto, to extend these covenants.

SECTION 3. In addition to the remedy provided herein, if the Owner of any lot in Gallatin Heights or any part thereof or interest therein violates any provisions hereof, Declarant, the Association or the Owner of any lot or part thereof or interest therein may bring an appropriate civil action against the defaulting party in such proceedings or action; provided however, that Declarant or the Association shall have no duty under any circumstances to enforce compliance with Gallatin Heights Covenants.

Failure by Declarant, the Association, or any property Owner, or Owners or their representatives, heirs, successors, or assigns to enforce any of the limitations, covenants, restrictions, reservations, easements, or charges herein contained shall, in no event be deemed a waiver of the right to do so thereafter, provided, however, any structure which has been completed for a period of ONE year without any suit having been commenced concerning such structure, shall not thereafter be subject to suit of initial noncompliance with the requirements of the building design portion of these Covenants. Failure to enforce any provision of these Covenants in no way waives or diminishes the enforceability of the Covenants at a future date.

SECTION 4. All the limitations, covenants, conditions of and restrictions of Gallatin Heights Covenants shall be liberally construed together to promote and effectuate, the fundamental concepts of Gallatin Heights. Any covenant that is included herein as a condition of the preliminary plat approval and required by the governing body may not be amended or revoked without the mutual consent of the Owners in accordance with the amendment procedures in these covenants and the express written consent of Gallatin County.

SECTION 5. In the event any limitation, covenant, restriction, or reservation of Gallatin Heights Covenants is held to be invalid or unenforceable in whole or in part, by any order, judgment or decree of any court, then such decision shall in no way affect the validity of the other limitations, covenants, restrictions or reservations therein contained, and they shall remain in full force and effect.

SECTION 6. Enforcement of these covenants by Declarant, ARC, Board, Owner or any party having standing, shall include for the party seeking enforcement and prevailing in such enforcement, an award of costs, fees and reasonable attorney's fees.

SECTION 7. The Association shall accept as private open space all land conveyed to it by the Declarant ("Open Space").

SECTION 8. At any time and from time to time following conveyance of Open Space by the Declarant to the Association, the Declarant may construct, reconstruct, refinish or alter any improvement upon or make or create any excavation on or fill upon or change the natural or existing drainage of or remove or plant any trees; shrubs or ground cover upon such Open Space if the Declarant shall determine that any such work is reasonably necessary for any utility installation serving any property within Gallatin Heights, is reasonably necessary for the construction of any facility for use by the Owners, is desirable in order to provide or improve access to or to enhance the use and enjoyment of such Open Space or is desirable to protect, support or preserve any land which constitutes a part of Gallatin Heights.

SECTION 9. Any and all of the rights and powers vested in the Declarant pursuant to the Gallatin Heights Covenants may be delegated, transferred, assigned, conveyed or released by the Declarant to the Association and the Association shall accept the same effective upon the recording by the Declarant of a notice of such delegation, transfer, assignment, conveyance or release.

SECTION 10. If at any time all or any portion of the Open Space is taken by the right of eminent domain or by purchase in lieu of eminent domain, the entire award and compensation shall be paid the Association and placed in the general assessment fund. No Owner shall be entitled to any portion of such award and no Owner shall be entitled to participate as a party or otherwise in any proceedings relating to such condemnation, such right to participation being herein reserved exclusively to the Association which shall in its name alone represent the interest of all Owners.

SECTION 11. No Owner through the Owner's non-use of any Open Space, or by abandonment of Owner's Lot, may avoid the burdens or obligation imposed on Owner by these Covenants, the Board's By-laws and Gallatin Heights Subdivision.

