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Tyler R. Gernant, Missoula County Clerk & Recorder



**DECLARATION OF PROTECTIVE COVENANTS  
CONDITIONS AND RESTRICTIONS  
FOR THE  
"MILL CREEK MEADOWS" SUBDIVISION**

THIS DECLARATION, made this 5<sup>TH</sup> day of July, 2018, by Tollefson Properties, LLC, a Montana limited liability company ("Tollefson" herein).

WHEREAS, Tollefson, hereinafter referred to as the "Declarant", owns real property in Missoula County, Montana, particularly described as follows:

Lots 1 through 39, inclusive, and common areas, and Lot C, of Mill Creek Meadows, Phases I, II, III, & IV, a platted subdivision in Missoula County, Montana, according to the official recorded plat thereof. (Collectively, the "property" herein.)

THE UNDERSIGNED hereby declares that all of the property described above shall be held, sold, transferred, conveyed, and hypothecated subject to the following restrictions, covenants, conditions, and easements, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property. These restrictions, covenants, and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the protected property and shall inure to the benefit of and be binding upon each successor in interest to the owner.

**ARTICLE I  
DEFINITIONS**

Section 1. "Architectural Control Committee" shall mean and refer to a committee of the Homeowners Association appointed by the board of directors of the Association pursuant to its Bylaws and Articles of Incorporation.

Section 2. "Association" shall mean and refer to Mill Creek Meadows Property Owners Association, and its successors and assigns.

Section 3. "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, duly elected pursuant to the Bylaws of the Association or appointed by Declarant as herein provided.

Section 4. "Bylaws" shall mean the Bylaws adopted by the Association as amended from time to time.

Section 5. "Declarant" shall mean Tollefson Properties, LLC, and its successors and assigns. The sale of an individual lot or parcel in the subdivision is not an assignment of any development rights.

Section 6. "Declaration" shall mean this document of Declaration of Covenants, Conditions and Restrictions for the Mill Creek Meadows Subdivision, as may be amended from time to time.

Section 7. "Lot" shall mean and refer to any division of land shown upon any recorded subdivision map of the Properties which shall be used exclusively for residential purposes, and shall also include Common Areas and Lot C as shown on the plat of Mill Creek Meadows.

Section 8. "Owner & Member" shall mean and refer to every person or entity who is a recorded owner of a fee, or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association. Record owners who have sold any lot under a recorded contract shall not be considered owners, while the purchaser of any lot, which is a part of the properties, under a recorded contract, shall be considered the owner for all purposes herein. Persons or entities having an interest in any lot merely as security for the performance of an obligation are hereby excluded.

Section 9. "Person" shall mean an individual, corporation, partnership, association, trust or other legal entity or combination thereof.

Section 10. "Properties" shall mean and refer to those properties described herein as Mill Creek Meadows. "Properties" shall also mean and refer to any addition of real properties as may hereafter be brought within the jurisdiction of the Association.

## **ARTICLE II PROTECTIVE COVENANTS**

1. **Property Owner Association.** By acceptance of a deed to a parcel within the affected properties the owner consents to membership, and membership is automatic, in the "Mill Creek Meadows Property Owners Association", hereinafter referred to as the "Association". General responsibilities of the Association are outlined in Article IV below. Each owner shall pay maintenance assessments to the Association as required by the Association. Unsold and unimproved Lots owned by the Declarant shall not be subject to such assessments, except as may be agreed to by Declarant.

2. **Land Use.** The Lots shall be for single-family residential uses only. Only one residence per Lot is permitted, and no Lot may be further subdivided. No business, trade, or commercial activity of any kind or description shall be conducted on the property; provided, in-house or in-shop commercial activities that do not involve signage, or customers or vendors or frequent deliveries are permitted, subject to applicable governmental regulations. Nevertheless, the primary use of all Lots shall remain residential. Activities that create noise, traffic, or pollution beyond levels ordinary for a residential subdivision are prohibited. The intent is to create a desirable single-family residential subdivision that maintains and respects the quality of the semi-rural residential atmosphere.
3. **Building Construction, Location, and Type.** The main floor of each residence shall be at least 1550 square feet in ground floor area for a single-level home, and at least 1200 square feet for two-story homes. Two level homes must be at least 2500 square feet total floors combined. Homes must be site-built and constructed from lumber. Manufactured or Modular homes are not permitted. Each residence shall have at least a double car garage, which may be attached or detached. Accessory buildings are permitted but shall compliment the residential structure in color and style. Plans are to include color and material samples for residences, accessory buildings, fences, or any structure, and shall first be approved by the Architectural Review Committee prior to commencement of construction or building permitting if applicable. Shops are permitted if they fit with setbacks, style, color, height, size, material, and uniformity to neighborhood. Shops and other outbuildings must be approved by Architectural Review Committee.
4. **Fire Standards and Driveways.** The purpose of these standards is to reduce the risk of fire damage by reducing and managing the buildup of fire fuels, building and maintaining adequate road systems, and providing adequate access to firefighters.
  - a. *Address Signs:* All lots within the subdivision shall post address signs visible from the streets in all light conditions. Address numbers shall be at least 3" in height and shall be placed on a contrasting background. All signs must meet the requirements for size and design per the Missoula County Public Works Department. Street/Road Name signage shall be installed by developer. At the time that construction of any combustible structure begins, a temporary sign of a size and color clearly readable from the street shall be placed on the structure or near the structure identifying the number and street location of the structure under construction so as to allow identification by any emergency response personnel of the specific location of the structure under construction. Temporary signage shall be replaced with permanent signing upon completion of construction.
  - b. *Driveways:* Driveways in excess of 150' in length shall be approved by an inspector acceptable to Missoula County, prior to building permit approval. A turn around for fire apparatus must be incorporated at the terminus of the driveway. The driveway must provide 20' of unobstructed horizontal clearance and 13'6" unobstructed vertical clearance the length of the drive. Driveways shall not exceed 10% grade and shall be constructed to support emergency vehicles in all weather conditions. This provision may not be amended or deleted without governing body approval.

- c. **Fuel Management:** Except in those cases when the need to protect areas of riparian resources or habitat for species of special concern outweighs the danger of wildfire, the property owner shall create a defensible space around structures on the lots for fire protection purposes as approved by the appropriate fire jurisdiction. At minimum, fuels mitigation must meet the Montana Department of Natural Resources and Conservation "Fire Protection Guidelines for Wildland Residential Interface Development."

Vegetation shall be removed and reduced around each building according to the slope. Single ornamental trees or shrubs need not be removed as long as all vegetation near them is reduced according to the guidelines as established by the fire jurisdiction. Ornamental trees or shrubs must not touch buildings. When planting, the owner shall select trees, shrubs, and vegetation that limit or retard the spread of fire as outlined:

- i. Perennial: Choose hardy, perennial plants that are adapted to the local climate. Green, leafy, succulent plants are difficult to burn. Watering and regular weeding improves fire resistance.
  - ii. Shrubs: Evergreen shrubs such as dwarf conifers or junipers may ignite easily and should be avoided unless well spaced.
  - iii. Trees: Deciduous trees can be clumped, scattered, or planted in greenbelt or windbreak patterns. Evergreen trees may ignite easily and should be spaced according to the fire protection guidelines.
- d. **Roofing Materials:** Only class A or B fire-rated roofing materials may be used for new construction. Metal roofing must be seamless roofing and conform to color and style of neighborhood. Roofing material must be approved by Architectural Review Committee.

Fire Rating	Type of Material	Spread Index
	Slate	0-25
	Rock shingle	
	Concrete tile	
Class A		
	Fiberglass based:	
	-asphalt shingle	
	-rolled roofing	
Class B	Aluminum shingle	26-75
	Aluminum or steel panels	

- e. **Fire Protection System:** Declarant/subdivider shall install a water supply for fire protection meeting the requirements of Missoula County Subdivision Regulations and in accordance with the Uniform Fire Code per Missoula County regulations. Maintenance of the system, including the fire cistern and periodic inspections of water level, shall be the responsibility of the Association. The fire protection cistern layout, cistern details, and 100-foot diameter No Build Zone around the fire department connection are attached as Exhibit B. The Association shall be responsible for re-filling the cistern after any event where the water level is drawn down. For the period of time when the cistern is not connected to the well and/or the well pump is inoperable, weekly inspections of the water level shall be conducted by the association and additional water shall be promptly added as needed to fill the cistern. Annual inspections and flow testing shall be completed and recorded by the association. Any necessary repairs shall be made promptly at the association's expense.
5. **Road & Storm Drainage Maintenance.** The purchaser and/ or owner of a Lot understands and agrees that private road construction, maintenance, and snow removal shall be the obligation of the owners or the Association, as provided for herein, and that Missoula County is in no way obligated to perform such maintenance or upkeep until the roads are brought up to standards and accepted by the County for maintenance.
6. **Utility Lines.** All new utility lines shall be installed underground. Any transformer boxes, pumping stations and the like shall be placed in such a manner they are not unsightly or hazardous to the public.
7. **Property Maintenance.** Each Lot owner shall provide proper maintenance and irrigation of all vegetation and landscaping, so that the premises and improvements thereon will be in a safe, clean, neat and orderly condition. Dead or dying vegetation shall be timely removed or replaced. Each owner of a Lot on which there is a structure shall provide exterior maintenance upon such lot and structure to include painting and repairing the structure. In the event the Owner shall fail or neglect to provide such exterior maintenance, the Association shall notify such Owner in writing specifying the failure and demanding that it be remedied within thirty (30) days. If the Owner shall fail or refuse to provide such exterior maintenance within the thirty (30) day period, the Association may then enter such Lot and provide required maintenance at the expense of the Owner. The full amount shall be due and payable within thirty (30) days after the Owner is billed therefore and shall become a special assessment upon that Lot. The Association may exercise all rights to collect that assessment as it does other assessments pursuant to this instrument. Such entry on the Lot by the Association shall not be deemed a trespass.
8. **Nuisances and Garbage.** No noxious or offensive activity shall be carried out or permitted on any Lot, nor shall any lot be used in any way that may endanger the health or safety of or unreasonably disturb the neighborhood. No rubbish, trash, machinery parts, junk, or other waste shall be allowed to accumulate, except in sanitary containers which shall be emptied and removed from the premises on at least a weekly basis. All garbage shall be stored in secure and sturdy containers of metal, plastic or other suitable material that has sufficiently tight fitting covers to prevent the escape of noxious odors and to prevent entrance or destruction by wild animals. All garbage must be kept in garage or enclosed areas not seen by the road, except as may be placed at property front on collection days. All owners shall subscribe to regular garbage collection services, if available. There shall be no burning of garbage or household waste materials, and lawn and landscaping materials may only be burned pursuant to a valid Missoula County permit. No unlicensed, inoperable, not working, or junk vehicles or vehicle parts are allowed on any lot unless kept within an enclosed garage.

