



City of Ketchum

CITY COUNCIL MEETING AGENDA MEMO

Meeting Date: Staff Member/Dept:

Agenda Item:

Recommended Motion:

Reasons for Recommendation:

-
-
-
-

Policy Analysis and Background (non-consent items only):

Sustainability Impact:

Financial Impact:

Attachments:

1. Application and Supporting Materials
2. Final Plat
3. Draft Findings of Fact, Conclusions of Law, and Decision

Attachment A:
Application & Supplemental Materials



City of Ketchum
Planning & Building

OFFICIAL USE ONLY	
Application Number:	P23-067
Date Received:	7/20/23
By:	HLN
Fee Paid:	\$2625
Approved Date:	
By:	

Subdivision Application-Final Plat

Submit completed application and documentation to planningandzoning@ketchumidaho.org Or hand deliver to Ketchum City Hall, 191 5th St. W. Ketchum, ID If you have questions, please contact the Planning and Building Department at (208) 726-7801. To view the Development Standards, visit the City website at: www.ketchumidaho.org and click on Municipal Code. You will be contacted and invoiced once your application package is complete.

APPLICANT INFORMATION			
Name of Proposed Subdivision: The Lofts at 120 8th Street <i>THE RESIDENCES AT ONE TWENTY</i>			
Owner of Record: SV Ventures, LLC			
Address of Owner: PO Box 5023, Ketchum, ID 83340			
Representative of Owner: Dave Patrie, Galena - Benchmark Engineering			
Legal Description: Lot 5, Block 33, Ketchum Townsite RPK 00000330050			
Street Address: 120 8th street E			
SUBDIVISION INFORMATION			
Number of Lots/Parcels: 7 units			
Total Land Area: 5496 SF			
Current Zoning District: CC			
Proposed Zoning District: CC			
Overlay District: N/A			
TYPE OF SUBDIVISION			
Condominium <input checked="" type="checkbox"/>	Land <input type="checkbox"/>	PUD <input type="checkbox"/>	Townhouse <input type="checkbox"/>
Adjacent land in same ownership in acres or square feet: N/A			
Easements to be dedicated on the final plat: <i>Utility easements necessary to allow for access and maintenance of utilities serving units other than the unit they are located in are granted.</i>			
Briefly describe the improvements to be installed prior to final plat approval: <i>Refer to Development Agreement</i>			
ADDITIONAL INFORMATION			
All lighting must be in compliance with the City of Ketchum's Dark Sky Ordinance One (1) copy of Articles of Incorporation and By-Laws of Homeowners Associations and/or Condominium Declarations One (1) copy of current title report and owner's recorded deed to the subject property One (1) copy of the preliminary plat All files should be submitted in an electronic format to planningandzoning@ketchumidaho.org			

Applicant agrees in the event of a dispute concerning the interpretation or enforcement of the Subdivision Application in which the City of Ketchum is the prevailing party to pay reasonable attorney's fees and costs, including fees and costs of appeal for the City of Ketchum. Applicant agrees to observe all City ordinances, laws and conditions imposed. Applicant agrees to defend, hold harmless and indemnify the City of Ketchum, city officials, agents and employees from and for any and all losses, claims, actions, judgments for damages, or injury to persons or property, and losses and expenses caused or incurred by Applicant, its servants, agents, employees, guests and business invitees and not caused by or arising out of the tortious conduct of city or its officials, agents or employees. Applicant certifies that s/he has read and examined this application and that all information contained herein is true and correct.

Dave Patrie (representative)
Applicant Signature

7-13-2023
Date

**ARTICLES OF INCORPORATION
OF
THE RESIDENCES AT ONE TWENTY OWNERS ASSOCIATION, INC.**

The undersigned, for the purpose of forming a nonprofit corporation under the laws of the State of Idaho in compliance with the Idaho Nonprofit Corporation Act (Title 30, Chapter 30, Idaho Code), do hereby certify, declare, and adopt these Articles of Incorporation of The Residences at One Twenty Owners Association, Inc. (“**Articles**”):

**ARTICLE I
NAME**

The name of the corporation is The Residences at One Twenty Owners Association, Inc. (the “**Association**”).

**ARTICLE II
TERM**

The period of existence and duration of the life of the Association is perpetual.

**ARTICLE III
NONPROFIT**

The Association is a nonprofit, membership corporation.

**ARTICLE IV
REGISTERED AGENT**

Garrison Belles, whose street address is 100 Sun Valley Rd. #1497, Ketchum, Idaho 83340, is hereby appointed as the initial registered agent of the Association.

**ARTICLE V
PURPOSE AND POWERS OF THE ASSOCIATION**

The Association is formed to exercise all powers and privileges, and to perform all of the duties and obligations, of the Association as set forth in the Condominium Declaration for The Residences at One Twenty, as the same shall hereinafter be recorded in the real property records of Blaine County, Idaho, as may be amended from time to time according to its terms (the “**Declaration**”). The Declaration is incorporated by this reference as if fully set forth herein. Capitalized terms used and not defined in these Articles have the meanings set forth in the Declaration. The Association does not contemplate pecuniary gain or profit to the Members. The Association is formed for the purpose of acting as the “management body” of the Project in accordance with the Condominium Act.

**ARTICLE VI
MEMBERSHIP & VOTING RIGHTS**

Member” means each Person holding a membership in the Association, including Grantor. Every Owner of a Unit is a Member of the Association and has one (1) membership for each Unit in the Project owned by such Owner. If the Owner of a Unit shall be more than one (1) Person, all such Persons shall have a membership in the Association and be deemed Members, but the voting rights in the Association attributable to that Unit may not be split and shall be exercised by one (1) representative selected by such

Persons as they, among themselves, may determine. In the event such Persons are unable to agree among themselves on any matter put to a vote as to how the vote shall be cast, such Persons shall not be entitled to vote on the matter in question. If only one such Person casts a vote, it will thereafter be conclusively presumed for all purposes that such Person was acting with the authority and consent of all other co-Owners of such Unit. To this end, only one (1) vote is allocated to each Unit, regardless of the number of Persons that hold an ownership interest in such Unit. Memberships in the Association shall be appurtenant to the Unit owned by such Owner. The memberships in the Association shall not be transferred, pledged, assigned or alienated in any way except upon the transfer of Owner's title to a Unit and then only to the transferee of such title. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association. The Association shall have two (2) classes of membership as follows:

(a) Class A Members. "**Class A Members**" shall be the Owners of the Units, with the exception of the Grantor for so long as the Class B Member exists. Upon the Class B Member Termination Date (defined below), at all meetings of the Association each Member will be entitled to one (1) vote for each Unit owned by such Member. Prior to the Class B Termination Date, Class A Members are not entitled to vote.

(b) Class B Member. The "**Class B Member**" is Grantor, who shall be the sole voting Member of the Association entitled to vote the collective voting power of the Association from the period commencing on the Effective Date and expiring on the Class B Member Termination Date (the "**Initial Development Period**"). The Class B Member shall cease to exist upon the earlier to occur of the following: (a) Grantor no longer owns any Units within the Project; or (b) Grantor informs the Board, in a writing recorded in the real property records of Blaine County, Idaho, that Grantor no longer wishes to exercise its rights as the Class B Member (as applicable, the "**Class B Member Termination Date**").

ARTICLE VII BOARD OF DIRECTORS

The business and affairs of the Association is managed and controlled by the Board of Directors (the "**Board**"). The Board will consist of not less than three (3) directors and no more than five (5) directors. Directors need not be Owners. The names and addresses of the persons who are to act in the capacity of initial directors until the selection of their respective successors are as follows:

Will Fleming	100 Sun Valley Rd. #1497 Ketchum, Idaho 83340
Garrison Belles	100 Sun Valley Rd. #1497 Ketchum, ID 83340
Jon Gilmour	PO Box 5973 Ketchum, Idaho 83340

ARTICLE VIII DISSOLUTION

The Association will only be dissolved at an annual meeting, or a special meeting of the Association called for that purpose, by the affirmative votes of eighty-five percent (85%) or more of the total voting power of the Association. Upon dissolution of the Association, other than incident to a merger or consolidation, the real and personal property of the Association will be distributed as follows: (i) dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was

created; or (ii) granted, conveyed, and assigned to a nonprofit corporation, association, trust, or other organization to be devoted to such similar purposes.

ARTICLE IX
AMENDMENTS

These Articles may be amended at any annual meeting, or any special meeting of the Association called for that purpose, by the affirmative vote of sixty-five percent (65%) or more of the total voting power of the Association. No amendment that is inconsistent with the provisions of the Declaration will be valid.

ARTICLE X
INCORPORATOR

The name and address of the incorporator of the Association is:

Reid Sanborn
291 N. First Ave.
Ketchum, Idaho 83340

IN WITNESS WHEREOF, these Articles are executed effective this ____ day of _____,
2020.

Reid Sanborn, Incorporator

BYLAWS
OF
THE RESIDENCES AT ONE TWENTY OWNERS ASSOCIATION, INC.

These Bylaws (these “**Bylaws**”) of The Residences at One Twenty Owners Association, Inc., an Idaho nonprofit corporation (the “**Association**”), are applicable to the Project as identified in that certain Condominium Declaration for The Residences at One Twenty, to be hereinafter recorded in the real property records of Blaine County, Idaho, as the same may be amended from time-to-time according to its terms (the “**Declaration**”). The Declaration is hereby incorporated herein in its entirety by this reference and made a part of these Bylaws as if set out in full herein, and all capitalized terms not otherwise defined herein have the meaning set forth in the Declaration.

ARTICLE 1 - MEMBERS

Section 1.1 Membership and Voting. **Member**” means each Person holding a membership in the Association, including Grantor. Every Owner of a Unit is a Member of the Association and has one (1) membership for each Unit in the Project owned by such Owner. If the Owner of a Unit shall be more than one (1) Person, all such Persons shall have a membership in the Association and be deemed Members, but the voting rights in the Association attributable to that Unit may not be split and shall be exercised by one (1) representative selected by such Persons as they, among themselves, may determine. In the event such Persons are unable to agree among themselves on any matter put to a vote as to how the vote shall be cast, such Persons shall not be entitled to vote on the matter in question. If only one such Person casts a vote, it will thereafter be conclusively presumed for all purposes that such Person was acting with the authority and consent of all other co-Owners of such Unit. To this end, only one (1) vote is allocated to each Unit, regardless of the number of Persons that hold an ownership interest in such Unit. Memberships in the Association shall be appurtenant to the Unit owned by such Owner. The memberships in the Association shall not be transferred, pledged, assigned or alienated in any way except upon the transfer of Owner’s title to a Unit and then only to the transferee of such title. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association. The Association shall have two (2) classes of membership as follows:

(a) Class A Members. “**Class A Members**” shall be the Owners of the Units, with the exception of the Grantor for so long as the Class B Member exists. Upon the Class B Member Termination Date (defined below), at all meetings of the Association each Member will be entitled to one (1) vote for each Unit owned by such Member. Prior to the Class B Termination Date, Class A Members are not entitled to vote.

(b) Class B Member. The “**Class B Member**” is Grantor, who shall be the sole voting Member of the Association entitled to vote the collective voting power of the Association from the period commencing on the Effective Date and expiring on the Class B Member Termination Date (the “**Initial Development Period**”). The Class B Member shall cease to exist upon the earlier to occur of the following: (a) Grantor no longer owns any Units within the Project; or (b) Grantor informs the Board, in a writing recorded in the real property records of Blaine County, Idaho, that Grantor no longer wishes to exercise its rights as the Class B Member (as applicable, the “**Class B Member Termination Date**”).

Section 1.2 Annual Meetings of Members. The Association will hold an annual meeting of Members each year on such date as the Board may designate. At such meeting, the Members may transact such business as may properly come before them if a quorum is present.

Section 1.3 Special Meetings. The president, or in the absence of the president, any other officer of the Association, will call a special meeting of the Association as directed at any time by resolution of the Board or upon request of Grantor, or, after the Initial Development Period, upon the Association's receipt, in any twenty-one (21) day period, of signed, written requests from fifty percent (50%) or more of the total voting power of the Association. The notice of all special meetings will be given as provided in Section 1.6 of these Bylaws, and will state the nature of the business to be undertaken. No business will be transacted at a special meeting except as stated in the notice, unless by consent of the Members representing more than fifty percent (50%) of the total voting power in the Association, either in person or by proxy.

Section 1.4 Order of Business. The order of business at all meetings will be as follows: (a) roll call to determine the voting power represented at the meeting; (b) proof of notice of meeting or waiver of notice; (c) reading of minutes of preceding meeting; (d) reports of committees; (e) unfinished business; and (f) new business.

Section 1.5 Place of Meetings. Meetings of the Association will be held in the location designated by the Board, which location will be a suitable place in the Project or close thereto. Such meetings will be conducted in accordance with Robert's Rules of Order.

Section 1.6 Notice of Meetings. Notice of annual or special meetings of the Association will be delivered, mailed or emailed to all Members, and will be given not less than five (5) days nor more than thirty (30) days prior to the time of said meeting and will set forth the place, date and hour of the meeting, and the nature of the business to be undertaken at any special meeting, by the acting chairman of the previous annual meeting, or, in such person's absence, by the Association's secretary of the previous annual meeting, or, in both persons' absence, by the Members having one-quarter (1/4) of the total voting power in the Association. The mailing of a notice (postage prepaid) or the emailing of a notice in the manner provided in this Section 1.6, is considered notice served. If no address has been furnished to the Association's secretary, notice is deemed to have been given to a Member if posted in a conspicuous place in the Project.

Section 1.7 Quorum. Except as otherwise provided in the Condominium Documents, the presence in person or by proxy of the Grantor constitutes a quorum during the Initial Development Period. After the Initial Development Period, the presence in person or by proxy of the Members representing thirty percent (30%) or more of the total voting power of the Association constitutes a quorum. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum. If any meeting cannot be held because a quorum is not present, the Members present may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was scheduled, without notice other than announcement at the meeting. At such second meeting, the presence of Members representing no less than fifteen percent (15%) of the quorum required at the preceding meeting constitutes a quorum. Except as otherwise provided herein or in the Declaration, decisions and resolutions of the Association require an affirmative vote of the Members representing a majority of the total voting power present at an annual or special meeting of the Association at which a quorum is present.

Section 1.8 Proxies. Votes may be cast in person or by proxy. Proxies must be in writing and filed with the Association's secretary at least twenty-four (24) hours before the appointed time of each meeting. Every proxy is revocable by the Member who executed the proxy at any time and automatically ceases after completion of the meeting for which the proxy was filed, if filed for a particular meeting. In no event will a proxy be valid after eleven (11) months from the date of its execution.

Section 1.9 Action without Meeting. Any action which may be taken at a meeting of the Association, may be taken without a meeting if authorized in writing signed by all of the Members who

would be entitled to vote at a meeting for such purpose, and filed with the Association's secretary. Any action so approved will have the same effect as though taken at a meeting of the Members.

ARTICLE 2 - BOARD

Section 2.1 Number and Qualification. The business and affairs of the Association is managed by the Board. The Board consists of not less than three (3) directors and no more than five (5) directors. Directors need not be Owners. During the Initial Development Period, Grantor has the exclusive right to appoint, remove, and replace directors at any time and from time-to-time in Grantor's sole discretion, and to otherwise fill vacancies on the Board as they arise. After the Initial Development Period: (a) the Owners have the right to elect and remove directors as provided in these Bylaws; and (b) any vacancy on the Board shall be filled by a plurality of the votes cast by the remaining Directors through a special election at any meeting of the Board.

Section 2.2 Powers. The Board's power on behalf of and in respect of the Association will be all powers and privileges permitted to be exercised by a Board of a nonprofit corporation under applicable law, subject only to such limitations as are expressly stated in the Condominium Documents and the Condominium Act. The Board will conduct, direct, and exercise full control over all activities of the Association. Unless otherwise provided in the Condominium Documents, any action taken by the Board on behalf of the Association, will be sufficient to bind the Association and will conclusively evidence the authority of the Board with respect thereto. The Board is vested with, and responsible for, the powers and duties identified in the Declaration.

Section 2.3 Annual meetings. Annual meetings of the Board may be held without notice, at such times, in such place and at such hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting will be held at the same time on the next day which is not a legal holiday.

Section 2.4 Special Meetings. Special meetings of the Board may be called by or at the request of the President or any two (2) directors. The person or persons authorized to call special meetings of the Board may fix any place as the place for holding any special meeting of the Board called by them. Whenever any director has been absent from any special meeting of the Board, an entry in the minutes to the effect that notice has been duly given in the manner provided in Section 2.5 will be conclusive and incontrovertible evidence that due notice of such meeting was given to such director, as required by law and as provided herein.

Section 2.5 Notice. Notice of any special meetings of the Board will be hand delivered, mailed, or emailed to all directors at least three (3) days previous thereto and will set forth the place, date and hour of the meeting, and the nature of the business to be undertaken. Notice shall be deemed received upon hand delivery or refusal to accept hand delivery, two (2) days after deposit in a regular depository of the United States mail with postage prepaid, or when sent if sent by email unless the sender learns that the recipient did not receive the email. Notwithstanding the foregoing, actual notice however and from whomever received shall always be effective.

Section 2.6 Waiver of Notice. Before or at any meeting of the Board, any director may in writing waive notice of such meeting and such waiver will be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board will be waiver of notice by that director of the time and place thereof. If all directors are present at any meeting of the Board, no notice will be required and any business may be transacted at such meeting. The transactions of any meeting of the Board, however called and noticed or wherever held, will be as valid as though transacted at a meeting duly held after regular call and notice, if a quorum be present, and if, either before or after the meeting, each of the directors not

present signs such a written waiver of notice, a consent to holding such meeting, or an approval of the minutes thereof. All such waivers, consents, and approvals will be filed with the records of the Association or made a part of the minutes of the meeting.

Section 2.7 Quorum. A majority of the number of directors fixed by Section 2.1 will constitute a quorum for the transaction of business at any meeting of the Board. Any act taken by a majority of the directors present at a meeting at which a quorum is present will be the act of the Board.

Section 2.8 Voting. Each director will have one (1) vote as a director.

Section 2.9 Action without a Meeting. Any Board action that may be taken at a meeting may be taken without a meeting if all directors sign a consent setting forth the action so taken.

Section 2.10 Vacancies. Vacancies on the Board during the Initial Development Period shall be filled by the Grantor. After the Initial Development Period, any vacancy on the Board shall be filled by a plurality of the votes cast by the remaining directors, through a special election at any meeting of the Board. Until such time as a vacancy is filled as provided herein, the Board shall continue to conduct business as if no vacancy existed. A vacancy or vacancies will be deemed to exist in case of death, resignation, removal, or judicial adjudication of mental incompetence of any director, or in the case the full number of authorized directors are not elected at any meeting at which such election is to take place.

Section 2.11 Fidelity Bonds. The Board may require that all officers and employees of the Association handling or responsible for the Association funds will furnish adequate fidelity bonds. The premium on such bonds will be paid by the Association or its manager.

Section 2.12 Committees. The Board, by resolution, may from time to time designate such committees as the Board desires, and may establish the purposes and powers of each such committee created. The resolution designating and establishing a committee will provide for the appointment of its members, as well as a chairperson, will state the purpose of the committee, and will provide for reports, termination, and other administration matters as deemed appropriate by the Board.

Section 2.13 Books, Financial Statements and Audit. The Board will cause to be maintained a full set of books and records showing the financial condition of the affairs of the Association in a manner consistent with generally accepted accounting principles. Financial statements for the Association will be prepared regularly and, upon request, copies will be made available to each Member of the Association as follows:

(a) A pro forma operating statement or budget representing the Association for each “fiscal year” (which will begin on the 1st day of January and end on the 31st day of December of every year except that the first fiscal year will begin on the date of incorporation) will be made available to the Members not less than fifteen (15) days prior to the beginning of each fiscal year.

(b) Within ninety (90) days after the close of each fiscal year, the Association will cause to be prepared and made available to each Member, a balance sheet as of the last day of the Association’s fiscal year and annual operating statements reflecting the income and expenditures of the Association for its last fiscal year. The operating statement will include a schedule of Assessments received and receivable.

Section 2.14 Removal. During the Initial Development Period, only the Grantor has the power to remove a director, which removal may be with or without cause. After the Initial Development Period, the Members may remove one (1) or more directors with or without cause. A director may be removed only if the number of votes cast to remove the director exceeds the number of votes cast not to remove the

director. A director may be removed by the Members only at a meeting called for the purpose of removing that director, and the meeting notice must state that the purposes, or one of the purposes, of the meeting is removal of the director.

