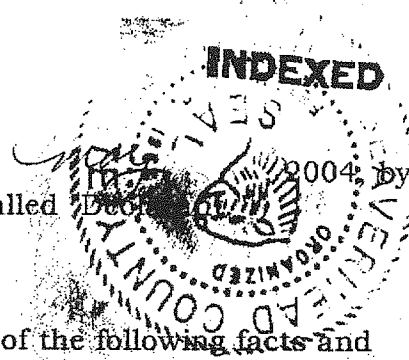


RE-DECLARATION OF PROTECTIVE COVENANTS



THIS RE-DECLARATION is made this *7th* day of *December* 2004 by RONALD E. TOWERY, of Dillon, Montana, hereinafter called "Declarant"

RECITALS

Declarant makes this Declaration upon the basis of the following facts and intentions:

A. At all times relevant hereto Declarant, either individually or as Trustee of the Marital Property Trust of Ronald E. Towery and Zora R. Towery, is and /or was the owner and former owner of the following described real properties located in Beaverhead County, Montana:

A tract of land in the Northwest 1/4 of Section 21, Township 7 South, Range 8 West, P.M.M. Beaverhead County, Montana.

Commencing at the Northwest section corner of Section 21, a brass cap found, the point of beginning, the Northwest corner of Fox Run Subdivision, First Filing. Then along the West Section line of Section 21, S 0° 20' 00" E, 961.07 feet to an iron pin. Then N 86° 55' 42" E, 166.79 feet to an iron pin found. Then S 0° 20' 00" E, 850.00 feet to an iron pin. Then N 84° 38' 30" E, 529.61 feet to an iron pin. Then S 15° 22' 58" E, 395.74 feet to an iron pin. Then S 35° 56' 56" E, 653.45 feet to an iron pin on the East-West mid-section line of Section 21. Then along the East-West mid-section line S 89° 50' 46" E, 900.17 feet to an iron pin. Then N 3° 20' 42" W, 1,680.31 feet to an iron pin. Then S 89° 50' 11" E, 309.64 feet to an iron pin. Then N 0° 09' 50" E, 988.29 feet to an iron pin on the North section line of Section 21. Then along the North section line N 89° 50' 11" W 2,307.78 feet to the point of beginning. This tract contains 109.33 acres to be known and designated as Fox Run Subdivision, First Filing.

A tract of land in the West 1/2 of Section 21, Township 7 South, Range 8 West, P.M.M. Beaverhead County, Montana.

Commencing at west 1/4 corner of said section 21; thence N.89° 56'33"E., 166.76 feet to the true point of beginning of Fox Run II Major Subdivision; thence N.00° 33'39"W., 53.60 feet; thence N.89°33'16"E., 966.53 feet; thence S.36°45'11"E., 75.12 feet to the East West mid section line of said Section 21; thence N.89°56'33"E., along said mid section line 899.96 feet; thence S.03°33'22"E., 904.97 feet to the centerline of the East Bench Canal; thence S.67°16'17"W., along said centerline, 129.01 feet; thence S.67°42'55"W., along said centerline, 158.46 feet; thence S.63°49'00"W. along said centerline, 85.27 feet; thence S.56°54'05"W., along said centerline, 97.03 feet; thence S.51°49'55"W., along said centerline, 98.49 feet; thence S.47°01'54"W., along said centerline, 50.96 feet; thence S.42°47'47"W., along said centerline, 57.23 feet; thence S.38°20'53"W., along said centerline, 55.19 feet; thence S.30°58'52"W., along said centerline, 47.32 feet; thence S.22°30'26"W., along said centerline, 10.01 feet to the south 1/16 line; thence S.89°54'54"W., along the

1/16 line, 821.22 feet; thence N.14°24'47"W., 1377.13 feet to the East West mid section line; thence S.89°56'33"W., along the mid section line, 163.56 feet to the point of beginning, said parcel containing 46.73 acres of land known and designated as Fox Run II Major Subdivision, first filing recorded July 8, 2003 in the office of the Clerk and Recorder of Beaverhead County, Montana.

B. Declarant has subdivided and developed the above-described properties and has previously imposed thereon beneficial protective covenants under a general plan of improvement for the benefit of all of such real property, every part thereof and interest therein, and by this instrument hereby re-dedicates and re-declares such protective covenants.

NOW, THEREFORE, Declarant hereby declares that the above-described real property be held, sold, conveyed, encumbered, used, occupied and improved subject to the following easements, restrictions, covenants and conditions, all of which are in furtherance of a plan for subdivision, improvement and sale of said real property and are established for the purpose of enhancing the value, desirability and attractiveness of the real property and every part thereof. All of the easements, restrictions, covenants and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall be for the benefit of each owner of any portion thereof and inure to the benefit of and be binding upon each successor in interest of such owners.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean Fox Run Homeowners' Association, its successors and assigns.

Section 2. "Common Area" shall mean all real property in which the Association owns an interest for the common use and enjoyment of all of the members. Said interest or interests may include, without limitation, estates in fee, estates for a term of years or easements. The common area to be managed by the Association at the time of the conveyance of the first lot is described as:

(a) Roads - All roads shown on the Fox Run Subdivision plat, First Filing, and shown on Fox Run II Major Subdivision Plat, and any Amended plats of either Subdivisions, on file and of record in the office of the Clerk and Recorder of Beaverhead County, Montana.

(b) Park Land - The land designated as Park in Fox Run Subdivision, First Filing, and Park in Fox Run II Major Subdivision Plat, first filing, both on file and of record in the office of the Clerk and Recorder of Beaverhead County, Montana.

(c) Entrance Sign - located on easement in N.E. corner of lot 1

(d) Easements for mail boxes and bus stop structure, N.E. corner lot 1 and N.W. corner of lot 29.

Section 3. "Lot" shall mean any lot shown on a recorded subdivision plat of a portion of the Properties, except common area.

Section 4. "Member" shall mean any person or entity holding membership in the Association pursuant to its Articles of Incorporation and its By-Laws.

Section 5. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any lot, including contract purchasers, but excluding contract sellers or those having such interest merely as security for the performance of an obligation; provided, however, that prior to the first conveyance of each portion of the properties for value, owner shall mean Declarant. Prior to such conveyance, Declarant shall have the right to retain such rights incidental to ownership hereunder as it may desire in its discretion.

Section 6. "Properties", "Project" and "Subdivision" shall mean the real properties described in A. of the Recitals above.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have an undivided interest in and easement of enjoyment in and to the Common Area and shall have use of all common facilities, which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- a. The right of the Association to charge reasonable admission and other fees for the use of any facility situated upon the Common Area;
- b. The right of the Association to establish rules and regulations for use of any and all common facilities and open space;
- c. The right of the Association to suspend the voting rights and right to the use of common facilities by an owner for any period during which any assessment against his lot remains unpaid: and for a period not to exceed 60 days for any infraction of its published rules and regulations;
- d. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members; however, no such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of all owners agreeing to such dedication or transfer has been recorded.
- e. An easement in the Association in all of the Common Area to carry out the functions, powers and duties of the Association.