9. **Lighting.** If installed, exterior lighting shall be "down type" only and limited to a lamp affixed to the home or garage and/ or a decorative-type yard light pole not to exceed ten feet. Additional restrictions for pole fixtures are addressed herein.
10. **Weed Control and Revegetation of Disturbed Sites.** In accordance with the Weed Management Plan for Mill Creek Meadows Subdivision (attached as Exhibit A): the owner and developer of the subject property is responsible for weed management of all unsold lots. The property owners association will assume weed management responsibility for all common areas, within the adjoining easement areas of Tract 2-B of COS 6146 as described in the weed management plan, and any areas within the subdivision that are improperly managed for weeds. Lot owners are required to maintain their property in compliance with the Montana County Weed Control Act and the Missoula County Noxious Weed Management Plan. Owners are encouraged to contact the Missoula County Weed Control Board for more information on methods of weed control. Owners shall revegetate any ground disturbance created by construction or maintenance with beneficial species at the first appropriate opportunity after construction or maintenance is complete. All Lot owners must maintain lots even if structure is not built yet, which maintenance includes, but is not limited to, mowing (vegetation cannot exceed 6" on vacant lot), weed management, spraying weeds, pruning, etc. All single-family houses must have full landscaping and lawns installed within one year of Certificate of Occupancy. Landscaping will include but not be limited to: lawn that have full grass coverage, so soil is not visible, at least 3 trees per lot (architectural committee to approve placement of trees), and an underground sprinkler system to service landscaping installed.
11. **Use & Maintenance of the Common Areas,** -Common Area 1, Lot C, Common Area 2, and Common Area 3 will be owned by the Association for the benefit of all property owners, who will have the sole right to use and control those resources through the Association. Upkeep and maintenance of the Common Areas and Lot C and any pedestrian trails are the responsibility of the Association, including but not limited to weed control and mitigation, landscaping maintenance and irrigation, and repair and/or maintenance of any commonly owned or mutually controlled facilities and trails.
12. **Private Road and Storm Drainage Maintenance for Roads and Storm Drainage Facilities within the Subdivision** – All roads within this subdivision, specifically, McNett Court, Tollefson Way, Tyson Way, Shelby Renee Lane and all walkways within said access easements, shall be properly maintained by the Association in accordance with the provisions herein.
- a. *Storm Drainage Facility Operation and Maintenance Plan:*
1. Roadside Swales:
    - a. All roads within the subdivision are equipped with roadside swales to facilitate storm water collection, storage, and infiltration.
    - b. All swales shall be mowed or weeded and cleaned semi-annually.
  2. Rock Check Dams:
    - a. Rock check dams consisting of washed gravel are located along both sides of Tyson Way and both sides of a northeast segment

of Tollefson Way.

b. All rock check dams shall be cleared of debris annually. Rock check dams shall be inspected annually for sedimentation buildup and functionality; washed gravel within the rock check dam shall be cleaned or replaced when necessary to remove sediment and ensure proper functioning.

3. Culverts:

a. Driveway crossings of the roadside ditch shall be constructed with 12" culverts. Unless special circumstances need a 10" for grade purposes.

b. All culverts shall be inspected annually for sedimentation and blockage. Any blockage or excessive sedimentation shall be removed annually or as needed to ensure proper flow through culverts.

b. *Maintenance of Community Septic System:* The Association shall properly maintain the community septic in accordance with DEQ and Missoula City County Health Department regulations and requirements. Such maintenance shall also comply with the Certificate of Subdivision Approval for sanitation issued in conjunction with the plat of Mill Creek Meadows subdivision.

c. *No Access Strip:* A one-foot no access strip exists on the plat of Mill Creek Meadows, along Mill Creek Road. Excepting Lot 2, no Lot within the plat of Mill Creek Meadows may be directly accessed from Mill Creek Road.

d. *Irrigation Assessments:* Acceptance of a deed for a lot within this subdivision shall constitute the assent of the lot owners to assessment for irrigation water delivery regardless of the availability of irrigation water to the lot. The purchaser and/or owner of the lot or parcel is notified that lots within the subdivision are classified as irrigated land and will continue to be assessed for irrigation water delivery, even though the water may not be deliverable to the lots. Irrigation easements are provided along the interior roadways of this subdivision. The purchaser and/or owner of the lot or parcel understands and agrees that if irrigation water delivery is desired, construction of irrigation piping to connect to the Frenchtown Irrigation District Canal, would be the responsibility of the purchaser and/or owner of the lot or parcel. An offsite private irrigation easement exists across Tract 2-B of Missoula County Certification of Survey 6146 that provides access to the Frenchtown Irrigation District Canal.

**13. Adjacent Private Lands.** Lot owners, guests, and their families shall respect the rights of landowners adjacent to this subdivision and not trespass onto those properties.

**14. Signs.** Except as hereafter permitted, no signs, billboards, or unsightly objects shall be erected, placed or permitted to remain on any lot. Declarant may otherwise maintain such signage as Declarant may choose relative to the improvement and sale of Lots.

- a. Building contractors and/or architects may maintain one sign not to exceed ten (10) square feet in size on any lot upon which is under construction and within which improvements are being made.
  - b. For a period of Ten (10) years from the date of this Declaration, the Declarant may place signs within the properties to promote the development of Mill Creek Meadows.
  - c. "For Sale" signs are allowed on a Lot that is for sale. "Open House" signs are allowed on the lot and in the neighborhood during the period of the open house.
  - d. Campaign signs are allowed for a period of two (2) weeks prior to election and shall be removed within two (2) days following the election.
  - e. Signs for "Garage Sales" or "Rummage Sales" may be posted for only the day of the sale. Owner or occupant of the property holding the sale shall immediately remove all signs at the conclusion of the sale including signs on the lot and at the entrance to the neighborhood.
  - f. Signs as allowed in paragraphs c, d, and e, above shall be of customary and reasonable dimensions, not to exceed 3' x 3'.
- 15. Antennas/Flag Poles/Detached Lighting.** No exterior television, radio antenna or satellite dishes measuring over twenty-four (24) inches in any direction shall be erected, placed, or permitted to remain on any Lot. Mini satellite dishes and antennas measuring less than 24 inches may be attached to the rear, side or within one foot of a front corner of the dwelling unit. Flag pole light are permitted but must only point to the flag and not disturb neighboring property or roads. Flag pole placement and height will be subject to approval by the Architectural Review Committee.
- 16. Items or Activities That May Create Insurance Increase.** Nothing shall be done or kept on any Lot or in any commonly maintained area that will increase the rate of insurance on any policy held by owners of any Lot.
- 17. Propane Tanks.** Propane tanks shall be buried. Propane tanks 100lb or under do not need to be buried but need to be screened from view from the fronting road.
- 18. Off Road Driving.** No motorized vehicles shall be permitted in the Common Area except to provide service and maintenance to the Common Area. Non-motorized vehicles shall be permitted in the Common Area unless the Association or the Declarant post a designated area or designated trail as being closed to non-motorized vehicles. Vehicular access is prohibited in any riparian resource area or riparian buffer area, except for Romulus Lane and existing driveway, and this provision may not be amended or deleted without governing body approval.



19. **Exterior Lighting.** No direct outside or yard lighting (except Holiday lighting), including but not limited to spotlights, area lights or sodium lights shall be permitted. No pole mounted lighting or flood lighting shall be permitted (unless on top of flag pole for purpose of lighting flag pole only). Only indirect exterior lights affixed to a residence and/or garage and indirect landscape lighting shall be permitted. Such permitted lighting shall not spill over onto other properties or create a lighting nuisance to neighbors. Driveway lights will be permitted but need to be approved by Architectural Review Committee.
20. **Christmas Lighting and Similar Lighting Decoration.** Holiday lighting is permitted. Excessive or unsightly lighting decoration, as defined by the Architectural Review Committee, is prohibited. (The Architectural Review Committee may establish guidelines for these if needed.)
21. **Pets and Animals.** No more than two dogs and two cats are allowed per residence. Such animals must be kept within a properly fenced enclosure unless leashed or under the immediate control of their owner and shall not be permitted to become a nuisance or annoyance to the neighborhood. All animals kept on any lot shall be properly fed indoors, watered, and sheltered from the elements in such a manner as consistent with their good health. Pet food shall only be stored indoors to prevent conflicts with wild animals. Kennels are structures which require the review and approval of the Architectural Review Committee before being placed or used on any lot. Animal manure shall be removed from the premises or otherwise disposed of periodically so as not to become obnoxious, offensive, or a nuisance to surrounding residents. All animal owners must make sure their animals are not using the common area to relieve their waste. Likewise, when walking a pet, the cleanup of animal waste is required. No livestock, no horses, commercial kennels, or the commercial breeding, raising, training or boarding of any animals shall be allowed. If Lot owner is not in attendance with animal, they must make sure animals are taken care of and do not cause problems, nuisance, noise issues, or intrude on other property owners' land.
22. **Common Areas.**
  - a. **Wildlife.** All owners, family members, and guests must respect the wildlife of the area.
  - b. **Vegetation Management and Weed Control.** The Association shall properly manage and maintain the vegetation within the Common Area and control weeds therein.
  - c. **Use of Common Areas.** Use of the Common Area shall be limited to the use by the Lot owners, their immediate families, guests, and invitees. Loud noise due to people, electronics, music, machinery or other sources in common area shall not be permitted from 11:00 pm to 6:30 am unless approved by board for special purposes.

- d. **Designated Play Area.** The approximate 1.8-acre Common Area 1 is designated as an active recreational play area. This area may be graded and developed into active fields, playgrounds, pavilion, or picnic areas. Decisions regarding improvements to Common Area shall be by the Association, and no individual owner may effect improvements or changes to a Common Area. Common Area 2 should be preserved and protected in its natural condition, providing for passive recreation only.
  - e. **Mandatory Maintenance Requirements.** The Common Areas within the property as designated on the subdivision plat shall be preserved and maintained in perpetuity. The Association Board of Directors, among its other duties, shall establish assessments for any taxes, insurance and maintenance costs of all Common Areas and other common facilities, as established within the requirements of this instrument.
  - f. **Utility Services.** The Declarant or the Association retains the right to place utility lines and services, including a water or sewer system through, over or across the Common Areas to serve any portion of the subdivision.
  - g. **Pets.** Household pets are not allowed in common area without owner and on a leash. Common area is not a spot for owners to have pets relieve themselves in. All pet waste is to be discarded immediately from common areas if pet does leave waste.
23. **Fences.** Lot owners shall have the right to fence the perimeter of their lot, with no Fences in the front yard beyond the main front building corner of the house. Corner lots shall not contain fences higher than 3'6" along either frontage. Fences shall be well maintained and kept in good repair. Fences cannot obstruct view from road traffic on corner lots. All fences, material, color, design, placement, ect. will be approved by architectural review, subject to standards herein.
24. **Parking and Storage.** No parking is allowed at any time on the roadways within the plat. All Single-family homes should have driveways with sufficient parking for guests. Exceptions for large gatherings parking is permitted for 24-hour period. Each home shall include at least a double car garage and driveway shall provide space for at least two additional parked vehicles. Garages shall be kept reasonably clear of accessory items so that two vehicles may be parked within the garage. All storage must be completely enclosed, and carports are not allowed. It is the intention of these covenants to limit parking to that reasonably required for passenger vehicles intended for the Owner's personal use and that of the Owner's guests. No mobile homes, motor homes, trailers of any type or descriptions, trucks exceeding one-ton capacity, campers, pickups carrying campers, farm tractors, farm machinery, boats, snow mobiles, ATV's or other types of recreational vehicles or their trailers shall be parked, or otherwise allowed to remain on any lots, common areas, or adjoining streets. Such vehicles may be parked in the garage or other outbuilding as may be approved by the Architectural Review Committee, provided doing so does not prevent the owner from parking his or her passenger vehicles in the garage. No vehicle of any type shall be permanently or semi-permanently parked on any lot, street or common area for reconstruction or repair and no dilapidated or inoperable vehicle, including vehicles without wheel(s) or any engine or body part, shall be stored on the properties, provided, however, that the provisions' of this section shall not apply to emergency vehicle repairs.

