



Bylaws and Homeowner's Association Documents

BY-LAWS OF THE SPIRES AT RED LODGE HOMEOWNERS ASSOCIATION

1. Applicability of Bylaws.

The provisions of these Bylaws are only applicable to The Spires at Red Lodge Planned Unit Development. The Spires at Red Lodge is located upon the County, and State of Montana:

COS 921-RE in the City of Red Lodge, Carbon County, Montana according to the official plat on file in the office of the Carbon County Clerk and Recorder. Addresses for Phase IA and Phase IB lots are as follows:

Phase 1A, Block 1, Lot 1:	3033 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 1, Lot 2:	3029 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 1, Lot 3:	3025 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 1, Lot 4:	3021 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 1, Lot 5:	3017 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 1, Lot 6:	3013 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 1, Lot 7:	3009 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 1, Lot 8:	3005 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 1, Lot 9:	3001 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 2, Lot 1:	3030 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 2, Lot 2:	3026 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 2, Lot 3:	3022 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 2, Lot 4:	3018 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 2, Lot 5:	3014 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 2, Lot 6:	3010 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 2, Lot 7:	3006 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 2, Lot 8:	3002 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 3, Lot 1:	2918 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 3, Lot 2:	2914 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 3, Lot 3:	2910 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 3, Lot 4:	2906 Baneberry Ave. Red Lodge, MT 59068
Phase IA, Block 3, Lot 5:	2902 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 4, Lot 1:	2918 Bluebell Ave. Red Lodge, MT 59068
Phase 1A, Block 4, Lot 2:	2917 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 4, Lot 3:	2914 Bluebell Ave. Red Lodge, MT 59068
Phase 1A, Block 4, Lot 4:	2913 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 4, Lot 5:	2910 Bluebell Ave. Red Lodge, MT 59068
Phase 1A, Block 4, Lot 6:	2909 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 4, Lot 7:	2906 Bluebell Ave. Red Lodge, MT 59068
Phase 1A, Block 4, Lot 8:	2905 Baneberry Ave. Red Lodge, MT 59068
Phase 1A, Block 5, Lot 1, Unit 1:	2909 Bluebell Ave., Unit 1, Red Lodge, MT 59068
Phase 1A, Block 5, Lot 1, Unit 2:	2909 Bluebell Ave., Unit 2, Red Lodge, MT 59068

Phase 1A, Block 5, Lot 1, Unit 3: 2909 Bluebell Ave., Unit 3, Red Lodge, MT 59068
Phase 1A, Block 5, Lot 1, Unit 4: 2909 Bluebell Ave., Unit 4, Red Lodge, MT 59068
Phase 1A, Block 5, Lot 1, Unit 5: 2909 Bluebell Ave., Unit 5, Red Lodge, MT 59068
Phase 1A, Block 5, Lot 1, Unit 6: 2909 Bluebell Ave., Unit 6, Red Lodge, MT 59068
Phase 1A, Block 5, Lot 1, Unit 7: 2909 Bluebell Ave., Unit 7, Red Lodge, MT 59068
Phase 1A, Block 5, Lot 1, Unit 8: 2909 Bluebell Ave., Unit 8, Red Lodge, MT 59068
Phase 1A, Block 5, Lot 2, Unit 1: 2903 Bluebell Ave., Unit 1, Red Lodge, MT 59068
Phase 1A, Block 5, Lot 2, Unit 2: 2903 Bluebell Ave., Unit 2, Red Lodge, MT 59068
Phase 1A, Block 5, Lot 2, Unit 3: 2903 Bluebell Ave., Unit 3, Red Lodge, MT 59068
Phase 1A, Block 5, Lot 2, Unit 4: 2903 Bluebell Ave., Unit 4, Red Lodge, MT 59068
Phase 1A, Block 5, Lot 2, Unit 5: 2903 Bluebell Ave., Unit 5, Red Lodge, MT 59068
Phase 1A, Block 5, Lot 2, Unit 6: 2903 Bluebell Ave., Unit 6, Red Lodge, MT 59068
Phase 1A, Block 5, Lot 2, Unit 7: 2903 Bluebell Ave., Unit 7, Red Lodge, MT 59068
Phase 1A, Block 5, Lot 2, Unit 8: 2903 Bluebell Ave., Unit 8, Red Lodge, MT 59068
Phase 1A, Block 6, Lot 1, Unit 1: 2909 Elderberry Ave., Unit 1 Red Lodge, MT 59068
Phase 1A, Block 6, Lot 1, Unit 2: 2909 Elderberry Ave., Unit 2 Red Lodge, MT 59068
Phase 1A, Block 6, Lot 1, Unit 3: 2909 Elderberry Ave., Unit 3 Red Lodge, MT 59068
Phase 1A, Block 6, Lot 1, Unit 4: 2909 Elderberry Ave., Unit 4 Red Lodge, MT 59068
Phase 1A, Block 6, Lot 1, Unit 5: 2909 Elderberry Ave., Unit 5 Red Lodge, MT 59068
Phase 1A, Block 6, Lot 1, Unit 6: 2909 Elderberry Ave., Unit 6 Red Lodge, MT 59068
Phase 1A, Block 6, Lot 1, Unit 7: 2909 Elderberry Ave., Unit 7 Red Lodge, MT 59068
Phase 1A, Block 6, Lot 1, Unit 8: 2909 Elderberry Ave., Unit 8 Red Lodge, MT 59068
Phase 1A, Block 6, Lot 2, Unit 1: 2903 Elderberry Ave., Unit 1 Red Lodge, MT 59068
Phase 1A, Block 6, Lot 2, Unit 2: 2903 Elderberry Ave., Unit 2 Red Lodge, MT 59068
Phase 1A, Block 6, Lot 2, Unit 3: 2903 Elderberry Ave., Unit 3 Red Lodge, MT 59068
Phase 1A, Block 6, Lot 2, Unit 4: 2903 Elderberry Ave., Unit 4 Red Lodge, MT 59068
Phase 1A, Block 6, Lot 2, Unit 5: 2903 Elderberry Ave., Unit 5 Red Lodge, MT 59068
Phase 1A, Block 6, Lot 2, Unit 6: 2903 Elderberry Ave., Unit 6 Red Lodge, MT 59068
Phase 1A, Block 6, Lot 2, Unit 7: 2903 Elderberry Ave., Unit 7 Red Lodge, MT 59068
Phase 1A, Block 6, Lot 2, Unit 8: 2903 Elderberry Ave., Unit 8 Red Lodge, MT 59068