**SECTION 12. LOT OWNERS AND TENANTS OF THE SUBDIVISION ARE INFORMED THAT ADJACENT USES MAY BE AGRICULTURAL. LOT OWNERS ACCEPT AND ARE AWARE THAT STANDARD AGRICULTURAL AND FARMING PRACTICES CAN RESULT IN DUST, ANIMAL ODORS, FLIES, SMOKE AND MACHINERY NOISE. STANDARD AGRICULTURAL PRACTICES FEATURE THE USE OF HEAVY EQUIPMENT, CHEMICAL SPRAYS AND THE USE OF MACHINERY EARLY IN THE MORNING AND SOMETIMES LATE INTO THE EVENING.**

SECTION 13. Any notice or other document permitted or required by the Gallatin Heights Covenants may be delivered either personally or by mail. If delivery is to be made by mail, it shall be deemed to have been delivered to the Association forty-eight (48) hours after having been deposited in the United States mail, postage prepaid, addressed to Gallatin Heights at the address designated by the Association from time to time, and shall be deemed to have been delivered to the ARC forty-eight (48) after having been deposited in the same manner addressed to the ARC in care of Gallatin Heights at the latter's then current address.

Delivery by mail shall be deemed complete to an Owner forty-eight (48) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the Owner at his address filed with the Association or the Declarant. Where there is more than one Owner of a lot, the delivery personally or by mail to any one Owner of the lot shall be effective delivery to all Owners of such lot.

IN WITNESS WHEREOF, Declarant has hereunto set its hand as of this 21<sup>st</sup> day of MARCH, 2018.

[Signature]  
GALLATIN HEIGHTS, LLC  
By: Michael D. Stewart  
Its: Manager

STATE OF Utah )

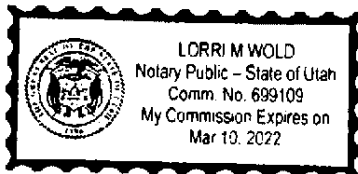
:ss.

County of Summit )

On this 21<sup>st</sup> day of March, 2018, before me, the undersigned, a Notary Public of the State of Utah, personally appeared Michael D. Stewart known to me to be the person that executed the within instrument and acknowledged to me he executed the same. \*\* Manager of GallatinHeights, LLC

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

[Signature]  
NOTARY PUBLIC for the State of Utah  
Printed Name: LORRI WOLD  
Residing At: Park City UT  
My Commission Expires: 3/10/2022



