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DECLARATION OF COVENANTS, CONDITIONS,

RESTRICTIONS AND EASEMENTS FOR

WEST VIEW ESTATES PHASE 5

This Declaration of Covenants, Conditions, Restrictions and Easements for West View Estates (the "Declaration") is made this 18th day of June, 2021, by the Montana Corporation, Owl Corporation hereinafter (the "Declarant"), by and through its duly authorized secretary/treasurer, Mark G. Owens.

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ARTICLE 1
STATEMENT AND PURPOSE AND IMPOSITION OF COVENANTS

Section 1.1. *Owner.* The Declarant is the owner of the property in Flathead County, Montana, more particularly described as follows (the "Property"):

Lots 34 through 43, Lots 69 through 80 in Phase 5 of the West View Estates subdivision, according to the official Plat thereof on file and of record in the official records of Flathead County, Montana.

Section 1.2. *Purpose.* The purpose of the Declarant in making this Declaration is to create a development known as West View Estates on the Property (the "Project" or "West View Estates")

The Declarant further intends to ensure the attractiveness of the Property, including the residences and other improvements constructed on it to prevent any future impairment of the Property and to guard against the construction on the Property of improvements of improper or unsuitable materials or with improper quality or methods of construction, to protect and enhance the values and amenities of the Property; to provide for the operation, administration, use and maintenance of the common areas within the Property; to preserve, protect and enhance the values and amenities of the Property; and to promote the health safety and welfare of the owners of the Property.

Section 1.3. *Imposition of Covenants.* To accomplish the purposes indicated above, the Declarant hereby declares that from the date of recording this Declaration forward, the Property will constitute a planned community known as West View Estates, and will be held, sold, and conveyed subject to the following covenants, conditions, restrictions and easements (collectively, these "Covenants"). These Covenants will run with the land and will be binding upon all persons or entities having any right, title, or interest in all or any part of the Property (including Declarant) and their heirs, successors, and assigns, and their tenants, employees, guests, and invitees. These Covenants will inure to the benefit of each owner of the Property.

ARTICLE 2
DEFINITIONS

The following terms, as used in this Declaration, are defined as follows:

Section 2.1. *"Annual Assessment"* means the Assessment levied annually pursuant to Section 9.3.

Section 2.2. *"Architectural Review Committee"* means the committee formed pursuant to Article 6 to maintain the quality and architectural harmony of improvement in West View Estates.

Section 2.3. *"Articles: or "Articles of Incorporation"* means the Articles of Incorporation of the West View Estates Homeowners Association, Inc., a Montana non-profit corporation, which were filed with the Montana Secretary of State's office on July 21, 2006, as such Articles, may be amended from time to time.

Section 2.4. *"Assessments"* means the Annual, Special and Default Assessments levied pursuant to Article 9 to meet the estimated cash requirements of the West View Estates Homeowners Association.

Section 2.5. "Bylaws" means the bylaws of the West View Estates Homeowners Association which establish the methods and procedures of its operation, as such bylaws may be amended from time to time.

Section 2.6. "West View Estates Documents" means the basic documents creating and governing West View Estates, including, but not limited to, this Declaration, the Articles of Incorporation and Bylaws, the Design Guidelines and any other procedures, rules, regulations or policies adopted under such documents by the West View Estates Homeowners Association, all as may be amended from time to time.

Section 2.7. "West View Estates Homeowners Association" means the West View Estates Homeowners Association, Inc., a Montana non-profit corporation, and any successor of that entity by whatever name.

Section 2.8. "West View Estates Rules" means the rules and regulations adopted by the West View Estates Homeowners Association from time to time.

Section 2.9. "Common Area" means all of the areas shown as parks and common areas, depicted on the Final Plat or Plats of West View Estates, records of Flathead County, Montana and any other property in which the West View Estates Homeowners Association owns an interest for the common use, benefit and enjoyment of the Members.

Section 2.10. "Common Expenses" means (i) premiums for the insurance carried by the West View Estates Homeowners Association under Article 9; (ii) all other expenses

incurred by the West View Estates Homeowners Association in administering, servicing, conserving, managing, maintaining, repairing or replacing the Common Area and any Improvements located on it; (iii) all expenses expressly declared to be Common Expenses by the West View Estates Documents; (iv) all expenses lawfully determined to be Common Expenses by the Board of Directors; and (v) all expenses to be allocated among the Owners as provided in Article 9.

Section 2.11. "Declarant" means Owl Corporation, or its successors or assigns, including any successor Declarant.

Section 2.12. "Default Assessment" means any Assessment levied by the West View Estates Homeowners Association pursuant to Section 9.5 below.

Section 2.13. "Design Guidelines" means the guidelines and rules published and amended and supplemented from time to time by the Architectural Review Committee.

Section 2.14. *"Declaration Rights"* is defined in Section 11.1.2.

Section 2.15. *"Expansion Property"* means such additional real property now owned or in the future acquired by Declarant (including any Successor Declarant) as Declarant may make subject to the provisions of this Declaration, by duly recorded Declaration of Annexation.

Section 2.16. *"Improvement(s)"* means all buildings, parking areas, loading areas, fences, walls, hedges, plantings, lighting, poles, driveways, roads, ponds, lakes, trails, gates, signs, changes in any exterior color or shape, excavation and all other site work, including, without limitation, grading, road construction, utility improvements, removal of trees or planting, and any new exterior construction or exterior improvement which may not be included in the foregoing. "Improvement(s)" does not include turf, shrub, or tree repair or replacement of a magnitude which does not change exterior colors or exterior appearances. "Improvement(s)" does include both original improvements and all later changes and improvements.

Section 2.17. *"Lot"* means a parcel of land designated as a lot on any Plat of the Property.

Section 2.18. "*Maintenance Fund"* means the fund created by Assessments and fees levied pursuant to Article 9 below to provide the West View Estates Homeowners Association with the funds required to carry out its duties under this Declaration.

Section 2.19. "*Member*" means any person or entity holding membership in the West View Estates Homeowners Association.

Section 2.20. "*Owner*" means the owner of record (including Declarant, and including the most recent contract purchaser, but excluding all contract sellers) whether one or more persons or entities, of fee simple title to any Lot or, if the Lot is subject to one or more contracts for deed, the owner of the purchaser's interest in the most recent contract for deed,

but "Owner" does not mean or refer to any person or entity who holds such interest merely as security for the performance of a debt or other obligation, including a mortgage or trust indenture, unless and until such person or entity has acquired fee simple title pursuant to foreclosure or other proceedings.

Section 2.21. "*Period of Declarant Control*" means the period beginning on the date this Declaration is first recorded in the office of the Clerk and Recorder of Flathead County, Montana and ending on the date which is 20 years later. The Declarant at anytime may terminate his period of control by written notice to the Board of Directors.

Section 2.22. "*Person*" (whether or not in capitalized form) means a natural person, a corporation, a partnership, a limited liability company, an association, a trust or any other entity or combination of the foregoing.

Section 2.23. "*Plat*" means any survey or surveys of all or part of the Property, together with such other diagrammatic plans and information regarding the Property as may be required by applicable law, or as may be included in the discretion of Declarant, as each such survey may be amended and supplemented from time to time, and all as recorded in the office of the Clerk and Recorder of Flathead County, Montana.

Section 2.24. "*Property*" means and includes the property described in Section 1.1 and initially subjected to this Declaration, and also refers to any additional real property that may be incorporated in the Project from time to time and made subject to these Covenants pursuant to the provisions of this Declaration.

Section 2.25. "*Special Assessment*" means an Assessment levied pursuant to Section 9.4.

Section 2.26. "*Special Declarant Rights*" is defined as set forth in Section 11.1 below.

Section 2.27. "*Successor Declarant*" means any party or entity to whom Declarant assigns any or all of its rights, obligations or interest as Declarant, as permitted by Section 17.7 and evidenced by an assignment or deed of record in the office of the Clerk and Recorder of Flathead County, Montana, designating such party as a Successor Declarant, signed by the transferor and the transferee. Upon such recording, Declarant's rights and obligations under the Declaration will cease and terminate to the extent provided in such document, and all such rights and obligations shall be transferred to and assumed by the Successor Declarant to the extent provided in such document.

