

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
VILLAGE GREENS TOWNHOUSES

This is a Declaration of Covenants, Conditions and Restrictions regulating and controlling the use and development of real property, is made effective this 30 day of July, 1998 by BRIDGER GROUP, LLP, hereinafter referred to as "Declarant."

1. **PURPOSE.** Declarant is the owner of certain real property ("property") located in Gallatin County, Montana, which property is more particularly described as follows:

A tract of land being Lot 62 and a portion of lot 58, Bridger Creek Subdivision, Phase 1, situated in Section 31, Township 1 South, Range 6 East, P.M.M., City of Bozeman, Gallatin County, Montana and being further described as follows:

Beginning at a point which is the northwest corner of lot 62 of Bridger Creek Subdivision Phase 1. to be known as the true point of beginning:

Thence S 28 29'30" W a distance of 108.98 feet;

Thence S 35 57' 40" E a distance of 395.62 feet;

Thence N 87 56' 41" E a distance of 138.52 feet;

Thence N 27 57' 51" E a distance of 234.47 feet;

Thence N 03 37' 45" W a distance of 140.00 feet;

Thence S 86 22' 25" W a distance of 191.06 feet to a point of curvature a curve to the right, having a radius of 321.86 feet.

Thence along an arc length of 247.62 feet and a central angle of 44°04'48" to the True Point of Beginning:

Said tract contains 2.77 acres, more or less and is subject to all easements of record.

2. **DECLARATION.** Declarant hereby declares that the property described above, and any part thereof, shall be owned, sold, conveyed, encumbered, leased, used, occupied and developed subject to the following covenants, conditions, and restrictions which are sometimes referred to hereafter as the "covenants". The covenants shall run with the property, and shall be binding upon all parties having or acquiring any legal or equitable interest in or title to the property, and shall inure to the benefit of every owner of any part of the property. The acquisition of an ownership interest in a unit in Village Greens Townhouses signifies that the Owner accepts, ratifies and agrees to comply with these covenants.

The townhouses which are governed by these covenants shall be built in phases of varying sizes. No townhouse shall be considered to be subject to these covenants until such time as a certificate of occupancy is issued for the unit, at which time the townhouse will be considered incorporated into the development. The owner shall thereafter be assessed for common expenses and the owner shall have a vote in Association matters, as set forth below.

NOW, THEREFORE, Declarant declares as follows:

Declarant and all subsequent purchasers, successors, personal representatives, heirs and assigns, must belong to the Village Greens Townhouses Owners' Association. All owners shall be subject to the covenants set forth herein, which shall also function as the By-laws of the Village Greens Townhouses Owner's Association.

3. **DEFINITIONS.** The following terms and phrases used in these covenants shall be defined as follows:
- a. "Association" shall mean the Village Greens Townhouses Owner's Association, or its successor in interest, and shall consist of the owners of the individual townhouses, or their delegated tenants.
  - b. "Common Elements or Common Areas" shall include all of the common improvements in the Village Greens Townhouses, including the private roadway within the property which provides access to individual townhouses, gates, fences, utilities, those areas around the perimeter of the property which are not included in the deed for individual units, but which are common to all units, including the grass and trees thereon, the well and sprinkler system for landscaping, as well as all other improvements that are built on, or appurtenant to, the property and available for the use of the Association members.
  - c. "Common Services" shall mean the maintenance of driveways, including snow removal services, utility line maintenance or repair, as well as irrigation and maintenance of the landscaped areas of the Common Areas.
  - d. "Owner" shall mean the record owner of a townhouse within the Village Greens Townhouses, including a contract purchaser, but excluding anyone having an interest in a unit as security for the performance of an obligation.
  - e. "Townhouse" shall refer to any of the individual units within Village Greens Townhouses, and the real property upon which each individual unit is situated.
  - f. "Association Member" or "Member" shall refer to any townhouse owner or a tenant, provided that the tenant has been delegated by the Member to act in the place of the Member.

