

Clarify Board Powers & Establish residential purpose.

Note: Add in Board meetings conducted by Roberts Rules

Bylaw clarifications needed:

NOTE: Changes in the new language is denoted with ***Bold italics*** and ~~strikethrough~~ for removed language.

Article II OBJECTS (B) Purposes: The purposes of the corporation are as set forth in the Articles of Incorporation, and more specifically as follows:

Purpose: Correct improper use of Church Universal and Triumphant registered trade name, and depict the community as a rural residential area.

To provide for the management, administration, maintenance, preservation and control of parcels, roads, and common properties within the real estate development commonly known as the **"Community of Glastonbury"** in Park County, Montana, including that property which is subject to and burdened by the Covenants (hereinafter referred to as the "Property" ***as a rural residential community***, and to promote the health, safety and welfare of the landowners and residents within the above-described Property.

Purpose: Depict that Covenants language and express intent can only be changed by a vote of the Members.

Article II OBJECTS (C) Incorporation of Covenants: The Covenants described above are incorporated herein by reference. The Association shall also have such purposes as, and shall be limited in the carrying out of its purposes as may be provided in the said Covenants from time to time. ***Changes to the Covenants, or their express intent, shall be made only through affirmative vote of 51% of the Membership Interests in good standing.***

Purpose: Express that the Board's powers are limited to exact language of the Bylaws and Covenants.

Article III Powers: In furtherance of its purposes and objects, but not otherwise, the Corporation shall have and exercise such powers as are enumerated in the Articles of Incorporation and any additional powers as may be set forth in these Bylaws. The ~~Corporation~~ ***Board of Directors in acting for the Association*** shall be limited in the exercise of its powers as may be provided in the Covenants from time to time. ***by the express language and intent of the Covenants and these Bylaws.***

Purpose: Define Members of the Association and Members of the Board of Directors.

Article IV Members, A. Members: The Members of the Association and those Members who may be considered to be in good standing shall be as defined in the Covenants from time to time.

Article VI (B). General Powers ~~and~~ Duties **and Obligations**

Article VI (B) General Powers and Duties. The business and affairs of the Association shall be managed by the Board of Directors. Such Directors shall in all cases act **and vote on issues as a Board and record all actions in the minutes of meetings. The Board** which shall have the powers and duties ~~necessary-~~ **described in these Bylaws and described in the Covenants** for the administration of the affairs of the Association and may do ~~all~~ such acts or things as are not by law or by the Covenants, Bylaws or Articles of Incorporation directed to be exercised and done by the Members. The Board shall be regularly convened and shall act by majority vote of those members present at a meeting, unless provided otherwise herein or in the Articles of Incorporation. Such powers and duties of the Board shall include, but not be limited to the following:

Article VI (B)

1. Conduct, manage and control the affairs and business of the Association **as described and constrained in these Bylaws.**
 - a. **Option** Conduct, manage and control the affairs and business of the Association **only as described in these Bylaws**
2. Make capital expenditures, enter into contracts and agreements and provide the services and functions as are necessary to operate and maintain the Property and carry out the business of the Association, provided, however tht the following capital expenditures, contracts and agreement shall be approved by the Members as provided in Article V, paragraph F, of these Bylaws.
 - a. **Individual contracts and agreements between any Member and the Association in excess of \$ 1,000**
 - b. Individual contracts and agreement with a term in excess of ~~five (5)~~ **three (3)** years.
3. Fix, levy, collect and enforce the payment of common charges and assessments to Members required to carry out the duties and obligations of the Association, including, without limitation, the operation and maintenance of the community common property and roads.
7. Register the address and phone number of the members with the Secretary of the ~~Association~~ **Board**, and notices of meetings mailed or faxed to them at such address shall be valid notice thereof;
- 10) Adopt Rules and Regulations from time to time for the conduct of the affairs of the Association and the enjoyment of the Members, provided that no Rule or Regulations so adopted shall be in conflict with Montana law, the Covenants, the Articles of Incorporation or these Bylaws, and

provided further that no Rule or Regulation shall be so construed so as to impair in any manner the lien of any mortgage or deed of trust with respect to any of the property if such Rule or Regulation is promulgated after the recordation of said mortgage or deed of trust.

13a) Receive and respond to document requests and complaints sent to the Board by the filing of a formal form, by letter or e-mail, and fulfill such requests to the standards set by law or these Bylaws within 60 days.

13b) Keep records in a good and businesslike manner record of all actions taken and responses to requests for documents or complaints and make them available to all Members in good standing within 5 days of request.

14) Do any and all things necessary to carry into effect **the actions and requirements** in these Bylaws ~~and to implement the purposes and exercise the powers as stated in the Articles of Incorporation, Covenants, Bylaws, Rules and any Land Use Master Plan adopted pursuant to the Covenants;~~

16) Adopt, **and properly name as** Rules from time to time for the conduct of **Board Members** at any meeting, election or vote in a manner that is not inconsistent with any provisions of the Covenants, Articles of Incorporation or these Bylaws.

16a) Annually present to Members, for Membership approval or confirmation, the manner in which the Board will accept Member comment on topics up for a vote by the Board and the methods by which the Board will accept and act upon agenda items requested by Members.

