

**BYLAWS
OF
HERON CREEK OWNERS ASSOCIATION, INC.
A MONTANA NONPROFIT CORPORATION**

The name of this non-profit corporation is Heron Creek Owners Association, Inc. ("the Association").

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**ARTICLE I
PURPOSE AND PARTIES**

SECTION 1.1 PURPOSE

The purpose for which the corporation is organized is to govern Heron Creek Major Subdivision, a subdivision located in Helena, Lewis & Clark County, Montana, and to perform all duties incidental thereto. The Subdivision is described in the DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR HERON CREEK MAJOR SUBDIVISION ("the Declaration"), which was recorded on _____ as Document No. _____ in the Records of the Clerk & Recorder of Lewis & Clark County, Montana. All definitions and terms contained in the Declaration apply hereto and are incorporated herein by reference, and all terms capitalized herein and not defined herein have the same meaning as set forth in the Declaration.

SECTION 1.2 PARTIES

All present and future Owners, tenants, and/or occupants of the Property are subject to the provisions and any regulations set forth in these Bylaws. The mere acquisition, lease, or rental of any Lot or the mere occupancy of any Lot will signify that these Bylaws are accepted, approved, ratified, and will be complied with by such person or persons.

**ARTICLE II
MEMBERSHIP AND VOTING**

SECTION 2.1 MEMBERSHIP AND VOTING

The qualifications for membership in the Association along with the appurtenant voting rights and other privileges due Owners are set forth in the Declaration. Each Owner (whether one or more persons or entities) of a Lot shall, upon virtue of becoming an Owner, automatically become a Member of the Association. Except as set forth in the Declaration, each

Lot (except Lots owned by Declarant) shall have only one vote. The Member who casts the vote for a Lot is a "Voting Member." Declarant shall be entitled to seven votes for each Lot it owns, until such time as each such Lot is sold, at which time the new Owner shall be entitled to one vote.

SECTION 2.2 MAJORITY OF MEMBERS

Except as otherwise provided in the Declaration, any action taken by the Association shall require the assent of a majority of Members. As used in these Bylaws, the term "Majority of Members" shall mean those Members holding greater than fifty percent (50%) of the votes entitled to be cast by the Members present, or represented by proxy, at a meeting whether a quorum is present.

SECTION 2.3 QUORUM

The number of votes present, in person or by proxy, necessary to constitute a quorum is fifty percent (50%) of all Voting Members. Except as otherwise provided in the Declaration, an affirmative vote of a majority of Voting Members shall be required to transact the business of the meeting.

SECTION 2.4 PROXIES

Every Member entitled to vote at a meeting of the Association, or to express consent or dissent without a meeting, may authorize another person or persons to act for him by proxy.

Every proxy must be signed by the Member. No proxy shall be valid after the expiration of eleven months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the Member executing it, except as otherwise provided by law.

SECTION 2.5 CUMULATIVE VOTING

No cumulative voting shall be allowed at any meeting of the Members.

SECTION 2.6 ORDER OF BUSINESS

The order of business at all meetings of the Association shall be determined by the presiding officer at such meeting unless the Voting Members present by majority vote at such meeting determine otherwise, in which case the Voting Members shall fix the order of business for such meeting.

ARTICLE III
ADMINISTRATION

SECTION 3.1 ASSOCIATION RESPONSIBILITIES

The Members will constitute the Association, which will have the responsibility of administering the Association through its Board of Directors.

SECTION 3.2 PLACE OF MEETING

Meetings of the Association shall be held at a suitable place, convenient to the Members, as the Board of Directors may determine.

SECTION 3.3 ANNUAL MEETINGS

There shall be an annual meeting of the Association, which shall be held at a time and place designated by the Board of Directors.

SECTION 3.4 SPECIAL MEETINGS

Special Meetings of the Association may be called by the President of the Association, by the Board of Directors, or upon written request of the Voting Members representing twenty-five percent (25%) of the Voting Members of the Association. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof.

SECTION 3.5 NOTICE OF MEETINGS

Notice of each meeting of the Association shall be given in writing and shall state the place, date, and hour of the meeting and the purpose or purposes for which the meeting is called. Notice of a special meeting shall indicate that it is being issued by or at the direction of the person or persons calling or requesting the meeting.

A copy of the notice of each meeting shall be given, personally or by first class mail, not less than ten (10) nor more than thirty (30) days before the date of the meeting, to each Voting Member. If mailed, such notice shall be deemed to have been given when deposited in the United States mail, with postage thereon prepaid, directed to the Voting Member at his address as it appears on the records of the Association, or, if he shall have filed with the Secretary of the Association a written request that notices to him be mailed to some other address, then directed to him at such other address.