**25. Living with Wildlife.** Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, black bear, mountain lion, coyote, fox, skunk, raccoon and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners “live with wildlife.” Alternatively, see FWP’s web site at [www.fwp.mt.gov](http://www.fwp.mt.gov).

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens and fruit trees** can attract wildlife such as deer and bears. Keep produce and fruit picked and off the ground, because rotting vegetable material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. Netting over gardens can help deter birds from eating berries.
- c. **Garbage** must be stored in secure animal-resistant containers and stored indoors to avoid attracting wildlife such as bears and raccoons. Garbage cans should not be left out for more than 48 hours period and is recommended they be taken back indoors that day after garbage pickup.
- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in “an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety.” Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.
- e. **Birdseed** is an attractant to bears. Consider not using of bird feeders from April 1<sup>st</sup> through the end of November in this area. If used, bird feeders should: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.

- f. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Max Kennel size 8'x10'. (ARC to come up with kennel material and design). All kennels must be approved by the board and ARC. Under current state law it is illegal for dogs to chase hooved game animals and the owner may also be held guilty (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.
  - g. **Pet food and/or livestock feed** should be stored indoors, in closed sheds or in animal-resistant containers to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, and other wildlife. When feeding pets do not leave food out overnight. Pets will be fed indoors so that wild animals do not learn to associate food with your home.
  - h. **Barbecue grills** are recommended to be stored indoors and permanent outdoor barbecue grills are discouraged. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
  - i. **Boundary fencing** that is no higher than 3-1/2 feet (at the top rail) and no lower than 18 inches (at the bottom rail or wire) to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence. All fencing shall be as otherwise approved by the Architectural Review Committee, which review shall include wildlife considerations, and which may allow specific fencing considerations for gardens.
  - j. **Compost piles** are not allowed
  - k. **Apiaries (bee hives)** could attract bears in this area and should be avoided. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
26. **Riparian Resource Area/ No Build/ No Alteration Zone.** The Riparian Resource Area/No Build No Alteration Zone (RRA) is the area of riparian vegetation indicated on the plat and the "Riparian Resource Management Plan Map." The Area is within Common Area 2 and varies in width from approximately 50 feet wide to approximately 120 feet. The Riparian Resource Area/No Build/No Alteration Zone shall include the prohibition of all new buildings, structures, fences, utilities, parking, roads, motorized vehicle access (except for on Romulus Lane and the existing gravel drive), storage, containment of domestic animals or any other development. It shall also prohibit any mining, cutting, burning, or removal of live vegetation (except as needed for wildfire prevention, noxious weed control or conservation management), filling with substances such as gravel, soil, slash or other debris, the use of pesticides, herbicides, or fertilizers, or the planting of non-native vegetation such as lawn grasses. Wildlife friendly fencing, as approved by the Missoula Office of Planning and Grants, is permitted.

27. **Area of Riparian Resource Management Plan-** The Riparian Resource Area/ No Build/ No Alteration Zone, hereafter referred to as the "RRA," and the Riparian Buffer Area/ No Build/ No Alteration Zone, hereafter referred to as the "RBA," are defined in Section 26, above. Please see the subdivision plat and the "Riparian Resource Management Plan Map" attached to these Covenants for a depiction of the Riparian Area and Buffer.

Within the RRA and RBA there shall be no alteration of the land surface or any construction to include roads and driveways, except that which is associated with maintaining and utilizing Romulus Lane, a private road within a 60-foot Private Access Easement (PAE)/ Utility Easement (UE), and a private driveway, also within a 60-foot PAE/UE, which predate the subdivision and run through Common Area 2. Native riparian landscaping may be planted within the RRA after consultation with a landscaping professional specializing in riparian vegetation and landscaping.

This portion of the property meets the criteria for designation as a Riparian Resource Area, according to Article 3.13 of the Missoula County Subdivision Regulations. The intent of these as listed in 3.13.1 (1-7) shall be upheld. To meet these purposes, the following are addressed according to Article 3.13.3 (1-5).

- a. *Access to or through the Area and Buffer.* Vehicular access to or through the RRA and RBA, with the exception of Romulus Lane and the existing driveway, which are both within 60' PAE/UEs, is prohibited. The RRA and RBA may be accessed only by pedestrians. Domestic animals shall not be allowed to graze in the area due to probable negative impacts to the vegetation. Motorized vehicles are not permitted within the RRA outside of the surfaces of the road, and driveway.
- b. *Low-impact use of the Area and Buffer.* Use of the RRA and RBA shall be minimal impact as described above. Use of the land shall include only occasional pedestrian usage and those activities associated with Romulus Lane, the existing driveway, and the 60' PAE/UEs. Wildlife friendly fencing, as approved by the Missoula Office of Planning and Grants, is permitted.
- c. *Planned restoration of the area with native species.* Do not plant lawn in the RRA or RBA. Leave or plant native vegetation as ground cover. The use of fertilizers is prohibited. If planted, any landscaping in the RRA or RBA shall be native riparian vegetation that enhances the RRA and RBA.
- d. *Planned mitigation of impacts from all proposed uses.* There shall be no land use activities within the RRA except as provided for herein.
- e. *Planned buffer to mitigate development adjacent to areas of riparian resources.* The Riparian Area Buffer/No Build/Improvement Zone is 25 feet wide, surrounding the portion of the RRA within the subdivision boundaries. This zone is demonstrated on the plat and the attached Riparian Resource Management Plan Map.

28. **Statements on Plat.** The following statements are on the subdivision plat and are included as covenants, conditions, and restrictions for Mill Creek Meadows:

The undersigned (owner) hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water, or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair, and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as "utility easement" to have and to hold forever.

Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future SID/RSID, based on benefit, for the upgrading of Mill Creek Road, Shelby Renee Lane, Tollefson Way, Tyson Way, and McNett Court, including but not limited to paving, curbs and gutters, non-motorized facilities, street widening and drainage facilities, and may be use in lieu of their signatures on and SID/RSID petition.

The purchaser and/ or owner of the lot or parcel understands and agrees that private road construction, maintenance, and snow removal shall be the obligation of the owner or property owner's association and that the County of Missoula is in no way obligated to perform such maintenance or upkeep until the roads are brought up to standards and accepted by the County of Missoula for maintenance.

Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a future RSID/SID for a public or community water system for fire protection, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land.

### **ARTICLE III ARCHITECTURAL REVIEW COMMITTEE**

1. **General Statement Regarding Approval.** Prior to commencing construction or installation of any improvement within the properties, the Owner planning such improvement must submit to the Architectural Review Committee (ARC) a written request for approval. The Owner's request shall include structural plans, specifications, and plot plans. As used herein, the term "Improvement" shall include, but shall not be limited to the construction, installation, and alteration or remodeling of buildings, walls, fences, landscaping, swimming pools, spas, or any structure of any kind. Approval or disapproval of the Owner's requested improvement shall be based on a finding by the ARC that the proposed improvement (a) conforms with the governing documents and those rules pertaining to architectural review; (b) will be in good taste in the opinion of the ARC and in harmony with external design of other structures and/or landscaping within the properties; and, (c) will not unreasonably interfere with the enjoyment of any other Owner of his or her property. The purpose of the ARC is to achieve and maintain the aesthetic goals of the Declarant to implement, protect, and further the common plan and scheme of development contemplated by this Declaration. The function of the Committee is to review and act upon any request for approval of improvements submitted by an Owner to ensure compliance with the building restrictions and other requirements of this Declaration. The Committee shall also be responsible for inspecting the progress of construction and all final construction to make sure all improvements conform to the Owner's

plans and specifications as approved by the Committee. It is not the purpose of the ARC or the Declarant to deprive any individual Owner from having a home of unique design quality, but rather to protect the community against designs distasteful in the opinion of the ARC or construction that is substandard in quality. Architectural review will have 30 days max to review then construction can start.

2. Committee Members, Organization and Term. The ARC shall consist of three (3) persons appointed as follows:
  - a. The Declarant shall appoint all the original members of the ARC and all replacements until the third anniversary of the recordation of this document. Said original members and replacements need not be members of the Association.
  - b. Until Declarant has sold all Lots owned by Declarant, or until Declarant elects otherwise, whichever occurs first, Declarant shall have the authority to appoint two committee members.
  - c. Committee members, other than those appointed by the Declarant, shall be appointed by vote of a majority of the Association Members.
  - d. The persons appointed to the ARC shall be interested, knowledgeable and experienced in design, building and architecture. Primary consideration will be given to appointment of interested, qualified persons who have purchased one of the lots within the subdivision. The ARC may act by majority determination or may appoint an agent to act in its behalf.
  - e. With the exception of the original committee members, the term of each member of the ARC shall be a period of one (1) year, unless the member is removed or resigns prior to the expiration of this term. Persons subject to appointment by the Declarant may be removed by the Declarant at any time.
  - f. The Declarant may at any time relieve itself of the obligation of appointing and maintaining any Declarant-designated Committee positions by surrendering in writing to the Association the powers of appointment of said committee members, in which case all members of the committee shall be appointed in the manner described.
3. General Statement Regarding Approval Process. Approval or disapproval of the Owner's proposed improvement shall be based on a finding by the ARC that the proposed improvement (a) conforms with the governing documents and those rules pertaining to architectural review; and (b) will be in good taste in the opinion of the ARC, complimentary to neighboring properties, and harmonious with external design of other structures and/or landscaping within the properties. Prior to commencing construction, the Owner's contractor shall meet with the ARC to review the requirements relative to construction activities.