Article VI (E) Vacancies. Vacancies in the Board of Directors between Annual Meetings, caused by any reason, shall be filled by a vote of a majority of the remaining members of the Board at a ~~Special Meeting of the Board,~~ **the next scheduled Board meeting held before the Membership.** ~~for that purpose, even though the members present at such meeting may constitute less than a quorum. Each person so elected shall be a member of the Board of Directors for the remainder of the term of the member whose term he is filling and until his successor shall be elected and shall qualify until the next Annual Meeting wherein the position shall be filled by a vote of the Membership in good standing~~

Article VI (F) Directors' Meetings. **There shall be a monthly Directors meeting unless cancelled by a vote of the Directors.** All business of the Board other than confidential matters (~~in the discretion of the Board as described a Closed Meeting Policy/Rule approved by Membership vote~~) shall be conducted ~~in an open meeting~~ **following state law pertaining to governmental bodies.** Meetings of the Board may be called ~~at any time~~ by the President or a quorum of Directors **after presenting an agenda and giving the Membership 5 days notice** and may be held at any time and place. ~~upon the giving of reasonable notice.~~ Any or all Directors may participate in a meeting by or conduct the meeting through the use of any means of communication by which all Directors participating may simultaneously hear each other

during the meeting. A Director participating in a meeting by this means is considered to be present in person at the meeting.

Article VI (G) Notice. Notice of meetings shall be **posted on the Association web site**, mailed, delivered personally or faxed, **or e-mailed to the Membership requesting digital notification**, by the Secretary, or other person so designated by the President, to each Director **and the Membership** to be received not less than ~~three (3)~~ **five (5) business** days before any such meeting. Notice of a Special Meeting shall State the purpose thereof, place, date and time. If sent by mail, the notice shall be deemed to be delivered on ~~it deposit~~ **the date stamped by the U.S. Mail**. If notice is sent by fax, it is deemed to be delivered when the fax transmission is complete to the fax number last given in writing to the Secretary by the directors. **If sent by e-mail, it is deemed to be delivered on the date recorded by the e-mail program as sent.** The notice may be waived by any Director by signing a written waiver to be filed with the Minutes of the Meeting. If all of the Directors attend a meeting or if all of the Directors sign a written waiver, the requirement of notice shall be deemed thereby waived, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting had not been lawfully called or convened.

Article VI (I) Committees The Board of Directors may from time to time appoint such committees from among the board of Directors, the Members of the Association, or others as it may, in its discretion, determine is appropriate to assist in the conduct of the affairs of the Association. Only Committees of directors constituted pursuant to the Montana Nonprofit Corporation act may exercise the authority or powers of the board of Directors and they may do so only to the extent authorized by the Board. Such Committees of Directors are formed by the Board appointing members to serve on them. Each Committee of Directors must have at least two (2) members who are Directors and who serve at the pleasure of the Board. **Committees "of" the Board may also have Landowners as members of the Committee serving at the pleasure of the Board.** The creation of a Committee of Directors and the appointment of members to it must be approved by the greater of a majority of all the Directors in office when the action is taken or by any specified number or majority of Directors when required by the Articles of Incorporation or **these** Bylaws.

The Board may also appoint any advisory committees it wishes, which committees need not include any Directors.

The provisions herein which govern meetings, actions at meetings, notice, waiver of notice, quorum and voting requirement of the Board shall also apply to Committees of Directors and their members.

All Committees formed by the Board shall be established to achieve specific goals or purposes documented in a formal charter for that Committee. Committee charters will be confirmed, modified, or rescinded annually at the first meeting after the annual Member meeting.

A Committee of Directors may not authorize distributions; approve or recommend to members dissolution, merger, or the sale, pledge or transfer of all or substantially or all of the corporation's

assets; elect, appoint or remove Directors or fill vacancies on the Board or on any of its committees; or adopt, amend or repeal the Articles of Incorporation or **these** Bylaws.

All committees shall keep Minutes reflecting the committee members **and others** attending and the actions taken. **The minutes of committee meetings shall be presented to the Board and Membership and those minutes will have the same legal requirements as placed upon the Board.**

Committees which the Board may form include, but are not limited to the following:

1. Financial Committee, ~~initially~~ chaired by the Treasurer, to do financial planning, budgeting, collecting of assessments and such projects by be given to that committee, **through amending of its charter by the Board.**
2. Project Review Committee, ~~initially~~ composed of ~~the Board of~~ Directors **and landowners appointed by the Board**, to oversee the development of the ~~Community's~~ Community according to the Master Plan and the **Covenants, Rules and Regulations** regarding architecture and land use. **Chairman of the Committee will be appointed by the Board.**
3. ~~Architecture Subcommittee~~ DELETE ALL
4. Legal Committee composed of Directors **and landowners appointed by the Board** to suggest Rules for the Community and to attend to legal matters and Community elections. **The Legal Committee may enter into closed meetings according to the Closed Meeting Criteria approved by Membership vote.**
5. ~~Community Preparedness Committee~~, DELETE ALL
6. Communications Committee, to oversee public relations and intracommunity communications and county relationships.
7. ~~Community Property Committee~~ DELETE ALL
8. ~~Community Life~~ DELETE ALL
9. ~~Economic Development~~ DELETE ALL

Article VI (M) Voting. At all meetings of the Board of Directors, each Director is to have one vote. **The President will vote as required in the Settlement Agreement for DV-2011-193.**

Check Liability N & O

Article VI (P) Meeting Agenda. The order of business at any regular or Special Meeting of the board of directors shall include:

1. **Call to order with pledge of allegiance and moment of silence.**
2. **Call for Member comments and addresses to the Board as an Open Floor Comment Period.**
3. Reading and disposition of any unapproved Minutes;
4. Reports of Offices and Committees;
 - a. **Vote on items requested by Committee Chair**
 - i. **Call for Member Comments before votes are called.**
5. Ombudsman report(s)'

6. Unfinished Business;
7. New Business; **finishing with a call for future agenda items from Members;**
8. **Second** Open Floor Comment Period; and
9. Adjournment.

