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Secretary, Board of Directors
Avalon Villas Homeowners' Association
PO Box 141
Emigrant, MT 59027

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Denise Nelson, Clk & Rcdr By JB Return To:
AVALON VILLAS HOMEOWNERS' ASSOCIATION PO BOX 141
EMIGRANT, MT 59027

THIRD AMENDED
DECLARATION OF UNIT OWNERSHIP FOR
AVALON VILLAS HOMEOWNERS' ASSOCIATION
(originally referred to as "Avalon Villas")

AVALON VILLAS HOMEOWNERS' ASSOCIATION does hereby make and submit for filing the following Third Amended Declaration of Unit Ownership ("Declaration")

1. DEFINITIONS

In the interpretation of this Declaration, the following definitions shall apply:

- (a) "Association" means the Avalon Villas Homeowners' Association ("Association"), being all the Townhouse unit owners acting as a group in accordance with this Declaration and duly adopted By-Laws.
- (b) "Building" means a four unit building, which consists of a single four-plex, in the Avalon Villas Townhouse project which consists of four four-plexes of the Avalon Villas property. Each four-plex will consist of four units.
- (c) "Capital expenses" means the expense of constructing improvements to common elements.
- (d) "Common elements" means the general common elements and the limited common elements.
- (e) "General common elements" means the general common elements specifically described in paragraph 6 below, and all other elements of the Avalon Villas Townhouse project necessary or convenient to its existence, maintenance and safety or normally common use. Any portion not identified as unit or a limited common element shall be a general common element.
- (f) "Limited common elements" means those common elements designated in this Declaration (paragraph 6 a and b), or by agreement of the unit owners as reserved for the use of fewer than all of the unit owners.
- (g) Townhouse "Unit" is defined in paragraph 4 of this Declaration.
- (h) "Unit owners or owner" means the person, partnership or corporation owning a townhouse unit. A lessee of the unit shall not be considered a unit owner.
- (i) "Majority of the unit owners" means the owners of a majority of the units.

2. SUBMISSION TO UNIT OWNERSHIP

The real property known as the "Avalon Villas Townhouses", is located in Park County, Montana, and located in the following described real property:

Tract 5A of the Amended Subdivision Plat No. 409, located in the NE1/4 of Section 33, Township 5 South, Range 8 East, P.M.M., Park County, Montana, according to the official plat thereof on file and of record in the Clerk and Recorder's office, Park County, Montana. (Document Number 304184, or Deed Reference: Roll , Page).

The provisions of this Declaration, Second Amended Covenants and Restrictions, and Fourth Amended By-Laws for the Association, and adopted Rules and Regulations of Avalon Villas Homeowners' Association shall be covenants running with the land and shall be binding on all owners, their tenants and invitees.

3. DESCRIPTION OF PROJECT

The Townhouse project will consist of up to 4 buildings, with 4 Townhouse units in each building. The buildings will be wood frame construction with masonite siding, concrete foundation, and asphalt shingle roof. Interior walls are of sheetrock. There is one primary floor plan. That floor plan is shown on attached Exhibit "A", and by this reference is included herein. Each unit shown on the attached plans is a two story residence. The approximate square footage of each unit is indicated on Exhibit "A". The location of the buildings and the common elements upon the real property are shown on Exhibit "B".

4. DESCRIPTION OF UNIT

Each Townhouse unit consists of the area bounded by the exterior surfaces of the walls of the building, the center of the common wall between the homes, the soil under the concrete floor and the exterior of the roof. The land beneath each unit and the half of the double driveway which serves that unit shall be a part of the unit. Utility lines and pipes which serve only one unit shall be a part of a unit from the interior of the unit to the point where they are metered or, in the case of unmetered lines or pipes, where they join lines or pipes serving other units.

5. UNIT OWNERSHIP

Each Townhouse unit, an appurtenant undivided interest in the common elements, the use of limited common elements reserved for that unit and the assessment account for that unit shall together comprise one unit, shall be inseparable, and may be conveyed, devised or encumbered only as a unit. Any conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an individual unit owner's interest in the common elements shall be void unless the unit to which that interest is attached is also included in the transfer.