Section 2. Declaration of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Easements.

(a) Each lot and the Common Area shall be subject to such rights of way and easements as the Declarant (and the Association after it has acquired title to the

Common Area) may grant for installation and maintenance of fences, water lines, sewage disposal, power lines, telephone lines and other utilities. The Declarant specifically reserves the right and power to grant such easements, while title to the Common Area remains in the Declarant and the said Association shall have such right and power after transfer to it of title to the Common Area. Installations for water and sewer lines and utility lines, including electric power and telephone lines, shall be underground and at the expense of the lot owner.

(b) The Declarant (and the Association after it has acquired title to the common area) specifically reserves an easement for the construction, maintenance and placement of a permanent subdivision entrance sign on an area not to exceed 40' 0" in an East-West direction parallel to Sweetwater Road and 15' 0" in a North-South direction parallel to Fox Ridge Drive located in the Northeast corner area of Lot 1.

(c) The Declarant (and the Association after it has acquired title to the common area) specifically reserves an easement 15' 0" in width, starting at the Northeast corner of lot 1 and the Northwest corner of lot 29 and extending 100' 0" in a Southerly direction on both sides of Fox Ridge Drive for the installation and maintenance of mail boxes and a bus stop structure together with appurtenant turnout and temporary parking area on either lot 1 or lot 29 or both.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Class memberships, as established in Section 2 below, shall be appurtenant to each lot and the particular level of each Class. Membership shall be determined as of the date the annual general assessments are imposed by the Association. Class memberships may not be separated from the ownership of any lot subject to assessment.

Section 2. The Association shall have four classes of membership.

(a) Class A members shall be owners of lots 1 and 2 that are undeveloped or are developed into single family residences; owners of lots 3A and 3B; and owners of Lots 4 through 30 as shown on the Fox Run Subdivision Plat, First Filing; all owners of amended lots 21, 22, 25, 26, 27, 28; and all owners of lots 31 through 40 Fox Run II, First Filing, all on file and of record in the office of the Clerk and Recorder of Beaverhead County, Montana. Each Class A member shall be entitled to five votes for each lot owned.

(b) Class B members shall be all lot owners owning a second or more lots that are undeveloped. Each Class B member shall be entitled to 2.5 votes for each Class B lot owned. Class B membership will cease and revert to appropriate Class membership upon the sale or development of any class B lot.

(c) The Class C member shall be the owner of Lot 1, as shown on the said Fox Run Subdivision Plat, First Filing. The Class C member shall be entitled to 5 votes for so long as lot 1 is undeveloped or developed with one single family residence, or 2.5 votes for each living unit of a multiple unit developed.

(d) The Class D member shall be the owner of lot 2 as shown on the said Fox Run Subdivision Plat, first filing, upon development into a commercial project. Class D member shall be entitled to 20 votes for said lot 2 upon the completion and operation of a commercial project. Class D membership shall convert to Class A upon lot 2 being developed into a single family residence, or into Class C if Lot 2 is developed into a multiple unit development.

ARTICLE IV

MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant for each lot owned within the Properties, hereby covenants, and each Owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a lien upon the property against which each such assessment is made, governed and subject to the laws of the State of Montana regarding liens and the enforcement thereof. Each such assessment, together with interests, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment was imposed.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents on the Properties and for the improvement and maintenance of the Common Area.

Section 3. The Association shall begin annual assessments as decreed by the Board of Directors. Class A, B, C, and D lots shall be assessed pro rata to the number of votes held by a member. The maximum annual assessment may not be increased each year by more than 15% of the maximum assessment for the previous year without a vote of the membership. The maximum annual assessment may be increased by more than 15% by a vote of two-thirds (2/3) of membership who are voting in person or by proxy, at a meeting duly called for this purpose. The amount of the annual assessments shall be fixed by the Board of Directors.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and

personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for an Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 above shall be sent to all members not less than 10 days nor more than 25 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty-one (51%) of all the votes of all classes of members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be two-thirds (2/3) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments for Class A, B, C and D members must be fixed at a uniform rate for all lots within the respective classes, and shall be collected in a manner prescribed by the Board of Directors. The rates between classes shall not be uniform but instead shall be pro rata to the number of votes held by a member.

Section 7. Date of Commencement of Annual Assessments and Due Dates. The annual assessments provided for herein shall commence as to all lots on the date specified by the Board of Directors, or upon annexation of such lots to the properties. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty days in advance of each annual assessment. Written notice of the annual assessment shall be sent to every owner or member subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 12 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or trust indenture. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

ARCHITECTURAL CONTROL

Section 1. No residential or other structure and garage, out building or other structure, nor septic tank, well, antenna, or exterior ornament of any kind, or any addition, alteration or remodeling thereof shall be made, erected, altered, placed or

permitted to remain upon the Properties until plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to a Design Review Committee consisting of three members appointed by the Board of Directors of Fox Run Homeowners' Association and approved in writing by the Committee as to harmony of external design, location in relation to surrounding structures and topography, and the construction and the materials to be used in the construction. At least two of the three committee members shall be members of the Fox Run Homeowners' Association and it is suggested that one of the members have professional qualifications in the area of architecture, design or land planning. In the event the Design Review Committee fails to approve or disapprove such design, location, construction, and materials within sixty (60) days after the detailed plans and specifications have been submitted to it, approval shall not be required and this article will be deemed to have been fully complied with. Any plans, specifications and proposals so approved, either expressly in writing or by the expiration of the sixty day period hereinabove provided, shall then permit the owner to commence construction in accordance with said plan, but any deviation from said plan which in the judgment of said Committee is a substantial detriment to the appearance of the structure or of the surrounding area shall be corrected to conform with the plan as submitted. Any structure to be erected in accordance with approval so given must be erected and completed within twenty months of approval or new approval obtained. If any structure is begun and is not completed within twenty months of the commencement of construction, and in the judgment of the Design Review Committee is of offensive or unsightly appearance, the said Committee or the Directors of Fox Run Homeowners' Association at the option of either may take such action as may be necessary in its judgment to improve the appearance so as to make the property harmonious with other properties, including completion of the exterior of the structure, screening or covering of the structure or any combination thereof, or similar operations, and the amount of any expenditures made in so doing shall be a lien on the property and may be enforceable by an action at law. The Design Review Committee may act by a majority of its members and any authorization or approval made by the Committee must be signed by a majority of the members thereof..

Section 2. Neither the Association, the Design Review Committee, nor the individual members thereof, may be held liable by any person for any damages for any committee action taken pursuant to these covenants, including, but not by way of limitation, damage which may result from correction, amendment, changes or rejection of plans, the issuance of building permits or any delays associated with such action on the part of the Committee.