ARTICLE 3
EXPANSION AND PLAT

Section 3.1. *Development Rights.* Declarant reserves the right to exercise all Development Rights in connection with the West View Estates subdivision in accordance with Article 11 below.

Section 3.2. *Declaration of Boundaries.* The boundaries of each Lot are delineated on the Plat, and each Lot is identified by the number noted on the Plat.

Section 3.3. *Plat.* The Plat will be filed for record in the office of the Clerk and Recorder of Flathead County, Montana. The Plat may be filed as a whole or as a series of Plats from time to time.

ARTICLE 4
ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 4.1. *Membership.* Every Owner, by virtue of being an Owner, and for so long as he is an Owner, will be a Member of the West View Estates Homeowners Association. Membership will be appurtenant to and may not be separated from ownership of any Lot. No Owner, whether one or more persons, will have more than one membership per Lot owned, but all of the persons owning each Lot will be entitled to rights of membership and of use and enjoyment appurtenant to such ownership. The Declarant shall be considered an Owner and shall be a Member of the West View Estates Homeowners Association with all of the same privileges of the other Owners and Members. For purposes of assessments, the Declarant shall be exempt from all forms of assessments imposed pursuant to this Declaration.

Section 4.2. *Transfer of Membership.* An Owner may not transfer, pledge or alienate his membership in the West View Estates Homeowners Association in any way except upon the sale or encumbrance of his Lot, and then only to the purchaser or Mortgagee of his Lot.

Section 4.3. *Classes of Membership.* The West View Estates Homeowners Association will have one class of voting membership, composed of all Owners, including Declarant, except that the Declarant shall have such additional rights and responsibilities as expressly provided in this Declaration.

Section 4.4. *Voting Rights.* All Members shall be entitled to one vote on the West View Estates Homeowners Association matters on the basis of one vote for each Lot owned.

Section 4.5. *Appointment of Officers and Directors by Declarant.* Until the expiration of the Period of Declarant Control, Declarant will retain the exclusive powers to appoint, remove and replace Directors and officers of the West View Estates Homeowners Association.

ARTICLE 5
POWERS AND DUTIES OF WEST VIEW

Section 5.1. *West View Homeowners Association Management Duties.* Subject to the rights and obligations of Declarant as set forth in this Declaration, the West View Estates Homeowners Association will be responsible for the administration and operation of the West View Estates. The Board of Directors will exercise for the West View Estates Homeowners Association all power, duties and authority vested in or obligated to be taken by the West View

Estates Homeowners Association and not reserved to Declarant or the other members by this Declaration, or by other applicable law.

Section 5.2. *Common Area.*

5.2.1. *Conveyance by Declarant.* On or before the expiration of the period of Declarant control, Declarant will convey to the West View Estates Homeowners Association, by written instrument recorded with the Clerk and Recorder of Flathead County, Montana, the Common Area located on the Property.

5.2.2. *Use of Common Area.* The Common Area generally is designated by this Declaration for the common use, benefit and enjoyment of the Owners and their families, tenants, employees, guests and invitees.

5.2.3. *West View Estates Homeowners Association's Responsibility for Common Area.* The West View Estates Homeowners Association, subject to the rights and obligations of the Owners set forth in this Declaration, will be responsible for the management, maintenance and control of the Common Area.

5.2.4. *Association's Agreements Regarding Common Area.* The West View Estates Homeowners Association, acting through the Board of Directors, may grant easements, right-of-way, leases, licenses and concessions through or over the Common Area without the independent approval by the Owner. Without limiting the generality of the foregoing, the West View Estates Homeowners Association may grant such rights to suppliers of utilities serving the Project or property adjacent to the Project, and to developers or owners of property adjacent to the Project for the purpose of accommodating minor encroachments onto the Common Area or other purposes that do not unreasonably interfere with the use and enjoyment of the Common Area by the Owners.

Section 5.3. *Delegation by West View Estates Homeowners Association.*

5.3.1. *Committees.* The West View Estates Homeowners Association may delegate any of its rights, duties or responsibilities to any committee or other entity (in addition to the Architectural Review Committee) that the Board may choose to form.

5.3.2. *Limitation.* Any delegation by the Board under this Section is subject to compliance with the Bylaws and the requirement that the Board, when so delegating, will not be relieved of its responsibilities under the West View Estates Documents.

Section 5.4. *Books and Records.* The West View Estates Homeowners Association will make available for inspection by Owners and Mortgagees, upon request, during normal business hours or under other reasonable circumstances, current copies of the West View Estates Documents, and the books, records, and financial statements of the West View Estates Homeowners Association prepared pursuant to the Bylaws.

Section 5.5. *Successor to Declarant.* The West View Estates Homeowners Association will succeed to all of the rights, duties and responsibilities of the Declarant under this Declaration upon termination of the Period of Declarant Control.

ARTCLE 6
ARCHITECTURAL REVIEW COMMITTEE

Section 6.1. *Committee.* There is hereby established an Architectural Review Committee, which will be responsible for the review and approval of all proposed Improvements on the Lots.

Section 6.2. *Committee Membership.* The Committee will be composed of three or more persons, all of the members of the Committee will be appointed, removed, and replaced by Declarant, in its sole discretion, until the expiration of the Period of Declarant Control or such earlier time as Declarant may elect to voluntarily waive this right by notice to the West View Estates Homeowners Association, and at that time the Board of Directors will succeed to Declarant's right to appoint, remove, or replace the members of the Committee.

Section 6.3. *Purpose and General Authority.* No Improvements will be erected, placed, reconstructed, replaced, repaired or otherwise altered, nor will any construction, repair or reconstruction be commenced until plans for the Improvements have been approved by the Committee; provided, however, that Improvements that are completely within a building may be undertaken without such approval. The Owner shall submit a site plan and elevations showing the design, location, material, color and exterior finish of proposed Improvements to the Architectural Review Committee. All improvements will be constructed only in accordance with approved plans.

Section 6.4. *Design Guidelines.* The Architectural Review Committee may publish Design Guidelines which set forth the procedures and criteria for review of Improvements to be constructed on any Lot, and for review of landscaping plans. Failure to follow procedures or criteria set forth in the current published Design Guidelines shall form an adequate basis for rejection of the submitted site plan and elevations; provided, however, that this requirement shall not be construed as preventing the Declarant or the Architectural Review Committee, at their option, from waiving or amending the Design Guidelines at any time or with respect to any application. Failure to follow such procedures or criteria set forth in the Design Guidelines shall also be deemed a breach of this Declaration by such Owner and shall entitle the Association or the Architectural Review Committee to exercise and pursue the rights and remedies provided herein with respect to such breach.

Section 6.5. *Failure to Act.* In the event the Architectural Review Committee fails to approve or disapprove such design, location, material, color and exterior finish within thirty days after the detailed site plan and elevations have been submitted to it, approval shall not be required and such Owner shall be deemed in compliance with this Article. Any plans, elevations and proposals so approved, either expressly in writing or by the expiration of the thirty day period herein above provided, shall then permit the Owner to commence construction in accordance with said plans and elevations, but any deviation from said plans and elevations

which in the judgment of said Architectural Review Committee is a substantial detriment to the appearance of the structure or of the surrounding area shall be corrected to conform with the plans and elevations as submitted.

Section 6.6. *Committee Discretion.* The Committee will exercise its best judgment to see that all Improvements conform and harmonize with any existing structures as to external design, quality and type of construction, materials, color, location on the Lot, height, grade and finished ground elevation, and the schemes and aesthetic considerations set forth in the Design Guidelines and the other West View Estates Documents. The Committee, in its sole discretion, may excuse compliance with such requirements as are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements.

Section 6.7. *Binding Effect.* The actions of the Committee in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, will be conclusive and binding on all interested parties.