Section 2.15 Term. Directors appointed by the Grantor during the Initial Development Period shall serve until the earlier of the following: (a) death; (b) resignation; (c) removal; or (d) the date of the first annual meeting of the Members after expiration of the Initial Development Period. At the first annual meeting of the Members after the expiration of the Initial Development Period, and each annual meeting thereafter, the Members shall elect the directors. Directors so elected by the Members shall serve until the earlier of: (i) the next annual meeting of the Members; (ii) death; (iii) resignation; or (iv) removal. Notwithstanding anything to the contrary contained herein, despite the expiration of a director's term, the director continues to serve until the director's successor is appointed or elected, and qualifies, or until there is a decrease in the number of directors. At the expiration of a director's term (i.e. on the date of the first annual meeting of the Members after the director's election), the director's successor (which may be the same individual) shall be elected by a plurality of the votes cast by the Members entitled to vote in the election at a meeting at which a quorum is present. Members shall have no right to cumulate their votes for directors.

ARTICLE 3 - OFFICERS

Section 3.1 Designation. The principal officers of the Association will be a president, a vice president, secretary, and a treasurer, all of whom will be elected by the Board. The Board may appoint an assistant treasurer and an assistant secretary, and such other officers as in the Board's judgment may be necessary. One person may hold two or more offices, except those offices of president and secretary.

Section 3.2 Election of Officers. The officers of the Association will be elected annually by the Board at the organizational meeting of each new Board, and each officer will hold office for one (1) year unless such officer will sooner resign or will be removed or otherwise disqualified.

Section 3.3 Removal of Officers. Upon an affirmative vote of a majority of the Board, any officer may be removed, either with or without cause, and a successor elected at any annual meeting of the Board, or any special meeting of the Board called for such purpose. Any officer may resign at any time by giving written notice to the Board or to the president or secretary of the Association. Any such resignation will take effect at the date of receipt of such notice or at any later time specified therein; and unless otherwise specified in said notice, acceptance of such resignation by the Board will not be necessary to make it effective. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy will serve for the remainder of the term of the officer he or she replaces.

Section 3.4 Compensation. Officers, agents, and employees may receive such reasonable compensation for their services as may be authorized by the Board. Appointment of any officer, agent, or employee will not of itself create contractual rights of compensation for services performed by such an officer, agent, or employee.

Section 3.5 Special Appointment. The Board may elect such other officers as the affairs of the Association may require, each of whom will hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 3.6 President. The president will be the chief executive officer of the Association. The president will preside at all meetings of the Association and of the Board. The president will have all of the general powers and duties which are usually vested in the office of the president of a nonprofit corporation. The president will, subject to the control of the Board, have general supervision, direction, and control of the business of the Association. The president will be ex officio a member of all standing

committees, and the president will have such other powers and duties as may be prescribed by the Board or these Bylaws.

Section 3.7 Vice President. The vice president will take the place of the president and perform such duties whenever the president will be absent, disabled or unable to act. If neither the president nor the vice president is able to act, the Board will appoint a member of the Board to do so on an interim basis. The vice president will also perform such other duties as will from time to time be imposed by the Board or these Bylaws.

Section 3.8 Secretary. The secretary will record the votes and keep the minutes of all meetings of the Board and the minutes of all meetings of the Association at the principal office of the Association or such other place as the Board may order. The secretary will have charge of such books and papers as the Board may direct, and the secretary will, in general, perform all the duties incident to the office of secretary. The secretary will give, or cause to be given, notices of meetings of the Association and of the Board required by these Bylaws or by law to be given. The secretary will maintain a book of record Owners and Occupants, listing the names and addresses of the Owners and Occupants as furnished to the Association and such book will be changed only at such time as satisfactory evidence of a change in ownership or occupancy is presented to the secretary. The secretary will perform such other duties as may be prescribed by the Board or these Bylaws.

Section 3.9 Treasurer. The treasurer will have responsibility for the Association's funds and securities and will be responsible for keeping, or causing to be kept, full and accurate accounts of the financial transactions of the Association including accounts of all assets, liabilities, receipts, and disbursements, all in books belonging to the Association. The treasurer will be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board. The treasurer will disburse the funds of the Association as may be ordered by the Board in accordance with the Declaration, will render to the president and directors upon request, an account of all transactions as treasurer and of the financial condition of the Association, and will have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws.

ARTICLE 4 - ASSESSMENTS PROCEDURES

The policies and procedures for Assessments (such as notices, payment methods, installment options, late fees, interest charges, collection fees, and other matters) will be as set forth in the Declaration or as otherwise set forth in the Condominium Documents.

ARTICLE 5 - INDEMNIFICATION AND INSURANCE

Section 5.1 Definitions. For the purposes of this Article, "agent" means any person who is or was a director, officer, employee, or other agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, or agent of another corporation, or was a director, officer, employee, or agent of a corporation which was a predecessor corporation of the Association; "proceeding" means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative; and "expenses" includes, without limitation, attorneys' fees and costs and any expenses of establishing a right to indemnification under Section 5.3 or Section 5.4(c).

Section 5.2 Indemnification. The Association will indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the Association to procure a judgment in its favor) by reasons of the fact that such person is or was an agent of the Association, against expenses, judgments, fines, settlements, and other amounts actually and reasonably

incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Association and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent will not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in or not opposed to the best interests of the Association or with respect to any criminal proceeding that the person had reasonable cause to believe that the person's conduct was unlawful. However, no indemnification will be made in respect of any claim, issue, or matter as to which such person will have been adjudged to be liable to the Association in the performance of such person's duty to the Association, unless and only to the extent that the court in which such proceeding is or was pending will determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court will deem proper.

Section 5.3 Expenses in Successful Defense. To the extent that an agent of the Association has been successful on the merits in defense of any proceeding referred to in Section 5.2 or in defense of any claim, issue, or matter therein, the agent will be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

Section 5.4 Determination of Standard of Conduct. Except as provided in Section 5.3, any indemnification under this Article will be made by the Association only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Section 5.2, as determined by:

- (a) A majority vote of directors who are not parties to such proceeding;
- (b) Approval or ratification by the affirmative vote of a majority of the total voting power of the Association as cast by the Members at a duly held meeting of the Association at which a quorum is present;
- (c) The court in which such proceeding is or was pending, upon application made by the Association or the agent or the attorney or other persons rendering services in connection with the defense, whether or not such application by the agent, attorney, or other person is opposed by the Association; or
- (d) Independent legal counsel in written opinion, engaged at the direction of a majority of disinterested directors.

Section 5.5 Advancing Expenses. Expenses incurred in defending any proceeding may be advanced by the Association prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount if it will be determined ultimately that the agent is not entitled to be indemnified as authorized in this Article.

Section 5.6 Extent and Limitations of Indemnifications. No indemnification or advance will be made under this Article, except as provided in Section 5.3 or Section 5.4(c), in any circumstance where it appears:

- (a) That it would be inconsistent with a provision of the Articles, these Bylaws, a resolution of the Board or Members, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

Section 5.7 Beneficial Effect. This Article will create a right of indemnification for each agent referred to in this Article, whether or not the proceeding to which the indemnification relates arose in whole or in part prior to adoption of this Article; and in the event of the death of such agent, whether before or after initiation of such proceeding, such right will extend to such agent's legal representatives. In addition, to the maximum extent permitted by applicable law, the right of indemnification hereby given will not be exclusive of or otherwise affect any other rights such agent may have to indemnification, whether by law or under any contract, insurance policy, or otherwise.

Section 5.8 Liability Insurance. The Association may purchase and maintain insurance on behalf of any agent of the Association against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not the Association would have the power to indemnify the agent against such liability under the provisions of this Article.

ARTICLE 6 - ASSOCIATION RECORDS

The Association will keep such records of its business and affairs as is customary for community or homeowner associations, including a membership register, accounting records, financial statements, operating budgets, balance sheets, and minutes of meetings of the Board and committees. Such records will be available at the Association's regular offices for inspection and copying by any Owner at such Owner's expense. The Board may establish reasonable rules with respect to: (a) notice to be given to the custodians of the records by persons desiring to make the inspection; (b) hours and days of the week when such an inspection may be made; and (c) payment of the cost of reproducing copies of documents requested pursuant to this Article 6. The Association's obligations hereunder may be fulfilled by making the records available to an Owner electronically, including delivery by electronic mail or the posting of such records on a website.

ARTICLE 7 - CONFLICTING PROVISIONS

If any provision of these Bylaws conflicts with applicable law, the Declaration, or the Articles, such conflicting provision will be severable and the other provisions of these Bylaws will remain in full force and effect.

ARTICLE 8 - AMENDMENTS TO BYLAWS

These Bylaws may be amended at any annual meeting, or any special meeting of the Association called for that purpose, by the affirmative vote of at least sixty-five percent (65%) of the total voting power of the Association. No amendment that is inconsistent with the provisions of the Declaration will be valid.

[Remainder of page intentionally left blank; adoption on the following page.]

**CONSENT OF DIRECTORS OF THE
THE RESIDENCES AT ONE TWENTY OWNERS ASSOCIATION, INC.
IN LIEU OF MEETING**

The undersigned, constituting all of the Directors of the The Residences at One Twenty Owners Association, Inc., an Idaho nonprofit corporation (the “**Association**”), do hereby consent to, adopt, and approve in writing the following corporate action without a meeting in accordance with the provisions of the general nonprofit corporation laws of the State of Idaho:

RESOLVED, that the above and foregoing Bylaws are hereby duly adopted as the Bylaws of the Association and that the same do now constitute the Bylaws of the Association.

RESOLVED, that Reid Sanborn is hereby elected president of the Association, Jon Gilmour is hereby elected vice president and secretary of the Association, and Garrison Belles is hereby elected treasurer of the Association.

This Consent of Directors of the The Residences at One Twenty Owners Association, Inc. in Lieu of Meeting is effective as of the ____ day of _____, 2021.

DIRECTORS:

Will Fleming

Jon Gilmour

Garrison Belles

CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify that:

1. I am the duly elected and acting secretary of The Residences at One Twenty Owners Association, Inc., an Idaho nonprofit corporation; and

2. The foregoing Bylaws comprising 10 pages, including this page, constitute the Bylaws of The Residences at One Twenty Owners Association, Inc., and were duly adopted by the Board pursuant to that **“Consent of Directors of The Residences at One Twenty Owners Association, Inc. in Lieu of Meeting,”** dated effective the ___ day of _____, 2021.

IN WITNESS WHEREOF, I have hereunto subscribed my hand and attest the act of the Association effective the ___ day of _____, 2021.

Jon Gilmour, Secretary

**CONDOMINIUM DECLARATION
FOR
THE RESIDENCES AT ONE TWENTY**

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EXHIBITS

- EXHIBIT A — Legal Description of the Property
- EXHIBIT B — Plat of The Residences at One Twenty
- EXHIBIT C — Articles of Incorporation
- EXHIBIT D — Proportionate Interest in Common Area

CONDOMINIUM DECLARATION
FOR
THE RESIDENCES AT ONE TWENTY

THIS CONDOMINIUM DECLARATION FOR THE RESIDENCES AT ONE TWENTY 2023 (this “**Declaration**”) is made effective as of June 30, 2023 (the “**Effective Date**”), by SV Ventures LLC, an Idaho limited liability company (“**Grantor**”). Capitalized terms not otherwise defined in the text of this Declaration are defined in Section 3.

SECTION 1 RECITALS

1.1 Property Covered. Grantor is the owner of that certain real property located in Ketchum, Blaine County, Idaho, legally described on Exhibit A attached hereto and incorporated herein by this reference (the “**Property**”), as shown on the final plat for The Residences at One Twenty, recorded in the real property records of Blaine County, Idaho, on _____, 2023, as Instrument No. _____, Book ____ of Plats at Pages ____ through ____, a copy of which is attached hereto as Exhibit B and incorporated herein by this reference (the “**Plat**”).

1.2 Residential Use. Grantor intends to develop the Property with a residential condominium building (the “**Building**”) in accordance with the Plat, this Declaration, and the development approvals now or hereinafter obtained from the City of Ketchum and other governing authorities. The Property, together with the Building and every other building, improvement, or structure thereon, and every easement or right appurtenant thereto, is referred to in this Declaration as the “**Project**.”

1.3 Purpose. The purpose of this Declaration is to provide for condominium ownership of the Project pursuant to Condominium Act, designate Common Area and Limited Common Area, create the Association as the management body to administer the Project pursuant to the Condominium Act, and to set forth the restrictions, covenants, limitations, easements, conditions, and equitable servitudes that apply to and are unique to the Project and this condominium ownership regime (collectively “**Restrictions**”).

SECTION 2 DECLARATION

Grantor hereby declares that the Project and every Condominium and portion thereof is and shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved in accordance with and subject to the provisions of this Declaration, each and all of which are hereby declared to be in furtherance of a general plan: (a) for the creation, maintenance, and sale of an ownership in fee simple of separate interests in Units and for co-ownership with others, as tenants-in-common, of Common Area and Limited Common Area, all pursuant to the Condominium Act; and (b) to protect, enhance, and preserve the value, amenities, desirability, and attractiveness of the Project and to ensure a well-integrated, high quality residential condominium development. This Declaration shall: (i) run with the land and shall be binding upon any Person having or acquiring any right, title, or interest in the Project and every Condominium and portion thereof; (ii) inure to the benefit of the Project and every portion thereof; and (iii) inure to the benefit

of and be binding upon Grantor and each Owner having or holding any right, title, or interest in any Unit or portion of the Project, and their successors, heirs, and assigns.

SECTION 3 ADDITIONAL DEFINITIONS

“Applicable Laws” means all applicable federal, state, and local laws, rules, regulations, ordinances, and orders relating to the use, occupancy, and/or ownership of the Project or any portion thereof.

“Articles” mean the Articles of Incorporation of the Association, a true, correct, and certified copy of which is attached hereto as Exhibit C and incorporated herein by this reference, as the same may be amended from time to time in accordance with the provisions thereof; provided, however, in order to be effective such amendment must reference this Declaration, as amended, and be recorded in the real property records of Blaine County, Idaho.

“Assessments” mean the Regular Assessments, Special Assessments, and Limited Assessments, together with any late payment charges, interest, administrative fees, and costs (including without limitation attorneys’ fees) incurred in collecting the same.

“Association” means The Residences at Seven Eighty Owners Association, Inc., an Idaho nonprofit corporation, its successors and assigns.

“Association Rules” means the rules and regulations relating to the Project that may be adopted, amended, or repealed from time to time by the Board, as more particularly described in Section 8.7.3 hereof.

“Board” means the board of directors of the Association.

“Bylaws” mean the bylaws of the Association, as the same maybe amended from time to time in accordance with the provisions thereof.

“Carport” means each of carports 101, 201, and 302 identified on the Plat. Grantor hereby designates each Carport as Limited Common Area appurtenant to, and for the exclusive use of, the Unit with the corresponding Unit number (e.g. Carport 101 is Limited Common Area for the Exclusive Use of Unit 101, Carport 201 is Limited Common Area for the Exclusive Use of Unit 201, and so forth), to the exclusion of all others

“Common Area” means: (a) all portions of the Project other than the Units, including all Limited Common Area; (b) all leases, licenses, use rights, or agreement rights for amenities or facilities owned or held by or for the benefit of the Association from time-to-time; and (c) any personal property owned or held by or for the benefit of the Association from time to time. Common Area may be established from time to time by Grantor or the Association on any portion of the Project by describing such area on the Plat, by granting or reserving it in a deed or other instrument, or by designating it as such in this Declaration. In addition, the Association may acquire any Common Area it deems necessary or beneficial to the Project.

“Condominium” means a separate ownership interest in a Unit together with an undivided tenant-in-common interest in the Common Area (expressed as percentages of the entire ownership

interest in the Common Area), as set forth on Exhibit D attached hereto and incorporated herein by this reference.

“**Condominium Act**” means the Condominium Property Act of the State of Idaho, Idaho Code Section 55-1501 *et seq.*, as may be amended from time to time.

“**Condominium Documents**” means this Declaration, the Plat, the Articles, the Bylaws, the Associate Rules, the Management Agreement, the Owner Maintenance Manual, and any other procedures, rules, regulations, or policies adopted under such documents by the Board, as the same may be amended from time to time according to their terms.

“**Deck**” means each of decks 101, 201, 202, 203, 204, 301, and 302 identified on the Plat, and includes the railings or fences thereon. Grantor hereby designates each Deck as Limited Common Area appurtenant to, and for the exclusive use of, the Unit with the corresponding Unit number (e.g. Deck 101 is Limited Common Area for the Exclusive Use of Unit 101, Deck 102 is Limited Common Area for the Exclusive Use of Unit 102, and so forth), to the exclusion of all others.

“**Garage**” means each of garages 101, 201, and 301 identified on the Plat. Grantor hereby designates each Garage as Limited Common Area appurtenant to, and for the exclusive use of, the Unit with the corresponding Unit number (e.g. Garage 201 is Limited Common Area for the exclusive use of Unit 201 and Garage 301 is Limited Common Area for the exclusive use of Unit 301), to the exclusion of all others.

“**Limited Assessment**” means a charge against a particular Owner for an expense directly attributable to such Owner, equal to the cost incurred or estimated to be incurred by the Association in connection with corrective action or maintenance, repair, replacement and operation activities performed pursuant to the provisions of this Declaration, including damage to or maintenance, repair, replacement and operation activities performed for any Common Area or the failure of an Owner to keep the Owner’s Condominium in proper repair, and including interest thereon as provided in this Declaration or for any goods or services provided by the Association benefiting less than all Owners, as more particularly described in Section 9.5 herein.

“**Limited Common Area**” means those portions of the Common Area designated for the exclusive use of an Owner or Owners to the exclusion, limitation, or restriction of other Owners. Limited Common Area may be established from time to time by Grantor or the Association on any portion of the Project by describing such area on the Plat, by granting or reserving it in a deed or other document or instrument, or by designating it as such in this Declaration. The term Common Area as used in this Declaration shall include Limited Common Area.

“**Management Agreement**” means any agreement and all amendments thereto entered into by the Association and the Management Company, providing for the management, maintenance, and operation of the Project, including, without limitation the Common Area, by the Management Company.

“**Management Company**” means the Person hired by the Association to manage the Project on the terms and conditions set forth in a Management Agreement.

“Mortgage” means any mortgage, deed of trust, or other security instrument by which a Condominium or any part thereof is encumbered.

“Mortgagee” means any Person or any successor to the interest of such Person named as the mortgagee, trust beneficiary, or creditor pursuant to any Mortgage under which the interest of an Owner’s interest in its Condominium, or successor to the interest of such Owner, is encumbered.

“Occupant” means any Person, other than an Owner, that resides in a Unit, including, without limitation, family members, guests, and Tenants.

“Owner” means the record owner, whether one or more Persons, holding fee simple title to a Unit, excluding Mortgagees, unless and until such Mortgagee has acquired fee simple title pursuant to foreclosure or other proceedings or obtains a deed to such Unit in lieu of such foreclosure or other proceedings.

“Person” means an individual, corporation, trust, estate, partnership, limited liability company, association, joint venture, government, government subdivision or agency, and any other legal entity.

“Regular Assessment” means an assessment by the Association to provide for the payment of all estimated expenses growing out of or connected with the Project as a whole, as more particularly described in Section 9.3 herein.

“Special Assessment” means that portion of the costs of the capital improvements, replacements, equipment purchases and replacements, or shortages in Regular Assessments which are authorized to be paid to the Association pursuant to the provisions of this Declaration as more particularly described in Section 9.4 herein.

“Storage Area” means each of storage areas 101, 201, 202, 203, 204, 301, and 302 identified on the Plat. Grantor hereby designates each Storage Area as Limited Common Area appurtenant to, and for the exclusive use of, the Unit with the corresponding Unit number (e.g. Storage Area 101 is Limited Common Area for the exclusive use of Unit 101, Storage Area 201 is Limited Common Area for the exclusive use of Unit 201, and so forth), to the exclusion of all others.

“Tenant” shall mean any Person leasing all or any part of a Condominium from any Owner.