Article VII Officers

(a) Number. The offices of the ~~Association~~ **Board of Directors** shall be: President, Vice President, Secretary and Treasurer, and such other subordinated officers as the Board of Directors may from time to time elect. Each officer shall be elected for one year and hold office until his successor is elected and qualified. One person may hold one or more offices provided that their duties are not incompatible, except e the President who shall hold any office. All officers except the Secretary must be Members of the Board of Directors.

(B) Election. The officers of the ~~Association~~ **Board of Directors** shall be chosen by the ~~Board of directors~~ Membership and elected ~~annually at the first meeting of the Board of Directors following each Annual Meeting of the Members~~ **through a mail in ballot sent out immediately after the Annual Member meeting**. Except as hereinafter otherwise provided for the filling of vacancies. Each officer shall hold his office until his successor has been chosen, until he resigns or is removed in the manner herein provided.

GLA Covenants and Master Plan

Issues and Suggestions for Review

Note: Covenants are listed in numerical order, unless otherwise noted.

References to the Master Plan are highlighted in gray.

SECTION 2. NATURE AND EFFECT OF COVENANTS

2.06. Adoption of Land Use Master Plan.

“...When adopted, the Master Plan shall have the full force and effect of the covenants in the regulation of land uses, development and growth in the Community, and shall be enforceable by the Association to the same extent as if set forth fully herein. Any portion of these covenants and any rule derived from these covenants may be incorporated into the Master Plan or may continue to exist independently of the Master Plan and shall be given full force and effect.” ^ **Key phrase**

2.07. Rule Making.

“The Association shall have the authority to adopt reasonable rules and regulations which are consistent with the intent and enabling provisions of these covenants or the Master Plan.”

SECTION 3. DEFINITIONS AND SHORT NAME REFERRALS

3.02. Apartment. A building that contains two or more dwelling units for rent or for lease, exclusive of any condominiums.

3.07. Condominium. A form of ownership with right of conveyance of a dwelling unit in a multiple-unit project with the land and all other parts of the project held in common ownership or use with the owners of all of the dwelling units, exclusive of any apartments.

3.12. Dwelling Unit. A structure or portion of a structure, normally consisting of living area, bathroom, and cooking facilities, designed for occupancy by a single family. The term includes a boarding house, but not the individual living rooms within a boarding house that do not contain a bathroom and cooking facilities. (No specified limit to number of kitchens, bathrooms or suites). *Think about Scariano.*

3.17. Master Plan. The Glastonbury Land Use Master Plan which is intended to direct the future growth and development of the Community, including all amendments thereto.

3.20. Membership Interest.

c. A condominium unit. (Existing condominiums are grandfathered)

0.1 Description of Location

Paragraph 6 – The schools in this paragraph no longer exist.

1.1 Residential Housing

“Maximum residential development for a subdivided parcel is limited...”

Suggestions: Original Parcel may need to be defined. Most folks have no idea what that means. And, the subdivided parcel depends on the size of the parcel with respect to the number of dwellings per the Density Schedule...

The **Master Plan 1.2 Duplexes**

“Duplexes and other multi-family housing are not allowed in the Community.” Does this include the above-referenced, “**Apartment, Condominium, Dwelling Unit?**” (See **Covenant 9.05 Condominium and Multi-Dwelling Projects.** Apartments are defined as such).

3.24. Structure. Any construction, building, dwelling, tower, shed, basement or enclosure with a roof; whether above or below ground, including parts of and additions to such structures.

5.07 Commercial Activity.

5.08 Cottage Industry and Light Manufacturing.

1.3 Mobile Homes

Covenant 9.04 contradicts the Master Plan.

Master Plan 1.6 Cottage Industries and 1.7 Light Manufacturing

5.09 Institutional Activity.

Cite Covenant 5.07 a.- i. 5.08 and 5.09 on PRC **Form I - Commercial/Institutional**

SECTION 6. STRUCTURES AND IMPROVEMENTS

6.01. Association’s Approval

Compare entire paragraph a. - c. with

Master Plan 2.0 Residential Design Criteria

Project Review

6.02. Setback Requirements

Outdated covenant as per the **Master Plan 2.0 Residential Design Criteria/Setbacks**

6.03 Utilities.

- Relevant PRC Forms need to conform to this covenant to say, “Pipelines and gas lines shall be placed **at least 36” 12”-18”** beneath the surface.” **Covenant is OK.**

6.05 Mobile Homes. a. – b. This covenant conflicts with the **Master Plan 1.3**

6.06 Fallout Shelters.

Is not a fallout shelter a “structure” as defined in Covenant **3.24.?**

6.07 Maintenance. Conflicts with **Section 8. Roads and Easements, 8.01. Platted Road Easements, c. and h. Covenant 11.02. Purpose of Assessments** also conflicts with the wording in **Covenant 6.07.**

SECTION 9. SUBDIVISIONS OF PARCELS

9.02 Subdivision Defined. Conflicts with the **Master Plan 1.3 Mobile Homes.** (Former mobile home parks and condominium projects are grandfathered).

Covenant 9.04 explains the *only future exception* for mobile home parks and RV parks. **NO others are allowed.**

Covenant 9.05 Condominium and Multi-Dwelling Projects. Directly conflicts with the **Master Plan 1.2**

Covenant 9.06 Review Process. The time allowed for approval is 30 days from submission of all required materials.

This differs from the **Master Plan 2.0 Project Review,** page 6., where approval in two weeks is suggested in the first paragraph. **Also missing here is required approval by GLA Board for all projects** on page 7.

Section 12. GENERAL PROVISIONS

Covenant 12.01 Variances, Waivers.