ARTICLE VI

MINIMUM BUILDING AND USE RESTRICTIONS

Each and every lot on the plat of the Fox Run Subdivision, first filing; re-subdivided lots 3A, 3B; Amended lots 21, 22, 25, 26, 27, 28; and lots 31 through 40 Fox Run II Major Subdivision, first filing, shall be used for the use designated in the Planned Unit Development as follows: (However, see Section 5 as to variances.)

Section 1. Single Family Detached Lots.

(a) No improvements whatsoever, other than one (1) single family detached residence and one single barn shall be erected or placed on any single family detached lot. Garages or carports may be constructed, but must either be attached to the residence as an integral part thereof or attached thereto by an arbor or breezeway and shall conform to the architecture thereof. No more than one room in each residence may contain kitchen facilities, except certain facilities may be permitted by agreement of the Design Review Committee as a part of a den or play room. In addition to the single family as provided herein, bonafide domestic servants shall be permitted the use and occupancy of said residence while in the employment of said family.

(b) Each single family detached residence constructed shall not have less than 1,200 square feet of actual main floor living area exclusive of uncovered or roofed porches, terraces, basements, garages and carports.

(c) Single family detached setbacks shall be as follows:

From front yard 75'

From rear yard 75'

The two side yards shall be at least 20' each

(d) Single Family Detached Height Restrictions. No single family detached unit or barn shall exceed a maximum height of 28 feet unless a waiver is granted by the Design Review Committee.

(e) No garage or carport may be greater in height or number of stories than the residence for which it is built. Garages or carports of sufficient size to accommodate a minimum of two cars must be provided.

Section 2. Single Family Attached and Mid-Rise Apartment/Condominium Lots #1 and #2.

(a) A single family attached mid-rise apartment/condominium and recreational facilities may be erected or placed on lot 1 and lot 2 if not developed into a commercial project.

(b) Single family residential units on lots 1 and 2 shall have not less than 1200 square feet of actual living floor area exclusive of unroofed or roofed porches, balconies, terraces, basements, garages and carports. Single Family attached and mid-rise, apartment/condominium units on lots 1 and 2 shall have not less than 650 square feet of actual living floor area exclusive of unroofed or roofed porches, balconies, terraces, basements, garages and carports. Two car garages/carports are required. No more than one room in each residential unit may contain kitchen facilities, except certain facilities may be permitted by agreement with the Design Review Committee as a part of a den or play room. In addition to the single family

as provided herein, bonafide domestic servants shall be permitted the use and occupancy of said residential unit while in the employment of said family.

(c) Height Restrictions. No single-family attached units shall exceed a height of 30 feet unless a waiver is granted by the Design Review Committee.

(d) Recreational facilities, i.e., swimming pool, tennis courts, horseshoe pits, etc. with attendant buildings for equipment and storage may be erected on Lots 1 and 2.

Section 3. Neighborhood Commercial Area Lot. 2.

(a) A commercial facility may be erected or placed on lot 2 but not both a commercial facility and single family detached or attached units and/or mid-rise, apartment/condominium units.

(b) The intent of the commercial area is to provide for service activities.

(c) Commercial establishments on Lot 2 shall be limited to five thousand (5,000) square feet, exclusive of parking.

(d) Business shall be conducted in completely enclosed buildings.

(e) Height restrictions: no building shall exceed a maximum height of thirty-four (34) feet unless a waiver by the Design Review Committee is obtained.

(f) Off street parking shall be provided in a ratio of 1 parking space for each 400 square feet of commercial area.

(g) The type of business must be approved by the Design Review Committee and is subject to the same conditions and appeals process as in Article V, Architectural Control.

Section 4. Covenants Pertaining To All Lots.

(a) No room or rooms in any single family detached unit may be leased to any person; provided, however, that nothing contained herein shall be construed as preventing the renting or leasing of an entire lot together with its improvements as a single family unit to a single family.

(b) No business of any nature shall be conducted on any lot premises or within the residence except a home business that does not deal with the public at large; i.e. telegraphic, internet, telephony, hobby, crafts, arts, etc. which shall be conducted in completely enclosed buildings. Customers visiting the premises on a regular basis is not permitted. .

(c) No horses, cattle, sheep, goats, pigs, rabbits, poultry, or other livestock of any description shall be kept or maintained on any part of any lot, except for lots 4 through 40 which must be maintained on a non-commercial basis and non-offensive to other lot owners. Residents may keep dogs, cats, or other animals which are bonafide household pets, so long as such pets are not kept for commercial purposes and do not make objectionable noises or odors or otherwise constitute a nuisance or inconvenience to any of the residents of the Fox Run Subdivision. Dogs shall not be allowed to run free.

(d) No activity may be carried on nor allowed to exist upon any lot, which may be noxious, detrimental, offensive, illegal, or constitute a nuisance to any other lot or to the occupants of any lot in the Project.

(e) All improvements to be erected on any lot in this Project, regardless of the type or nature of the structure being designed or erected, shall be fully completed within twenty months from the date of the commencement of construction, and all building material and other equipment normally used for the erection of construction of said structure shall be completely removed from the premises within said period of time. Interior finishing of dwellings may extend beyond this period so long as there are no building materials or other equipment used for the purpose of construction and erection stored on the premises beyond the twenty month period of time herein designated. At their discretion, the Design Review Committee may extend the period of time upon proper application in writing for such an extension.

(f) The owner of each and every lot shall use reasonable care in placing a structure on a lot so as not to obstruct the view from adjoining lots.

(g) Any exterior lighting installed on any lot shall be indirect or of such controlled focus and intensity as not to disturb the residents of adjacent properties.

(h) No temporary house, tent, garage, or outbuilding shall be placed or erected on any part of any lot and no residence placed or erected on any lot shall be occupied prior to completion in accordance with the plans and specifications approved by the Design Review Committee. Necessary temporary buildings for the storage of building materials may be constructed and used during the period of construction. The work of construction, altering or remodeling of any building or part thereof shall be completed no later than twenty months after the approval for same by the Design Review Committee. Mobile homes may be placed on lots during actual construction and must be removed no later than twenty months after the approval of construction work by the Design Review Committee or new approval obtained.

(i) The owner of a lot may install fences. Owners of lots 4, 6, 8, and 10 may re-fence their West boundary adjacent to the cemetery boundary if the re-fencing is of uniform style. The owner of a lot must allow access for utility repair. Repairs to such fences because of utility repairs shall be the responsibility of the owner of such lot. Maximum height of fences shall be five (5) feet, except in the case of patio privacy fences which may be six (6) feet high if patio adjoins house, and they shall be made of materials that conform to the concept of naturalness and shall conform in regard to materials and design as approved by the Design Review Committee.