Each Townhouse unit owner in the project shall be a fee simple owner of such unit and of an undivided interest in the common elements, subject to the provisions of this Declaration, Second Amended Covenants and Restrictions, and the Fourth Amended By-Laws of the Association. The undivided interest in the common elements for each unit shall equal 1/16.

6. COMMON ELEMENTS

The general common elements include the land described in paragraph 2 above, except that upon which the buildings and driveways are located, utility lines and pipes and storm drains, if any, serving all units, utility service lines or pipes serving the common areas only, fences along the perimeter of the project, and all other elements of the project which serve all units, all subject to each unit owner's right to exclusive use of the limited common elements. The limited common elements are as follows:

- (a) All walkways, utility lines and pipes, entry porches and adjacent courtyard areas, original patio's and their adjacent yard areas, and decks which serve, abut and are used in connection with only one unit, are reserved for the exclusive use of the owner of that unit.

- (b) Underground sprinkler systems, utility lines and pipes, and driveways, which serve more than one unit but not all units, shall be reserved for the exclusive use of the units served.

7. USE OF UNITS AND COMMON ELEMENTS

The use for which each unit is intended is that of a residential dwelling. Use of units and common elements are subject to the following restrictions:

- (a) Protective Covenants of record.
- (b) No unit owner shall lease a unit for an initial term of less than three (3) days. The maximum number of individuals occupying a rental unit shall be six (6). Any lease or rental agreement shall be in writing and shall subject the Tenant to the provisions of this Third Amended Declaration, the Fourth Amended By-laws, and the Second Amended Covenants and Restrictions of the Avalon Villas Homeowners' Association, recorded with Park County Clerk and Recorder's Office, Livingston, Park County, Montana, and all Rules and Regulations adopted by the Association.
- (c) No nuisances shall be allowed on the property nor shall any use or practice be allowed which is a source of continuing annoyance to the unit owners or which interferes with the peaceful possession or proper use of the property. The Board of Directors for the Association shall be the final authority on what constitutes a nuisance or source of continuing annoyance.
- (d) Except as provided in subsection (e) below, no unit owner or occupant shall erect or place any improvement, including fences, walls, patios, decks and plants, on the limited or general common areas, nor make any additions or alterations to any common areas or to the exterior of any unit, unless approved in writing, in advance, by the Association's Board of Directors. The request must be in writing, spelling out the details of the proposed addition or change, i.e., dimensions, location, materials, color and any other pertinent information. Drawings and plans may be required by the Association's Board of Directors.
- (e) Owners may install a small satellite dish, not exceeding 1 meter in diameter, in their yard at the back or side of their townhome, or on the exterior surface of their townhome, without prior approval of the Association's Board of Directors.
- (f) No vehicles, trailers (RV, horse, boat, utility), motor-homes, etc., or personal property shall be left unattended in the common areas.
- (g) Hot tubs shall be permitted on patios and decks, only if they do not disturb neighbors. The board shall notify any owner, in writing, of complaints about the owner's hot tub received by the Association's Board from any neighboring unit owner. After sending 3 such notices within any 12 month period, the Board shall have the authority to require the owner to remove the hot tub.
- (h) Unit owners shall promptly perform all maintenance and repair work within their own units which, if omitted, would affect any common element, and each unit owner shall be responsible for all damages and liabilities created by such failure to maintain or repair.
- (i) All garbage and trash must be placed in the proper receptacles designated for refuse and no garbage or trash shall be placed elsewhere on any common element or outside any building: trash containers must be kept inside the garage.
- (j) Residents and their guests shall exercise care about making noise which may disturb other residents. No unit owner shall operate or permit to be operated any sound producing device in a unit or on common areas between the hours of 10:00 p.m. and the following 7:00 a.m. if such operation shall disturb or annoy other residents or unit owners. Noise made by construction workers between the hours of 7:00 a.m. and 10:00 p.m. shall not be a violation of this restriction.

