



DECLARATION OF COVENANTS FOR
BROADWATER COURT TOWNHOUSE OWNER ASSOCIATION

This Declaration is made this 31st day of December, 2003, by CASCADE HOMES, INC. of 1627 West Main Street #223, Bozeman, Montana 59715, hereinafter referred to as "Declarant."

R E C I T A L S

1. That the Declarant is the owner in fee simple of that real property described as follows:

Block J of Ferguson Meadows Subdivision, Gallatin County, Montana

2. That the Declarant desires to erect Townhouse clusters upon the property described above, which shall be subject to the Declaration of Restrictive Covenants for Ferguson Meadows Subdivision, as well as this Declaration.

NOW THEREFORE, the Declarant does hereby establish, dedicate, declare, publish and impose upon the premises described above, the following covenants, conditions and restrictions, which shall run with the land and shall be binding upon and be for the benefit and value of all persons claiming under them, their successors, and assigns, and shall be for the purpose of maintaining a uniform and stable value, character, architectural design, use and development of the premises. These covenants, conditions and restrictions shall apply to the entire premises and all improvements placed or erected thereon, unless the context of these covenants, conditions and restrictions implies otherwise, and shall be in existence and full force and effect for as long as townhouses upon the above described property, or until such time as these covenants are modified by agreement of all of the owners of the property affected



2137306

Page: 2 of 12
01/08/2004 10:56A

Shelley Vance-Gallatin Co MT MISC 72.00

hereby and the governing body of the City of Bozeman. The covenants, conditions and restrictions shall be as follows:

1. That the property described in this Declaration is a part of the Ferguson Meadows Subdivision and shall be subject to the Declaration of Restrictive Covenants for Ferguson Meadows Subdivision, recorded as Document No. 2031627, records of Gallatin County, Montana. As such, each owner of a townhouse upon the above-described property shall automatically become a member of the Ferguson Meadows Owners' Association and shall be subject to the Bylaws of that organization. He or she shall also be obligated to pay those assessments levied by the Association.

2. That in addition, the Declarant shall form a separate owners' association for the BROADWATER COURT TOWNHOUSE OWNER ASSOCIATION, in order to provide a mechanism for maintenance of the townhouses and their surroundings, and all owners shall automatically belong to that association as well. In that regard the Association created to manage the affairs of the townhouse cluster shall be authorized to levy assessments upon the owners of the townhouses in order to pay for maintenance of subdivision streets, snow removal upon the sidewalks, lawn care for front yards and the maintenance of the buildings, maintenance of common open spaces within the Broadwater Court Townhouses, relevant park areas, including landscaping and park area pedestrian facilities, lighting not included in any applicable lighting district, and storm water facilities. The Broadwater Court Townhouse Owner Association shall maintain the roofs and siding of the buildings, but the individual owners shall be responsible for replacement and repair of windows and doors and any additions that may be made to the buildings, such as satellite dishes. Furthermore, the association shall maintain all fences bordering agricultural areas in accordance with state law.

3. The Broadwater Court Townhouse Owner Association shall be organized in the same manner as the Ferguson Meadows Owners' Association and shall have the same powers to levy assessments and place liens upon the townhouses as the Ferguson Meadows Owners' Association, but shall be subordinate to the Ferguson Meadows Owners' Association with respect to any powers and duties set forth in the Declaration recorded as Document No. 2031627, records of



2137306

Page: 3 of 12
01/08/2004 10:56A

Shelley Vance-Gallatin Co MT MISC

72.00

Gallatin County, Montana. Such association has been incorporated by the developer prior to recording of this instrument and all common areas in Phase 1 have been deeded to the association at the time of recording these Covenants. The common areas for the initial phase of the subdivision are described as follows:

Broadwater Court Subdivision P.U.D., Phase 1, excepting therefrom Lots 1-18, Bozeman, Gallatin County, Montana.

At such time as Phase 2 of the subdivision is developed, such property shall be subject to these covenants and the common areas for Phase 2 will be deeded at the time of filing of the plat for Phase 2. The common areas of Phase 2 are described as follows:

Broadwater Court Subdivision P.U.D., Phase 2, Bozeman, Gallatin County, Montana, excepting therefrom Lots 19-36.