(j) Ownership of perimeter fencing on lots 11 through 18, 20, and the Park shall be shared equally between contiguous owners.

(k) No trash or garbage shall be burned except in an approved incinerator. No barbecue or other outdoor cooking facility shall be located nearer than 15 feet from either side of lot lines unless made part of the residence.

(l) Any building placed, erected or maintained upon any lot in the project shall be entirely constructed thereon, and the same shall not, or any part thereof, be moved to or from said lot.

(m) No outside toilets shall be placed on any lot except during period of construction.

(n) No derrick or other structure designed for the use of boring for oil or natural gas shall be erected, placed or permitted upon any part of said property, except by Declarant, nor shall any minerals, oil or natural gas be produced or abstracted therefrom except by the Declarant. All rights of minerals, oil and natural gas underlying all lots, common areas and roads are reserved to the Declarant.

(o) No advertising or signs of any character shall be erected, placed, permitted or maintained on any lot or building within the Project other than:

- (1) A name plate of the occupant and a street number;
- (2) A "For Sale" sign (maximum size three (3) square feet);
- (3) Business identification signs shall be permitted on Lots 1 and 2 but subject to the Design Review Committee.

(p) No elevated tanks of any kind over 4' shall be erected, placed, or permitted upon any part of said property without approval of the Design Review Committee. Any tanks to be used in connection with any residence constructed within the Project, including tanks for the storage of gas, oil, or water, must conform to the specifications and control of the Design Review Committee. All types of refrigerating, cooling, or heating apparatus must be concealed, except those types of refrigerating or cooling units which are made specifically for window installation.

(q) All outside radio and television antennas must conform to specifications and control of the Design Review Committee.

(r) The initial placement, type and quality of all roads within the development shall be determined by Declarant.

(s) No motorized bicycles, trail bikes, motor scooters, snowmobiles, or similar types of recreational vehicles, shall be operated on the property of the Project except for the purpose of going to or from work and other purposeful travel. Recreation vehicles shall be stored or parked on site in a garage or adequately screened from view.

(t) Parking along roads shall be permitted only in those places provided for this purpose.

(u) No building or structure upon any lot may be permitted to fall into disrepair. Buildings or structures must at all times be kept in good condition, adequately painted, or otherwise finished.

(v) Each lot at all times shall be kept in a clean, sightly and wholesome condition. No inoperable motor vehicles, snowmobiles, motorcycles, campers, trailers, boats, trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber, other building materials or any other similar items shall be permitted to remain exposed on any lot so as to be visible to any neighboring lot or road.

(w) Each owner of a lot agrees for himself, his heirs, assigns, or successors in interest, that he will permit free and reasonable access by the owner of adjacent or adjoining lots containing a divisional wall, fence, hedge, or any other barrier, when such access is essential for the construction, reconstruction, refinishing, repair, maintenance, or alteration of such divisional structure or planting.

(x) Lots 4 through 20, 23, 24, 30 through 41 shall not be further subdivided, except for the purpose of combining portions with an adjoining lot, provided that no

additional lots or building site is created thereby and then only with the express permission of the Design Review Committee. Any ownership or single holding by any person comprising the whole of one lot and part or parts of one or more adjoining lots shall, for all purposes of these covenants and restrictions, be deemed a single lot. Not less than one entire lot as originally platted shall be used as a building site.

(y) It is expressly agreed and understood that the Declarant may use any of the lots in the subdivision for a sales office, for model homes or for parking related to such sales office or model homes. Any portion of the subdivision including streets, drives, and other roadways, may be used for sales purposes, guardhouses, security structures, and for other purposes deemed proper by the Declarant.

(z) In the event that a structure is destroyed, wholly or partially, by fire or any other casualty, said structure shall be properly rebuilt or repaired to conform to this declaration or all the remaining structure, including the foundations and all debris shall be removed from the lot.

(aa) Easements and rights of way in perpetuity are hereby reserved for the erection, construction, maintenance, and operation of wires, cable, pipe, conduits and apparatus for the transmission of electricity, telephone, television and radio lines and for the furnishing of water, gas, sewer service, or for the furnishing of other utility purposes together with the right of entry for the purpose of installing, maintaining, and reading gas, electric and water meters, together with the further rights to the Declarant to convey or lease the whole or any portion of such easements, rights of way or right of entry to any person or persons or to any corporation or municipal body, under, along, across, upon and through a strip of land 10 feet in width along the rear and designated side lot lines of all lots in the Project.

(bb) Declarant reserves the utility easements and rights of way shown on the recorded plat of the Project for the construction, addition, maintenance and operation of all utility systems now or hereafter deemed necessary by Declarant for all public utility purposes, including electric, telephone, cable, gas, water and sewer services.

(cc) An underground telephone cable system and electrical power, and natural gas and water may be installed in the subdivision. Each residence in the subdivision shall, at the expense of the owner or builder of the residence, have a trench opened from the residence to the utility easement across the lot upon which the residence is being built, for installation of said utilities, and the owner shall close the trench after installation of the cable. The exact location of the trenches shall be designated by the utility company.

(dd) The Declarant reserves the right to make minor changes in and additions to all easements for the purposes of most efficiently and economically installing utility systems.

(ee) The Declarant reserves the right to develop recreational facilities in the Common spaces of the subdivision.

(ff) All lot owners shall not construct a dwelling on a building site with 12% or more slope. Should the developer or lot owner disagree with this restriction the

governing body will reconsider the restriction when additional technical information is provided by a qualified engineer.

(gg) The Design Review Committee, prior to approval of improvements within 400 feet of the West boundary of lot 10, 300 feet of the West boundary of lot 8, and 200 feet of the West boundary of lot 6 and lot 4 shall notify the East Bench Irrigation District to instruct the property owners of potential hazards due to a canal break.

(hh) No permanent improvements shall be made within 15 feet each side of center of gas transmission line on lots 5, 6, 7, 8, 9 and 10.

(ii) Declarant has agreed with the governing body of Beaverhead County to waive the right of protest for a Rural Improvement District for paving the Sweetwater Road from the end of the existing pavement to the entrance to the Project and the creation of a lighting district for the Project. Creation of a Rural Improvement District for paving and lighting is upon the Beaverhead County Commissioner's discretion and may be enacted only after 20 lots have residences constructed thereon. Each owner of a lot agrees for himself, his heirs, assigns, or successors in interest to this waiver for a Rural Improvement District.

Section 5. Variances. The Design Review Committee may, after notice to the members of the Association and hearing, conditionally approve, deny, or approve a request to modify the minimum Building and Use Restrictions imposed by Sections 1 through 3 of this Article VI, according to the following procedure.

(a) Applications for modifications shall be delivered to each of the members of the Design Review Committee, either in person or by certified mail. The application shall be accompanied by a fee in an amount sufficient to provide for mailing notice to the membership as provided in (b) below. The Design Review Committee shall cause to be made such investigation of facts bearing on the application as will provide necessary information to assure that the action on each such application is consistent with the intent and a purpose of these Covenants.

