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Shelley Vance-Gallatin Co MT MISC 54.00

**BYLAWS OF THE BROADWATER COURT  
TOWNHOUSE OWNER ASSOCIATION**

I. PURPOSE AND APPLICATION

These Bylaws, which may be recorded by the Clerk and Recorder of Gallatin County, State of Montana, shall govern and control the administration of the Broadwater Court Townhouse Owner Association ("Association"). All members of the Association, their guests and invitees shall have the rights and responsibilities described in these Bylaws and shall be subject the provisions contained herein. The legal description of the land affected by these Bylaws is: Broadwater Court Subdivision P.U.D.-Phase 1 & 2.

II. ASSOCIATION MEMBERSHIP

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All persons owning property within the lands described above shall be members of the Association and the acquisition of such ownership interest signifies that the owner accepts, ratifies and agrees to comply with these Bylaws. Membership in the Association shall begin concurrently with the acquisition of the ownership interest and shall terminate at the time such ownership interest is terminated.

III. OBLIGATIONS OF LOT OWNERS

Each lot owner shall be obligated to comply with these Bylaws, the Articles of Incorporation of the Broadwater Court Townhouse Owner Association, the Declaration of Covenants for Broadwater Court Townhouse Owner Association and the Protective Covenants for Ferguson Meadows Association. Failure of any lot owner to abide by these Bylaws, or any other applicable Bylaws or covenants, shall be grounds for appropriate legal action by the Association of Lot Owners, or by an aggrieved lot owner against each non-complying Lot owner.

IV. MEETING AND VOTING

A. Regular Meetings:

There shall be a regular meeting of the Association annually on the third Tuesday of May of each year, commencing in the year of activation of the Association, or on such other date properly announced by the Association. Any first lienholder shall have the right to have a representative attend any regular meeting and shall be given notice thereof. The first meeting of the Association shall take place at the call of the incorporators of the Association, as set forth in the Articles of Incorporation on



file with the Secretary of State of Montana to activate the corporation.

1. At the time of creation of these Bylaws the second phase of the Subdivision has not been completed. These Bylaws shall apply to Phase 2 at such time as it is completed.

B. Special Meetings:

Pursuant to these Bylaws, the Association may, at any time, hold special meetings, notice of which must be sent to all members and first lienholders, who shall have the right to have a representative attend. Such special meeting may be called on the initiative of the President of the Association, or the manager of the Association, or upon petition signed by twenty-five percent (25%) of the Lot Owners. Those initiating a special meeting must specify the reason for such meeting and the matters to be raised. Only matters set forth in the petition or request may be brought before the special meeting, unless seventy-five percent (75%) of the Lot Owners are present in person or by proxy and agree otherwise.

C. Notice:

Notice of all meetings, regular or special, shall be mailed to every Lot Owner and first lienholders of record at their address of record at least 10 days prior to the time set for holding such meeting, and such notice shall be considered complete upon mailing. Notices shall specify the date, time, and place of the meeting and shall make provision to allow for the voting of each lot owner's interest by proxy at the discretion of the Owner.

D. Quorum:

No meeting, regular or special, shall be convened to conduct business unless a quorum is present in person or by proxy. A quorum shall consist of more than fifty percent (50%) of the total aggregate voting interest of the Broadwater Court Townhouse Owner Association. At any time, during any meeting that a quorum is not present, such meeting shall be adjourned forthwith.

Whenever a quorum is present at a meeting of the Association or the Board of Directors, those present may do any and all acts they are empowered to do, unless specific provisions of these Bylaws, the Declaration, or the laws of the State of Montana direct otherwise.

V. VOTING INTEREST

The total aggregate voting interest of the Association shall be one hundred percent (100%) of the combined lots within the



subdivision, and each lot within the subdivision shall be represented by one (1) vote. In the event that a lot is owned by more than one person, all of the persons sharing ownership of the lot shall share the vote for that lot. Prior to voting on any matter, all persons sharing ownership of any lot must agree to the manner in which the vote will be cast. In the event that all owners of an individual lot cannot agree on the manner in which the individual vote will be cast, the owners of that lot shall not be allowed to vote on that matter. In no case, may the vote of an individual lot be divided.