Covenant 12.01, is overarching and needs to be compared with and differentiated with the following ones in the **Master Plan - 4.0 Variances, 4.1 Variance Process, 4.2 Criteria for Granting a Variance and 4.3 Variance Project Approval.** The latter four are more restrictive.

Master Plan 2.0 Residential Design Criteria

Project Review

This section addresses preliminary reviews by the Project Review Committee, but nowhere in the Master Plan is the criteria FINAL APPROVAL stated.

A clause about Construction Bond refunds is also missing.

Master Plan 2.1 Residential Design Recommendations

Driveways and Parking – “Driveways and parking areas are recommended to be gravel, asphalt or concrete.” Need to add something like, “with proper foundations in accordance with GLA Road and Driveway Standards, posted on the GLA website.” Or insert the link address.

Master Plan 2.1, page 7. A “Building Extension,” is not “An Addition.” There is no definition for an “Addition” even though “Addition” is currently shown on PRC Form A on the GLA website.

Driveways and Parking – Add the link to GLA Road and Driveway Standards

[GLA Road and Driveway Standards](#)

*The Preliminary Project Review Form must say that contradictions between particular regulations in the 1997 GLA Covenants vs the 2007 Master Plan are superseded by the latter.

“View Shed” is one word, “Viewshed.” Correct throughout.

MP Needs to include the Signs, Lighting and Fence Standards

Note: Fences are not mentioned at all. They are supposed to be exempt for Project Reviews. State law has to be adhered to. Restrictions on height; no spite fences, etc.

<http://www.glamontana.org/signs-lighting-and-fence-standards/>

MP 5.1 – Add Standards and Policies-refer to GLA website

MP 5.4 – Schedule of Road Impact Fees needs to be stated. After all, the PRC charges landowners road impact fees for each project.

Master Plan: 5.5: Corrections – Remove Architectural Review Forms; Update website address from, “www.mt-gla.org” to [glamontana.org](http://www.glamontana.org)

Master Plan 6.0 Definitions.

Grandfather Clause, was/is often misunderstood and/or misused as giving landowners carte blanche to have, “The inclusion of any pre-existing structure, which is already in use and **which was in compliance with all applicable laws, rules, regulations, permits or applications required at the time of installation, through the Glastonbury Landowners Association, and all county and state requirements.**”

Mobile Home Park – *No longer* allowed except for GAV II. Should this definition be qualified as per **Covenant 9.04**?

Pre-cut Home – “...transported to the site and assembled.” Add- “**on a permanent foundation.**”

Setback, page 16. Add link: **DNRC Regulations Handbook**

Subdivision Major – “A variance is required for a Major Subdivision.” Add: “**As is approval from Park County.**” **A Major Subdivision is more than 5 separate parcels.**

Tract – To be consistent with the covenants, add “**Parcel. Lot is for a trailer per Appendices A & B following the Covenants.**”

Master Plan 7.0 Codes and Standards

Maybe add: **DEQ and DNRC**

Terms on GLA website that need to be added into Master Plan, as the PRC has forms for: Additions, blasting, built-in pools, Family Conveyance (Form D), greenhouses, ponds.

Driveway Form E needs to specify 12-inch minimum required diameter for culverts.

Section needed **specifically for - Blasting (Form K) - in accordance with state law.**

Note:

(Discrepancies in Plat Maps) To be continued...

GLASTONBURY LANDOWNERS ASSOCIATION, INC.

Recommendations for Covenants & Master Plan Changes October 22, 2015

NOTE: Changes in the Declaration language are denoted with *italics* (new language) and ~~strikethrough~~ (removed language.)

PROPOSED SECTION 3 DEFINITIONS CHANGES AND OTHER SECTIONS TO CONFORM WITH SECTION 3 CHANGES

[Governing Documents Committee (GovDocCmte) notes: Delete “3.11 Development” since the term is redundant to the “community” definition and ‘development’ is used in two ways throughout the Covenants. Replace “development” in the following areas with “community” and re-number definitions section accordingly.

Section 6.06 is included since it is currently affected by this change; however this 6.06 language would be superseded if the overall revisions proposed for Section 6 are approved.]

[Lawyer input: changing “development” to “community” is OK since “community” is already defined and its use here is in line with that definition.

Add a definition for “site preparation” to define its use in proposed changes to Section 6.01, since staking out a building is part of the common definition of site prep, however the GLA does not want landowners to take that step before an application has been submitted and given preliminary approval.]

3.11. ~~Development.~~ ~~The Community of Glastonbury.~~

3.24. *Site Preparation.* *The first phase of construction-related activity for a structure and may include excavation, blasting or rough grading. This definition does not include staking a building site.*

6.06. ~~Fallout Shelters.~~ ~~It is~~ *was* the policy of this ~~development~~ *community* to recommend but not require the construction, installation or availability of a fallout shelter underneath, behind, in the basement of or within reasonable proximity to every dwelling or habitation placed upon any parcel.

7.03. ~~Recreational Use of Platted Road Easements.~~ The platted road easements described in Section 8 and shown on the Certificates of Survey of the Community, outside of improved roadway surfaces for motorized traffic and ditches, may be used by Landowners and their families and guests for recreational travel by foot and horseback throughout the ~~development~~ *community*. Any scenic turnouts or picnic areas placed on the easements by the Association are for the recreational use of all Landowners.

9.06 ~~Review Process~~ f. A disapproval based upon failure to meet the minimum standards of the ~~development~~ *community*, inconsistency with the founding principles of the Community or with this Declaration.