(b) Notice of hearing on the application for modifications shall be mailed to each member of the Association by the Design Review Committee at least 15 days prior to the date set for hearing, and shall be accompanied by a copy of the application for modification. The hearing shall be at the appointed time and place, testimony may be taken by the Design Review Committee from persons affected by the modifications and any experts called by either applicant or a member opposed to modification for the purpose of aiding the Design Review Committee in their deliberations.

(c) Rules for Approval. After hearing and prior to approval of any such application for modification, the Design Review Committee shall designate such conditions as will secure substantial compliance with these Covenants from the applicant and shall find as follows:

(i) Such modifications will not be inconsistent with the intent and purpose of these Covenants and the general plan of the Project.

(ii) That strict compliance with the provisions of Sections 1 through 3 of this Article VI would create unnecessary hardship or unreasonable situations

on a particular property due to unusual or extreme topography, unusual shape of the property, or the prevalence of similar conditions in the immediate vicinity of the property.

(iii) That such modifications will have minimal adverse effect on abutting properties or the permitted uses thereof.

(iv) That the applicant has agreed in writing to be bound by the conditions imposed by the Design Review Committee for granting such modification and, if required by the Design Review Committee, has posted a performance bond in an amount sufficient to insure compliance with the conditions imposed by the Design Review Committee.

(d) An appeal from the Design Review Committee's decision to the membership of the Homeowners' Association may be made by either the applicant or any member of the Association opposing modification. Notice of Appeal shall be in writing and delivered to the Association governing special meetings. A quorum for purposes of a special meeting to hear an appeal from the Design Review Committee's decision shall be members representing 3/4 of all the votes of each class of membership, who must be present in person or by written proxy. If a quorum is present the proponents and opponents shall then present their respective cases to the membership. If a quorum is not present the meeting shall be adjourned and the decision of the Design Review Committee shall stand. An affirmative vote of 3/4 of the members present and constituting a quorum shall be required to reverse the action taken by the Design Review Committee.

ARTICLE VII

DEDICATIONS

Section 1. Roads. The Declarant specifically dedicates and grants to the Association the roads shown on the Fox Run Subdivision, First Filing, on file and of record in the office of the Clerk and Recorder of Beaverhead County, Montana. The roads within the Project shall be a public way and maintained by the Association. The Declarant, Lot Owners, and the Association after it has acquired title to the roads irrevocably agree with the Beaverhead County Commissioners whereupon the County, upon its discretion, may accept ownership and responsibility for the roads at any time. All rights of minerals, oil and natural gas underlying all roads within the Project are reserved to the Declarant.

Section 2. Park Land. The Declarant specifically dedicates and grants to the Association the land designated as Park in Fox Subdivision, First Filing, and Park in Fox Run II, First Filing, both on file and of record in the office of the clerk and Recorder of Beaverhead County, Montana, to be held in perpetuity for use as parks or playgrounds. All rights of minerals, oil and natural gas underlying the Fox Run and Fox Run II subdivisions' Park lands are reserved to the Declarant. An easement for drilling, operating and maintaining a water well and pipeline in the Fox Run Subdivision Park is reserved to the Declarant.

ARTICLE VIII**GENERAL PROVISIONS**

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Cost associated with enforcing Project covenants shall be a lien against the property of the offending owner and incur and accrue interest at one (1%) percent per month until paid. It shall be lawful for the Declarant, any owner of Fox Run and /or Fox Run II parcels, and /or Beaverhead County to prosecute proceedings at law or in equity against subject parcel owner or persons either to prevent the violation and/or to recover cost, legal fees, court cost, and damages for such violations. The Governing Body of Beaverhead County is a party to these Covenants and may enforce the provisions thereof. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to so thereafter do.

Section 2. Severability. Invalidation of any of one of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this declaration shall run with and bind the land or a term of ten years from the date this re-declaration is recorded, after which time such covenants shall automatically be extended for successive ten year periods, unless an instrument is recorded, signed by the owners of 66-2/3% of all of the lots within this subdivision, agreeing to revoke or amend said covenants in whole or in part. This declaration may be amended during the first ten year period by an instrument signed by not less than 66-2/3% of the lot owners. Any amendment that would materially alter any of the requirements imposed by the governing body of Beaverhead County, which requirements were made mandatory for the process of final subdivision approval, shall be approved by the governing body of Beaverhead County prior to amendment. Any amendment must be recorded.

OP

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Amended Declaration this 7th day of May, 2004.

FOX RUN SUBDIVISION, FOX RUN II SUBDIVISION

By:

Ronald E. Towery

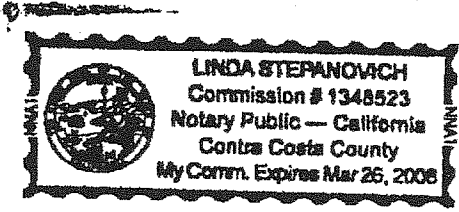
Ronald E. Towery, former Owner and Trustee of the
Ronald E. Towery and Zora R. Towery Marital Property Trust

STATE OF California
COUNTY OF Contra Costa SS

On this 7 day of May, 2004, before me, a Notary Public for the State of California, personally appeared RONALD E. TOWERY, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Linda Stepanowich
Notary Public for State of California
Residing at 2491 San Ramon Valley Blvd
San Ramon
My commission expires March 26, 2006



REVISED BY-LAWS OF FOX RUN HOMEOWNERS ASSOCIATION

ARTICLE I

APPLICATION OF BY-LAWS

Section 1. Name. The name of the corporation is FOX RUN HOMEOWNERS ASSOCIATION, hereinafter referred to as the "Association." The principal office of the Association shall be located in Beaverhead County, Montana.

Section 2. Property. The Project is located on Lots 1, 2, 3A, 3B; Lots 4 thru 30; Amended lots 21, 22, 25, 26, 27, & 28 in Fox Run Subdivision, Beaverhead County, Montana; and Lots 31 thru 40 in Fox Run II Subdivision, Beaverhead County, Montana together with Roads and Park Lands as shown on the Fox Run Subdivision, First Filing, all parcels shown on all amended plats or filings of said subdivisions as of the date hereof, and Park Lands as shown on the Fox Run II Subdivision, all on file and of record in the office of the Clerk and Recorder of Beaverhead County, Montana. The Term "Project" as used herein shall include the land and all structures and improvements thereon.

Section 3. By-Laws Applicability. The provisions of these By-Laws are applicable to the Project and to the members of the Association.

Section 4. Personal Application. All present or future owners, tenants, future tenants, or their employees, or any other person that might use the facilities of the Project in any manner, are subject to the regulations set forth in these By-Laws and to the recorded Re-Declaration of Protective Covenants regarding the Project and filed contemporaneously herewith.