4. **USE AND ENJOYMENT.** Each owner or tenant shall have the right to the quiet and peaceful possession of his or her townhouse, and the appurtenant common elements, subject to the following:

a. **Authorized use.** Only single-family residential use shall be permitted, and no commercial, industrial or other non single-family residential use shall be permitted on or within any townhouse bound by these covenants, except as allowed by local ordinance or zoning regulations.

b. Maintenance. Each lot affected by these Covenants, and all improvements thereon, shall be maintained in a clean, safe and slightly condition. Boats, tractors, vehicles other than automobiles, campers, whether or not on a truck, and other recreational vehicles or equipment, shall be stored upon the property for no more than 10 days unless stored in the garage of an individual townhouse. Snow removal equipment, garden and maintenance equipment shall be kept at all times, except when in actual use, within the individual townhouses. Refuse, garbage and trash shall be kept at all times in covered containers, and any such container shall be kept within the individual townhouses, except as necessary for pick-up by an authorized hauler. No grass, shrub or tree clippings or plant waste, scraps, refuse or trash shall be kept, stored or allowed to accumulate on the property.

c. Noxious or Offensive Activities. No noxious or offensive activity shall be permitted on the property.

d. Signs. No signs shall be placed upon the property or within any townhouse, except that an owner may permit one Realtor's sign to be placed upon the property adjacent to or within an individual townhouse for purpose of the sale of the individual townhouse.

e. Common Drive. The common drive on the property shall be a private road at all times, for the use and enjoyment of the owners, tenants and their guests, as well as to allow access by emergency vehicles. No owner, tenant or guest shall be allowed to park any vehicle upon, or otherwise restrict passage of any other person or vehicle upon the common driveways.

f. Alterations. Any owner who desires to change the exterior appearance of his or her townhouse in any way, including painting, new construction or remodeling, shall first obtain the consent of the Association, which shall have the sole discretion to approve or disapprove such alteration; except that an owner may repaint an individual townhouse using the same paint colors and color scheme without prior consent of the Association. In exercising its discretion, the Association shall attempt, to the extent possible, to preserve uniformity of design, construction and paint color on the property, and the Association shall further attempt to insure that adjoining owners are not adversely affected. In addition, should any alteration affect the structural integrity or bearing capacity of a party wall, no such alteration shall be allowed without the consent of the owner(s) of the contiguous residence sharing the party wall.

g. Animals and pets. The owner or tenant of any townhouse affected by these covenants may keep no more than two domestic pets within his or her townhouse. Such pets shall be kept in strict compliance with all applicable statutes or ordinances governing the control and care of pets, and such pets shall not be housed upon any common areas, nor shall any pets be allowed to roam freely upon the common areas. All animal wastes shall be promptly removed by the pet owners, regardless of whether such waste is found on the owner's lot or otherwise. In addition, any owner of a pet kept in any townhouse affected by these covenants shall be liable for any intentional or negligent damage caused to any person or property as a result of the presence of a pet or pets upon the property.

#### 5. ASSOCIATION AND BOARD OF DIRECTORS.

a. Every owner of a townhouse unit in Village Greens Townhouses shall be a member of the Association as well as the Bridger Creek Phase 1 Homeowners Association; except that an owner may delegate the rights and duties of membership to an authorized tenant.

b. Each townhouse shall be entitled to one vote in the Association for every matter coming before the Association for a vote. Votes for individual townhouses shall not be split, but an owner may give to another owner or an authorized representative a proxy to represent the owner at any meeting of the Association.

c. The members of the Association shall govern the activities of the Association directly, without a Board of Directors, unless 2/3 of the members vote to establish a Board of Directors, in which case the Board shall serve for such period or periods and upon such conditions as the Association may establish. The Association, or the Board acting in its place, shall elect officers, who shall be entitled to carry on the administration of the Association, including execution of all documents necessary to conduct the business of the Association, and shall be further vested with the powers that the Association may, from time-to-time confer upon the officers. The officers of the Association shall consist initially of a president, a vice president, a secretary and a treasurer. The latter two offices may be combined. All officers shall be elected for terms of one year.

d. The Association shall be responsible for the enforcement of these covenants and the maintenance of the Village Greens Townhouses. Unless otherwise required by this declaration, or any amendments hereto, a majority of those members present in person or represented by proxy shall be sufficient to determine any question brought before the association.

e. The Association shall meet at least annually to conduct the business of the Association, including the establishment of assessments and the awarding of maintenance contracts, as well as any other business that may properly come before the Association. In order to conduct any business at an Association meeting, a quorum shall be present, which shall consist of more than half of the owners entitled to cast votes at the meeting either in person or by proxy. At least ten days prior to the annual meeting, or any special meeting, the Secretary of the Association, or such other person as may be responsible for sending notices to members, shall send to each member a written notice of the time and place of the meeting, and the agenda to be followed.