“Unit” means the separate ownership interest component of a Condominium, as bounded by the unfinished interior surfaces of the perimeter: (a) walls; (b) floors; (c) ceilings; (d) windows (including window frames and window trim); and (e) doors (including door frames and door trim) of each Unit as shown the Plat, together with the airspace so encompassed. The Unit includes all of the following within the said boundaries of each Unit shown on the Plat: (i) all finishes and coverings on the interior surfaces of said perimeter walls, floors, ceilings, windows, and doors, including without limitation paneling, wood, tile, paint, paper, carpeting, and texturing; (ii) all fixtures, improvements, hardware, and appliances; and (iii) all heating and refrigerating elements or related equipment, utility lines and outlets, electrical and plumbing fixtures, pipes, and all other related equipment required to provide heating, air-conditioning, hot and cold water, electrical, and

utility services located within and serving only the Unit. The following are not part of a Unit: (A) bearing walls; (B) structural columns; (C) floors; (D) roofs; (E) foundations; (F) elevator equipment and shafts; (G) central heating, central refrigeration and central air-conditioning equipment, reservoirs, tanks, pumps and other central services that serve more than one Unit, except the outlets thereof when located within the Unit; and (H) pipes, ducts, flues, chutes, conduits, wires and other utility installations that serve more than one Unit, except the outlets thereof when located within the Unit. Provided, however, that a Unit shall not include any of the structural components of the Building or utility or service lines located within a Unit that serve more than one Unit. There are seven (7) Units at the Project: Unit 101, 201, 202, 203, 204, 301, and 302, as each are identified on the Plat.

SECTION 4 NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP

4.1 Estates of an Owner of a Condominium. The Project is hereby divided into Condominiums, each consisting of a separate interest in a Unit and an undivided tenant-in-common interest in the Common Area. The percentage of ownership interest in the Common Area which is to be allocated to each Condominium as a whole for purposes of Assessments, tax assessment under Section 55-1514 of the Condominium Act, and liability as provided by Section 55-1515 of the Condominium Act, is set forth on the attached Exhibit D.

4.2 Title. Title to a Condominium may be held or owned by any Person and in any manner in which title to any other real property may be held or owned in the State of Idaho.

4.3 No Further Division. No Owner may divide, adjust, or further condominiumize such Owner's Unit without the prior written approval of the Association, the City of Ketchum, and all other governing authorities whose approval is required, and all such divisions, adjustments, and further condominiumizations must comply with any condominium project amendment requirements of Blaine County, and otherwise comply with all Applicable Laws.

4.4 Inseparability of Condominiums. No part of a Condominium, or of the legal rights comprising ownership of a such Condominium may be separated from any other part thereof during the period of Condominium ownership prescribed herein, so that each Unit and the undivided interest in the Common Area appurtenant to such Unit shall always be conveyed, devised, encumbered, transferred, and otherwise affected only as a complete Condominium and shall not be transferred in any way resulting in the division of the Condominium. Every gift, devise, bequest, transfer, encumbrance, conveyance, or other disposition of the Condominium or any part thereof shall be presumed to be a gift, devise, bequest, transfer, encumbrance, or conveyance, respectively, of the entire Condominium together with all appurtenant rights created by law or this Declaration.

4.5 Partition of Common Area Not Permitted. The Common Area shall be owned in common by all of the Owners of Units, and no Owner may bring any action for partition thereof.

4.6 Taxes and Assessments. Each Owner shall execute such instruments and take such actions as may reasonably be specified by the Association to obtain separate real property tax assessments of the interest of each Owner in each Condominium. If any taxes of special districts or other assessments may, in the opinion of the Association, nevertheless, be a lien on the Property

or any part thereof, the Association shall pay the same and assess the same to the responsible Owner or Owners. Each Owner shall pay the taxes and assessments assessed against such Owner's Condominium, or interest therein, and such Owner's interest in the Common Area, or any part of any or all of the foregoing. The Association reserves the right to protest any tax valuations or assessments by any taxing government agency and to pay for any costs associated with such protests. Each Owner agrees to reimburse the Association for any costs associated with such protests as related to that Owner's Unit.

4.7 Owner's Rights with Respect to Interiors. Each Owner shall have the exclusive right to maintain, finish, refinish, and decorate the interior surfaces of the walls, floors, ceilings, windows (including window frames and window trim), and doors (including door frames and door trim) forming and within the interior boundaries of the Owner's Unit, including but not limited to the installation of carpet or other floor coverings, paint or wallpaper, cabinets, and plumbing and electrical fixtures subject to the terms and conditions of the Condominium Documents, including without limitation Section 7 of this Declaration.

SECTION 5 EASEMENTS

5.1 Easements for Encroachments. If any part of the Common Area encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Area, or upon an adjoining Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered encumbrances on the Common Area or the Units. Encroachments referred to herein include, but are not limited to encroachments caused by settling, rising or shifting of the earth under the Building, or by changes in position caused by repair or reconstruction of the Building or any part thereof. Notwithstanding the foregoing, no Owner shall be entitled to deliberately and intentionally encroach on the Common Area without the prior written approval of the Board, or on any other Unit without the prior written consent of the other Unit Owner.

5.2 Easements of Access for Repair, Maintenance, and Emergencies. Portions of the Common Area and/or easement areas granted pursuant to this Declaration or any other Condominium Document, are or may be located within the Units or may be conveniently accessible only through the Units. The Owners have the irrevocable right, to be exercised by the Association as their agent, of access to each Unit and to all Common Area from time to time during such reasonable hours as may be necessary and established by the Board for the construction, installation, inspection, operation, maintenance, repair or replacement of any of the Common Area located therein or accessible therefrom, or the construction, installation, inspection, operation, maintenance, repair or replacement of any improvements and facilities located within the Common Area, or for making repairs, maintenance and emergencies therein necessary to prevent damage to the Common Area or to another Unit or Units or to correct a violation of any covenant, condition or restriction of the Declaration when, after reasonable efforts by the Association, the Owner fails to do so. The Association shall also have such right of access independent of any agency relationship. Damage to the interior of any part of a Unit or Units resulting from the construction, installation, inspection, operation, maintenance, repair, emergency repair or replacement of any of the Common Area or as a result of emergency repairs within another Unit at the insistence of the Association or of Owners shall be an expense of all of the Owners; provided, however, that if such

damage is the result of the negligence of an Owner or such Owner's Occupants, invitees, or licensees, then such Owner shall be financially responsible for all of such damage. Such damage shall be repaired and the Unit shall be restored substantially to the same condition as existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Association as an Assessment pursuant to Section 9 herein.

5.3 Owner's Right to Ingress, Egress, and Support. Each Owner shall have the right to ingress and egress over, upon, and across the Common Area necessary for access to that Owner's Condominium, and shall have the right to the horizontal and lateral support of such Owner's Condominium, and such rights shall be appurtenant to and pass with the title to each Condominium. In exercising the rights granted in this Section, each Owner agrees to use reasonable efforts to avoid interference with the access to other Condominiums.

5.4 Association's Right to Use of Common Area. The Association shall have the right to make such use of the Common Area as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration or other Condominium Documents, including the right to grant utility easements, alter the Common Areas, and to construct and maintain maintenance and storage facilities in the Common Area for use by the Association.

5.5 Grantor's Right Incident to Construction. Grantor and Persons it shall select, shall have the express and unconditional right to ingress and egress over, upon and across the Project, including Common Area and all Units, the right to store materials thereon and to make other use thereof as may be reasonably necessary or incident to completion of development and construction of the Building and Units shown on the Plat or any amendment thereto and the completion of all Units for use and occupancy; provided, however, that no such rights shall be exercised by Grantor in such a way as to unreasonably interfere with the occupancy, use, enjoyment, or access to an Owner's Condominium by that Owner or such Owner's Occupants, invitees, or licensees.

5.6 Certain Easements Benefit City. The easements herein granted to an Owner for ingress and egress to and from such Owner's Condominium over, upon, and across the Common Area are hereby recognized to be a condition of platting the Property imposed by the City of Ketchum. Such easements shall not be dissolved or altered in any material way that would prevent their beneficial use for their intended purposes without the express written consent of the City of Ketchum.

5.7 Emergency Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all streets and property within the Project in the proper performance of their duties. The easement granted herein is recognized to be a condition of platting the Property imposed by the City of Ketchum. Such easement shall not be dissolved or altered in any material way that would prevent its beneficial use for its intended purpose without the written consent of the City of Ketchum.

The Owners expressly acknowledge that the Association and the Ketchum Fire Department shall each have one master key capable of accessing all doors connected to the common security system of the Building. The Owners expressly agree to notify the Association prior to re-keying

any lock in the Building controlled by a common security or access system and agree to use a locksmith approved by the Board.

5.8 Recorded Easements. The Property, and all portions thereof, shall be subject to all easements shown on any recorded Plat affecting the Property, or any portion thereof, and to any other easements of record or of use, now existing or hereafter created, including without limitation any storm drainage easements, street light easements, sanitary sewer easements, or any other public utility easement shown on the Plat.

5.9 Easements for Annual Inspection. Any Person authorized by the Board shall have the right of access to all Units on an annual basis for the purpose of inspecting such Units for compliance with the terms and conditions of Condominium Documents.

5.10 Easements Deemed Created. All conveyances of Condominiums hereafter made, whether by the Grantor or otherwise, shall be construed to grant and reserve such reciprocal easements as shall give effect to Sections 5.1 through 5.10 above, even though no specific reference to such easements or to those Sections appear in any such conveyance.

SECTION 6 DESCRIPTION OF CONDOMINIUM

Every contract for the sale of a Condominium and every other instrument affecting title to such Condominium shall describe that Condominium by the Unit shown on the Plat with appropriate reference to the Plat and to this Declaration, as each appears on the records of Blaine County, Idaho, in the following manner:

Unit ___ as shown on the final plat of The Residences at One Twenty, recorded in the real property records of Blaine County, Idaho, on _____, 2023, as Instrument No. _____, Book ___ of Plats at Pages ___ through ___(as may have been heretofore amended or supplemented), and as defined and described in that certain Condominium Declaration for The Residences at One Twenty recorded in the real property records of Blaine County, Idaho, on _____, 2023, as Instrument No. _____ (as may have been heretofore amended or supplemented).

Such description shall be construed to describe the separate ownership interest in the identified Unit, together with the appurtenant undivided tenant-in-common interest in the Common Area, and to incorporate all rights incident to ownership of a Condominium interest and all the limitations on such ownership as described in the Condominium Documents or any amendments or supplements thereto, whether or not so specified in the instrument.

SECTION 7 USE OF CONDOMINIUMS

7.1 Single-Family Residential. The Units shall be used exclusively for single-family residential purposes and other uses incidental thereto as permitted by Applicable Law. Except for Home Occupations permitted pursuant to this Section, no Unit shall be used at any time for commercial or business activity. A “**Home Occupation**” shall be any gainful occupation

conducted in a Unit by an Occupant thereof, provided that the home office or studio located thereon does not exceed four hundred (400) square feet in size and is located entirely within the Unit, and further provided that such Home Occupation is conducted in accordance with the other terms and limitations of the Condominium Documents and Applicable Law. A Unit may be used for other Home Occupations only upon a written approval signed by all Owners, which approval may be subject to such requirements and conditions as the Owners and/or Association deems appropriate, and which Home Occupation must in conducted accordance with the other terms and limitations of the Condominium Documents and Applicable Law. No Home Occupation may: (a) involve highly combustible materials; (b) involve retail operations; (c) use power equipment or tools; (d) cause abnormal automotive or pedestrian traffic at the Project; (e) be, in the reasonable opinion of the Board, objectionable due to unsightliness, odor, dust, smoke, noise, glare, heat, vibration or similar disturbances; (f) involve dispatch activities where employees meet at the Project and are sent to other locations; (g) involve other uses that, in the reasonable opinion of the Board, would detract from the residential character of the Project. It shall not be a violation of this Section for an Owner to lease its Condominium in accordance with Section 7.2. The use of a Condominium for a shelter home, as the same is defined in Idaho Code § 67-6530, whether or not operated for profit, shall for the purposes of this Declaration be a commercial or business use to the fullest extent permitted by Applicable Law.

7.2 Leasing. Each Owner shall be entitled to lease its Condominium. An Owner who leases a Condominium shall be fully responsible for the acts and omissions of, and damage caused by, such Owner's Tenant as if such Tenant were the Owner. Any Owner who leases a Condominium shall comply with all Applicable Laws, including without limitation Fair Housing Act to the extent it applies to such Owner. Each such lease shall be in writing and shall provide that the terms and conditions thereof shall be subject in all respects to this Declaration and the Association Rules, and that any failure by the Tenant to comply with the terms of such documents shall be a default under the lease. The Association Rules may provide for fines against an Owner if the Tenants of such Owner's Condominium excessively loud or otherwise disruptive.

7.3 Obstructions of Common Area. Except to the extent installed or placed by Grantor or the Association, there shall be no obstruction of the Common Area, nor shall anything be stored on any part of the Common Area, without the prior written consent of the Board. Nothing shall be altered on, planted in, constructed on, or removed from the Common Area except upon the prior written consent of the Board.

7.4 Maintenance of Interiors and Limited Common Area. Each Owner shall keep such Owner's Unit, including, without limitation, interior walls, windows, floors, ceilings, windows, doors, and permanent fixtures and appurtenances thereto, in a clean, sanitary, and attractive condition, and good state of operating condition and repair and shall keep the heating and air conditioning equipment, water heater, and other utility systems and related devices exclusively serving the Owner's Unit in a good state of operating condition and repair and free from any odor and/or mold. Each Owner shall keep the Limited Common Area designated for the exclusive use of such Owner in a clean, sanitary, and attractive condition, and good state of operating condition and repair, including removal of snow and ice on such Limited Common Area. Each Owner shall notify the Association of any unsafe condition existing in, on, or around the Limited Common Area. In addition, nothing unsightly, in the reasonable opinion of the Board, shall be kept on any exterior Limited Common Area (including without limitation all Decks). If

Grantor has caused to be prepared and delivered to the Owners a preventative maintenance manual containing minimum maintenance or other standards applicable to the individual Units and/or the Limited Common Area appurtenant thereto (an “**Owner Maintenance Manual**”), then each Owner shall cause the Units and Limited Common Areas owned by such Owner to be maintained in accordance with the requirements set forth in the Owner Maintenance Manual. The requirements set forth in the Owner Maintenance Manual are in addition to the requirements of any warranty or other operating guidelines and instructions.

7.5 Prohibition of Damage and Certain Activities.

7.5.1 No damage to, or waste of, the Common Area or any part thereof shall be committed by any Owner or such Owner’s Tenants, Occupants, invitees, or licensees, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by such Owner or such Owner’s Tenants, Occupants, invitees, or licensees.

7.5.2 No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere upon the Project or any portion thereof, except in such containers and other areas designated for such purpose by Grantor or the Board, and no odor shall be permitted to arise from any portion of the Project so as to render, in the reasonable opinion of the Board, the Project or any portion thereof unsanitary, offensive, or detrimental to the Project, or to any other property in the vicinity of the Project. No exterior fires and no obstructions of pedestrian walkways shall be permitted to exist at the Project. No business or Home Occupation, no noise, no unsightliness, and no other nuisance shall be permitted to exist or operate upon any portion of the Project in violation of Applicable Law or so as to be, in the reasonable opinion of the Board, offensive or detrimental to the Project or to its Owners or their Occupants or to other property in the vicinity Project. Without limiting the generality of any of the foregoing, no Owner shall use or install or permit to be used or installed any whistles, bells or other sound devices, or flashing lights or search lights within the Project without the Board’s approval. No unsightly articles shall be permitted to remain on any Condominium so as to be visible from any other portion of the Project. Without limiting the generality of the foregoing, refuse, garbage, trash, equipment, gas canisters, propane gas tanks, barbecue equipment, heat pumps, compressors, and containers shall be kept in such containers and other areas designated for such purpose by Grantor or the Board. No clothing or fabric shall be hung, dried, or aired in such a way as to be visible from the exterior of the Unit it in which it is hung, dried, or aired. Window air-conditioning units are not allowed. Windows shall be covered only by drapes, shades or shutters that are not loud or excessively bright in color, and shall not be painted or covered by foil, cardboard, sheets or similar materials.

7.5.3 Owners shall not use or suffer or permit any Person or Persons to use any Condominium or any part thereof for any use or purpose in violation of Applicable Law.

7.5.4 Owners shall not use or suffer or permit any Person or Persons to use any Condominium or any portion thereof, for any use or purpose in violation of any of the terms and conditions of this Declaration or other Condominium Documents.

7.5.5 Except as allowed by Association Rules or by prior written approval of the Board, Owners shall not display or sell merchandise or allow carts, portable signs, devices or

any other objects to be stored or to remain outside the defined exterior walls and permanent doorways of the Units. Owners further agree not to install any exterior lighting, shades or awnings, amplifiers or similar devices for use in or about the Building which may be heard or seen outside the Unit, such as flyers, flashing lights, searchlights, loudspeakers, phonographs or radio broadcasts, or make any changes to the facade of the Building or operate any customer service windows without Board's prior written consent. Owners shall not conduct or permit to be conducted any sale by auction in, upon or from the Units, whether said auction be voluntary, involuntary, pursuant to any assignment for the payment of creditors or pursuant to any bankruptcy or other solvency proceeding.

7.5.6 Owners shall not do or permit anything to be done in or about any Unit or in the Common area, nor bring or keep anything therein, which will in any way result in the cancellation of or increase in the rate of the insurance on the Project or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Board or which would be in violation of Applicable Law. Any Owner taking or permitting any such action, which has been approved by the Board and results in an increased rate of insurance on the Project or any part thereof, shall be solely responsible for the payment of the resulting difference in such increased premium.

7.5.7 Owners shall not do or permit anything to be done in or about the Unit or Common Area which will in any way obstruct or interfere with the rights of other Owners or Occupants in the Building, create undue noise and disruption, or injure or annoy them or use or allow the Unit to be used for an unlawful or objectionable purpose, nor shall Owner cause, maintain or permit any nuisance in, on, or about the Building.

7.5.8 Owners shall not use or suffer or permit any Person or Persons to use the Units or any part thereof for any adult bookstore, adult movie theater, boarding house, or any other activity expressly prohibited by the Board.

7.6 No Hazardous Activities. No activities shall be conducted at the Project which are or might be unsafe or hazardous to any Person or property, as reasonably determined by the Board. Such prohibition includes, without limitation, the discharge of firearms and participation in archery activities, and the use of any outdoor wood burning devices.

7.7 Over the Air Reception Devices. All Owners who desire to use any device or antenna to receive over the air transmissions shall be required to use one Grantor or the Association may install one common antenna or other device to receive over the air transmissions, which antenna or device shall be located on the Project in a location designated and approved by the Grantor or the Board (a "Common Antenna"). In event a Common Antenna is installed, all Owners who desire to use any antenna or device to receive over the air transmissions shall be required to use the Common Antenna, subject to reasonable restrictions related thereto established by the Board. Notwithstanding the foregoing, no portion of this restriction shall apply to the extent that it conflicts with any Applicable Law governing such antenna or devices. Those Owners using the Common Antenna shall share the costs and expenses associated therewith in the manner reasonably determined by the Board.

In the event a Common Antenna has not been installed, Owners shall be permitted to install small satellite dishes or other devices within the service well on the roof of the Building for cable services using the electrical conduit system located in the core of the Building, subject to the prior written approval of the Board. In the event that a satellite dish or other device is approved by the Board, it (and any related equipment) must be installed and/or screened in the manner approved by the Board.

7.8 Energy Devices, Outside. No energy production devices or generators of any kind (including without limitation solar energy devices and windmills), shall be constructed or maintained on or in any portion of the Common Area without the prior written approval of the Board. In the event that the addition or use of such a device is approved by the Board, it (and any related equipment) must be installed and/or screened in the manner approved by the Board.

7.9 Signs. No more than one (1) sign will be allowed to be displayed on or within a Unit or the Deck appurtenant thereto at the same time to advertise the Lot for sale or to advertise the Lot during the course of construction, and all such signs shall be removed within fifteen (15) days after occupancy. Directional and open house signs may be used during open house time period only. No sign of any kind will be displayed to the public view more than six (6) square feet in size. Except as set forth above, no signs of any kind, including, without limitation, decorations, banners, holiday signs, or political or commercial signs, shall be displayed on or from any portion of the Project except as approved by the Board in its reasonable direction. Notwithstanding the foregoing, no portion of this restriction shall apply to the extent that it conflicts with any Applicable Law governing signs.

7.10 Window Treatments. No window or glass tinting or coverings shall be permitted, including any appliqué, decals, or other materials, that would be visible from the exterior of any Unit, or that would otherwise in any manner change the exterior appearance of any glass or window in terms of color, reflectivity, tint, or appearance, except as otherwise may be permitted by the Board. In the event replacement of any glass pane constituting Common Area shall become necessary, such glass shall be replaced by the Association; provided, however, an Owner may be required to pay for such replacement pursuant to Section 9.5. This paragraph shall be interpreted in such manner as to favor and facilitate a uniform appearance of the Project from the exterior thereof. Subject to the Association Rules, acceptable window coverings are vertical blinds, mini-blinds, draperies, curtains, shutters and other such items. Items including, but not limited to aluminum foil, newspaper, sheets, cardboard, reflective tint, paint, etc. are not permitted to be used as window covering.