PHASE 1B:

Phase 1B, Block 1, Lot 1:	3034 Bluebell Ave. Red Lodge, MT 59068
Phase 1B, Block 1, Lot 2:	3030 Bluebell Ave. Red Lodge, MT 59068
Phase 1B, Block 1, Lot 3:	3026 Bluebell Ave. Red Lodge, MT 59068
Phase 1B, Block 1, Lot 4:	3022 Bluebell Ave. Red Lodge, MT 59068
Phase 1B, Block 1, Lot 5:	3018 Bluebell Ave. Red Lodge, MT 59068
Phase 1B, Block 1, Lot 6:	3014 Bluebell Ave. Red Lodge, MT 59068
Phase 1B, Block 1, Lot 7:	3010 Bluebell Ave. Red Lodge, MT 59068
Phase 1B, Block 1, Lot 8:	3006 Bluebell Ave. Red Lodge, MT 59068
Phase 1B, Block 1, Lot 9:	3002 Bluebell Ave. Red Lodge, MT 59068
Phase 1B, Block 2, Lot 1:	3026 Elderberry Ave. Red Lodge, MT 59068
Phase 1B, Block 2, Lot 2:	3027 Bluebell Ave. Red Lodge, MT 59068
Phase 1B, Block 2, Lot 3:	3022 Elderberry Ave. Red Lodge, MT 59068
Phase 1B, Block 2, Lot 4:	3023 Bluebell Ave. Red Lodge, MT 59068

Phase 1B, Block 2, Lot 5:	3018 Elderberry Ave. Red Lodge, MT 59068
Phase 1B, Block 2, Lot 6:	3019 Bluebell Ave. Red Lodge, MT 59068
Phase 1B, Block 2, Lot 7:	3014 Elderberry Ave. Red Lodge, MT 59068
Phase 1B, Block 2, Lot 8:	3015 Bluebell Ave. Red Lodge, MT 59068
Phase 1B, Block 2, Lot 9:	3010 Elderberry Ave. Red Lodge, MT 59068
Phase 1B, Block 2, Lot 10:	3011 Bluebell Ave. Red Lodge, MT 59068
Phase 1B, Block 2, Lot 11:	3006 Elderberry Ave. Red Lodge, MT 59068
Phase 1B, Block 2, Lot 12:	3005 Bluebell Ave. Red Lodge, MT 59068
Phase 1B, Block 2, Lot 13:	3002 Elderberry Ave. Red Lodge, MT 59068
Phase 1B, Block 2, Lot 14:	3001 Bluebell Ave. Red Lodge, MT 59068
Phase 1B, Block 3, Lot 1:	3037 Elderberry Ave. Red Lodge, MT 59068
Phase 1B, Block 3, Lot 2:	3033 Elderberry Ave. Red Lodge, MT 59068
Phase 1B, Block 3, Lot 3:	3029 Elderberry Ave. Red Lodge, MT 59068
Phase 1B, Block 3, Lot 4:	3025 Elderberry Ave. Red Lodge, MT 59068
Phase 1B, Block 3, Lot 5:	3021 Elderberry Ave. Red Lodge, MT 59068
Phase 1B, Block 3, Lot 6:	3017 Elderberry Ave. Red Lodge, MT 59068
Phase 1B, Block 3, Lot 7:	3013 Elderberry Ave. Red Lodge, MT 59068
Phase 1B, Block 3, Lot 8:	3005 Elderberry Ave. Red Lodge, MT 59068
Phase 1B, Block 3, Lot 9:	3001 Elderberry Ave. Red Lodge, MT 59068

All present or future owners, tenants, or any person who might make use of the facilities of the aforementioned property(s), or any subsequent phases and lots as may be added by subsequent addendum to this document, will be required to comply with all of the provisions of the Bylaws. By acquiring, renting, or occupying any of the units it will signify that these Bylaws have been accepted, ratified, and will be complied with in full.

2. Membership, Meetings, and Voting.

(a) **Membership.** Each unit owner shall be a mandatory member of the THE SPIRES AT RED LODGE HOMEOWNERS ASSOCIATION, a Montana non-profit corporation, hereinafter called “the Association”. Each member must sign a waiver of right to protest the formation of a maintenance district to maintain the improvements related to parks, trails, open spaces, a sanitary sewer lift station and all other improvements that are of public benefit. Should the ownership of any unit be vested in more than one person, and while each such owner will be a member, the co-owners, joint owners, or other entities that may hold title to the unit shall be deemed to be one member for the purpose of voting and the determination of any required quorum (1 lot equals 1 vote). Until the completion of the sale of all project units, the Developer, *The Spires at Red Lodge, LLC*, will be deemed the owner of each unit not yet sold, whether or not construction of a dwelling unit has commenced, and shall have one vote for each such unit.

(b) **Ownership.** Ownership shall be determined according to the records of the Clerk and Recorder of Carbon County, Montana; except that a personal representative, conservator, or trustee shall be deemed to be the owner of any unit held by him or her in such capacity, whether or not the same shall have been transferred to his or her name by a duly recorded conveyance. Owners shall also include those purchasing units who have an equitable interest in the unit as disclosed by the public record in the office of the Carbon County Clerk and Recorder, and in such an event the equitable owner shall be considered as the only owner of such unit. Tenants shall be deemed to be owners only if the owner of record has complied with the provisions of 70-23-102(16) MCA.

(c) **Voting.** The owners of each unit shall be entitled to one vote per unit and the vote of any unit owned by more than one person may be exercised as the co-owners may deem appropriate among themselves. Whenever a unit is owned by two or more persons, any one of the owners may vote, in the absence of protest by the other or others. Votes may be cast in person or by proxy.