4. Action by the Architectural Review Committee. The ARC shall review drawings and specifications submitted in accordance with these Declarations. All decisions of the Committee are final. The Committee's written approval or notice of rejection shall be conclusive evidence of such approval or rejections. The action or inaction of the Committee or its agents, when the committee is exercising its discretion in enforcing this Declaration in good faith, shall not be a basis for damages to any Owner herein, or any other person, nor shall any such action or inaction by the Committee or any member of the Committee or their officers or agents, individually or collectively, constitute a cause of action for damages or equitable relief to any Owner herein or any other person. Declarant, its successors or assigns or the Committee or any member of the Committee, or their officers or agents, acting singularly or together, shall not be responsible for any loss or damage, or be liable in any other way for errors or defects, either latent or patent, in the plans and specifications submitted for approval, or any building structure erected in accordance with such plans and specifications.
5. Proceeding with Work. Upon receipt of approval from the ARC, the Owner shall, as soon as practicable, satisfy all conditions thereof and diligently proceed with the commencement of construction within six months from the date of such approval or such earlier period as may be reasonably be prescribed by the committee. In the case of building improvements, the requirements of this section shall be deemed to have been met if the Owner has completed construction on the buildings foundation and all exterior surfaces (including roof, exterior walls, exterior finishes, windows, and doors) within one (1) year of the date of ARC approval. If the Owner fails to comply with this section, any approval given pursuant to the Design Standards shall be deemed revoked unless, upon written request of the Owner made prior to the expiration of the initial one (1) year period, the ARC extends the time for completion. No such extension shall be granted except upon a finding by the ARC that there has been no change in the circumstances upon which the original approval was granted and that the Owner has a bona fide intention and ability to complete the project within the time allowed by the requested extension.
6. Failure to Complete Work. Unless the Owner has been granted an extension of time to complete the project by the ARC or, completion is rendered impossible or would result in a great hardship to the Owner due to strikes, fires, national emergencies, natural calamities, or other factors beyond the control of the Owner or his agents, the ARC shall notify the Declarant of such failure, and the Declarant or the Owners collectively shall proceed in accordance with provision of Subsection 8(c) and (d) below as though the failure to complete the improvement was a noncompliance with approved plans.
7. Inspection of Work by Architectural Review Committee. Inspection of the work relating to any approved improvement and correction of defects therein shall proceed as follows:



a. Inspection work shall be generally performed by the members of the ARC. Provided, nothing herein shall prevent the ARC from retaining such experts as the ARC may deem necessary to adequately inspect and pass on work performed. By inspecting work for compliance with these covenants and such other standards as may be adopted by the Association, the ARC, its agents, and the Association make no representation or warranty to any owner regarding the work being so inspected and shall have no liability to an owner for the failure to identify any problem or defect in work inspected. The expense of any necessary expert shall be born by the owner having compliance reviewed and accepted, as part of the review fee.

b. Upon the completion of any work for which ARC approval is required under this Article, the Owner shall give the ARC a written notice of completion.

c. Within thirty (30) days of receipt of a written notice of completion, the ARC, or its duly authorized representative, may inspect the improvement to determine whether it was constructed, reconstructed, altered or refinished in substantial compliance with the approved plans and any applicable ARC rules. If the ARC finds that the improvement was not done in substantial compliance with the approved plans, then the Committee shall give the Owner a written notice of noncompliance within the thirty (30) day inspection period detailing those aspects of the project that must be modified, completed, or corrected.

d. If the Owner fails to remedy any noncompliance within thirty (30) days from the date of receipt of a notice of noncompliance, the ARC shall notify the Declarant and the Owners collectively in writing of such failure. A majority of the Owners shall then set a date on which a hearing before them shall be held regarding the alleged noncompliance. The hearing date shall be not more than thirty (30) days nor less than fifteen (15) days after the notice of the noncompliance is given by the remaining Owners to the defaulting Owner and the ARC and, in the discretion of the remaining Owners, to any other interested party. Notice to the Declarant shall no longer be required after the Declarant's right to appoint ARC members has ended.

e. At the hearing, the Owner, a representative or representatives of the ARC, a representative of the Declarant (so long as the Declarant is appointing ARC members) and, any other interested person may present information relevant to the question of the alleged noncompliance. After considering all such information, the remaining Owners shall determine whether noncompliance exists, and the remaining Owners may require the Owner to remedy or remove the same within such period or within any extension of such period as the remaining Owners, at their discretion, may grant. If the Owner fails to take corrective action after having a reasonable opportunity to do so, the Owners collectively may either remove the noncomplying improvement or remedy the noncompliance and, in either case, the Owner shall reimburse the Owners collectively against such Owner. In addition to the foregoing, the Declaration shall be deemed to vest the ARC, the Owners collectively and the Declarant with the right to bring a proceeding in equity to enforce any provision hereof or any decision of the ARC if the Owner fails to take corrective action after having a reasonable opportunity to do so.

- f. If for any reason the ARC fails to notify the Owner of any noncompliance within thirty (30) days after receipt of the Owner's notice of completion, the improvement shall be deemed to have been constructed in accordance with the approved plans.
8. Landscaping. Landscaping shall be deemed to be a work of improvement requiring ARC approval hereunder.
9. Non-Waiver. The approval by the ARC of any plans, drawings, or specification for any work done or proposed, or for any other matter requiring the approval of the ARC under this Declaration, or any waiver thereof, shall not be deemed to constitute a waiver of any right to approve or withhold approval of any similar plan, drawing, specification, or matter subsequently submitted for approval by the same or some other Owner.
10. Fees. The Architectural Review Committee shall be empowered to assess a reasonable review fee as determined from time to time by the Committee.

#### **ARTICLE IV HOMEOWNERS ASSOCIATION**

Upon execution of this Declaration, and before the Declarant sells any Lot located upon the Properties, the Declarant shall incorporate in the State of Montana a nonprofit corporation to be named Mill Creek Owners Property Association, Inc. (the "Association"). The Association shall be incorporated for the following purposes:

- (a) To promote the convenience, enjoyment, health, safety, and welfare of the owners of the Lots that are subject to the Declaration.
- (b) To enforce the restrictions, regulation, and requirements set forth in the Declaration and to exercise architectural control over all buildings and other improvements erected or constructed on the Lots.
- (c) To fix, levy, collect and enforce payment of all fees, charges, expenses and costs assessed in accordance with the Declaration; to pay all costs and expenses incurred in the administration of the Association's affairs.
- (d) To exercise all rights, powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration; and
- (e) To exercise any and all rights, powers and privileges otherwise available to a nonprofit corporation incorporated under the Montana Nonprofit Corporation Act.

#### **ARTICLE V MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

1. **Membership:** Every person or entity who is a record owner of a fee, or undivided fee, interest in any lot which is subject by covenants of record to assessments by the Association, shall be a member of the Association; excepting, however, any person or entity who has sold or is selling any such lot under a contract shall not qualify as a member. Every person or entity purchasing any such lot under a contract shall be a member of the Association.

The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenance to and may not be separated from ownership of the lot which is subject to assessment by the Association. Ownership of such lot shall be the sole qualification for membership.

Acceptance of a deed, notice of purchaser's interest or documentation evidencing an ownership interest in a lot shall be deemed to be consent to membership in the Association. The recording of a deed or other document evidencing an ownership interest shall be prima facie evidence of acceptance of that document by the receiver of the interest transferred.

The first annual meeting of the Association shall be held on the first Monday of March, 2019, and on the same date thereafter, unless a different date is duly called for and noticed by the unanimous consent of the Directors of the Association.

2. **Suspension of Membership.** During any period in which a member shall be in default in the payment of any annual or special assessment levied by the Association, the voting rights of such member may be suspended by the Board of Directors until such assessment has been paid.
3. **Voting Rights:** The Association shall have one class of voting Members which shall consist of each Owner of a Lot within the properties. Each Member shall be entitled to cast one (1) membership vote for each Lot of which they are the owner and only one (1) membership vote shall be entitled to be cast for each Lot within the properties; Provided the Declarant shall have four (4) votes for each Lot owned by Declarant. A Member may vote either in person or by a proxy appointed in a written instrument. In the event a Lot is owned by two or more persons in any form of co-ownership, including ownership as tenants in common or as joint tenants, then such persons shall determine between themselves the manner in which the membership vote for that Lot shall be exercised, but in no event may more than one (1) membership vote be cast for any Lot within the properties, except as provided for above. If two or more persons each claim the right to cast a membership vote for a Lot, but cannot agree on how such membership vote shall be cast, then the Association may elect to refuse to recognize the membership for such Lot or to treat such membership vote as an abstention. Any Lot or common area owned by the Association shall not qualify the Association to vote.
4. **Procedures:** The procedures concerning meetings, voting, quorums and administration of the Association shall be established in its articles and bylaws.

5. **Notice of Membership:** Any person, upon becoming a Member of the Association, shall furnish the secretary of the Association with a photocopy or a certified copy of the recorded instrument or such other evidence as may be specified by the Board of Directors of the Association, establishing that such person is the owner of a Lot within the properties, thereby entitling such person to a membership in the Association. In addition, the member shall provide the Association with a single name and address to which the Association will send any notice required to be delivered to Members by the Association. In the absence of being provided such name and address by Lot owners, the Association may rely on the tax rolls or records for owner information and address.
6. **Directors:** The affairs of the Association shall be managed by its Board of Directors. Following the initial Board, the Board of Directors shall consist of three (3) individuals, all of whom shall be an owner of a Lot or the agent or representative of an owner, and said Board shall be elected at each annual meeting by the Members, as provided in the By-Laws. Board Member terms shall be three years, with each position staggered so that one Board Member is elected each year. Of the three positions, one shall initially be for one year, one for two years, and one for three years. Until the first annual meeting, the Board shall consist of any number of persons appointed to that position by the Declarant.

#### **ARTICLE VI ASSESSMENTS**

1. **Purpose of Assessments:** The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the properties, and in particular for the improvements, operation and maintenance of the properties, common facilities, and common area. Said assessments shall be levied, collected, and applied for the purposes described herein, or as the Board of Directors may, from time to time, determine.
2. **Uniform Rate of Assessment:** All assessments shall be fixed at a uniform rate per Lot. Undeveloped Lots owned by the Declarant shall not be subject to assessment unless such assessment is consented to by Declarant. Unimproved Lots may, at the election of the Directors, be assessed at a different rate than improved Lots. Where one owner is utilizing more than one Lot as a single homesite, and has commenced construction of a residence thereon, the Directors may, in their discretion, elect to treat such owner the same as a single lot owner for assessment purposes.
3. **Types of Assessments:** The assessments levied by the Board of Directors of the Association shall be utilized to provide funds consistent with the purposes of the Association. The assessments may include, but shall not be limited to, the following:
  - (a) **Annual Assessment:** An annual assessment for administration of the Association, liability insurance, other normal maintenance expenses, and to provide funds for such other purposes as the Board of Directors, may find necessary and consistent with the purposes of the Association.

(b) **Capital Improvement Assessments:** The Association may levy in any year a special assessment for the purpose of defraying in whole or in part, the costs of any construction or reconstruction, unexpected repair or replacement of any capital improvement, including the necessary fixtures and personal property related thereto, or for such other capital improvements as are determined necessary or desirable. However, no assessment shall be levied which has not been approved by the affirmative vote of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called to consider such special assessment. No such assessment shall be established to cover a period in excess of five (5) years.

(c) **Legal Reserve and Compliance Assessments:** In addition to the assessments herein provided, the Board of Directors may levy an assessment for the purpose of establishing a legal reserve fund for legal fees and costs to enforce this Declaration. Nothing herein shall be interpreted to preclude the Board of Directors from utilizing other funds for compliance purposes.