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PROPOSED CHANGES TO COVENANTS SECTION 5:

[GovDocCmte notes: Section 5.01 doesn't belong in the Covenants. Putting this in the Covenants with the word "shall" shifts a burden of enforcement on to the GLA when these items are already governed and enforced by the state or the county. Yet if we simply change the "shall" to "may" to reduce the GLA's liability of enforcement, we would then have the GLA giving permission to break laws, which is also a problem.]

SECTION 5. RULES OF HEALTH, SAFETY, NUISANCE AND LAND USE

~~**5.01. Laws, Ordinances and Regulations.** Each Landowner shall abide by and obey all laws, regulations, rulings and ordinances lawfully enacted by the State of Montana or any political subdivision thereof, including Park County, and including, but not limited to, fire, health, safety and sanitary laws and regulations; except that a Landowner may in good faith vigorously challenge the legality of any such law which he believes to be unlawful or unconstitutional.~~

[GovDoc Comm Notes: Fire rules are already set and enforced by County and the Fire Marshall. We can put a link to the FireWise site on the GLA website to inform landowners of the laws. Some of these are also unenforceable by the GLA.]

~~**5.02. Fire Rules.** The following fire rules shall be binding upon every parcel and are the responsibility of each Landowner:~~

~~a. When the U.S. Forest Service or other public agency fire danger designation for the area is high, outdoor fires shall be burned only in an enclosed facility or receptacle having a properly operating and approved spark screen;~~

~~b. All fireplaces, whether inside a building or outdoors, shall have an approved spark screen covering the top of the chimney;~~

~~c. Chimneys and wood burning stove flues shall be cleaned regularly to reduce the hazard of house fires;~~

~~d. Any condition which creates a fire hazard shall not be permitted on a parcel. It is recommended that all structures be surrounded with an adequate fire break;~~

~~e. A Landowner shall be liable to any damaged party for any negligently caused fires escaping from his parcel, except for those fires caused naturally by "act of God" or by an instrumentality outside of his control, such as lightning or a shorting power line crossing his property, etc.; and~~

~~f. All open fires or burning must be in compliance with applicable laws and regulations. Permits shall be obtained by Landowners when required.~~

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[GovDocCmte Notes: The sections eliminated are an area of County Sanitarian jurisdiction.]

~~**5.03 5.01. Sewage Disposal.** Each Landowner shall dispose of domestic sewage in a manner approved by the Association and any public health authorities with jurisdiction, including the Park County Health Department. No outhouses shall be allowed except as permitted by county and state regulations.~~

~~**5.04 5.02. Refuse Disposal.** All refuse, rubbish, trash, garbage and waste shall be kept, disposed of or regularly removed in a sanitary manner. Refuse shall not be allowed to accumulate so as to cause odor or unsightliness.~~

~~**5.05 5.03. Nuisances and Eyesores.** Nuisances and eyesores shall not be allowed. It shall be in the Associations discretion and authority to determine what a nuisance or an eyesore is and to require removal, correction or abatement by the Landowner upon the giving of reasonable notice as provided in Section 10.02. Specifically, the following conditions shall not be allowed on parcels within the Community:~~

- ~~a. Abandoned trailers, mobile homes and other structures, junk (inoperative or unregistered) cars and equipment, scrap piles, brush piles, etc., in open view of platted roads and other parcels or land; and~~
- ~~b. Noxious odors, excessive noise or vibration, nuisances or other annoyances which, in fact, are infringing upon another's quiet use and enjoyment of his land.~~

~~**5.06 5.04. Industry and Mining.** "Industrial" activity, strip mining, quarrying, excavating and other activities which produce smoke or chemical wastes, pollute water and air or tend to degrade the environment shall not be allowed in the Community, except for minor activities in connection with the building of structures and improvements on a parcel or as is otherwise approved by the Association from time to time.~~

~~**5.07 5.05. Commercial Activity.** It is the intent of these covenants that the Community of Glastonbury should be a predominantly rural/residential community that allows for the reasonable and productive exercise of free enterprise by its residents, and which both encourages fixture orderly growth and protects valuable rural and residential land qualities. The restrictions on commercial activity shall include the following:~~

- ~~a. Such activity may not be a nuisance or an eyesore;~~
- ~~b. Commercial business activity other than that contained within a dwelling unit must be concealed by fence, wall, landscaping, shrubs, land berms or the like as required by the Association from time to time;~~
- ~~c. Signs may be erected only as allowed by Section 6.04 or as otherwise permitted by the Association;~~

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- d. Adequate off-street parking must be provided as defined by the Association or in the Master Plan;
- e. The Association may establish setback requirements for commercial structures from time to time that are substantially in excess of those required by Section 6.02 in order to prevent the unsightly accumulation of commercial establishments along platted roads and boundary lines in a predominantly rural/residential community;
- f. Bars, lounges, liquor stores, stills, and the production, sale, service or use of tobacco products, liquor, wine, beer or other alcoholic beverages in commercial establishments shall not be permitted;
- g. Adult bookstores and the sale or display of pornographic literature or materials shall not be permitted;
- h. Establishments which provide, feature, or allow gambling, nude dancing, stripping, pornographic or X-rated films, lewdness or any illegal activity shall not be permitted, and the Association shall have the discretion and authority to require that any such commercial activity be terminated; and
- i. Additional restrictions upon or regulation of commercial activity shall be as set forth in the Master Plan.

5.08 5.06. Cottage Industry and Light Manufacturing. Nothing stated herein shall prevent a Landowner from carrying on cottage industries, home occupations, home businesses, professions, warehousing and activities of light manufacturing located in a Landowner's dwelling or auxiliary buildings which produce no substantial sound, odor or vibration such as to be a nuisance to others and which are not in violation of any other provision of these covenants.

