HAMLIN CONSTRUCTION
900 N. MT. AVE - SUITE A6
HELENA, MT. 59601

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Paulette DeHart Clerk & Recorder, Lewis & Clark MT

Declaration of Covenants, Conditions, and Restrictions of Red Fox Meadows Subdivision

Declaration: This declaration made on the date hereinafter set forth by Jerry Hamlin hereinafter referred to as "Declarant". Lewis and Clark County will have a separate and distinct set of covenants in addition to the following covenants and will be attached separately as Addendum #1.

Witnesseth:

THAT WHEREAS the Declarant is the owner of certain real property in Lewis and Clark County, Montana, the legal description which is attached here to and is referred to as Red fox Meadows and by the reference made a part hereof, and WHEREAS, the Declarant wishes to place restrictions, covenants, and conditions upon said real property for the use and benefit of themselves as the present owners and for the future owners thereof, ensure the use of the property for attractive residential purposes, to prevent nuisances, to ensure health and happiness, to prevent the impairment of tone and lifestyle of the community, thereby serving to each present and future owner thereof the full benefit and enjoyment of his property, with no greater restriction upon its free and undisturbed use then is necessary to ensure the same advantages to all property owners.

NOW, THEREFORE, the Declarant hereby declares that all real property described herein shall be held, sold, and conveyed subject to the following covenants, conditions, and restrictions all of which are for the purpose of protecting and enhancing the value, desirability and attractiveness of said property by providing a reasonably uniform plan for development of the same as desirable residential property. These covenants, conditions and restrictions shall run with said property and the land and shall be binding upon all parties having or acquiring any right, title or interest in the same, or in any part, thereof, and shall insure to the benefit of and be binding upon each successor in interest to the Declarant and each and every owner thereof.

All persons or corporations who now or shall hereafter acquire any interest in and to the herein described real property, or any part thereof, shall take and hold the same, and agree and covenant with the owners of any and all other parts thereof, and with their heirs, successors and assigns, to conform to and observe the following covenants, conditions and restrictions as to the use thereof as to the construction of dwellings and improvements thereon.

I. DEFINITIONS:

1. **"Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the property.
2. **"Property"** shall mean and refer to that certain real property herein described in Red Fox Meadows.
3. **"Lot"** shall mean and refer to any plot of land shown upon the Recorded subdivision map of the property.
4. **"Declarant"** shall mean and refer to Jerry Hamlin his successors and assigns to the property.
5. **"Association"** shall mean and refer to the non-profit organization formed to acquire, preserve and maintain real property, to construct improvements thereon, to manage, maintain and care for Association property and to preserve the architectural control of lots owned by members of the Association and to own or control recreational

facilities and common areas contained with the subdivision. The Association is composed of the Declarant and those owners of record, and their successors and assigns, who purchase a tract.

6. **"Developer"** shall mean and refer to Hamlin Construction & Dev. Co., Inc. and any other person or legal entity which said Jerry Hamlin may specifically assign the right and interest vested in the Developer.

II. LAND USE:

The herein described property, and each and every separate parcel or lot hereafter created there from, shall be used for single family residential purposes, condominium units or commercial uses as shown on the recorded plat of Red Fox Meadows. Except as shown on the plat of said subdivision, businesses shall be allowed only to the extent that they can be operated out of an established residence or garage and are secondary to the residence itself. Except for the lots designated as condominium lots and commercial lots, there shall be no more than one single family dwelling constructed or located on each such parcel or lot. Only attached or built-in double or triple car garages are permitted unless a separate garage is approved by architectural review. A small utility shed, constructed of similar materials as the residence, is permitted. All garages and outbuildings shall be of similar materials and design as the dwellings.

No noxious, offensive or unlawful activity shall be carried on upon the property or any parcel or lot thereof nor shall anything be done which endangers the health or safety of, or which unreasonably disturbs, or which constitutes a public or private nuisance or an annoyance to any other owner or resident of any lot.