(d) **Proxies.** Proxies may be made by any person entitled to vote. Proxies are only valid for the specific meeting designated and must be received by the Secretary on, or before, the appointed meeting time.

(e) **Annual Meeting.** The annual meeting of the Association shall be held on the second Saturday of June each year at 4:00 p.m. in a location to be provided by the Secretary. Additional regular and special meetings of the Association may be held at such times and places as shall be agreed by the lot owners. Notice of all meetings shall be provided to all members by e-mail, phone, mail, or facsimile, at least 10 days in advance. The presence, in person or by proxy, of owner of 51% of the units shall be required for the transaction of any business by the Association.

The annual meetings shall include:

- (1) Roll call and determination of a quorum,
- (2) Approval of minutes of last meeting,
- (3) Financial report – past results and budget,
- (4) Liability Insurance coverage – common areas,
- (5) Elect Directors,
- (6) Old Business,
- (7) New Business,

(f) **Manner of Obtaining Approval of Lot Owners.** Approval of all decisions and resolutions of the Association which require the approval of unit owners may be obtained by vote at an annual meeting or special meeting, or by written ballot or petition that is circulated among the owners.

3. Board of Directors

(a) **Number of Directors.** The affairs of the Association shall be governed by a Board of Directors comprised of a minimum of three (3) owners. Directors

shall be elected by the members, except that Russ Squire and Don McLaughlin, as representatives of the developer, shall serve as two of the three Directors until the sale of 50% of the units in Phases 1A and IB has occurred. Thereafter, Russ Squire shall serve as one of the three Directors until at least three phases of the Planned Unit Development have reached a minimum of 50% lot sales. After this time the number of Directors may be increased if deemed necessary by an affirmative vote of 70% of the members.

(b) Term of Office. One Director shall be elected at the first annual meeting of the Association for a one year term. Russ Squire and Don McLaughlin shall serve as the remaining Directors for a two year term of office. Thereafter, the term of office for each of the Directors shall be two years with one Director to be elected in odd numbered years and two Directors to be elected in even numbered years subject to the previous requirements above regarding unit sales.

(c) Nomination and Election. Except as otherwise provided above, candidates for vacant Director positions shall be nominated from the floor at each annual meeting. Each unit owner will be entitled to one vote for each vacancy on the Board of Directors. The candidates receiving the largest number of votes shall serve as Directors for the following term. If a quorum can not be obtained for an annual meeting then the existing Directors shall continue to serve until the next annual meeting or until a special mail ballot can be conducted. The mail ballot shall include the names of all unit owners willing to serve for term(s) to be filled.

(d) Qualifications of Directors. Directors must be members of the Association or, in the case of partnerships, LLC's, LLP's, corporate members, or trusts, a designated representative of said entity.

(f) Meetings. Regular and special meetings of the Board of Directors may be held at such times and places as shall be determined by the Board. Notice of such meetings shall be given by the Secretary to each Director, personally or by e-mail, telephone, or facsimile at least (7) days prior to the day named for such meeting. A simple majority of the Directors (2 out of 3) shall be needed for a quorum. Information concerning actions taken by the Board shall be immediately disseminated to all members of the Association by e-mail, mail, telephone, or facsimile. Owners may attend Board meetings but their participation may be limited to agenda items before the Board. Owners wishing to add agenda items to a meeting should contact the Board's Secretary no fewer than two weeks in advance of any scheduled meeting.

(g) Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may perform all acts and things as are not by law prohibited by the Declaration or these Bylaws directed to be exercised for the benefit of the members. In addition, the Board of Directors shall have the following powers and duties:

1. To enforce the provisions of the Declaration of Unit Ownership and these Bylaws by appropriate action.
2. To determine the amount of assessments payable by the unit owners for common expenses and to allocate and assess said expenses among unit owners in proportion to their respective interests in the common elements. Assessments shall include reasonable reserve funds. The Board shall have the authority to invest reserve funds in a liquid, interest bearing account that creates no risk to the principal amount invested.
3. At the Boards discretion, to impose special assessments for approved capital expenses and for emergencies as they are incurred.
4. To send written notice of any change in the regular assessments or special assessments at least thirty (30) days before payment is due.
5. To record and file a lien against any unit owner, for unpaid assessments or to bring legal action against the owner personally obligated to pay the same.
6. To adopt a schedule of late payment fees for any unpaid assessments.
7. To issue, or to cause an appropriate officer to issue, upon demand by unit owner, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be created by the Board for the issuance of these certificates. The certificate will act as conclusive evidence of said payment.
8. With a consent of the majority of unit owners, to adopt a schedule of fines for violation of the Declaration, these Bylaws, or duly adopted rules and regulations of the Association.
9. To cause all officers or employees having fiscal responsibilities to be responsible for reporting results no less than annually.
10. To procure and maintain a general liability policy as it relates to all common areas to be authorized and purchased by the Association.
11. To pay all debts and bills of the Association regularly and as required by vendors.
12. To grant and accept easements, permits, licenses on behalf of all units, as necessary for the proper operation of the project.

13. To contract for regular maintenance, repairs, alterations, additions and improvements which are the obligation of the Association.
14. To establish an architectural review committee to insure compliance with the specific requirements set forth in the Design Guidelines for The Spires at Red Lodge.
15. Upon written request from any member, agency, or corporation having an interest or prospective interest in a unit, to prepare and furnish within a reasonable time a current financial statement of the Association for the immediately preceding tax year, at the requesting party's expense.
16. To file annual corporate reports with the Montana Secretary of State and to pay the required fee.
17. To prepare, or to subcontract out the preparation of, income tax returns for the Association, if required by state or federal law, and to pay all taxes owed.
18. To provide any notices required by these Bylaws or the Declaration of Unit ownership for The Spires at Red Lodge, LLC.
19. In its discretion, to delegate any of the above-mentioned powers and duties to one or more officers or members of the Association, or to an independent contractor or agent.
20. To supervise and evaluate all officers, agents, and employees of the Association to ensure they properly perform their duties.

(h) Directors as Agent and Attorney in Fact for Unit Owners.