7.11 Water Beds. No water beds shall be permitted in any Unit. Each Owner acknowledges that substantial damage to other Units and/or Common Areas may occur as a result of a violation of this restriction.

7.12 Appliances. No appliances shall be installed or maintained in a Unit that are inconsistent in terms of energy source or energy usage from those utility lines and hookups initially installed or made available by Grantor with respect to a Unit. By way of illustration, but not of limitation, if and to the extent that the Unit was originally equipped with a gas utility hookup for clothes dryers, stoves, ovens, or other appliances, no modifications shall be permitted for the installation of electricity powered clothes dryers, stoves, ovens or other appliances, unless

electricity powered clothes dryers, stoves, ovens or other appliances were originally available for use and operation in the Unit and can be installed with minimal disruption to Common Areas. Likewise, if the Unit was originally equipped and/or designed for any electrical appliances, no modifications shall be permitted for the installation of gas-powered appliances, unless gas powered appliances were originally available for use and operation in the Unit and can be installed with minimal disruption to Common Areas. The Board reserves the right to designate specific Association Rules pertaining to the minimum design and performance characteristics of appliances to be installed in the Units. All installation and use of any appliances shall comply with and not violate the terms of any warranty guidelines or manufacturers' guidelines or recommendations.

7.13 Construction and Structural Alterations. An Owner may make improvements or alterations to the interior of the Owner's Unit and the Limited Common Area appurtenant to such Unit, provided that such improvements or alterations: (a) do not impair the structural integrity, mechanical systems or Common Area of the Project; (b) are not to walls, doors, windows, or other portions of the Project that are visible from the outside of the Unit; and (c) do not otherwise penetrate any Common Area. To the extent an Owner desires to make an improvement or alteration in violation of any portion of the foregoing, such Owner shall first obtain the prior written consent of the Board, which consent shall not be unreasonably withheld or delayed. All improvements and alterations constructed pursuant to the terms of this Section 7.13 shall comply with all Applicable Laws.

7.14 Sewer System Restrictions. No Owner or other Person shall deposit any glass, metal, seafood shells, diapers, clothing, rags, plastic, sanitary napkins, tampons, flammable material, oil, gas, grease, chemicals or other objects or materials other than natural human waste and generally accepted household cleaners into the sewer system either directly or through any Owner's waste disposal unit(s). The cost of any and all damage sustained by the sewer system caused by an Owner's deposit in the sewer system of any of the items listed above shall be the sole responsibility of said Owner.

7.15 Deck Restrictions. Decks shall not be used for storage purposes, including for the storage of pets, pet equipment, bicycles, boxes, storage sheds, and so forth, except that patio furniture shall be permitted on Deck in accordance with this Section. Any item to be stored shall be stored and maintained either wholly within the interior of the Owner's Unit, Storage Area, in such other designated by the Board, if any. Any plants or similar items kept on a Deck shall be in accordance with the approved plant list or otherwise subject to approval by the Board, shall be watered and maintained in good condition, and dead plants, leaves, and other items shall be promptly removed and discarded. No over-watering of any plants located on a Deck (i.e., of such a nature to cause water run-off) shall be permitted. Patio furniture as approved by the Board or that otherwise complies with the Association Rules shall be permitted on the Decks. Decks shall be kept in a clean and orderly fashion. Owners shall not hang any items from the Decks or the railings thereon, and Owners shall not place any temporary lighting, whether electric, battery-operated, solar, or otherwise, on such Owner's Deck. No shelving, storage devices or apparatuses, or other improvements or alterations shall be permanently affixed to any Deck, except upon the prior written approval of the Board.

7.16 Garage Restrictions. Garages shall be used only for the storage of operable vehicles that fit therein when the Garage door is closed, and for the storage of non-combustible

and otherwise non-hazardous material that fit therein when the Garage door is closed. Doors to the Garages shall remain closed at all times except when depositing or retrieving items therefrom.

7.17 Carports Restrictions. Carports shall be used only for the storage of operable vehicles and bicycles that fit therein. The Owner to Condominium to which each Carport is appurtenant is responsible for maintaining the ground surface of the carport in safe and good operating condition and repair, including without limitation performing snow and ice treatment.

7.18 Storage Area Restrictions. Storage Areas shall be used only for the storage non-combustible and otherwise non-hazardous material that fit therein when the door to the Storage Area is closed. Doors to the Storage Areas shall remain closed at all times except when depositing or retrieving items therefrom.

7.19 No Smoking. The Project is hereby designated as “smoke free,” and no smoking of any kind is allowed at the Project. Notwithstanding the foregoing, the Board may from time to time designate certain outdoor areas of the Project as “Permitted Smoking Areas,” in which event smoking shall be allowed only in such designated areas. Neither Grantor nor the Association guarantees a smoke free environment at the Project or any portion thereof.

7.20 Animals/Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on or in any portion of the Project except that Household Pets (defined below) may be kept for an Owner’s personal use provided that: (a) such Household Pets are not bred or maintained for any commercial purpose; (b) no more than two (2) of any combination of Household Pets may be kept in a Unit; and (c) all such Household Pets shall be properly restrained and controlled at any time they are within the Project. “**Household Pets**” means indoor domesticated dogs and indoor domesticated cats. Any Household Pet which, in the reasonable opinion of the Board, is vicious or excessively noisy, or which damages or destroys property shall be deemed a nuisance and shall be removed from the Project upon the written request of the Board. An “excessively noisy” Household Pet is any Household Pet that habitually or frequently disturbs the sleep, peace, or quiet of any Occupant. Owners shall contact the local animal control agency regarding noisy Household Pets prior to complaining to the Board about such animals. Any costs associated with responding to complaints relating to animals (including without limitation Household Pets), livestock, or poultry at the Project may be levied as a Limited Assessment against the Owner of the Unit in which such animals, livestock, or poultry are being kept. The Owner of the Unit where a Household Pet is kept, as well as the legal owner of the Household Pet (if not such Owner), shall be jointly and severally liable for any and all damage and destruction caused by the Household Pet, and for any clean-up of any portion of the Project necessitated by such Household Pet.

7.21 Assistance Animals. Notwithstanding anything to the contrary contained in Section 7.20 hereof, assistance animals are welcome in the Project in accordance with the Fair Housing Act (42 U.S.C. § 3601 *et seq.*, as amended) and the implementing regulations promulgated thereunder. An assistance animal shall be as defined in the Fair Housing Act, which is currently any animal needed by a disabled individual to have an equal opportunity to use and enjoy a dwelling. Examples of assistance animals are guide animals, animals that alert people who are deaf, animals that pull a wheelchair, animals that alert and protect a guest who is having a seizure, animals that remind an individual with mental illness to take prescribed medications,

animals that calm an individual with Post Traumatic Stress Disorder (PTSD) during an anxiety attack and animals that provide comfort or emotional support. Assistance animals in training are to be treated as assistance animals, even if the handler is not disabled. An assistance animal need not be licensed or certified by any government. Individuals with assistance animals shall not be treated less favorably than other Occupants or charged fees that are not charged to other Occupants without animals. The Association shall have the right, to the extent permitted under the Fair Housing Act, to prohibit or restrict any assistance animal that: (a) is out of control and the handler does not take effective action to control it; or (b) the animal's behavior poses a threat to the health or safety of others. The Owner of the Unit where an assistance animal is kept, as well as the legal owner of the assistance animal (if not such Owner), shall be jointly and severally liable for any and all damage and destruction caused by the assistance animal, and for any clean-up of any portion of the Project necessitated by such assistance animal.

7.22 Right to Enjoy and Use Units. Each Owner shall be entitled to use and enjoy the Owner's Unit for its intended purpose and nothing herein is intended to impose or grant the authority to impose any restrictions, limitations or prohibitions which would deprive an Owner of the reasonable use and enjoyment of the Owner's Unit. Notwithstanding the foregoing, no Owner shall be entitled to use the Owner's Unit for any uses not allowed under the Ketchum Municipal Code or otherwise limited by this Declaration or any other Condominium Documents.

SECTION 8 THE RESIDENCES AT ONE TWENTY OWNERS ASSOCIATION

8.1 Creation and Designation of Association. Grantor has incorporated the Association as a nonprofit corporation under the laws of the State of Idaho, and Grantor hereby designates the Association as the "management body" of the Project in accordance with the Condominium Act. The Association is charged with the duties and vested with the powers prescribed by law and set forth in its Articles, Bylaws, this Declaration (as it relates to the Association's management of the Project), and the other Condominium Documents, as each may be amended and/or supplemented from time to time according to their respective terms. Neither the Articles nor the Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to conflict with this Declaration.

8.2 Membership and Voting. "Member" means each Person holding a membership in the Association, including Grantor. Every Owner of a Condominium is a Member of the Association and has one (1) membership for each Condominium in the Project owned by such Owner. If the Owner of the a Condominium shall be more than one (1) Person, all such Persons shall have a membership in the Association and be deemed Members, but the voting rights in the Association attributable to that Condominium may not be split and shall be exercised by one (1) representative selected by such Persons as they, among themselves, may determine. In the event such Persons are unable to agree among themselves on any matter put to a vote as to how the vote shall be cast, such Persons shall not be entitled to vote on the matter in question. If only one such Person casts a vote, it will thereafter be conclusively presumed for all purposes that such Person was acting with the authority and consent of all other co-Owners of such Condominium. To this end, only one (1) vote is allocated to each Condominium, regardless of the number of Persons that hold an ownership interest in such Condominium. Memberships in the Association shall be appurtenant to the Unit owned by such Owner. The memberships in the Association shall not be transferred, pledged, assigned or alienated in any way except upon the transfer of Owner's title to

a Unit and then only to the transferee of such title. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association. The Association shall have two (2) classes of membership as follows:

8.2.1 Class A Members. “**Class A Members**” shall be the Owners of the Units, with the exception of the Grantor for so long as the Class B Member exists. Upon the Class B Member Termination Date (defined below), at all meetings of the Association each Member will be entitled to one (1) vote for each Unit owned by such Member. Prior to the Class B Termination Date, Class A Members are not entitled to vote.

8.2.2 Class B Member. The “**Class B Member**” is Grantor, who shall be the sole voting Member of the Association entitled to vote the collective voting power of the Association from the period commencing on the Effective Date and expiring on the Class B Member Termination Date (the “**Initial Development Period**”). The Class B Member shall cease to exist upon the earlier to occur of the following: (a) Grantor no longer owns any Units within the Project; or (b) Grantor informs the Board, in a writing recorded in the real property records of Blaine County, Idaho, that Grantor no longer wishes to exercise its rights as the Class B Member (as applicable, the “**Class B Member Termination Date**”).

8.3 Member Meetings. The Association shall hold an annual meeting of the members and periodic special meetings of the members as set forth in the Condominium Documents. Subject to Sections 8.2.1 and 8.2.2, each Member shall be entitled to one (1) vote as a Member in the Association for each Unit owned by such Member.

8.4 Proxies. A membership in the Association shall be appurtenant to and inseparable from the Condominium owned by such Member. A membership in the Association shall not be assigned, transferred, pledged, or alienated in any way except: (a) that an Owner may give a proxy pursuant to the Bylaws; and (b) upon the transfer of title to the Condominium and then only to the transferee of title to said Condominium. Any attempt to make a prohibited transfer of a membership shall be void and shall not be reflected on the books of the Association. Provided, however, that the rights of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on a Condominium or to any Person that has assumed by contract, or otherwise, liability for paying Assessments of any Owner.

8.5 Board of Directors. The business and affairs of the Association are managed by the Board. The Board will consist of not less than three (3) directors and no more than five (5) directors. Directors need not be Owners. During the Initial Development Period, Grantor has the exclusive right to appoint, remove, and replace directors at any time and from time-to-time in Grantor’s sole discretion, and to otherwise fill vacancies on the Board as they arise. After the Initial Development Period, the Owners have the right to elect and remove directors as provided in the Bylaws. After the Initial Development Period, any vacancy on the Board shall be filled by a plurality of the votes cast by the remaining Directors through a special election at any meeting of the Board.

8.6 Delegation of Authority. The Board may at any time and from time-to-time delegate all or any portion of its powers and duties to committees, officers, employees, or to any Person to act as manager, including the Management Company.

8.7 Powers of the Association. The Association shall have all the powers of a nonprofit corporation incorporated under the laws of the State of Idaho and all of the powers and duties set forth in the Condominium Documents, including the power to perform any and all acts which may be necessary to, proper for, or incidental to the foregoing powers. The powers of the Association include, by way of illustration and not limitation:

8.7.1 Assessments. The power and authority to levy Assessments on the Owners of Condominiums and to enforce payment of such Assessments, including the power and authority to establish and fund via Assessments such operating and capital reserves as the Board deems necessary or prudent.

8.7.2 Right of Enforcement. The power and authority at any time and from time-to-time, on its own behalf or on behalf of any consenting Owners, to take any action, including any legal action, to prevent, restrain, enjoin, enforce, or remedy any breach or threatened breach of the Condominium Documents. The power of enforcement includes:

8.7.2.1 The right to remove, alter, rebuild, or restore any improvements constructed, reconstructed, refinished, added, altered, or maintained in violation of the Condominium Documents. If such improvements are located in a Unit, the Board must first provide the Owner thereof with a notice specifying the default and a reasonable period (no less than ten (10) days and not to exceed thirty (30) days) to cure, and the Owner of the improvements must immediately reimburse the Association for all expenses incurred with such removal.

8.7.2.2 The right to enforce the obligations of the Owners to pay each and every Assessment or charge provided for in the Condominium Documents.

8.7.2.3 The right to perform any duty or obligation of an Owner under the Condominium Documents if such duty or obligation is not timely performed by such Owner. In such event, the defaulting Owner must immediately reimburse the Association for all costs reasonably incurred by the Association in performing such duty or obligation. Except in the event of an emergency, the Association must provide the defaulting Owner with a notice specifying the default and a reasonable period (no less than ten (10) days and not to exceed thirty (30) days) to cure prior to exercising its power and authority hereunder.

8.7.2.4 The right to authorize variances from the requirements of this Declaration when required by applicable law (such as the Fair Housing Act) or when needed to prevent the requirements would impose an undue hardship on an Owner that would be inequitable for such Owner to bear. The granting of a variance does not waive any element of the Declaration for any purpose except as to the particular Condominium and the particular provision covered by the variance. Approval of a variance does not affect the Owner's obligation to comply with the other elements of this Declaration or Applicable Law.

8.7.3 Association Rules. The power and authority to adopt, amend, and repeal the Association Rules as the Board deems reasonable and appropriate to govern the Project, including rules and regulations regarding: (a) the use of the Common Area; (b) imposition of fines for violations of the Condominium Documents (subject to applicable law, such as Idaho Code § 55-115); and (c) procedures in the conduct of business and affairs of the Association. Except when

inconsistent with this Declaration, the Association Rules have the same force and effect as if they were set forth in and were made a part of this Declaration. A copy of the Association Rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner.

8.7.4 Emergency Powers. The power and authority to enter upon any Unit as necessary in connection with any maintenance or construction for which it is responsible, or when necessitated by violation of the Declaration or other Condominium Documents, or in the event of any emergency involving potential danger to life or property and the power to take corrective action. Such entry shall be made with as little inconvenience to the Owners as practicable and any damage caused thereby shall be repaired by the Association, except as otherwise provided herein. Owners acknowledge that the Ketchum Fire Department and the Association shall have a master key to all locks in the Project. Owners further agree to notify the Board and employ a locksmith approved by the Board before any locks may be changed to preserve the system.

8.7.5 Common Area. The power and authority to manage, operate, maintain, repair, and replace the Common Area for the benefit of the Project and the Owners, and the power and authority to construct, install, maintain, repair, replace, and operate any improvements in the Common Area, any public right-of-way serving the Project or any other location deemed by the Board to benefit the Project, including any fences, signs or other improvements at Project entrances or otherwise in the vicinity of the Project, and any berms, retaining walls, fences, and other amenities within or abutting any Common Area.

8.7.6 Licenses, Easements and Rights-of-Way. The power to grant and convey to any third party such licenses, easements and rights-of-way in, on or under the Common Area as may be necessary or appropriate for the orderly maintenance, preservation and enjoyment of the Project, and/or for the preservation of health, safety, convenience and welfare of the Owners. The foregoing power includes, without limitation, the power to grant and convey to such third parties licenses, easements, and rights-of-way for the purpose of constructing, erecting, operating, or maintaining any of the following:

8.7.6.1 Lines, cables, wires, conduits, or other devices for the transmission of electricity, heating, power, telephone, television and data, other utility services and, meters and other facilities associated with the foregoing;

8.7.6.2 Sewers, storm drains, water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes; and

8.7.6.3 Cross parking easements, sidewalk abutments, drive lanes, parking areas, curb cuts, landscaping abutting common areas, public and private streets or land conveyed for any public or quasi-public purpose.

8.7.7 Property for Common Use. The power and authority to acquire and hold for the use and benefit of all of the Owners, or for the benefit of only those Owners within a particular Condominium, tangible and intangible personal property and real property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be

deemed to be owned by the Owners in the same proportion as their respective interest in the Common Area.

8.7.8 Amenity Agreements. The power and authority to enter into any lease, license, use, or other agreement as the Board deems proper or convenient to secure the use of off-site amenities or facilities for the benefit of the Project. Without limiting the generality of the foregoing, and only by way of example, the Association may enter into such agreements with others for the use of any recreational amenities or facilities, including clubhouses and swimming pools, by the Owners on such terms as the Association deems reasonable or prudent.

8.7.9 Inspection. The power and authority to enter a Unit for the purpose of conducting regular maintenance inspections.

8.7.10 Taxes. The power and authority to pay all real and personal property taxes and assessments (if any) levied against the Common Area, the Association, and any other property owned by the Association. In addition, the Association must pay all taxes, including income, revenue, corporate, or other taxes (if any) levied against the Association.

8.7.11 Entitlement Obligations. The power and authority to fulfill any duties imposed by any governmental or other quasi-governmental agencies as part of the entitlements for the development of Project, including any requirements or obligations identified in such entitlements as the responsibility of community association or homeowners' association or management body, such as plat notes, development agreements, or conditions of approval.

8.7.12 Financing. The power and authority to enter into any agreements necessary or convenient to allow Owners to take full advantage of, or secure the full availability of, any financing programs offered or supported by the Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA), the Federal Housing Administration (FHA), the Veterans Administration (VA), the Federal Home Loan Mortgage Corporation (FHLMC) or any similar entity.

8.7.13 Estoppel Certificates. The power and authority to execute a written statement stating: (a) whether or not, to the knowledge of the Association, a particular Owner or Owner's Condominium is in default of this Declaration or other Condominium Documents; (b) the dates to which any Assessments have been paid by a particular Owner; and (c) such other matters as the Board deems reasonable. Any such certificate may be relied upon by a bona-fide prospective purchaser or Mortgagee of such Owner's Condominium, but only to the extent such prospective purchaser or Mortgagee has no knowledge to the contrary. The Association may charge a reasonable fee for such statements.

8.7.14 Improvements in Public Right-of-Way. The power and authority to enter into license and easement agreements with the City of Ketchum (or assume the duties and obligations under any such license agreement entered into by Grantor) to install, maintain, improve, irrigate, trim, repair, and replace improvements and landscaping in the public rights-of-way (including sidewalk easements and planter strips).

8.7.15 Implied Rights. Notwithstanding the foregoing, the Association may exercise any other right or privilege given to it expressly by this Declaration or by Applicable Law,

and every other right or privilege reasonable to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Such rights shall include without limitation the right to acquire water meters for each Unit.

8.7.16 Use of Association Powers. Notwithstanding the foregoing, the Association shall not take any action that would impair an Owner's right to enjoy and use his/her Unit as set forth herein, in particular Section 7.22.

8.7.17 Power to Levy Fines. The power to impose reasonable monetary fines which shall constitute a lien upon the Unit owned or occupied by the Owner, Lessee, or other Person determined by the Board to be in violation of the Condominium Documents (individually, a "**Violation**"). Provided, however, the Association shall not impose a fine on an Owner for a Violation unless: (a) the Board votes to impose the fine at any regular or special meeting of the Board or the Association (individually, a "**Levy Meeting**"); (b) such Owner is provided at least thirty (30) days advance written notice of the Levy Meeting by personal service or certified mail at the last known address of such Owner as shown in the records of the Association; and (c) such Owner is given a reasonable opportunity to respond to the Violation during the Levy Meeting. Provided further, the Association shall not impose a fine on an Owner if such Owner, prior to the Levy Meeting, begins resolving the Violation and continues to address the Violation in good faith until the Violation is fully resolved (the "**Remedial Period**"). For purposes of this Section, the phrase "address the violation in good faith until the Violation is fully resolved" means the Owner must resolve the Violation within thirty (30) calendar days of the Notice; provided, however, if the nature of the Violation is such that more than thirty (30) calendar days are required for its resolution, then the Owner must diligently prosecute the same to completion within sixty (60) calendar days. All such fines shall be deemed to be a part of the Assessments to which the Owner's Unit is subject under this Declaration. In all events, no portion of such fines may be used to increase the compensation to the Board or agent thereof.