The Association and any other person or entity appointed by the Association and all governmental authorities shall have legal access right to all roads for police/sheriff protection, fire protection, garbage service and other services necessary to the maintenance and preservation of Red Fox Meadows.

Declarants reserve the right to grant other and further easements to effectuate the purpose of these covenants and also reserve the right to vest the association with authority to grant any such easements, subject to the plat amending procedures required by the Lewis and Clark County Subdivision Regulations where applicable. The Declarant reserves the right to add additional units by filing the proper amendments to this declaration.

III. BUILDING TYPE:

All dwellings, outbuildings, condominiums and commercial buildings shall be of good quality, shall be constructed on the site using new materials, shall be of permanent construction, shall be affixed to the land on permanent foundations, and shall be aesthetically compatible with other structures on the property and any lot created there from. Each single family, detached dwelling unit shall have not less than one thousand one hundred (1100) square feet on the main floor to be measured on the outside perimeter of the tip of the foundation , exclusive of porches, basements and garages with the exception of multi-level homes which shall have a main and upper floor of not less than one thousand six hundred (1600) square feet to be measured at the perimeter of the floors rim joist and exclusive of porches, basements, and garages. Each condominium unit shall have not less than nine hundred (900) square feet on the main floor to be measured on the outside perimeter of the tip of the foundation, exclusive of porches, basements and garages. No building shall exceed thirty-four (34) feet in height measured from the highest point of the foundation to the highest point on the ridge.

All residential and commercial buildings, condominiums, and dwellings shall comply with Lewis & Clark County zoning regulations.

No dwellings commonly known as "mobile homes", "modular" or "trailers", whether single wide" or "double wide" or any other natre, and regardless of whether the same are on wheels or permanent foundation, shall be allowed. No asphalt siding and no metal roofing shall be used in the construction of any building or outbuilding unless approved by the architectural review. All dwellings, commercial buildings and outbuildings shall be completely finished on the exterior and interior before they are occupied and before human habitation is allowed. No structure of a temporary nature, and no campers, pickup campers, tents, shacks, barns, garages or outbuildings shall be used upon the property or any parcel or lot at any times as a residence or for the purpose of human habitation or for camping, either temporarily or permanently. No old buildings,

whether intended for use in whole or in part as a residential dwelling, garage, or other outbuilding, shall be moved upon the property or any parcel or lot thereof.

IV. DRIVEWAYS:

All road & site excavation shall have adequate erosion and sediment control measures applied where necessary and appropriate to insure the minimization of soil runoff. All Driveways must have an approach permit obtained from the County prior to start of any construction on all duplex & single-family detached lots. A copy of a plot plan showing the location and size of the driveway must be sent to the HOA along with a copy of the receipt from the County when applying for Architectural Review of plans. Violation of this requirement will result in a penalty of $50.00 immediately due and payable to the HOA before issuance of any Architectural plan review approval. Natural watershed and drainage patterns must be preserved to the maximum extent possible to prevent erosion. Where necessary, culverts acceptable to the County, with metal, flared ends must be used when driveways or other excavation disrupt normal drainage. No rock is to be used on any driveway approaches. Only metal, flared end culverts will be accepted. Where necessary, the street curb shall be cut to create a driveway entrance. Driveway entry ramps created by pouring concrete in the street are not allowed. Location of all driveway approaches must be shown on a plat and submitted to the County and the HOA for approval prior to installation along with a $50.00 review fee payable to the HOA.

V. FENCES:

Each property owner may fence his/or her lot, however all fences shall not exceed five (5) feet in height and be well built of good materials and well maintained and repaired so as not to adversely affect the aesthetic value of any adjoining property. No fencing is to be placed in any front yard under any circumstances. A plot plan showing the type and placement of any fencing must be submitted to the HOA for approval prior to installation. The cost for HOA review will be $50.00 which is to be submitted with the plot plan. No high board fences or high hedges shall be erected or raised near any intersecting roadways and/or driveways in such a manner as to obstruct the view of drivers on the roadways or driveways. All fences must be contained within all lot lines. No fencing can be placed in any area designated as an easement and must be removed immediately if found to violate this covenant. Violation of this covenant will result in an immediate charge of $100.00, payable to the HOA, as soon as it is discovered. The fence must be immediately removed from the encroachment.