Section 6.8. *Organization and Operation of Committee.*

6.8.1. *Term.* The term of office of each member of the Committee will be one year, commencing January 1 of each year, and continuing until his successor shall have been appointed. Should a Committee member die, retire or become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed as provided in Section 6.2.

6.8.2. *Chairman.* So long as Declarant appoints the Committee, Declarant will appoint the chairman. At such time as the Committee is appointed by the Board of Directors, the chairman will be elected annually from among the members of the Committee by a majority vote of the members. In the absence of a chairman, the party responsible for appointing or electing the chairman may appoint or elect a successor, or if the absence is temporary, an interim chairman.

6.8.3. *Operations.* The Committee chairman will take charge of and conduct all meetings and will provide for reasonable notice to each member of the Committee prior to any meeting. The notice will set forth the time and place of the meeting, and notice may be waived by any member.

6.8.4. *Voting.* The affirmative vote of a majority of the members of the Committee will govern its actions and be the act of the Committee.

Section 6.9. *Other Requirements.* Compliance with the West View Estates architectural review process is not a substitute for compliance with City of Kalispell building, zoning and subdivision regulations, and each Owner is responsible for obtaining all approvals, licenses, and permits as may be required prior to commencing construction.

Section 6.10. *Enforcement.*

6.10.1. *Inspection.* Any member or authorized consultant of the Architectural Review Committee, or any authorized officer, Director, employee or agent of the West View Estates Homeowners Association may enter upon any Lot at any reasonable time after notice to the Owner, without being deemed guilty of trespass, in order to inspect Improvements constructed or under construction on the Lot to determine whether the Improvements have been or are being build in compliance with West View Estates documents and the plans and specifications approved by the Architectural Review Committee.

6.10.2. *Deemed Nuisances.* Every violation of these Covenants is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed for such violation by law or equity against Member will be applicable. Without limiting the generality of the foregoing, these Covenants may be enforced as provided below.

(i) *Fines for Violations.* The Committee may adopt a schedule of fines for failure to abide by the Committee rules and the Design Guidelines, including fines for failure to obtain any required approval from the Committee.

(ii) *Removal of Nonconforming Improvements.* The West View Estates Homeowners Association may, upon request of the Committee and after reasonable time after notice to the Owner, without being deemed guilty of trespass, remove any Improvement constructed, reconstructed, refinished, altered, or maintained in violation of these Covenants. The Owner of the Improvement will immediately reimburse the West View Estates Homeowners Association for all expenses incurred in connection with such removal. If the Owner fails to reimburse the West View Estates Homeowners Association within 30 days after the West View Estates Homeowners Association gives the Owner notice of the expenses, the sum owed to the West View Estates Homeowners Association will bear interest at the maximum rate permitted under Montana law from the date the expense was incurred by the West View Estates Homeowners Association through the date of reimbursement in full, and all such sums and interest will be a Default Assessment enforceable as provided in Article 9.

Section 6.11. *Continuity of Construction.* All improvements commenced on the Property will be prosecuted diligently to completion. If an Improvement is commenced and construction is then abandoned for more than ninety days, or if construction is not completed within the required twelve-month period described below in Section 7.4, then after notice and opportunity for hearing as provided in the Bylaws, the West View Estates Homeowners Association may impose a fine of not more than $50.00 per day to be charged against the Owner of the Lot until construction is resumed, or the Improvements are completed, as applicable.

ARTICLE 7
PROPERTY USE RESTRICTIONS

Section 7.1. *General Restriction.* The Property will be used only for the purposes set forth in these Covenants, as permitted by the applicable regulations of the City of Kalispell, and the laws of the State of Montana and the United States, and as set forth in the West View Estates Documents or other specific recorded covenants affecting all or any part of the Property.

Section 7.2. *Single-Family Residence.* Upon obtaining the approval of the Architectural Review Committee, one single-family residence may be built on each Lot. Construction of the residence must be started within thirty six months of closing. Unless otherwise provided for by the Declarant.

Section 7.3. *Further Subdivision.* Other than Lots owned by the Declarant, no Lot shall be further subdivided.

Section 7.4. *Temporary Buildings, Square Footage, etc.* No temporary building, shack, tent, house trailer, mobile home or modular structure shall be located on any Lot. All construction, including landscaping, must be completed within twelve months from the commencement of construction. All residences must be of new construction, built on-site, and shall contain a minimum of 1,500 square feet of finished living space above grade, exclusive of garages, decks, porches or basements. All two-level residences must contain no less than 1,200 square feet of living space on the first level, exclusive of attached garages, basements, decks, and porches. All residences must have an attached garage of at least 576 square feet unless otherwise approved by the Architectural Review Committee.

Section 7.5. *Roofs, Siding and Colors*. It is expected that all elevations will not only take advantage of the view from within the residence, but will provide pleasant views from all surrounding areas. All side and rear elevations are expected to be articulated to break up the façade into smaller elements, as well as adding the richness of shade and shadow. Large blank walls will not be allowed. Failure to provide adequate articulation and richness may be grounds for rejection of the design by the Committee.

Roof Shape and Character is important to avoid vertical monotony. Slopes of 6/12 or greater are to be considered for dominant roof elements and gable ends. Gentler roof pitches can be integrated for background and less conspicuous connections. Alternative configurations may also be considered to balcony roofs and dormers of all sizes as these contribute to the human scale. This is encouraged to provide a texture and an apparent reduction of the built mass. All overhangs and projections shall be a minimum of 18" with 24" preferred.

The Committee strongly recommends that sloping roofs be designed as sheltering and shading elements, normally with broad overhangs and strong shadow lines. Thin edges or thin fascias should be avoided. Sloped roof materials should be textural with very dark or deep color tones.

Roof surfaces must be non-reflective and, in the opinion of the Committee, not visually objectionable from neighboring properties and roads.

The composition of roof forms should be carefully considered. No continuous ridgelines should exceed 40 feet. Changing the ridge direction, offsets or major roof projections should be used to break ridgelines. Fascia boards are required. Rafters shall not be exposed. Wood with the look of substance is required unless otherwise approved.

The placement of the various pipes and vents that penetrate the roof should be considered. Combine them in the attic space and project through roof in a common enclosed stack when possible. Where it is practical, place stacks on the roof away from the side of greatest visibility. All roof vents are to be colored to match the dominant roofing material.

Colors

1. Non-reflective materials are to be used, including non-reflecting glazing.
2. Color selections shall range from white or off-white to weathered driftwood (a very light gray) through to light brown, green or related tones. The use of blue may be allowed in certain shades.
3. Materials for roofs may be sculpted architectural asphalt, flat concrete or fiber-cement tile, slate or other cut stone only. Metal roofs are not permitted.
4. Materials for walls may be stained wood or wood, painted fiber-cement lap siding and stone. Colored stucco may be incorporated for very small area as an accent only. Stucco colors are to be deeply toned rich warm grays, greens and browns; light or soft reflective tones are not acceptable.

Section 7.6. *Landscaping, Drainage, Grading and Irrigation.* Immediately after construction, all disturbed ground must be landscaped. All lots must have underground irrigation systems. Residences should be designed to fit the existing topography of the property without excessive manipulation of the site by cut or fill. Changes in the natural grade by cutting or filling for structures, walks and driveways must be kept to a minimum to preserve the existing landform. Owners shall be responsible for irrigation, maintenance and upkeep of all Boulevards that are adjacent to their property. Lots that butt against the perimeter wall shall be responsible for the irrigation, maintenance and upkeep of the area between the wall and their property line. When Lot owners build and install their irrigation system in the wall area it will be their responsibility to insure that the main irrigation line installed by the developer is left intact and working. Owner will be responsible for any damage that they may cause to the exterior perimeter wall.

General siting and grading principles are as follows:

1. The finish grade around the residence and any site walls should remain as close as possible to the original natural grade.
2. Grading may be done outside the landscaping for driveway access and site drainage.

3. Screen walls, walls not supporting a building structure or retaining earth, may not exceed five (5) feet in height measured from finish grade along the exterior side of the enclosure.

