



When Recorded, Return to:
Highland Meadows, LLC.
175 N. 27th Street, Suite 900
Billings, Montana 59101

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS**

FOR

**HIGHLAND MEADOWS SUBDIVISION PHASE 1
AND SUBSEQUENT PHASES**

AND THE

HIGHLAND MEADOWS OWNERS' ASSOCIATION

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INTRODUCTION

It is the general intent of this Document to establish the Declaration of Covenants, Conditions, and Restrictions for all the lands within the Plat of Highland Meadows Subdivision, Phase 1 and Subsequent Phases, which Subdivision includes, Highland Meadows Subdivision, Phase 1 and future phases to be platted, and to establish the Highland Meadows Owners' Association, Board of Directors, and Building and Landscaping Review Committee, (BLRC). Highland Meadows Subdivision, Phase 1 and Subsequent Phases are also referred to as the "Subdivision" herein.

The Declaration of Covenants, Conditions, and Restrictions describes how the lands within the Highland Meadows Subdivision, Phase 1 and Subsequent Phases are to be developed and maintained beyond the minimum City of East Helena requirements. More specifically, the Declaration defines how single-family residential homes are to be designed and landscaped, and how Common Area and Open Space are to be used, managed, and maintained, among other things.

When a Lot is purchased in Highland Meadows Subdivision, Phase 1, and Subsequent Phases to be platted, the owner automatically becomes a member of the Highland Meadows Owners' Association ("Association"). The Association is run by a Board of Directors.

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
HIGHLAND MEADOWS PHASE 1, AND SUBSEQUENT PHASES
AND THE
HIGHLAND MEADOWS OWNERS' ASSOCIATION**

This Declaration of Covenants, Conditions and Restrictions, is made this 17TH day of November 2020, by Highland Meadows, LLC, or assigns, with its principal office in Billings, Montana, hereinafter referred to as "Declarant."

RECITALS

WHEREAS, Declarant is the owner of the following described land in City of East Helena, Lewis and Clark County, Montana:

See Exhibit "A" attached hereto and incorporated herein by reference.

("Property").

WHEREAS, the Declaration of Covenants, Conditions and Restrictions for the Highland Meadows Subdivision, Phase 1 and Subsequent Phases to be platted and the Highland Meadows Owners' Association herein set forth and referred to as the "Declaration", each and all of which is and are for the benefit of said property, lots, and subdivisions and the owners thereof, and shall run with the land, applying to and binding the present owners and all future owners and successors in interest.

NOW THEREFORE, Declarant does hereby establish, dedicate, publish, and impose upon the Property the following Declaration of Covenants, Conditions, and Restrictions, which shall run with the land and shall be binding upon and be for the benefit of all persons claiming such property, their grantors, legal representatives, heirs, successors, and assigns, and shall be for the purpose of maintaining a uniform and stable value, character, architectural design, use, and development of the Highland Meadows Subdivision, Phase 1, and Subsequent Phases, and all improvements placed or erected thereon, unless otherwise specifically excepted, as herein mentioned, and this Declaration of Covenants, Conditions, and Restrictions shall inure to and pass with each and every parcel, tract, lot, or division.

ARTICLE I DEFINITIONS

1.1 "Association" or "Owners' Association" shall mean the Association for the Highland Meadows Subdivision, Phase 1, and Subsequent Phases, which Subdivision includes Highland Meadows Subdivision, Phase 1, and future phases to be platted. The Association shall be incorporated as a Montana nonprofit corporation with the residential Lot Owners as its Members.

1.2 "Member" shall mean any person or entity owning or purchasing a Lot in Highland Meadows Subdivision, Phase 1, or Subsequent Phases, which Subdivision includes Highland Meadows Subdivision, Phase 1, and future phases to be platted. Each Lot Owner shall be a member of the Association and agrees to abide by and be bound by this Declaration and any amendments thereto, and the Articles of Incorporation, Bylaws, Rules, and Resolutions of the Association, as they may be adopted from time to time.

1.3 "Owner" shall mean the legal title holders, or contract purchasers, whether one or more persons or entities, owning or purchasing a fee simple title to any Lot, but excluding those having an interest merely as security for the performance of an obligation; provided, however, that prior to the first conveyance of each Lot, owner shall mean Declarant.

1.4 "Project" shall mean the organization, division, improvement, operation, and sale of property in Highland Meadows Subdivision, Phase 1, and Subsequent Phases, which Subdivision includes Highland Meadows Subdivision, Phase 1, and future phases to be platted.

1.5 "Property" shall mean all of the real property described and platted as Highland Meadows Subdivision, Phase 1, and future phases to be platted on Lot 2 of the Dartman Field Minor Subdivision, according to the Certificate of Surveys or official subdivision plats thereof filed of record in the office of the Clerk and Recorder of Lewis and Clark County, Montana, more particularly described at Exhibit A.

1.6 "Lot" shall mean the smallest subdivided unit of land for sale within the Property as shown on the Plat or Plats for Highland Meadows Subdivision, Phase 1, and future phases to be platted.

1.7 "Individual Lot Site Plan" shall mean the plan of each individual Lot, which shall be maintained by the Declarant, BLRC, Association, or manager, for the purposes of the BLRC review of applications for compliance with design criteria herein, showing the perimeter Lot boundaries and the locations of: 1) building setbacks; 2) buried utilities including water, sewer, electric, and television services; 3) fencing locations and types; 4) locations of and setbacks from sidewalks, trails, driveways and easements.

1.8 "Common Area" and "Open Space" shall mean all of the Property conveyed to the

Association for use by the Association and its Members and Owners in common, and not the Lots owned by Owners, which are subject to the Common Area and Open Space Management Plan.

1.9 "Common Area and Open Space Management Plan" shall mean the management plan for the Common Area and Open Space conveyed to the Association for use by the Association and its Members and the Owners in common.

1.10 "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for the Highland Meadows Subdivision, Phase 1, and Subsequent Phases and the Highland Meadows Owners' Association, as it may, from time to time, be amended or supplemented.

1.11 "Declarant" shall mean Highland Meadows, LLC, or assigns, and shall not mean a purchaser of a Lot from the Declarant.

1.12 "Building and Landscape Review Committee" or "BLRC" shall mean the committee, appointed by the Board of Directors, whose function is to review and approve or disapprove applications, plans, materials, and specifications for Improvements to be constructed or erected on any Lot or anywhere on the Property, and alterations thereto. The Board of Directors shall serve as the BLRC until the Association is turned over to the Members.

1.13 "Board of Directors" or "Directors" or "Board" shall mean the initial Board of Directors appointed by the Declarant, and the duly and qualified members of the Board of Directors of the Association, which shall be the sole governing body of the Association.

1.14 "Building Contractor", and "Home Builder" shall mean any person or entity buying one or more Lots from the Declarant for the purpose of building single family residences.

1.15 "Mortgage" shall mean a Trust Indenture as well as a Mortgage.

1.16 "Mortgagee" shall mean a beneficiary under, or holder of, a Trust Indenture as well as a Mortgagee under a Mortgage.

1.17 "Architect" shall mean a person holding a certificate of registration to practice architecture in the State of Montana or any State in the United States.

1.18 "Improvement(s)" shall include, but not exclusively, all buildings, outbuildings, bridges, roads, trails, pathways, driveways, parking areas, fences, screening walls and barriers, retaining walls, stairs, decks, water lines, sewer lines, springs, ponds, swimming pools, tennis courts, lagoons, storm drainage ditches, detention tanks and ponds, viaducts and electrical, gas and TV distribution facilities, hedges, windbreaks, natural or planted trees and shrubs, poles, signs, loading areas and all other structures, installations and landscaping of every type and kind,

whether above or below the land surface.

1.19 "Capital Improvement(s)" shall mean an Improvement or two or more interdependent Improvements of a substantial nature benefitting the Association, Common Area, Park Land or Property as a whole which, when undertaken, may reasonably be anticipated to require a projected expenditure by the Association of a total amount greater than \$10,000.00.

1.20 "Occupant" shall mean a tenant, lessee, or licensee of an Owner, or any other person or entity other than an Owner in lawful possession of a Lot or Lots with the permission of the Owner.

1.21 "Record", "recording", "recorded", or "recordation", shall mean, with respect to any document, the recordation of said document in the office of the Clerk and Recorder of Lewis and Clark County, Montana.

1.22 "Plat" or "Highland Meadows Subdivision Plat" shall mean and refer to the plat or plats of the Property and Improvements that are subject to this Declaration. More than one subdivision plat or supplement thereto may be recorded, and if so, then the term "Plat" shall collectively mean and refer to all plats and supplements thereto.

1.23 "Coved Design" or "Coving" shall mean and refer to the unique building setback lines that are required for each individual Lot.

1.24 "Master Plan" shall mean and refer to the official Planned Unit Development documents that are of Record with the City of East Helena.

1.25 "Planned Unit Development" or "PUD" shall mean and refer to development that is occurring under a conditional use permit approved by the City of East Helena whereby specific uses, other than those specifically allowed in a zoning district, are allowed under certain safeguards or conditions.

1.26 "Supplemental Declaration" shall mean a declaration recorded pursuant to Section 3.2 of this Declaration.

1.27 "Manufactured Home" or "Mobile Home" shall collectively mean and refer to a factory assembled structure or structures, equipped with the service connections necessary to be used as a dwelling unit, and constructed to be readily moveable as a unit or units either on its own running gear or other system. The construction of these units is regulated by the federal Manufactured Housing Construction and Safety Standards Act as determined by the Department of Housing and Urban Development (HUD), and the units are not constructed in accordance with the standards set forth in the Uniform Building Code, or International Residential/Building Code.

1.28 "Move-on Home" shall mean and refer to an existing, older home that was either partially or wholly de-constructed in order to be moved and reassembled at a new location.

1.29 "Modular Home" shall mean and refer to new dwelling unit constructed in accordance with the standards set forth in the International Residential/Building Code and bearing the insignia of the state, applicable to site-built homes, and composed of components assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

1.30 "Site Built Home" shall mean and refer to a dwelling unit that is constructed in accordance with the standards set forth in the International Residential/Building Code and bearing the insignia of the state and that has 85% or more of the unit constructed in the Lot where construction materials are delivered and are assembled on a permanent foundation

ARTICLE II AUTHORITY

2.1 Authority. This Declaration and the Plat or Plats for the Highland Meadows Subdivision, Phase 1, and Subsequent Phases, which Subdivision includes Highland Meadows Subdivision, Phase 1, and future phases to be platted, as recorded at the Lewis and Clark County Courthouse. Declarant hereby declares that the entire Property, more particularly described at Exhibit A, is, and shall be, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Declaration. All of the covenants, conditions and restrictions set forth herein are declared and agreed to be in furtherance of a general plan for the division, improvement and sale of the Property and are established for the purpose of enhancing, conserving, and protecting the value, desirability and attractiveness of the Property and every part thereof. The covenants, conditions and restrictions shall run with the entire Property and shall be binding upon and inure to the benefit of the Declarant, the Association and all Owners, occupants, and their successors in interest as set forth in this Declaration.