The mere acquisition or rental of any of the units of the project or the mere act of occupancy of any of the units will signify that these By-Laws are accepted, ratified, and will be complied with.

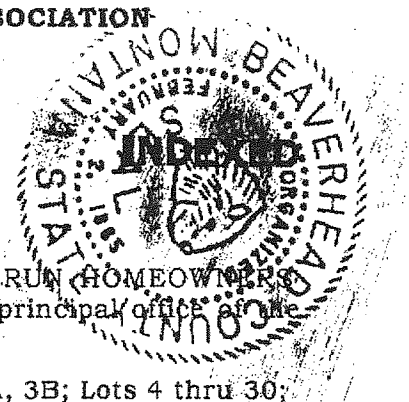
ARTICLE II

MEMBERSHIP, VOTING, MAJORITY OF OWNERS, QUORUM, PROXIES

Section 1. Membership and Voting. Voting rights of an owner shall not vest until assessments have been levied against the ownership of a lot. The Corporation shall have four classes of voting membership.

Class A members shall be all owners of Lots 1 and 2 that are undeveloped or are developed into single family residences; all owners of Lots 3a, 3b, Lots 4 through 30, Amended Lots 21, 22, 25, 26, 27, and 28 as shown on the Fox Run Subdivision Plat, First Filing; and owners of Lots 31 thru 40 Fox Run II, first filing, all on file and of record in the office of the Clerk and Recorder of Beaverhead County, Montana. Each Class A member shall be entitled to five votes for each lot owned.

Class B members shall be the owners of a second or more lots that are undeveloped in lieu of other class membership. Each class B member shall be entitled



to 2.5 votes for each additional undeveloped lot owned. Class B membership will cease and be returned to its appropriate class membership upon the sale or development of any Class B lot.

Class C member shall be the owner of Lot 1 as shown on the said Fox Run Subdivision Plat, First Filing. The Class C member shall be entitled to five votes for so long as lot 1 is undeveloped or developed with one single family residence, or 2.5 votes for each living unit of a multiple-unit development.

Class D member shall be the owner of Lot 2, as shown on the said Fox Run Subdivision Plat, First Filing, if developed into a commercial project. Class D member shall be entitled to 20 votes for said Lot 2 upon the completion and operation of a commercial development. Class D membership shall convert to Class A upon lot 2 being developed into a single family residence or into a Class C membership if Lot 2 is developed into a multiple-unit development.

Section 2. Majority of Owners. As used in these By-Laws, the term "majority of owners" shall mean those owners holding fifty-one percent (51%) of the votes.

Section 3. Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of 35% of the members of the corporation shall constitute a quorum.

Section 4. Proxies. Votes may be cast in person or by proxy. Proxies must be in writing, dated, signed by the members and filed with the Secretary before the appointed time of each meeting. No proxy shall extend beyond 11 months after filing with the Secretary and shall automatically cease upon the sale of the member's lot or upon the death or judicially declared incompetence of a member.

ARTICLE III

ADMINISTRATION

Section 1. Association Responsibilities. The Association shall have the responsibility of administering the Project, approving the annual budget, and establishing and collecting assessments and such other responsibilities as may be set forth in the Re-Declaration of Protective Covenants filed contemporaneously herewith. Except as otherwise provided, decisions and resolutions of the Association shall require approval by a majority of owners.

Section 2. Place of Meetings. Meetings of the Association shall be held at such suitable place convenient to the owners and within Beaverhead County as may be designated by the Board of Directors.

Section 3. Annual Meetings. The first annual meeting shall be held as determined by the Board of Directors. Thereafter, the annual meetings of the Association shall be held on the second Tuesday of June of each succeeding year. At such meetings, there shall be elected by a ballot of the owners a Board of Directors in accordance with the requirements of Section 5 of Article IV of these By-Laws. The owners may also transact such other business of the Association as may properly come before them.

Section 4. Special Meetings.

(a) Authorized persons who may call. A special meeting of the members may be called at any time by any of the following: The Board of Directors, the President, or by written request signed by members representing not less than 25% of the total voting power of the Association..

(b) Calling meetings by members. If a special meeting is called by members other than the President, the request shall be submitted by such members in writing, specifying the general nature of the business proposed to be transacted, and shall be delivered personally or sent by registered mail or by telegraphic or other facsimile transmission to the President, any Vice-President, or the Secretary of the Corporation. The officer receiving the request shall cause notice to be promptly given to the members entitled to vote, in accordance with the provisions of Section 5 of this Article III, that a meeting will be held, and the date for such meeting, which date shall not be less than 20 nor more than 45 days following the receipt of the request. If the notice is not given within 10 days after receipt of the request, the persons requesting the meeting may give the notice. Nothing contained in this subsection shall be construed as limiting, fixing, or affecting the time when a meeting of members may be held when the meeting is called by action of the Board of Directors.

Section 5, Notice of Meetings.

(a) General Notice Contents. All notices of meetings of members shall be sent or otherwise given in accordance with this Section 5 of this Article III not less than 10 nor more than 90 days before the date of the meeting. The notice shall specify the place, date, and hour of the meeting and (i) in the case of a special meeting, the general nature of the business to be transacted, and that no other business may in that case be transacted, or (ii) in the case of the annual meeting, those matters which the Board of Directors, at the time of giving the notice, intends to present for action by the members.

(b) Notice of Certain Agenda Items. If action is proposed to be taken at any meeting for approval of any of the following proposals, the notice shall also state the general nature of the proposal. Member action on such items is invalid unless the notice or written waiver of notice states the general nature of the proposal(s):

- (i) Removing a director without cause;
- (ii) Filling vacancies on the Board of Directors by the members;
- (iii) Amending the Articles of Incorporation;
- (iv) Approving a contract or transaction in which a director has a material financial interest.

(v) Approving a plan of distribution of assets, other than cash, in liquidation when the corporation has more than one class of memberships outstanding.

(c) Manner of Giving Notice. Notice of any meeting shall be given either personally or by first-class mail, telegraphic or other written communication, charges prepaid, addressed to each member either at the address of that member appearing on the books of the corporation or the address given by the member to the corporation for the purpose of notice. If no address appears on the corporation's books and no other has been given, notice shall be deemed to have been given if either (i) notice is sent to that member by first-class mail or telegraphic or other written communication to the corporation's principal executive office, or (ii) notice is published at least once in a newspaper of general circulation in the county where that office is located. Notice shall be deemed to have been given at the time when delivered personally or deposited in the mail or sent by telegram or other means of written communication.

(d) Affidavit of Mailing Notice. An affidavit of the mailing or other means of giving any notice of any members' meeting may be executed by the Secretary, assistant secretary, or any other party of the corporation giving the notice, and if so executed, shall be filed in the minute book of the corporation.