4. **Payment of Assessments:** The assessments provided for herein shall be completed on a yearly basis, commencing on the 1st day of January of each year and terminating on the 31st day of December of the same year. The tax year for the association shall be January 1 to December 31. The assessments for any year shall become due and payable monthly, quarterly, annually and/or in advance, at the discretion of the Board of Directors of the Association. The Board shall fix the amount of the assessment against each residential structure and/or lot for each assessment period at least thirty (30) days in advance of the due date specified herein and shall at that time, prepare a roster of the properties and assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be provided to every Owner upon demand.
5. **Effect of Non-Payment of Assessment:** If the assessments are not paid by midnight on the date when due, then such assessment shall become delinquent and shall, together with any interest thereon, become a continuing lien on the residential structure and/or lot which shall run with the land. If the assessment remains unpaid for thirty (30) days after such due date, the assessment shall bear interest from the original due date at 10% per annum or the maximum annual percentage rate permitted by law, whichever is lower. The Association may file a notice of lien against the non-paying owner's Lot if the assessment is unpaid thirty (30) days after coming due, and a copy of such recorded notice shall be sent to the owner. By accepting a deed to a Lot, each owner agrees to and designates any officer or Director of the Association as agent with full irrevocable power and right to record a notice of lien in favor of the Association. A lien accruing hereunder shall be foreclosed in the same manner as provided by the laws of the State of Montana for foreclosure of construction liens as contained in Montana Title 71, chapter 3, part 5, as now exists or may

be hereinafter amended (inclusive of attorney fees and costs provisions). Such lien shall be subject and subordinate to and shall not affect the right of a holder of any recorded first mortgage now or hereafter placed on the Lot in good faith and for value. The Association may also bring an action at law against the owner owing such assessment for the payment thereof. The obligation of the then owner to pay any assessment or interest shall not be affected by any conveyance or transfer of title to said lot. The prevailing party in such action shall be entitled to its attorney fees and costs.

## **ARTICLE VII GENERAL PROVISIONS**

- 1. Duration.** The covenants, conditions and restrictions of this Declaration shall run with the protected property in perpetuity, unless amended as provided for herein, and shall inure to the benefit of and be enforceable by the Declarant or by the owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors, or assigns.
- 2. Amendment.** These covenants may be modified or amended by an instrument in writing filed with the Missoula County Clerk and Recorder Office signed by the owners of two-thirds (2/3) of the Lots to which these covenants apply. Each lot constitutes one vote, regardless of the number of owners of one lot and regardless of the number of parcels owned by one owner. Provided, Declarant reserves the right to amend or modify these covenants until such time as Declarant has sold 15 lots. No covenants or sections relating to wildlife, minimum lot area, driveways, weed control, fire standards, or the area of riparian resource management may be changed without prior written consent of the governing body.
- 3. Enforcement, Receiving and Processing Complaints.**

The Declarant, the Association, or any owner shall have the option and right to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, easements, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. The method of enforcement may include legal action seeking an injunction to prohibit any violation, to recover damages, or both. Failure by the Association, any Owner, or by the Declarant, to enforce any such provisions shall in no event be deemed a waiver of the right to do so thereafter. It shall remain within the sole discretion of the Directors of the Association what actions the Association may take upon any owner complaint made to the Association regarding these covenants. Should any law suit or other legal proceeding be instituted against an Owner who is alleged to have violated one or more of the provisions of this Declaration, the prevailing party in such proceeding shall be entitled to reimbursement for the costs of such proceeding, including reasonable attorney's fees.

- 4. 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.



Exhibit A



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Missoula, MT 59802  
406.728.4611  
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## DEVELOPMENT COVENANT

Nate Tollefson, owner and developer of Mill Creek Meadows subdivision, hereby covenants to comply with the following Weed Management Plan:

### WEED MANAGEMENT PLAN FOR MILL CREEK MEADOWS SUBDIVISION

#### INTRODUCTION

This Weed Management Plan is prepared for the Mill Creek Meadows Subdivision (subject property) to comply with the Missoula County Noxious Weed Management Act, Title 7 Chapter 22, Sections 7-22-2102 through 7-22-2153 and is intended to provide a plan for weed control and vegetative rehabilitation for the undeveloped areas of the subject property. The subject property is located within the E ½ of Section 35, Township 15 North, Range 21 West, P.M.M., Missoula County, MT.

The easement areas of Tract 2-B of COS 6146, as reflected on the attached easement exhibits, must also be maintained to comply to the weed management and revegetation requirements of this plan. This includes the private utility and drainfield easement and private storm drainage easement as described on the attached exhibits.

Thirty-nine single-family lots are proposed for development on the 33.75 acre parcel. Lots will range in size from 0.50 to 0.95 acres. Construction preparation and site grading started in the spring of 2018. The subject property contains four common areas.

Nate Tollefson (Owner) is the owner and developer of the subject property. Responsibility for weed management of all unsold lots is the responsibility of the Owner. A Property Owners' Association (HOA) will assume weed management responsibility for all common areas, the above referenced easement areas on Tract 2-B, and any areas within the subdivision that are improperly managed for weeds. Refer to the protective covenants for conditions related to the HOA involvement in weed management.

#### CURRENT CONDITION AND ORGANIZATION OF THE SUBJECT PROPERTY

The current legal description of Mill Creek Meadows Subdivision is **Parcel 1 of C.O.S. 5972, located in Section 35, Township 15 North, R 21 West, P.M.M., Missoula County, Montana.** The subject property is accessed from Mill Creek Road in Frenchtown, and is bordered by residential properties on three sides and pasture land to the south. The development was originally proposed to occur in four phases, but construction is now slated to happen simultaneously across the parcel.

The subject property currently contains no buildings and has primarily been used as pasture. Vegetation is comprised primarily of alfalfa and range grasses; the area has been heavily browsed. The dominant weeds on the property are knapweed and houndstongue, visible along the fence lines where the ground has not been disturbed. Common tansy and bull thistle appear sporadically dispersed across the southern and eastern side of the property. Additionally, nuisance species of mustard and cheatgrass are present across the site. An infestation of burdock is located within and around Common Area 1.



Weed Management and Revegetation Plan  
 Mill Creek Meadows Subdivision  
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The Owner commenced construction before an herbicide application could be completed. Weeds in undisturbed areas should be sprayed this spring as soon as possible, ideally before the flower bud emerges. Subsequent herbicide treatments in the fall may be necessary by the Owner to target noxious weeds disbursed during construction this spring. Weed control will eventually be the responsibility of individual landowners. To prevent weed establishment in disturbed areas, the ground around driveways, roads, and other disturbed areas shall be reseeded with a mix, recommended below, by dormant seeding this winter when the ground is frozen.

**MANAGEMENT GOALS**

The purpose of the plan is to reduce and manage the spread of noxious weeds and to maintain and enhance healthy plant communities. Addressing spotted knapweed, houndstongue, and common tansy that is currently growing on or near the subject property as well as early detection of other noxious weeds by present and future owners is important for effective weed control. It is important to continue annual monitoring of weed growth in late spring or early summer. If the noxious weed community shifts from the current conditions, the Owner shall consult with the Missoula County Weed District to determine the proper weed control tool. When infestations are small, there are more options for successful control.

**MANAGEMENT STRATEGY**

Spotted knapweed is the dominant weed on the subject property. Herbicide spraying treatment shall be used to suppress existing spotted knapweed in undisturbed areas, ideally in May before the flower bud emerges. Milestone is the recommended herbicide as it is the most effective, but it also leaves residues long-term. Milestone could be used in spot treatments along the parcel perimeter and in areas that will not be landscaped or have vegetable gardens in the future. Curtail or 2, 4-D amine shall be used in sensitive areas of future residential gardens, fruit trees, and ornamental trees or shrubs. Bull Thistle as well as the nuisance mustards, cheatgrass, and burdock can also be knocked back with 2,4-D. Reducing nuisance weeds will increase the likelihood of favorable plant community establishment.

<i>Trade Name</i>	<i>Active Ingredient</i>	<i>Rate</i>	<i>Efficacy</i>	<i>Comments</i>
Milestone	aminopyralid	5 oz/acre	Most effective in actively growing plants; spring or fall	Can be applied to waters edge; cannot be used in landscaped areas and current or future vegetable gardens, mulch or manure from treated areas should not be applied to vegetable gardens or composted for vegetable gardens
Curtail	Clopyralid + 2, 4-D	2 qts/acre	Most effective in rosette to bud stages	
2, 4-D amine	2,4-D	2 qts/acre	Least effective herbicide	

Cutting or disturbing soil too soon after spraying weeds will reduce weed control; the herbicide requires at least 14 days to be effective. Milestone does not break down in

Weed Management and Revegetation Plan  
Mill Creek Meadows Subdivision  
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plants; treated areas may contain residues. The 2, 4-D herbicide product does not have the same residual action as Milestone. Mowing can also be an effective mitigation technique to reduce seed production if applied at the appropriate time, typically at the end of July when the knapweed begins to flower.

Houndstongue and common tansy on the subject property should also be treated with spot treatment herbicide applications this spring or early summer at undistributed areas on the subject property.

Trade Name	Active Ingredient	Rate	Efficacy	Comments
Telar	chlorsulfuron	.5-1 oz/acre	Most effective if applied during bolt, rosette, or bud stages	
Escort	metsulfuron	.5-1 oz/acre	Most effective if applied during bolt or bud stages	Cannot be used near wells, surface water, or shallow groundwater.

In the fall, an additional herbicide treatment will likely be necessary to address areas where weeds established after soil disturbance.

A dormant seeding should be implemented this winter when the ground is frozen. If a broadcast seeding technique is used, rather than a no till drill technique, twice as much seed should be applied to account for loss from birds. The following grass mixes are recommended:

Dryland/Common Area Grass				
Common Name	Species	% mix	Seeds/lb.	PLS pounds /acre
Bluebunch Wheatgrass	<i>Pseudoroegneria spicata</i>	20.00%	114,000	6.1
Slender Wheatgrass	<i>Elymus trachycaulus</i>	20.00%	144,000	4.8
Junegrass	<i>Koeleria macrantha</i>	20.00%	1,800,000	0.4
Sandberg's Bluegrass	<i>Poa secunda</i>	20.00%	1,000,000	0.7
Western Wheatgrass	<i>Pascopyrum smithii</i>	20.00%	187,000	3.7
	<b>Grand Totals</b>	<b>100.00%</b>		<b>15.8</b>
Roadside Grass Mixture				
Common Name	Species	% mix	Seeds/lb.	PLS pounds /acre
Hard Fescue	<i>Festuca longifolia</i>	33.30%	400,000	2.9
Western Wheatgrass	<i>Pascopyrum smithii</i>	33.30%	187,000	6.2
Streambank Wheatgrass	<i>Elymus lanceolatus</i>	33.30%	155,000	7.5
	<b>Grand Totals</b>	<b>99.90%</b>		<b>16.6</b>

Weed Management and Revegetation Plan  
Mill Creek Meadows Subdivision  
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This Weed Management Plan is not all-inclusive regarding methods, products or techniques to control weeds and to revegetate the ground. The Owner shall consult with the Missoula County Weed District from initial planning to application, monitoring, and evaluation. The Plan will assist in preventing the spread of noxious weeds in Missoula County by investigating what options are available if a noxious weed problem is identified and to select an option in keeping with good land stewardship practices.