ARTICLE III PLAN OF DEVELOPMENT

3.1 Property Initially Subject to Declaration. Declarant intends by this Declaration (i) to impose upon the Property mutually beneficial covenants, conditions and restrictions under a general plan of improvement and desires to provide a flexible and reasonable procedure for the overall development of the Property and (ii) to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property. Declarant hereby declares that all the Property shall be held, sold, used and conveyed subject to the covenants, conditions and restrictions set forth in this Declaration, which are for the purpose of protecting the value and desirability of the Property, and which shall run with the Property. Declarant further declares that this Declaration shall be binding upon all persons having any right, title or interest in the

Property or any part thereof, their successors, successors in title and assigns shall inure to the benefit of each Owner thereof, the Declaration and the Association, and, with respect to the provisions related to the Declarant, the Declaration, the Assessments, other obligations, Common Area and Open Space, and any obligations of the Association arising out of or in connection with the Declaration, shall inure to the benefit of the Association and the Declarant. By acceptance of a deed or by acquiring any interest in any of the Property subject to this Declaration, each Person, for himself, herself, or itself, heirs, personal representatives, successors, transferees and assigns, binds himself, herself, or itself, heirs, personal representatives, successors, transferees and assigns, consents to all of the provisions, restrictions, covenants, conditions, rules, criteria, and regulations now or hereafter imposed by this Declaration and any amendments thereto. In addition, each such Person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the development, sale, lease and use of the Property and Lots therein, and hereby evidences the intent that all the conditions, covenants, and restrictions, contained in this Declaration shall run with the land and are binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such Person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive, and enforceable by the Association and all Owners and to the extent provided by Article XV, and other particular sections of this Declaration. Declarant, its successors, assigns and grantees, covenant and agree that the Lots and the membership in the Association and the other rights and obligations created by this Declaration shall not be separated or separately conveyed, and each shall be deemed to be conveyed and encumbered with its respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

3.2 Supplemental Declaration. Declarant reserves the right, but not the obligation, to record one or more Supplemental Declarations against portions of the Property. A Supplemental Declaration may (i) designate Common Area, (ii) impose such additional covenants, conditions and restrictions as the Declarant determines to be appropriate (iii) establish assessments pursuant to Article VII of this Declaration for Additional Property annexed pursuant to Section 3.3 below, and (iv) impose any additional covenants, conditions and restrictions as Declarant deems reasonably necessary and appropriate, for Additional Property annexed pursuant to Section 3.3 below provided that the terms, covenants, conditions and restrictions set forth in such Supplemental Declaration are not inconsistent with the plan of this Declaration.

3.3 Annexation of Additional Property.

- a) At any time on or before the date that is twenty-five (25) years after the date of the Recording of this Declaration, the Declarant shall have the right to annex and subject to this Declaration all or any portion of the additional property without the consent of any Owner (other than the Owner of such additional property if other than the Declarant) or person or the Association. No portion of the additional property shall be annexed and subjected to this Declaration (i) unless subject to (or concurrently subjected to) the Declaration, and (ii) until a Plat has been

recorded covering such portion of the additional property. The annexation of all or any portion of the additional property shall be effected by the Declarant recording an amendment to this Declaration setting forth the legal description of the additional property being annexed, stating that such portion of the additional property is annexed and subjected to the Declaration and describing any portion of the additional property being annexed that will be Common Area. Unless a later effective date is set forth in the amendment annexing additional property, the annexation shall become effective upon the Recording of the amendment. An amendment Recorded pursuant to this Declaration may divide the portion of the additional property being annexed into separate phases and provide for a separate effective date with respect to each phase. If an amendment annexing a portion of the additional property divides the annexed portion of the additional property into phases, the Declarant shall have the right to amend any such amendment to change the description of the phases within the annexed property, except that the Declarant may not change any phase in which a Lot has been conveyed to a purchaser.

- b) The additional property may be annexed in separate parcels and at different times, or the additional property may never be annexed, and there are no limitations upon the order of annexation of the boundaries thereof. Additional property annexed by the Declarant pursuant to this Article III need not be contiguous with other property in the Project, and the exercise of the right of annexation as to any additional property shall not bar the further exercise of the right of annexation as to any other additional property. The Declarant makes no assurances that additional property will or will not be annexed.

3.4 Declarant Approval Required. Notwithstanding any provision of this Article III to the contrary, no action shall be taken to annex or to Record a Supplemental Declaration (or any modification thereof) pursuant to this Article without the prior written approval of the Declarant, so long as the Declarant owns, or holds an option to purchase, any portion of the Property, and thereafter without the prior written approval of the Board of Directors of the Owners' Association, which may be given or withheld by the Declarant (or, the Association, when applicable) for any reason in its sole and absolute discretion. The approval of the Declarant or, the Owners' Association, as applicable, shall be evidenced on the Supplemental Declaration or other Recorded instrument effecting annexation or modifying a Supplemental Declaration, and any such Supplemental Declaration or other instrument Recorded without the approval of the Declarant or Owners' Association, as applicable, evidenced thereon shall be void and of no force or effect.

3.5 Disclaimer of Implied Covenants. Nothing contained in this Declaration and nothing which may be represented to a purchaser by real estate brokers or salespersons representing the Declarant or an affiliate of Declarant shall be deemed to create any implied covenants, servitudes or restrictions with respect to the use of any Property subject to this

Declaration or additional property owned by Declarant or an affiliate of Declarant.

3.6 Planned Unit Development. Except as provided herein, with respect to approval rights reserved by Declarant or the Owners' Association, the Declarant, without obtaining the consent of any other Owner, person or the Association, shall have the right to make changes or modifications to the Planned Unit Development (PUD) with respect to any Property owned by the Declarant or an Affiliate of Declarant in any way that the Declarant desires, including changing the density of all or any portion of the Property owned by the Declarant or an affiliate of Declarant or changing the nature or extent of the uses to which the property may be devoted. Any change or modification by Declarant, or an Affiliate of Declarant, must be approved by the City of East Helena.

3.7 Disclaimer of Representations. Declarant makes no representations or warranties whatsoever that: (i) the Project will be completed in accordance with the Plat or PUD for the Project as they exist on the date this Declaration is Recorded; (ii) any Property subject to this Declaration will be committed to or developed for a particular use or for any use; or, (iii) the use of any Property subject to this Declaration will not be changed in the future.

ARTICLE IV GENERAL COVENANTS

4.1 Owner's Right to Common Area, Open Space, Trails and Roads. Every Owner shall have a right to use the Common Area and Open Space, Trails, and Roads as shown on the approved final Plat for Highland Meadows Subdivision, Phase 1, and Plats for any subsequent and future phases to be platted. The Owner's right to use the Common Area, Open Space, Trails, and Roads shall be appurtenant to and shall pass with the title to every Lot, subject to the following Provisions:

- a) The right of the Association to provide reasonable restrictions on the use of the Common Area and Open Space and Improvements thereon, Trails, and Roads for the overall benefit of the Association and its Members including limitations on the number of guests permitted to use the Common Area and Open Space and restrictions or prohibitions on the type of activity and use therein including, but not limited to, the use of firearms, fireworks, all motor driven vehicles, boats, loud music, and loud parties or as otherwise specified in the Common Area and Open Space Management Plan. (The Association does not have jurisdiction over any lands or rights-of-way dedicated to and owned by the City of East Helena, this includes roads and trails owned by the City of East Helena.);
- b) The Common Area and Open Space Management Plan and any other reasonable restrictions or rules on the use of the Common Area and Open Space shall be enforced and implemented by the Board of Directors.

- c) The right of the Association to charge reasonable fees for the disproportionate use by Owners or others of any recreational or other facility situated upon the Common Area or Open Space;
- d) The right of the Association to suspend the voting rights and right to use of the Common Area and Open Space and Improvements thereon and recreational or other facilities of the Association by any Owner and/or Occupant for any period during which any assessment or other charge against a Lot remains unpaid and for any infraction of these covenants, conditions, and restrictions and any adopted rules and regulations during the time in which the assessments or charges remain unpaid or the infraction remains ongoing; and
- e) The right of the Association to dedicate or transfer all or any part of its right to the Common Area and Open Spaces to any public agency, authority, utility, person, corporation or other entity for such purposes and subject to such conditions as may be agreed to by the Association. No such dedication or transfer shall be effective unless approved by sixty seven percent (67%) of the Directors.

4.2 Nuisance. No Owner, Occupant, guest or invitee may use or occupy the Common Area, Open Space, Improvements thereon, or any Lot in such a manner as to disturb or interfere with the peaceful use, occupancy or enjoyment of any other Owners and occupants. Violations shall be enforced as provided in Article XV of this Declaration.

4.3 Control and Management. The Association shall have the exclusive right and obligation to manage, control, and maintain all Improvements within the Common Area and Open Space, including but not limited to the layout, design, and installation of any Improvements in accordance with the Common Area and Open Space Management.

4.4 Reservation of Easements. The Declarant reserves the right to grant and/or dedicate an easement or easements in the streets, roads or at any other location on, over or across any Lot or Common Area for pedestrian rights-of-way, water, sewer, natural gas, electrical, telephone, cable TV, or other utilities for the installation, maintenance and repair of all such new or existing services and utilities.

4.5 Right of Access. The Association or its delegated representatives, or the Declarant shall have the irrevocable right to access and cross a Lot or Lots from time to time during reasonable hours as may be necessary for the inspection, maintenance, repair, or replacement of any Improvements thereon in accordance with Articles VIII and XV. Such right of access shall be for the purpose of ensuring compliance with these covenants, conditions, and restrictions and BLRC approvals as provided herein. All damage to Lots or Improvements resulting from this Right of Access, upon written documentation thereof, shall be remedied or restored to substantially the same condition in which such Lot or Improvement existed prior to

the Association's exercise of its Right of Access.

4.6 Condition of Property. The Owner and Occupant of any Lot shall at all times keep the Lot and Improvements and appurtenances thereon in a safe, clean, good and operable condition and comply, at Owner's or Occupant's own expense, and in all respects with all applicable governmental, health, fire and safety ordinances, regulations, requirements and directives. The Owner or Occupant shall at regular and frequent intervals remove at its own expense any rubbish of any character whatsoever that may accumulate upon such Lot.

4.7 Landscaping Installation, Maintenance of Landscaping, Lots and Improvements thereon. Upon completion of construction of the primary residential dwelling unit upon any Lot, all landscaping shall be installed within a reasonable length of time (not to exceed one (1) growing season) after completion of construction. Once installed, the landscaping, including lawn, trees, shrubs, etc., shall be cared for and maintained and not allowed to deteriorate or become unsightly and detract from other Lots or the Subdivision. Except for Improvements owned by the Association or used by the Association for its benefit or that of its Members, all maintenance, repairs, or replacements on any Lot or on any structure thereon belonging to any Owner shall, except as otherwise provided herein, be at the expense and responsibility of the Owner thereof, including, but not limited to maintenance and repair of all Improvements, including dwelling units, accessory structures, parking areas, driveways, sidewalks and other walkways, and all landscaping. Such maintenance and repair shall include, without limitation:

- a) Maintenance of all parking areas, driveways and walkways in a good, operable, clean and safe condition, including the paving and repairing or resurfacing of such areas when necessary with the type of material originally installed thereon or such substitute therefore as shall, in all respects, be equal thereto in quality, appearance and durability; the removal of debris and waste material and the washing and sweeping of paved areas as required;
- b) Cleaning, maintenance and relamping of any external lighting fixtures and street address markers except such fixtures as may be the property of any public utility or government body;
- c) Performance of all necessary maintenance to maintain in good condition all landscaping including trimming, watering, weed removal and fertilization of all grass, ground cover, shrubs or trees, removal of dead or waste materials, replacement of any dead or diseased grass, ground cover, shrubs or trees, within the confines of each Owner's Lot boundaries, which includes the Lot area between the front sidewalk and the edge of the street surface;

Unless the Owner or Occupant performs the maintenance required hereunder, each Owner and Occupant shall contract with the Declarant, the Association, or other contractor for performance of all landscaping maintenance required hereby.

- d) During installation of the landscaping, Owners are responsible to create positive drainage away from all foundations, with a minimum of 6 inches of fall in the first 10 feet away from the foundation. Care should also be taken with the landscaping not to create drainage obstructions such as concrete curbing, which will collect and retain water near foundations.
- e) In accordance with the International Residential Code, downspouts with 6-foot extensions should be used.