VI. LOCATION OF BUILDINGS AND YARDS:

No buildings shall be constructed or located closer than ten (10) feet to any property line. (For purposes of this provision, eaves and steps shall not be considered a part of the building, but a deck shall be so considered as an encroachment.) Exceptions, in regard to the distance between a building and the sideline of any lot, may be made by special agreement of the adjoining property owner who is affected by such closer location. Every lot shall have a front yard of at least twenty feet (20') and back yard of at least fifteen feet (15'). Every lot shall have a side yard of at least ten feet (10') on each side. No more than 35 percent of the residential and condominium lots shall be occupied by the principal and accessory buildings. No more than 45 percent of the commercial lots shall be occupied by the principal and accessory buildings.

VII. TRUCKS AND VEHICLES:

No trucks, other than passenger or pickup or utility trucks with a capacity of one ton or less, shall be parked, stored or in any manner kept or placed on the property or on any parcel, lot or road within the above-described property. This restriction shall not, however be deemed to prohibit commercial and construction vehicles, in the ordinary course of business, from making deliveries or other-wise providing services to any portion of the property. No motor vehicle which cannot be moved under its own power may be left on said property or any lot, other than in a garage for more the seventy-two (72) hours, or left on any road within said property. Scrap or junk vehicles, or any parts thereof, shall not be placed or stored on said property or on any lot. On-site parking shall be provided by the owner of each parcel, lot or unit for all his automobiles, trucks, trailers or other vehicles. Violation of this covenant shall result in an immediate $100.00 violation fee payable immediately to the HOA.

VIII. RECREATIONAL VEHICLES USE:

No recreation vehicles, including motorcycles, snowmobiles, all-terrain vehicles, go carts, dune buggies, or any other types of recreational vehicle, shall be operated or used on the property or

on any parcel or lot in any manner which creates a nuisance or annoyance to any owner or resident or in any manner which violates state law. Unoccupied campers, pickup campers, motor homes, boats and boat trailers, snowmobiles and snowmobile trailers, and other recreational vehicles shall be parked in driveways, garages, or carports, and not upon any road.

IX. SIGNS AND BILLBOARDS:

No sign of any kind shall be displayed to the public view on or from the property or any lot except:

a. Signs as may be required for legal proceedings.
b. Residential identification signs of combined total area or twelve (4) square feet or less for each residence.
c. During the time of construction of any new building or other improvement, job identification signs having a maximum face area of twelve (12) square feet per sign of the type usually employed by contractors, sub-contractors, and tradesmen.
d. "For Sale", "For Rent", "Garage Sale", or "Beware of Dog" signs of customary and reasonable dimensions.

X. GARBAGE AND FIRES:

No portion of the property, nor any lot, shall be used or maintained as a dumping ground, nor shall any rubbish, trash, garbage or other waste be allowed to accumulate except in sanitary containers which shall be emptied on a regular basis. No such receptacles shall be placed close to the front property line of any parcel, lot or unit ((except on the day of pickup) unless the same are constructed so as to be located underground or to be completely screened from sight by a suitable enclosure. Such enclosure shall not create any unsightly area or interfere with the surrounding residential development or the beauty of the area. On garbage collection days, garbage cans may be placed in a location convenient for collection. No trash or rubbish may be burned anywhere on the property, and no open fires shall be allowed for any reason or at any time except in properly designated and constructed barbeque facilities.

XI. CHATTEL STORAGE:

No furniture, fixtures, appliances or other goods and chattels, not in active use, shall be located or stored in any building or open area or on any lot in such manner that such material is visible from any road or from neighboring lots.