A landscaping plan for each building Lot shall be submitted to the Architectural Review Committee for approval. Landscaping of the entire lot shall be complete within 90 days of occupancy or unless otherwise approved by the Architectural Review Committee in writing.

In the event that soil must be imported or exported from the property, the property owner will be responsible for this cost. Import soils scheduled for use as landscape topsoil may be subject to an agricultural soil analysis at the discretion of the Architectural Review Committee.

The following building Lot landscape design criteria are provided to enhance the definition of each home site. The primary goal is to protect and maximize individual property values through the implementation of a generous landscape design. These criteria must be followed to successfully receive the approvals required by the Architectural Review Committee.

Drainage of individual properties must work with the existing topography and be directed toward the natural open space or drainage swale systems, developed in conjunction with the roadways.

The Front Yard/Streetscape Zone is the area nearest to the neighborhood street and includes boulevard area to the back of curb and is normally at the front of the property. On corner lots this zone also extends down the side of the property parallel to the street. The landscape requirements for the front yard are:

- Minimum two (2) Neighborhood Shade Trees (2" minimum, caliper) per lot.
- Minimum one (1) Ornamental Accent Tree per lot.
- Lawn area to be sodded with underground irrigation systems.

The Side/Rear Yard includes the transitional side yard area and "backyard" area adjacent to another lot or the street. The landscape requirements are:

- Minimum two (2) Neighborhood Shade Trees (2" minimum, caliper) per lot.
- Minimum one (1) Ornamental Accent Tree per lot.
- Lawn area to be sodded with underground irrigation systems.

The following is a list of acceptable trees.

Neighborhood Shade / Street Trees
Emerald Queen Maple
Northwood Red Maple
Royal Red Maple
Green Mountain Sugar Maple
Ohio Buckeye
Common Hackberry
Autumn Purple White Ash
Patmore Green Ash
Summit Green Ash
Imperial Honeylocust
Redmond Linden American Linden
Glenleven Littleleaf Linden
Greenspire Littleleaf Linden

Ornamental Accent Trees
Concolor Fir
Amur Maple Multi-stem & Single-stem
Paper Birch Single-stem
Toba Hawthorn
Russian Olive
Dolgo Crabapple
Spring Snow Crabapple
Colorado Blue Spruce
Quaking Aspen Single-stem
Norway Spruce
Austrian Pine
Scotch Pine
Amur Chokecherry Single-stem
European Birdcherry
Canada Red Chokesherry Single-stem

The following is a list of acceptable shrubs.

Deciduous Shrubs

Apple Serviceberry
Saskaton Seviceberry
Glossy Black Chokecherry
Ruby Carousel Barberry
Sparkle Japanese Barberry
Globe Caragana
Bailey Red Twigged Dogwood
Isanti Dogwood
Pagoda Dogwood
Meadowlark Forsythia
Hydrangea PeeGee
Clavey's Dwarf Honeysuckle
Dart's Gold Ninebark
Gold Drop Bush Cinquefoil
Jackman Bush Cinquefoil
Primrose Beauty Bush Cinquefoil
Western Sand Cherry
Nanking Cherry
Canada Red Chokecherry
Three Leafed Sumac
Alpine Currant
Austnan Copper Shrub Rose
Cuthbert Grant Shrub Rose
Hansa Shrub Rose
Henry Kelsey Rose
Magnifica Shrub Rose
White Meidland Shrub Rose
Nearly Wild Shrub Rose
Sir Thomas Lipto Shrub Rose
Woodsii Rose
Buffaloberry
Anthony Waterer Spirea
Froebel Spirea
Goldmound Spirea
Snowmound Spirea
Chinese Lilac
Donald Wyman Lilac
Dwarf European Cranberry Bush
Common Snowball Vibernum
RedPrince Welgela
Princess Diana Serviceberry
Regent Serviceberry
Japanese Red Leaf Barberry
Burgundy Carousel barberry
Siberian Peashrub
European Variegated Dogwood
Colorado Red Osier Dogwood
Hedge Peking Colonester
Gray Dogwood
Northern Sun Forsythia
Cheyenne Privet (for hedges)
Golden Mockorange
Abbotswood Bush Cinquefoil
Goldfinger Bush Cinquefoil
Katherine Dykes Bush Cinquefoil
Tangerine Bush Cinquefoil
Purple Leaf Sand Cherry
Double Flowering Plum
Smooth Sumac
Staghorn Sumac
Dwarf Alpine Currant
Bonica Shrub Rose
FJ Grootendorst Shrub Rose
Harrison Yellow Shrub Rose
JP Connell
Martin Frobisher Shrub Rose
Morden Centennial Shrub Rose
Prairie Joy Shrub Rose
Theresa Bugnet Shrub Rose
Ural False Spirea
Japanese White Spirea
Dwarf Red Flowering Spirea
Gumball Spirea
Little Princess Spirea
Bridalwreath Spirea
Dwarf Korean Lilac
Summer Glow Tamrisk
Mohican Wayfaring Tree Virbumum
Alfredo Compact Americana Cranberry
Allegheny Serviceberry
Sandblow Serviceberry
Crimson Pygmy Barberry
Rose Glow Japanese Barberry
Pygmy Caragana
Mottled Dogwood
Yellow Twigged Dogwood
Cranberry Cotoneaster
Dwarf Winged Euonymus
Annabelle Hydrangea
Arnold's Red Honeysuckle
Minnesota Snowflake
Coronation Triumph Bush Clinquiefoil
Goldstar Bush Cinquefoil
McKay's White Bush Cinquefoil
Yellow Gem Potentilla
Dwarf Russian Almond
Common Chokecherry
Cutleaf Smooth Sumac
Cutleaf Staghorn Sumac
Adelaide Hoodless Rose
Champion Shrub Rose
Golden Wings Shrub Rose
Henry Hudson
Jens Munk Rose
Scarlet Meidland Shrub Rose
Morden Fireglow Shrub Rose
Persian Yellow Shrub Rose
William Baffin Rose
Dwarf Blue Arctic Willow
Dwarf Garland Spirea
Crisp Leaf Spirea
Grefsheim Spirea
Norman Spirea
Indian current Coralberry
Miss Kim Lilac
Nannyberry Viburnum
Compact European Cranberry Bush
Bailey Compact American Cranberry

Coniferous (Evergreen) Shrubs

Gold Coast Juniper
Sea Green Juniper
Youngstown Andorra Juniper
Prince of Wales Juniper
Broadmoor Juniper
Pepin Savin Juniper
Cologreen Juniper
Skyrocket Juniper
Dwarf Albert Spruce
Dense Spreading Yew
Pygmy Globe Arborvitae
Techny Globe Arborvitae
Pfitzer Juniper
Repanda Juniper
Hughes Juniper
Wiltoni Blue Rug Juniper
Buffalo Juniper
Scandia Juniper
Wichita Blue Juniper
Oregon Grape
Mugo Pine
Nigra Yew
Little Giant Arborvitae
Woodward Globe Arborvitae
Gold Tip Pfitzer Juniper
Blue Chip Juniper
Icee Blue Juniper
Arcadia Juniper
Calgary Carpet Juniper
Tamarix Juniper
Blue Star Juniper
Birds Nest Spruce
Shrubby Swiss Mountain Pine
Emerald Arborvitae
Pyramidal Arborvitae

Landscape areas that require irrigation should conform to the following:

Buried PVC sprinkler system or the utilization of drip irrigation systems;
Sprinklers and nozzles selected to provide water to the landscape that are compatible with their respective soils, slopes, exposure, orientation and plant types;
Utilization of an automatic control system; and
No overthrowing of irrigation water onto public roadways, sidewalks, neighboring homes, or trails is permitted.

Section 7.7. *Storage Vehicles, etc.* All automobile, trailers and boat storage shall be within the side property setback and the garage. Fencing and/or heavy landscaping is required to soften this impact and must be approved by the Architectural Review Committee. Fencing will be the primary consideration. No vehicle, boat or trailer shall be allowed to park overnight in the right of way.