VI. BOARD OF DIRECTORS

The governance of the Broadwater Court Townhouse Owner Association shall be by a Board of Directors elected from among the Lot Owners. The Board of Directors shall consist of at least three (3) members of the Association, and shall have a President, Secretary and Treasurer. The manner of election to the Board of Directors shall be as follows:

At the first and all subsequent meetings of the Association, nominations for positions on the Board will be accepted from any of the Unit Owners present. Voting will be non-cumulative, with each Lot Owner having one vote. Board members shall serve for one (1) year and shall be elected by majority vote of those present at any regular or special meeting called for that purpose. In the event that the Developer is still an Owner of one or more lots within the subdivision upon activation of the Association, the Developer shall appoint a person to preside over the initial meeting until Directors are elected.

VII. POWERS AND DUTIES OF THE BOARD OF DIRECTORS

The Board of Directors shall have all powers and responsibilities attendant to the general administration and control of the Association. Additionally, the Board shall have the authority necessary to carry into effect the powers and duties specified by these Bylaws, including, but not limited to the following:

- A. To call annual meetings of the Association and give due notice thereof;
- B. To conduct elections of the Board of Directors;
- C. To enforce the provisions of the Covenants for Broadwater Court Townhouse Owner Association and the Bylaws of the Association by appropriate action;
- D. To promulgate and adopt rules and regulations for the use of the subdivision in order to protect lot owners and their goods;



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- E. To provide for the fulfillment of the duties of the Association by hiring or contracting with suitable and capable personnel;
- F. To levy assessments as allowed by the Covenants, the Articles of Incorporation of the Broadwater Court Townhouse Owner Association and these Bylaws, and to provide for the collection, expenditure and accounting of such assessments;
- G. To pay the expenses required by the Protective Covenants, and to approve payment vouchers therefore, at either regular or special meetings;
- H. To delegate authority to others for the conduct of Association business and to carry out the duties and powers of the Board. Such authority shall, however, be precisely defined with ultimate authority, at all times, residing in the Board of Directors.
- I. To provide a means of hearing grievances and foreclosure proceedings of Lot Owners and to observe all due process requirements imposed on Homeowner's Associations.
- J. To meet at regularly scheduled times and hold such meetings open to all Lot Owners or their agents.
- K. To prepare an annual budget for the Association in order to determine the amount of the assessments payable by the Lot Owners to meet the expenses of the Association and allocate and assess such charges among the individual Lot Owners according to their ownership interests, and to submit such budget to the Unit Owners on or before the date of the annual meeting.
- L. To levy and collect special assessments whenever, in the opinion of the Board, it is necessary to do so in order to meet increased operating or maintenance expenses, costs, or additional capital expenses, or because of emergencies.
- M. To take appropriate legal action and collect any delinquent assessments, payments, or amounts due from Lot Owners or from any person or persons owing money to the Association and to levy a penalty and to charge interest on unpaid amounts due and owing.
- N. To prosecute and defend, in the name of the Association, any and all lawsuits wherein Broadwater Court Townhouse Owner Association is a party.
- O. To enter into contracts with third parties to carry out the duties herein set forth, for and on behalf of the Board and



the Association.

- P. To establish a bank account for the Broadwater Court Townhouse Owner Association, and to keep therein all funds of the Association. Withdrawal of monies from such account shall only be by checks signed by such persons as are authorized by the Board of Directors.
- Q. In general, to act for and carry on the administration and affairs of the Association as authorized and prescribed by the Protective Covenants, Articles of Incorporation, and these Bylaws, and to do all those things which are necessary and reasonable in order to carry out the governance and operation of the Broadwater Court Townhouse Owner Association.
- R. To make repairs, alterations and improvements to the public areas designated by the Association, consistent with managing the subdivision in a first class manner, and in the best interests of the Lot Owners.
- S. To arrange, keep, maintain and renew the insurance for the Association as set forth in these Bylaws.
- T. To carry out the duties and responsibilities of the Board in all other matters as may be authorized, needed or required by the Protective Covenants, Articles of Incorporation and these Bylaws.

VIII. VACANCIES AND REMOVAL

Should a vacancy occur on the Board of Directors, the Board shall appoint a member of the Association to serve for the unexpired term. Such vacancy shall be filled no later than the next regular Board meeting after which it occurs. Should such vacancy not be filled by the Board, the Association may fill such vacancy at the next regular meeting of the Association.

