

# Minutes of the Special Meeting of the Firelight Meadows Board of Directors & Owners

Firelight Meadows  
8.15.2017

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## **CALL TO ORDER**

President Kari Gras called the meeting to order at 6:01 p.m.

## **ROLL CALL**

### Board Members Present

Karen Roberts, President  
Kari Gras, Vice President  
Greg Hunt  
Curt Wilson, Treasurer  
Steve Cherne  
Laura Gregory  
Jeff Alger

### Others Present

Jeff Malinowski, GM of Hammond Property Management  
Dustin Long, Hammond Property Management  
Katie Coleman, Hammond Property Management  
Seanna Farrow, Hammond Property Management  
Kristen Brown, Attorney  
Mindy Cummings, Attorney  
Toya & Steven Miller, Firelight A-19 (via WebEx)  
Jim Dolan, Firelight C-10 (via WebEx)  
Jim & Pat Lathrop, Firelight C-15  
Krystal & Ryan Smith, Firelight 280  
Kathy & Dave Shappee, Firelight 329  
Ron Seher, Firelight 162  
Pat Krause, Firelight D-12  
Matt Walker, Firelight D-5  
Mike Jarrett, Firelight 277  
Tonya & Daniel Murray, Firelight 352 (via WebEx)

## **Summary of Proposed Changes – Firelight Meadows Declaration and Bylaws as of July 21, 2017:**

Many of the changes made in the Declaration and Bylaws are “cleanup,” such as taking out reference to the Developer / Declarant and clarifying some of the more confusing language. In addition, the documents have been organized in a more logical and user-friendly manner including moving some provisions between the Declaration and Bylaws.

The Governing Documents of the condominium consist of several basic documents: The Declaration, the Bylaws, Board Resolutions and the rules and regulations of the Association. The Declaration is the document that, among other things, establishes the Owners’ Association, contains the use restrictions,

the maintenance requirements, and defines the Common Elements. In short, the Declaration governs ownership and what Owners can, cannot, or must do with respect to their Units.

Firelight's Owners' Association is a Montana non-profit corporation. The Bylaws set up the corporation and contain the details about how it is to be run, such as how meetings are conducted and what voting rights the Unit Owners have. It contains provisions on the board of directors, such as who is eligible, what their duties are, how they are elected, and what their powers are. Both the Declaration and the Bylaws are filed with the County.

Finally, the condominium has Rules and Regulations. These documents are not filed with the County, but are incorporated into the Declaration by language in the Declaration itself. The Rules and Regulations set up guidelines and rules for Unit Owners and their tenants and guests to follow and reiterate some of the use restrictions set forth in the Declaration in simpler, and usually more detailed, terms.

The proposed substantive changes to the Declaration and Bylaws are attached below.

# Firelight Meadows Condominiums



Special Meeting  
August 15, 2017

# Purpose of This Meeting Is:



To address questions and concerns about the proposed changes to the Declaration and Bylaws.

# Four Main Reasons:



- ❧ To organize the documents in a more logical order combining the original documents and the amendments to make them more readable and easier to understand;
- ❧ To clarify the differences between General Common Elements (expenses paid by all Unit Owners) and Limited Common Elements (expenses paid by those who use or benefit from these elements);
- ❧ To reduce the insurance risk to the HOA in order to reduce insurance costs over the long-term; and
- ❧ To help maintain the sustainability of the water and sewer system of the condominium and to help maintain the condominium as a family oriented community.

## Yes, Firelight Meadows is one “condominium.”

**Per Wikipedia:** A **condominium**, usually shortened to **condo**, is a type of real estate divided into several units that are each separately owned, surrounded by common areas jointly owned.

Residential condominiums are frequently constructed as apartment buildings, but there has been an increase in the number of "detached condominiums", which look like single-family homes (or duplexes and fourplexes) but in which the yards, building exteriors, and streets are jointly owned and jointly maintained by a community (or homeowners) association.

# Meeting Outline



- ∞ Distribution of comment cards
- ∞ Presentation of major proposed changes to the Declaration and Bylaws
- ∞ Collection of questions and comments from owners regarding the proposed changes
- ∞ Review of questions and comments from owners

# Declaration





## Current Declaration

## Proposed Provision



**1.08:** Definitions of Limited Common Elements

**2.11:** Significant reworking of the definitions to clarify what is General and what is Limited

**Rationale:** Current wording is often confusing, ambiguous or incomplete requiring legal interpretation. Simplification and clarity save legal costs.