Section 7.8. *Signs.* Other than signs advertising Lots or residences for sale or rent, no sign, billboard or advertising structure of any kind shall be erected, used or maintained on the Property. Signs shall be no larger than 24" square.

Section 7.9. *Driveways.* All driveways shall be concrete from the street to the garage and only one driveway entrance off the street will be permitted for each lot unless otherwise approved by the Architectural Review Committee. Lot owners are responsible to provide 6" concrete thru the sidewalk sections.

Section 7.10. *Commercial Activity.* No profession, business, manufacturing, trade or commercial activity may be conducted on any Lot except home occupations as defined by City ordinance and which do not significantly increase traffic within West View Estates. Notwithstanding the foregoing, no Owner shall operate any daycare, pre-school or other child or person care facility on their lot. No rentals shorter than one month will be allowed.

Section 7.11. *Maintenance.* All improvements located on any Lot shall be maintained in the same condition as at the time of initial construction, normal wear and tear excepted. All improvements shall be preserved and of a pleasant appearance by maintaining paint, stain or sealer as needed. If any improvement or landscaping is damaged or destroyed, the Owner shall promptly rebuild, repair and restore the structure to its appearance and condition prior to the casualty. Reconstruction or repair shall be completed within nine months of any casualty that damaged or destroyed the improvement or landscaping.

Section 7.12. *Fences, Gates, Screening, Hot Tubs, etc.* All fences, gates, and screening shall be tan vinyl, a maximum of five feet in height and can extend from the rear property corner to within five feet of the face of the residence or garage. A fence of a maximum of three feet in height can continue to the front property corner. All rear property line fences shall be a maximum of five feet in height. Consideration as to the storage of parking of vehicles, trailers and boats is essential. Exterior lots that butt up to the perimeter wall shall not be allowed to extend their fences to the perimeter wall. All above-ground garbage and trash containers, mechanical equipment, and other outdoor maintenance and service

facilities must be completely screened from adjacent lots, streets, or common spaces by tan vinyl walls, fences and gates, at least one (1) foot higher than the equipment, but not to exceed five feet in height. The Declarant reserves the right to change the standards for fences. Hot tubs, pools, etc. must be approved by the Architectural Review Committee.

Section 7.13. *Utilities and Lighting.* All utilities shall be buried underground. There shall be no exterior antennas except for small satellite dishes, which shall be unobtrusive. Exterior lighting shall not be directed at neighboring Lots or impair the neighbors' use or enjoyment of their Lots.

Section 7.14. *Pets.*

7.14.1 Dog runs and animal pens must be enclosed and approved by the Architectural Review Committee. To protect birds and wildlife, dogs and cats must be accompanied and on a leash at all times and will be expected to be cleaned up after when outside the lot. Plastic baggies work well, but cannot be put in the sewer.

7.14.1. No Owner shall have or keep any dog which barks or whines on regular or continuous basis, or which otherwise creates an ongoing disturbance for any other Owner.

Section 7.15. *Nuisances.* No noxious or offensive activity shall be carried out upon any lot, nor shall anything be done thereon which is or which may become an annoyance or nuisance to other Owners.

Section 7.16. *Landscape Maintenance and Irrigation.* All yards and landscaping shall be maintained and shall not be allowed to become unsightly. Lawns shall be mowed on a regular basis. All weeds, including noxious weeds, shall be eradicated or controlled and all Owners shall fully comply with state and local law regarding the control and eradication of noxious weeds. Undeveloped Lots must be mowed at least twice each year and may not be used as a dumping area for trimmings or grass clippings.

Section 7.17. *Garbage.* No Lot shall be used or maintained as a dump site or storage ground for rubbish, trash, garbage, junk vehicles, equipment or other waste. All garbage and other waste shall be removed as reasonably necessary.

Section 7.18. *City Imposed Restrictions.* All conditions or restrictions imposed by the City of Kalispell or the State of Montana during the subdivision process are hereby incorporated by reference.

ARTICLE 8
OWNER'S OBLIGATIONS FOR MAINTENANCE

Section 8.1. *Owner's Responsibility for Lot.* All maintenance of a Lot and the Improvements located on it will be the sole responsibility of the Owner of the Lot. The West View Estates Homeowners Association will, in the discretion of the Board, assume the maintenance responsibilities of such Owner, if, in the opinion of the Board, the level and quality of maintenance being provided by such Owner is not satisfactory. Before assuming the maintenance responsibilities, the Board will notify the Owner in writing of its intention to do so, and if the Owner has not commenced and diligently pursued remedial action within 30 days after the mailing of such written notice, then the West View Estates Homeowners Association will proceed. The expenses of the maintenance by the Board will be reimbursed to the West View Estates Homeowners Association by the Owner within 30 days after the West View Estates Homeowners Association notifies the Owner of the amount due, and any sum not reimbursed within that 30 day period will bear interest at the maximum rate permitted under Montana law from the date of the expenditure until payment in full.

Section 8.2. *Owner's Negligence.* If the need for maintenance, repair or replacement of any portion of the Common Area (including Improvements located on it) arises because of the negligent or willful act or omission of an Owner or his family member, guest, invitee or tenant, then the expenses incurred by the West View Estates Homeowners Association for the maintenance, repair or replacement will be a personal obligation of that Owner. If the Owner fails to repay the expenses incurred by the West View Estates Homeowners Association within 30 days after the notice to the Owner of the amount owed, then those expenses will bear interest at the maximum rate permitted under Montana law from the date of the advance by the West View Estates Homeowners Association until payment by the responsible Owner is paid in full.

ARTICLE 9
ASSESSMENTS

Section 9.1. *Creation of Lien and Personal Obligation for Assessments.* Except as otherwise provided by this Declaration, Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot, by accepting a deed for a Lot, is deemed to covenant to pay to the West View Estates Homeowners Association (1) the Annual Assessments imposed by the Board of Directors as necessary to generally carry out the functions of the West View Estates Homeowners Association; (2) Special Assessments for capital improvements and other purposes as stated in this Declaration; and (3) Default Assessments which may be assessed against a Lot pursuant to the West View Estates Documents for the Owner's failure to perform an obligation under the West View Estates Documents or because the West View Estates Homeowners Association has incurred an expense on behalf of or caused by the Owner under the West View Estates Documents.

Notwithstanding the ownership of any Lot, the Declarant shall not be obligated to pay any of the Assessments described in this Declaration.

All Assessments, together with fines, interest, costs, and reasonable attorney's (and legal assistants') fees will be a charge on the land and will be a continuing lien upon the Lot against which each such Assessment is made until paid.

Each Assessment, together with fines, interest, costs, and reasonable attorney's fees and costs, will also be the personal and individual obligation of the Owner of such Lot as of the time the Assessment falls due, and two or more Owners of a Lot will be jointly and severally liable for such obligations. No Owner may exempt himself from liability for any Assessments by abandonment of his Lot or by waiver of the use or enjoyment of the Common Area. Suit to recover a money judgment for unpaid Assessment and related charges as listed above may be maintained without foreclosing or waiving the Assessment lien provided in this Declaration.

Section 9.2. *Purpose of Assessments.* The Assessments levied by the West View Estates Homeowners Association will be used exclusively to promote the recreation, health, safety and welfare of the Owners and occupants of the West View Estates.

Section 9.3. *Annual Assessments.*

9.3.1. *Calculation of Annual Assessments.* The Board of Directors will prepare a budget before the close of each fiscal year of the West View Estates Homeowners Association. Annual Assessments for Common Expenses will be based upon the estimated net cash flow requirements of The West View Estates Homeowners Association to cover items including, without limitation, the cost of routine maintenance, repair and operation of the Common Area; and premiums for insurance coverage as deemed desirable or necessary by the West View Estates Homeowners Association; snow removal, landscaping, care of grounds and common lighting within the Common Area; routine renovations within the Common Area; wages; common water and utility charges for the Common Area; legal and accounting fees; expenses and liabilities incurred by the West View Estates Homeowners Association under or by reason of this Declaration; payment of any deficit remaining from a previous Assessment period; and the supplementing of the reserve fund for general, routine maintenance, repairs and replacement of improvements within the Common Area on a periodic bases, as needed.

