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Covenants with Amendments Incorporated via Footnotes – Sept. 16, 2015

**DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS
ON LOTS 1 TO 48, INCLUSIVE, AND PARK LAND DEDICATION, (14.995 ac.)
OF
LITTLE BEAR
A SUBDIVISION OF A PART OF GALLATIN COUNTY, MONTANA**

THIS DECLARATION, made this 15th day of December, 1978, by LARRY W. MORAN and ROBERT R. REISER, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of real property situate in the County of Gallatin and State of Montana, described as follows:

A tract of land located in the Northeast One-Quarter of Section Thirty-Six and in the Southwest One-Quarter and the Southeast One-Quarter of Section Twenty-Five, Township Three South, Range Four East, Montana Principal Meridian, Gallatin County, Montana, and being further described as follows:

Beginning at the Southwest corner of said Section Twenty-Five, said corner being also the Northwest corner of said Section Thirty-Six. Thence North 00° 50'52" West along the West line of said Section Twenty-Five a distance of 1321.06 feet. Thence North 89°59'50" East along the North line of the South One-Half of said Southwest One-Quarter a distance of 2632.87 feet, Thence North 89°59'29" East along the North line of the South One-Half of said Southeast One-Quarter a distance of 1674.60 feet. Thence Southerly along the Westerly right-of-way of an existing county road through the following courses:

South 00°59'18" East a distance of 46.01 feet.

South 08°24'14" East a distance of 1384.67 feet.

South 04°23'23" East of a distance of 101.32 feet.

Thence leaving said right-of-way South 55°47'38" West a distance of 167.23 feet. Thence South 11°22'50" West a distance of 2422.66 feet to a point on the South line of Said Northeast One-Quarter. Thence North 89° 57'26" West along said South line a distance of 1226.15 feet. Thence North 00°26'40" West along the West line of said Northeast One-Quarter a distance of 2663.48 feet. Thence North 89°59'40" West along the South line of said Southwest One-Quarter a distance of 2634.12 feet to the Point of Beginning, which tract is also known as Certificate of Survey No. 483.

Which has been platted and subdivided into Lots 1 to 48, inclusive in LITTLE BEAR, according to the recorded plat thereof on file in the office of the County Clerk and Recorder of Gallatin County, Montana; and,

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WHEREAS, Grantor desires to subject said real property to the conditions, covenants, restrictions, reservations and easements hereinafter set forth, each and all of which is and are for the benefit of said property and for each owner thereof, and shall inure to the benefit of and pass with said property, and each and every parcel thereof, and shall apply to and bind the successors in interest, and any owner thereof; and

WHEREAS, Declarant deems it desirable, for the efficient preservation of the values and amenities within said Subdivision to create an agency to which should be delegated and assigned the powers to maintain and administer the common properties and facilities, handle common problems, administer and enforce the provisions of this Declaration, and collect and disburse such assessments and charges as may be required; and,

WHEREAS, Declarant has herein provided for creation of LITTLE BEAR HOMEOWNERS ASSOCIATION for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, Declarant declares that the real property hereinabove described shall be held, transferred, sold, conveyed, used and occupied subject to the conditions, covenants, restrictions, reservations, easements and all provisions herein set forth, all of which shall be considered in law as covenants running with the land described herein, and benefiting and binding on all parties or entities having any right, title or interest in the described property or any part thereof, their heirs, successors, and assigns.

ARTICLE I

DEFINITIONS

Section 1. The following words when used in this Declaration shall have the following meanings:

(a) "Association" shall mean and refer to the LITTLE BEAR HOMEOWNERS ASSOCIATION, its successors and assigns.

(b) "The Property" shall mean and refer to all real property described herein, and subject to this Declaration.

(c) "Plat" shall mean and refer to the Plat of LITTLE BEAR recorded in the records of the Clerk and Recorder of Gallatin County, Montana, and any amended, supplemental or additional plats or filings thereof.

(d) "Common Area" shall mean and refer to those areas of land shown on the recorded plat of LITTLE BEAR as designated for use as easements, rights-of-way, roadways, or park, or referred to in the Declaration for such uses, or as "common area". All such areas are intended to be devoted to the common use and enjoyment of the owners of the property subject to the terms and conditions hereof.