**EXHIBITS**

EXHIBIT A - GALLATIN HEIGHTS PHASE 1

EXHIBIT B - GALLATIN HEIGHTS PHASES 2 – 5

EXHIBIT C- LOT TYPE EXHIBIT

EXHIBIT D – OPERATION AND MAINTENANCE PLAN FOR STORMWATER

ARCHITECTURAL REVIEW COMMITTEE FORM A APPLICATION- SKETCH DESIGN

ARCHITECTURAL REVIEW COMMITTEE FORM B APPLICATION- CONST. DESIGN

ARCHITECTURAL REVIEW COMMITTEE FORM C APPLICATION- CHANGES



EXHIBIT B - GALLATIN HEIGHTS PHASES 2 - 5

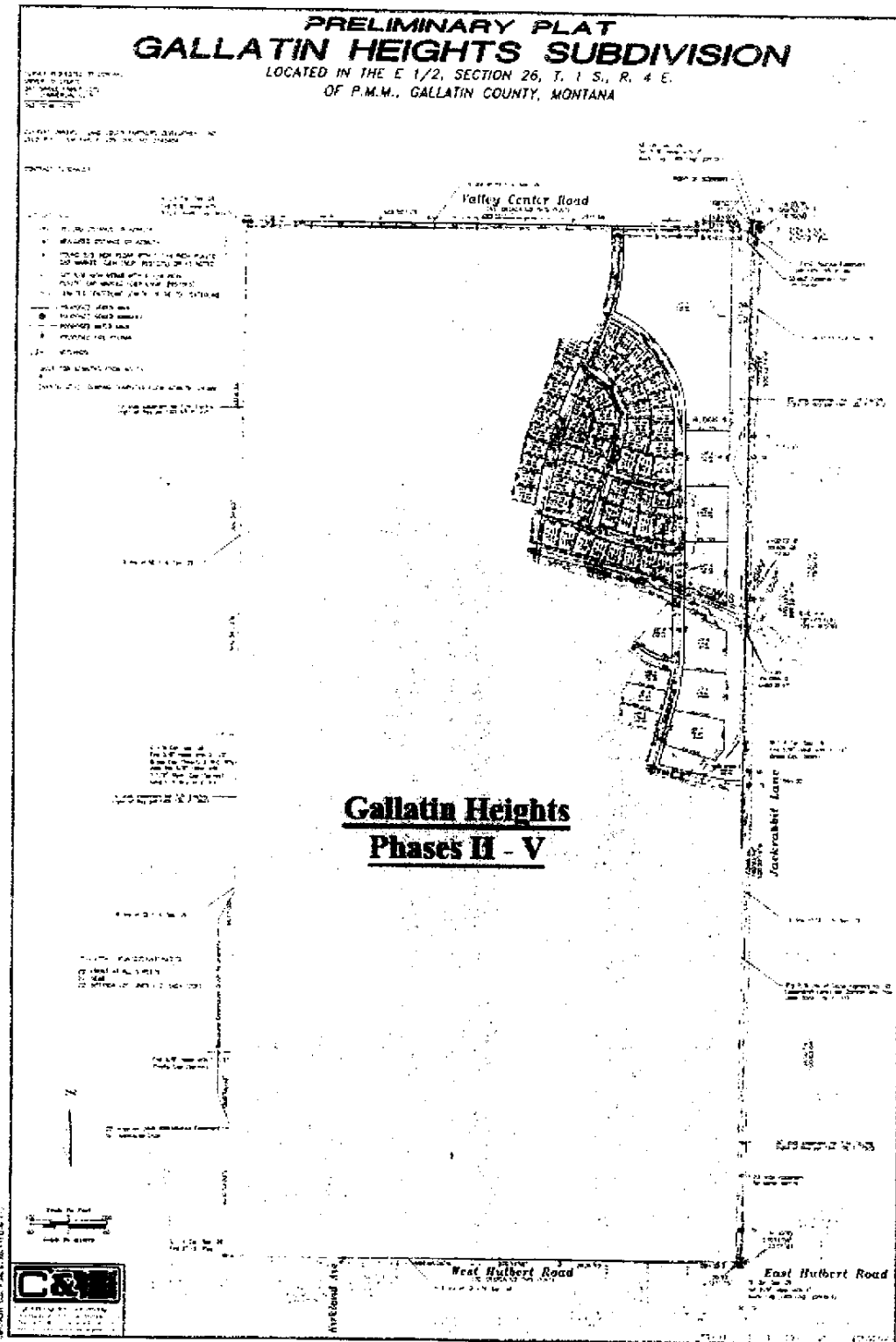
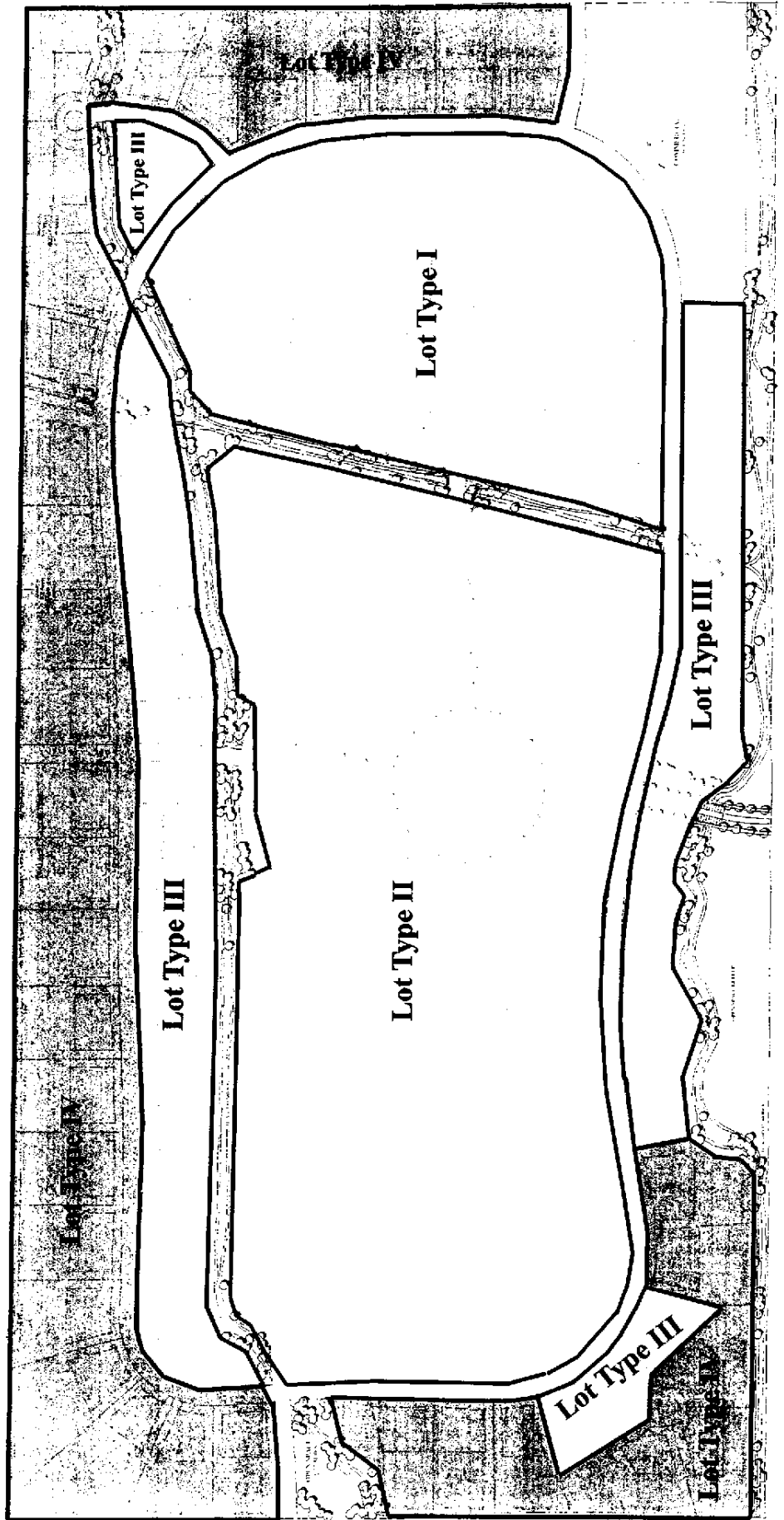