9.3.2. *Collection.* Annual Assessments will be collected in periodic installments as the Board may determine from time to time; but until the Board directs otherwise, they will be payable annually in advance on the date determined by the Board. The omission or failure of the West View Estates Homeowners Association to fix the Annual Assessment period will not be deemed a waiver, modification or release of the Owners from their obligation to pay the same.

Section 9.4 *Special Assessments.*

9.4.1. *Determination by Board.* The Board of Directors may levy, in any fiscal year, one or more Special Assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, or, after adopting and submitting a

revised budget to the West View Estates Homeowners Association as may be required to make up any shortfall in the current year's budget.

9.4.2. *Apportionment and Collection of Special Assessments.* The Board will apportion Special Assessments among the Lots and collect payment according to the same guidelines as set forth for Annual Assessments in Section 9.3.2.

9.4.3. *Notice.* Notice of the amount and due dates for such Special Assessments must be sent to each Owner at least 30 days prior to the due date.

Section 9.5. *Default Assessments.* All monetary fines, penalties, interest or other charges or fees (excluding Annual and Special Assessments) levied against an Owner pursuant to the West View Estates Documents, or any expense of the West View Estates Homeowners Association which is the obligation of an Owner or which is incurred by the West View Estates Homeowners Association on behalf of the Owner pursuant to the West View Estates Documents, and any expense (including without limitation attorneys' fees and costs) incurred by the West View Estates Homeowners Association as a result of the failure of an Owner to abide by the West View Estates Documents, constitutes a Default Assessment, enforceable as provided in his Declaration below.

Section 9.6. *General Remedies of West View Estates Homeowners Association for Nonpayment of Assessment.* Any installment of an Annual Assessment, Special Assessment or Default Assessment which is not paid within 30 days after its due date will be delinquent. In the event that an installment of an Annual Assessment or Special Assessment becomes delinquent, or in the event any Default Assessment is established under this Declaration, the West View Estates Homeowners Association, in its sole discretion, may take any or all of the following actions:

9.6.1. Assess a late charge for each delinquency at uniform rates set by the Board of Directors from time to time;

9.6.2. Charge interest from the date of delinquency at the maximum rate permitted under Montana law;

9.6.3. Suspend the voting rights of the Owner during any period of delinquency;

9.6.4. Accelerate all remaining Assessment installments for the fiscal year in question so that unpaid Assessments for the remainder of the fiscal year will be due and payable at once;

9.6.5. Bring an action at law against any Owner personally obligated to pay the delinquent Assessment charges;

9.6.6. File a lien on the Lot and foreclose as set forth in more detail below.

9.6.7. For a delinquent Assessment related to the provision of utilities, the utility service to the Lot may be suspended after giving the Owner ten days written notice that the service will be suspended unless the delinquent Assessment is paid.

The remedies provided under this Declaration will not be exclusive, and the West View Estates Homeowners Association may enforce any other remedies to collect delinquent Assessments as may be provided by law.

Section 9.7. *Assessment Lien.* Any Assessment chargeable to a Lot will constitute a lien on the Lot, effective the due date of the Assessment. To evidence the lien, the West View Estates Homeowners Association may, but will not be obligated to, prepare a written lien statement with respect to the Lot, setting forth the name of the Owner, the legal description of the Lot, the name of the West View Estates Homeowners Association, and the delinquent Assessment amounts then owing. Any such statement will be duly signed and acknowledged by an officer or Director of the West View Estates Homeowners Association and will be served upon the Owner of the Lot by mail to the address of the Lot or at such other address as the West View Estates Homeowners Association may have in its records for the Owner. At least ten days after the West View Estates Homeowners Association mails the statement to the Owner, the West View Estates Homeowners Association may record the statement in the office of the Clerk and Recorder of Flathead County, Montana. Thirty days following the mailing of such notice to the Owner, the West View Estates Homeowners Association may proceed to foreclose the statement of lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Montana.

Section 9.8. *Successor's Liability for Assessment.* All successors to the fee simple title of a Lot, except as provided in section 9.9, will be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid Assessments, interest, late charges, costs, expenses, and attorney's and legal assistants' fees against such Lot without prejudice to any such successor's right to recover from any prior Owner any amounts paid by such successor.

Section 9.9 *Exempt Property.* The following portions of the Property will be exempt from the Assessments, charges, and liens created under the Declaration:

9.9.1. Any easement of other interest in the Property dedicated and accepted by the City of Kalispell and devoted to public use;

9.9.2. Any Lot owned by Declarant;

9.9.3. All utility lines and easements; and

9.9.4. Common Areas and Parks.

Section 9.10. *Statement of Status of Assessments.* The West View Estates Homeowners Association will furnish to an Owner or his designee or to any Mortgagee, within fourteen days of request, a statement setting forth the amount of unpaid Assessments then levied against the Lot in which the Owner, designee or Mortgagee has an interest.

Section 9.11. *Failure to Assess.* The omission or failure of the Board to fix the Assessment amounts or rates or to deliver or mail to each Owner an Assessment notice will not be deemed a waiver, modification or a release of any Owner from the obligation to pay Assessments. In such event, each Owner will continue to pay Annual Assessments on the same bases as for the last year for which an Assessment was made until a new Assessment is made, at which time any shortfalls in collections may be assessed retroactively by the West View Estates Homeowners Association.

ARTICLE 10
PROPERTY RIGHTS OF OWNERS

Section 10.1. *Owner's Easements of Access and Enjoyment.* Every Owner has a perpetual, non-exclusive easement for ingress, egress and utilities to and from his Lot and for the use and enjoyment of the Common Area, which easement is appurtenant to and will pass with the title to every Lot, subject to the provisions set forth in this Declaration.

Section 10.2. *Delegation of Use.* Any Owner may delegate, in accordance with the West View Estates Documents, its rights of access and enjoyment described in Section 10.1 above to its tenants, employees, family, guests or invitees.

Section 10.3. *Easements of Record and of Use.* The property will be subject to all easements shown on any recorded Plat and to any other easements of record or of use as of the date of recordation of this Declaration.

ARTICLE 11
SPECIAL DECLARANT RIGHTS
AND ADDITIONAL RESERVED RIGHTS

Section 11.1. *General Provisions.* Until the expiration of the Period of Declarant Control, Declarant will have the following Special Declarant Rights:

11.1.1. *Completion of Improvements.* The right to complete Improvements as indicated on any Plat filed with respect to the Property.

11.1.2. *Development Rights.* The right to exercise all Development Rights in connection with the development of the West View Estates Project, including without limitation the right or combination of rights hereby reserved by Declarant, as follows: (i) the right to create Lots and Common Area on the Property; (ii) the right to subdivide Lots and convert Lots into Common Area on any part of the Proprety; (iii) the right to withdraw real property from West View Estate; and/or (iv) the right to annex all or part of the Expansion Property to the Project, in accordance with Article 12.

11.1.3. *Sales Activities.* The right to maintain sales and management offices, signs advertising West View Estates and model residences on the Common Area and on Lots owned by Declarant.

11.1.4. *Easements.* The right to use easements through the Common Area on the Property for the purpose of making Improvements on the Property.

11.1.5. *Association Directors and Offices.* The right to appoint any officer or Director of the West View Estates Homeowners Association, as provided in this Declaration or the Bylaws.

11.1.6. *Order of Exercise of Declarant's Rights.* Declarant makes no representations and gives no assurances regarding the legal description of the boundaries of any phase of the Property or the order or time in which the phases of the Property may be developed or incorporated in to West View Estates, or whether or to what extent any of the Property will be developed or incorporated into the Project. Further, the fact that Declarant may exercise one or more of Declarant's development rights or other Special Declarant Rights on one portion of the Property will not operate to require Declarant to exercise a Development Right or other Special Declarant Right with respect to any other portion of the Property.