IMPLEMENTATION OF PLAN AFTER RECORDING OF SUBDIVISION PLAT

After recording the Mill Creek Meadows Subdivision, the Owner shall be responsible for weed management on all undeveloped and unsold lots as well as right-of-way areas. The Owner shall provide weed control until enough development has occurred to support formation of the HOA which would then take on that responsibility. The HOA will assume weed management responsibility for any areas within the subdivision that are improperly managed for weeds or within the unsold lots. The property shall be monitored annually to determine treatment recommendations by the Missoula County Weed District until a desirable vegetation community is established.

This Development Covenant shall act as an encumbrance upon the land and shall be binding on and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto. Its terms shall not be modified without the consent of Missoula County.

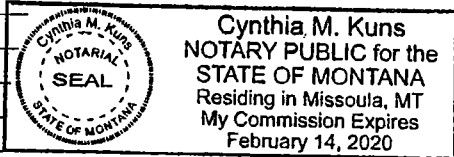
OWNER: Nate Tollefson

Nate Tollefson  
Signature

STATE OF MONTANA )  
County of MISSOULA ) :SS

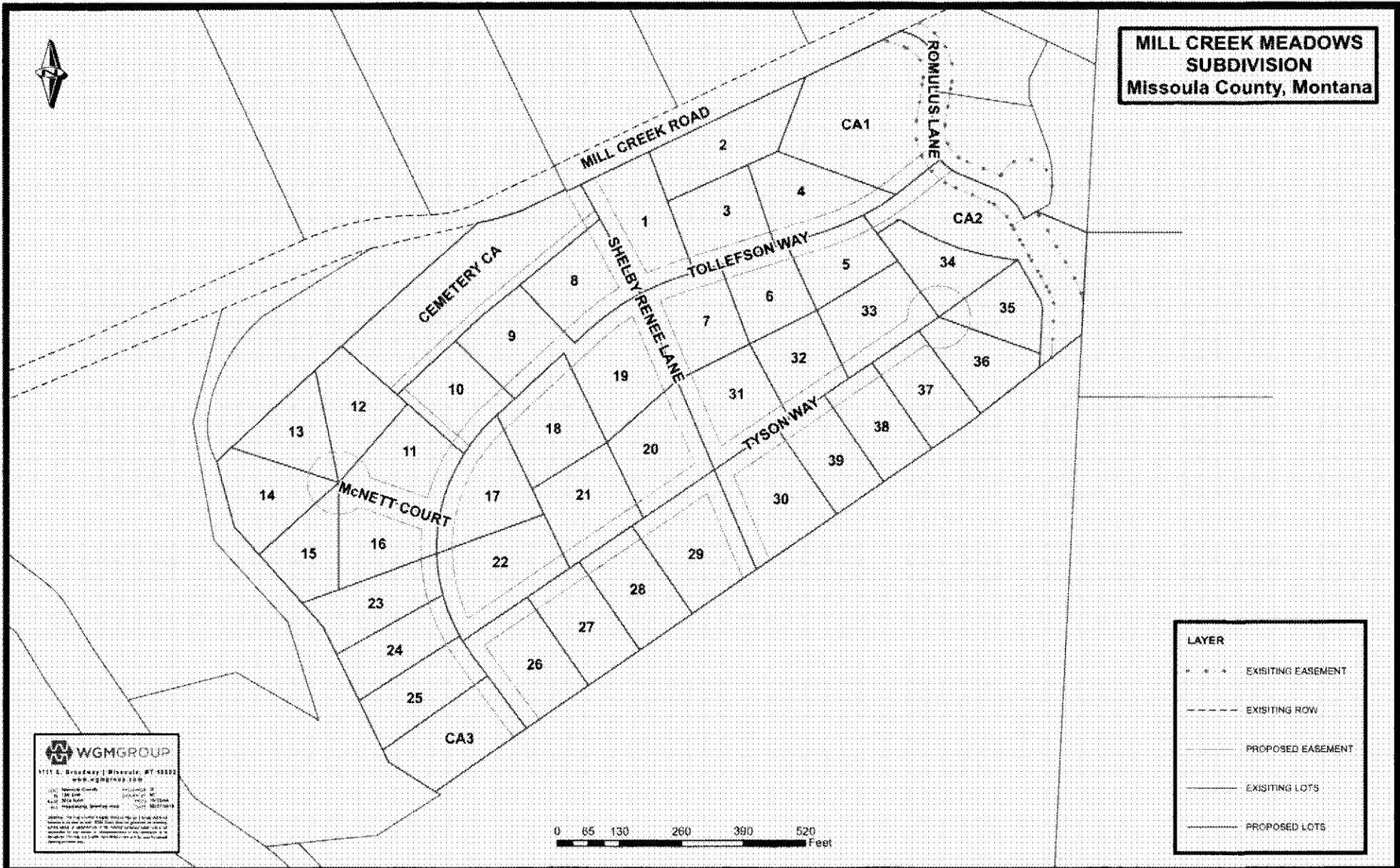
This instrument was acknowledged before me on 23rd of May, 2018, by Nate Tollefson.

Ss Cynthia M. Kuns  
Printed Name \_\_\_\_\_  
Notary Public for the State of \_\_\_\_\_  
Residing in \_\_\_\_\_  
My Commission expires \_\_\_\_\_





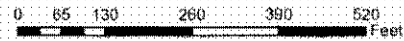
**MILL CREEK MEADOWS  
 SUBDIVISION**  
 Missoula County, Montana



**WGMGROUP**  
 1111 S. Broadway | Missoula, MT 59802  
 www.wgmgroup.com

PREPARED BY: WGM GROUP  
 DATE: 08/08/2018  
 PROJECT: MILL CREEK MEADOWS SUBDIVISION

This drawing is based on the information provided by the client and is not a guarantee of accuracy. The client is responsible for the accuracy of the information provided. The drawing is not to be used for any other purpose without the written consent of WGM GROUP.



LAYER	
- - - - -	EXISTING EASEMENT
-----	EXISTING ROW
-----	PROPOSED EASEMENT
-----	EXISTING LOTS
-----	PROPOSED LOTS

4  
607

Return to:  
WGM Group, Inc.  
1111 E. Broadway  
Missoula, MT 59802

201801179 B: 991 P: 1385 Pages:4 Fee:\$28.00  
01/22/2018 03:30:08 PM Easement  
Tyler R. Gernant, Missoula County Clerk & Recorder



### PRIVATE STORM DRAINAGE EASEMENT

This private storm drainage easement is made this 9<sup>th</sup> day of January, 2018, by Alfred G. Deschamps, owner of Tract 2-B of Certificate of Survey No. 6146 on file and of record in Missoula County, Montana, located in Section 35, Township 15 North, Range 21 West, Principal Meridian, Montana, herein after referred to as "Owner" for the purposes herein described and stated.

#### WITNESSETH

Owner being the lawful owner of said Tract 2-B, for and in consideration of the terms of this easement, does hereby designate, grant, and convey storm drainage across said Tract 2-B for the use and benefit of the Mill Creek Meadows Property Owners Association (Property Owners Association), for the purposes of discharging storm drainage from Mill Creek Meadows Subdivision, grading and maintaining storm drainage under, along, and across that certain real property located in Missoula County, Montana, and more particularly described on the attached Exhibit "A," and by this reference incorporated into and made part of this easement. By acceptance of a deed for a lot in Mill Creek Meadows Subdivision, said lot owner accepts the terms of this easement.

Owner of said Tract 2-B does hereby designate, grant, and convey this private storm drainage easement subject to the condition that the Property Owners Association shall have the right at all times of reasonable access to said storm drainage easement and to enter upon such easement for the purpose grading and maintaining storm drainage, provided, however, that Property Owners Association or its successors or assigns shall make only such excavation as is reasonably necessary for the grading and maintaining storm drainage, and that each time it is necessary to enter upon said premises for the above-described purposes, fences shall be removed and replaced and the surface of the property and any existing improvements shall be restored as close as reasonably possible to its original condition by Property Owners Association as promptly as possible.

Owner agrees not to build any kind of a permanent structure that will prevent access to the easement for maintenance purposes. Owner agrees not to build any kind of improvement that would prevent proper drainage.

Owner does hereby confirm that he is lawfully seized and possessed of the real estate above described, and that he has have a good and lawful right to convey it, or any part hereof.

**Binding Effect.** This grant of easement, which shall be recorded at the Missoula County Clerk and Recorder's Office, is binding upon the heirs, executors, personal representatives, assigns and successors of Owner hereto and shall run with the land.

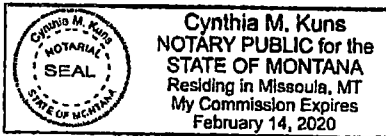
IN WITNESS WHEREOF, the said Owner has hereunto set his hand and seal the day and year in this instrument first above written.

By: Alfred G. Deschamps  
Alfred G. Deschamps

STATE OF MONTANA

County of MISSOULA

This instrument was acknowledged before me on this 9<sup>th</sup> day of JANUARY, 2018, by Alfred G. Deschamps.



Cynthia M. Kuns  
Notary Public for the State of MONTANA  
Residing at: MISSOULA, MT  
My Commission Expires: 2/14/2020  
Printed Name of Notary Public: CYNTHIA M. KUNS