- (k) Unit owners shall not park vehicles in such a manner as to block sidewalks or driveways, or the emergency vehicle turn-around, nor shall they permit any member of their family, guests or tenants to do so.
- (l) No unit owner shall perform any act or store anything within or upon a unit which might increase the probability of fire as a result of such act or the storage of such items.
- (m) No improper, offensive or unlawful use shall be made of any unit, the common areas, or any part thereof.
- (n) No wild animals, livestock or poultry may be kept or raised in any unit or on the common elements.
- (o) Owners shall not transport water away from the Avalon Villas project.

8. MAINTENANCE, TAXES AND INSURANCE OF UNITS AND COMMON ELEMENTS

- (a) Every unit owner shall be responsible for all maintenance of and repairs to the interior of his unit, except for repairs covered by insurance purchased by the Association, and for routine maintenance of limited common elements used exclusively by him. Each owner shall be responsible for all damages to the other units or to the common elements resulting from his failure to effect such maintenance and repair. Each unit owner shall be responsible for paying all taxes and assessments on his unit and for the payment for all utility lines and pipes serving a single unit, shall be maintained, replaced and kept in repair by the unit owner, except in the event of damage covered by insurance purchased by the Association.
- (b) Each unit owner shall be responsible for obtaining and keeping current fire/hazard insurance for their unit, and insurance for their personal property, along with liability insurance to the extent deemed necessary by the owner and their insurer. If a unit owner rents, or leases their unit, they shall provide proper insurance coverage for those exposures. Each owner shall provide to the Secretary of the Association their most current insurance Declarations Page or equivalent proof of insurance upon renewal of their individual policy. The Association will provide liability insurance for common elements and exposures as well as Directors and Officers liability insurance for the Board of Directors as needed.
- (c) The Association shall be responsible for any maintenance, repair and replacement of any general and limited common elements, except as otherwise provided in paragraphs 8 (a) and (b) above. It shall also maintain and repair the exterior surfaces of all buildings, except for the replacement of glass. The Association may employ personnel necessary for the maintenance, upkeep and repair of the common elements as are deemed necessary. The Association shall use a reasonably high standard of care in providing such maintenance, management and repair, so that the properties will reflect a high pride of ownership.

9. COMMON EXPENSES

All the following Association expenses shall be charged to the unit owners as a common expense, according to each unit owner's percentage of undivided interest in the common elements:

- (a) Administrative expenses of the Association;
- (b) Except as otherwise provided in paragraph 8(a), (b) & (c) above, and the Fourth Amended Bylaws of the Association, the cost of maintenance, repair and replacement of general and limited common elements including road grading and snow removal, the cost of maintenance and repair of the exterior surfaces of all buildings, except for replacement of glass and the cost of maintaining the adjoining right of way along Avalon Court;
- (c) The cost of keeping common water and sewer lines and secondary service lines in good repair and condition;

- (d) All utility bills for common areas and all bills for water to the units and common area, if applicable;
- (e) Casualty, liability and fidelity insurance premiums for the common elements, as provided in Section 8(a), (b), and for the Association Board of Directors, as provided in Section 8(b);
- (f) The cost of capital improvements, if such capital improvements are made with the express written consent of 75% of the unit owners.

Expenses for maintenance or repairs due to the misuse or neglect of a unit owner shall be payable by such unit owner.

10. MEMBERSHIP IN THE ASSOCIATION

Each unit owner shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a unit. Each unit will have only one vote (see paragraph entitled Voting Interest of the Fourth Amended Bylaws of the Association). The vote for such Unit shall be exercised as the owners determine, but in no event shall more than one vote be cast with respect to any Unit.

11. COVENANT TO PAY MAINTENANCE ASSESSMENTS

Assessments shall be made by the Association for all common expenses set forth in Section 9 above. The obligation to pay assessments for a unit shall begin upon first conveyance or occupancy of the Townhouse unit. Each unit owner will pay to the Association all periodic and special assessments made by the Association for common expenses and to the unit owner(s) waives any right said owner may have, under the laws of the United States or the State of Montana, to claim a homestead exemption for said assessments.