4.8 Lawn Care and Weed Control. Owners shall be responsible for the care and maintenance Owner's Lot including weed control, in particular control of County declared noxious weeds in accordance with approved methods and means. Both unimproved and improved Lots shall be kept free of weeds. Weeds shall be controlled in the Open Space and Common Area by the Association in accordance with the Lewis and Clark County Weed Management Plan.

The control of noxious weeds by the Association on those areas for which the Association is responsible and the control by individual Owners on their respective Lots shall be as set forth and specified under the Montana Noxious Weed Control Act, §87-22-2101, et. seq., MCA and the rules and regulation of the Lewis and Clark County Weed Control District Subdivision Noxious Weed Planning Requirements.

Failure to provide the care and maintenance and weed control as provided in this Section shall subject the Lot and Owner or Owners to the Remedies for Failure to Maintain and Repair as provide in Section 4.9, the Enforcement provisions of Article XV, and any all such other remedies as allowed by law, this Declaration and the Bylaws.

4.9 Remedies for Failure to Install, Maintain and Repair, and Control Weeds.

- a) Remedies. If any Owner shall fail to perform the installation, maintenance and repair required by Section 4.7, or the lawn care and weed control provided by Section 4.8, then the Association shall demand such Owner perform such installation, maintenance or repair. Such demand shall include written notice detailing the specifics of the nonconformance or violation and demand remedy thereof within thirty (30) days of the written notice to the Lot Owner. If the Lot Owner does not respond to such notice or does not remedy the nonconformance or violation with such thirty (30) day period, absent extension thereof, the Declarant or Association shall have the right, but not the obligation, to perform such maintenance and repair and to charge the delinquent Owner with the cost of such work together with interest thereon at an annual rate equal to the maximum rate

allowed under Montana law, from the date of Declarant's and/or Association's advancement of funds for such work to the date of reimbursement of the Association by Owner, or otherwise impose fines on the Lot and Owner in accordance with this Declaration and the Bylaws. If the nonconformance or violation cannot be remedied within the thirty (30) day period, Owner shall request extension of the deadline by the Declarant or the Association, as applicable, which extension shall not be unreasonably withheld. All such charges and fines shall become an additional assessment, referred to herein as a Default Assessment, recoverable as such. If the delinquent Owner fails to reimburse the Association for such costs or pay fines imposed and such costs fines remain unpaid for three (3) months, the Association may file for and Record a claim of lien for the amount of such charges and fines as Default Assessments, together with interest thereon. The lien created by this section shall be effective to establish a lien against the interest of the delinquent Owner and Owner's Lot together with interest at the rate provided above on the amount of such advance from the date thereof, in addition to recording fees, costs of title search obtained in connection with such lien or the foreclosure thereof and court costs and reasonable attorney's fees which may be incurred in the enforcement of such a lien. Such lien shall be for the benefit of the Association and may be enforced and foreclosed as provided by law.

- b) Notice of Noncompliance. The Association upon taking such action as provided in Section 4.9.a, may record a notice of noncompliance against the Lot providing notice that the Lot or Improvements thereon are not in compliance with Declaration or other governing documents and shall put prospective purchasers on notice of such noncompliance and may provide such other steps as may be necessary to bring the Lot or Improvements thereon into compliance with the Declaration or other governing documents.
- c) Cure. If a default to which a notice of claim of lien was filed is cured, The Association shall file or Record a rescission or removal of such notice of noncompliance, upon payment by the defaulting Owner of the cost of preparing and filing or recording such rescission or notice, and other reasonable costs, interest or fees which have been incurred.
- d) Nonexclusive Remedy. The foregoing lien and the rights to foreclose thereunder shall be in addition to, and not in substitution for, all other rights and remedies which any party may have hereunder and by law, including any suit to recover a money judgement for unpaid assessments.

4.10 Condemnation of Common Area or Open Space. If at any time, or from time to time, all or any portion of Common Area or Open Space, or any interest therein, be taken for any public or quasi-public use, under any statute, by right of eminent domain or by private purchase

in lieu of eminent domain, the entire award in condemnation shall be paid to the Association and deposited into either the operating fund or other such Association fund as the Association may, in its sole discretion, determine. No Owner shall be entitled to participate as a party, or otherwise, in any proceeding relating to such condemnation, such right or participation being herein reserved exclusively to the Association which shall, in its name alone, represent the interests of all Owners.

4.11 Recreational Facilities in Common Area. The Association shall have the right to construct such recreational facilities in any portion of the Common Area that may be approved by a majority vote of the Board of Directors.

4.12 General Maintenance of Common Area and Open Space. All maintenance, alterations, repairs, and replacements of the Common Area, Improvements thereon, and Open Space shall be the common expense of the Association, and all of the Owners; provided, however, if such damage is caused by a negligent or tortious act of any Owner, Owner's family, Occupant, agents, employees, invitee(s), or licensee(s), then such Owner shall be responsible and liable for all such damage. Such maintenance, alteration, replacement and/or repair of the Common Area, includes, but is not limited to, all landscaping, storm drain improvements and appurtenances, including detention basins, culverts, and facilitates and stormwater manholes, outfall ditches and roadside ditches. The Association, as part of its responsibility, shall maintain, repair and provide for snow removal and maintenance activities on all Common Area and Open Space.

4.13 General Maintenance of Stormwater Improvements and Appurtenances. The maintenance of the onsite stormwater collection, detention and discharge release appurtenances and facilities shall be the responsibility of the City of East Helena.

4.14 Lot Splitting; Consolidation.

- a) Two or more contiguous Lots within Highland Meadows Subdivision may be combined through the process required by the subdivision regulations and Montana law, provided notice of intention to consolidate such Lots is filed with the BLRC and the requirements of (b) and (c) below are met. Such consolidated lots may thereafter be treated as one Lot, with one allowable building site, and such building site shall be subjected to these covenants, conditions and restrictions the same as a single Lot except for the purpose of levying and collecting assessments which will be for two Lots.
- b) No residential Lot shall be split or divided or subdivided, unless such Lot as split is then consolidated with a contiguous Lot, and unless the resulting area to be built upon shall be larger than one Lot.
- (c) Any change in Lot configuration shall be not be effective until approved by the

BLRC and appropriate governmental authorities (City of East Helena, Lewis and Clark County, State of Montana) and an amended Plat recorded, all costs of which shall be the sole responsibility of the party requesting such change.

4.16 Public Utilities. The Association reserve the right to grant consents for the construction and operation of public utilities including, but not limited to lines for electricity, telephone or telegraph, above or below ground conduits, and gas pipes in and upon any and all Property controlled by the Association. The City of East Helena has sole responsibility for granting permission for utility construction within rights-of-way and lands dedicated to the City of East Helena. The Association reserve the right to grant consents and to petition the proper authorities for any and all street Improvements such as grading, seeding, tree planting, sidewalks, paving, sewer and water installation, whether it be on the surface or subsurface, which in the opinion of the Association are necessary on or to the Property. Notwithstanding the provisions of this Section and Section 4.17, the Association reserves the right to approve above ground utility lines across the Property or any portion thereof on a temporary basis for the purpose of construction, and such lines shall be permitted when required by a government agency.

4.17 Utility Lines and Antennas. No sewer, drainage, or utility lines or wires or other devices for the transmission of electric current, power, or signals including telephone, television, microwave or radio signals, shall be constructed, placed, or maintained anywhere in or upon any portion of the Property other than within buildings or structures unless the same shall be contained in conduits or cables constructed, placed or maintained underground or concealed in or under buildings or other structures. No antenna for the transmission or reception of telephone; television, microwave or radio signals or the like shall be placed on any Lot within the Property without the prior written approval of The Association. Ham radio type antennae are specifically prohibited. Nothing contained herein shall be deemed to forbid the erection or use of temporary power or telephone facilities incidental to the construction or repair of buildings on the Property. This Section specifically excludes any rights-of-way or lands dedicated to and owned by the City of East Helena.

4.18 Waterways. Uses and activities of Owners, Owner's family, occupants, or Owner's agents, employees, invitee(s), or licensee(s) shall at all times be in a manner that will preserve the integrity of waterways (including all wetlands, ponds, ditches, drainages, or any other natural feature associated with the conveyance or storage of water) within the Common Areas, including the prevention of: 1) any degradation of water quality; 2) any reduction or increase in the flow of said waterways; and, 3) any damage to the stream bed or banks of said waterways. The Owner or Owner's family, occupants, or Owner's agents, employees, invitee(s), or licensee(s) shall not conduct or permit the conduct of the following activities:

- a) The discharge of any liquid, solid, or gas into waterways;
- b) The use of any fertilizers or herbicides other than those specifically approved by Declarant or Association; or the polluting of waterways; or

- c) Any refuse encouraging activities.

4.19 Domestic Pets. No domestic animals or fowl shall be maintained on any Lot except as provided herein. No more than two (2) dogs and two (2) cats may be maintained. Such animals shall at all times be restrained or leashed and shall not chase or otherwise harass wildlife or people. Such domestic animals may be subject to the provisions of the Common Area and Open Space Management Plan, and other such limitations as may from time to time be set forth in the Bylaws of the Association or other rules and regulations adopted in accordance with this Declaration or the Bylaws. Under no circumstances shall domestic animals be allowed within any wetland areas or waterways (including all ponds, ditches, drainages, or any other natural feature associated with the conveyance or storage of water). If any animals are caught or identified as being at large or within any wetland areas or waterways, or chasing or otherwise harassing wildlife or people, an Owner or the Association shall contact the local animal control authority. No Owner of any animal or animals impounded, for being at large and not restrained or leashed or chasing or harassing wildlife or people shall have the right of action against the Association or any member thereof, for such impoundment.

4.20 Fireworks and Open Burning. No fireworks or firearms of any kind shall be discharged within the confines of the Subdivision. No open burning shall be permitted within the Subdivision. Open burning of organic debris generated from the Common Area and Open Space may be allowed in accordance with local burning regulations, but only by someone authorized by the Board.

4.21 Assignment of Powers. Any and all of the rights and powers vested in Declarant pursuant to this Declaration may be delegated, transferred, assigned, conveyed or released by Declarants to the Association, and the Association shall accept the same, effective upon the recording by the Declarants of a notice of such delegation, transfer, assignment, conveyance or release.

4.22 Variances. The BLRC may grant reasonable variances or deviations from the requirements of this Declaration, upon written application of an Owner accompanied by plans, materials, specifications, and supporting documentation, in order to overcome practical difficulties and prevent unnecessary hardships. The BLRC grant variances in regard to the requirements contained in Article XIV, for the purpose of enhancing views, utilizing a Lot to better advantage, preventing the removal of trees, and enhancing the placement of Improvements on a Lot, provided such variances are in conformity with the intent and purpose of this Declaration and are not materially detrimental or injurious to other Lots or Improvements, and based on other such criteria as the Board shall adopt by resolution. Applications for a variance shall explain practical difficulties, hardship, or other basis for the variance requested as provided in this section, and shall be accompanied by plans, materials and specifications to support the variance request and other supporting information to demonstrate the practical difficulties, hardship or other basis for the variance request. The variance application process, timeframe,

and appeal process shall be the same as for the BLRC review in Section 8.4, or as otherwise approved by the Board of Directors. Notwithstanding the foregoing provision, no variance shall be allowed which has the effect of creating additional Lots.

4.23. Motorized Vehicles. Only properly licensed and insured motorized vehicles shall be operated on the streets within the Subdivision.