SECTION 3.6 WAIVER OF NOTICE

Notice of a meeting need not be given to any Member who submits a signed waiver of notice, in person or by proxy, whether before or after the meeting. The attendance of any Member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by him or her.

**ARTICLE IV
BOARD OF DIRECTORS**

SECTION 4.1 NUMBER

Until the "Turnover Date," as defined in the Declaration, the Board of Directors of the Association ("the Board") shall be comprised solely of such persons as may be appointed by Declarant. Declarant may revoke and reconstitute the Board at any time, at its sole discretion. After the Turnover Date, the Board shall consist of at least three directors but no more than five directors. At the first meeting of the Association following the Turnover Date, the Voting Members shall elect one director for a term of one year, one director for a term of two years, and one director for a term of three years, and at each annual meeting thereafter the Voting Members shall elect the director(s) for a term of three years to fill each expiring term. In the event that the Voting Members elect to expand the Board to five directors, then the Voting Members shall elect two directors for a term of one year, two directors for a term of two years, and one director for a term of three years, and thereafter the Voting members shall elect the directors for three year terms to fill each expiring term.

SECTION 4.2 REMOVAL OF DIRECTORS

Prior to the Turnover Date, the Declarant may remove any member of the Board at any time and for any reason. After the Turnover Date, any Director may be removed from the Board, with or without cause, by a majority vote of the Voting Members of the Association. In the event of death, resignation, or removal of a Director, his successor shall be selected by the remaining Directors and shall serve for the unexpired term of his predecessor.

SECTION 4.3 COMPENSATION

No Director shall receive compensation for any service he may render to the Association; however, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

ARTICLE V
MEETINGS OF BOARD OF DIRECTORS

SECTION 5.1 REGULAR MEETINGS

Regular meetings of the Board shall be held without notice, at such place and hour and as often as may be fixed from time to time by a majority of the Directors, but at least one such meeting shall be held each calendar year.

SECTION 5.2 SPECIAL MEETINGS

Special Meetings of the Board shall be held when called by the President of the Association, or by any other Director, after not less than three days notice to each of the Directors.

SECTION 5.3 QUORUM

A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by the majority of Directors present at a duly held meeting at which a quorum is present shall be regarded as an act of the Board.

SECTION 5.4 WAIVER OF NOTICE

Notice of a meeting need not be given to any Director who submits a signed waiver of notice, whether before or after the meeting. The attendance of any Director at a meeting, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by him or her. If all Directors are present at any meeting of the Board, then no notice shall be required, and any business may be transacted at such meeting.

SECTION 5.5 ACTION TAKEN WITHOUT A MEETING

The Directors shall have the right to take any action in the absence of a meeting that they could take at a meeting by obtaining the written approval of all the Directors. Any actions so approved shall have the same effect as though taken at a meeting of the Directors.

ARTICLE VI
POWERS AND DUTIES OF BOARD OF DIRECTORS

SECTION 6.1 POWERS AND DUTIES

The Board shall have the following powers and duties:

- (1) To engage the services of a person or firm to manage the Association or any separate portion thereof, to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by the manager;
- (2) To obtain and pay for legal and accounting services;
- (3) To obtain and pay for any materials, supplies, labor, services, maintenance, repairs, structural alteration, taxes or assessments which the Board is required to obtain or pay for pursuant to the terms of the Declaration or which in its opinion shall be necessary or proper for the operation or protection of the Association or for the enforcement of the Declaration;
- (4) To supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;
- (5) In accordance with the Declaration, to fix the amount of any assessment and/or maintenance charge as need may arise and any special assessment against each Lot and Owner, to send written notice of each assessment to every Owner subject thereto, and to thereafter collect such assessments by lien and otherwise;
- (6) To establish and maintain reserve funds for maintenance in accordance with such budgets as may be adopted from time to time by the Board;
- (7) To borrow funds to pay costs of operation, secured by assignment or pledge of rights against delinquent Owners, if the Board sees fit;
- (8) To enter into contracts, maintain one or more bank accounts, and generally, to have all the powers necessary or incidental to the operation and management of the Association;
- (9) To sue or defend in any court of law on behalf of the Association and to provide adequate reserves for repairs and replacements;
- (10) To make reasonable rules and regulations regarding conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

- (11) To prepare and make available to each Owner within sixty (60) days after the end of each year an annual report;
- (12) To adjust the amount, collect, and use any insurance proceeds to repair damage or replace lost property; and if proceeds are insufficient to repair damage or replace lost property, to assess the Members in proportionate amounts to cover the deficiency;
- (13) To enforce the provisions of the Declaration and any rules made hereunder and to enjoin and seek damages and impose and collect fines from any Owner for violation of such provisions or rules in accordance with the terms of the Declaration;
- (14) To appoint committees as deemed necessary or desirable for the handling of certain specific functions of the Association;
- (15) To establish, disburse and maintain such bank accounts and petty cash funds as necessary for efficiently carrying on the business of the Association;
- (16) To purchase in reasonable amounts liability insurance to insure the directors against liability for actions taken or not taken on behalf of the Association in accordance with Montana law; and
- (17) To exercise and fulfill all other powers and duties granted or assigned to the Association and/or the Board pursuant to the Declaration.