## Current Declaration

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**1.09:** Definitions of  
“common expenses”



## Proposed Provision

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**2.12:** Significant additional language to clarify what constitutes a General Common Expense or a Limited Common Expense

**Rationale:** Current wording is often confusing, ambiguous or incomplete requiring legal interpretation. Simplification and clarity save legal costs.

**Current Declaration**

**Proposed Provision**



**NEW 2.18:** Definition of  
“Good Standing”

**Rationale:** This term defines a Member who is allowed to fully participate in HOA benefits and responsibilities.

## Current Declaration

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**1.19:** Definition of RV/  
Trailer Storage area  
limited that area to storage  
of RVs and Trailers



## Proposed Provision

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**2.24:** Definition of RV/  
Trailer Storage Area states  
that the area may be used  
for other purposes (See  
also Section 4.03)

**Rationale:** Allows for the area to be used for other purposes besides RV and trailer storage.

## Current Declaration

## Proposed Provision



**II.05:** States that the exterior surfaces of a Unit's front door and a Villa's garage doors are general common elements

**Rationale:** Clarifies that painting is the HOA's responsibility and defines the maintenance of exterior elements such as patios and decks as a General Common Expense.

**3.05:** Exterior surfaces of front doors and garage doors are Limited Common Elements with repair / replacement the responsibility of the Unit Owner but painting is the responsibility of the Association.

The description of the Unit Boundaries has been rewritten to clarify where those boundaries lie. Patios and decks are specifically identified as being Limited Common Elements that are maintained by the Association and paid for as a General Common Expense.

## Current Declaration

## Proposed Provision



**NEW 4.02(C):** Owners are responsible to ensure working smoke detectors are installed in their units.

**Rationale:** Added for safety reasons and to help protect HOA property from fire damage.

## Current Declaration

## Proposed Provision



**III.03:** Recreational vehicle and trailer storage area for RVs only

**NEW 4.03:** Allows the board to determine the purpose of this area.

**Rationale:** Currently, an amendment to the Declaration is required to change the use of the RV parking area. This provision allows the board to change the use.

**Current Declaration**

**Proposed Provision**



**NEW 6.01(F):** Prohibition  
on open fires

**Rationale:** Added for safety reasons and to help protect HOA property from fire damage. Portable gas fire pits are allowed.



## Current Declaration

## Proposed Provision



**IXII.10(d):** County Required Covenants: States that the artificial feeding of all big game wildlife shall be prohibited.

**6.01(L):** Prohibition on artificial feeding of all wildlife

**Rationale:** Feeding smaller wildlife such as coyotes can be dangerous and cause them to frequent the area. Bird feeders can attract larger animals such as moose and bears that are also dangerous to residents.

## Current Declaration

## Proposed Provision



**NEW 6.01(R):** Prohibition on growing, storage, sale, dispensing, or other transfer of marijuana

**Rationale:** To help prevent illegal and nuisance activities that often accompany illegal growing and dispensing of marijuana.

## Current Declaration

**Rationale:** To help maintain the sustainability of the water and sewer system of the condominium, allow for sufficient parking for residents, and to help maintain the condominium as a family oriented community.

## Proposed Provision



**NEW 6.02:** Rental restrictions. No more than 4 adults may occupy any Unit as renters in a lease for a period of one month or longer; the Unit Owner must provide the renters with all Governing Documents and specify in the lease that the renters must comply with the Governing Documents. The Association may step into the shoes of the Unit Owner to evict tenants who are violating the Governing Documents.

## Current Declaration

## Proposed Provision



**NEW 7.03:** Only Unit Owners in Good Standing are allowed to vote on Association issues.

**Rationale:** Only Members who pay their share of costs and follow the HOA rules and regulations should be allowed to decide on HOA matters.

## Current Declaration

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**V.08:** Costs for which assessments may be made

## Proposed Provision

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**NEW 8.01(C):** Significant revision to clarify the costs for which Unit Owners may be assessed.