XII. WATER SYSTEM:

Each lot or unit shall be served by an individual well not to exceed 35 gallons per minute and/or 10 acre feet per year. Each tract of land containing multi-family condominium units will be served by one or more wells not to exceed 35 gpm and/or 10 acre feet per/unit/year. Each lot owner residing in a single family detached dwelling unit on an individual lot and each commercial lot owner will be responsible for all costs associated with operating and maintaining their well. Individuals residing in a duplex condominium unit shall pay their prorata portion of the costs to operate, maintain and repair the well or wells furnishing water to their unit.

XIII. SANITARY SYSTEM:

The owner of each portion of the property, unit or each lot, shall comply with all laws and regulations relating to water supply, sanitation, sewage disposal, and air pollution. Each lot owner shall be required to comply with all rules and regulations set forth by The Department of Environmental Quality and any public or private agency having authority over the community waste water treatment system. The Red Fox Meadows Homeowners Water & Sewer District shall hire the necessary personnel for the operation and maintenence of the community waste water treatment system which is hooked up to the City of East Helena who will charge the District approximately $70.00/mo./unit *(subject to change as needed by the city of East Helena)* for sewer service for each unit hooked up to its sewer system. This fee along with a fee of $15.00/mo. for repairs, maintenance and bookkeeping costs due shall be paid quarterly, in advance, at the rate of $255/qtr, or until otherwise changed. Lot 199, the commercial lot, shall pay a hookup fee of $1900.00 at closing and its monthly fee will be $140/mo. The first quarterly payment shall be due, in advance, at closing upon the transfer of ownership from Declarant to the new owner. The fee shall be prorated at closing to pay for the number of days remaining to the end of the quarter in which the closing takes place. IE: On a single family unit the cost would be calculated as follows: Closing date of 2-20-19: fees due for the remaining days in the 1st quarter (8 days in Feb + 31 days in March= 39/90 x $255=$110.50 due at closing. (no further payments due until

April 1st of that year.) The Water & Sewer District reserves the right to adjust the monthly fee as necessary to properly service and maintain the community system, in good faith, for the general welfare of the community. No outside toilet shall be constructed or used except in connection with the construction of a residential dwelling and only for such period as may be reasonably necessary to complete the construction of such dwellings. Any such outdoor toilet must be approved by the Montana Department of Health and Environmental Sciences. All single family detached lots, and each condominium unit, shall pay a non-refundable sewer hookup fee of $950.00 to the Developer at the closing of each lot or unit. The commercial lot, 119, shall pay a non-refundalbe fee of $1,900.00 to the Developer, Inc. for their sewer hookup at closing. No sewer service is available for the storage unit lots numbered 120 and 121 and, therefore, no fee is to be charged to those lots.

Annexation-The City of East Helena requires that any person hooking onto the sewer system consent to annexation of the property so connected. Therefore, the City will require the execution of a recordable Petition for Annexation Form and a Consent to and Waiver of Right to Protest Annexation Form from each person seeking to connect their property to the system.

XIV. MAINTENANCE OF IMPROVEMENTS AND MAINTENANCE AND LANDSCAPING OF LOTS:

The owner of each parcel or lot shall maintain the building or buildings upon each parcel or lot he/she owns, and all walkways and driveways, in good condition, performing all painting and making all appropriate repairs and replacements as often as the same shall be necessary. Each owner shall complete the landscaping within twelve (12) months after the closing of their house or completion of the dwelling (whichever occurs first). The following species of trees shall not be planted on the lot, Poplar, Cottonwood, Chinese Elm (except in areas approved by Declarant). Each such owner shall maintain the landscaping upon his lot in good condition removing all noxious weeds and maintaining the same as shall become necessary. No trees, rock or gravel will be permitted in the natural drainage areas. Owners are required to keep grass mowed on a regular basis.