ARTICLE VII
OFFICERS AND THEIR DUTIES

SECTION 7.1 ENUMERATION OF OFFICERS

Following the Turnover Date, the officers of the Association, who shall be elected by and who shall be members of the Board, shall be a President, a Vice President, a Secretary and/or Treasurer, and such other officers as the Board may from time to time by resolution create.

SECTION 7.2 ELECTION OF OFFICERS

The election of officers shall take place within thirty (30) days following each annual meeting of the Members at a meeting of the Board.

SECTION 7.3 TERM

Except as set forth in Section 4.1 herein, the officers of the Association shall be elected annually by the Board and each shall hold office for three years unless they shall sooner resign, or shall be removed, or be otherwise disqualified to serve.

SECTION 7.4 SPECIAL APPOINTMENTS

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

SECTION 7.5 RESIGNATION AND REMOVAL

Any officer may be removed from office without cause by a majority vote of the Board. Any officer may resign at any time giving written notice to the Board, the President of the Association or the Association Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 7.6 MULTIPLE OFFICES

A person may simultaneously hold more than one office except that no person may simultaneously hold the offices of President and Treasurer.

SECTION 7.7 DUTIES

The duties of the officers are as follows:

7.7.1 PRESIDENT

The President shall be the chief executive officer of the Association. The President shall preside at all meetings of the Board and of the Association. The President shall have all of the general powers and duties which are usually vested in the office of the president of a nonprofit corporation.

7.7.2 VICE PRESIDENT

The Vice President shall have such powers and duties as may be assigned by the Board and shall exercise the powers of the President during that officer's absence or inability to act. Any action taken by a Vice President in the performance of the duties of the President shall be

conclusive evidence of the absence or inability to act of the President at the time such action was taken.

7.7.3 SECRETARY

The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.

7.7.4 TREASURER

The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; keep proper books of account; designate those Members who are current on payment of dues, fees and assessments and thus eligible to vote on matters coming before the Association as provided by these Bylaws and shall prepare an annual budget and a statement of income and expenditures to be registered to the membership at its regular annual meeting, and deliver a copy of each to the Members.

ARTICLE VIII INDEMNIFICATION OF OFFICERS AND DIRECTORS

To the fullest extent permitted by law, the Association shall indemnify every director or officer, and his or her heirs, executors and administrators, against any and all loss, cost and expense, including attorney's fees reasonably incurred by him in connection with any action, suit or proceeding to which he may be made a party by reason of his being or having been a director or officer of the Association, except as to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct. In the event of a settlement, indemnification shall be provided only in such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence or willful misconduct in the performance of his duty as such director or officer in relation to the matter involved. The foregoing rights shall not be exclusive of other rights to which such director or officer may be entitled. All liability, loss, damage, costs and expense incurred or suffered by the Association by reason or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as expenses payable from assessments; provided, however, that nothing contained in this Article shall be deemed to obligate the Association to indemnify any Member, who is or has been a director or officer of the Association, with

respect to any duties or obligations assumed or liabilities incurred by him under and by virtues of the Declaration as an Owner covered thereby.

ARTICLE IX
FISCAL YEAR AND BOOKS AND RECORDS

SECTION 9.1 FISCAL YEAR

The fiscal year of the Association shall be the calendar year, unless otherwise fixed by resolution of the Board.

SECTION 9.2 BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation, and the Bylaws of the Association shall be available for inspection by any Member at a reasonable time and place designated by the Board upon the request for inspection by such Member. Copies may be purchased at a reasonable cost.

ARTICLE X
AMENDMENTS AND CONFLICTS

SECTION 10.1 AMENDMENTS

These Bylaws may only be amended by the written consent of a majority of the members of the Board; provided, however, that no amendment shall be effective if it conflicts with the provisions of the Declaration.

SECTION 10.2 CONFLICTS

In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control. In the case of any conflict between the Declaration, the Articles of Incorporation or these Bylaws, the Declaration shall control.

Dated this ____ day of _____, 2018.

Ron Bartsch, Incorporator
On behalf of Sussex Development, Inc.

Rebekka Cantrell, Incorporator
On behalf of Sussex Development, Inc.