5.09 5.07. Institutional Activity. Institutional and quasi-public activities, improvements and structures, such as schools, churches, hospitals, museums, libraries, fire stations, community centers and services, etc., shall be allowed as provided in Section 6.01, and otherwise only in accordance with the Master Plan. However, nothing provided herein shall prevent Landowners from conducting lawful religious, educational and charitable activities with their own families and guests on their own property or from erecting and maintaining private chapels and shrines thereon.

5.10 5.08. Live Timber. Except as provided below, natural live timber may not be commercially harvested or cut without the approval of the Association.

- a. Certain parcels may be evaluated by the Association as being "moderately" or "heavily" timbered. Trees may be cut for firewood, fencing or building structures on these parcels only - however, no more than thirty-three percent (33%) of the original amount of timber on a given parcel may be cut. Deadfall, standing dead and diseased trees shall be cut before healthy living trees. Trees native to a parcel may not be commercially harvested or cut for commercial firewood and hauled away.

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- b. Trees may be cut and removed on any parcel in small quantities in order to clear sites for construction, roadwork and firming.
- c. Trees may be planted, grown and then commercially harvested by a Landowner on any parcel.

[GovDocCmte Notes: Section 5.11 is under the jurisdiction of the Montana DEQ. The Covenants do not have the level of authority to extend to the GLA power over water rights. Section 5.12a is under the jurisdiction of the Montana DEQ. The Covenants do not have the level of authority to extend to the GLA power over spring water rights. Section 5.12d is under the jurisdiction of the Montana DEQ and adds a liability to the GLA that is unnecessary, since the official well records can be found on a Montana website. Section 5.13 mineral rights are governed by a higher authority than the Covenants, further, the GLA doesn't have the right to allow "noncommercial use of any of the minerals existing within six (6) feet of the surface."]

[Lawyer input: Added clarifying language to "5.12 Subsurface Water Use" since the original language was not that clear or specific.]

~~**5.11. Surface Water Use.** Except for any existing surface water rights and permits as of the effective date hereof, Landowners may not newly appropriate or use the surface water on a parcel without the prior approval of the Association. All appropriations and use of surface water shall be in accordance with state law and shall be subject to all prior valid rights.~~

~~**5.12 5.09. Subsurface Water Use.** Landowners are entitled to appropriate and use subsurface water by drilling wells in accordance with state law.~~

~~a. Spring development may only be made with the approval of the Association and must be made from an underground water source or aquifer, or at the point of discharge, from within the parcel. Others may have already appropriated and reserved certain spring water or spring-fed surface water for irrigation, stock water, and other uses. Such spring water may not be appropriated or used by a Landowner without approval of the owner(s) of such water rights.~~

~~b. If the Association determines that a scarcity of water exists, it may implement a water-use plan to remain in effect for the duration of the scarcity. In such an event, a use priority shall be given to the necessities of life, and all Landowners shall be required to abide by the terms of such a plan.~~

~~e. Any parcel in the Community which does not have sufficient ground water available to supply the needs of at least one dwelling (a "dry parcel") may, as a matter of right, obtain ground water from the most appropriate neighboring parcel. To establish such a right, the Landowner of the dry parcel must have tried and failed to drill a well on his own parcel through a commercial driller at least two times and must submit the results of a study *to the Association, such as* by a qualified geologist, *electro-seismic survey* and or a dowser's report, if requested, showing the likelihood of no water on his parcel and the likely location of ground water on a neighboring parcel. The Association shall arbitrate any disagreements between the Landowners of a dry~~

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parcel and a neighboring parcel in the allocation of ground water, and its decision shall be final and binding. In addition, the Landowner of the neighboring parcel to be used shall have the option of:

- i. Sharing his existing well or a planned common well with the dry parcel; or
- ii. Requiring the Landowner of the dry parcel to drill his own well, which well must be located as close as is reasonably possible to the common boundaries of the parcels or in a location preferred by the owner of the neighboring parcel.

If a common well is shared, the Landowner of the dry parcel must pay his fair share of all reasonable expenses incurred in the establishment of such well and all costs associated therewith. All necessary and reasonable easements for placing and maintaining any such well and transporting said water to the dry parcel shall be given by the owner(s) of the neighboring parcel.

~~d. Each Landowner that successfully drills a well is required to provide the Association with a report that states the location, depth, flow, quality and cost of the well. A similar report is required for drilling operations that fail to produce a well. This information will be kept in a well log by the Association for inspection by prospective purchasers and other Landowners.~~

5.13. Mineral Rights and Development. ~~The original developer of the Community has expressly excepted and reserved all oil, gas, coal, hydrocarbons, geothermal water and energy, and other minerals, together with the mineral and geothermal rights thereto owned by it, and the right to appropriate, extract, develop and use the same. After the effective date hereof, such reservation shall not include the right of surface entry on land not owned by the owner of the mineral rights without the consent of the Landowner. The Association may permissively allow the reasonable noncommercial use of any of the minerals existing within six (6) feet of the surface by a Landowner for use on the parcel owned, provided that such use is reasonable and will not exhaust or denude the property of its mineral resources.~~

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PROPOSED CHANGES TO COVENANTS SECTION 6.

[GovDocCmte Notes: In general, taking out anything that is governed by other standards or higher authority. 6.01 added wording about projects exempt from Association review to reduce the burden on both the association and landowners for small buildings such as a garden shed. This change retains the review requirement for any dwelling since this affects the assessment status of the property. 6.07 reduced the areas the Association is liable for overseeing and removes wording that is subjective.]

[Lawyer input: In Section 6.05, define Mobile Home using Montana law, not the Master Plan.]