4. That the Declarant is the owner of the property described above and intends to erect townhouses upon the property. Party walls and the foundations for party walls shall be placed between the units located on the property and the units, while separately owned, shall share common exteriors, which will be governed by these covenants.

5. Each unit owner, during his or her ownership of one of a unit, shall enjoy the right, privilege or easement to use the party wall(s) and foundation(s) of his or her unit(s) for as long as the same remain standing, subject to the provisions of this Declaration. In addition, each owner and the owner's family members, tenants, and guests shall be entitled to the use and enjoyment of the common facilities of the Broadwater Court Townhouses as the same are depicted on the plat for Broadwater Court Townhouses.

6. Should the buildings on the properties described above be so constructed that the foundation or party walls for any of the townhouses extends over the boundary of the lot for that townhouse and onto the lot of an adjoining townhouse, the foundation and party wall of such townhouse so extended shall remain as situated and shall be construed and deemed to be a party wall between such properties, so that in the event an encroachment exists, neither



party shall be compelled to take down or remove such party wall, for so long as the same shall remain standing. Such encroachment shall be deemed permissive, with no adverse or prescriptive rights created on the property which shall suffer the encroachment. Furthermore, other applicable easements are shown on the plat for Block J and shall apply to the owners as their interests appear.

7. This Declaration shall continue in effect from and after the date of the execution of this Declaration and for so long as the foundations and party walls, or any of them, shall stand and shall constitute an easement and covenant of record running with the land, for the mutual use and benefit of each townhouse affected by this Agreement and any owner within the Broadwater Court Townhouses, as well as the City of Bozeman, may seek enforcement of the provisions contained herein.

8. No owner shall engage in any construction, repair, remodeling or replacement which in any way affects the structural integrity or bearing capacity of a party wall, without the consent of the owner(s) of the contiguous building located on the adjoining lot. No owner may engage in any construction, remodeling or replacement of the exterior of his or her building without the consent of the Architectural Committee.

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

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

11. That portion of the exterior of each of the buildings which constitutes the party wall shall be maintained in its original condition, unless all of the owners of the properties affected by this Agreement unanimously agree otherwise.



2137306

Page: 5 of 12
01/08/2004 10:56A

Shelley Vance-Gallatin Co MT MISC 72.00

12. Each owner of any building affected by this Agreement shall be responsible for the care and maintenance of his or her individual lot.

13. Boundary fences between the units shall be prohibited, although the owners may erect privacy screening around their individual patios, which shall encompass the patio; provided, however, that in the event that the owners extend their patios beyond the area provided by the developer, neither the patio nor the privacy screening shall encroach more than five feet (5') into the 20' rear setback and shall not encroach upon the side yard setbacks. Any privacy fence so erected shall not be taller than four feet (4'). This provision may only be modified upon an affirmative vote of all of the owners in BROADWATER COURT TOWNHOUSE OWNER ASSOCIATION, regardless of any other provision setting forth a lesser percentage.

14. The Association shall purchase insurance policies upon the townhouse buildings and common elements, insuring against fire and other casualty in an amount sufficient to restore the buildings only, but such coverage shall not include flooring, cabinets, fixtures, appliances, furniture or other personal property of the owners. The named insured shall be the Association, as agent for the owners. Such policies shall provide that payments for losses thereunder by the insurer shall be paid to the Insurance Trustee hereinafter designated, and all policies and endorsements thereon shall be deposited with the Insurance Trustee. Unit owners may obtain insurance coverage at their own expense upon their own personal property, fixtures and finish materials and for their personal liability and living expenses for alternate accommodations if they are dispossessed.

A. All buildings and improvements upon the land, and all personal property included as part of the common elements shall be insured to any amount equal to the full insurable replacement value, subject to such deductible clauses as are required in order to obtain coverage at reasonable costs. Such coverage shall afford protection against:

- i. Loss or damage to the common elements by fire and other hazards covered by a standard coverage endorsement for



2137306

Page: 6 of 12
01/09/2004 10:56A

Shelley Vance-Gallatin Co MT MISC 72.00

residential townhouse units, and such other coverage deemed appropriate by the Board or Association as a whole. In no event shall insurance coverage be in an amount less than the replacement value of the buildings;

ii. Public Liability in such amounts and with such coverage as shall be required by the Board of Directors of the Association, including, but not limited to hired automobile and non-owned automobile coverage, if applicable, and with cross-liability endorsement to cover liabilities of the Unit owners as a group to a Unit owner;

iii. Such other risks as may from time to time occur shall customarily be covered with respect to buildings similar in construction, location and use as the buildings on the land; and

iv. Errors and Omissions insurance for the Directors, Officers and Managers if the Association so desires, in amounts to be determined by the Board.