f. The Declarants shall reserve the right to establish the date of the initial meeting of the Association, which shall take place within 30 days of the date upon which the third townhouse is conveyed. At the time of the initial meeting of the Association, the membership shall then designate the dates for the annual meetings thereafter.

g. Special meetings of the Association may be held upon the request of any of the officers, or of any three members of the Association. Such request shall be submitted in writing to the Secretary of the Association and shall specify the reason for such meeting and the matters to be raised. Only matters set forth in the petition or request may be brought before such meeting unless 75% of the aggregate interest present agrees otherwise.

h. The Association shall, at the initial meeting and thereafter, establish a budget and charge an assessment to the owners for maintenance of the common areas of the Village Greens Townhouses, and for the safety and convenience of the owners. All such assessments shall be due and payable immediately upon the mailing of notice of assessment, and any assessment not paid within thirty days shall be considered delinquent. The Association shall have the right to suspend the voting rights of any member who is delinquent in paying such assessments. In addition, the Association shall have the right to place a lien upon the property of any delinquent owner in the manner provided in the Montana Unit Ownership Act, and such lien may be foreclosed in the manner provided therein. Such lien shall be subordinate to any first mortgage upon the individual townhouse. In the event of a sale of the townhouse, the lien shall remain affixed, but in the event of a foreclosure by a lender holding a first mortgage on the townhouse, a foreclosure sale shall extinguish the assessment lien if the foreclosure sale does not produce sufficient funds to satisfy the assessment lien.

l. The Declarants shall determine the initial assessments for the Association; provided, however, that until three of the units in Phase I are sold, the maximum assessment per townhouse affected hereby shall be the sum of \$ 50.00 per month. After three units in Phase I are sold, a majority of the owners present at the annual meeting, or a special meeting called for that purpose, may establish the assessments for the upcoming year, in an amount necessary to maintain the common elements. Each owner shall be required to pay his or her proportionate share of such assessment, within the time set forth above.

j. In addition to the annual assessments authorized above, the Association may, from time-to-time, levy special assessments for the construction, repair or replacement of capital improvements upon the property. Such action shall require the approval of a majority of those members present and qualified to vote for such assessment.

k. Neither the Association, the Board, nor any member thereof shall be liable to any party for any action or inaction with respect to any provision of these covenants, provided that the Board and each member thereof has acted in good faith.

l. The fiscal year of the Association shall run from January 1 through December 31 of each year.

6. LIABILITY OF OFFICERS.

No officer of the Association shall be liable to the Association or any of the members or Owners or any third party for harm, injury, loss or damage suffered because of any action taken or omitted to be taken by him or her while serving as an officer in good faith if:

a. The officer exercised and used the same degree of care and skill as a prudent person would have exercised or used under the circumstances in the conduct of his or her own affairs, or

b. Took or did not take action in reliance upon advice of counsel or upon statements or information of other Owners or employees of the Association which he or she has reasonable grounds to believe.

7. ENFORCEMENT OF COVENANTS.

a. In the event of any violation or threatened violation of these covenants, the affected person or entity, including any Owner or the Owners Association, may enforce these covenants by legal proceedings in a court of law or equity, including the seeking of injunctive relief and damages. In association with such legal proceedings or as a separate remedy, such Owner, or the Owners Association may enter upon the property in question and remove, remedy or abate the violation or threatened violations after first having given proper notice and a reasonable opportunity for the violator to take action to comply with these covenants as set forth below, provided that such self-help remedy can be effected without a breach of the peace or any violation of law. Included within the self-help remedy shall be the right to remove any vehicle kept upon the property in violation of Article 4.b.. In the event that any such vehicle is towed, the owner of the vehicle shall be required to reimburse the association for all towing fees and other expenses incurred.

b. Notice as required above shall be in writing and shall be served on the person or entity concerned and shall specify the violation or threatened violation, identify the property, demand compliance with the terms and conditions of these covenants and shall state the action which will be taken under the above paragraph if the violation or threatened violation is not abated, remedied or satisfied. If such notice cannot be personally served after a reasonable effort to locate the person or entity to be served, service may be had by posting a copy of such notice at a conspicuous place on the property which is the subject of such violation and mailing a copy of the notice by Certified Mail, return receipt requested, to the last known address or address of record of the violator. The violator shall have 30 days from the date of posting and mailing of the same, within which to comply with these covenants before any party may engage in self help, abatement, entry or commencement of litigation as provided in the above paragraph; except that if the offending condition is a violation of Article 4.b., 4.c., 4.d. 4.e., or 4.g., the notice may allow a period of not less than three (3) days to remedy the offending condition before self-help may be utilized.