12. REMEDIES FOR NON-PAYMENT OF ASSESSMENTS.

All sums assessed by the Association but unpaid for the share of common expenses chargeable to any unit, together with interest, collection costs, costs of suit and reasonable attorney fees, shall constitute a lien on such unit, and if filed of record, may be foreclosed in the same manner as a construction lien. Each assessment, together with interest, collection costs or costs of suit, and reasonable attorney fees, shall also be the personal obligation of the owner of the unit against which the assessment was made at the time the assessment fell due and a suit to recover a money judgment for unpaid assessments shall be maintainable by the Association against said owner without foreclosing or waiving the lien securing the same. The Association may shut off the water to any unit of any owner who fails to pay an assessment within 15 days after the due date, and may continue to withhold water to the Unit until such time as all assessments together with any accrued interest, are brought current. However, the Association shall not shut off the water to any unit unless, at least 10 days prior to shutting off the water, it notifies the unit owner of its intent to shut off the water, by letter sent certified mail addressed to the most recent address provided by the unit owner to the Association. All costs of collection of delinquent assessments, including but not limited to, court costs, costs of filing liens, and attorney fees, shall be the obligation of the non-paying unit owner, shall be deemed a common expense chargeable only to the non-paying unit owner, and may be added to the next regular assessment for that unit.

13. PROCESS

Agent for service of process upon the Association is Michelle Becker, Broker/Owner of Maverick Realty, 515 W. Park Street, Livingston, MT 59047.

14. EASEMENTS

There shall exist for the benefit of each unit and the Association and as a burden on the other units the following easements:

- (a) Easement through the general and limited common elements for ingress and egress for all persons making use of such common elements in accordance with the terms of this Declaration. Each unit owner shall have an unrestricted

right of ingress and egress across the common elements to his or her unit.

- (b) Easements through the units and common elements for maintenance, repair and replacement of the units and common elements. Use of these easements, however, for access to the interior of homes shall be limited to reasonable hours, except that access may be had at any time in case of emergency.
- (c) Easements through the units and common elements for the furnishing of utility services to the units and common elements, which facilities shall include but not be limited to conduits, ducts, plumbing and wiring.
- (d) Easements for encroachments (and maintenance thereof) of any portion of the general common elements or limited common elements upon a unit or units so long as they stand, and easements for encroachments (and maintenance thereof) of any portion of a unit upon the general common elements, limited common elements, and upon an adjoining unit or units, so long as they stand.
- (e) Every portion of a unit which contributes to the structural support of a building shall be burdened with an easement of structural support for the benefit of the common elements.

Such encroachments and easements shall not be considered or determined to be encumbrances either on the general common elements, the limited common elements, or on the units for purposes of marketability of title.

15. GRANT OF EASEMENTS FOR SERVICES

The undersigned, on behalf of the Association, hereby grants an easement over and across the common areas for mail service, fire service, police protection, other emergency vehicles and other publicly-owned vehicles being used for official federal, state, or local governmental purposes.

16. UNITS SUBJECT TO DECLARATION, BY-LAWS, RESTRICTIVE COVENANTS, AND RULES AND REGULATIONS

All present and future owners of units shall be subject to, and shall comply with the provisions of this Declaration, Fourth Amended By-Laws, Second Amended Covenants and Restrictions, and Rules and Regulations adopted by the Avalon Villas Homeowners' Association, as these instruments may be amended from time to time. The execution of a contract for deed by a unit owner or the acceptance of a deed thereto shall constitute acceptance of the provisions of these instruments by such owner. All owners shall be responsible for insuring compliance by their tenants, family members, other occupants of their unit and their guests. The provisions of this Declaration and the Fourth Amended By-Laws, and Second Amended Covenants and Restrictions, and Rules and Regulations adopted by the Association shall be covenants running with the land and shall bind any person having an interest in such unit, including owners and lenders, as though the provisions were recited and fully stipulated in each deed, mortgage or trust indenture. The invalidity of any provision of this Declaration shall not affect in any manner the validity or enforceability of the remainder of the Declaration. No provision in this Declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations which may occur.

17. RIGHTS OF ACTION

The Association and any aggrieved unit owner shall have the right to maintain an action for specific performance, for damages and/or for equitable relief, against any unit owner or the Association for failure to comply with the provisions of this Declaration, the Fourth Amended By-Laws, and/or the Second Amended Covenants and Restrictions of the Association, or any Rules and Regulations adopted by the Association. The losing party in any such action shall pay all costs and attorney fees incurred by the prevailing party. Any owner violating this Declaration, the Fourth Amended By-Laws, the Second Amended Covenants and Restrictions, and/or duly adopted Rules and Regulations shall pay all costs and attorney fees incurred by the Association to file a lien or to compel compliance without filing a Court action.