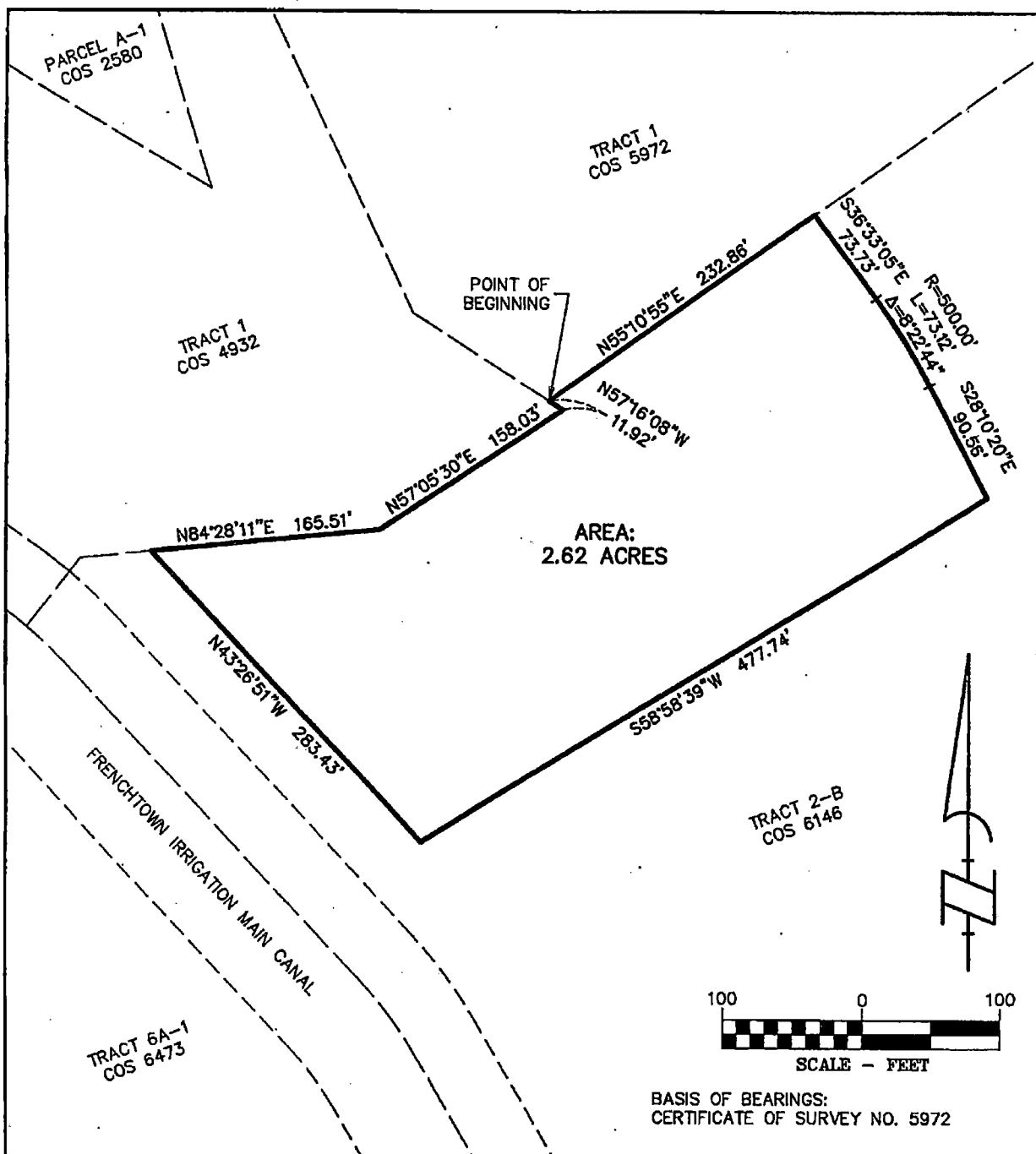


EXHIBIT "A"  
LOCATED IN THE SE 1/4 OF SECTION 35,  
T. 15 N., R. 21 W., P.M., M.  
MISSOULA COUNTY, MONTANA



**WGM GROUP**  
www.wgmsurvey.com

PROJECT: 10-12-04  
FILE No: 101204\_case-ud.dwg  
FILE PATH: \\Project\101204\101204.dwg  
LAYOUT: SH11  
SURVEYED: —  
DESIGN: —  
DRAFT: CEO  
APPROVE: KFA  
DATE: JANUARY 9, 2018  
SHEET: 1 OF 2 SHEETS

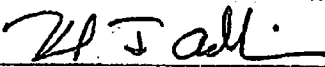
LEGAL DESCRIPTION\*\*\*\*\*

A TRACT OF LAND BEING A PORTION OF TRACT 2-B OF CERTIFICATE OF SURVEY NO. 6146, ON FILE AND OF RECORD IN MISSOULA COUNTY, MONTANA, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 15 NORTH, RANGE 21 WEST, PRINCIPAL MERIDIAN, MONTANA; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

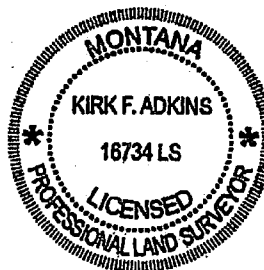
BEGINNING AT THE MOST SOUTHERLY CORNER OF TRACT 1 OF CERTIFICATE OF SURVEY NO. 5972, ON FILE AND OF RECORD IN MISSOULA COUNTY, MONTANA; THENCE N 55°10'55" E ALONG THE SOUTHERLY LINE OF SAID TRACT 1, 232.86 FEET; THENCE S 36°33'05" E, 73.73 FEET TO A POINT ON A TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 500.00 FEET; THENCE SOUTHEASTERLY ALONG SAID TANGENT CURVE THROUGH A CENTRAL ANGLE OF 8°22'44", AN ARC LENGTH OF 73.12 FEET; THENCE S 28°10'20" E, 90.56 FEET; THENCE S 58°58'39" W, 477.74 FEET; THENCE N 43°26'51" W, 283.43 FEET TO A POINT ON THE NORTHERLY LINE OF SAID TRACT 2-B; THENCE ALONG THE NORTHERLY LINES OF SAID TRACT 2-B THE FOLLOWING THREE (3) COURSES:  
1) N 84°28'11" E, 165.51 FEET; 2) N 57°05'30" E, 158.03 FEET;  
3) N 57°16'08" W, 11.92 FEET TO THE POINT OF BEGINNING; CONTAINING 2.62 ACRES, MORE OR LESS.

SURVEYOR'S STATEMENT\*\*\*\*\*

THIS EXHIBIT WAS PREPARED UNDER MY SUPERVISION.

  
KIRK F. ADKINS, P.L.S.  
MONTANA LICENSE NO. 16734LS  
FOR WGM GROUP, INC.

01/09/2018  
DATE



UNLESS SIGNED, SEALED, AND DATED, THIS IS A PRELIMINARY OR UNOFFICIAL DOCUMENT AND CANNOT BE RELIED UPON IN WHOLE OR PART.

EXHIBIT "A"  
LOCATED IN THE SE 1/4 OF SECTION 35,  
T. 15 N., R. 21 W., P.M., M.  
MISSOULA COUNTY, MONTANA



WGM GROUP  
WWW.WGMGROUP.COM

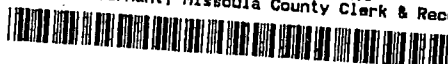
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LAYOUT: SH11  
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DESIGN: ---  
DRAFT: CED  
APPROVE: KFA  
DATE: JANUARY 9, 2018  
SHEET: 2 OF 2 SHEETS



4  
SDS

Return to:  
WGM Group, Inc.  
1111 E. Broadway  
Missoula, MT 59802

201801178 B: 991 P: 1384 Pages: 4 Fee: \$28.00  
01/22/2018 03:30:08 PM Easement  
Tyler R. Gernant, Missoula County Clerk & Recorder



### PRIVATE UTILITY AND DRAINFIELD EASEMENT

This private utility and drainfield easement (Easement) is made this 9<sup>th</sup> day of January, 2018, by Alfred G. Deschamps, owner of Tract 2-B of Certificate of Survey No. 6146 on file and of record in Missoula County, Montana, located in Section 35, Township 15 North, Range 21 West, Principal Meridian, Montana, hereinafter referred to as "Owner" for the purposes herein described and stated.

#### WITNESSETH

Owner being the lawful owner of said Tract 2-B, for and in consideration of the terms of this Easement, does hereby designate, grant, and convey a private utility and drainfield easement across said Tract 2-B for the use and benefit of the Mill Creek Meadows Property Owners Association (Property Owners Association), for the purposes of installing and maintaining sanitary sewer mains, electric line, tanks, sewer dosing lines, drainfield laterals and trenches, and related appurtenances under, along, and across that certain real property located in Missoula County, Montana, and more particularly described on the attached Exhibit "A," and by this reference incorporated into and made part of this Easement. By acceptance of a deed for a lot in Mill Creek Meadows Subdivision, said lot owner accepts the terms of this Easement.

Owner does hereby designate, grant, and convey this private Easement subject to the conditions that the Property Owners Association shall have the right at all times of reasonable access to said Easement and to enter upon such Easement for the purposes described herein, provided, however, that Property Owners Association or its successors or assigns shall make only such excavation as is reasonably necessary for the installation, maintenance, improvements, repair, or removal of said lines and drainfields, and that each time it is necessary to enter upon said premises for the above-described purposes, fences shall be removed and replaced and the surface of the property and any existing improvements shall be restored as close as reasonably possible to its original condition by the Property Owners Association as promptly as possible.

Owner agrees not to build any kind of a permanent structure that will prevent access to the easement for maintenance purposes. Owner also agrees not to build any

kind of improvement on the surface above the drainfields that would prevent proper drainfield functioning.

Owner does hereby confirm that he is lawfully seized and possessed of the real estate above described, and that he has a good and lawful right to convey it, or any part hereof.

Binding Effect. This grant of easement, which shall be recorded at the Missoula County Clerk and Recorder's Office, is binding upon the heirs, executors, personal representatives, assigns and successors of Owner hereto and shall run with the land.

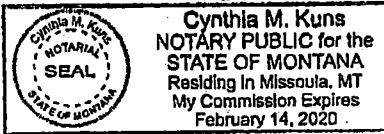
IN WITNESS WHEREOF, the said Owner has hereunto set his hand and seal the day and year in this instrument first above written.

By: Alfred G. Deschamps  
Alfred G. Deschamps

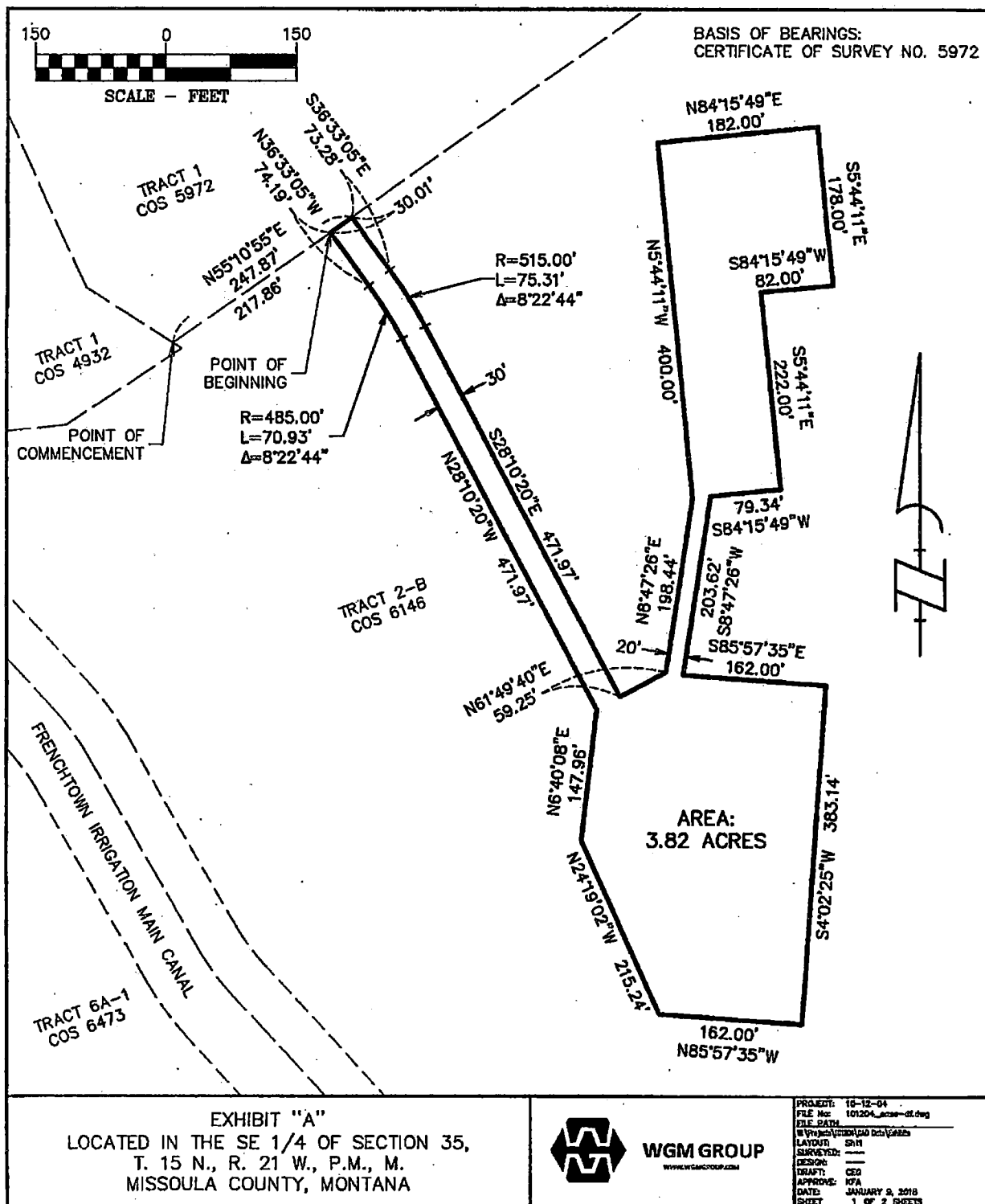
STATE OF MONTANA

County of MISSOULA

This instrument was acknowledged before me on this 9<sup>th</sup> day of JANUARY, 2018, by Alfred G. Deschamps.