The Board of Directors is hereby irrevocably appointed as agent and attorney-in-fact for the unit and lot owners of all of the units and for each of them to manage, control, and make decisions with the interests of such unit owners in the common elements – landscaping, road resurfacing, snow removal, water feature maintenance, park maintenance and maintenance of all other common elements– as necessary to permit the Board of Directors to fulfill all of its powers, rights, function and duties. The Board of Directors is hereby irrevocably appointed as agent and attorney-in-fact each unit owner, each mortgage, or other named insured's, or their beneficiaries and any other holder of a lien or other interests in the homes or the property to:

- (1) adjust and settle all claims arising under insurance policies purchased by the Board of Directors.

(2) Execute and deliver releases upon the payment of claims, if any, and;

(3) Act on their behalf in act of eminent domain or any condemnation hearing.

Provided, however, that the consent of a mortgagee shall be required if such mortgagee notifies the Board of Directors within thirty (30) days after the receipt of notice of the damage or notice of taking with respect to condemnation or eminent domain.

(i) Transfer of Control of the Association by the Developer. Developer shall transfer control of the Association to the unit owners three (3) months after 50% or more of the units have been conveyed, or three (3) years, whichever occurs first. If there is ever a conflict between this provision and any other provision of the Bylaws, this provision shall control.

In the event that unit owners do not take control of the Homeowner's Association then the developer will continue to run the Homeowner's Association at a annual administration cost of \$125 per unit owner to cover time, mailing, and administrative expenses.

(j) Resignation and Removal of Directors. Any Director may be removed from office by the majority vote of unit owners. In the event a Director resigns or is removed from office, the vacancy shall be filled at a special meeting or a special written ballot of the unit owners, in the same manner provided for the election of Directors, with the person elected serving the remainder of the unexpired term.

(k) Developer Annual Administration Charges. For the period of time in which the developer runs the homeowner's association all unit or lot owners shall be assessed and administrative cost of \$125 per unit, or lot, for the costs associated with managing the Homeowner's Association. Once this control is passed to a Board comprised of lot owners and is removed from the developer's control it will be up to the Association as to whether to hire a paid person to administer all of the Association's affairs. These administrative costs will be deducted directly from the Homeowner's Association annual dues.

4. Officers

(a) Board Officer Election Procedure. The Board of Directors shall elect a President, a Vice-President and a Secretary/Treasurer annually. The officers of the Association will hold office at the pleasure of the Association's members and may be removed by the members, with or without cause. In the event of a vacancy the Board shall elect a successor at any regular meeting, special meeting, or by mail ballot called for such a purpose. RUSS SQUIRE and DON MCLAUGHLIN shall serve as interim President and Secretary/Treasurer respectively, until the first annual meeting of the Association has occurred.

(b) Qualifications of Officers. Board of Directors members may serve as officers but are not required to do so. Officers may be Directors or other members of the Association, or the association at its election and majority member approval may hire an outside property manager to conduct all affairs of the Association as its agent.

(c) Duties. The President will be the presiding Officer at all meetings of the Association and of the Board of Directors. Meetings will be conducted under Roberts Rules of Order. The President shall supervise the affairs of the and its officers and shall have all of the powers and duties normally associated with the office as well as other duties that may be periodically imposed by the Board. The Vice-President shall act in the place of the President should the President be absent and shall have other duties as may be assigned by the Board. The Secretary/Treasurer shall keep all books and records of the Association and the Board of Directors and record all meeting minutes, shall keep a record of all members of the Association, and will serve all required notices. The Secretary/Treasurer shall have responsibility for the Association's funds and shall be responsible for keeping chronological, accurate and itemized accounts of all receipts and disbursements in books belonging to the Association. The Secretary/Treasurer shall be responsible for all deposits in depositories as may from time to time be designated by the Board. All checks over \$500.00 will require two officer signatures.

(d) Compensation. Any officer may be reasonably compensated as determined by the Board although it is the spirit of the Association to be voluntary service for the benefit of all unit owners. Should the Association membership elect to use an outside property manager then this individual will be compensated per agreed upon contract.

- 5. Liability of Officers and Directors.** The Officers and Directors of the Association shall not be liable to the Association or any unit owner for any mistake of judgment, except for their own bad faith or willful misconduct. The unit owners and the Association will indemnify and hold harmless each of the officers and directors from and against all contractual liability to other arising out of contracts made by the officers or the Board of Directors on behalf of the Association unless such contract was made in bad faith or contrary to the provisions of the Montana Unit Ownership Act or the Declaration of Unit Ownership for The Spires at Red Lodge or these By-Laws, except to the extent that such liability is satisfied by directors and officers liability insurance, if any. Officers and Directors shall have no personal liability for any contract made by them on behalf of the Association. The liability of any unit owner arising out of any contract made by the Officers or Board of Directors, or out of the indemnification of the officers or directors or for damages as a result of injuries arising in connection with the common elements or for liabilities incurred by the Association, shall be strictly limited to the total liability prorated by that owner's percentage of interest in the common elements. The Officers and Directors shall

at all times only be acting as agents for the Association and this should be stipulated in writing in every agreement entered in to, and will have no personal liability, except as unit owners, and each unit owners liability shall be limited to the total liability multiplied by that unit owners percentage interest in the common elements. The Association shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed action, suit, or proceeding by reason of the fact that the person is, or was, an officer or director of the Association against expenses including attorney fees, judgments, fines, and amounts paid in settlements incurred by the person in connection with such action, suit, or proceeding if the officer or director acted in good faith and in a manner believed to be in, or not opposed to, the best interest of the Association.

6. Inspection of Records.

The books and records of the Association and a copy of the current Declaration of Unit Ownership, Bylaws, Articles of Incorporation and rules and regulations for The Spires at Red Lodge shall be open for inspection by any unit owner and by holders, insurers, and guarantors of first mortgages on units, at any reasonable time, after giving notice to the Association's Secretary/Treasurer.

7. Emergency Access.

Directors shall have the right to enter any unit in case of an emergency originating in, or threatening, such unit whether or not the owner or occupant is present at the time based upon their assessment of a threat to the property.