18. EMINENT DOMAIN

If the entire project or a portion of the common elements only is acquired by eminent domain and if a separate award is not made to each unit owner, the award shall be allocated to each unit owner in proportion to each unit owner's percentage of undivided interest in the common elements.

If a part of the project which includes one or more individual units is acquired by eminent domain, the award shall be allocated to unit owners as follows:

- (a) The owner of each individual unit taken shall receive the fair market value of his unit, including his interest in the common elements, whether or not any common elements are actually taken. Thereafter, the unit owner shall be divested of his entire property interest in the project attributable to the unit taken and shall have no further property interest in the property, including the common elements. Said common elements shall be reallocated to the remaining unit owners in proportion to each remaining owner's percentage of undivided interest in the common elements. In addition, the owner of each individual unit taken, following compensation, shall have no further voting rights in the project as owner of the unit taken.
- (b) The remainder of the award, if any, shall be divided among the remaining unit owners in proportion to each owner's percentage of undivided interest in the common elements.

19. NOTICE TO HOLDERS, GUARANTORS AND INSURER'S OF MORTGAGES ON UNITS

Upon written request from a holder, insurer or guarantor of a first mortgage on any unit, the Board of Directors of the Association shall provide said holder, insurer or guarantor with timely written notice of:

- (a) Any proposed action that requires the consent of a specified percentage of eligible, mortgage holders;
- (b) Any condemnation loss or any casualty loss which affects a material portion of the Avalon Villas Townhouse project or which affects any unit on which there is a first mortgage held, insured or guaranteed by such holder, insurer or guarantor;
- (c) Any delinquency in the payment of assessments or charges owed by an owner of a unit subject to the mortgage of such eligible holder, insurer or guarantor, where such delinquency as continued for a period of 60 days; and,
- (d) Any lapse, cancellation or material modification of any insurance policy maintained by the Association.

20. AMENDMENT

Any amendment to this Declaration shall require consent of 75% of the unit owners, except for paragraph 13 which can be amended at any time by the Board of Directors of the Association.

The provisions of this Declaration, except paragraph 13, shall be amended only by affirmative vote of 75% of the unit owners. A change in any of the following must also be approved by eligible mortgage holders who represent at least 51% of the votes of units subject to mortgages held by eligible mortgage holders:

- (a) Voting rights;
- (b) Responsibility for maintenance and repairs;
- (c) Reallocation of interests in general or limited common areas or rights to their use other than as set forth in this Declaration;
- (d) Redefinition of any unit boundaries for completed units after conveyance by Developer;

- (e) Conversion of units to common areas or vice versa;
- (f) Expansion or contraction of the project, or the addition or withdrawal of property to or from the project other than as provided in this Declaration;
- (g) Restrictions on leasing of units;
- (h) Imposition of restrictions on an owner's right to sell his or her unit; and
- (i) Restoration or repair of the project in a manner other than as provided in this Declaration.

All amendments to this Declaration shall be recorded in the office of the Park County Clerk and Recorder, Livingston, Montana.

IN WITNESS WHEREOF, AVALON VILLAS HOMEOWNERS' ASSOCIATION has caused this Third Amended Declaration of Unit Ownership to be made and executed on this 29 day of Sept, 2011.

Avalon Villas Homeowners' Association,

By: Peter M.W. Murray
 Peter M.W. Murray, Chair

STATE OF MONTANA)
 :ss
 County of Park)

This instrument was acknowledged before me on the 29th day of Sept., 2011 by Peter M.W. Murray
 _____, Chair of Avalon Villas Homeowners' Association.

(SEAL) Colene Sachanowski



Notary Public for the State of Montana.
 COLENE SACHANOWSKI
 NOTARY PUBLIC for the State of Montana
 Residing at Emigrant, Montana
 My Commission Expires March 15, 2015
 Print Name: _____
 Residing at _____, Montana
 My Commission expires: _____