6.01. Association's Approval. A site plan and building plans satisfactory to the Association must be submitted by a Landowner to the Association for review and approval prior to beginning *site preparation and/or* construction of any structure, the placing of any ~~mobile~~ *modular or manufactured* home on a parcel, *creating roads and driveways*, or the carrying out of any other project for which review is required by the Master Plan, these covenants or any rule or regulation adopted in accordance therewith. The Association may retain a copy of the said plans in its files. The design of any improvement shall be safe and in accordance with this Declaration and the Master Plan.

Projects exempt from Association review are:

- *Landscaping,*
- *A structure 200 square feet or less that is not a dwelling unit nor changes the status of any building to a dwelling unit, and meets the setback requirements.*

The Association shall conditionally or unconditionally approve the plans and make any recommendations deemed necessary or advisable, unless:

- a. The plans are incomplete, are in violation of or are not in accordance with these covenants, the Master Plan, or any rule or regulation adopted in accordance therewith;
- b. The proposed structure is, in the Association's opinion, unsafe, unsound, could pose a menace to the safety and health of other persons, or requires the assistance or input of an engineer; and/or
- c. The plan or the proposed structure is unlawful in any way.

The Association's approval of any plans, together with any conditions or recommendations, shall not constitute an acceptance of any liability or an approval of the design, engineering, safety or legality of the structure or project - and the Association is hereby exempted from liability therefor.

6.02. Setback Requirements. No structures shall be placed within 25 feet of any parcel boundary line or 15 feet of any easement crossing a parcel, without prior approval of the Association. This applies to buildings and major improvements but not to fences, landscaping, roads, driveways, walks, sprinklers, etc.

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6.03. Utilities. All electrical and telephone lines, ~~water and sewer pipelines, septic tanks, eisterns, drainfields, gas lines and other utilities~~ installed after the effective date of these covenants shall be placed underground. ~~Pipelines and gas lines shall be placed least 36" beneath the surface. Electric and telephone lines shall be placed at least 12"–18" beneath the surface, unless adverse geologic conditions require otherwise. Propane or other fuel tanks, windmills, tanks, pumps and the like may be placed above ground.~~ In any event, the installation of all utilities and lines shall be in accordance with the Master Plan and all applicable statutes, regulations, ordinances, rulings and other code requirements in effect at the time of the installation.

6.04. Signs and Billboards. The design and location of all exterior signs shall be in accordance with written guidelines adopted by the Association or shall be specifically approved by the Association prior to installation.

6.05. Mobile Homes/House Trailers. *No further mobile homes as defined in Montana Code Annotated § 15-24-201 (2015) and any amendments thereof are allowed in the Community outside of the Golden Age Village. Mobile homes existing prior to February 7, 2007 are addressed in the Master Plan. ~~There are restrictions on the use of mobile homes and trailers in the Community, including, but not limited to, the following:~~*

a. ~~The Association shall enforce rules that require Landowners to provide a roof and exterior facade on mobile homes that are more in keeping with the general character and quality of the Community as defined in the Master Plan, or to conceal them from view from roads and other parcels by landscaping, earth berm, fence, wall, etc. Landowners are encouraged to landscape their parcel and obtain quality mobile homes. Exterior wood or wood-like finishing on mobile homes is preferred.~~

b. ~~Mobile homes and trailers must also meet any further standards set forth in the Master Plan.~~

6.06. Fallout Shelters. ~~It is the policy of this development to recommend but not require the construction, installation or availability of a fallout shelter underneath, behind, in the basement of or within reasonable proximity to every dwelling or habitation placed upon any parcel. *Fallout shelters are allowed in the community. Installation of new ones subject to the project approval process as described in Section 6.01.*~~

6.07. Maintenance. All structures and improvements, ~~including roads, fences, ditches and agricultural structures,~~ shall be properly maintained and kept in good condition by Landowners so that they are not allowed to become dangerous, unsightly or unsanitary, or to cause a fire hazard.

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PROPOSED CHANGE TO COVENANTS SECTION 11.06:

[GovDocCmte Notes: This section received a lot of feedback in the 2014 survey and in Board meetings requesting the changes to the interest rate, the way it is computed and the penalty.]

[Lawyers' input: The current, relatively high interest rate and the compounding of interest could be considered usurious and may not be upheld in court. The Association should change it if we intend to pursue collection of past dues in court.]

11.06. Effect of Nonpayment of Assessment. If any assessment is not paid by midnight on the date when due, then such assessment shall become delinquent and shall, together with any interest thereon, become a continuing lien on the parcel which shall run with the land, if the assessment remains unpaid for thirty (30) days after such due date, ~~a five percent (5%) penalty will accrue on the amount of the payment due and~~ the assessment shall thereafter bear interest from the due date at the rate of ~~one and one half percent (1-1/2%) per month, compounded monthly~~ *set by the Prime Rate as posted in the Wall Street Journal or its successor as of December 1st of the year preceding the next assessment year plus three percent (3%) per year, simple interest.* The obligation to pay any assessment, penalty or interest of the current Landowner of any property in the Community subject to assessment shall not be affected by any conveyance or transfer of title to said parcel unless waived or agreed upon in writing by the Association. The Association may bring an action at law against a Landowner to collect delinquent assessments, penalties and interest and/or to foreclose on the lien against the parcel, and there shall be added to the amount of such assessment the cost of collecting the same or foreclosing the lien thereof, including reasonable attorney's fees.

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PROPOSED CHANGE TO COVENANTS SECTION 12:

[**Lawyers' input:** Since "necessary" is too nebulous and hard to defend in court, the better language is "would create a reasonable hardship" since it is easier to define and is in keeping with intent of this Section.]