ARTICLE V HIGHLAND MEADOWS OWNERS' ASSOCIATION

5.1 Creation and Turnover by Declarant. The Association shall be created pursuant to the Articles and Bylaws prior to the conveyance of any Lots. The Declarant shall have all the authority vested in the Association until all Lots are sold in Highland Meadows Subdivision, Phase 1, and Subsequent Phases, provided however that Declarant may turnover such authority to the Association at an earlier time at the discretion of Declarant pursuant to Section 6.1.

5.2 Purpose of Association. The Association has been formed as a non-profit corporation in accordance with Chapter 2 of Title 35, Montana Code Annotated for the purpose of enforcing these covenants, conditions and restrictions and operating the Association for the benefit of all Members.

5.3 Bylaws of and for Association. The Bylaws of and for Highland Meadows Owners' Association establish membership in and the duties, powers, operations, and rights of the Association and the members therein. The Association shall be governed by and empowered to act in accordance with the Bylaws, the Articles and this Declaration.

5.4 Membership in Association. Every Owner of a Lot in the Subdivision on file and of Record in the office of the County Clerk and Recorder of Lewis and Clark County, Montana, shall be a Member of the Association. By this provision, each tract or Lot as shown on the Plat and amendments thereto shall entitle the Owner of one membership interest in the Association. Membership interest shall run with the land so that said interest is an incident to Lot ownership beginning when ownership rights are acquired and terminating when such rights are divested. Accordingly, no member shall be expelled, nor shall he be permitted to withdraw or resign while possessing a membership interest.

5.5 Voting Rights. The Association shall have one (1) class of voting membership. Members shall be all Owners with the exception of the Declarants. Members shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members, however they collectively shall only have one (1) vote, which vote for such Lot shall be exercised as they among themselves determine. In no event shall more than one (1) vote be cast with respect to any Lot.

ARTICLE VI

BOARD OF DIRECTORS

6.1 Membership. The Board of Directors (“Board” or “Directors”) shall be five (5), three (3) of which shall be Owners of residential property within Highland Meadows Subdivision. The initial Board shall be three (3) persons as provided in the Articles of Incorporation who shall serve until all Lots are sold in Highland Meadows Subdivision, Phase 1, and Subsequent Phases after which time the Board may be increased to five (5) members. Three (3) of the five (5) Directors shall be residents of Lewis and Clark County, Montana.

Until all of the Lots in Highland Meadows Subdivision, Phase 1, and Subsequent Phases have been sold and title transferred to Owners, the Declarant reserves the right to appoint and remove all members of the Board and to exercise the powers and responsibilities otherwise assigned by the Declaration of the Association. By express written declaration, Declarant shall have the option to at any time turn over to management and operation of the Association to the Members and a duly elected Board of Directors.

The Board and their officers, assistant officers, agents and employees acting in good faith on behalf of the Association:

- (1) shall not be liable to the Owners as a result of their activities as such for any mistake of judgement, negligence or otherwise, except for their own willful misconduct or bad faith;
- (2) shall have no personal liability in contract to an Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity as such;
- (3) shall have no personal liability in tort to any Owner or any person or entity, except for their own willful misconduct or bad faith;
- (4) shall have no personal liability arising out of the use, misuse or condition of the Property which might in any way be assessed against or imputed to them as a result of or by virtue of their capacity as such.

6.2 Notice and Quorum for Any Authorized Action. All Director meetings called for the transaction of business shall require the presence of a majority of the number of Directors as provided in the Bylaws.

6.3 Meetings. There shall be a minimum of one (1) meeting per year immediately following the first annual meeting and each subsequent annual meeting of Members. In addition, the President of the Board of Directors has the right to call as many meetings as deemed necessary in order to perform all functions of the Directors in an efficient and professional manner and as provided in the Bylaws. Special Meetings of the Board may be called as provided

in the Bylaws.

6.4 Hired Officers and Contractual Agreements. The Directors shall have the authority to hire personnel as deemed necessary for the smooth, efficient, and professional functioning of the Association and in accordance with the Bylaws. This may include, but is not limited to, a manager, or management company, secretary, treasurer, accountant, and maintenance personnel. The Directors shall also have the authority to make contractual arrangements with outside entities, including but not limited to an attorney, accountant, engineer, maintenance contractors, and Developers to provide for the smooth, efficient, and professional functioning of the Association in accordance with the Bylaws.

ARTICLE VII ASSESSMENTS

7.1 Assessments. The Association, acting through the Board of Directors, shall have the power to establish and levy all assessments and impose such charges as necessary to carry out the purposes of the Association and as provided for herein and in the Bylaws.

7.2 Creation of Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the properties, hereby covenants and each Owner of any Lot by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: a) Regular assessments; b) Special assessments; and c) Default Assessments as provided in this Declaration and the Bylaws;

All such assessments are to be established and collected as hereinafter provided and shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees shall be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

7.3 Purpose of Assessments. The assessments levied by the Association shall be used to promote the recreation, health, safety, and welfare of the Owners, Highland Meadows Subdivision, Phase I, and Subsequent Phases, which Subdivision includes Highland Meadows Subdivision, Phase I, and future phases to be platted, and the Association and for the improvement, repair, maintenance, and protection of the Open Space, Common Area, Common Area facilities and Improvements, trails, wetland areas, parks, conservation of the natural amenities on the Property, and the Property generally for the interest of the Owners therein. The purposes for Assessments may also include, but shall not be limited to, funding for: the payment of taxes; the purchase of insurance for the Open Space and Common Area and risks involving the Association or its Directors; utilities, streams, creeks, storm water drainage ditches and detention tanks, ponds, trails, bridges and other Improvements or easements owned by the Association or used by the Owners in common; the establishment, maintenance and protection of, streams, creeks, storm water drainage ditches and detention tanks, ponds, floodplain areas, and lagoons

within the Property; the planting, cultivating, mowing, maintenance, harvesting and cutting of grass and weed control within Common Area and Open Space; the construction, maintenance and repair of all Improvements, including, but not limited to, buildings, structures, ponds, trails, bridges, lagoons, storm water drainage ditches and detention tanks, utilities, recreational facilities and Improvements owned by the Association and constructed on the Open Space and Common Area or elsewhere for the benefit of the Association; and the cost of labor, equipment, services, materials, management, protection and supervision of the assets and interests of the Association.

7.4 Annual Assessments. Annual assessment shall be determined by the Directors in an amount estimated to cover the normal operating expenses of the Association for each year as determined in conformity with standard accounting practices, together with such additional amounts as may, in their reasonable judgement, be necessary to cover any past deficits from operations of the Association. Annual assessments shall be apportioned among the individual Lot Owners equally regardless of home size, Lot size, proximity to the Common Area, percentage of street use, or any other variables which may be deemed more or less favorable to an individual home.

7.5 Special Assessments. In addition to an annual assessment to cover the Association's operating expenses, the Association, by an action of its Board of Directors, may levy, in any assessment year, one or more special assessments for the purpose of reserving or paying for, in whole or in part, the cost of any construction, reconstruction, maintenance, repair or replacement of a Capital Improvement, or any improvement deemed necessary by the Board upon any Common Area or Open Space including fixtures and personal property related thereto, and for such other purposes or projects benefitting the Association and its interests provided that any such assessment shall have the assent of simple majority of the votes of the Board of Directors at a meeting called for this purpose. Nothing stated herein shall restrict the right of the Association to provide for the repayment of the special assessment, and upon terms and conditions it deems appropriate, including the collection of interest on the deferred balance.

7.6 Notice and Quorum for Any Action Authorized in Sections 7.3, 7.4 and 7.5. Written notice of any meeting called for the purpose of taking any action authorized under Sections 7.3, 7.4. and 7.5 of Article VII shall be sent to all Directors and Owners not less than fifteen (15) days nor more than forty (40) days in advance of the meeting. Such notice shall include a notice of assessments, amount thereof, and the purpose for which Assessments are made, whether regular or special, an annual budget for expenditures and operation, and due date and shall be delivered directly to each Director and Owner, either personally or by first-class mail, postage prepaid. A majority of the number of Directors shall constitute a quorum for the transaction of business.

7.7 Uniform Rate of Assessment. Except as the Board may determine is more equitable, all assessments must be fixed in equal amounts at the same uniform rate for all Lots provided, however, when in the judgement of the Board, an Improvement uniquely restores damages or provides value or benefit only to certain individual Lots then, to the extent

determined by the Board that such Improvements are not beneficial to the Association as a whole or to the Owners of Lots in general, such portion of costs of such Improvements which solely contribute to those certain individual Lots may be prorated, scheduled and assessed among only those Owners of Lots affected.

7.8 Default Assessment. Notwithstanding anything to the contrary contained herein, if the expense of the Association is caused by a) the negligence or misconduct of an Owner, Owner's family, Occupant, employee, agent, Licensee or Invitee, or b) a violation of these covenants, conditions and restrictions, the Bylaws, or Articles, or any rules and regulations adopted in accordance therewith, by an Owner, Owner's family, Occupant, employee, agent, Licensee or Invitee, the Association may, if it deems necessary or advisable, levy an assessment, penalties, charges, fees or fines against such Owner or Lot in accordance with this Declaration and the Bylaws. Any such assessment levied by the Association, and each penalty, fee, fine or other charge imposed upon an Owner or Lot as a result thereof are referred to as a "Default Assessment" and shall be recoverable in the same manner as other assessments as provide for herein.

7.9 Notice; Payment; Due Dates. Annual assessments shall be assessed on a quarterly calendar basis, or as otherwise determined by the Board, as provided herein. The first assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of assessment against each Lot at least thirty (30) days in advance of each annual period. Written notice of the assessment shall be sent to every Owner subject thereto. Assessments shall be levied and due and payable within thirty (30) days of the date of mailing of notice of assessments, after which assessment shall be delinquent. Such notice shall include the amount of the assessment(s) and the purpose for which assessments are made, whether regular or special, and due date and shall be delivered directly to each Owner, either personally or by first-class mail, postage prepaid. Special and Default assessment shall be payable as determined by the Board with notice provided to the Owners subject to such assessments. The Board shall, upon demand, and for a reasonable charge, furnish a certificate signed by an Officer setting forth whether the assessments on a specific Lot have been paid.

7.10 Effect of Nonpayment of Assessments; Remedies of the Association; Liens. Any assessment not paid within thirty (30) days after the due date shall be subject to a late charge and interest at the highest rate allowable by law. The Association, upon notice thereof being filed of record in the Office of the Lewis and Clark County Clerk and Recorder, may record a Notice of Lien against the Lot for which the assessments are unpaid, and bring an action at law against the Owner to recover such unpaid assessments, and foreclose the lien as provided by law, and the Association shall be entitled in any such actions or foreclosure proceedings to recover its costs, expenses and reasonable attorney's fees. No Owner may waive or otherwise avoid liability for the assessments provided for herein by nonuse of the Common Area or abandonment of an Owner's Lot.

7.11 Subordination of Lien to Mortgages. The liens as provided for herein shall be

subordinate to the lien of any mortgage or mortgages. Sale or transfer shall not relieve a Lot or Owner from liability for any assessments due.

7.12 Declarant Assessments. For the purpose of assessments, any Property owned by the Declarant shall be subject to the same assessments and provisions of these Articles of any other Owner.