Section 6. Waiver of Notice or Consent by Absent Members.

(a) Written Waiver or Consent. The transaction of any meeting of members either annual or special, however called or noticed, and wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy, and if, either before or after the meeting, each person entitled to vote, who was not present in person or by proxy, signs a written waiver of notice or a consent need not specify either the business to be transacted or the purpose of any annual or special meeting of members, except that if action is taken or proposed to be taken for approval of any of those matters specified in Section 5(b) of Article III, the waiver of notice or consent shall state the general nature of the proposal. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

(b) Waiver by Attendance. Attendance by a person at a meeting shall also constitute a waiver of notice of that meeting, except when the person objects at the beginning of the meeting to the transaction of any business due to the inadequacy or illegality of the notice. Also, attendance at a meeting is not a waiver of any right to object to the consideration of matters not included in the notice of the meeting, if that objection is expressly made at the meeting.

Section 7. Adjourned Meetings. If any meeting of owners cannot be organized because a quorum has not attended, the Owners who are present, either in person or by proxy, may only adjourn the meeting to a time not less than 5 days nor more than 60 days from the time the original meeting was called. Section 3 of Article II hereof notwithstanding, the quorum at such adjourned meeting shall be 25% of the voting power of the Corporation.

Section 8. Order of Business. The order of business at all meetings of the Association shall be as follows: (a) proof of notice of meeting or waiver of notice; (b) reading of Minutes of preceding meeting; (c) reports of officers; (d) report of committees; (e) election of directors; (f) unfinished business; and (g) new business.

Section 9. Action Without Meeting. Any action, which under the provisions of the Montana Corporations Code may be taken at a meeting of the Owners, may be taken without a meeting if authorized by a writing signed by all of the owners who would be entitled to vote at a meeting for such purpose, and filed with the Secretary.

ARTICLE IV

BOARD OF DIRECTORS

Section 1. Number and Qualification. The affairs of the Association shall be governed by a Board of Directors composed of three to five persons who need not be members of the corporation.

Section 2. Powers and Duties. The Board of Directors shall have the powers set forth in the Articles and the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law or by these By-Laws directed to be exercised and done by the owners. Except upon the written vote or written assent of a majority of the voting power of the Association, the Board shall not: (a) enter into a contract with a third person to provide goods or

services for the Association for a term longer than three years unless (i) it be a contract with a public utility and the rates charged for materials or services are regulated by the Public Utilities Commission or its successor and the term of the contract is for the shortest term for which the supplier will contract at the regulated rate; (b) incur aggregate expenditures for capital improvements in any fiscal year in excess of 10% of the budgeted gross expenses of the Association for that fiscal year except that the maintenance of roads to existing quality including additional gravel, dust abatement, etc. shall not be considered a capital improvement; (c) sell during any fiscal year property of the Association having an aggregate fair market value greater than 5% of the budgeted gross expenses of the Association for that fiscal year; (d) pay compensation to members of the Board or to officers of the Association for services performed in the conduct of the Association business but said persons may be reimbursed for actual expenses so incurred.

The Board may delegate its functions and powers to committees and each such committee shall have as a member at least one member of the Board. The Board may also delegate its functions and powers to officers of the Association or the management agent.

Section 3. Other Duties. In addition to duties imposed by these By-Laws or by regulations of the Association, the Board of Directors shall be responsible for the following: (a) care, upkeep and surveillance of the Project; (b) collection of all assessments from the owners; (c) contracting for goods repairs and services; (d) payment of taxes and assessments which are or could become a lien upon the Project or a portion thereof; (e) formulation of rules and policies of operation for the facilities owned or controlled by the Association.

Section 4. Election and Term of Office. Election to the Board of Directors shall be by written secret ballot. At such election the members may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Re-Declaration of Protective Covenants filed contemporaneously herewith and cumulative voting shall be permitted whenever two or more directors are to be elected. Persons receiving the largest number of votes shall be elected to office.

Section 4(a) Books. The Board of Directors shall 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.

Section 5. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the Association shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall be a Director until a successor is elected at the next annual meeting of the Association. Cumulative voting shall be permitted by all members of the Board of Directors.

Section 6. Removal of Directors. At any regular or special meeting duly called, any one or more of the Directors may be removed with or without cause by a majority of the owners and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the owners shall be given an opportunity to be heard at the meeting. Cumulative voting shall be permitted. Unless the entire Board of Directors is removed from office by the vote of Association members, an individual member shall not be removed prior to the expiration of his term of office if the votes cast against his removal is greater than the quotient arrived at by dividing the total number of votes that

may be cast under cumulative voting procedures by a divider equal to 1 plus the authorized number of governing body members.

A governing body member who has been elected to office solely by the votes of members of the Association other than the Declarant may be removed from office prior to the expiration of his term of office only by the vote of at least a simple majority of the voting power residing in members other than the Declarant.

Section 7. Organization Meeting. The first meeting of a newly elected Board of Directors shall be held within 10 days of election at such places as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order to legally constitute such meeting, providing a majority of the whole Board shall be present.

Section 8. Regular Meetings. Regular meetings of the Board of Directors shall be held bi-annually at such time and place and within the subdivision as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone or telegraph, at least four days prior to the day named for such meeting. Notice of the time and place of the meeting shall also be posted at a prominent place or places within the Project.

Section 9. Special Meetings. Special meetings of the Board of Directors may be called by the President or any two members of the Board other than the President on three days' notice to each Director, given personally or by mail, telephone or telegraph, and in like manner shall be posted in a prominent place or places within the project, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least three Directors.

Section 10. Waiver of Notice. Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 11. Board of Directors' Quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at such a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice, provided however, if the meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given prior to the time of the adjournment meeting to the directors who were not present at the time of the adjournment.

Section 12. Conduct of Meeting. Regular and Special meetings of the Board shall be open to all members of the Association provided that members who are not on the Board may not participate in any deliberation or discussion unless expressly authorized to do so by a vote of a majority of a quorum of the Board. The Board may upon the approval of a majority of a quorum of its members, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in

which the Association is or may become involved, and orders of business of a similar nature. The nature of all business to be considered in executive session shall first be announced in open session.

ARTICLE V

OFFICERS

Section 1. Designation. The principal officers of the Association shall be a President, a Vice-President, a Secretary, and a Chief Financial Officer. The Directors may appoint an Assistant Treasurer, and an Assistant Secretary, and such other officers as in their judgment may be necessary.

Section 2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board and shall hold office at the pleasure of the Board.

Section 3. Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of President, including but not limited to the power to appoint committees from among the owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5. Vice-President. The Vice-President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act, the Board of Directors shall appoint some other member of the Board to do so on an interim basis. The Vice-President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

Section 6. Secretary. The Secretary shall keep the Minutes of all meetings of the Association; shall have charge of such books and papers as the Board of Directors may direct; and shall, in general, perform all the duties incident to the office of the Secretary.