8. Insurance

(a) The Board of Directors shall purchase public liability and property damage insurance, insuring the Association and the unit owners for liability for personal injuries to, or the death of, any person on property defined as common elements, with policy limits to be determined by the Board, but no less than \$1,000,000 per occurrence and \$2,000,000 per aggregate.

(b) The Board of Directors shall make certain that any outside contractors of services to The Spires at Red Lodge, LLC are adequately insured for liability, evidenced by a policy copy, or carry workers compensation insurance, as evidenced by a State Certificate, and, in the event they will handle Association monies, have a fidelity bond.

(c) The costs of any insurances purchased, or deemed necessary by the Association, shall be part of the common expense and assessed as part of a home, lot, or unit owners dues.

(d) All insurance policies shall be issued by a company with an "A" or better A.M. Best rating. Directors shall seek to obtain the best insurance value, considering the coverage, the price and the history of the insurer in properly and promptly handling claims.

(e) In the event of a single loss exceeding five thousand dollars (\$5,000), all Association insurance proceeds shall be paid to the Board of Directors as the trustee for disbursement.

(f) Each policy shall contain a standard mortgage clause in favor of each mortgagee, or trust indenture beneficiary, or contract of sale endorsements in favor of the contract sellers of any units and shall require the insurer to notify the Association, each unit owner, and each first mortgage, of any cancellation or substantial change in the policy at least ten (10) days prior to the date that such event takes place. Duplicate originals of all new insurance policies and all policy originals, together with proof of payment of premiums, shall be delivered to all mortgagees and contract sellers at least ten (10) days prior to the expiration of the then current policies.

(g) The Board of Directors shall annually review the adequacy of the limits of coverage of the insurance policies, shall obtain an appraisal from an insurance company or other knowledgeable person or business, of the full replacement value of the covered improvements at replacement value for the purpose of determining the amount of physical insurance required under this section, and report its findings and opinion on insurance to the membership of the Association annually.

(j) Insurance policies will contain waivers of subrogation and waivers of any defense based upon co-insurance or of invalidity arising from any acts of the insured.

(h) Unit owners shall not be prohibited from carrying other insurance for their own benefit that all policies shall contain waivers of subrogation and provided that the liability of the carriers issuing insurance obtained by the Board of Directors shall not be diminished by reason of any such additional insurance carried by any unit owner. Insurance purchased by the Association shall not cover any personal or real property that is solely the for the personal use and enjoyment of the unit owner, such insurance will only protect common area and common property shared by all owners. Owners must insure their personal and real property and further obtain liability insurance to cover injury or damage occurring on or within their unit, or lot, if they wish such insurance coverage. If owners wish to have any insurance related to fire or casualty of their personal units, or any improvements erected they must purchase such insurance. The Association will only insure common areas and common property.

(l) Insurance payments for losses insured by the Association shall be applied by the Trustee to repair or replace damaged property. Unit owners shall provide coverage for their own losses as it relates to fire and casualty. Units which are repaired or replaced following casualty shall conform in style, quality,

and appearance, to the unit as it existed prior to the casualty and per The Spires at Red Lodge design guidelines.

(m) The Association shall pay, as a common expense, the deductible amount for any casualty insured by the Association if there is damage to common elements exceeding \$5,000.00.

9. Property Loss.

Property damaged by fire or other casualty must be repaired or rebuilt. Insurance payments for a property loss of common property shall be applied by the Board, or its designated trustee, to repair or replace damaged property. For property loss as it relates to individual dwelling units and their owners, the repaired property after the casualty shall conform in style, quality, and appearance to the unit as it existed prior to the casualty and per The Spires at Red Lodge Design Guidelines.

10. Assessments for Common Expenses.

(a) **When Assessments Begin.** The owner of each unit, or lot, shall be obligated to pay annual and special assessments for common expenses, beginning upon the closing of the sale of the first unit, or lot. The exception to this rule will be unsold lots carried by the developer and these unsold lots will not require that homeowner's association dues be paid until the lots are sold and ownership is transferred to an entity other than The Spires at Red Lodge, LLC.

(b) **Amount.** Initial dues shall be set at \$250.00 per year per lot to pay for such expenditures as snow plowing, landscape maintenance, and liability insurance for common areas. One year's worth of dues, or a pro-rated amount depending upon the month of the year, will be billed to each new unit, or lot, owner at settlement when property transfer occurs through Carbon County Title & Abstract. Unsold lots held by the developer shall not be subject to HOA dues. Prior to the annual meeting, the Board of Directors shall prepare an Association budget for the coming year based upon historical data. A copy of that budget, together with a statement of the amount of each monthly assessment for the coming year along with a statement of cash reserves, shall be delivered to each unit, or lot owner, along with the agenda for the annual meeting at least a week prior. Each monthly assessment for a unit shall be equal to the total estimated common expenses for the coming year, plus a reasonable reserve allowance for the replacement of improvements, divided by twelve (12) months, divided by the total number of units. Assessments shall be due and payable on the first of the month. If an annual budget is not prepared as required, then the yearly dues assessment shall remain the same as the prior year until changed by the Board. The regular annual assessments may be changed at any time by the Board as it determines such a change is necessary, or advisable. Written notice shall be given for any changes in the amount of assessments, by mail or otherwise, to each unit owner at least two weeks (14) days in advance of the change in annual payment

due at the newly scheduled amount. Except for changes in the amount of annual assessments, no bills or notices that annual assessments are due need be given by the Association. All assessments must be based upon and computed by using the fractional interest that each unit owner has in the common elements. Homeowners Association dues may be adjusted at any time to reflect changing costs and needs of the members.

It is further agreed that the developer, The Spires at Red Lodge, LLC, will not have to pay any homeowner's association dues on unsold lots for three years following the date of receipt of final plat. After three years have elapsed all unsold lots must pay regular HOA annual assessments.

(c) **Record Keeping.** All assessments collected by the Association may be commingled in a single fund from which shall be paid the expenses for which the assessments are made. Separate records of payments received shall be kept for each unit.