8.8 Duties of the Association. In addition to the power delegated to it by the Condominium Documents, the Association or its agents shall have the obligation to conduct all business affairs of the Association and to perform, without limitation, each of the following duties:

8.8.1 Operation and Maintenance of Common Area. Operate, maintain and otherwise manage or provide for the operation, maintenance and management of the Common Area and all improvements thereon, including parking areas, drive lanes, landscaping, common seepage beds and the exterior of the Building, including the repair and replacement of property damaged or destroyed by casualty loss and all other property acquired by the Association, and shall maintain the same in a good, clean, attractive and sanitary condition, order and repair.

8.8.2 Taxes and Assessments. Pay all real and personal property taxes and assessments separately levied against the Common Area, the Association, or property owned by the Association and all such taxes shall be paid or a bond insuring payment posted prior to the sale or the disposition of any property to satisfy the payment of such taxes. In addition, the Association shall pay all other taxes, federal, state or local, including income or corporate taxes levied against the Association in the event that the Association is denied the status of a tax exempt corporation.

8.8.3 Water and Other Utilities. Acquire, provide and/or pay for water, storm drainage system maintenance, sewer services, electric services, garbage, disposal, refuse and rubbish collection and other necessary services for the Common Area and Units, except to the extent separately billed or separately metered, as may be determined by the Board from time to time in its discretion.

8.8.4 Insurance. Obtain, from reputable insurance companies authorized to do business in the State of Idaho and maintain in effect the policies of insurance described in Section 13 hereof.

8.8.5 Maintenance of Exteriors and Improvements. Maintain and repair the exterior surfaces of the Building and improvements in the Project. The exterior maintenance shall include: painting, staining, repairing, restaining, replacing and caring for all exterior surfaces including roofs and exterior portions of doors as necessary to maintain them in good condition.

8.8.6 Inspection and Maintenance Guidelines. The Board shall adopt inspection and maintenance guidelines for the periodic inspection and maintenance of the Common Area, including, without limitation, the sewer system and drainage facilities. The Board periodically, and at least once every two (2) years, shall review and update the inspection and maintenance guidelines. The Board shall take all appropriate steps to implement and comply with the inspection and maintenance guidelines, and shall keep records of such implementation and compliance.

8.8.7 Drainage Facilities. Operate and maintain the storm drainage area, as depicted on the Plat. Notwithstanding anything to the contrary, no buildings or other similar improvements shall be constructed within the storm drainage area that would materially interfere with the Property's drainage system.

8.8.8 Maintenance of Records and Right of Inspection. The Association shall keep such records of its business and affairs as is customary for community or homeowner associations, including a membership register, accounting records, financial statements, operating budgets, balance sheets, and minutes of meetings of the Board and committees. Such records shall be available at the Association's regular offices for inspection and copying by any Owner at such Owner's expense. The Board may establish reasonable rules with respect to: (a) notice to be given to the custodians of the records by persons desiring to make the inspection; (b) hours and days of the week when such an inspection may be made; and (c) payment of the cost of reproducing copies of documents requested pursuant to this Section 8.8.8. The Association's obligations hereunder may be fulfilled by making the records available to an Owner electronically, including delivery by electronic mail or the posting of such records on a website.

8.9 Immunity and Indemnification. Each Owner understands and agrees that: (a) Grantor and its members, managers, agents, and employees, and (b) the Association its directors, officers, agents, employees, and committee members (each individually a "**Released Party**") shall be immune from personal liability to such Owner, and such Owner hereby knowingly and voluntarily waives and releases each Released Party, for such Released Party's actions or failure to act with respect to the Condominium Documents to the extent that such acts or failures to act do not constitute willful misconduct on the part of such Released Party. The Association shall

indemnify, defend, and hold each Released Party harmless from any action, expense, loss or damage caused by or resulting from such Released Party's actions or failure to act with respect to the Condominium Documents; provided, however, the Association shall not be obligated to indemnify, defend, and hold harmless any Released Party for their own gross negligence or willful misconduct.

8.10 Waiver of Consequential Damages. Neither the Grantor nor the Association shall be liable to any Owner for, and each Owner releases the Grantor and the Association from, any form of indirect, special, punitive, exemplary, incidental, consequential, or similar costs, expenses, damages, or losses.

SECTION 9 ASSESSMENTS

9.1 Covenant to Pay Assessments. By acceptance of a deed to any Condominium, each Owner covenants and agrees to pay when due (without deduction, setoff, abatement of counterclaim of any kind whatsoever) all Assessments or charges made against such Owner or such Owner's Condominium pursuant to the Condominium Documents. Assessments against a Condominium shall be a continuing lien on such Condominium until paid, whether or not ownership of such Condominium is transferred. Assessments against a Condominium are also the personal obligation of the Owner of the Condominium when the Assessment becomes due and payable. Such personal obligation shall remain with such Owner regardless of whether such Owner remains the owner of the Condominium. Delinquent Assessments related to a Condominium shall not pass to such Owner's successors in title unless expressly assumed by them. Such Assessments and charges, together with interest, costs and reasonable attorneys' fees, which may be incurred in collecting the same, shall be a charge on the Condominium and shall be a continuing lien upon the Condominium against which each such Assessment or charge is made. The due date, manner and method of payment shall be as set forth in this Declaration or as established by the Board from time to time.

9.2 Rate of Assessment. Except as otherwise provided herein, all Owners shall be responsible for Regular Assessments and Special Assessments levied by the Association in proportion to their percentage ownership interest in the Common Area, as set forth on Exhibit D. Owners shall be responsible for Limited Assessments levied by the Association, as set forth in Section 9.5.

9.3 Regular Assessments.

9.3.1 Purpose of Regular Assessments. The proceeds from Regular Assessments are to be used to pay for all costs and expenses incurred by the Association, including attorneys' fees and other professional fees, for the conduct of its affairs as provided in this Declaration (including without limitation Section 8 hereof) and other Condominium Documents, including without limitation the costs and expenses of construction, improvement, protection, maintenance, repair, management and operation of the Common Area and furnishing utility services, including water, sewer, gas, geothermal systems, trash and electricity and other common services to the Common Area, and each Condominium (if not separately metered), insurance, and any deficit remaining from previous periods (collectively the "**Expenses**"). "Expenses" shall also include and an amount to fund adequate reserves for repairs, replacement, maintenance, and

improvement of those elements of the Common Area, or other property of the Association that must be replaced and maintained on a regular basis, and for extraordinary operating expenses, contingent risks or liabilities (such as indemnification and defense expenses), capital repairs, capital replacements, and any other expenses for which the Board, in its reasonable opinion, deems prudent to fund a reserve. If not already separately metered, the Board reserves the right to separately meter utility services provided to each Condominium, and in such event the Owner of the Condominium shall be fully responsible for the costs of providing utilities for the Owner's individual use.

9.3.2 Computation of Allocation for Regular Assessments. Unless otherwise determined by the Board, the Association shall compute and forecast the amount of its Expenses and Regular Assessments on an annual basis. The computation of Regular Assessments shall take place not less than thirty (30) nor more than sixty (60) days before the beginning of each fiscal year of the Association, unless a change in the Members or other circumstance makes it impracticable to compute the Regular Assessments in that timeframe. In such event, the Owners shall be immediately notified upon completion of such computation. Notwithstanding the foregoing, the computation of Regular Assessments shall be completed in good faith and shall be valid upon completion. The computation of the Regular Assessments for the period from the recordation of this Declaration until the beginning of the next fiscal year shall be reduced by an amount which fairly reflects the fact that such period was less than one year. The Board shall have the exclusive right to approve any Assessment under this Section 9.

Except as provided herein, Regular Assessments shall be levied by the Association against Condominiums in proportion to their percentage ownerships in the Common Area as set forth on Exhibit D. Certain Expenses which exist only for the benefit of or only to serve a single Condominium or group of Condominiums (but not all Condominiums) shall only be levied against the Owners thereof in proportion to their percentage ownerships, as among each other, as set forth on Exhibit D.

9.4 Special Assessments. In the event that the Board shall determine that the Regular Assessment for a given calendar year is or will be inadequate to meet the Expenses of the Association for any reason, including, without limitation, costs of construction, reconstruction, unexpected repairs or replacement of improvements upon the Common Area, attorneys' fees and/or litigation costs, other professional fees, or for any other reason, the Board shall determine the approximate amount necessary to defray such Expenses and levy a Special Assessment for such amount. The Board shall, in its discretion, determine the schedule under which such Special Assessment will be paid. If such Special Assessment shall affect more than one Condominium or group of Condominiums (but not all Condominiums), the Owners of the affected Condominiums shall pay those costs associated solely with their Condominiums in proportion to their percentage ownerships, as among each other, as set forth on Exhibit D, while all Owners shall share such costs associated with the Common Area in proportion to their ownership interests set forth on Exhibit D.

9.5 Limited Assessments. Notwithstanding the above provisions with respect to Regular Assessments and Special Assessments, the Association may levy a Limited Assessment against an Owner: (a) for any fines (in accordance with Section 8.7.17 hereof), fees or charges levied against the Owner under the Condominium Documents; (b) to reimburse the Association for any costs incurred to bring the Owner's Condominium or any improvements therein into

compliance with the Condominium Documents; (c) to reimburse the Association for any damages caused by an Owner or such Owner's Tenants, Occupants, invitees, or licensees to any Common Area or improvements or other property owned or maintained by the Association; and (d) for the cost of providing any goods or services under the Condominium Documents that benefit such Owner or Owner's Condominium, but less than all Owners or all Owners' Condominiums. If such Limited Assessment shall affect more than one Condominium, but not all Condominiums, the Owners of the effected Condominiums shall pay those costs associated solely with their Condominiums in proportion to their percentage ownership, as among each other, while all Owners shall share such costs associated with the Common Area in proportion to their percentage ownership interest set forth on Exhibit D, as applicable.

9.6 Notice and Assessment Due Date. Unless the Board establishes a different schedule for the payment of Regular Assessments, monthly installments of the Regular Assessments shall be paid on or before the 1st of each month. The Board shall, in its reasonable discretion, determine the schedule under which Assessments (other than Regular Assessments) will be paid. If not paid within five (5) days after the due date, a one-time late charge equal to ten percent (10%) of the Regular Assessment shall be charged to the Owner. Each Assessment, other than a Regular Assessment, shall become delinquent if not paid within ten (10) days after the date of notice thereof to the Owner. If all or any part of an Assessment is not paid within five (5) days after its due date, then: (a) the delinquent Owner shall pay to the Association a late payment charge equal to 5% of the delinquent amount; and (ii) interest shall accrue on the delinquent amount at the rate of twelve percent (12%) per annum until paid in full. In the event an Owner's payment is returned for any reason, such Owner shall pay to the Association an administrative fee in an amount set by the Board and thereafter the Association shall have the right to require future Assessments due from such Owner to be paid in the form of a cashier's check, certified check, or other form of immediately collectible funds acceptable to the Association in the Board's discretion.

SECTION 10 ENFORCEMENT OF ASSESSMENTS; LIENS

10.1 Right to Enforce. The Association has the right to collect and enforce its Assessments, including any late charges and/or interest accrued thereon pursuant to the provisions hereof. Each Owner shall be deemed to covenant and agree to pay each and every Assessment provided for in this Declaration, including any late charges and/or interest accrued thereon, and agrees to the enforcement of all Assessments in the manner herein specified. In the event an attorney or attorneys are employed for the collection of any Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner agrees to pay (and agrees that the lien may include) reasonable attorneys' fees and costs, including the costs and expenses for any lien releases, in addition to any other relief or remedy obtained against such Owner. The Board or its authorized representative may enforce the obligations of the Owners to pay such Assessments by commencement and maintenance of a suit at law or in equity, or the Board may exercise the power of foreclosure and sale pursuant to this Section to enforce the liens created pursuant to this Section. A suit to recover a money judgment for an unpaid Assessment shall be maintainable without foreclosing or waiving the lien hereinafter provided.

10.2 Assessment Liens. There is hereby created a claim of lien with power of sale on each and every Condominium to secure payment of any and all Assessments levied against such

Condominium pursuant to this Declaration together with interest thereon at the maximum rate permitted by law and all costs of collection which may be paid or incurred by the Association making the Assessment in connection therewith, including reasonable attorneys' fees. All sums assessed in accordance with the provisions of this Declaration shall constitute a lien on such respective Condominium upon recordation of claim of lien with the Blaine County Recorder, which claim of lien shall be the "notice of assessment" described in the Condominium Act. Each delinquency shall constitute a separate basis for a claim of lien, but any number of defaults may be included within a single claim of lien. Such claim of lien may be foreclosed in any manner permitted by Applicable Law. Upon payment of such lien in full, the Association shall prepare and record a release of such claim of lien.

10.3 Method of Foreclosure. To the extent permitted by law, such lien may be foreclosed by appropriate action in court or by sale by the Association, its attorney or other Person authorized to make the sale. Such sale shall be conducted in accordance with the provisions of the Idaho Code applicable to the exercise of powers of sale in deeds of trust or any other manner permitted by Applicable Law. The Board is hereby authorized to appoint its attorney, any officer or director of the Association, or any title company authorized to do business in Idaho as trustee for the purpose of conducting such power of sale or foreclosure.

10.4 Required Notice. No action may be brought to foreclose the claim of lien provided for herein, whether judicially, by power of sale, or otherwise, until the expiration of thirty (30) days after a copy of such notice of claim of lien has been deposited in the United States mail, certified or registered, postage prepaid, to the Owner described in such notice of assessment, and to the Person in possession of such Condominium(s).

10.5 Subordination. Upon recordation of a claim of lien for delinquent Assessments in accordance with Applicable Law, such lien shall be prior and superior to all other liens or claims created subsequent to the recordation of the claim of lien except for: (a) liens which, by law, would be superior thereto; and (b) the lien of a first priority Mortgage given and made in good faith and for value that is of record as an encumbrance against such Condominium prior to the recordation of a claim of lien for the Assessments. Except as expressly provided in this Section 10.5, the sale or transfer of any Condominium shall not affect the lien provided for herein, nor the creation thereof by the recordation of a claim of lien, on account of the Assessments becoming due whether before, on, or after the date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent Assessments as provided for in this Declaration.

10.6 Grantor Exemption. Grantor is exempt from Assessments as set forth in Section 18.4.

SECTION 11 RIGHTS TO COMMON AREAS

11.1 Use of Common Area. Every Owner shall have a nonexclusive right and easement to use the Common Area (exclusive of Limited Common Area) and an exclusive or semi-exclusive right to use Limited Common Area designated for exclusive or semi-exclusive use by the Owner, which shall be appurtenant to and shall pass with the title to every Condominium, subject to the following provisions:

11.1.1 Assessments. The rights of the Association to levy Assessments as provided herein and the payment by an Owner of all such Assessments;

11.1.2 Voting. The right of the Association to suspend the voting rights and rights to use of, or interest in Common Area by an Owner for any period during which any Assessments or charges against such Owner's Condominium remains unpaid;

11.1.3 Dedication or Transfer. The right of the Association to dedicate or transfer all or any part of Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No dedication or transfer shall be effective unless an instrument verifying is executed and recorded by the Association verifying that such dedication or transfer has been approved by: (a) the vote or written consent of Owners representing more than fifty percent (50%) of the total voting power in the Association, and (b) more than fifty percent (50%) of all Mortgagees; and

11.1.4 Association Rules. The right of the Association to establish and enforce such Association Rules as the Association deems proper regarding the Project and use of Common Area.

11.2 Delegation of Right to Use. Any Owner may delegate in accordance with the respective Condominium Documents, such Owner's reasonable right to the use and enjoyment of the Common Area to such Owner's Tenants, Occupants, invitees, or licensees.

11.3 Damages. To the extent permitted by law, each Owner shall be liable for expenses for corrective action necessitated by violation of the Declaration or Association Rules or for any damage to such Common Area which may be sustained by reason of such Owner's Tenants, Occupants, invitees, or licensees. In the case of joint ownership of a Condominium, the liability of such Owners shall be joint and several. The cost of corrective action shall be assessed as an Assessment against the Condominium and may be collected as provided herein for the collection of other Assessments.

SECTION 12 MECHANIC'S LIEN RIGHTS

No labor performed or services or materials furnished with the consent of or at the request of an Owner or such Owner's agent, contractor or subcontractor shall be the basis for the filing of a lien against the Condominium of any other Owner or against any part thereof, or against any other property of any other Owner, unless such other Owner has expressly consented to or requested in writing the performance of such labor or furnishing of such materials or services. Such express written consent shall be deemed to have been given by the Owner of any Condominium in the case of emergency corrective action undertaken by the Association. Labor performed or services or materials furnished for the Property if duly authorized by the Association shall be deemed to be performed or furnished with the express consent of each Owner. Any Owner may remove his/her Condominium from a lien against two or more Condominiums or any part thereof by payment of sums secured by such lien which is attributable to such Owner's Condominium.

SECTION 13 INSURANCE

13.1 Types of Insurance. The Association shall obtain and keep in full force and effect at all times such bonds and insurance as may be required by Applicable Law and such further insurance as the Board deems necessary or prudent, including casualty insurance for any property or improvements owned or maintained by the Association, public liability insurance related to the Association's operations and the use of the Common Area, directors and officers liability coverage, automobile insurance, worker's compensation insurance and fidelity bonds. Unless otherwise authorized by the Board, the Association shall procure at least the following insurance policies to the extent such policies are available on commercially reasonable terms:

13.1.1 Casualty Insurance. The Association shall obtain and maintain a "bare walls" insurance on the Building and other property owned by the Association in such amounts as shall provide for full replacement thereof, including, but not limited to, those costs associated with rebuilding, design, any required permits, legal fees, and any other fees associated with the replacement of the Building, in the event of damage or destruction from the casualty against which such insurance is obtained. Such insurance shall include fire and extended coverage, vandalism and mischief, and such other risks and hazards against which the Board deems appropriate to provide insurance protection. The Association may comply with the above requirements by the purchase of blanket coverage and may elect such "deductible" provisions as the Board, in its reasonable opinion, deems consistent with good business practice. The Association's policy of casualty insurance does not insure individual Units or the betterments or improvements made thereto (including without limitation cabinets, countertops, sinks, floor coverings, paint, attached fixtures, utility systems serving only the Unit, and the like) or the personal property or other contents thereof, all of which shall be insured by the Unit Owner pursuant to Section 13.4 hereof.

13.1.2 Commercial General Liability Insurance. The Association shall and maintain a policy of commercial general liability insurance covering the activities of the Association, its Board, employees, and agents and have a combined single limit of not less than \$2,000,000 per person and per occurrence and property damage liability insurance with a limit of not less than \$2,000,000 per accident or occurrence.

13.1.3 Workers Compensation and Employer's Liability Insurance. The Association shall cause the Management Company to purchase and maintain workers compensation and employer's liability insurance and all other similar insurance in respect to employees of the Association in the amounts and in the forms now or hereafter required by Applicable Law.

13.1.4 Directors' and Officers' Liability Insurance. Full coverage directors' and officers' liability insurance with a limit of at least Two Hundred Fifty Thousand Dollars (\$250,000) for the directors and officers of the Association. In addition, the Association shall cause the Management Company to purchase, in such amounts and in such form as the Board shall deem appropriate, coverage against liability on account of the Management Company's dishonesty of employees, officers and directors; destruction or disappearance of money or securities; and forgery.

13.1.5 Other. The Association may obtain insurance against such other risks, of a similar or dissimilar nature, including errors and omissions insurance for the actions of the Board, as it shall deem appropriate with respect to the Buildings, including any personal property of the Association located thereon.