B. The policies shall state whether the following items are included within the coverage in order that the Unit owners may insure themselves if the items are not insured by the Association:

Airhandling equipment for space cooling and heating, service equipment such as dishwasher, disposal, laundry, fireplaces, refrigerator, stove, oven, whether or not such items are built-in equipment, interior fixtures such as electrical and plumbing fixtures, floor coverings, inside paint and other inside wall finishings.

C. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense, except that the amount of increase in the premium occasioned by misuse, occupancy or abandonment of a Unit or its appurtenances, or of the common elements by a Unit owner shall be assessed against the Owner. Not less than ten (10) days prior to the date when a premium is due, evidence of such payment shall be furnished by the Association to each lienholder listed in the roster of lienholders.



D. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit owners and their mortgagees, as their interest may appear. Such policies shall provide that all proceeds covering property losses shall be paid to such bank in Montana with trust powers as may be designated as insurance trustee by the Board of Directors of the Association, which trustee is herein referred to as the insurance trustee. The insurance trustee shall not be liable for payment of premiums, nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the insurance trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated in this instrument and for the benefit of the Unit owners and their mortgagees.

Proceeds of insurance policies received by the insurance trustee shall be distributed to or for the benefit of the beneficial owners and mortgagees in the following manner only:

- i. Expenses of administration, insurance trustee and construction or remodeling supervision shall be considered as part of the cost of construction, replacement or repair.
- ii. If the damage for which the proceeds are paid is to be repaired or reconstructed by the Association, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided.
- iii. If there is no reconstruction or repair the first proceeds for distribution after paying the insurance trustee shall be made to the first lienholders for such Units before distribution to the Unit owner.
- iv. In making distribution to unit owners and their lienholders, the insurance trustee may rely upon a certificate of the Association made by its representative or manager as to the names of the Unit owners and their respective shares of the distribution.

E. The Association is irrevocably appointed agent for each Unit owner and for each Owner of a mortgage or other lien upon a



2137306

Page: 8 of 12
01/08/2004 10:56A

Shelley Vance-Gallatin Co MT MISC 72.00

unit and for each Owner of any other interest in the townhouse property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

F. Certain provisions in this Declaration relating to insurance are for the benefit of mortgagees or trust indenture beneficiaries of townhouse units, and all such provisions are covenants for the benefit of any mortgagee of a unit and may be enforced by such mortgagee or beneficiary.

G. If any part of the property shall be damaged by casualty, whether or not it shall be constructed or repaired, shall be determined in the following manner:

i. If a unit or units are found by the Board of Directors of the Association to be habitable after the casualty, the damaged property shall be repaired.

ii. Should any unit or units be found to be uninhabitable by the Board of Directors after the casualty, the damaged property may be rebuilt or reconstructed.

iii. In the event the Association elects not to rebuild as herein provided, the insurance proceeds shall be used to satisfy any outstanding liens or encumbrances on the property. The only circumstances under which the Association can elect not to rebuild the townhouse units after a casualty loss is if the units in the building are damaged to the extent that they are untenable.

H. The insurance trustee may rely upon a certificate of the Association made by its Chairman, President or manager to determine whether or not the damaged property is to be reconstructed.

I. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original improvements, or if not, then according to plans and specifications approved by not less than seventy-five percent (75%) of the unit owners, including the approval of owners of all units which are to



be altered.

J. Responsibility: The responsibility for reconstruction or repair after casualty shall be the same as for maintenance and repair in the townhouse property.

K. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction or repair for which the Association is responsible or if at any time during such reconstruction or repair, or upon completion of such reconstruction or repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against all unit owners in sufficient amounts to provide funds for the payment of such costs.

L. The funds for payment of costs of reconstruction or repair after casualty, which shall consist of proceeds of insurance held by the insurance trustee and funds collected by the Association from assessments against unit owners, shall be disbursed in the sound discretion of the trustee and according to the contract of reconstruction or repair, which contract must have the approval of the Board of Directors.

M. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from the insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be paid to the Association for the use and benefit of the unit owners.

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

16. The rights and obligations of an owner to be established under this Agreement shall be appurtenant to the land and shall pass to such owner's successors in title.

17. Lot owners and residents of the subdivision are informed that uses of nearby lands may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can



2137306

Page: 10 of 12
01/08/2004 10:56A

Shelley Vance-Gallatin Co MT MISC 72.00

result in dust, animal odors, flies, burning, smoke, and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.

18. The owner of each lot shall control the weeds and noxious plants on his or her lot, as defined by the Gallatin County Weed Control officer and the Montana Noxious Weed Control Act (§7-22-2101, et seq., MCA) and the rules and regulations of the Gallatin County Weed Control District; provided, however, that he or she shall not use poison harmful to humans or animals, or detrimental to the enjoyment of the occupants of the property. Should an owner fail to properly control the weeds, as required by these covenants and county regulations, upon ten (10) days written notice from the Association, the Association may do so on behalf of the owner. In such case, the Association may assess the lot owner for the costs thereof, in the same manner as any regular assessment of the Association and a lien may be filed in the event that payment is not made within thirty (30) days of the assessment.

19. All lighting within the Broadwater Court Townhouses shall be in compliance with applicable regulations of the City of Bozeman, and shall be maintained by the owners association. Specifically, street lighting will provide the necessary lighting in accordance the applicable national safety standards consistent with the preservation of dark skies.

20. All outdoor lighting of any nature shall be free of glare and shall be fully shielded or shall be indirect lighting, with no direct lighting to be emitted beyond the lot line of the property upon which the light is located. No ranch lights, mercury vapor lights or unshielded lights shall be permitted, including alley lights.

For purposes of this section, the following definitions shall apply:

- i. Fully shielded lights are outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test expert.



2137306

Page: 11 of 12
01/08/2004 10:56A

Shelley Vance-Gallatin Co MT MISC 72.00

ii. Indirect light is direct light that has been reflected or scattered off other surfaces.

iii. Glare is light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see and, in extreme cases, causing momentary blindness.

iv. Outdoor lighting is the nighttime illumination of an outside area or object by any manmade device located outdoors that produces light by any means.

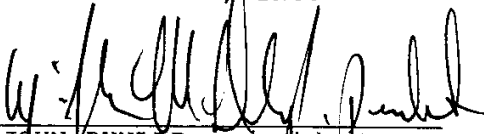
21. Each owner within Broadwater Court Townhouses shall have the right to use the common areas described on the plat for Broadwater Court Townhouses for as long as he or she enjoys an ownership interest in the subdivision.

22. Modification of this Declaration shall be in the same manner as modification of the Ferguson Meadows Declaration and shall be subject to the same limitation that no modification of a condition of subdivision approval may take place without the approval of the Bozeman City Commission.

23. In the event of any dispute concerning a party wall, or any other provisions of this Agreement, the Board of Directors of the BROADWATER COURT TOWNHOUSE OWNER ASSOCIATION shall conduct a hearing and render a decision, which shall be binding upon the parties except upon a clear and convincing showing of error.

IN WITNESS WHEREOF, the Declarant has executed this instrument the day and year first above written.

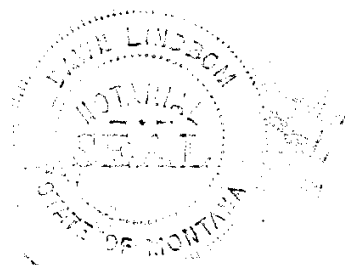
CASCADE HOMES, INC.

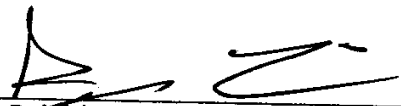

JOHN DUNLAP, president

STATE OF MONTANA)
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County of Gallatin)

 **2137306**
Page: 12 of 12
01/08/2004 10:56A
Shelley Vance-Gallatin Co MT MISC 72.00

This instrument was acknowledged before me on this 31st day of December, 2003, by John Dunlap, president of Cascade Homes, Inc.





Notary Public for the State of Montana
Printed Name Dawn Lindbom
Residing at Bozeman, Montana
My Commission expires January 8, 2007