(d) **Interest and Late Fees.** Assessments paid more than 10 days after the due date shall bear interest at the rate of eight percent (8%) per annum from the date when due until paid; in addition, late paying owners will be obligated to pay a late fee of if a schedule of late payment fees has been duly adopted by the Board. Late payments as received will first be applied to late fees, then to interest, and finally to the earliest assessments past due.

(e) **Special Assessments.** Special assessments may be approved by the Board of Directors for capital improvements only upon an affirmative vote of 51% of the members entitled to vote. The Board may impose a special assessment for unanticipated emergency expenses without a vote of the members.

(f) **No Payment Exceptions or Exemptions.** No unit owner is exempt, or may be granted an exception, from any common expense by waiver of the use of enjoyment of those items paid for or by abandonment of the unit.

(g) **Account Balance Transfers With Each Unit.** No unit owner shall be allowed to receive the balance in that owners assessment account from the Association when the owner's unit is sold. The account balance will pass with the unit sale to the new owner. This provision will not be deemed as a prohibition on a selling owner collecting the balance of that owner's assessment from a buyer.

(h) **Remedies for Failure to Pay - Enforcement.** The Spires at Red Lodge Homeowners Association has the authority to place liens against the real property of members who are more than 90 days delinquent in the payment of association dues. The costs of placing the lien including administrative costs will be added to the home owner's association dues that must be paid to be brought in to good standing.

11. Maintenance of Common Elements.

(a) Unit Owner Responsibilities. Every unit owner shall be responsible for the repairs, maintenance, and good upkeep as it relates to the complete exterior and interior of their unit. Each unit owner shall be responsible for all damages to the other units or to the common elements from their failure to affect such maintenance and repair. Each unit owner will be responsible for paying all taxes and assessments on their unit and for payment of all utilities provided. All utility lines, pipes, fixtures, and equipment serving only one unit shall be maintained, replaced, and kept in good working order by the unit owner.

All maintenance and repairs for which an owner is responsible shall be paid for by the owner. This includes lawn care, exterior painting, replacement of broken glass, and other related maintenance. Each owner will use a high standard of care in performing the maintenance and repairs for which the owner is responsible so that the The Spires at Red Lodge project reflects a high pride of ownership.

Owners of court yard cottage units will be required to pay dues that reflect the costs of all lawn care, snow removal, and exterior maintenance as required by The Declaration of Unit Ownership and the Montana Code Annotated. This will insure that the court yard cottages are well kept and reflect the overall image The Spires at Red Lodge, LLC intends to engender as the Red Lodge area's highest quality development.

All unit owners shall be directly responsible for any repairs to sidewalks following unit construction and will have 6 months from the receipt of a valid certificate of occupancy from the City of Red Lodge to comply with such repairs.

(b) Common Element Maintenance. The Spires at Red Lodge Homeowners Association dues cover strictly landscape maintenance associated with all parks and open space and liability insurance coverage for all common elements. All other maintenance associated with individual lots, units, culverts, unit driveways and sidewalks in front of the units is the responsibility of each individual property owner.

12. Restrictions on Use.

The following restrictions apply to the use of all units, lots, and common areas:

(a) Types of Uses Permitted. No part of the property shall be used for other than residential purposes with the exception of park side live/work units that will be zoned mixed use, except that an owner may use a portion of their own unit for a home office or studio provided that the activities therein shall not interfere with the quiet enjoyment of any other owner or occupant.

(b) Potential unit size restrictions based on fire flow. Depending upon fire flow test results for hydrants in the development unit sizes may be limited. For peak fire flows measured at between 1,500 gallons per minute and 1,750

gallons per minute for 2 hours, units of up to 3,600 square feet of dwelling space, including garages, may be constructed. For peak fire flows of between 1,750 and 2,000 gallons per minute will allow for the construction of residential units from 3,601 square feet up to 4,800 square feet including garage area.

It should be noted that the City of Red Lodge is in the process of designing and installing a bypass main to service the fire flow need of west bench residents, including The Spires at Red Lodge. An engineer has estimated that this will boost fire flows to in excess of 1,750 gallons per minute. Results of the final fire flow tests for The Spires will be posted to The Spires website under the Homeowners Association page at www.spiresatredlodge.com.

(c) Pets. Owners shall be responsible for promptly cleaning up after their pets and for any damage caused by their pet. No kennels or outside pens are allowed and The Spires at Red Lodge shall not tolerate barking or any excess noise caused by an uncontrolled pet. Bark collars with Citronella spray are a highly effective means of controlling barking dogs and are recommended. Invisible fences are also recommended and are a highly effective way to control a pet's range to comply with city ordinances.

(d) No Domestic Livestock. No domestic livestock or poultry may be kept or raised in any unit or on the common elements.

(e) Nuisances. No nuisances shall be allowed in The Spires at Red Lodge or be allowed to interfere with the peaceful possession of the property by other owners or occupants.

(f) Alterations to Buildings and Common Elements. Nothing shall be done in, on, or to any unit or the common elements which will impair the structural integrity of a building. All changes must be submitted to an architectural review committee which will initially include the developers Craig Miller and Don McLaughlin, AIA, along with any unit construction plans to insure that they conform to City Code, setbacks, and the conditions, covenants, and restrictions of The Spires at Red Lodge. Except as otherwise provided in this sub-paragraph, no unit or lot owner or occupant shall erect or place on the limited or general common areas, any building or structure, including walls, patios and decks, nor make any additions or alterations to any common areas, or to the exterior of a unit or garage without the plans and specifications being approved by both the architectural committee and the Board of Directors. In evaluating proposed additions or alterations, the Board shall consider the harmony of the external design, scale, color, and type and quality of materials in conjunction with existing structures, along with interference of view shed corridors and the impact of the improvements on common elements. If plans and specifications are not approved in writing by the Architectural Committee within thirty (30) days after submission then they shall be deemed unapproved. Owners may plant trees, shrubs, and gardens within three (3) feet of the foundation of their unit, or anywhere within the specified building envelope without the consent of the

Board. Owners may fence their yards assuming no interference with easements. Fences shall be no taller than four (4) feet, earth tone colors, and shall be made out of wood or composite materials. No chain link fences will be allowed. All fences must be approved in writing and reviewed by the Board. No personal items or equipment of any kind shall be placed on general common areas without prior written consent of the Board of Directors.