EXHIBIT C - LOT TYPES



**EXHIBIT D**  
**GALLATIN HEIGHTS SUBDIVISION**  
**OPERATION AND MAINTENANCE PLAN FOR**  
**STORMWATER STRUCTURES**

Inspection and maintenance of storm water structures shall be the responsibility of the Gallatin Heights Community Association and its Board of Directors.

Storm water structures for Gallatin Heights Subdivision include: Curb and gutter, valley gutters, storm drain inlets, storm drain manholes, storm drain piping, swales, detention basins, retention basins and outlet control structures.

Inspection and maintenance responsibilities for storm water structures are outlined as follows:

**Post Construction Inspection/Maintenance:**

1. Check drainage routes for blockages and sources of sediment. Remove all blockages and implement best management practices to reduce sediment transport.
2. Observe retention and detention basins during and after a storm event to confirm that the basins are draining properly.
3. Factors responsible for clogging should be repaired immediately.

**Semi-Annual Inspection:**

1. Check basins following three days of dry weather. Failure for water to percolate within this time period indicates clogging.
2. Inspect structures (storm inlets, storm manholes, outlet control structures and storm sewer pipes) for sediment build-up and structural damage.
3. Remove grass clippings, litter, and debris.

**Standard Maintenance:**

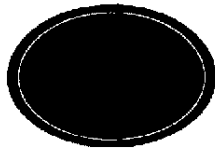
1. Remove sediment and oil/grease from inlets, manholes and outlet structures.
2. Inspect and remove debris at inflow and outflow areas.
3. Maintain access to the catch basin for regular maintenance activities.
4. Control mosquitoes as necessary.
5. Monitor health of vegetation (if any) and replace as necessary.
6. Inspect for the following issues: differential accumulation of sediment, signs of wetness or damage to structures, cracking or other deterioration of the concrete catch basin, condition of drainage gravel, drain time, signs of petroleum hydrocarbon contamination (odors), standing water, trash and debris.