XV. STREETS:

The streets within the subdivision are public roads. The Declarants shall establish a Rural Improvement District for road maintenance. Each lot shall be included in the rural maintenance district and shall be subject to an assessment to be determined by County. Each lot owner accepts a waiver of right to protest joining a Rural Improvement District for maintenance and/or improvement of roads serving the subdivision, in accordance with county subdivision regulations. *(copies of document can be requested from Declarant.)*

XVI. UTILITIES:

All utilities shall be installed underground in accordance with Lewis and Clark County Subdivision Regulations. Easements of ten (10) feet wide on each lot line are reserved for the installation , maintenance, and repair of electric lines, telephone lines, natural gas lines, television cable lines, sewer lines and fire protection lines.The centralized waste water system will utilize the public access easement located beneath the roads. Any and all surface disturbance to the land resulting from the installation, maintenance or repair of any such lines or utilities shall be timely repaired and the land shall be restored to the natural appearing condition. All streets and roads shall serve as utility easements.

XVII: NIGHT TIME ILLUMINATION:

Any exterior lighting shall be arranged and shielded so that no direct beam illuminates other private property or public roads. Lights for occasional outdoor illumination must be attached to buildings. Free standing light poles will not be permitted unless permission is obtained from The Red Fox Meadows HOA.

XVIII. ANIMALS AND LIVESTOCK:

a. Only domestic animals shall be allowed on the common area or in the dwelling unit. The owner of any parcel or lot may keep no more than two (2) usual domestic animals. The term domestic animal is defined as dogs, cats, fish, and birds of a type that are normally kept in households.
b. All dogs and pets must be leashed or controlled at all times when outside and accompanied by a responsible person. Dogs may be unleashed only in an enclosed yard of a residence or inside the residence itself. All excrement emanating form the

dog is the responsibility of the owner to bag and dispose of in the owners own trash disposal. Bagging it plastic containers and leaving it on roadways walkways, bike paths, etc. is expressly prohibited and is subject to a fine of $50.00/occurrence.

c. No dog or pet of any kind shall be tied up in the common areas.
d. Any and all damage to the common areas or private property is the responsibility of the owner of that animal and is subject to a fine equal to the cost of the repair or damage or $50.00/occurrence, whichever is more.
e. Owners shall not allow pets to bark or create a disturbance that is a nuisance and bothersome to other residents, whether the pet is inside or outside the unit.
f. No horse, cow, hog, goat, sheep or similar animal shall be kept or maintained on the herein described property or on any parcel or lot created there from, nor shall any poultry yard or poultry be maintained thereon. No person owning any portion of said property shall raise animals for sale or commercial purposes thereon.

XIX. WILDLIFE:

Lot owners should be aware of the semi rural nature of the land in this area. Occasional visits by deer, fox, antelope, and other small animals should be expected and dealt with in a reasonable manner as determined by the Red Fox Meadows Homeowners Association.

XX. RE-SUBDIVISION OR RESALE:

Any tract purchased from Declarants can be resold without restriction. No subdivision of any lot will be permitted, except by Declarant. Minor boundary changes, which do not significantly change lot sizes and which are agreeable to adjacent lot owners will be permitted. Lewis & Clark County Governmental Officials must approve all plat boundary relocation changes. Declarant reserves the right to create additional lots by filing the proper amendments to this Declaration.

XXI. SCHOOLS:

Children may not be able to attend the school closest to the subdivision and may be bused to other schools within the district. No guarantees can be made by Declarant as to what schools will be available. A call to local school representatives is the only method available to determine where your children might attend schools in the area.

XXII. DESIGNATED OPEN SPACE AREAS

The Open Space areas within the subdivision serve a required purpose for the benefit of the Declarant, Developer and/or all residents of the Red Fox Meadows Subdivision and will be maintained by the Red Fox Meadows Subdivision Homeowners Association.

XXIII. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION:

1. **Membership:** Every person or entity who is a record owner of any lot or unit, which is subject by covenants of record to assessment by the association shall be a member of the Association.

2. **Voting Rights:** The Association shall have two (2) classes of voting membership.

   Class A Members shall be all owners of lots or units (with the exception of the Declarant) and shall be entitled to one (1) vote for each lot or unit owned. When more than one (1) person owns any lot or unit, all such persons shall be members. The vote for such lot shall be exercised as they determine among themselves, but in no event shall more than one (1) vote be cast with respect to any lot or unit owned by Class A members.