Cynthia M. Kuns  
Notary Public for the State of MONTANA  
Residing at: MISSOULA, MT  
My Commission Expires: 2/14/2020  
Printed Name of Notary Public: CYNTHIA M. KUNS




LEGAL DESCRIPTION\*\*\*\*

A TRACT OF LAND BEING A PORTION OF TRACT 2-B OF CERTIFICATE OF SURVEY NO. 6146, ON FILE AND OF RECORD IN MISSOULA COUNTY, MONTANA, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 15 NORTH, RANGE 21 WEST, PRINCIPAL MERIDIAN, MONTANA; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST SOUTHERLY CORNER OF TRACT 1 OF CERTIFICATE OF SURVEY NO. 5972, ON FILE AND OF RECORD IN MISSOULA COUNTY, MONTANA; THENCE N 55°10'55" E ALONG THE SOUTHERLY LINE OF SAID TRACT 1, 217.86 FEET TO THE POINT OF BEGINNING; THENCE N 55°10'55" E CONTINUING ALONG SAID SOUTHERLY LINE, 30.01 FEET; THENCE S 36°33'05" E, 73.28 FEET TO A POINT ON A TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 515.00 FEET; THENCE SOUTHEASTERLY ALONG SAID TANGENT CURVE THROUGH A CENTRAL ANGLE OF 8°22'44", AN ARC LENGTH OF 75.31 FEET; THENCE S 28°10'20" E, 471.97 FEET; THENCE N 61°49'40" E, 59.25 FEET; THENCE N 08°47'26" E, 198.44 FEET; THENCE N 05°44'11" W, 400.00 FEET; THENCE N 84°15'49" E, 182.00 FEET; THENCE S 05°44'11" E, 178.00 FEET; THENCE S 84°15'49" W, 82.00 FEET; THENCE S 05°44'11" E, 222.00 FEET; THENCE S 84°15'49" W, 79.34 FEET; THENCE S 08°47'26" W, 203.62 FEET; THENCE S 85°57'35" E, 162.00 FEET; THENCE S 04°02'25" W, 383.14 FEET; THENCE N 85°57'35" W, 162.00 FEET; THENCE N 24°19'02" W, 215.24 FEET; THENCE N 06°40'08" E, 147.96 FEET; THENCE N 28°10'20" W, 471.97 FEET TO A POINT ON A TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 485.00 FEET; THENCE NORTHWESTERLY ALONG LAST SAID TANGENT CURVE THROUGH A CENTRAL ANGLE OF 8°22'44", AN ARC LENGTH OF 70.93 FEET; THENCE N 36°33'05" W, 74.19 FEET TO THE POINT OF BEGINNING; CONTAINING 3.82 ACRES, MORE OR LESS.

SURVEYOR'S STATEMENT\*\*\*\*

THIS EXHIBIT WAS PREPARED UNDER MY SUPERVISION.

  
KIRK F. ADKINS, P.L.S.  
MONTANA LICENSE NO. 16734LS  
FOR WGM GROUP, INC.

01/09/2018  
DATE



UNLESS SIGNED, SEALED, AND DATED, THIS IS A PRELIMINARY OR UNOFFICIAL DOCUMENT AND CANNOT BE RELIED UPON IN WHOLE OR PART.

EXHIBIT "A"  
LOCATED IN THE SE 1/4 OF SECTION 35,  
T. 15 N., R. 21 W., P.M., M.  
MISSOULA COUNTY, MONTANA



WGM GROUP  
www.wgmgroup.com

PROJECT: 10-12-04  
FILE No: 101204\_sccc-01.dwg  
FILE PATH: E:\Projects\101204\101204.dwg  
LAYOUT: Sh12  
SURVEYED: ---  
DESIGN: ---  
DRAFT: GSD  
APPROVE: KFA  
DATE: JANUARY 9, 2018  
SHEET: 2 OF 2 SHEETS

After recording return to:  
Chris Johnson  
Worden Thane P.C.  
P.O. Box 4747  
Missoula, MT 59806

201817218 B:1003 P:634 Pages:3 Fee:\$21.00  
09/25/2018 01:20:03 PM Covenants  
Tyler R. Gernant, Missoula County Clerk & Recorder



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**AMENDMENT TO DECLARATION OF PROTECTIVE  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE  
"MILL CREEK MEADOWS" SUBDIVISION**

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THIS AMENDMENT TO DECLARATION is made on the 25 day of September, 2018, by Tollefson Properties, LLC, a Montana limited liability company, and provides as follows:

**RECITALS and DECLARATION**

1. Tollefson Properties, LLC is the developer of that certain subdivision plat of Mill Creek Meadows, Phases I, II, III, & IV, a platted subdivision in Missoula County, Montana, according to the official recorded plat thereof, being a plat of 39 lots, plus common areas..
2. Tollefson Properties, LLC was the Declarant of the original Declaration of Protective Covenants, Conditions and Restrictions for the Mill Creek Meadows Subdivision (Covenants), which was recorded August 8, 2018 in Book 1001 of Micro Records, Page 57, records of Missoula County, Montana.
3. In Article VII, Section 2 of the said Covenants, Declarant reserved "the right to amend or modify these covenants until such time as Declarant has sold 15 lots." As of the date of this Amendment, Declarant has not sold the requisite number of lots, and therefore has the authority to amend the said Covenants (subject to such provisions that may only be amended with governing body approval).
4. Now Therefore, the above-referenced Declarant provides as follows:

Article II, Section 2 shall be replaced in its entirety with the following:

2. **Land Use.** The Lots shall be for single-family residential uses only. Only one residence per

Lot is permitted, and no Lot may be further subdivided. No business, trade, or commercial activity of any kind or description shall be conducted on the property; provided, in-house or in-shop commercial activities that do not involve signage, or customers or vendors or frequent deliveries are permitted, subject to applicable governmental regulations. Nevertheless, the primary use of all Lots shall remain residential. Activities that create noise, traffic, or pollution beyond levels ordinary for a residential subdivision are prohibited. The intent is to create a desirable single-family residential subdivision that maintains and respects the quality of the semi-rural residential atmosphere. Vegetable gardens are not allowed, provided up to five, 5 gallon containers may be used to grow vegetables so long as the same are kept on a deck or patio.

Article II, Section 11 shall be replaced in its entirety with the following:

11. **Use & Maintenance of the Common Areas.** Common Area 1, Lot C, Common Area 2, and Common Area 3 will be owned by the Association for the benefit of all property owners, who will have the sole right to use and control those resources through the Association. Upkeep and maintenance of the Common Areas and Lot C and any pedestrian trails are the responsibility of the Association, including but not limited to weed control and mitigation, landscaping maintenance and irrigation, and repair and/or maintenance of any commonly owned or mutually controlled facilities and trails. Owners may not install any structures, permanent or temporary, within the roadways as depicted on the plat of Mill Creek Meadows, and this prohibition includes any basketball standard or other sport or recreational structure or facility within the roadways.

Article II, Section 23 shall be replaced in its entirety with the following:

23. **Fences.** Lot owners shall have the right to fence the perimeter of their lot, with no Fences in the front yard beyond the main front building corner of the house. Fencing shall not exceed four (4) feet in height. Allowed fencing includes white or cream (beige) vinyl fencing of a vertical, picket-fence design (no solid privacy fencing), or powder coated chain link fencing in either brown or black, or vertical wrought iron picket-style. Fences shall be well maintained and kept in good repair. Fences cannot obstruct view from road traffic on corner lots. In addition to the standards above, all fences, material, color, design, placement, etc. need to be approved by architectural review.

Article II, Section 24 shall be replaced in its entirety with the following:

24. **Parking and Storage.** No parking is allowed at any time on the roadways within the plat. Exceptions for large gatherings parking are permitted for 24-hour period. All single-family homes should have driveways with sufficient parking for guests. Each home shall include at least a double car garage and paved driveway, which shall provide space for at least two additional parked vehicles. Vehicle parking shall be only in garages and on driveways leading to the garage.

Garages shall be kept reasonably clear of accessory items so that two vehicles may be parked within the garage. All storage must be completely enclosed, and carports are not allowed. It is the intention of these covenants to limit parking to that reasonably required for passenger vehicles intended for the Owner's personal use and that of the Owner's guests. No mobile homes, motor homes, trailers of any type or descriptions, trucks exceeding one-ton capacity, campers, pickups carrying campers, farm tractors, farm machinery, boats, snow mobiles, ATV's or other types of recreational vehicles or their trailers shall be parked, or otherwise allowed to remain on any lots, common areas, or adjoining streets. Such vehicles may be parked in the garage or other outbuilding as may be approved by the Architectural Review Committee, provided doing so does not prevent the owner from parking his or her passenger vehicles in the garage. If an outbuilding is to have a separate driveway to such building (versus a driveway shared with a garage), such driveway shall be paved and shall access the outbuilding from the street that fronts the lot, i.e. corner lots may not access garages or outbuildings from the street to the side of the main domicile. No vehicle of any type shall be permanently or semi-permanently parked on any lot, street or common area for reconstruction or repair and no dilapidated or inoperable vehicle, including vehicles without wheel(s) or any engine or body part, shall be stored on the properties, provided, however, that the provisions of this section shall not apply to emergency vehicle repairs.

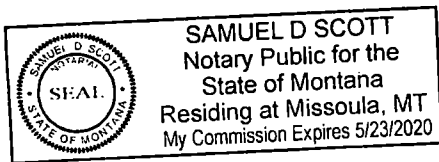
IN WITNESS WHEREOF, the undersigned, has set his hand and seal this 28 day of September, 2018.

Tollefson Properties, LLC

Nate Tollefson  
By: Nate Tollefson, Member

State of Montana )  
)ss  
County of Missoula )

Acknowledged before me this 25<sup>th</sup> day of September, 2018, by Nate Tollefson, as Member of Tollefson Properties, LLC.



(seal)

S.D.S.  
Printed Name Samuel D. Scott  
Notary Public for the state of Montana,  
Residing at: Missoula  
My commission expires: 5-23-20