(e) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the property with the exception of Common Areas as heretofore defined.

(f) "Living Unit" shall mean and refer to any portion or all of a building situated upon the property designed and intended for use and occupancy as a residence by a single family.

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(g) "Declarant" shall mean and refer to LARRY W. MORAN and ROBERT R. REISER, their successors or assigns.

(h) "Member" shall mean and refer to all those Owners who are members of the Association, as provided in Article III, Section 1, hereof.

(i) "Owner" shall mean and refer to any record owner, or the equitable owner of any Lot situated upon the property, including Declarant.

(j) "Equitable Owner" shall mean any person or entity in process of acquiring record fee simple title pursuant to any security arrangement, including but not limited to mortgages, or contracts for deed.

ARTICLE II

PROPERTY SUBJECT TO AND EXCEPTED FROM THIS DECLARATION

Section 1. The real property which is, and shall be, held, transferred, sold, conveyed, used, and occupied subject to this Declaration is located in the County of Gallatin, Montana, and is more particularly described as follows:

Lots 1 to 48, inclusive, LITTLE BEAR, a subdivision of a part of Section 25 and 36, Township 3 South, Range 4 East, M.P.M., together with park land dedication.

Section 2. Declarant specifically excepts Lots 27¹, 28², and 48, as reflected on the plat of LITTLE BEAR, from attachment of any provision set forth in this Declaration while the entirety or any portion of such designated Lots are owned by Declarant. Further, Declarant reserves the express right to amend, replat, or file additional or supplemental plats of said Lots 27, 28, and 48, dividing or subdividing such Lots into separate parcels of any size, as the Declarant may determine in exercise of its sole, exclusive discretion. Further, Declarant reserves the express right to sell and convey the entirety of, or any portion of said Lots 27, 28, and 48 without any duty or obligation owned or due any other owner of property within LITTLE BEAR, under this Declaration, or otherwise.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is a record or equitable owner of any land or living unit which is subject to this Declaration shall be a member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member.

¹ Amended by Joinder dated February 1985 and recorded in Book 86, Page 3031 such that Lots 27 and 28 (but not Lot 48) were subjected to the covenants, and also changed certain provisions of Sections 6, 7 and 12 of Article VII as they apply to only these two lots. See the Joinder for more detail.

² See footnote #1.

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Section 2. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all those owners of a Living Unit which has been constructed on the property. Class A members shall be entitled to two votes for each living unit in which they hold an interest. When more than one person holds such interest in any living unit, all such persons shall be members, and the vote for such living unit shall be exercised as they among themselves determine, but in no event shall more than two votes be cast with respect to any such living unit.

Class B. Class B members shall be those owners who own land or lots on which no living unit has been constructed. Each Class B member shall be entitled to one vote for each parcel or lot owned. Class B membership shall cease and become converted to Class A membership on the happening of the sooner of the following events:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership;
- (b) On January 1, 1983.

Thereafter, any member who would have been a Class B member but for the termination of Class B membership shall have one vote for each parcel or lot owned.

Section 3³. Members in good standing. Only Members in good standing shall be eligible to vote on association matters. A member will not be considered to be in good standing if their current years assessment, or prior years assessments are not paid at the time of the Homeowners Annual General Meeting held each year in September. If at that general Meeting a member is not current with the payment of their assessments as defined above, they will not be considered a member in good standing and will not be allowed to vote on association issues either in person or by proxy. Voting suspension would not be limited to the general meeting but would include any voting on association issues. Once a member is considered not in good standing all voting privileges will be suspended until such member has paid all assessments and costs owed.

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3, every Class A or Class B/member shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title to every parcel or lot in LITTLE BEAR. Class A members may assign their easement and right of enjoyment with respect to any living unit to a tenant occupying that living unit.

Section 2. Title to Common Areas. The Declarant shall retain legal title to the Common Areas until such time as it has completed any desired improvements thereon, and/or until such time as, in the opinion of Declarant, the Association is able to maintain the same. Declarant hereby covenants, for itself, its successors and assigns, that it shall convey the Common Areas to the Association not later than thirty

³ Amendments by Revisions on October 14, 1995 and recorded on March 14, 1996 in Book 161, Page 3257 included the addition of this new Sections 3 to Article III.