ARTICLE VIII ARCHITECTURAL REVIEW AND CONTROL

8.1 Intent. The architectural and design requirements, standards, criteria and process which follow are intended to provide for a consistency and quality of design of buildings and Improvements within the Property, and alterations thereto. Specifically, these criteria address the building design and location, landscaping, Lot density, and other Improvements. The further intent of these criteria is to provide flexibility while at the same time defining a minimum level of quality and consistency of building design which will be consistent with and maximize the quality of the overall Project. Unique design elements proposed by the Developer, Building Contractor, Architect, Home Builder, and Owners for landscaping and buildings will be considered by the BLRC, and individual expression is encouraged, provided such expression is harmonious with the overall plan of the Project. The Project is a “coved” design that requires unique building setback lines for each Lot which further enhances the overall development by ensuring that each home is sited on the Lot in a way that maximizes space and view sheds. No construction or alteration of any improvement or any work affecting the external appearance of any Improvement shall be made, erected, altered, placed or permitted to remain upon the Lot until a site plan, floor plans, building elevations, exterior details, specifications and landscaping showing the design, location, material(s), and color(s) together with the name of the contractor shall have been submitted to and approved in writing by the BLRC. The BLRC shall review all plans, materials and specifications submitted to it for any proposed Improvement or alterations to a Lot or Improvement thereon, including landscaping to determine compliance with the requirements, standards, and criteria provided in Articles IX, X and XI.

8.2 Membership of Building and Landscape Review Committee. The BLRC shall consist of three (3) members appointed by the Directors. The Directors shall serve as the BLRC until their initial terms expire in accordance with the Articles.

8.3 Standards for Review. It shall be the applicant’s responsibility to ensure that all proposed construction shall comply with the International Building Code as adopted by the City of East Helena, National Plumbing Code and the National Electrical Code, and the Building Criteria, and requirements provided herein. All plans, materials and specifications must be harmonious with the overall plan for the development. All plans, materials and specifications for Improvements must be suitable to the site, adjacent Lots and the Property as a whole, and compatible with the surrounding Lots so as not to impair or degrade property or aesthetic values.

8.4 Approval or Disapproval by Building and Landscape Review Committee. The BLRC shall approve or disapprove plans, materials and specifications for an Improvement or alterations to a Lot or Improvement thereon, including landscaping, within fifteen (15) days of receipt of complete plans, specifications and materials. Such review shall be for conformance with the requirements, standards, and criteria as set forth in Articles IX through XI. This fifteen (15) day review period shall commence upon the BLRC's determination that plans, materials and specifications are complete as provided by written notice to the applicant, which plans, materials and specifications shall include the detailed site plan, floor plans, building elevations, roof plans, exterior details, project specifications, color samples, sample materials and landscaping plans. The fifteen (15) day review period shall be adjusted accordingly if plans, materials and specifications are submitted during any holidays. The BLRC may request additional plans, project specifications, color samples, sample materials or landscaping plans as needed to make a decision, which request shall be in writing, and the fifteen (15) day review period shall commence upon the BLRC's receipt of such additional information and written notice to the applicant. Approval or disapproval of any plan submittal shall require a majority vote by the BLRC. Any denial shall be based upon noncompliance with the requirements, standards, and criteria as set forth in Articles IX through XI, or the variance criteria as provided in Section 4.22, or the deviation criteria as provided in Section 8.5 below. The grounds for the denial shall be provided in written findings to the applicant within fifteen (15) days of such decision. Denials may be appealed to the Board of Directors in writing, which denial shall be submitted to the Board within thirty (30) days of the written findings. Upon the BLRC's approval and prior to commencing construction, the Owner shall also secure all required permits from other agencies having jurisdiction, including Lewis and Clark County, and the City of East Helena, among others as needed. Upon securing the BLRC approval letter and the permits from Lewis and Clark County and/or the City of East Helena, and others as needed, the Owner may commence construction in accordance with the approved plan, materials and specifications.

8.5 Inspection of Work and Deviation from Approved Plans, Materials and Specifications. Upon the completion of any Improvement or alterations thereto, if the BLRC finds that such work was not done in strict compliance with all approved plans, materials and specifications, it shall notify the Owner and the Directors of such noncompliance in writing, with specific reference to the applicable requirements, standards, or criteria as set forth in Articles IX through XI related to the noncompliance. Any deviation from the approved plans, materials and specifications which, in the judgement of the BLRC, is substantial deviation from the requirements, standards, or criteria as set forth in Articles IX through XI or that is otherwise a detriment to the appearance of the Lot, Improvement, or to the surrounding area shall be promptly corrected to conform with the submitted plans, materials and specifications by the Owner or corrected by the Association at the Owner's expense as provided in this Declaration, unless a variance is granted by the BLRC. Upon receipt of a written variance request pursuant to Section 4.22, the BLRC may determine such deviation from the approved plans, materials and specifications is not detrimental to the appearance of the Lot, Improvement, or surrounding areas and, upon the submission of plans, materials and specifications conformation with such alteration or Improvement as required herein, approve the deviation. Absent a variance, the BLRC shall

require the Owner to remedy the same. If, upon the expiration of seven (7) days from the date of such written notification of noncompliance, the Owner has failed to commence to remedy such deviation or noncompliance, the BLRC shall determine the nature and extent of noncompliance thereof and the estimated cost of correction. The BLRC shall notify the Owner in writing of the nature and extent of the noncompliance and estimated cost of correction or removal. The Owner shall then only have five (5) days to commence such remedy and thirty (30) days to complete such remedy, unless such deadlines are extended by the BLRC, in writing upon the written request of the Owner which shall include the justification for the requested extension, and good cause appearing. If the Owner still does not complete the remedial action within the required period, the BLRC shall notify the Directors in writing of the nature and extent of the noncompliance and estimated cost of correction or removal. The Board of Directors shall hold a meeting to determine whether the Association shall have the noncomplying Improvement removed or otherwise remedy the noncompliance, and the Owner shall reimburse the Association upon demand for all expenses incurred in connection therewith. Notice of such Directors' meeting shall be provided to the Owner ten (10) days in advance, and the Owners shall have the opportunity to be heard and provide evidence. The Board of Directors may also seek alternative dispute resolution, the cost of which shall be responsibility of the Owner, unless otherwise determined by the Board of Directors. Expenses incurred by the Association for correction or resolution of such noncompliance, including the aforementioned alternative dispute resolution, shall become an additional assessment, referred to herein as a Default Assessment, recoverable as provided in the Declaration. If the Owner fails to reimburse the Association for such costs and such costs remain unpaid for three (3) months, the Association may file for and Record a claim of lien for the amount of such expenses as Default Assessments. The Committee may inspect work in progress and give notice of noncompliance in writing as provided above.

8.6 Application for Architectural Design Review Submittal. All applications to the BLRC for Architectural Design Review shall include, at minimum, the following elements.

- a) The Individual Lot Site Plan, as obtained from the Declarant or the BLRC, which shall be amended to include the locations and dimensions of all proposed and existing building, all landscaping, driveways, fences, sidewalks, decks, and any other Improvements, all of which shall be drawn in the same scale as the original BLRC Individual Lot Site Plan;
- b) Complete construction drawings - Two (2) sets shall be submitted to the Committee for approval. Each set shall include floor plans, exterior elevations of all sides, roof design, specifications, and any construction details. (scale 1/4" = 1'-0");
- c) Samples of all exterior materials with their respective color proposals in an adequate size to evaluate properly; and
- d) A review fee may be required at the time of submission of all the design submittal

documents and materials. The purpose of the design review fee shall be to defray the Association's cost of review of proposed site plans and the expenses of inspections and enforcement of this Declaration. The architectural design review fee shall be set by the Board of Directors.

8.7 Start of Construction. Under no circumstances shall construction be initiated without the required approvals or variance from the BLRC. Upon completion, all building construction and landscaping must conform to the final approved plans by the BLRC.

8.8 Vacant Lots. All vacant Lots shall be maintained by the Owner at the Owner's expense in accordance with this Declaration including, at a minimum, mowing for fire safety and the control of noxious weeds.

8.9 Completion. Once started, all work on any Improvement on any Lot must be conducted on a continuous and diligent basis until complete, which shall not exceed one (1) year, unless the construction period has been specifically extended by the BLRC in writing upon request of an Owner.

ARTICLE IX BUILDING AND SITE DEVELOPMENT

9.1 Intent of Design Criteria. The primary goal is to ensure that the proposed Project design and Lot Improvements, including landscaping, maintain or exceed the general level of quality, size, appearance, and marketability commensurate with the quality residential lots and homes adjacent to it and quality homes in general. All initial or subsequent Improvements or alterations to Lots are subject to the architectural, building and landscaping requirements and criteria as provided in Articles IX, X and XI. Approval by the BLRC shall be obtained prior to application to the City of East Helena and/or Lewis and Clark County for a building permit. The submittal requirements for review by the BLRC are specified in Article VIII. The BLRC shall have no power to approve any structure failing to meet, at minimum, the requirements and criteria set forth in this Declaration, unless otherwise provided herein.

9.2 General Regulations. All lands within Property are subject to the zoning regulations of the City of East Helena and applicable County regulations.

In addition to those regulations and these criteria, building design may be regulated by State and Federal regulatory agencies having jurisdiction. The Owner, or his or her agent, are responsible for conformance with any applicable regulations, and must consult with the City of East Helena, Lewis and Clark County, and the State of Montana, as needed to verify that the most recently adopted edition of any applicable regulation is being used. No construction of, or alteration to any Improvements, whether temporary or permanent shall be commenced on any Lot prior to receiving the written approval of the BLRC, the City of East Helena and Lewis and

Clark County as applicable.

Site Built Homes are expected to be the primary building type and no Move-on, Mobile, or Manufactured Home, as defined herein, is allowed to be placed on any Lot.

Interior modification and/or changes that do not alter the exterior appearance of a building, or other Improvements, shall not require the approval of the BLRC. Owners are responsible for consulting with the City of East Helena and all other applicable governing bodies and agencies with respect to any other approval required.

9.3 Density, Plat Restrictions, Allowable Uses, Allowable Buildable Areas and Setbacks.

- a) Density. No more than one (1) single family dwelling unit may be built on each residential Lot.
- b) Plat Restrictions. All property restrictions and conditions included on the Recorded Plat or Plats are incorporated herein.
- c) Allowable Uses. Each residential Lot shall be used exclusively for residential purposes, and no more than one (1) family shall occupy such residence, provided however that nothing in this subparagraph shall be deemed to prevent:

An Owner from pursuing the Owner's business upon the Lot or dwelling unit, so long as Owner resides on the Lot, is self-employed, and has no employees working on such Lot or in such dwelling unit, and does not advertise any product, work for sale, or service provided to the public upon such Lot or dwelling unit, subject to any applicable Zoning, or other local, state or federal regulations.

The leasing of any Lot and or Improvements from time-to-time by the Owner thereof is subject to this Declaration, the Bylaws, and any other rules, regulations or restrictions as may be adopted from time-to-time by the Association.

- d) Buildable Areas and Setbacks. All Improvements, other than landscaping and fencing, shall be limited to the buildable area or building envelope, as defined by the Plat, the Individual Lot Site Plan, and the PUD Chapter of the East Helena Zoning Ordinance. Specifically, the exterior perimeter walls of all dwelling units, exterior decks, deck piers and deck foundations, patios, driveways, walkways, slabs, arbors, gazebos, garden sheds or other such buildings or yard elements shall not be constructed nor located outside of the buildable area or building envelope as stipulated on the Plat and the Individual Lot Site Plan. The Setbacks or buildable area or building envelope may only be modified by approval of an amendment to the Plat by the City of East Helena, which may be requested by the Declarant or the BLRC, and only in the event that such modifications are fully

compliant with all City of East Helena Zoning Ordinance and Planned Unit Development Subdivision requirements.

Overhanging roof eaves may exceed buildable area or building envelope by not more than twenty-four inches (24") as measured horizontally from the exterior finish wall material to the outermost edge of eave or gutter, if allowed by the City of East Helena Zoning Ordinance.