Section 11.2 *Supplemental Provisions Regarding Declarant's Rights.* Without limiting the generality of the foregoing, certain of these Special Declarant rights are explained more fully in this Article below. Further, Declarant reserves the right to amend this Declaration and any Plat in connection with the exercise of any Development Right or any other Special Declarant Right, and Declarant also reserves the additional rights retained for the benefit of Declarant in this Article and in other provisions of this Declaration.

Section 11.3. *Utility Easements.* There is hereby created an easement upon, across, over, in, and under the Common Area, roadways and the areas designated on the final Plat or Plats of West View Estates as utility easements for the installation, replacement, repair and maintenance of all utilities, including but not limited to water, sewer, gas, telephone, electrical, television and other communications systems. By virtue of this easement, it will be expressly permissible and proper for the companies providing utility services to install and maintain necessary equipment on and under the Common Area, the private roadways and the areas designated on the final Plat of West View Estates as Utility easements and to affix and maintain utility pipes, wires, circuits, conduits and other equipment under those areas. Any utility company using this easement will use its best efforts to install and maintain the utilities provided for without disturbing the uses of the Owners, the West View Estates Homeowners Association and Declarant; will prosecute its installation and maintenance activities as promptly and expeditiously as reasonably possible; and will restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by the easement granted above request a specific easement by separate recordable document, either Declarant or the West View Estates Homeowners Association will have, and are hereby given, the right and authority to grant such easement upon, across, over, or under any part or all of the Common Area, the private roadways and the areas designated on the final Plat or Plats of West View Estates as utility easements without conflicting with the terms of this Declaration. This easement will in no way effect, avoid, extinguish, or modify any other recorded easement on the Property.

Section 11.4. *Reservation for Expansion and Construction.* Declarant hereby reserves for itself and its successors and assigns and for Owners in all future phases of West View Estates, a perpetual easement and right-of-way for access over, upon, and across the Property for construction, utilities, drainage, ingress and egress, and for use of the Common Area. The location of these easements and rights-of-way may be made certain by Declarant or the West View Estates Homeowners Association by instruments recorded in Flathead County, Montana.

Declarant further reserves the right to establish from time to time, by declaration or otherwise, utility, ingress and egress, and other easements over and across the Common Areas, and to create other reservations, exemptions, and exclusions convenient or necessary for the use and operation of any other property Declarant.

Section 11.5. *Reservation of Easements, Exceptions and Exclusions for Utilities, Infrastructure, and Access.* Declarant reserves for itself and its successors and assigns and hereby grants to the West View Estates Homeowners Association, acting through the Board of Directors, the concurrent right to establish from time to time, by declaration or otherwise, utility and other easements, permits, or licenses over the Common Area, for purposes including but not limited to streets, paths, walkways, drainage, recreational areas and parking areas, and to create other reservations, exceptions, and exclusions in the interest of the Owners and the West View Estates Homeowners Association.

Section 11.6. *Maintenance Easement.* An easement is hereby reserved to Declarant for itself and its successors and assigns and granted to the West View Homeowners Association, and any member of the board of Directors and their respective officers, agents, employees, and assigns, upon, across, over, in and under the Property and a right to make such use of the Property as may be necessary or appropriate to make emergency repairs or to perform the duties and functions which the West View Estates Homeowners Association is obligated or permitted to perform pursuant to the West View Estates Documents.

Section 11.7. *Drainage Easement.* An easement is hereby reserved to Declarant for itself and its successors and assigns and granted to the West View Estates Homeowners Association, it officers, agents, employees, successors and assigns to enter upon, across, over, in, and under any portion of the Property for the purpose of changing, correcting, or otherwise modifying the grade or drainage channels of the Property so as to improve the drainage of water. Reasonable efforts will be made to use this easement so as not to disturb the uses of the Owner, the West View Estates Homeowners Association and Declarant, as applicable, to the extent possible; to prosecute such drainage work promptly and expeditiously; and to restore any areas affected by such work to a sightly and usable condition as soon as reasonably possible following such work.

Section 11.8. *Declarant's Rights Incident to Construction.* Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across the Common Area and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the Improvements on the Property or other real property owned by Declarant' provided, however, that no such rights will be exercised by Declarant in such a way as to unreasonably interfere

with the occupancy, use, enjoyment or access to an Owner's Lot by the Owner or his family, tenants, employees, guests or invitees.

Section 11.9. *Easements Deemed Created.* All conveyances of Lots hereafter made, whether by Declarant or otherwise, will be construed to grant and reserve the easements contained in this Article, even though no specific reference to such easements or to this Article appears in the instrument for such conveyance.

ARTICLE 12
EXPANSION AND WITHDRAWAL

Section 12.1. *Reservation of Right to Expand.* Declarant reserves the right, but will not be obligated, to expand the effect of this Declaration to include all or part of the Expansion Property. The consent of the existing Lot Owners and Mortgagees will not be required for any such expansion, and Declarant may proceed with such expansion without limitation at its sole option. Declarant will have the unilateral right to transfer to any other person this right to expand by an instrument duly recorded.

Section 12.2. *Completion of Expansion.* When Declarant has determined that no further property shall be added to the Project, Declarant shall notify the West View Estates Homeowners Association in writing. Until such notice is given, Declarant retains the right to designate additional property as Expansion Property.

Section 12.3. *Declaration of Annexation.* Any expansion of the Project may be accomplished by recording a Declaration of Annexation and one or more supplemental Plats in the records of the Clerk and Recorder of Flathead County, Montana, before the expiration of the Period of Declarant Control. The Declaration of Annexation will describe the real property to be expanded, submitting it to these Covenants and provide for voting rights and Assessment allocations as provided in this Declaration. Specifically, each new Lot in the annexed area will be allocated one vote and liability for the Common Expenses equal to the liability allocated to each of the other Lots, and the proportionate voting interest and allocation of Common Expenses for the other Lots will be adjusted accordingly. Such Declaration of Annexation will not require the consent of Owners, the West View Estates Homeowners Association, or the Board of Directors; any such expansion will be effective upon the filing for record of such Declaration of Annexation, unless otherwise provided therein. The expansion may be accomplished in stages by successive supplements or in one supplemental expansion.

Upon the recordation of any such Declaration of Annexation, the definitions used in this Declaration will be expanded automatically to encompass and refer to West View Estates as expanded. Such Declaration of Annexation may add supplemental covenants peculiar to the Expansion Property in question, or delete or modify provisions of this Declaration as it applies to the Expansion Property added. However, this Declaration may not be modified with respect to that portion of the Property already subject to this Declaration, except as provided below for amendment.

ARTICLE 13
INSURANCE

Section 13.1. *Authority to Purchase.* All insurance policies relating to the Common Area will be purchased by the Board of Directors or its duly authorized agent. The Board of Directors and the Declarant will not be liable for failure to obtain any coverage required by this Article or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage is available only at demonstrably unreasonable costs.

Section 13.2. *General Insurance Provisions.* All such insurance coverage obtained by the Board of Directors will be governed by the following provisions:

13.2.1. As long as Declarant owns any Lot, Declarant will be protected by all such policies in the same manner as any other Owner.

13.2.2. The deductible, if any, on any insurance policy purchased by the Board of Directors may be treated as a Common Expense payable from Annual Assessments or Special Assessments (allocable to all of the Lots or to only some of the Lots, if the claims for damages arise from the negligence of particular Owners, or if the repairs benefit only particular Owners), or as an item to be paid from working capital reserves established by the Board of Directors.

Section 13.3. *Physical Damage Insurance on Common Area.* The West View Estates Homeowners Association will obtain insurance for such insurable Improvements and with such coverages, limits, deductibles and other terms and conditions as the Board may determine from time to time.

Section 13.4. Liability Insurance. The West View Estates Homeowners Association may obtain a comprehensive policy of public liability insurance and property damage insurance with such coverage and limits as the Board of Directors may from time to time determine, insuring each member of the Board of Directors, the West View Estates Homeowners Association, and the respective employees, agents, and all persons acting as agents against any liability to the public or the Owners (and their guests, invitees, tenants, agents and employees) arising in connection with the ownership, operation, maintenance or use of the Common Area and streets and roads within West View Estates and any other areas under the control of the West View Estates Homeowners Association. Declarant will be included in the coverage as an additional insured in Declarant's capacity as an Owner or Director.