   Class B Members shall be limited to the Declarant and shall have five (5) votes for each lot owned. Declarant reserves the right to approve all builders in the area and to reject those they believe have conflicts of interest prior to start of construction.

3. **Assessments.** The Declarant, for each lot or unit owned by it or within the property, hereby covenants, and each owner of any lot or unit, by acceptance of a deed therefore, whether or not it shall be so expressed in any deed or other conveyance, shall be deemed to covenant and agree to pay any and all approved Association fees and special assessments for the construction, reconstruction, operation and maintenance of Association property. The beginning monthly assesment shall be due Quarterly ($75.00), in advance, at the rate of $25.00/mo. No sewer fees or special assessments of any kind shall be paid by the Declarant for any unsold lots he owns.

4) **The Association** may levy, in any calendar year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of any construction, reconstruction, operation and maintenance of the Association property, provided that any such assessments shall have the assent of fifty one percent (51%) of the votes of the members who are voting in person or by proxy at the meeting duly called for this purpose. The maintenance of common areas shall be the responsibility of the Rural Improvement District, who shall maintain them in conformance with the schedule and standards established by them.

5) **Written notice** of any meeting called for the purpose of taking any action authorized by paragraph 1, shall be sent to all members not less than fifteen (15) days, no more than sixty (30) days in advance of the meeting. At the first such meeting called, the presence of members or proxies entitled to cast twenty percent (20%) of the votes of the membership shall constitute a quorum. If the required quorum is not present, the quorum shall be a majority of those present at the meeting. No subsequent meeting shall be held for the transaction of the business noted on the agenda sent out with meeting notice.

6) **Assessments not paid** within fifteen (15) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum, plus an automatic $50.00 late payment fee which will be assessed for the collection of said assessment. The Association may bring an action at law against the owner personally obligated to pay the same or foreclose its lien against such property. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the roads or other Association property or by abandonment of his lot or unit.

7) **The assessments, together with such interest thereon** and costs of collection thereof as herein provided, shall be a charge on the property and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof as herein provided shall also be the personal obligation of the person who was the owner of such property at the time the assessment fell due.

8) **The lien of the assessments** provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot or unit from liability of any assessments thereafter becoming due or from the liability of any assessments becoming due or from the lien thereon. The liens herein created shall be deemed to be mechanic's or materialmen's liens as the same are defined by the laws of the State of Montana and shall be impressed and enforced in accordance with the applicable state law concerning the same and any person buying any property herein, thereby waives any right to contest the same if said lien is impressed or enforced according to the provisions of these covenants.

9) **The Homeowners Association shall be responsible for all weed control** in the common areas the Association owns (except those areas covered by the Rural Improvement District). All weed control on each lot in the subdivision shall be pursuant to the rules and regulations of the Lewis and Clark Weed Control Board, and shall be the responsibility of the individual lot owner.

10) **The Homeowners Association shall be responsible for maintaining architectural control and builder approval** of the properties and buildings constructed on all lots contained in the subdivision. To facilitate said architectural control The Board of Directors of the Homeowners Association shall create a "Design Review Committee" who shall maintain architectural and builder control pursuant to Article XXVI below.

11) **Working Capital Fund & Estimated Monthly Assessments for the Red Fox Meadows Homeowners Association.** Each lot or unit owner will be assessed a

one time, nonrefundable fee of $100.00 to establish a Working Capital Fund for the initial months of the project's operation. Each unit's share of the Working Capital Fund ($100.00) shall be collected and transferred to the Association at the time of closing of the sale of each unit. Such funds shall be held in a segregated account for the use and benefit of the Association. Such funds will be used to ensure the Association Board shall have the cash available to meet unforeseen expenditures or to acquire additional equipment or service deemed necessary and desirable by the Board. Such amounts paid into the Working Capital Fund shall not be considered as an advance payment of regular assessments which are estimated to be $25.00/mo. at this time. (The first quarterly payment shall be due, in advance, at closing upon the transfer of ownership from Declarant to the new owner. The fee shall be prorated at closing to pay for the number of days remaining to the end of the quarter in which the closing takes place. See calculation example under article XXXIII.)