- 9.4 Height Limits. The maximum building height for any building is thirty feet (30') measured from the average elevation of the proposed finished grade at the front of a building to the highest point of a roof, and the mean height between the eaves and the ridge for gable, hip, and gambrel roofs or as provided by the City of East Helena Zoning Ordinance, whichever is more restrictive. Chimneys and other architectural elements may extend above the maximum roof height, provided that such elements are approved by the BLRC, and the City of East Helena if required.
- 9.5 Minimum and Maximum Dwelling Sizes.
- a) Minimum. Each Lot shall provide the minimum living space exclusive of garages, decks, porches, patios and carports of 1,050 square feet, of which, a minimum of 800 square feet shall comprise the ground floor.
 - b) Maximum. Maximum dwelling size shall not exceed the requirements the City of East Helena Zoning Ordinance or other City requirements.
- 9.6 Foundation Design. All building foundations shall be permanent, constructed of concrete, and according to the final site grading plan stipulated by the Individual Lot Site Plan, and the City of East Helena Building Permit requirements. Final elevations at the site should be planned so drainage is directed away from all foundations and concrete slabs. Positive drainage away from all foundations should have 6 inches of fall in the first 10 feet away from the foundation. If sufficient room is not available to construct the 10-foot slope, drainage swales should be constructed as far from the foundations as possible.

ARTICLE X BUILDING CRITERIA

10.1 Intent. The intent of the following Building Criteria is to provide for continuity throughout the Property, while allowing personal taste in choice of housing style. Furthermore, the intent is to establish minimum standards and a minimum level of quality and continuity in building design to maximize the quality of the overall Project.

10.2 Exterior Siding. Exterior siding of all buildings shall consist of wood, wood look-alikes or wood products, brick, stone, or stucco. Other good quality manufactured exterior materials may be allowed with the written approval of the BLRC. No sheet or panel metal siding nor cement block siding is allowed. No plywood sheet siding is allowed unless used as an accent and only then if specifically approved in writing by the BLRC.

10.3 Roofs. Roof materials shall be wood or asphalt shake, tile or shingle in muted colors, and no rolled roofing shall be allowed. Exposed aluminum or silver flashing around the chimneys or roof valleys shall not be allowed unless colored, textured or painted to match the roof design and color. Rain gutters are required and shall match the trim color or color of the roof. Steel galvanized gutters are not allowed. The main portion of the roof of residential structures shall have a minimum pitch of 6/12. Further, roof overhangs and gable ends must be a minimum of six inches (6") and roof fascia trim shall extend downward on the roof and be visible for at least six inches (6"). No bright colored roofs are allowed, such as white or light gray. Solar arrays, solar shingles, and solar roof systems are allowed.

10.4 Foundations. All foundations for residential structures constructed on the real property which is the subject of this Declaration shall be permanent and made of concrete. No wooden foundations are allowed.

10.5 Colors. Exterior colors of all buildings shall be muted colors including earth tones, pastels, white, neutral, or wood tones. No bright or shiny colors on exterior siding are allowed, including, but not limited to bright oranges, royal blues, pinks, purples and the like. "Craftsman" colors such as dark muted reds and greens are encouraged, however all colors shall be compatible and harmonious with the surrounding neighborhood. Trim colors shall compliment the main body color of the building.

10.6 Accessory Buildings, outbuildings and other structures. All accessory buildings, outbuildings, and other structures, such as garages and storage buildings, shall be architecturally compatible with the dwelling unit on the Lot. Exterior design, style, materials, and colors of each of accessory buildings, outbuildings and structures on a Lot shall conform with the design, style, materials, and colors of the primary dwelling unit. Roof fascia trim shall extend downward on the roof and be visible for at least six inches (6").

10.7 Decks. Low level decks shall be skirted to grade.

10.8 Sight Distance at Intersections. For elimination of traffic hazards and to promote traffic safety, no fence, wall, tree, hedge or shrub that obstructs sight lines at elevations between two (2) and ten (10) feet above streets shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street corner curbs and a line connecting them at points forty (40) feet from the property corner.

10.9 Construction Completion. All Improvements, construction, reconstruction, alterations, or remodeling requiring the approval of the BLRC must be completed in compliance with the plans and specifications approved by the BLRC within one (1) year from the date construction is commenced.

10.10 Garages and Parking. Each dwelling unit is required to have a minimum of an attached two (2) car garage, but not more than three (3) car garage, however, that the following Lots shall have a private, attached garage for a minimum of one (1) car:

Lots 7-22, inclusive, Block 1; and Lots 10-22, inclusive, Block 4.

There shall be no long-term storage of cars or other vehicles outside the garage. Long-term parking of cars, trucks, or any other vehicle in the street is discouraged.

10.11 Energy Considerations. All structures shall be designed so that the primary source of heat is natural gas or electricity. The use of wood, wood bi-products or coal burning appliances as the major source of heat is prohibited. All wood burning devices except fireplaces shall be fitted with catalytic converters.

10.12 Exterior Lighting and Outdoor Lighting.

- a) All street lighting shall be provided by the Street Lighting District.
- b) All Outdoor Lighting (non-street lighting) shall meet the City of East Helena's requirements. In addition, all Outdoor Lighting shall be free of Glare, and shall be Fully Shielded Lights, or shall be Indirect Lighting, as those terms are defined below. Recessed or canned lighting is encouraged for porches, main entrances and other exterior applications to achieve softer, non-Glare, lighting effects. Clear glass or translucent panels allowing horizontal projection of light are specifically disallowed. Honey glass or amber glass panels are encouraged as an alternative, as are "down light" type fixtures. Fixtures revealing exposed light bulbs shall not be permitted.
- c) No lighting shall be beyond a property's lot line. No unshielded lights shall be permitted. No mercury vapor lights shall be permitted. For

purposes of this paragraph, the following definitions shall apply:

- 1) Fully Shielded Lights: Outdoor residential light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test expert;
- 2) Indirect Light: Direct light that has been reflected or has scattered off of other surfaces;
- 3) Glare: Light emitting from a luminary with an intensity great enough to reduce a viewer's ability to see, and in extreme cases, causing momentary blindness; and
- 4) Outdoor Lighting: The nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

ARTICLE XI SITE DEVELOPMENT AND LANDSCAPE CRITERIA

All Improvements and alterations shall be reviewed and approved in writing by the BLRC prior to commencement of construction or alteration, including, but not limited to, site development and landscaping. BLRC approval is a prerequisite to the City of East Helena building permit applications. Replacement of dead or dying vegetation and the addition of trees, shrubs or other landscaping features, providing that such additions are consistent with the Site Development and Landscape Criteria, shall not require submittal of plans and approval.

11.1 Driveways. All driveways and parking areas shall be surfaced with asphalt or concrete and shall be located as stipulated in the Individual Lot Site Plan.

11.2 Sidewalks. Sidewalks are required to provide opportunities for interior neighborhood walking loops and pedestrian circulation within the Property. All sidewalks shall be installed and maintained by individual Lot Owners. Sidewalks must be constructed to City standards, which require a minimum six-inch (6") slab thickness within the driveway areas and shall be installed at the time dwelling units are constructed on individual Lots at the Owner's expense. Sidewalks shall be located as stipulated in the Individual Lot Site Plan and shall be five (5) feet in width. Upon the third (3rd) anniversary of the final Plat recordation, any Owners who have not constructed their sidewalks shall be required to install sidewalks on their Lots, regardless of whether a dwelling unit is constructed on the Lot.

11.3 Kennels and Dog Runs. Only one (1) kennel or dog run is allowed, which shall not exceed three hundred (300) square feet. Kennels or dog runs must be placed within the rear yard and shall be integrated into (attached to) the dwelling to avoid isolation and to provide as much aesthetic appeal and compatibility as possible. The height of kennels or dog runs shall not exceed six (6) feet in height and must be built using the same building materials as Privacy

Screening. Chain link kennels or dog runs may be allowed within a fenced rear yard. All kennels and dog runs must be approved in writing by the BLRC.

11.4. Fencing. Fencing is required on all Lots within the Property. The fencing must be installed on the property line and shall not extend beyond the front of the building and must connect to the dwelling unit. To ensure consistency throughout the Property, all fencing must be installed by the approved fencing contractor, (as determined by the Declarant), and shall be 6-foot-tall, tan vinyl privacy fencing. The cost of the shared fence lines will be split between lot owners.

11.5 Privacy Screening. Privacy screening will be allowed but must be an integrated part of the primary dwelling and constructed of the same materials. The height of privacy screening shall not exceed seven (7') feet. Plans for privacy screening must be approved in writing by the BLRC prior to construction.

11.6 Antennas and Satellite Dishes. Satellite dishes not exceeding two feet (2") in diameter may be allowed. Satellite dishes must be located to minimize unsightliness as viewed from street frontages and neighboring Lots. The installation and placement of satellite dishes exceeding two feet (2") and antennas must be approved in writing by the BLRC. All satellite dishes and antenna are subject to the City of East Helena Zoning Ordinance and any airport regulations, requirements, or restrictions.

11.7 Utilities. All utilities including, but not limited to, natural gas, electricity, telephone and cable shall be located underground.

11.8 Storage Sheds. A single storage shed is allowed in Lot rear yards, subject to Section 10.6, and so long as the storage shed does not exceed ninety-six (96) square feet, with a maximum height of ten (10') measured to the highest point on the shed. The building material and colors of the shed is required to match the building materials of the home. All sheds must be approved in writing by BLRC prior to construction.

11.9 Temporary Structures. No temporary structures, trailers, campers, motor homes, tents, shacks, or similar structures shall be used as a residence on the Lot.

11.10 Solid Waste Containers. All rubbish, trash, and garbage shall be regularly removed from Lots and shall not be allowed to accumulate thereon. All solid waste containers must be stored out of view except during reasonable periods prior to and after pick-up, and only on the day of pick-up.

11.11 Recreational Vehicles. Trailers, motor homes, boats, snowmobiles, campers, motorcycles, and other recreational vehicles ("Recreational Vehicles") may be stored on the Lot as long as they are not used for habitation, and only if they are stored behind an approved fence. Recreational Vehicles may be stored in driveways for not more than four (4) consecutive days

and no more than thirty (30) cumulative days per calendar year.

11.12. Mail Boxes. Individual mailboxes will not be allowed. Mail boxes will be clustered at strategic locations to simplify mail delivery and reduce streetscape clutter. Mail box clusters will be of a location approved by the local Postmaster and no parking will be allowed in front of the mailbox clusters.

11.13. Construction Debris, Materials Storage and Clean-up. Construction materials shall not, at any time prior to or during construction, be placed or stored in the street or placed anywhere else so as to impede, obstruct, or interfere with pedestrians within the street right-of-way or sidewalks. All construction materials shall be removed from the Lot within thirty (30) days of substantial completion of construction.

Construction sites shall be kept clean, neat, and well organized at all times. Any construction debris shall be the responsibility of the Building Contractor and Owner and shall be kept clean and properly stored on a daily basis. Construction debris that blows onto another Owner's Lot shall be removed immediately upon notice thereof to the Building Contractor and neighboring Lot Owner from whose Lot the construction debris was blown. The Association may, at its discretion, strictly enforce this provision and reserves the right to fine negligent parties up to \$100.00 for failure to remedy a blowing construction debris infraction. Any construction debris, and most especially dirt, gravel, rocks, and concrete which find their way into the street shall be removed immediately from the street and the street must be brought back to a broom clean condition or the clean-up costs and the aforementioned fine may be levied and enforced against an Owner as a Default Assessment as provided herein.