**Sediment accumulation:**

In most cases, sediment from an infiltration basin does not contain toxins at levels posing a hazardous concern. However, sediments should be tested for toxicants in compliance with current disposal requirements and if land uses in the drainage area include commercial or industrial zones, or if visual or olfactory indications of pollution are noticed. Sediments containing high levels of pollutants should be disposed of properly and potential sources of contamination should be investigated and contamination practices terminated.

ARCHITECTURAL  
REVIEW  
COMMITTEE



**FORM A**  
SKETCH DESIGN  
REVIEW APPLICATION

**GALLATIN HEIGHTS**

PHASE \_\_\_\_\_ LOT \_\_\_\_\_

OWNER \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_ FAX \_\_\_\_\_

EMAIL \_\_\_\_\_

BUILDER \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_ FAX \_\_\_\_\_

EMAIL \_\_\_\_\_

ARCHITECT/DRAFTSMAN \_\_\_\_\_

FIRM \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_ FAX \_\_\_\_\_

EMAIL \_\_\_\_\_

LANDSCAPE ARCHITECT \_\_\_\_\_

FIRM \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_ FAX \_\_\_\_\_

EMAIL \_\_\_\_\_

Are you requesting any variances from Gallatin Heights architectural review guidelines? \_\_\_\_\_

If yes, please explain the variance(s), the reason for the request and attach any drawings or documentation that better help describe the variance(s).

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Submittal Requirements for the Gallatin Heights Sketch Design Review

Two (2) sets of the following documents:

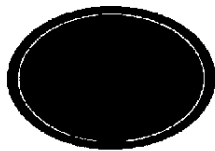
- Site Plan
- Floor Plans
- Exterior Elevations
- Conceptual Landscape Plan

Submitted by \_\_\_\_\_ Date \_\_\_\_\_

Signature \_\_\_\_\_

Fee Paid \_\_\_\_\_ Check # \_\_\_\_\_

ARCHITECTURAL  
REVIEW  
COMMITTEE



**FORM B**  
CONSTRUCTION DESIGN  
REVIEW APPLICATION

**GALLATIN HEIGHTS**

PHASE \_\_\_\_\_ LOT \_\_\_\_\_

OWNER \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_ FAX \_\_\_\_\_

EMAIL \_\_\_\_\_

BUILDER \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_ FAX \_\_\_\_\_

EMAIL \_\_\_\_\_

ARCHITECT/DRAFTSMAN \_\_\_\_\_

FIRM \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_ FAX \_\_\_\_\_

EMAIL \_\_\_\_\_

LANDSCAPE ARCHITECT \_\_\_\_\_

FIRM \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_ FAX \_\_\_\_\_

EMAIL \_\_\_\_\_

Submittal Requirements for the Gallatin Heights Construction Design Review

Two (2) sets of the following documents:

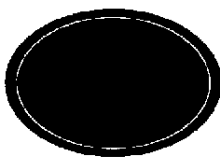
- Site Plan
- Exterior Elevations
- Final Landscape Plan
- Construction Documents as provided to the County including:
  - Floor Plan
  - Exterior Elevation
  - Foundation Plan
  - Structural Plans
  - Details

Submitted by \_\_\_\_\_ Date \_\_\_\_\_

Signature \_\_\_\_\_

Fee Paid \_\_\_\_\_ Check # \_\_\_\_\_

ARCHITECTURAL  
REVIEW  
COMMITTEE



**FORM C**  
APPLICATION FOR  
CHANGE(S)

**GALLATIN HEIGHTS**

PHASE \_\_\_\_\_ LOT \_\_\_\_\_

OWNER \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_ FAX \_\_\_\_\_

EMAIL \_\_\_\_\_

BUILDER \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_ FAX \_\_\_\_\_

EMAIL \_\_\_\_\_

ARCHITECT/DRAFTSMAN \_\_\_\_\_

FIRM \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_ FAX \_\_\_\_\_

EMAIL \_\_\_\_\_

Change Description: (please attach a sketch of the proposed change(s).

\_\_\_\_\_  
\_\_\_\_\_

Submitted by \_\_\_\_\_ Date \_\_\_\_\_

Signature \_\_\_\_\_

Fee Paid \_\_\_\_\_ Check # \_\_\_\_\_