At any regular or special meeting of the Association, any member of the Board may be removed by a majority of the Lot Owners. Such vacancy shall be filled by the Association at that time. The intent to remove Board member must be announced in the notice of the regular or special meeting at which the removal is to take place.

IX. COMPENSATION

No member of the Board of Directors shall receive any compensation for acting in that capacity. Nothing herein shall be construed to preclude compensation being paid to managers who are hired by the Board of Directors.

X. EMPLOYEES

In the event that the Board of directors, in its discretion, determines that any employees are necessary to conduct the affairs



of the Association, such employees shall be appointed and/or removed by the Board of Directors.

XI. ASSOCIATION ACCOUNTS AND RECORDS

The employees or Board members handling Association funds or having power to withdraw or spend such funds shall be bonded, unless such bonding requirement is waived by the Board of Directors or by a majority vote of the Association members at any regular or special meeting. Records of the financial affairs of the Association shall be kept by the Board or its designated representative, which shall detail all assessments made by the Association and the status of payments of such assessments by all lot Owners. All records shall be available for examination during normal business by any lot Owner, or by the designated representative of an owner. All functions and duties herein provided for may be performed by the Board, the Association President, or the designated employee of the Association. In the event that a manager is employed by the Association, the manager shall have the following powers and duties:

- A. Accounts: The receipts and expenditures of the Association shall be recorded in proper form, showing:
  - 1. Current Expenses, which shall include all receipts and expenditures to be made within the year in which the budget is made, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves or to betterments. The balance in this fund at the end of each year shall be applied to reduce the assessments for current expenses for the succeeding year for those members who are current in the payment of their assessments, unless generally accepted accounting principles dictate that the surplus be returned to the members before year end. Should a refund of any surplus appear advisable, only those members who are current in their assessments shall receive a refund.
  - 2. A reserve for deferred maintenance and replacement shall include funds for maintenance items which occur less frequently than annually.
  - 3. Betterments shall include the funds to be used for capital expenditures for additional improvements or additional personal property which may be owned by the Association.
- B. Budget: The manager shall annually prepare and submit to the Board a budget. The budget submitted by the manager shall be approved and adopted by the Board, or the Board may amend the proposed budget or create its own budget. The budget shall include the estimated funds required to defray the expenses of the Association and provide and maintain funds for the Association's accounts, according to good accounting practice.

Copies of the budget and proposed assessments shall be



transmitted to each member of the Association at least 30 days prior to the Association meeting at which the proposed budget and assessments are to be adopted. If the budget is subsequently amended, a copy of the amended budget shall be furnished to each member.

- C. Financial Report: A financial report of the accounts of the Association shall be made annually by an accountant, unless waived by an affirmative vote of at least two-thirds (2/3) of the Owners. A copy of the report shall be furnished to each member at the annual meeting.

XI. INSURANCE

In the event that insurance is deemed necessary by the Association, the Board or manager shall purchase such insurance from a company licensed to do business in the state of Montana. The named insured shall be the Association as agent for the Owners, with such policy or policies to provide that payments for losses shall be paid to the Association.

- A. Coverage: In the event that any tangible property is insured, such insurance shall be in an amount equal to the full insurable replacement value of the property. In addition, such insurance may provide for protection against:
  1. Errors and omissions for the Directors, officers and managers if the Association so desires, in an amount to be determined by the Board.
  2. The Board may, in its discretion, obtain insurance coverage for public liability and such other insurance as may be desirable, or as may be required by any applicable law.
- B. Association as Agent: The Association is irrevocably appointed agent for each Owner and for each holder of a mortgage or other lien upon a lot, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

XII. AMENDMENT OF BYLAWS

These Bylaws may be amended in any regular or special meeting of the Association, provided that a copy of the proposed revision is included in the notice of such meeting. The amendment shall be adopted upon receiving the approval of seventy-five percent (75%) of the Owners in the subdivision.

The Secretary shall then prepare a copy of these Bylaws, as amended, for certification by the President and Secretary of the Association, and the amended Bylaws shall then be filed in the office of the Clerk and Recorder of Gallatin County, Montana, if these original Bylaws have been recorded. Bylaws as amended shall become effective as of the time of recording.