13.2 Form. Casualty insurance on the Project shall be carried in a form or forms naming the Association as the insured as trustee for the Owners, which policy or policies shall specify the interest of each Owner (Owner's name, Unit number, and the appurtenant undivided interest in the Common Area) and which policy or policies shall provide a standard loss payable clause providing for payment of insurance proceeds to the Association as trustee for the Owners and for the respective first priority Mortgagees of Owners which from time to time shall give notice to the Association of such Mortgages, such proceeds to be used in accordance with this Declaration. Each policy shall also provide that it cannot be canceled by either the insured or the insurance company until after thirty (30) days' prior written notice is first given to each Owner and to each first priority Mortgagee requesting such notice. The Association shall furnish to each Owner and to Grantor a true copy of such policy together with a certificate identifying the interest of the Owner. All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular Owner guilty of breach of warranty, act, omission, negligence or noncompliance with any provision of such policy, including payment of the insurance premium applicable to that Owner's interest or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy. All policies of insurance shall provide further that the insurance under any such policy as to the interest of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

The commercial general liability policy shall name Grantor, the Management Company, and the Association as the insured, with the Association as trustee for the Owners, and shall protect each Owner against liability for acts of the Association in connection with the ownership, operation, maintenance, or other use of the Building.

13.3 Insurance Proceeds. The Association shall receive the proceeds of any casualty insurance payments received under policies obtained and maintained pursuant to this Section and as provided in Section 14 hereof. In the event: (a) Owners representing eighty percent (80%) or more of the total voting power in the Association; and (b) more than fifty percent (50%) of all first priority Mortgagees elect not to rebuild the Project, the insurance proceeds shall be distributed to the Owners based on the ownership percentage of each Owner at the time of the casualty.

13.4 Owner's Own Insurance. Each Owner shall obtain and maintain at its own expense, insurance providing coverage in the event of damage or destruction to the Owner's Unit, regardless of the cause of such damage or destruction, and covering such other risks as Owner may deem appropriate. The foregoing insurance shall be in such amounts as shall provide for full replacement of the Owner's Unit, including all betterments and improvements made to thereto (including cabinets, countertops, sinks, floor coverings, paint, attached fixtures, and the utility systems serving only the Unit), and all personal property located therein and the contents thereof. Each Owner shall also obtain and maintain liability insurance covering all occurrences commonly insured against death, bodily injury, and property damage, with a per limit occurrence of not less

than \$500,000.00 and an annual aggregate limit of not less than \$1,000,000.00, arising out of or in connection with the use, ownership, or maintenance of the Owner's Unit. All policies carried by each Owner pursuant to this Section 13.4 shall: (a) name the Association and the Grantor as additional insureds with rights to enforce; (b) be without contribution with respect to any insurance maintained by the Association for the benefit of all Unit Owners; and (c) provide that the insurer waives any and all rights of subrogation as against the Association, the Grantor, each other Owner.

13.5 Mutual Waiver of Subrogation Rights. Whenever: (a) any loss, cost, damage, or expense resulting from fire, explosion, or any other casualty or occurrence is incurred by either by the Grantor, Association, or Owner, or anyone claiming by, through, or under the Grantor, Association, or Owner in connection with the Project; and (b) the Grantor, Association, or such Owner is then covered or required to be covered under this Declaration to be so insured in whole or in part by insurance with respect to such loss, costs, damage, or expense, then the party so insured (or so required) hereby releases the other parties from any liability said other parties may have on account of such loss, costs, damage, or expense to the extent of any amount recovered by reason of such insurance (or which could have been recovered had such insurance been carried as so required) and waives any right of subrogation which might otherwise exist in or accrue to any Person on account thereof, provided that such release of liability and waiver of the right of subrogation shall not be operative in any case where the effect thereof is to invalidate such insurance coverage. Grantor, the Association, and each Owner shall obtain and furnish evidence to the other Party of the waiver by its insurance carrier(s) of any right of subrogation.

SECTION 14 CASUALTY, DAMAGE OR DESTRUCTION

14.1 Affects Title Title to each Condominium is hereby made subject to the terms and conditions hereof, which bind the Grantor and all subsequent Owners, whether or not it is expressed in the deed by which any Owner acquires a Condominium.

14.2 Association As Agent. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney-in-fact in their name, place and stead for the purpose of dealing with their Condominium upon the Condominium's damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Grantor or from any Owner shall constitute such appointment.

14.3 General Authority of Association. As attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed, or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used in succeeding Sections means restoring the Condominiums, including the site improvements, equipment and facilities therein, to substantially the same condition in which it existed prior to damage, with each Unit and the Common Area having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction unless: (a) Owners representing eighty percent (80%) or more of the total voting power in the Association; and (b) more than fifty percent (50%) of all first priority Mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

14.4 Estimate of Costs. As soon as practicable after an event causing damage to, or destruction of, any part of the Project, the Association shall obtain estimates that it deems reliable of the costs of repair or reconstruction of that part of the Project damaged or destroyed.

14.5 Repair or Reconstruction. As soon as practicable after receiving these estimates, the Association shall diligently pursue to completion the repair or construction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair or reconstruction, as attorney-in-fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith. Such repair or reconstruction shall be in accordance with the original plans and specifications of the Project or may be in accordance with any other plans and specifications the Association may approve, provided that in such latter event the number of cubic feet and the number of square feet of any Unit may not vary by more than five percent (5%) from the number of cubic feet and the number of square feet for such Unit as originally constructed pursuant to such original plans and specifications without the written consent of all affected Owners, and the location of the Units shall be substantially the same as prior to damage or destruction.

14.6 Funds for Reconstruction. The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, the Association, pursuant to Section 9.4 hereof, may levy in advance a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair or reconstruction. Such Special Assessments shall be allocated and collected as provided in that Section. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

14.7 Disbursement of Funds for Repair or Reconstruction. The insurance proceeds held by the Association and the amounts received from the assessments provided in Section 14.6 constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the cost of repair or reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair or reconstruction, such balance shall be distributed to the Owners requiring repair and/or reconstruction of such Owner's Unit in proportion to the contributions by such Owner pursuant to the assessments by the Association under Section 14.6 of this Declaration.

14.8 Decision not to Rebuild. If eighty percent (80%) or more of the Owners and more than fifty percent (50%) of the first priority Mortgagees agree not to rebuild, the Project shall be sold. All insurance proceeds and all sale proceeds shall be apportioned among the Owners in the same proportions as their share of the Common Area as provided in Exhibit D; and such apportioned proceeds shall be paid into separate accounts, each such account representing one (1) Condominium. Each such account shall remain in the name of the Association, and shall be further identified by the Condominium designation and the name of the Owner. From each separate account the Association, as attorney in fact, shall use and disburse the total amount of such accounts without contribution from one account to the other, first to Mortgagees and other lienors in the order of priority of their Mortgages and other liens, and the balance remaining to each respective Owner.

SECTION 15 CONDEMNATION

15.1 Consequences of Condemnation. If at any time or times during the continuance of the condominium ownership regime pursuant to this Declaration, all or any part of the Project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions of this Section shall apply.

15.2 Proceeds. All compensation, damages, and other proceeds therefrom, the sum of which is hereinafter called the “**Condemnation Award**,” shall be payable to the Association.

15.3 Complete Taking. In the event that all of the Units are taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership regime pursuant hereto shall terminate. The Condemnation Award shall be apportioned among the Owners in the same proportions as their share of the Common Area as provided in Exhibit D, provided that if a standard different from the value of the Condominiums as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree or otherwise, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable.

On the basis of the principle set forth in the last preceding paragraph, the Association shall, as soon as practicable, determine the share of the Condemnation Award to which each Owner is entitled and pay such amounts as soon as practicable.

15.4 Partial Taking. In the event that less than all of the Units are taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership regime hereunder shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award to be determined in the following manner: As soon as practicable the Association shall, reasonably and in good faith, allocate the Condemnation Award between compensation, damages or other proceeds and shall apportion the amounts so allocated among the Owners as follows:

15.4.1 Allocation to Common Area. The total amount allocated to taking of or injury to the Common Area shall be apportioned among the Owners in the same proportions as their share of the Common Area as provided in Exhibit D;

15.4.2 Allocation to Condominiums. The total amount allocated to severance damages shall be apportioned to those Condominiums which were taken or condemned as follows: (a) the respective amounts allocated to the taking of or injury to a particular Unit and/or improvements an Owner has made within the Owner’s own Unit shall be apportioned to the particular Unit involved; and (b) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Board, in its reasonable opinion, determines to be equitable in the circumstances. If an allocation of the Condemnation Award is already established in negotiation, judicial decree, or otherwise, then in allocating the Condemnation Award the Association shall employ such allocation to the extent it is relevant and applicable.

15.5 Reorganization. In the event a partial taking results in the taking of a complete Unit, then, upon the distribution of such Owner’s apportioned proceeds, the Owner thereof automatically shall cease to be a member of the Association. Thereafter the Association shall re-allocate the ownership, voting rights and assessment ratio determined in accordance with this

Declaration according to the same principles employed in this Declaration at its inception and shall submit such re-allocation to the remaining Owners for approval and amendment of this Declaration as provided in Section 20.1 hereof.

15.6 Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Section 14 above.

SECTION 16 DISCLAIMERS, WAIVERS, AND ACKNOWLEDGMENTS

16.1 Disclaimer and Waiver of Warranties. Without limiting any other provision in this Declaration, by acceptance of deed to a Condominium, each Owner shall conclusively be deemed to understand, and to have acknowledged and agreed to, all of the following:

16.1.1 That Grantor hereby disclaims any and all warranties, express and implied, including without limitation the implied warranty of habitability and the implied warranty of fitness for a particular purpose, and by acceptance of a deed to a Condominium, each Owner waives and releases Grantor with respect to any such warranties;

16.1.2 That the Project is or may be located within or nearby certain airplane flight patterns, and/or subject to levels of airplane traffic noise; and that Grantor hereby specifically disclaims any and all representations and warranties, express and implied, arising from or relating to airplane flight patterns, and/or airplane traffic noise; and each Owner hereby waives and releases Grantor from any and all claims arising from or relating to airplane flight patterns or airplane traffic noise;

16.1.3 That the Project is or may be located adjacent to or nearby roadways and subject to levels of traffic thereon, and to noise, dust, and other nuisances arising from such roadways and levels of traffic; that Grantor hereby specifically disclaims any and all representations and warranties, express and implied, arising from or related to such roadways and levels of traffic thereon, and to noise, dust, and other nuisances arising from such roadways and levels of traffic; and each Owner hereby waives and releases Grantor from any and all claims arising from or related to roadways and levels of traffic thereon, and to noise, dust, and other nuisances arising from such roadways and levels of traffic;

16.1.4 That construction and installation of improvements by Grantor or other Owners, or third parties, may involve the operation of noisy equipment, generate dust, and may impair or eliminate the view, if any, of or from any Unit and/or Common Areas; and each Owner hereby waives and releases Grantor from any and all claims arising from or relating to such construction and installation, view impairment or elimination including but not limited to, any claims for nuisance or health hazards;

16.1.5 That construction is an industry inherently subject to variations and imperfections, and items that do not materially affect safety or structural integrity shall be deemed “**Expected Minor Flaws**” (including, but not limited to: reasonable wear, tear or deterioration; shrinkage, swelling, expansion or settlement; squeaking, peeling, chipping, cracking, or fading; touch-up painting; minor flaws or corrective work; and like items) and not constructional defects; and that and each Owner hereby waives and releases Grantor from any and all claims arising from or relating to such Expected Minor Flaws; and

16.1.6 That creation of the Project shall not create any presumption, or duty whatsoever of Grantor with regard to security or protection of Person or property within or adjacent to the Project; and each Owner hereby waives and releases Grantor from any and all claims arising from or related to such security or protection, or lack thereof.

SECTION 17 RESOLUTION OF DISPUTES

17.1 Agreement to Avoid Litigation. Grantor, the Association and the Owners agree that it is in their best interests to provide a fair, impartial, and expeditious procedure for the resolution of disputes related to the Condominium Documents instead of costly, lengthy, and unpredictable litigation. Accordingly, Grantor, the Association (including its Board, officers, and committee members), each Owner and any party claiming a right or interest under the Condominium Documents (each, a “**Bound Party**”) agree to encourage the efficient resolution of disputes within the Project without the emotional and financial costs of litigation. Each Bound Party therefore covenants and agrees that all claims, grievances, or disputes arising out of or relating to the interpretation, application, or enforcement of the Condominium Documents or the rights, obligations, or duties of any Bound Party under the Condominium Documents (“**Claims**”) shall be subject to the provisions of Section 17.3 unless exempt under Section 17.2. All Claims shall be subject to resolution pursuant to this Section 17 as a condition precedent to the institution or continuation of any legal or equitable proceeding; provided, however, any Bound Party may proceed in accordance with applicable law to comply with any notice or filing deadlines prior to resolution of the Claim

17.2 Exemptions. None of the following Claims shall be subject to this Section 17 unless all Bound Parties thereto agree in writing to submit such Claim to the dispute resolution procedures set forth in this Section 17:

17.2.1 Any Claim by the Association against any Bound Party to enforce the obligation to pay any Assessment to the Association under the Condominium Documents;

17.2.2 Any Claim by Grantor or the Association to obtain injunction or equitable relief to enforce any provision of the Condominium Documents;

17.2.3 Any Claim between Owners where the Grantor or the Association are not a party thereto, which Claim would constitute a cause of action independent of the Condominium Documents;

17.2.4 Any Claim in which any indispensable party is not a Bound Party;

17.2.5 Any Claim against a Released Party that would be barred by Section 8.9;

17.2.6 Any Claim which otherwise would be barred by Applicable Law (such as, for example, the applicable statute of limitations); or

17.2.7 Any Claim arising out of or relating to the interpretation, application or enforcement of any purchase, sale or construction agreement with Grantor or any builder related to the construction of improvements within the Project, or the rights, obligations, or duties of any

Bound Party under such agreements, it being understood that Applicable Law and the provisions of such agreements shall control the resolution of any claims or disputes related thereto.

17.3 Dispute Resolution.

17.3.1 Direct Discussions. Any Bound Party having a Claim against any other Bound Party shall notify such party(ies) of the Claim in writing, stating plainly and concisely the following: (a) the nature of the Claim; (b) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises); (c) the basic facts supporting the allegations in the Claim; (d) the other Persons involved in the Claim or with personal knowledge of the facts alleged; and (e) the claimant's proposed remedy, including the specific monetary amounts (if any) demanded. The Bound Parties to the Claim shall make reasonable efforts to meet in person to resolve the Claim by good faith discussions and negotiations – it being understood that the best opportunity to achieve a fair and satisfactory resolution to a Claim is ordinarily through early discussions and negotiations held in good faith.

17.3.2 Dispute Resolution. If the Bound Parties to a Claim are unable to resolve the Claim through direct discussions within a reasonable time, either Bound Party may submit the Claim to the Board for assistance in resolving the Claim. In such event, the Board may, by notice to each Bound Party to the Claim within thirty (30) days of its receipt of a request for assistance:

17.3.2.1 Order the Bound Parties to continue direct discussions and negotiations for a period of up to thirty (30) days. If the Claim is not resolved in such period, any Bound Party may request the Board's further assistance to resolve the Claim;

17.3.2.2 Order the Bound Parties to mediate the Claim with an independent real estate attorney, real estate professional, or judge selected by the Board. The mediator shall set the rules of the mediation. Any party to the mediation can invite additional parties to the mediation if the presence of such additional party is required for a complete resolution of any Claim. The parties shall share the mediator's fee and any filing fees equally. Unless otherwise agreed, the mediation shall be held within thirty (30) days of the order for mediation and shall be held in a neutral location near the Project selected by the mediator. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. If the mediation does not resolve the Claim, the Bound Parties may proceed to litigation of the Claim in any court of competent jurisdiction;

17.3.2.3 Order the Bound Parties to settle the Claim through arbitration by a single arbitrator conducted in accordance with the Idaho Uniform Arbitration Act (Idaho Code, Title 7, Chapter 9) except as otherwise provided herein. The arbitrator shall be any independent real estate attorney or judge appointed by the Board. The arbitrator shall set the rules of the arbitration. The arbitrator may, in its discretion, order parties to produce documents relevant to the dispute and may order written discovery and depositions (but with care to avoid burdensome discovery or depositions). The arbitrator shall endeavor to hold the arbitration at mutually convenient times and locations; provided, however, the arbitrator shall endeavor to complete the arbitration within forty-five (45) days after appointment of the arbitrator. The parties shall bear their own attorneys' fees (if any) and share the arbitrator's fees equally; provided, however, the arbitrator may award costs, arbitrator's fees and attorneys' fees to the substantially prevailing

party. The arbitrator's award shall be final, and judgment may be entered upon it in accordance with Applicable Law in any court having jurisdiction thereof

17.3.2.4 If the Claim is within the jurisdiction of the Small Claims Department of the Magistrate Division (currently, monetary claims for \$5,000 or less), order a Bound Parties to file such Claim exclusively therein;

17.3.2.5 Elect to exempt the Claim from this Section 17, at which time the Bound Parties are free to exercise any right or remedy in accordance with Applicable Law.

If the Board fails to notify the Bound Parties within thirty (30) days of its receipt of a request for assistance, the Board shall be deemed to have elected to exempt the Claim from this Section 17.

17.3.3 Enforcing Resolutions. If the Bound Parties resolve any Claim through mediation or arbitration pursuant to this Section 17 and any Bound Party thereafter fails to abide by the terms of such resolution (i.e., settlement agreement or arbitrator's award), then any other Bound Party may take any legal or other action to enforce such settlement agreement or arbitrator's award without the need to comply again with the procedures set forth in this Section 17. In such event, the Bound Party taking action to enforce the resolution shall be entitled to recover from any non-complying Bound Party all costs and attorneys' fees reasonably incurred in such enforcement.

SECTION 18 INITIAL DEVELOPMENT PERIOD

18.1 Project Management. Each Owner recognizes that the Project will require a high level of knowledge, effort, judgment, diligence, and attention during the Initial Development Period, and that level is beyond what can reasonably be expected from Project volunteers. Accordingly, each Owner agrees that it is in the best interest of the Project for Grantor to have full management authority for the Project during the Initial Development Period, including the sole and exclusive right to appoint, remove, and replace directors of the Board, and to fill vacancies on the Board, at any time and from time-to-time in Grantor's sole discretion by virtue of its voting rights as the Class B Member.

18.2 Grantor Exemptions. Grantor may, from time-to-time in Grantor's discretion and without first seeking or obtaining the approval of Association:

18.2.1 Make modifications or improvements to the Common Area as Grantor deems appropriate, and may also may modifications or improvements to any Unit prior to the conveyance thereof as Grantor deems appropriate;

18.2.2 Place or authorize signs of such size, design, and number as Grantor deems appropriate for the initial development of the Project, including signs to identify the Project, display information pertaining to the Project, display information or instructions to builders, advertise Condominiums for sale (including sale events and open houses), and to advertise Project elements or events;

18.2.3 Use or allow any third party to use any Condominium as a model home, sales office, or construction office;

18.2.4 Place or authorize portable or temporary structures upon the Common Area of the Project, and otherwise allow the Common Area to be used as a construction storage yard; and

18.2.5 Establish or reserve such additional covenants, conditions, restrictions, or easements on any Condominium prior to conveyance thereof as Grantor deems necessary or convenient for the development of the Condominium or Project.

18.3 Water Rights Appurtenant to Project. Grantor owns or may own certain water rights which are appurtenant to the Project. Grantor hereby reserves unto itself any and all water rights appurtenant to the Project, and Owners of any and all Condominiums accordingly shall have no right, title, or interest in any of said water or water rights.

18.4 Grantor's Exemption from Assessments. If Grantor owns any Condominiums during the first two (2) years following the date Assessments are first assessed against the Owners of Condominiums, Grantor shall not be assessed any Regular Assessments or Special Assessments for any Condominiums owned by Grantor. If Grantor owns at least one Condominium during such period, Grantor shall pay the shortfall, if any, in the operating Expenses of the Association; provided, however, such obligation shall not exceed the amount that the Regular Assessments and Special Assessments that Grantor would otherwise be assessed as an Owner multiplied by the total number of Condominiums owned by Grantor on the date Regular Assessments or Special Assessments are assessed against the Owners of Condominiums. After the foregoing period, Grantor shall be assessed Regular Assessments and Special Assessments for each Condominium owned by Grantor.

18.5 Assignment of Grantor's Rights. Grantor may assign any or all of its rights under the Condominium Documents to any Person in a written instrument(s) that contains the assignee's acceptance of such assignment and agreement to assume any of Grantor's obligations pertaining to the rights assigned, which acceptance and assumption shall be effective upon the recordation of such written instrument(s) recorded in the real property records of Blaine County, Idaho. Grantor shall promptly provide a copy of the recorded instrument to the Association and, thereupon, be released from Grantor's obligations pertaining to the rights assigned and the obligations assumed.