ARTICLE 14
ENFORCEMENT OF COVENANTS

Section 14.1. *Violations Deemed a Nuisance.* Every violation of this Declaration or any other violation of the West View Estates Documents is deemed to be a nuisance and is subject to all the remedies provided for the abatement of the violation. In addition, all public and private remedies allowed at law or equity against anyone in violation of these Covenants will be available.

Section 14.2. *Compliance.* Each Owner or other occupant of any part of the Property will comply with the provisions of the West View Estates Documents as the same may be amended from time to time.

Section 14.3. *Failure to Comply.* Failure to comply with the West View Estates Documents will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Reasonable notice and an opportunity for a hearing as provided in the Bylaws will be given to the delinquent party prior to commencing any legal proceedings.

Section 14.4. *Who May Enforce.* Any action to enforce the West View Estates Documents may be brought by Declarant or the Board in the name of the West View Estates Homeowners Association on behalf of the Owners. If, after a written request from an aggrieved Owner, none of the foregoing persons or entities commences an action to enforce the West View Estates Documents, then the aggrieved Owner may bring such an action.

Section 14.5. *Nonexclusive Remedies.* All the remedies set forth herein are cumulative and not exclusive.

Section 14.6. *No Waiver.* The failure of the Board of Directors, Declarant, or any aggrieved Owner to enforce the West View Estates Documents in any one or more instances will not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any other part of the West View Estates Documents at any future time.

Section 14.7. *No Liability.* No member of the Board of Directors, the Declarant or any Owner will be liable to any other Owner for the failure to enforce any of the West View Estates Documents at any time.

Section 14.8. *Recovery of Costs.* If legal assistance is obtained to enforce any of the provisions of the West View Estates Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the West View Estates Documents or the restraint of violations of the West View Estates Documents, the prevailing party will be entitled to recover all costs incurred by it in such action, including reasonable attorneys' fees (and legal assistant's fees) and costs as may be incurred, or if suit is brought, as may be determined by the court.

ARTICLE 15
RESOLUTION OF DISPUTES

If any dispute or question arises between Members or between Members and West View Estates Homeowners Association or relating to the interpretation, performance or nonperformance, violation, or enforcement of the West View Estates Documents, such dispute or violation may be subject to a hearing and determination by the Board in accordance with the procedures set forth in the Bylaws.

ARTICLE 16
DURATION OF THESE COVENANTS AND AMENDMENT

Section 16.1. *Term.* This Declaration and any amendments or supplements hereto will remain in effect from the date of recordation until the 30th anniversary of the date this Declaration is first recorded in the office of the Clerk and Recorder of Flathead County, Montana. Thereafter these Covenants will be automatically extended for five successive periods of 10 years each, unless otherwise terminated or modified as provided below.

Section 16.2. *Amendment.* Subject to Section 16.3 this Declaration, or any provision of it, may be terminated, extended, modified or amended, or revoked as to the whole or any portion of the Property as follows:

16.2.1. *Prior to Sale of Lots.* Prior to the sale of any Lot, the Declarant (including a Successor Declarant) may terminate, extend, modify, amend or revoke this Declaration as to the whole or any portion of the Property by recording in the records of Flathead County, Montana, a document signed by the Declarant stating the action taken.

16.2.2. *After Sale of Lots but During Period of Declarant Control.* After the sale of a Lot but before expiration of the Period of Declarant Control, Declarant (including any Successor Declarant) may terminate, extend, modify, amend or revoke this Declaration as to the whole or any portion of the Property. A copy of the document stating the action intended to be taken by the Declarant and a notice of the Owners' rights under this Section shall be mailed to each Owner by first class mail, postage prepaid, to the address of the Owner on the records of the West View Estates Homeowners Association. Unless written objection is received by the Declarant from the Owners holding ninety percent (90%) of the Owners objected to the action.

16.2.3. *After the Period of Declarant Control.* After the Period of Declarant Control, this Declaration, or any provision of it, may be terminated, extended, modified or amended, or revoked as to the whole or any portion of the Property upon the written consent of Owners holding 67% or more of the votes in the West View Estates Homeowners Association. Any document will be immediately effective upon recording in the records of Flathead County, Montana, a copy of such executed and acknowledged by the necessary number of Owners, or alternatively, upon the recording in the records of Flathead County, Montana, of a copy of the document together with a certificate signed by an officer of

the West View Estates Homeowners Association stating that the required number of consents of Owners were obtained.

Section 16.3. *Declarant's Approval.* Notwithstanding the provisions of Section 16.2, no termination, extension, modification or amendment of this Declaration will be effective in any event during the Period of Declarant Control unless the written approval of Declarant is first obtained.

Section 16.4. *Effect of Amendments.* Amendments made pursuant to this Section will inure to the benefit of and be binding upon all Owners, their families, guests, invitees and employees, and their respective heirs, successors, and assigns. Joiner of the First Mortgagees shall not be required in order to effect an amendment.

ARTICLE 17
MISCELLANEOUS PROVISIONS

Section 17.1. Severability. This Declaration, to the extent possible, will be construed or reformed so as to give validity to all of its provisions. Any provision of this Declaration found to be prohibited by law or unenforceable will be ineffective to the extent of such prohibition or unenforceability without invalidating any other part hereof.

Section 17.2. *Construction.* In interpreting words in this Declaration, unless the context will otherwise provide or require, the singular will include the plural, the plural will include the singular, and the use of any gender will include all genders.

Section 17.3. *Headings.* The headings are included only for purposes of convenient reference, and they will not affect the meaning or interpretation of this Declaration.

Section 17.4. *Waiver.* No failure on the part of the West View Estates Homeowners Association or the Board to give notice or default or to exercise or to delay in exercising any right or remedy will operate as a waiver, except as specifically provided above in the event the Board fails to respond to certain requests. No waiver will be effective unless it is in writing and signed by the President or Vice President of the Board on behalf of the West View Estates Homeowners Association.

Section 17.5. *Limitation of Liability.* Neither the Declarant, the West View Estates Homeowners Association nor any partner, officer or member of either the Declarant or the Board will be liable to any party for any action or for any failure to act with respect to any matter arising by, through or under the West View Estates Documents if the action or failure was made in good faith. The West View Estates Homeowners Association will indemnify all of the officers and Board members with respect to any act taken in their official capacity to the extent provided in this Declaration and by law and in the Articles of Incorporation and Bylaws.

Section 17.6. *Conflicts Between Documents.* In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration will control. In

case of conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation will control.

Section 17.7. *Assignment.* Declarant may assign all or any part of the Special Declarant Rights or any of Declarant's other rights and reservations hereunder to any successor who takes title to all or part of the Property in a bulk purchase for the purpose of development and sale. Such successor will be identified, the particular rights being assigned will be specified, and, to the extent required, concomitant obligations will be expressly assumed by such successor, all in a written instrument duly recorded in the records of the Clerk and Recorder of Flathead County, Montana.

IN WITNESS WHEREOF, Declarant has signed this Declaration on the Date shown above.

Mark G. O sec. Treas.

By: Owl Corporation,
Mark G. Owens, Secretary/Treasurer

STATE OF MONTANA)
:ss
County of Flathead)

LB 18th LB June LB 2021

This instrument was acknowledged before me on this ~~27th~~ day of ~~November 2019~~, as the true and free act of Owl Corporation, by Mark G. Owens, the Secretary/Treasurer of Owl Corporation, in accordance with the Articles of Incorporation of Owl Corporation, filed with the State of Montana.

LEANN M. BARE NOTARIAL SEAL STATE OF MONTANA

LEANN M. BARE
NOTARY PUBLIC for the
State of Montana
Residing at Kalispell, Montana
My Commission Expires
September 22, 2021

LeAnn M. Bare
Notary Public for the State of Montana