c. No Owner or member of the Owner's Association or Committee shall be liable to any person or entity for any proper entry, self-help or abatement of a violation or threatened violation of these covenants 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 properly abate, remedy or satisfy any violation or threatened violation of these covenants. Exception to the above shall exist for loss, injury or damage for intentionally wrongful acts.

d. Actual costs, expenses and reasonable attorney's fees connected with correcting, remedying, abating, preventing or removing any violation or threatened violation of these covenants incurred either through litigation, entry or self help shall constitute a claim by the individual Owner or the Owner's Association initiating such action against the Owner of the property which is the subject of such violation or threatened violation. Such claim shall be enforceable through appropriate Court action.

8. PARTY WALLS. Party walls and the foundations for party walls have been placed between the units located on the property, which will be governed by these covenants. Each unit owner, during his or her ownership of a unit, shall enjoy the right, privilege or easement to use such party wall and foundation for so long as the same remains standing, upon the following terms and conditions:

a. Should the residences on the property described above be so constructed that the foundation or party walls for the same extend over the boundary of that lot and onto the lot of the adjoining unit, the foundation and party wall of such building so extended shall remain as situated and shall be construed and deemed to be a party wall between such properties so that in the event an encroachment exists, neither party shall be compelled to take down or remove such party wall for so long as the same shall remain standing, and such encroachment shall be deemed permissive, with no adverse or prescriptive rights created on the property which shall suffer the encroachment.

b. Notwithstanding the effects of Article 9, below, the provisions of this Article shall continue in effect from and after the date of the execution of this Declaration and for so long as the foundations and party walls shall stand and shall constitute an easement and covenant of record running with the land, for the mutual use and benefit of each lot affected by this Declaration.

c. Each wall which is built as a part of the original construction of the homes upon the properties and placed on the dividing line between the lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply.

d. The cost of reasonable repair and maintenance of a party wall shall be equally shared by the owners who make use of

e. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use. Such restoration shall be without prejudice, however, to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

f. Notwithstanding any other provisions of this Declaration, an owner who, by his negligent or willful act, causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

g. In the event of any dispute arising concerning a party wall, or under the provisions of this declaration, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. Such arbitration shall be conducted under the rules of the American Arbitration Association and the decision of the arbitrators shall be binding upon the parties.

9. **AMENDMENT-VARIANCE.** Amendments to these Covenants, other than those Covenants affecting the rights of any owners in party walls, may be made upon an affirmative vote of the Owners of at least 75 % of the townhouses affected by these Covenants, at a regularly scheduled or special meeting.
10. **DURATION OF COVENANTS.** All of the covenants, conditions and restrictions set forth herein shall continue and remain in full force and effect at all times against the property and the Owners and purchasers, except as set forth in paragraph 8 hereof.
11. **SEVERABILITY.** Any decision by a Court of competent jurisdiction invalidating any part or paragraph of these covenants shall be limited to the part or paragraph affected by the decision of the Court, and the remaining paragraphs and the covenants, conditions and restrictions therein shall remain in full force and effect.
12. **ACCEPTANCE OF COVENANTS.** Every Owner or purchaser of a tract within the property shall be bound by and subject to all of the provisions of this Declaration and every Owner or purchaser through his or her purchase or ownership expressly accepts and consents to the operation and enforcement of all of the provisions of this Declaration.

DATED this \_\_\_\_ day of July, 1998.

By: Dennis Dehmer  
Dennis Dehmer, President  
2700 McIlhatten Rd.

STATE OF MONTANA )

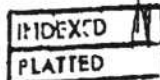
ss.