11.14 Signs. Signs shall not be permitted on Lots or in Common Areas or Open Space, except as follows, and so long as such signs are consistent with the City of East Helena sign regulation, and upon receipt of any necessary permits and payments of fees:

- a) One address placard / sign shall be allowed per residence, and such signage shall be mounted to the front elevation of the dwelling unit.
- b) One temporary construction sign no larger than two feet by two feet (2' x 2') shall be allowed on a Lot for which construction is taking place, which shall be removed upon substantial completion of such construction.
- c) One temporary sign advertising a Lot or home for sale shall be allowed, providing that it does not exceed six (6) square feet on any one face, which sign must be removed when the Lot or home is sold. Such signage is only allowed on the Lot that is for sale, except as provided at f) below.
- d) Directory signs and decorative subdivision entry signs may be placed within the Common Area or Open Space as the Board of Directors

determines is necessary, which signs must be combined with landscaping features and comply with the City of East Helena sign regulation.

- e) Signs to identify trail routes, direct human activity, or provide interpretive information are permitted within the Common Area and Open Space, not to exceed a height of three (3) feet. Sign surface area shall not exceed two (2) square feet. All signposts or support structures shall be of wood construction.
- f) During the period Lots are being sold, the Declarant may erect marketing signs in the Common Area or other locations as deemed necessary and appropriate, subject to the City of East Helena regulations and any sign permit fee requirements.
- g) Election signs are allowed subject to any restrictions or limits on size, location, and time period as may be adopted by the Board of Directors.
- h) Temporary signs may be allowed under the particular circumstances as provided in this Declaration.

11.15 Landscaping. Landscaping is required pursuant to Article IV, to reduce stormwater runoff, for erosion control and reduction in soil degradation and to enhance the value of the property and the aesthetics of the Lot. The entire Lot shall be landscaped to the Lot boundaries, and up to and including the area between the front sidewalk and the edge of the street on the front of the Lot. Owners are required to maintain the landscaping on their Lots in good condition and shall replace dead or diseased grass, ground cover, shrubs, or trees, on the Lot as provided in Article IV. Landscape and grading plans shall be submitted to and approved by the BLRC concurrently with the completion of the dwelling unit. In locating bushes and trees, consideration must be given to surrounding Lots and view corridors. Rock and gravel type ground covers will be allowed on a case by case basis and only upon written approval of the BLRC. This limitation does not apply to large rocks or rock clusters include as a landscape feature, and which have been approved in writing by the BLRC as part of a landscape plan. Where a grass lawn is planted, the Owner must irrigate, mow, trim and otherwise maintain the grass lawn during the summer months.

11.16 Landscaping Maintenance. Lawns and landscaping shall be maintained in accordance with Article IV, in a manner which shall not detract from the appearance and value of the adjoining Lots or diminish the aesthetics of the Property. Enforcement shall be as provided in sections 4.9 and Article XV of this Declaration.

11.17 Street Boulevard Trees. Owners must install and thereafter maintain a minimum of two (2) deciduous (non-fruit bearing) trees per Lot within one (1) year of occupancy, which trees shall be located in the front yard between the curb and the City Sidewalk. All trees must be

deciduous and be a minimum of ten (10') feet in height with a minimum of one and a half inch to two-inch (1 ½"-2") caliper trunk dimensions. If Owners fail to install street boulevard trees with in two (2) years of occupancy, the Association may install such trees and bill Owner, which shall become a default assessment if not paid, or the Association may seek enforcement as otherwise provided in this Declaration. Additional trees and tree types are allowed with ARC approval.

ARTICLE XII COMMON AREA AND OPEN SPACE MANAGEMENT PLAN

12.1 Intent. The intent of the Common Area and Open Space Management Plan is to define appropriate uses of the Common Area and Open Space, and to provide for the management, maintenance, implementation, and protection thereof. The intent of the Common Area and Open Space within this Project is to provide:

- a) a general feeling of openness;
- b) buffer zones between Lot clusters and existing neighbors; and,
- c) corridors for trails networks.

The following standards apply to Common Area and Open Space within the Property:

12.2 Landscaping.

- a) Landscaping plantings shall feature native species but may incorporate non-native and ornamental species of trees and shrubs that will not contribute to wildlife depredation problems. Terrain modification may occur where needed to enhance opportunities for human activities, especially in conjunction with trails, or to improve the effectiveness of vegetative screening. The dominant theme for landscaping shall be open grassy areas with clusters of trees to create visual backdrops and vegetated islands requiring little maintenance.

12.3 Riparian Area Management. Management and maintenance along wetland, stream and pond riparian areas is to protect and encourage the return of native plant and animal species. Domestic pets are prohibited from such areas. In all riparian habitats, wildlife enhancement projects shall be done in conjunction with public or private professional consultants, subject to the necessary approvals by any applicable governing body or agency. Examples of such projects includes improvement of nesting sites, fish habitat, structures, wetland ponds and stream bank stabilization.

12.4 Management Coordination. The Association may coordinate management of the Common Area and Open Space by a managing agent. The Association may solicit the advice or

recommendations of professionals or agencies regarding management of the Common Area and Open Space.

12.5 Noxious Weeds. The Association is responsible for control of noxious weeds in Common Area and Open Space. The preferred method is by introduction of desirable plant species that eliminate weeds. Interim measures permitted include herbicide applications, mowing and biological control. All herbicide applications shall be conducted according to applicable County and State laws, including the Lewis and Clark County Noxious Weed Management Plan and the approved weed management plan for Highland Meadows Subdivision, Phase 1, and any approved weed management plans for future phases to be platted.

12.6 Animal Control.

- a) Domestic pets, limited to dogs and cats, shall not be allowed at any time in the Common Area or Open Space areas or trails unless on a leash or otherwise under the Owner's control.
- b) Temporary fencing and wrapping around shrubs and trees to prevent destruction by wildlife and domestic pets shall be permitted for the period of time necessary to ensure survival of the plantings.
- c) Rodents may be controlled if levels of depredation threaten the survival of plantings or constitute a health hazard. If poisons are used, they shall be applied only in accordance with applicable State laws and with prior approval of the Association, with notice of such application provide to Owners by mail or temporary signage in the Common Area or Open Space.
- d) Pesticides may be used to control insect populations that are a nuisance, threaten the survival of plantings, or constitute a health hazard. Pesticides may be applied only in accordance with applicable State laws and with the prior approval of the Association. The Owner or applicator shall post a temporary sign or signs at the time of the pesticide application providing notice thereof.
- e) Owners, Owner's family, occupants, or Owner's agents, employees, invitee(s), or licensee(s) shall not harass wildlife and should avoid areas of wildlife concentration. Loud, offensive, or other behavior which harasses or frightens wildlife in Common Area or Open Space is prohibited.

12.7 Taking of Wildlife. The taking of any and all wildlife species by any means within Common Area and Open Space is prohibited. If control of specific animals determined to be causing damage to property or injury to persons (e.g. a beaver damming an irrigation ditch or a porcupine identified as girdling planted trees) is necessary, Montana Department of Fish, Wildlife and Parks shall be contacted. No hunting or shooting of firearms shall be allowed in the Common Area or Open Space.

12.8 Fencing. No fences shall be permitted that restrict the movement of wildlife. Temporary fences, as noted above, for animal control shall be permitted. Fences designed to restrict, or direct human activity shall be permitted in a very limited fashion provided that no wire or metal mesh is used and they shall not exceed the height restriction as provided at Section 11.5.

12.9 Signing. Signs shall be permitted as provided in Section 11.14.

12.10 Prohibited Use. The following uses shall not be made of the Common Area or Open Space: personal gardens, storage, compost piles or landscape waste, refuse disposal and such other uses as determined inconsistent with the intent of this Common Area and Open Space Management Plan by the Board of Directors through adoption by resolution of additional rules and regulations of the use of Common Area and Open Space.

12.11 Wetlands Enhancement and Maintenance. It shall be the intent of the Association to maintain the jurisdictional wetlands. All wetland enhancement projects shall be done in accordance to plans, with plans to be drawn up by professional organizations specializing in such and in compliance with recommendations from the Montana Department of Fish, Wildlife and Parks. The Association shall have the authority to establish reasonable rules for operation and maintenance of enhanced wetlands areas consistent with the overall intent of the Common Area and Open Space Management Plan.

12.12 Additional Regulations and Restrictions.

- a) No feeding of wildlife other than birds.
- b) No introduction of non-native species of animals or fish.
- c) Maintenance of the Common Area and Open Space shall be the responsibility of the Association.
- d) No buildings or structures are allowed in the common open space areas except those related to the function and intent of the Common Area and Open Space and as approved as provided in this Declaration.
- e) Motorized vehicles are prohibited within the common open space areas

and trails except for maintenance and construction of landscaping, facilities or structures as provided herein.

- f) No fireworks or firearms of any kind shall be discharged within the Common Area and Open Space.
- g) Open burning of organic debris generated from the Common Area and Open Spaces may be allowed in accordance with local burning regulations and only by someone authorized by the Board.

ARTICLE XIII SPECIAL IMPROVEMENT DISTRICTS

13.1 Waiver of Right to Protest Future Special Improvement Districts S.I.D.(s), Rural Improvement Districts (R.I.D.(s), and Special Improvement Lighting Districts (S.I.L.D.(s). A waiver of right to protest the creation of Rural Improvement Districts has been filed. If a Special Improvement District, Rural Improvement District, or a Special Improvement Lighting District is not used for these Improvements, then this Property or Lots therein may be subject to alternative financing methods to finance improvements on a fair share basis.

ARTICLE XIV DURATION AND MODIFICATION

14.1 Duration. This Declaration shall have a duration of fifteen (15) years with automatic renewal. Subsequent to the initial term of the Board of Directors as provided in Articles, eighty-five percent (85%) of Owners may vote to amend or modify this term, subject to the procedure provided in Section 14.2, excepting the percentage vote needed which shall be as provided in this Section.

14.2 Modification Procedure. Except as otherwise provided herein, this Declaration or any provision hereof, or any covenant, condition or restriction contained herein, may be terminated, extended, modified or otherwise amended, as to the whole of the subject property or any portion thereof, with the written consent of the Owners of sixty-seven (67%) of the Lots, provided, however, that so long as Declarant owns at least twenty percent (20%) of the Lots subject to these covenants, conditions and restrictions, or for a period of twenty (20) years from the effective date hereof, whichever period is shorter, no such termination, extension, modification or other amendment shall be effective without the written approval of Declarant, which approval shall not be unreasonably withheld. No such termination, extension, modification or other amendment shall be effective until a proper instrument in writing has been executed, acknowledged and recorded.

Notwithstanding the foregoing, during the initial term of the Board of Directors as provided in Articles, this Declaration of Covenants, Conditions and Restrictions may be

modified, amended and changed by the Declarant without the need or necessity of the consent of the then-owners of the real property which is the subject of this Declaration.

Notwithstanding the foregoing, any covenant, condition or restriction which is included herein which was also required as a condition of preliminary Plat approval and required by the City Council may not be amended or revoked without the mutual consent of the Owners in accordance with the amendment procedure set forth above, and the consent of the City of East Helena.

ARTICLE XV ENFORCEMENT

15.1 Enforcement. If any Owner, Owner's family, Occupant, or Owner's agents, employees, invitee(s), or licensee(s), fails to pay assessments or fails to conform with or violates the criteria, standards, requirements and covenants herein, the Declarant, Association and/or an Owner or Owners may demand conformance or compliance therewith and take such further action as provided in this Section.