SECTION 19 TERM

The easements created by this Declaration shall be perpetual, subject only to extinguishment by the holders of such easements as provided by Applicable Law. The remainder of this Declaration shall for a period of thirty (30) years commencing on the Effective Date, unless earlier amended or terminated in accordance with Section 20.1, and thereafter shall be automatically extended for successive periods of ten (10) years each, unless earlier amended or terminated in accordance with Section 20.1.

SECTION 20 MISCELLANEOUS

20.1 Amendment.

20.1.1 Amendment. During the Initial Development Period, Grantor shall have the exclusive right to amend or terminate this Declaration by executing a written instrument setting

forth such amendment or termination and the same shall be effective upon the recordation thereof with the Blaine County Recorder's Office. After the expiration of the Initial Development Period, any amendment to this Declaration or termination hereof shall be by a written instrument setting forth such amendment or termination, signed and acknowledged by the president and secretary of the Association certifying and attesting that such amendment or termination has been approved by the vote or written consent of Members representing more than sixty-five percent (65%) of the total voting power in the Association, and the same shall be effective upon the recordation thereof with the Blaine County Recorder's Office.

20.1.2 Effect of Amendment. Any amendment or termination of this Declaration approved in the manner specified above shall be binding on and effective as to all Owners notwithstanding that such Owners may not have voted for or consented to such amendment or termination. Such amendment may add to and increase the covenants, conditions, restrictions, and easements applicable to the Project but shall not prohibit or unreasonably interfere with the allowed uses of such Owner's Condominium which existed prior to the said amendment.

20.1.3 Mortgagee Protection. Notwithstanding anything to the contrary in this Declaration, any amendment that may be of a material adverse nature to first-lien Mortgages must be approved by first-lien Mortgagees that represent at least fifty-one percent (51%) of the voting power of Units that are subject to first-lien Mortgages (where each first-lien Mortgagee has one vote per first-lien Mortgage owned). Any Mortgagee will be deemed to have given its implied approval of any amendment proposal if the Mortgagee fails to submit a response to any written proposal for an amendment within sixty (60) days after the Mortgagee receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

20.2 Mortgage Protection. Upon written request to the Association from any holder, insurer, or guarantor of any first Mortgage stating its name, address and the Unit number or address of the Unit on which it has its first Mortgage, said holder, insurer, or guarantor of a first Mortgage encumbering a Unit shall be entitled to notice of the following:

20.2.1 Any condemnation or casualty loss that affects either a material portion of a Building or a Unit encumbered by such first Mortgage;

20.2.2 Any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which it holds a first Mortgage;

20.2.3 A lapse, cancellation, or material modification of any insurance policy maintained by the Association; and

20.2.4 Any proposed action that requires the consent of a specified percentage of eligible Mortgage holders.

20.3 Enforcement and Non-Waiver.

20.3.1 Right of Enforcement. Except as otherwise provided herein, any Owner, the Association, and Grantor shall each have the right to enforce any or all of the provisions of this Declaration against any Condominium or any part or portion of the Project and against the Owners thereof. The failure of any Owner or Occupant to comply with Applicable Law pertaining to the

ownership, use, or occupancy of any Condominium or other portion of the Project, or to comply with any provision of the Condominium Documents, is hereby declared a nuisance and gives rise to a cause of action (subject to Section 17) in Grantor, the Association (on its own and/or on behalf of any consenting Owners) and any affected Owner for recovery of damages or for negative or affirmative injunctive relief or both enforce the provisions hereof only as set forth in this Declaration. Each remedy provided herein is cumulative and not exclusive. If any party initiates or defends any legal action or proceeding to interpret or enforce any of the terms of this Declaration, the substantially prevailing party shall be entitled to recover any costs and attorneys' fees reasonably incurred therein

20.3.2 Non-Waiver. Failure of the Grantor or the Board to insist upon strict compliance with this Declaration or other Condominium Documents, or to exercise any right contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment of the right to insist on compliance in the future with any term, covenant, condition or restriction. The receipt by the Board of payment of an Assessment from an Owner, with knowledge of a breach by the Owner, shall not be a waiver of the breach. No waiver by the Board of any requirement shall be effective unless expressed in writing and signed for by the Board.

20.4 Registration of Mailing Address. Each Owner shall register such Owner's email address mailing address with the Association and all notices or demands intended to be served upon any Owner shall be sent by United States Mail postage prepaid, addressed in the name of the Owner at such registered mailing address. If an Owner fails to provide the Association with a valid address, all notices shall be sent to that Owner's address on record with the Blaine County Assessor's office. All notices or demands intended to be served upon the Association shall be given by registered or certified mail, postage prepaid, to the address of the Association's registered agent on file with the Idaho Secretary of State. All notices or demands to be served on Mortgagees pursuant hereto shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Mortgagee at such address as the Mortgagee may have furnished to the Association in writing. Unless the Mortgagee furnishes the Association such address, the Mortgagee shall not be entitled to receive any of the notices provided for in this Declaration. Any notice referred to in this Section shall be deemed given when deposited in the United States mail in the form provided for in this Section.

20.5 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Project. This Declaration shall be construed and governed under the laws of the State of Idaho without regard to its conflicts of law principles, and the following:

20.5.1 Restrictions Construed Together. All of the provisions hereof shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Project as set forth in the recitals to this Declaration.

20.5.2 Restrictions Severable. Notwithstanding the provisions of the foregoing Section 20.5.1, each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision herein.

20.5.3 Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter. As used herein, the word “including” shall be deemed to be followed by “but not limited to” unless otherwise indicated.

20.5.4 Captions. All captions, titles and the table of contents used in this Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the provisions hereof.

20.5.5 Board Interpretation. In the event that any provision of this Declaration is deemed ambiguous on any matter, the Board’s interpretation such provision shall be given deference so long as the interpretation is not arbitrary or capricious.

20.6 Owner’s Obligations Continue. All obligations of the Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that such Owner may have leased, rented or entered a contract of sale of his interest as provided herein, but the Owner of a Condominium shall have no obligation for Assessments or other obligations accruing after the Owner conveys such Condominium.

20.7 Exhibits. All exhibits attached hereto are incorporated herein as if set forth in full herein. However, in the event of any conflict between such exhibits and the text of the Declaration, the Declaration shall control.

20.8 Acknowledgement and Waivers. All Owners expressly acknowledge that there are no understandings, representations, warranties or promises of any kind that have been made to induce the Owners from owning Units in the Project except as set forth in this Declaration or any other written valid and binding agreement between the Grantor and the Owners, that this Declaration or any other written valid and binding agreement (including without limitation the other Condominium Documents) between the Grantor and the Owners sets forth in full the entire agreement between the parties and governing the Project, and the Owners have not relied on any verbal agreement, statement, representation, warranty or other promises that is not expressed in writing in this Declaration or any other written valid and binding agreement between the Grantor and the Owners. Except as may be set forth in any written agreement between Owner and Grantor, each Owner has acquired and accepted its Condominium Unit “as is, where is” with all faults.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, Grantor has executed this Declaration effective as of the Effective Date.

GRANTOR:

SV Ventures LLC,
an Idaho limited liability company

By: _____

Name: _____

Its: _____

STATE OF _____)
) ss.
County of _____)

This record was acknowledged before me on _____, 2023, by _____
_____, as [manager/member] of SV Ventures LLC.

Notary Public for _____

Residing at: _____

My commission expires: _____

EXHIBIT A

Legal Description of the Property

EXHIBIT B

Plat of The Residences at One Twenty

EXHIBIT C

Articles of Incorporation

EXHIBIT D

Proportionate Interest in Common Area

<u>Unit #</u>	<u>S.F.</u>	<u>% Ownership in Common Area</u>
Unit 101		%
Unit 201		%
Unit 202		%
Unit 203		%
Unit 204		%
Unit 301		%
Unit 302		%
Total		100.00%

Attachment B:
120 8th St Condo Plat

A CONDOMINIUM PLAT SHOWING:
THE RESIDENCES AT ONE TWENTY

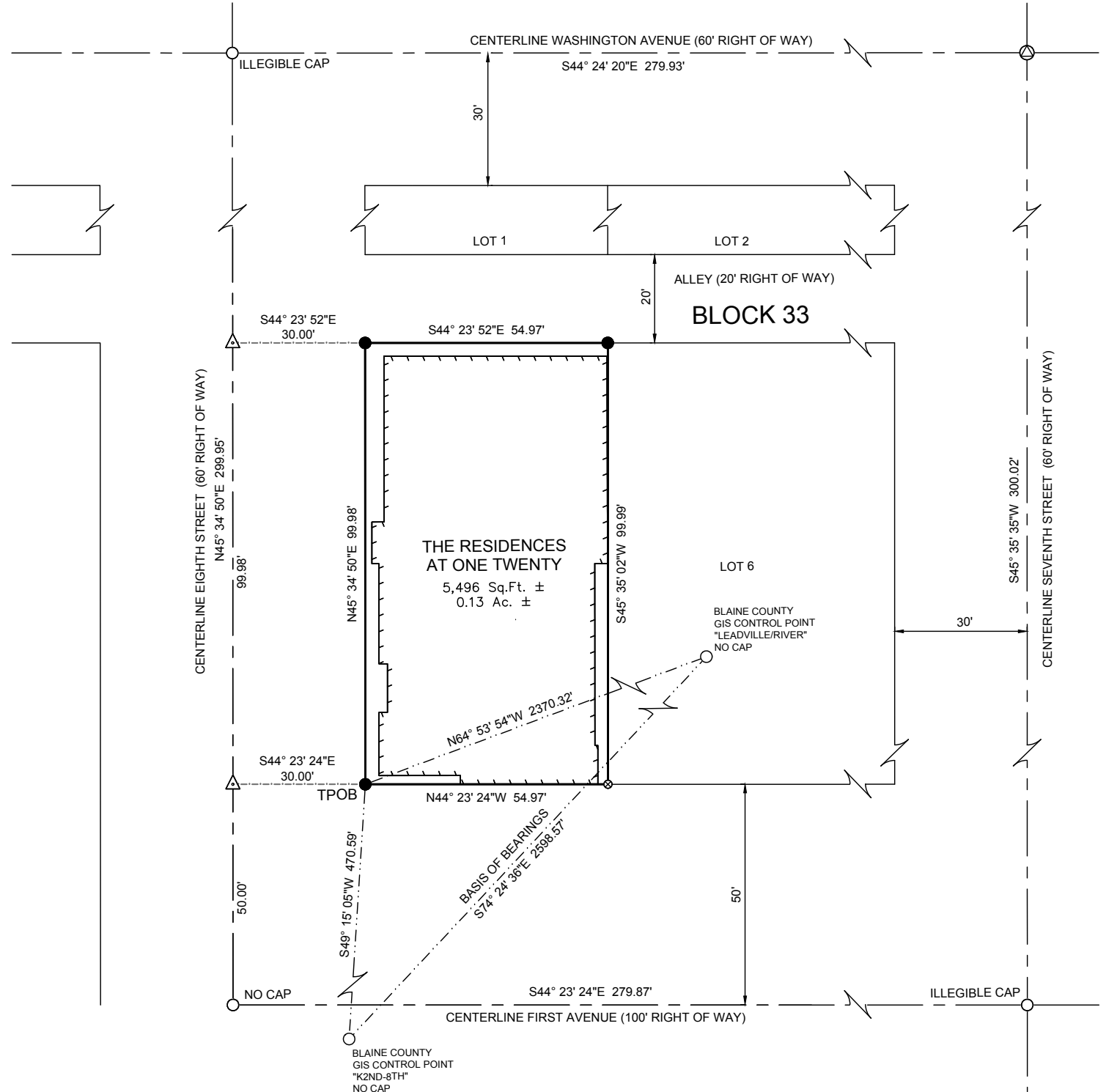
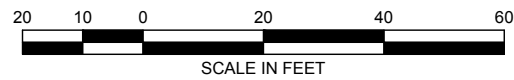
A CONDOMINIUM SUBDIVISION OF LOT 5, BLOCK 33, KETCHUM TOWNSITE.
 LOCATED WITHIN SECTION 13, T.4 N., R.17 E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO

JULY 2023

LEGEND

- Property Line
- Adjoiner's Lot Line
- - - - Centerline of Right-of-Way
- · - · - Blaine County GIS Tie
- · - · - Survey Tie
- ⊠ Exterior Building Footprint
- △ Calculated Point, Not Set
- ⊙ Found Aluminum Cap on 5/8" Rebar
- Found 5/8" Rebar
- Set 5/8" Rebar, PLS 20893
- ⊗ Set Brass Survey Marker, PLS 20893

SCALE: 1" = 20'



SURVEY NARRATIVE & NOTES

1. The purpose of this plat is to create a condominium subdivision within Lot 5, Block 33, Ketchum Townsite. The boundary shown is based on found centerline monuments. All found monuments have been accepted. Set monument locations are per block breakdown and proportioning record distances.
2. Documents used in the course of this survey:
 - a. Plat of the Village of Ketchum, Instrument No. 302967.
 - b. Record of Survey of "Lot 5, Block 33, Ketchum Townsite", Instrument No. 678511.
3. In interpreting the Declaration, Plat or Plats, and Deeds, the existing physical boundaries of the unit as originally constructed, or reconstructed in lieu thereof, shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed or depicted in the declaration, plat or plats, and/or deeds, regardless of settling or lateral movement of the building and regardless of minor variances between boundaries shown in the declaration, plat or plats, and/or deeds, and the actual boundaries of the units in the buildings.
4. Dimensions shown hereon will be subject to slight variations, owing to normal construction tolerances.
5. Horizontal or sloping planes shown hereon are top of finished subfloor and bottom of finished ceiling; vertical planes are finished surfaces of interior walls. Some structural members extend into units, limited common areas and parking spaces.
6. Property shown hereon is subject to terms, provisions, covenants, conditions, restrictions, easements, charges, assessments and liens provided by applicable Condominium Law or the Condominium Declaration recorded under Instrument No. _____, records of Blaine County, Idaho. Consult the Condominium Declarations for the definition of common and limited common area.
7. All area outside of units that is not designated as "limited common area" is common area. Areas of "common" or "limited common" are shown by diagram.
8. Building ties are to the interior corners of unit walls.
9. Utility easements necessary to allow for access and maintenance of utilities serving units other than the unit they are located in are hereby granted by this plat.
10. This development is subject to an Exceedance Agreement recorded under Instrument No. 689141.
11. Elevations shown hereon are referenced to NAVD 88 datum.

HEALTH CERTIFICATE

Sanitary restrictions as required by Idaho Code Title 50, Chapter 13, have been satisfied. Sanitary restrictions may be reimposed, in accordance with Idaho Code Title 50, Chapter 13, Section 50-1326, by the issuance of a certificate of disapproval.

Dated: _____

South Central Public Health District, REHS

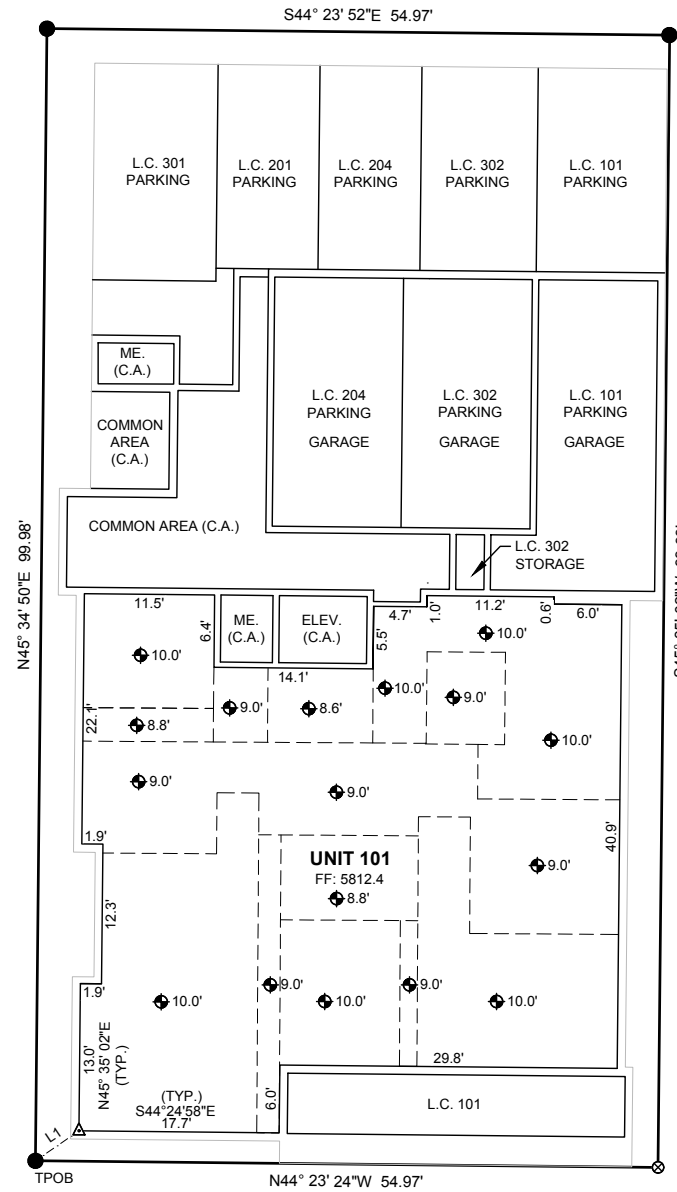
DRAFT

	THE RESIDENCES AT ONE TWENTY LOCATED WITHIN: SECTION 13, T4N, R17E, B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO	
	PREPARED FOR: GALENA PEAK PARTNERS	
PROJECT NO. 3559-02 FINAL PLAT	DWG BY: CPL DATE: 07/17/2023	FILE: 3559-02_FP SHEET: 1 OF 4

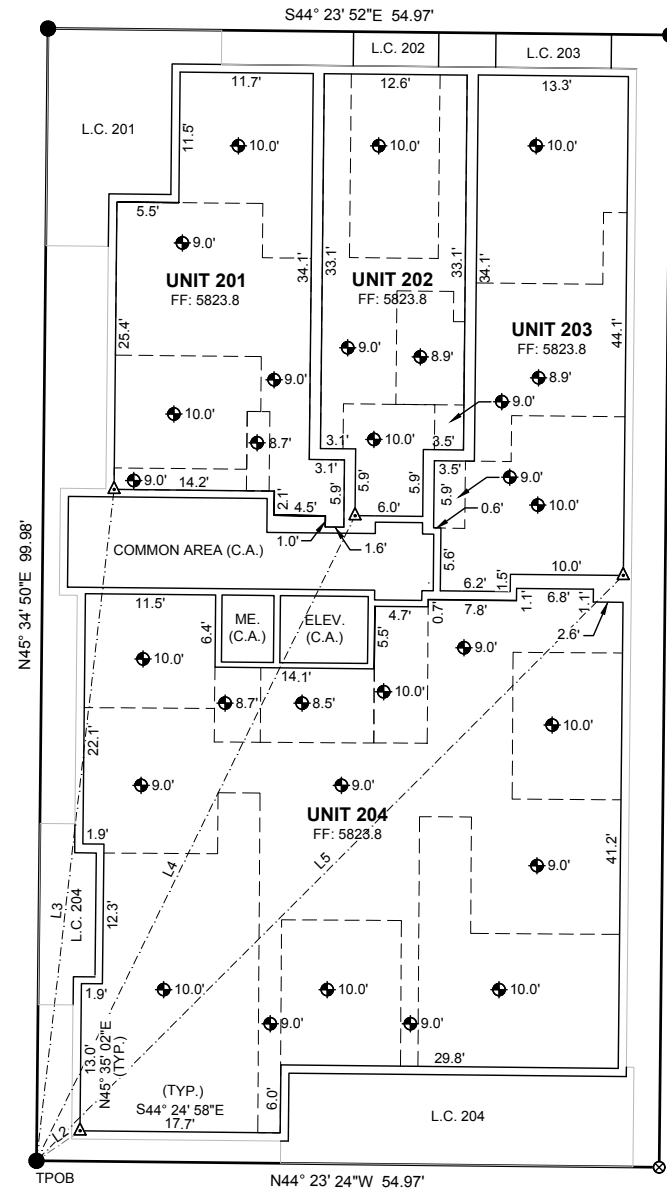
A CONDOMINIUM PLAT SHOWING: THE RESIDENCES AT ONE TWENTY