**Rationale:** Clarification

## Current Declaration

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## Proposed Provision

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**NEW 8.01(G):** Allows a unanimous vote of the Board to levy a Special Assessment in certain situations.

**Rationale:** Provision is in current Bylaws and was added to the Declaration as a clarification of types of costs that can be assessed.

## Current Declaration

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## Proposed Provision

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**NEW 8.01(I):** Allows the Board to determine whether funds left over at year end are to be refunded to Unit Owners, retained in the Operating Account, or put into Reserves.

**Rationale:** These options help to cover unexpected costs and minimize special assessments for such unexpected costs.

## Current Declaration

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**V.8(h):** A \$600 (Villa) or \$400 (Apartment) fee was charged upon transfer of ownership

## Proposed Provision

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**8.01(K):** The fee is .16% of the sales price.

**Rationale:** Allows for the transfer fee to vary with condominium market values.



## Current Declaration

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**V.5:** A late fee of 25% was chargeable on delinquent assessments.

## Proposed Provision

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**8.02(A):** The Board can determine an appropriate late fee.

**Rationale:** Current provision is not legal.

## Current Declaration

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## Proposed Provision

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**NEW 8.03(B):** If a Unit Owner is renting his or her Unit, and is in arrears on assessments, the Association can collect directly from the renters.

**Rationale:** Gives the Board an additional option for enforcing collection of past due assessments.

## Current Declaration

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### VII.9: Insurance and Condemnation Articles

**Rationale:** To reduce overall insurance risk to the HOA resulting from individual unit owner claims, which will reduce current insurance premiums and help to prevent large future premium increases.

## Proposed Provision

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**XI Insurance and XII Reconstruction:** These two articles have been substantially revised to clarify that the Association insures the Common Elements and requires that each Unit Owner insures his or her Unit from the inside of the exterior walls in.

## Current Declaration

## Proposed Provision



**Rationale:** To comply with current mortgage requirements.

**NEW Article XIII  
Mortgagee Provisions:**  
Lenders are starting to require condominium declarations to contain express provisions that protect first mortgagees (particularly Fannie Mae and Freddie Mac). This new Article contains the commonly-required provisions.

## Current Declaration

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**VII and the Fifteenth Amendment:** “Central Improvement Facilities” – this is the section that has been amended to comply with court judgments concerning both the cable TV and the water / septic system rights and responsibilities.

**Rationale:** Amendment is not in compliance with Court Order from 2012 lawsuit.

## Proposed Provision

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**Article XIV:** Reflects both the actual process that the utility provider and Association use for supplying, billing, etc., for water and septic as well as compliance with the court judgments. Also allows for water-locking devices to be installed on the Units of Owners who are significantly in arrears in paying their water and sewer bills.

## Current Declaration

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## Proposed Provision

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**XII.4:** Expenditures – no non-budgeted expense greater than \$10,000 could be incurred without the prior approval of a majority of the Board.

**18.05:** No non-budgeted expense greater than 1.5% of the prior year's total budgeted expense may be incurred without the prior approval of a majority of the Board.

**Rationale:** Changes dollar amount to a percentage in order to keep the amount relevant into the future.

# Bylaws



**Current Bylaws  
Provision**

**Proposed Provision  
Bylaws**



**4(B):** Special Meetings: a petition requires signatures of 25% of Unit Owners

**4.02(A):** A petition related to a Limited Common Element (LCE) requires signatures of 25% of the Unit Owners who have an interest in that LCE.

**Rationale:** Added provision so that LCE's only need 25% of owners affected by that LCE.



**Current Bylaws  
Provision**

**Proposed Provision  
Bylaws**



**4(D):** Meeting Notice –  
All notices had to be  
mailed or personally  
delivered.

**4.03:** Meeting notices  
may be emailed.

**Rationale:** To include email option of communication.

**Current Bylaws  
Provision**

**Proposed Provision  
Bylaws**



**4(E):** Quorum: Required at least 15 Unit Owners and the Developer.

**4.04:** Quorum requires the presence of 15% of affected Unit Owners.

**Rationale:** To ensure greater participation in HOA decision making.

**Current Bylaws  
Provision**

**Proposed Provision  
Bylaws**



**NEW 4.05(B):** Expressly allows voting by proxy. (Although voting by proxy was referenced in the original Bylaws, there was not a specific provision allowing it.)