- a) Demand and Notice. Such demand shall include written notice detailing the specifics of the failure, nonconformance, or violation, identify the property, and demand compliance or remedy thereof within thirty (30) days of the written notice to the Lot Owner, and if such failure, nonconformance and violation is the failure to pay assessments, such demand and notice shall include the amount of assessments due and owing and any related charges, interest, or fees, including late charges. The demand shall also state the action that will be taken under this Section if the failure, nonconformance, or violation is not remedied within the timeframe herein provided. If the nonconformance or violation cannot be remedied within the thirty (30) day period, Owner shall request extension of the deadline by the Declarant or the Association, as applicable, which extension shall not be unreasonably withheld.
- b) Association's Right to Remedy. With the exception of an Owners failure to pay assessments, if the Lot Owner does not respond to such notice or does not remedy the nonconformance or violation with such thirty (30) day period, absent extension thereof, the Association shall have the right, but not the obligation, to remedy the violation or nonconformance, if feasible, and to charge the Owner with the cost of such remedy together with interest thereon at an annual rate equal to the maximum rate allowed under Montana law from the date of the Association's advancement of funds for such remedy to the date of reimbursement of the Association by Owner. Neither the Declarant, an Owner, or the Association shall be liable to any Owner, person, or entity for any entry, self-help, remedy, or abatement of a violation of the criteria, standards, requirements and covenants herein, and all Owners shall be deemed to have waived any and all

rights or claims to or for damages for any loss or injury resulting from action taken to abate or remedy any nonconformance or violation, except for any loss or injury or damage resulting from intentionally wrongful acts on the part of an Owner, the Declarant or the Association.

- d) **Costs, Expenses, Fines, Default Assessment, Attorney's Fees and Liens.** The Association may impose fines for failure, nonconformance or violations of the criteria, standards, requirements, and covenants contained in the Declaration. All such charges, fines, fees, along with actual costs, expenses advanced by the Declarant or Association to remedy or abate a violation or nonconformance, and actual costs, expenses, and reasonable attorney's fees otherwise related to the correction, remedy, abatement, resolution, or removal of a violation or nonconformance of the criteria, standards, requirements and covenants herein, incurred either through litigation, entry or self-help shall become an additional assessment, referred to herein as Default Assessment, recoverable as such. Default Assessments shall constitute a claim by the Declarant or Association initiating such action against a nonconforming or violation Owner. Such claim shall be enforceable through appropriate court action or filing of a lien as provided herein. If the Owner fails to reimburse the Association for the costs to remedy the violation or nonconformance, or pay the Default Assessments, and such Default Assessments, unpaid for three (3) months, the Association may file for and Record a claim of lien against the subject property for the amount of the Default Assessments together with interest thereon. Actual costs may include, but shall not be limited to, actual costs, expenses advanced by the Declarant or Association to remedy or abate a violation or nonconformance, costs associated enforcement of this Declaration, recording fees, costs of title search obtained in connection with filing of a lien, all costs related to the foreclosure of the lien, including court costs and reasonable attorney's fees, which may be incurred in the foreclosure and collection of such a lien. Such lien shall be for the benefit of the Association and may be enforced and foreclosed as provided by law.
- c) **Notice of Noncompliance.** The Association upon taking such action as provided in Section 15.1.a, shall record a notice of violation or noncompliance against the Lot providing notice that the Lot or Improvements thereon are in violation of or not in compliance with Declaration or other governing documents and shall put prospective purchasers on notice of such violation or noncompliance and may provide such other steps as may be necessary to bring the Lot or Improvements thereon into compliance with the Declaration or other governing documents.
- c) **Cure.** If a default to which a notice of claim of lien was filed is cured, The Association shall file or Record a rescission or removal of such notice, upon payment by the defaulting Owner of the cost of preparing and filing or recording

such rescission, and other reasonable costs, interest or fees which have been incurred.

- d) **Nonexclusive Remedy.** The foregoing lien and the rights to foreclose thereunder shall be in addition to, and not in substitution for, all other rights and remedies which any party may have hereunder and by law, including legal proceedings in a court of law or equity, injunctive relief and damages, any suit to recover a money judgement for unpaid assessments.

15.2 **Abatement and Suit.** The Owner of each Lot shall be primarily liable, and the Occupant, if any, secondarily liable for the violation or breach of any covenant, condition or restriction herein contained. Violation or breach of any covenant, condition or restriction herein contained shall give to Declarant, or the Association, following thirty (30) days written notice to the Owner or Occupant in question except in existing circumstances, the right, privilege and license to enter upon the Lot where said violation or breach exists and to abate and remove summarily, or abate or remove, at the expense of the Owner or Occupant thereof, any improvement, structure, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof, or to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these covenants, conditions and restrictions to enjoin or prevent them from doing so, to cause said violation, following the notice as required in Section 15.1. No such entry by Declarant, the Association or their agents shall be deemed a trespass, and neither Declarant nor the Association nor their agents shall be subject to liability to the Owner or Occupant of said Lot for such entry and any action taken to remedy or remove a violation. The cost of any abatement, remedy or removal hereunder shall be a binding personal obligation of any Owner or Occupant in violation of any provision of this Declaration, as well as a lien (enforceable in the same manner as a mortgage) upon the Lot in question. The lien provided for in this section shall not be valid as against a bona fide purchaser or Mortgagee for value of the Lot in question unless a suit to enforce said lien shall have been filed in a court of Record in Lewis and Clark County, Montana, prior to the recordation of the deed or Mortgage conveying or encumbering the Lot in question to such purchase or Mortgage, respectively.

15.3 **Right of Entry.** During reasonable hours and upon reasonable notice, and subject to reasonable security requirements, Declarant, the Association or their agents, shall have the right to enter upon and inspect any Lot and the Improvements thereon covered by this Declaration for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with, and to take such action as provided in Section 15.1, and neither Declarant nor the Association nor their agents shall be deemed to have committed a trespass or wrongful act by reason of such entry or inspection, or action as provided in Section 15.1.

15.4 **Deemed to Constitute a Nuisance.** The result of every act or omission whereby any covenant, condition or restriction herein contained is violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or in equity against

an Owner or Occupant, either public or private, shall be applicable against every such result and may be exercised by Declarant or the Association.

15.5 Attorney's Fees. In any legal or equitable proceeding for the enforcement of this Declaration or any provision hereof, whether it be an action for damages, declaratory relief or injunctive relief, or any other action, the losing party or parties shall pay the attorney's fees of the prevailing party or parties, in such reasonable amount as shall be fixed by the court in such proceedings or in a separate action brought for that purpose. The prevailing party shall be entitled to said attorney's fees even though said proceeding is settled prior to judgment. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

15.6 Failure to Enforce is No Waiver. The failure of The Association to enforce any requirement, restriction or standard herein contained shall in no event be deemed to be a waiver of the right to do so thereafter or in other cases, nor of the right to enforce any other restriction.

15.7 Indemnification. Each officer, director, and former officer and director of the Association shall be indemnified and held harmless by the Association against all expenses, claims, suits, clauses of action demands and judgements, liabilities, including attorney's fees, reasonably incurred by or imposed upon him in any proceeding to which he may be a party, or in which he may become involved by reason of his being or having been an officer or director of the Association, or any settlement thereof, whether or not he is an officer or director at the time such expenses are incurred, except in such cases wherein such officer, director or committee member is adjudged guilty of willful malfeasance in the performance of his duties. The Association may procure and maintain insurance against such liabilities, or such kind and amount as its Board of Directors may approve.

ARTICLE XVI ASSIGNMENT

Any and all of the rights, powers and reservations of Declarant herein contained may be assigned to any person, partnership, corporation or association which will assume the duties of Declarant pertaining to the particular rights, powers and reservations assigned, and upon any such person, partnership, corporation or association evidencing its consent in writing to accept such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. If at any time Declarant ceases to exist and has not made such an assignment, a successor to Declarant may be appointed in the same manner as this Declaration may be modified or amended under Article XIV. Any assignment or appointment made under this Article shall be in reasonable form and shall be recorded.

**ARTICLE XVII
CONSTRUCTIVE NOTICE AND ACCEPTANCE**

17.1 Constructive Acceptance. Every person or entity who now or hereafter owns, occupies or acquires any right, title or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in the Property.

17.2 Notices; Documents; Delivery. Any notice or other document permitted or required by this Declaration of shall be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed as follows: If to the Association or to the BLRC, at the registered office for the Association; if to an Owner, then at the address on file with the Declarant or Association, which address shall be updated as needed by the Owner; if to Declarant at Highland Meadows, LLC, 175 N. 27th Street, Suite 900, Billings, Montana 59101; provided, however, that any such address may be changed from time to time by an Owner, by the BLRC, or by Declarant by notice in writing.

**ARTICLE XVIII
WAIVER**

Neither Declarant or the Association nor their successors or assigns shall be liable to any Owner or Occupant of the Property by reason of any mistake in judgment, negligence, nonfeasance, action or inaction or for the enforcement or failure to enforce any provision of this Declaration.

The failure by any of the parties hereto or any subsequent Owner to enforce any condition, covenant, or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter or in other cases, nor of the right to enforce any other condition, covenant, or restriction, nor of the right to collect damages for any subsequent breach of covenant.

**ARTICLE XIX
RUNS WITH LAND**

All covenants, conditions, restrictions and agreements herein contained are made for the direct, mutual and reciprocal benefit of each and every Lot of the Property; shall create equitable servitude upon each Lot in favor of every other Lot; shall create reciprocal rights and obligations between respective Owners and occupants of all Lots and privity of contract and estate between all grantees of said Lots, their heirs, successors and assigns; and shall, as to the Owner and Occupant of each Lot, his heirs, successors and assigns, operate as covenants running with the land, for the benefit of all other Lots, except as provided otherwise herein.

**ARTICLE XX
CAPTIONS**

The captions of articles and sections herein are used for convenience only and are not intended to be a part of this Declaration or in any way to define, limit or describe the scope and intent of the particular article or section to which they refer.

**ARTICLE XXI
SEVERABILITY**

If any part, term or provision of these covenants is held to be illegal or unenforceable, the validity of the remaining portions shall not be affected.

DATED this 17th day of November, 2020.

DECLARANT

HIGHLAND MEADOWS, LLC,
A MONTANA LIMITED LIABILITY COMPANY

By: [Signature]
Landy Leep
Its: Manager

STATE OF MONTANA)
 :SS
County of Lew and Clark)

On this 17th day of November, 2020, before me, a Notary Public for the State of Montana, personally appeared Landy Leep, known to me to be the Manager of Highland Meadows, LLC, a Montana Limited Liability Company, and acknowledged to me that he executed the same pursuant to the power and authority vested in him.

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

Robie Baldwin-Culver
Notary Public for the State of Montana
Printed Name: Robie Baldwin-Culver
Residing at: Clancy, Montana
My Commission Expires: 10/02/2022
(mm/dd/yyyy)

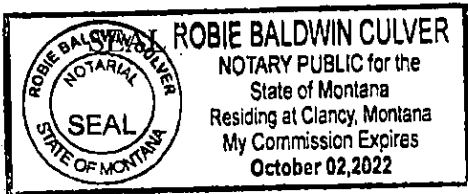


EXHIBIT "A"

LEGAL DESCRIPTION

Plat of Highland Meadows Subdivision – Phase 1. Lot 2 of the Dartman Minor Subdivision, Document No. 3330122, Located within the Northeast Quarter of Section 25, Township 10 North, Range 3 West, P.M.M., Lewis and Clark County, Montana.

Phase 1 of the Highland Meadows Subdivision includes the following lots:

Lots 1 through 30, inclusive, Block 1;

Lots 1 through 27, inclusive, Block 4.

EXHIBIT "B"

OTHER PROPERTIES WHICH MAY BE ADDED TO THE DECLARATION

All or part of any real estate located within one half (1/2) mile in any direction from any portion of the perimeter boundary line of the Project, together with the Improvements located thereon, provided the owner of that real estate consents, and provided all other consents or votes required by this Declaration are first obtained.