XIII. ASSESSMENTS

All assessments shall be due within thirty (30) days after the notices of assessment are mailed to the Owners. Any assessments not paid within thirty (30) days following the due date shall be considered delinquent. In the event that an Owner remains delinquent for a period of more than thirty (30) days, the Association shall be empowered to place a lien on the delinquent owner's property, which shall be superior to all other liens, except tax liens and the lien of the first mortgage holder. Such lien shall be in writing and shall set forth the unpaid assessment, the amount of the accrued interest and late charges thereon, the name of the Owner of the lot, a description of the lot, and any other information deemed necessary by the Board. The notice shall be signed and verified by the President of the Association and shall be in a form suitable for recording in the office of the Clerk and Recorder of Gallatin County, Montana.

Any lien imposed in accordance with this Article shall attach from the date of recording, and the lien may be enforced by the foreclosure of the defaulting membership interest in the subject lot or lots, in a like manner as a mortgage on real property. In the event that any court action is filed to recover past due assessments or to enforce any other provision of these Bylaws or the Covenants, the prevailing party shall be allowed to recover from the other party the costs, expenses and attorney fees incurred in maintaining the action.

Regardless of whether a lien is placed upon the Owner's property, the Owner shall be liable for interest on the unpaid assessment at the rate of fifteen percent (15%) per annum, unless such rate is prohibited by law, in which case the maximum rate allowed by Montana law shall apply. In addition, should it become necessary to send notice of default to any Owner, such Owner shall be liable to the Association for the reasonable cost of preparing and mailing the notice, which shall not exceed \$100.00.

XIV. NOTICE TO LIENHOLDERS

A first lienholder, upon request, will be entitled to written notification from the Association of any default in the performance by a lot Owner of any obligation called for in these Bylaws.

XV. DUE PROCESS BY ASSOCIATION

In the event that an action takes place by the Association against any individual Owner to enforce an assessment or any part of these Bylaws, the Articles of Incorporation, the Protective Covenants of the subdivision, or any rule or regulation properly adopted by the Association, such Owner shall be afforded the protection of due process, which includes, but is not limited to the following:



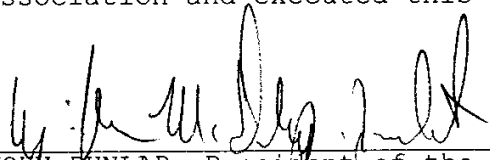


- A. Adequate notice in writing of any default, setting forth the means by which the default may be cured.
- B. An opportunity to defend against any allegation of default.
- C. An opportunity to receive a formal hearing before an impartial tribunal or panel.

XVI. PROTECTIVE COVENANTS

The Broadwater Court Townhouse Owner Association has filed, along with these Bylaws, Protective Covenants and Articles of Incorporation for the Association. Those Articles and Protective Covenants govern the acts, powers, duties and responsibilities of the Association and, in the event that these Bylaws, Protective Covenants, or Articles of Incorporation conflict, the Protective Covenants shall prevail.

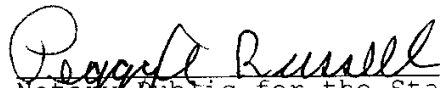
IN WITNESS WHEREOF, these Bylaws have been adopted at the Organizational Meeting of the Broadwater Court Townhouse Owner Association and executed this 20<sup>th</sup> day of January, 2004.

  
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 JOHN DUNLAP, President of the  
 Broadwater Court Townhouse Owner Association

STATE OF MONTANA     )  
                                   : ss  
 County of Gallatin    )

This instrument was acknowledged before me this <sup>23</sup>~~20~~<sup>th</sup> day of January, 2004, by JOHN DUNLAP, President of the Broadwater Court Townhouse Owner Association.



  
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 Notary Public for the State of Montana  
 Printed Name: \_\_\_\_\_  
 Residing at \_\_\_\_\_, Montana  
 My commission expires: \_\_\_\_\_, 20\_\_

Peggy A. Russell  
 Notary Public for the State of Montana  
 Residing at Bozeman, Montana  
 My Commission Expires March 16, 2006