It shall be the responsibility of the unit owner to obtain the required consent of the Declarant, and to pay any review fees charged by the Declarant. This subsection will not apply to construction or landscaping initially provided by the Developer.

No antennas or satellite dishes exceeding two feet in diameter or diagonal measurement, and no air-conditioning units, wiring, or any other device shall be installed on the exterior of any building, yard, or on common elements.

(g) Hot Tubs. Hot tubs shall be permitted on decks or patios if properly screened from view of neighboring units in compliance with the provisions of Section 12 (e) above.

(h) Maintenance and Repair. Unit owners shall promptly perform all maintenance and repair work within their own units which, if not attended to, could affect any common element, and each unit owner will be responsible for all damages and liabilities created by such failure.

(i) Garbage. All garbage and trash must be placed in the proper receptacles used for refuse collection and no garbage or trash shall be placed elsewhere on any common element or outside any building; trash containers must be kept inside a garage except on collection days.

(j) Noise. Residents and their guests shall exercise care about making noise which may disturb other residence. Fireworks, while allowable by State law, are not allowed in The Spires at Red Lodge. No unit owner shall operate or allow to be operated any sound producing device in a unit or on common areas between the hours of 11 p.m. and 7 a.m.. While units are being constructed, noise made by construction workers between the hours of 7 a.m. and 8 p.m. will not be considered a violation of this restriction.

(k) Storage. No outdoor storage of any items, especially those that might increase the fire hazard, will be allowed. No outdoor storage sheds will be allowed and it is recommended that unit owners plan for additional storage space inside their garages by making them larger if additional storage is required.

(l) Unlawful Use. No unlawful use shall be made of any unit, the common areas, or any other part of The Spires at Red Lodge.

(m) Signs. Hanging signs, garments, or any non-permanent fixture to the units is prohibited. A single numerical placard identifying the address is allowable and required for safety. One "For Sale" sign may be displayed in the front yard of

each unit which is for sale. Construction signs are allowed up until the time a unit has received a certificate of occupancy from the City. The one exception to this rule will be the live/work units with mixed use zoning where construction signs of 2 ½ feet in length and one foot of width may be displayed with proof of a valid City of Red Lodge sign permit. These signs must be permanently affixed to the front of the units, no higher than 4 feet above grade, and must be made of carved wood, carved foam, and have their design approved by the Architectural Committee prior to installation.

(n) Parking. Parking shall be both on-street and off-street and never block the progress of any required safety vehicles that may need to gain access to units. All unit owners should park in their garages or driveways keeping on-street parking open for guests or visitors. Non-operating vehicles, boats, trailers, snowmobiles, motorcycles, campers, motor homes, and RV's shall not be parked in open areas or on driveways for a period exceeding 48 consecutive hours or 6 total days in any one calendar year. Improperly parked vehicles will be removed at the owner's expense and any vehicle parked in a Fire Lane will be towed immediately.

(o) Satellite Dishes and Antennas. Owners may install a small satellite dish or antenna, not exceeding 2 feet in diameter or diagonal measurement in the yard at the back or side of their home inside the building envelope, or on the exterior surface of their home, without prior approval of the The Spires at Red Lodge Architectural Committee.

(p) Receipt and processing of complaints. All complaints regarding failure to comply with these covenants should be directed to The Spires at Red Lodge Homeowners Association Board of Directors in writing.

(q) Fines. The Board of Directors is hereby authorized to adopt a schedule of fines for violation of any of the provisions contained in this Section, and for violation of any additional rules adopted by the Board pursuant to Section 13, and to assess fines against all owners who violate these provisions.

The owner of each unit shall be responsible for fines resulting from the conduct of the occupants of the unit and their guests. In the event any occupant, or guests of any occupant, fails to abide by the provisions of this Section 12, or the rules adopted pursuant to Section 13 below, the Board shall be entitled to recover from the unit owner all costs and attorneys fees incurred by it in compelling compliance with or without a lawsuit, including the collection of fines imposed by violations. All fines will become a lien on the unit of the owner against whom the fines are imposed and if unpaid, the lien may be foreclosed in the same manner as a lien for common expenses.

(r) Ditch water and obstructions. No unit owner may make any changes to, or withdraw any water from, the ditches that runs through the property. This water belongs to downstream agricultural users with legal Montana water rights

claims and any attempts to divert this water for personal use or to add any manmade obstructions to the ditches will likely be prosecuted to the full extent of the law by the ditch company and its owners.

(s) Noxious Weed Control. *The control of noxious weeds by the Owners Association on those areas for which the Owners Association is responsible and the control of noxious weeds by individual's owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101) and the rules and regulations of the Carbon County Weed District. The landowner shall be responsible for the control of the state and county declared noxious weeds on his or her own lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds after 10 days notice from the Owners Association, the Owners Association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within thirty (30) days of the mailing of such assessment. The Owners Association is responsible for control of state and county declared noxious weeds in the subdivision parks, open spaces, community areas, trails and roadways.*

13. Rules and Regulations

Administrative rules and regulations concerning the use of the common elements may be adopted and amended by the Board of Directors with a 51% approval of the members entitled to vote.

A copy of the current rules and regulations is available on The Spires at Red Lodge website on the Homeowners Association page at www.spiresatredlodge.com.

These covenants may not be repealed or amended without the prior written consent of the City of Red Lodge. The City of Red Lodge can be a party to any of these restrictive covenants and may enforce their terms.

(a.) Sidewalk Construction. All lot owners are responsible for the construction and maintenance of their own sidewalks. Sidewalks construction must comply with the following standards:

All sidewalks must be 5 feet in width. Sidewalks shall be installed over a properly compacted subgrade and consist of a minimum of two (2) inches of Portland cement concrete over a minimum base of four (4) inches of crushed course aggregate, with expansion joints every six (6) feet. The compacted subgrade and base shall extend at least two (2) inches beyond the cement surface on both sides of the sidewalk.