JULY 2023

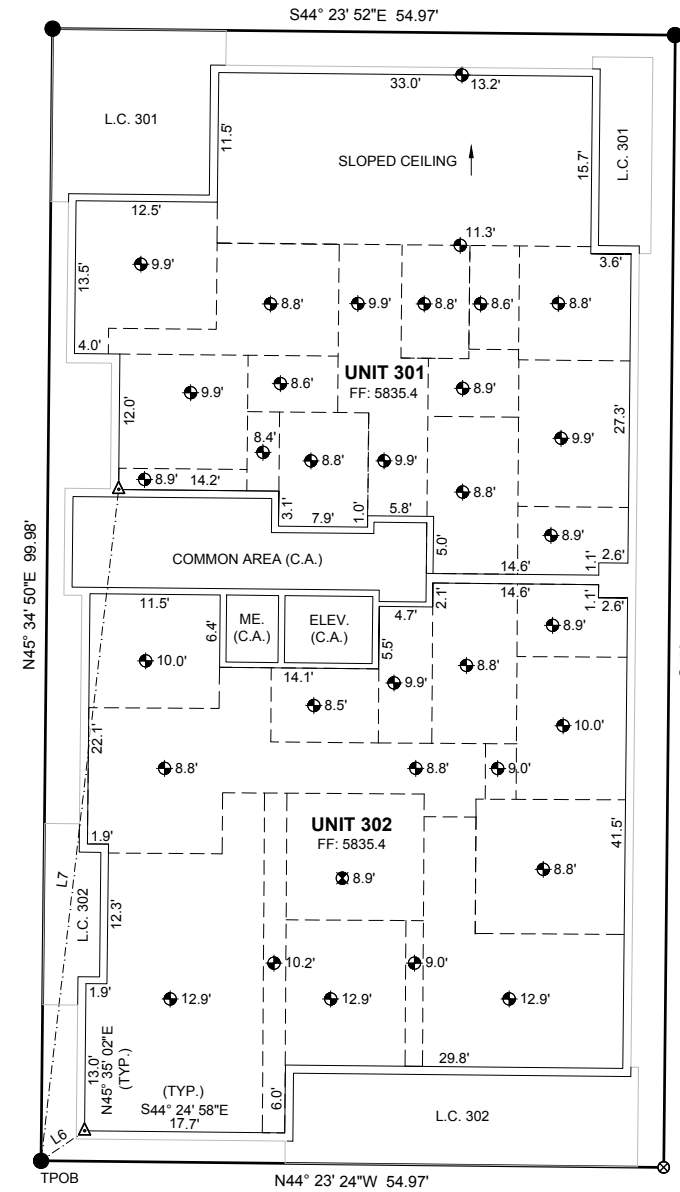
SCALE: 1" = 10'



**FIRST FLOOR
UNIT 101**



**SECOND FLOOR
UNITS 201, 202, 203 & 204**



**THIRD FLOOR
UNITS 301 & 302**

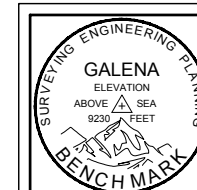
LEGEND

- Property Line
- - - Ceiling Break
- - - Building Tie
- ▲ Unit Tie point
- Set 5/8" Rebar, PLS 20893
- ⊕ Set Brass Survey Marker, PLS 20893
- ⊕ Ceiling Height Above FF
- FF = Finished Floor Elevation
- L.C. = Limited Common Area
- C.A. = Common Area
- ME. = Mechanical Room
- ELEV. = Elevator
- TPOB = True Point of Beginning

UNIT TIES

LINE	BEARING	DISTANCE
L1	S79°28'33"E	4.66'
L2	S79°28'33"E	4.66'
L3	N51°35'16"E	59.67'
L4	N71°16'46"E	63.52'
L5	S89°55'56"E	73.17'
L6	S79°28'33"E	4.66'
L7	N51°35'16"E	59.67'

DRAFT



**THE RESIDENCES
AT ONE TWENTY**

LOCATED WITHIN: SECTION 13, T4N, R17E, B.M.,
CITY OF KETCHUM, BLAINE COUNTY, IDAHO

PREPARED FOR: GALENA PEAK PARTNERS

A CONDOMINIUM PLAT SHOWING:
THE RESIDENCES AT ONE TWENTY

CERTIFICATE OF OWNERSHIP

THIS IS TO CERTIFY that the underigned is the owner in fee simple of Real Property described as follows:

A parcel of land located within Section 13, T.4N., R.17E., B.M., City of Ketchum, Blaine County, Idaho, more particularly described as follows:

Lot 5, Block 33, of the VILLAGE OF KETCHUM, BLAINE COUNTY, IDAHO, according to the official plat thereof, recorded as Instrument No. 302967, records of Blaine County, Idaho.

The easements shown hereon are not dedicated to the public, but the right to use said easements for the intended purposes is hereby reserved. No structures other than for such utility and other designated uses are to be erected within the lines of said easements.

It is their intention to create a project including said Real Property in this condominium plat. The Owners also hereby certify that they consent to the recordation of documents pursuant to Chapter 15, Title 55 of Idaho Code and that this plat complies with Idaho Code 50-1334. We do hereby certify that the condominium project described in this plat will be eligible to receive domestic water service from an existing water distribution system and that the City of Ketchum has agreed in writing to serve the condominium project shown on this plat.

IN WITNESS WHEREOF, I have hereunto set my hand.

SV VENTURES, LLC
an Idaho limited liability company _____

SV VENTURES MANAGER, LLC
By: an Idaho limited liability company _____

Its: MANAGER _____

SOUTHLAKE VENTURES DEVELOPMENT, LLC
By: an Idaho limited liability company _____

Its: MANAGER _____

By: _____

Its: _____

ACKNOWLEDGMENT

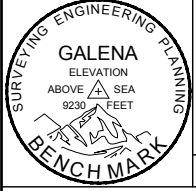
STATE OF _____ }
COUNTY OF _____ } ss

On this _____ day of _____, 2023, before me, a Notary Public in and for said State, personally appeared _____, known or identified to me to be the _____ of the limited liability company that executed the foregoing instrument, and acknowledged to me that such limited liability company executed the same.

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

Notary Public in and for said State
Residing in _____
My Commission Expires _____

DRAFT

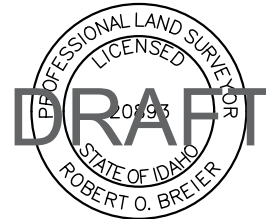
	THE RESIDENCES AT ONE TWENTY	
	LOCATED WITHIN: SECTION 13, T4N, R17E, B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO	
PREPARED FOR: GALENA PEAK PARTNERS		
PROJECT NO. 3559-02	DWG BY: CPL	FILE: 3559-02_FP
FINAL PLAT	DATE: 07/17/2023	SHEET: 3 OF 4

A CONDOMINIUM PLAT SHOWING:
THE RESIDENCES AT ONE TWENTY

SURVEYOR'S CERTIFICATE

I, Robert O. Breier, a duly Registered Professional Land Surveyor in the State of Idaho, do hereby certify that this is a true and accurate map of the land surveyed under my direct supervision in accordance with the State of Idaho Code relating to plats and surveys.

ROBERT O. BREIER, P.L.S. #20893



PROJECT ENGINEER'S CERTIFICATE

To the best of my knowledge this plat complies with the City of Ketchum subdivision standards, signed this _____ day of _____, 2023.

By: _____

COUNTY SURVEYOR'S APPROVAL

This is to certify that I, SAM YOUNG, County Surveyor for Blaine County, Idaho, have checked the foregoing plat and computations for making the same and have determined that they comply with the laws of the State of Idaho relating thereto.

BLAINE COUNTY SURVEYOR

DATE

BLAINE COUNTY TREASURER'S CERTIFICATE

On this _____ day of _____, 20____, the foregoing plat was approved and accepted by the Blaine County Treasurer, Blaine County, Idaho.

By: _____

KETCHUM CITY COUNCIL CERTIFICATE

I, the undersigned, City Clerk in and for the City of Ketchum, Blaine County, Idaho do hereby certify that at a regular meeting of the City Council held on the _____ day of _____, 2023, this plat was duly accepted and approved.

TRENT DONAT, City Clerk

CITY ENGINEER'S CERTIFICATE

I, the undersigned, City Engineer in and for the City of Ketchum, Blaine County, Idaho do hereby approve this plat on this _____ day of _____, 2023, and certify that it is in accordance with the City of Ketchum subdivision ordinance.

ROBYN MATTISON, City Engineer

CITY PLANNER'S CERTIFICATE

I, the undersigned, Planner in and for the City of Ketchum, Blaine County, Idaho do hereby approve this plat on this _____ day of _____, 2023, and certify that it is in accordance with the City of Ketchum subdivision ordinance.

By: _____

BLAINE COUNTY RECORDER'S CERTIFICATE

DRAFT

	THE RESIDENCES AT ONE TWENTY	
	LOCATED WITHIN: SECTION 13, T4N, R17E, B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO	
PREPARED FOR: SV VENTURES, LLC		
PROJECT NO. 3559-02	DWG BY: CPL	FILE: 3559-02_FP
FINAL PLAT	DATE: 08/17/2023	SHEET: 4 OF 4

Attachment C:
Draft Findings of Fact Conclusions of Law &
Decision



City of Ketchum
Planning & Building

IN RE:)
)
120 8th St Condominiums) KETCHUM CITY COUNCIL
Condominium Final Plat) FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
Date: September 5, 2023) DECISION
)
File Number: P23-067)

PROJECT: 120 8th St Condominiums

FILE NUMBERS: P23-067

APPLICATION: Condominium Subdivision Final Plat

REPRESENTATIVE: Dave Patrie, Galena/Benchmark Engineering

OWNER: SV Ventures, LLC

LOCATION: 120 8th St E (Ketchum Townsite, Lot 5, Blk 33)

ZONING: Community Core Subdistrict 2 – Mixed Use (CC-2) Zoning District

OVERLAY: None

NOTICE: A public hearing was conducted for the condominium preliminary plat approval. Public hearings are not required for condominium final plats; therefore, no public hearing was scheduled for the application.

RECORD OF PROCEEDINGS

The City of Ketchum received the application for the 120 8th St Condominium final plat on July 20, 2023. The application was deemed complete on August 28, 2023. City departments conducted a thorough review of the application. Per the conditions of approval for the condominium preliminary plat, all conditions of the Design Review approval and preliminary plat must be met prior to approval of the final plat. As of the date of these findings, all conditions have been met and all department comments have been addressed satisfactorily through applicant revision of project plans or conditions of approval.

The Ketchum City Council conducted their final consideration of the Condominium Subdivision Preliminary Plat (File No. P21-038) application at their November 1, 2021, meeting. After considering the staff’s analysis and the application materials, the Council approved the application unanimously.

BACKGROUND

The 120 8th St development is comprised of an 11,758 square foot three-story multi-family development (the “project”), located at the corner of W 8th St & N 1st Ave in the Community Core Subdistrict 2 – Mixed Use (CC-2) zone district. The Planning & Zoning Commission held a public hearing and approved the Design Review (Application No. P21-069) on October 26, 2021. The Planning and Zoning Commission recommended approval

of the condominium preliminary plat (P21-038) on October 26, 2021 and the City Council approved the preliminary plat on November 1, 2021. The development is subject to FAR Exceedance Agreement #22742 as recorded with the Blaine County Clerk and Recorder.

FINDINGS OF FACT

The Council, having reviewed the entire project record, does hereby make and set forth these Findings of Fact, Conclusions of Law, and Decision as follows:

FINDINGS REGARDING COMPLIANCE WITH CONDOMINIUM SUBDIVISION REQUIREMENTS

Compliant			Condominium Plat Requirements	
Yes	No	N/A	City Code	Standards
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.B	The subdivider of the condominium project shall submit with the preliminary plat application a copy of the proposed bylaws and condominium declarations of the proposed condominium development. Said documents shall adequately provide for the control and maintenance of all common areas, recreational facilities and open space. <i>Findings</i> The applicant provided a draft copy of the articles of incorporation, bylaws, and declarations with the application submittal.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.D	All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular condominium units. No garage may be condominiumized or sold separate from a condominium unit. <i>Findings</i> As shown on Sheet 2 of the final plat, the garage units are designated as limited common elements and specifically referenced to a unit number
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.E	Adequate storage areas shall be provided for boats, campers and trailers, as well as adequate interior storage space for personal property of the resident of each condominium unit. <i>Findings</i> As shown on Sheet 2 of the final plat, the unit sizes facilitates the storage of personal property within the units. Additional storage units are provided on the first floor for Unit 302.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.F	A maintenance building or room shall be provided of adequate size and location for the type and size of the condominium project for storage of maintenance equipment and supplies for common areas. <i>Findings</i> Mechanical Equipment rooms are designated on each floor, serving dual purpose for housing of mechanical equipment and storage of maintenance equipment and supplies. Supplies for larger maintenance projects will be supplied by the contractors responsible for the project on an as needed basis.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.G	The subdivider shall dedicate to the common use of the homeowners adequate open space of such shape and area usable and convenient to the residents of the condominium subdivision. Location of building sites and common area shall maximize privacy and solar access. <i>Findings</i> Each condominium unit, with the exception of two, is provided a private balcony adjacent to the unit.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.H	All other provisions of this chapter and all applicable ordinances, rules and regulations of the city and all other governmental entities having jurisdiction shall be complied with by condominium subdivisions. <i>Findings</i> The project has been reviewed for compliance with all other sections of the subdivision standards. The project is in compliance as discussed above.

FINDINGS REGARDING COMPLIANCE WITH SUBDIVISION FINAL PLAT REQUIREMENTS

Final Plat Requirements					
Compliant			Standards and City Council Findings		
YES	NO	N/A	Ketchum Municipal Code	City Standards and <i>City Council Findings</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K	<p>Contents Of Final Plat: The final plat shall be drawn at such a scale and contain such lettering as to enable same to be placed upon sheets of eighteen inch by twenty four inch (18" x 24") Mylar paper with no part of the drawing nearer to the edge than one-half inch (1/2"), and shall be in conformance with the provisions of title 50, chapter 13, Idaho Code. The reverse side of such sheet shall not be used for any portion of the drawing, but may contain written matter as to dedications, certificates, signatures, and other information. The contents of the final plat shall include all items required under title 50, chapter 13, Idaho Code, and also shall include the following:</p>	
			<i>Findings</i>	<i>The Final Plat mylar shall be prepared following Ketchum City Council review and approval of the Final Plat application and shall meet these standards.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.1	<p>Point of beginning of subdivision description tied to at least two (2) governmental survey corners, or in lieu of government survey corners, to monuments recognized by the city engineer.</p>	
			<i>Findings</i>	<i>As shown on sheet 1, the point of beginning has been established. Therefore, this standard is met.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.2	<p>Location and description of monuments.</p>	
			<i>Findings</i>	<i>As shown on Sheet 1, all monuments are noted and described. Therefore, this standard is met.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.3	<p>Tract boundary lines, property lines, lot lines, street right of way lines and centerlines, other rights of way and easement lines, building envelopes as required on the preliminary plat, lot area of each lot, boundaries of floodplain and floodway and avalanche district, all with bearings, accurate dimensions in feet and decimals, in degrees and minutes and radii, arcs, central angles, tangents and chord lengths of all curves to the above accuracy.</p>	
			<i>Findings</i>	<i>Sheet 1 provides property lines and boundary lines for the subject property, adjacent subdivisions, easements, and adjacent streets. As shown, this standard is met.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.4	<p>Names and locations of all adjoining subdivisions.</p>	
			<i>Findings</i>	<i>As shown on Sheet 1, all adjacent properties are lots within the original Ketchum Townsite and are noted as such.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.5	<p>Name and right of way width of each street and other public rights of way.</p>	
			<i>Findings</i>	<i>As shown on Sheet 1, the right of ways for Eighth Street, First Ave, and the alley are all named and dimensioned.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.6	<p>Location, dimension and purpose of all easements, public or private.</p>	

			<i>Findings</i>	<i>Sheet 1 outlines all applicable easements on the property, public and private, including easements for utilities and access.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.K.7	The blocks numbered consecutively throughout each block.
			<i>Findings</i>	<i>This condominium subdivision is part of an existing subdivision and no additional blocks are being created or numbered.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.K.8	The outline of any property, other than a street, alley or easement, which is offered for dedication to public use, fully dimensioned by distances and bearings with the area marked "Dedicated to the City of Ketchum for Public Use", together with any other descriptive language with regard to the precise nature of the use of the land so dedicated.
			<i>Findings</i>	<i>N/A as no dedications have been required or proposed for this condominium subdivision.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.9	The title, which shall include the name of the subdivision, the name of the city, if appropriate, county and state, and the location and description of the subdivision referenced to section, township, range.
			<i>Findings</i>	<i>This standard has been met. The name of the proposed subdivision is The Residences at One Twenty.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.10	Scale, north arrow and date.
			<i>Findings</i>	<i>As shown on Sheet 1, this standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.11	Location, width, and names of all existing or dedicated streets and other public ways within or adjacent to the proposed subdivision
			<i>Findings</i>	<i>As shown on Sheet 1, the right of ways for First Ave and 8th St are both named and dimensioned. No new public streets are being proposed or required for the development.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.12	A provision in the owner's certificate referencing the county recorder's instrument number where the condominium declaration(s) and/or articles of incorporation of homeowners' association governing the subdivision are recorded.
			<i>Findings</i>	<i>Plat note 1 on Sheet 1 includes the required note with a space to put the instrument number for the recorded declarations.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.13	Certificate by registered engineer or surveyor preparing the map certifying to the accuracy of surveying plat.
			<i>Findings</i>	<i>Sheet 4 includes the required signature block that will be signed prior to recording of the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.14	A current title report of all property contained within the plat.
			<i>Findings</i>	<i>This standard has been met. A title report and warranty deed were submitted with the Final Plat application and both are current.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.15	Certification of owner(s) of record and all holders of security interest(s) of record with regard to such property.
			<i>Findings</i>	<i>Sheet 3 includes the required signature block for signature of the applicable property owners.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.16	Certification and signature of engineer (surveyor) verifying that the subdivision and design standards meet all city requirements.
			<i>Findings</i>	<i>Sheet 4 includes the required certificate and signature space for the project Engineer to sign the plat prior to recording of the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.17	Certification and signature of the city engineer verifying that the subdivision and design standards meet all city requirements.

			<i>Findings</i>	<i>Sheet 4 includes the required certificate and signature space for the City Engineer to sign the plat prior to recording of the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.18	Certification and signature of the city clerk of the city of Ketchum verifying that the subdivision has been approved by the council.
			<i>Findings</i>	<i>Sheet 4 includes the required certificate and signature space for the City Clerk to sign the plat prior to recording of the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.19	Notation of any additional restrictions imposed by the council on the development of such subdivision to provide for the public health, safety and welfare.
			<i>Findings</i>	<i>The development provides a deed restricted community housing unit that require a separate deed covenant. Plat Note 12 on Sheet 1 references the deed covenant and instrument number under which the covenant will be recorded.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.L	Final Plat Copies: Both a hard copy and a digital copy of the final plat shall be filed with the administrator prior to being placed upon the Council's agenda. A digital copy of the final plat as approved by the council and signed by the city clerk shall be filed with the administrator and retained by the city. The Applicant shall also provide the city with a digital copy of the recorded document with its assigned legal instrument number.
			<i>Findings</i>	<i>The city received the required application materials on July 20, 2023.</i>

CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation organized under Article XII of the Idaho Constitution and the laws of the State of Idaho, Title 50, Idaho Code.
2. Under Chapter 65, Title 67, of the Idaho Code the City has passed a subdivision ordinance, Title 16.
4. The City Council has authority to review and approve the applicant's Condominium Subdivision Final Plat Application pursuant to Chapter 16.04 of Ketchum Code Title 16.
5. The project does meet the standards of approval under Chapter 16.04 of Subdivision Code Title 16.

DECISION

THEREFORE, the Ketchum City Council approves this Final Plat application this Monday, September 5, 2023 subject to the following conditions of approval.

CONDITIONS OF APPROVAL

1. The Condominium Declaration shall be simultaneously recorded with the Final Plat. The City will not now, nor in the future, determine the validity of the Condominium Declaration.
2. Prior to recording of the Final Plat, a plat note referencing the deed covenant for the community housing unit #202 shall be added. The deed covenant shall be recorded prior to recording of the final plat and have the instrument number indicated within the plat note prior to staff signature.
3. The Final Plat shall not be recorded until a temporary certificate of occupancy or certificate of occupancy has been issued for the building.
4. The final plat shall be filed with the Blaine County Recorder within one year after final plat approval by the council. Failure to file such final plat within that time shall cause all approvals of such final plat to be null and void.

Findings of Fact adopted this 5th day of September 2023.

Neil Bradshaw
Mayor
City of Ketchum

Attest:

Trent Donat, City Clerk