XXIV. ARCHITECTURAL & BUILDER APPROVAL & CONTROL:

SECTION 1. Declarant reserves the right to approve all builders in the area and to reject those they believe have conflicts of interest prior to start of construction. No residential or other structure and no fence, wall, garage, out building or other structure, nor wire, pipe, septic tank, walkway, hedge, driveway, antenna, or exterior hedge, ornament of any kind, or any addition, altercation or remodeling thereof shall be approved or made, erected, altered, placed or permitted to remain upon the properties until a plot plan, plans and specifications showing the nature, kind, height, materials and location of all buildings and driveways of the same shall have been submitted to a Design Review Committee and approved in writing by the Committee as to harmony of external design, location in relation to surrounding structures and topography, and the construction and the materials to be used in the construction. The committee shall consist of three members appointed by the Board of Directors of the Homeowners Association (Pat Ford, and Jerry and Barb Hamlin shall be the original members on the Design Review Committee). At least two of the three committee members shall be members of the Homeowners Association and it is suggested that one of the members have professional qualifications in the area of architecture, design or land planning. In the event the Design Review Committee fails to approve or disapprove such design, location, construction, and materials within thirty (30) days after the detailed plans and specifications have been submitted, then approval shall not be required and this article will be deemed to have been fully complied with. Any plans, specifications and proposals so approved either expressly in writing or by the expiration of the thirty (30) day period hereinabove provided, shall then permit the owner to commence construction in accordance with said plan, but any deviation from said plan which in the judgment of said Committee is a substantial detriment to the appearance of the structure or of the surrounding area shall be corrected to conform with the plan as submitted. Any structure to be erected in accordance with approval so given must be erected and completed within twelve (12) months of approval or new approval obtained. If any structure is begun and is not completed twelve (12) months of the commencement of construction, and in the judgment of the Design Review Committee is of offensive or unsightly appearance, the said committee or the Directors of the Homeowners Association at the option of either, may take such action as may be necessary in its judgment to improve the appearance so as to make the property harmonious with other properties, including completion of the exterior of the structure, screening, or covering of the structure or any combination thereof or in similar operation, and the amount of any expenditures made in so doing shall be a lien on the property and may be enforceable by an action of law. The Design Review Committee may act by a majority of its members and any authorization or approval made by the committee must be signed by a majority of the members thereof.

SECTION 2: Neither the Association, the Design Review Committee, nor the individual members thereof may be held liable by any person for any damages for any committee action taken pursuant to these covenants, including, but not by way of limitation, damage which may result from correction, amendment changes or rejection of plans, the issuance of building permits or any delays associated with such action on the part of the Committee.

SECTION 3: Variances: The Design Review Committee may, after notice to the members of the Association and hearing, conditionally approve, deny or approve a request to modify the Minimum Building and Use restrictions imposed by Articles II, III, IV, and V, according to the following procedure where such approval would not be contrary to the intent of the Articles and does not require the consent of other parties.

(A) Applications. Applications for modifications shall be delivered to each of the members of the Design Review Committee, either in person or by certified mail. The application shall be accompanied by a fee in an amount $300.00. The Design Review Committee shall cause to be made such investigation of facts bearing on the application as will provide necessary information to assure that the action on each such application is consistent with the intent and a purpose of the Covenants.

(B) Actions Completed by Committee. Notice of hearing on the application for modifications shall be acted upon by the Design Review Committee within twenty-five (25) days.

(C) Rules for Approval. After hearing and prior to approval of any such application for modification, the Design Review Committee shall designate such conditions as will secure substantial compliance with these Covenants from the applicant and shall find as follows:

(1) Such modifications will not be inconsistent with the intent and purpose of these Covenants and the general plan of the subdivision.