In the event the developer has installed the sidewalk for a lot owner, the lot owner will be solely responsible for making all sidewalk repairs required following unit construction and repairing any damage that has occurred as a result of construction.

14. Working Capital.

The Developer, as agent of the Board of Directors, shall collect from the initial purchasers of each unit, at the time of closing, an initial capital payment equal to the Buyer's prorated share of the insurance for one year plus an amount equal to one years worth of regular monthly assessments. The Developer shall be entitled to keep the prorated share of payment from the insurance if the Developer paid the premium for the unit sold for that period; otherwise the premium will be paid to the Associations insurance agent or carrier. The remainder of each initial capital payment will be delivered to the Secretary/Treasurer of the Association to provide the necessary working capital for the Association. Such funds can be used for pre-paid items including initial maintenance, equipment, supplies, organizational costs, furnishing for common areas, landscape maintenance, and other start up costs and for such other purposes as the Board may determine. These funds may not be used by the Developer to defray any of its expenses, construction costs, or other financial obligations.

Additionally at closing the Developer may collect the pro-rata share of the current year's assessments from the purchaser.

15. Liability of the Unit Owners and the Association.

The Association will not be liable to any unit owner or any occupant of a unit for any failure to provide services paid for as a common expense, or for any uninsured injury or damage to person or property caused by the elements, or resulting from water, snow, or ice which may leak or flow from any portion of the common elements or from any pipe, drain, or conduit, appliance or equipment on to a unit. The Association will not be liable to any unit owner or occupant of a unit for uninsured loss or damage, by theft or otherwise, for articles stored upon the common elements. This is not a waiver of liability between unit owners. No abatement from any assessments shall be claimed or allowed for any inconvenience or displacement for the making of repairs or improvements to the common elements, or from any action taken by the Association to comply with any law, ordinance, or any governmental directive. The Association shall not be liable to any unit owner or occupant of a unit for uninsured injury or damage to person or property caused by another unit owner or occupant. The Association shall not be held liable to any unit owner or any occupant of a unit for uninsured personal injuries or uninsured injuries to property occurring on common elements.

16. Amendment or Modification.

(a) Prior to the sale and closing of any unit, these Bylaws may be amended by the Developer. Each owner, by the acceptance of a deed to any lot or unit shall be deemed to have approved any such amendment by the Developer, and to have granted to the Developer the power, pursuant to 70-15-301 MCA to make such amendments.

(b) These Bylaws may be amended by the Association in any meeting called for such purpose or by written petition circulated among the owners; provided that no amendment shall take effect with out Developer approval until all of the units have been sold by the Developer with the exception of any unit that the Developer may hold back for personal ownership. No amendment shall take effect unless approved by at least 51% of the unit or lot owners and until a copy of the amendment, certified by the President and the Secretary/Treasurer is recorded in the office of the Carbon County Clerk and Records office; provided that the Bylaws shall always include those elements required to be included herein by the Montana Unit Ownership Act.

- (i.) The consent of at least fifty-one (51%) of eligible mortgage holders shall be required for a change in any of the following:
- (ii.) Increases in annual assessment of more than 25% of the prior assessment;
- (iii.) Reductions in the Associations reserve account;
- (iv.) Changes in insurance requirements; and
- (v) Change in any provisions which expressly benefit mortgage holders, insurers, or guarantors.

17. Bylaws are Covenants.

The provisions of these Bylaws shall be covenants running with the land and shall be binding upon all owners, their tenants and guests, for so long as the real property described herein is subject to the provisions of the Montana Code Annotated and the Montana Unit Ownership Act.

18. Conflicts.

In the event of any conflict between these Bylaws and the provisions of the Montana Unit Ownership Act, or the Declaration of Unit Ownership of The Spires at Red Lodge, the latter two shall govern and apply.

19. Enforcement and Waiver.

These Bylaws shall be enforced by the Board of Directors of The Spires at Red Lodge and in these Bylaws. In the event the Board of Directors shall fail to affect the enforcement of the provisions of these Bylaws or the Declaration of Unit Ownership or duly adopted rules and regulations, any unit owner shall have the right to do so.

Any failure of the Board of Directors, the Association or any of its members to enforce the provisions of these Bylaws or the Declaration of Unit Ownership of The Spires at Red Lodge or any rules and regulations adopted by the Association shall not be deemed a waiver of the right to do so in the future.

The losing party in any lawsuit or arbitration brought to enforce these Bylaws or the Declaration, or to foreclose a lien described in the Declaration or the Bylaws, shall be obligated to pay the reasonable attorney fees incurred by the prevailing party, together with costs incurred in the action. In the event the services of any attorney are used by the Association or its Board to enforce these Bylaws without filing a law suit or initiating arbitration, the party violating these Bylaws shall be obligated to pay the attorney fees incurred by the Association; the attorney fees shall be a lien on the unit of the violating owner. The lien may be enforced in the same manner as a lien for unpaid assessments for common expenses.

20. Definitions.

The terms used herein shall have the definitions set forth and attached to this document, as well as in the Declaration of Unit Ownership for The Spires at Red Lodge.

21. Notice.

Any written notice required or provided in the Bylaws, or in the Declaration of Unit Ownership for The Spires at Red Lodge, shall be hand-delivered, e-mailed with a return receipt requested, or mailed by certified mail, return receipt requested. All notices sent in any of the aforementioned forms shall be considered received and deemed delivered three (3) business days after the date when mailed, whether or not it was actually received by the owner to whom it was sent. The Spires at Red Lodge Board of Directors and Association members will bear no responsibility for the failure of all owners to provide timely contact information.

IN WITNESS WHEREOF, the undersigned, being the owner of the property to which these Bylaws apply and being the interim President and Secretary/Treasurer of the Association, have executed this instrument as evidence of the adoption of the aforesaid Bylaws of the Association and hereby certify that the foregoing is a true and correct copy of the Bylaws of the Association.

DATED this _____ day of _____, 2007

THE SPIRES AT RED LODGE HOMEOWNERS ASSOCIATION

By: _____
Russ Squire, President