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(30) days after the sale by Declarant, or its successors or assigns, of the last parcel or lot subject to this Declaration.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following;

(a) The right of the Declarant, its successors and assigns, and of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Areas and in aid thereof to pledge or mortgage said property; provided that any such pledge or mortgage by the Association shall require the same vote and quorum of members of the Association as are required for the levying of special assessments under Article V, Section 4, hereof.

(b) The right of the Association to take such steps as are reasonably necessary to protect the above-described property against foreclosure.

(c) The right of the Association, as provided in its Articles and Bylaws, to suspend the enjoyment rights of any member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations.

(d) The right of the Association to charge reasonable admission and other fees for the use of the Common Areas.

(e) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to Such conditions as may be agreed to by the members, provided that no such dedication or transfer shall be effective unless members entitled to cast three-fourths (3/4) of the votes of each class of membership shall agree to such dedication, sale or transfer. Written notice of the proposed dedication or transfer must be sent to every member at least ninety (90) days in advance of any action taken.

(f) Notwithstanding the fact that title to common areas shall not pass from the Declarant to the Association until the time specified above in Section 2, Declarant shall have no duty or obligation, financial or otherwise, with respect to the Common Areas after such have been platted, designated, or originally constructed. Both before, and after the passing of title to the Common Areas, the Association shall accept the Common Areas and be solely financially responsible for the operation, maintenance and repair of all structures, landscaping, paths, roads, easements and other facilities, using its powers of assessment granted herein to raise funds.

ARTICLE V

COVENANT FOR ASSESSMENTS

Section 1. After platting, designation, or original construction of the Common Areas the financial obligation of Declarant with respect to such areas shall end. Thereafter, each owner (other than Declarant) of any part of the property, and each member of the Association (other than Declarant) shall be deemed to covenant and agree to pay to the Association:

- (1) Annual assessments or charges, which are payable in monthly installments;
- (2) Special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided.

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The annual and special assessments on each owner and/or member, together with such interest and costs of collection thereof shall be a charge on the real property and interests owned by the Owner and/or Member, and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest and cost of collection thereof, shall also be the personal obligation of the owner and/or member at the time when the assessment fell due.

Section 2. The assessments levied by the Association through its Board of Directors shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the owners, and in particular for the improvement and maintenance of properties, utility services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and of the living units situated upon the property, including, but not limited to, the payment of taxes and all types of insurance and premiums deemed necessary by the Board of Directors, and repairs, replacement, and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof, and further including, but not limited to, the following: snow removal; the construction, reconstruction, planting, repair, fertilization, application of herbicides and pesticides to, and cutting and trimming, irrigation and care of all manner of landscaping and irrigation systems on Common areas; reconstruction, repair and maintenance of roads, paths, easements, parks, and rights-of-way, together with legal and accounting fees and costs associated with activities of the Association.

Section 3. The Board of Directors of the Association shall, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year, which amounts shall be paid as the Association determines and fixes.

Section 4. In addition to annual assessments, the Association may levy special assessments, applicable to such years as are described in the resolution authorizing the assessment, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of capital improvements upon the Common Areas. The resolution establishing any such assessment shall have the assent of three-fourths (3/4) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

All or any part of the proceeds of any special assessment may be assigned to a lender as security for repayment of a loan or loans made to pay, in whole or in part, the expenditure for which the special assessment was authorized. The rights granted to the lender under such assignment may include the right to require the Association to collect the special assessment, and the right of the lender directly to enforce any right of the Association to collect the special assessment. Any such assignment of the proceeds of any special assessment as security shall require approval by vote in the same manner as the special assessment itself.

Section 5. The quorum required for any action authorized by Section 4 hereof shall be as follows:

At the first meeting called, the presence at the meeting of members, or of proxies, entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called upon the giving of ten (10) days written notice, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

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Section 6. The assessments provided for herein shall commence and be payable on the dates fixed by the Board of Directors of the Association.

Section 7. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each lot or living unit for each assessment period at least thirty (30) days in advance of such date or period 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 sent to every owner subject thereto.