(2) That strict compliance with the provisions of Articles II, III, IV, and V would create unnecessary hardship or unreasonable situations on a particular property due to unusual or extreme topography, unusual shape of the property, or the prevalence of similar conditions in the immediate vicinity of the property.

(3) That such modifications will have minimal adverse effect on abutting properties or the permitted uses thereof.

(4) That the applicant has agreed in writing to be bound by the conditions imposed by the Design Review Committee for granting such modification and has posted a performance bond in an amount sufficient to insure compliance with the conditions imposed by the Design Review Committee.

(5) Declarant reserves the right to approve or disprove lot sales and the right to decline sales to Builders or other Developers. Builder Approval in writing must be received prior to start of any construction.

D) Appeal from the Design Review Committee's Decision: An appeal from the Design Review Committee's decision to the membership of the Homeowners Association may be made by either the applicant or any member of the Association opposing modification. Notice of Appeal shall be in writing and shall be delivered to the President of the Homeowners Association or a member of the Board within fifteen (15) days after action of the decision of the Design Review Committee is rendered. Thereafter, the President of the Board of Directors shall call a special meeting of the membership pursuant to the requirements of the By-Laws of the Homeowners Association governing special meetings. A quorum for purposes of a special meeting to hear an appeal from the Design Review Committee's decision shall be members representing twenty percent (20%) of all members of the Homeowners Association present in person or by written proxy. If a quorum is present the proponents and opponents shall then present their respective cases to the membership. If a quorum is not present the meeting shall be adjourned and the decision of the Design Review Committee shall stand. An affirmative vote of three quarters (3/4) of the members present and constituting a quorum shall be required to reverse the action taken by the Design Review Committee.

XXV. DURATION:

The covenants, conditions and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the owner of any lot, unit, parcel, or portion of the property subject to this Declaration, and by his respective legal representatives, heirs, successors and assigns for a term of thirty (30) years form the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically renewed for successive periods of the ten (10) years. The covenants and restrictions of this Declaration may be amended by an instrument signed by fifty-five percent (55%) of owners of the parcels, lots or units as then recorded. Any amendments to be effective must be properly recorded. County Required covenants are not included in this amendment language and are subject to amendments as provided therein.

XXVI. ENFORCEMENT:

Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, condition or restriction, either to restrain violation or to recover damages, and failure by any owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Declarants, every owner of any lot or parcel, and every person having any right, title or interest in any portion of the above-described real property, shall have the right to enforce these covenants and restrictions.

XXVII. ATTORNEY'S FEES:

In any action brought by any Declarant or owner to enforce the provisions hereof the prevailing party shall be entitled to reasonable attorney's fee and costs as fixed by the Court.

XXVIII. SEVERABILITY:

Invalidation of any one of these covenants, or restrictions by judgment or court order shall in no way effect any other provisions which shall remain in full force and effect.

XXIX. SPECIFIC NOTIFICATION:

Gravel Pit Operation:

a. Noise, dust and odors may result from a permitted sand and gravel mining operation located to the West and North of the subdivision.
b. The facility is scheduled to operate for a twenty (20) year period.

IN WITNESS WHEREOF, the undersigned Declarant, has hereunto set his hand and seal on 9-19-2019.

DECLARANT

Jerry Hamlin
(Declarant)

STATE OF MONTANA
County of Lewis and Clark

On this 19th day of September, 2019 before me , the undersigned a Notary Public of the Sate of Montana, personally appeared Jerry Hamlin known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official notarial seal the day and first above written.

Katherine Fields
Notary Public for the State of Montana

KATHERINE FIELDS NOTARY PUBLIC SEAL STATE OF MONTANA
NOTARIAL SEAL
KATHERINE FIELDS
NOTARY PUBLIC for the
State of Montana
Residing at Helena, Montana
My Commission Expires
January 07, 2023

ALL LOT OWNERS WILL BE REQUIRED TO SIGN THEIR ACKNOWLEDGMENT OF HAVING READ AND AGREED TO THESE RESTRICTIVE COVENANTS.

Received on _____

_____ _____

Owner-Lot _____ **Owner -Lot** _____