Section 7. Chief Financial Officer. The Chief Financial Officer shall have responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall 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 of Directors.

ARTICLE VI

OBLIGATIONS OF THE OWNERS

Section 1. Assessments.

(a) All Owners are obligated to pay general assessments (and any special assessments) imposed by the Association to meet all Project communal expenses, which may include a liability insurance policy premium and an insurance premium for a policy to cover repair and reconstruction work in case of hurricane, fire, earthquake or other hazard. Both annual and special assessments for Class members must be fixed at a uniform rate for all lots within the respective classes, and shall be collected in a manner prescribed by the Board of Directors. The rates between classes shall not be uniform but instead shall be pro rata to the number of votes held by a member.

No regular yearly general assessment may be increased by more than 15% over the previous year without the vote or written assessment of two-thirds (2/3) of the voting power of the Association.

(b) The Board of Directors on behalf of the Association, may cause to be recorded in the office of the county recorder of the county in which the project is situated, a notice of any delinquent sums due the Association from any owner; which notice shall state the amount of such delinquent sums and other authorized charges and interest (including the cost of recording such notice and attorneys' fees) a sufficient description of the lot against which the name has been assessed, and the name of the record owner or owners thereof. Upon payment to the Association of such delinquent sums and charges in connection therewith, or other satisfaction thereof, the Board of Directors or management agent shall cause to be recorded a further notice stating the satisfaction and release of such delinquent sums and charges. Such notices shall be signed on behalf of the Association by any member of the Board of Directors or by the management agent. The Association may demand and receive the cost of recordation of such release before recording same. Any purchaser or encumbrancer, acting in good faith or for value, may rely upon such notice of satisfaction and release as conclusive proof of the full satisfaction of the sums stated in the notice of delinquent sums.

(c) All such delinquencies shall be enforced, collected and/or foreclosed in the manner provided in the Re-Declaration of Protective Covenants recorded contemporaneously herewith.

Section 2. Maintenance and Repair. An owner shall reimburse the Association for any expenditure incurred in repairing or replacing any Common Area and facility damaged through his negligent or intentional act.

Section 3. Use of Lots. All lots shall be utilized only for the purposes more particularly set forth in the Re-Declaration of Protective Covenants recorded contemporaneously herewith.

Section 4. Rules of Conduct. Rules of conduct and policies affecting the Project and its use shall be set by the Board.

ARTICLE VII

AMENDMENT TO BY-LAWS OR RE-DECLARATION OF PROTECTIVE COVENANTS

These By-Laws and the Re-Declaration of Protective Covenants may be amended by the Association in a duly constituted meeting for such purpose and no amendment shall take effect unless approved as follows:

a. Any amendment that would materially alter any of the requirements imposed by the governing body of Beaverhead County, which requirements were made mandatory for the process of final subdivision approval, shall be approved by the governing body of Beaverhead County prior to amendment.

b. Any amendment must be recorded.

c. By-Laws may be amended upon the vote of 66-2/3% of the voting power of the Association, present in person or by proxy.

d. The Re-Declaration of Protective Covenants may be amended upon the vote of 66-2/3% of the total voting power of the Association.

ARTICLE VIII

MORTGAGEES

Section 1. Notice of Unpaid Assessments. The Association shall at the request of a mortgagee of a lot report any unpaid assessments due from the owner of such lot.

Section 2. Books and Records. Any institutional holder of a first deed of trust upon a lot, upon request, shall be afforded the rights of a member for purposes of Article IX hereof.

Section 3. Meetings. Upon written request delivered to the Secretary any institutional holder of a first deed of trust mortgage, or other lawful security instrument upon a Unit shall be permitted to attend through a representative any meeting of the Association and shall receive notice thereof as provided in Section 5 of Article III hereof.

ARTICLE IX

RECORDS AND REPORTS

Section 1. Maintenance and Inspection of Corporate Records. The membership register, books of account, minutes of the meeting of the Board of Directors, minutes of the meetings of the members and of any committees shall be available for inspection and copying for any member or by his duly appointed representative during regular business hours at the office of the Association. Within ten business days of any request by a member for copies of records, the Association shall provide such copies and the members shall reimburse the Association for reproduction. Any Director shall have the right to inspect any record of the Association at any reasonable time and to then make extracts and copies of the records. Any Director shall have the right to inspect the physical properties of the Association at any time.

Section 2. Annual Report to Members. The Association shall notify each member yearly of the member's right to receive an annual financial report. At any time upon written request of a member the Board shall promptly cause the most recent annual report to be sent to the requesting member. An annual report shall be prepared not later than 120 days after the close of the Association's fiscal year. Such report shall contain, in appropriate detail, the following:

- (a) The assets and liabilities during the fiscal year.
- (b) The principal changes in assets and liabilities during the fiscal year.

(c) The revenue or receipts of the Association, both unrestricted and restricted to particular purposes, for the fiscal year.

(d) The expenses or disbursements of the Association, for both general and restricted purposes, during the fiscal year.

(e) Any information required by Montana Corporations Codes.

ARTICLE X

TERMS

The following terms, as used in these By-Laws, shall have the same meanings as are applied to such terms in the Re-Declaration of Protective Covenants filed contemporaneously herewith: "Association", "Project", "Properties", "Owner", "Member", "Lot", "Mortgage", and "Mortgagee".

ARTICLE XI

PARTIAL INVALIDITY

In case any of these By-Laws conflict with any provision of the laws of the State of Montana, such conflicting By-Laws shall be null and void upon final court determination to such effect, but all other By-Laws shall remain in full force and effect.

ARTICLE XII

INDEMNIFICATION OF DIRECTORS, OFFICERS EMPLOYEES, AND OTHER AGENTS

The Association may, to the maximum extent permitted by Montana law, indemnify each of its agents against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding arising by reason of the fact any such person is or was an agent of the Association. For purposes of this Article, an "agent" of the Association is a person who is or was serving at the request of the Association as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, or was a director, officer, employee, or agent of a corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation.

CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify that:

1. I am the duly elected and acting Secretary of FOX RUN HOMEOWNERS' ASSOCIATION, a Montana non-profit corporation, and

2. The foregoing By-Laws comprising 10 pages besides this constitute the By-Laws of the corporation duly adopted at the meeting of the Board of Directors thereof duly held on _____, 2004.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 7th -- - day of MAY, 2004.

Zora Rose Towery

Zora. Rose Towery
Secretary

STATE OF California)
County of Contra Costa) Ss

On this 7 day of May, 2004, before me, a Notary Public for the State of California, personally appeared Zora Rose Towery, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY Notarial Seal the day and year first above written.

Linda Stepanovich



Notary Public for State of California
Residing at 2491 San Ramon Valley Blvd #1
My commission expires March 26, 2006