**Rationale:** Clarification

## Current Bylaws Provision

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**6:** Makeup of Board / Filling Vacancies on the Board: Minimum number of directors was 2; nominees for the Board were to be separated by category of “resident, non-resident, Apartment, and Villa owners,” with voting occurring by category.

**Rationale:** To increase the number of board members while making it easier for any owner to be a member of the board.

## Proposed Provision Bylaws

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**6.01:** Board must have a minimum of 5 members; an optimal board consists of representatives of both the Villas and the Apartments; all Unit Owners vote for all candidates.

**Current Bylaws  
Provision**

**Proposed Provision  
Bylaws**



**NEW 6.03, 6:04:** Clarifies that all Board meetings -- except Executive Sessions -- are open to all Unit Owners.

**Rationale:** Clarification

**Current Bylaws  
Provision**

**Proposed Provision  
Bylaws**



**NEW 6.05:** The Board may act by written consent in lieu of a meeting.

**Rationale:** To give the board flexibility in carrying out its duties.

**Current Bylaws  
Provision**

**Proposed Provision  
Bylaws**



**NEW 6.06:** A Director may be removed by a majority vote of the Board if the Director misses more than three meetings in a 12-month period.

**Rationale:** To ensure all Board Members participate in board meetings.

**Current Bylaws  
Provision**

**Proposed Provision  
Bylaws**



**NEW 6.07(A), (B), (C),  
(D):** The officers' duties  
(President, Vice President,  
Secretary, and Treasurer)  
are specified.

**Rationale:** Clarification of expectations of Board officers.



**Current Bylaws  
Provision**

**Proposed Provision  
Bylaws**



Eighth Amendment to the Declaration: Fines set at \$100, \$300, and \$500

**NEW 9.01(E):** The Board may establish a schedule of fines and shall provide notice of any schedule of fines or rule to Unit Owners.

**Rationale:** To allow for fines to be adjusted without an amendment to the Bylaws.

**Current Bylaws  
Provision**

**Proposed Provision  
Bylaws**



**NEW 9.01(G):** The Board may establish rules and regulations that prohibit abuse and harassment of all residents and all persons carrying out the duties and responsibilities of the HOA.

**Rationale:** To give the Board the power to fine Owners whose residents are displaying abusive or harassing behavior.

**Current Bylaws  
Provision**

**Proposed Provision  
Bylaws**



**NEW 9.01(K):** The President or vice-president must sign all contracts with third-party vendors.

**Rationale:** Clarification

**Current Bylaws  
Provision**

**Proposed Provision  
Bylaws**



**NEW 11.03:** A Director may be removed if he or she is not in Good Standing with the Association.

**Rationale:** A Unit Owner who is not in Good Standing should not be allowed to serve on the Board.

**Current Bylaws  
Provision**

**Proposed Provision  
Bylaws**



**8 (D):** Requirement to have 60% of unit owners at a meeting in person or by proxy to approve of rule promulgation.

**Removed**

**Rationale:** Gives the Board flexibility in establishing rules and regulations.

**Current Bylaws  
Provision**

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**Fourteenth  
Amendment to the  
Declaration:** Requires  
60% affirmative vote  
of all owners to  
amendment the  
Bylaws.

**Rationale:** Fourteenth Amendments is illegal in respect to the Bylaws.

**Proposed Provision  
Bylaws**

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**14.01:** Per Montana  
law, an affirmative  
vote of 75% of unit  
owners is required to  
amend the Bylaws of  
an Association.

## Current Bylaws Provision

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Rules and regulations included in the 8<sup>th</sup> Amendment, including all the specifics about the RV parking area, are not part of the Revised and Restated Declaration or Bylaws.

## Proposed Provision Bylaws

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These items will need to be specifically addressed in rules and regulations.



☞ Collection of comment cards

☞ Review and response to comments  
and questions



**SECRETARY'S CERTIFICATE**

I certify that the foregoing is a true and correct copy of the minutes approved by the Board of Directors.

\_\_\_\_\_  
Annette Stone, Secretary

\_\_\_\_\_  
Date