County of Gallatin )

On this 9th day of July, 1998, before me, a Notary Public in and for the State of Montana, personally appeared Dennis Dehmer of the corporation that executed the within instrument, and acknowledged to me that such

WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

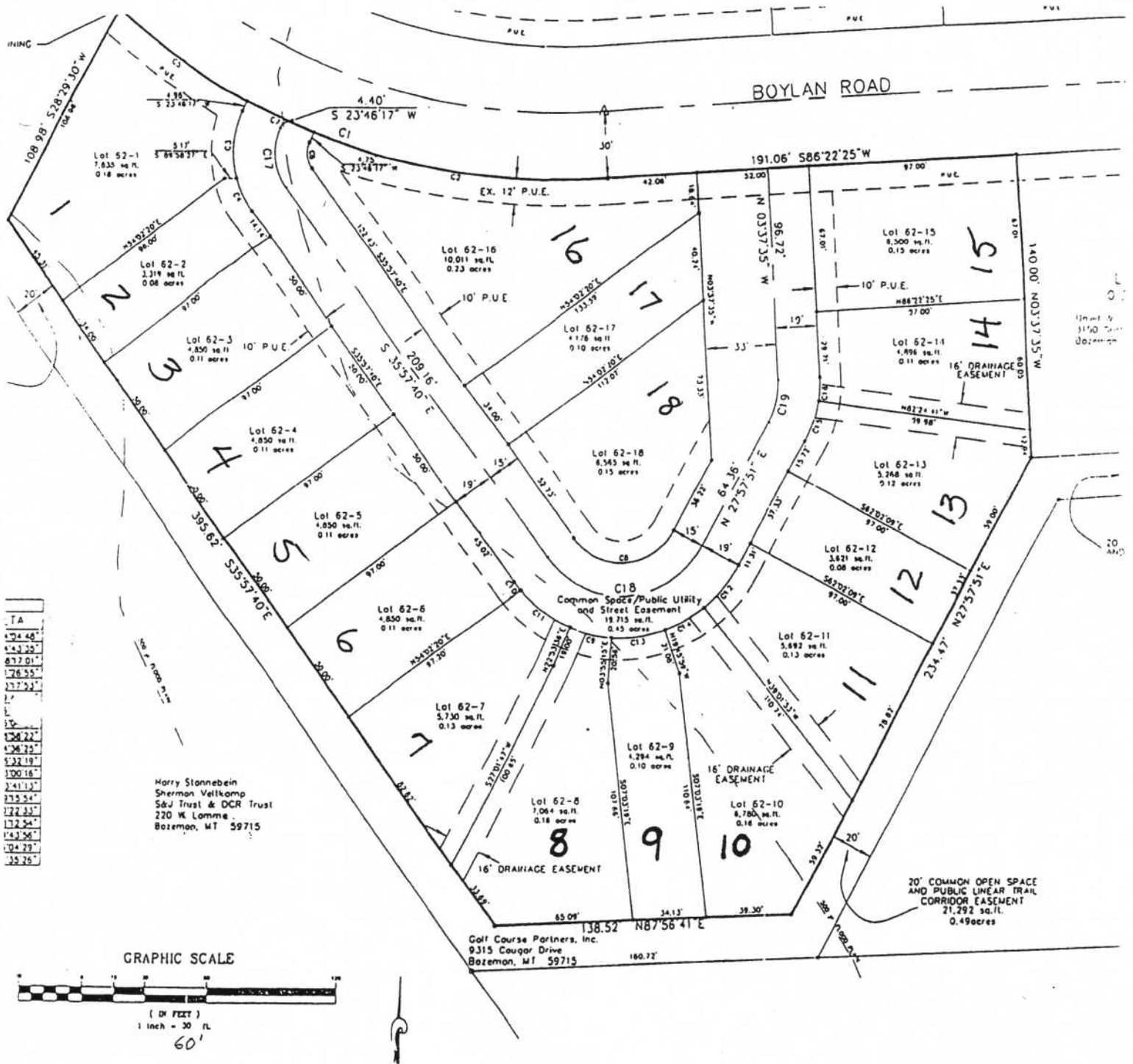
Kathleen A. Owen  
Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My commission expires: 9/26/98



373266

State of Mont., County of Gallatin. ss Filed for record SEPTEMBER 11, 19 98  
at 11:52 A M., and recorded in Book 189 of MISCELLANEOUS page 337  
Shelley Vance Recorder. By Jenny Conzelley Deputy  
FEE: \$24.00PD RT: DENNIS DEHMER 2700 MC ILHATTAN RD BOZEMAN, MT 59715





1050 BOYLAN RD  
Village Greens Sub.

While this is a photocopy of a county map/plat, Security Title Company assumes no liability for the accuracy thereof.