12.01. Variances, Waivers. The Association reserves the right to waive or grant variances to any of the provisions of this Declaration, where, in its discretion, it believes the same ~~to be necessary~~ *would create a reasonable hardship* and where the same will not be injurious to the rest of the Community.

SIMILAR RECOMMENDED CHANGE TO THE MASTER PLAN 4.2 CRITERIA FOR GRANTING A VARIANCE:

[**Lawyers' input:** Waivers are never good, but waivers are necessary at this point since the Master Plan has problems that need fixing/eliminating, and members voted in favor of the Master Plan because there was a variance provision for unusual circumstances. (For instance, there is at least one property that is 100 feet wide that cannot be built upon due to the increase in setbacks in the Master Plan.) Until the Master Plan is changed the proposed language is better by establishing this as criteria to consider. Since not all situations requiring a waiver will meet all five criteria, the current language defeats the intent of the section.]

4.2 Criteria for Granting a Variance. A variance may be granted upon ~~finding compliance with all of~~ *considering* the following criteria:

1. Exceptional or unusual circumstances exist over which the Landowner has no control (for example, topography).
2. The requested variance is not materially detrimental to neighboring properties; or if the requested variance may adversely affect neighbors, the Landowner requesting the variance may offer mitigating actions to help offset any detrimental effect of the requested variance, subject to review by the affected Landowners and the Association Board.
3. The variance requested is the minimum variance to remedy a particular circumstance.
4. No more than one (1) variance process will be allowed per Original Parcel for reducing acreage size below the minimum acreage or that would increase the number of Tracts/Lots beyond that which is established in the Residential Topographical Areas and Density Schedule (Section 3.5).
5. All variances must meet local, county and state requirements.

Exhibit "A"

Range 8 East

Covenants - 1982 vs. 1997

1982-Parcels missing: 41, 54, 55, 56

1982-Parcels listed: 49, 50

1982 Covenants, See Exhibit "B" on page 37 has additional parcels listed.

1997-Parcels missing: 49, 50

1997-Parcels listed: 41, 54, 55, 56

1-49, inclusive of GAV is specified as Parcels 3 and 4 (49 lots)-COS No. 615 A, plat on file in Park County

Exhibit "A"

Range 7 East

Covenants - 1982 vs. 1997

1982-Parcels missing: 20, 21, 23, 96, 97, 98, 102

1982-Parcels listed: 10, 12, 13, 14, 15, 16, 17, 28

1997-Parcels missing: 10, 12, 13, 14, 15, 16, 17

1997 Parcels listed: 20, 21, 23, 96, 97, 98, 102

1997 Parcels: 103, 104, 105, 106, 107, 108, 109-as described in and shown on Certificate of Survey No. 981

Project Review Regulations

Violations and Fines

Preliminary Draft June 29, 2020

The goals of the Glastonbury Landowners Association (GLA) are to preserve the nature and character of the community, provide services, such as snowplowing and road maintenance, and to enhance property values.

To that end, the Project Review Committee (PRC) works with landowners to ensure that building projects conform to stipulations in the GLA Covenants and Land Use Master Plan.

When landowners circumvent the project review process, whether accidentally or deliberately, it impacts the entire community.

Therefore, these regulations define the process by which the Association will work with landowners to ensure new projects are properly implemented and the steps the Association will take with respect to construction projects that are non-compliant and violate the above-named governing documents.

The Project Review Application Process and Non-Compliance

1. A project review application and all relevant forms must be filled out by the landowner and submitted to the Association and the Project Review Committee along with appropriate fees, to determine that the proposed work complies with the governing documents.
2. The Association's administrator works with the landowner to accurately complete the forms, calculate specific fees and prepare the project for committee inspection.
3. The PRC sets an appointment with the landowner to visit the construction site to assure all required setbacks are satisfied.
4. The PRC then meets to determine if they can recommend the project to the GLA Board of Directors for approval. Landowners are welcome to attend these meetings.
5. The Board of Directors receives the recommendation from the PRC and votes to either, 1) give the project preliminary approval with or without conditions, 2) put the project on hold until issues can be resolved, or 3) deny approval.
6. If landowners fail to implement the required process and begin building before Board approval, they will receive a letter from the PRC advising them to stop building and submit the appropriate application(s) within 15 days. The Board will also vote that the landowners are out of compliance with the governing documents, resulting in disqualification from voting and running for election to the GLA Board and its committees.
7. If landowners ignore the PRC's request, they will receive a cease and desist letter from the GLA's attorney, along with a \$200 fine notice to cover legal costs. They will be given 15 days to comply with the legal notification.

8. If landowners do not comply with the cease and desist order, they will receive a fine of up to \$1,000, with interest that compounds monthly, until they come into compliance with the order and fines are paid in full.
9. After 60 days from the initial receipt of the cease and desist order, non-payment of fines will result in a lien being filed on the property. Continued non-payment may result in a judgment being sought by the Association's collection attorney and foreclosure of the property.

The Project Review Building Process and Non-Compliance

1. After the board grants preliminary approval of the project, construction is authorized to begin.
2. At any time during the construction process, the PRC may give landowners 24-hour notice to conduct an onsite inspection to verify compliance of the interior and exterior of buildings.
3. Buildings discovered to be out of compliance with the approved application(s), will result in a cease and desist letter from the Association's attorney, a \$200 fine notice and a directive to remedy the violations within a reasonable timeframe commensurate with the amount of work involved.
4. If a landowner ignores the cease and desist order or refuses to comply, the GLA will impose a \$1,000 fine and file a lawsuit in Park County District Court to mandate compliance. The landowner is responsible for the payment of GLA's attorney fees.