The Association shall upon demand at any time furnish to any owner liable for said assessment or any mortgagee or potential mortgagee or purchaser of property subject to assessment a certification in writing signed by an officer of the Association, setting forth whether said assessment has been paid and the amount of any unpaid assessments. As to any mortgagee or purchaser who had disbursed funds in reliance thereon, such certificate shall be conclusive against the Association as to items set forth therein.

Section 8. If an assessment is not paid on the date when due, then such assessment shall be considered delinquent, and shall, together with interest and costs of collection as hereinafter provided, become a continuing lien on the property subject to the assessment, which shall bind such property in the hands of the then owner, his heirs, devisees, successors, and assigns. The assessment shall be a lien against the real property which comprises the lot or living unit assessed, and all appurtenances thereto and fixtures thereon. The real property comprising a lot or living unit shall include any form of ownership in any parcel or lot, together with any living unit, and all fixtures and appurtenances located thereon.

If any assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum, and the Association may bring an action at law against the owner personally obligated to pay the *same* or to foreclose the lien against the property subject thereto; and there shall be added to the amount of such assessment interest as above provided plus all costs of collection, including the Association's reasonable attorney's fees incurred in connection with the default, and collection of amounts due. If the Association elects to file a lien, the Association may file a Statement of Lien with respect to the property, setting forth the name of the Owner, the legal description of the property, the name of the Association, and the amount of delinquent assessments then owing, which Statement shall be duly signed and acknowledged by the President or a Vice President of the Association, and which shall be served upon the Owner of the Property by certified mail to the address of the property or at such other address as the Association may have in its records for the Owner of the Property. Thirty (30) days following the mailing of such notice, the Association may proceed to foreclose the Statement of Lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Montana. No Owner may waive or otherwise escape liability for the assessments provided for herein by alleging non-use or non-benefit of the Common Area.

Section 9. The lien for assessments shall be subordinate to the lien of any security interest or device fore-dating the assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to issuance of a deed to such property pursuant to any decree of foreclosure or Court Judgment. Such deed shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessments.

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Section 10. The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein:

- (a) All property owned by Declarant.
- (b) All Common Areas as defined in Article I, Section 1, hereof.

Section 11. Examination of Books and Records. Any Owner or mortgagee shall have the right to examine the books and records of the Association, at any reasonable time.

Section 12. At all times prior to transfer and conveyance of the common areas to the Association, as herein provided, the Declarant shall be entitled to representation on the Board of Directors of the Association.

Section 13. The Association shall be governed internally by such Bylaws and procedures adopted by the Owners/Members; provided, however, no Bylaw or procedure shall be adopted or utilized which is in conflict with any provision of this Declaration.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Before anyone shall commence any landscaping or the construction, reconstruction, remodeling, addition to, or alteration of any building, well, fence, or any structure whatsoever, on any lot or Common Area, there shall be submitted to the Architectural Control Committee (herein referred to as the "Committee"), two complete drawings of plans and specifications for such project. No structure or improvement of any kind shall be erected, altered, placed or maintained unless and until the plans, elevations, and specifications therefor have received written approval as herein provided. Such plans shall include plot plans, locations of structures and improvements, floor plans, fence plans, and elevations, showing all aspects of the project as an architectural unit, together with the proposed color scheme and materials for fences, roofs, and exteriors.⁴ One set of said plans and specifications and details, with the approval or disapproval endorsed thereon, shall be returned to the person submitting same within thirty (30)⁵ days and the other copy thereof shall be retained by the Committee.

The Committee shall have the right to disapprove any part or all of such plans or specifications which are not suitable or desirable in the Committee's opinion, for aesthetic or other reasons. In passing upon such plans and specifications, the Committee shall have the right to take into consideration the suitability of the proposed building or other structure and of the materials of which it is to be built, the color scheme, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings, the topography of the land and the effect of the building or other structure or landscaping on adjacent or neighboring property. The decisions of the Committee shall be final. Neither the Declarant nor any architect or agent of Declarant, nor any member of the Committee shall be responsible in any way to any party for any plans or specifications, the approval or rejection thereof, nor for any structural or other defects in any work done according to such plans or specifications. In the event the Committee fails to

⁴ As amended by Revisions on 10/14/95 and recorded on 3/14/96 in Book 161, Page 3257, the following sentence was deleted in its entirety: "In order to facilitate compliance with this provision, and to minimize expenses, no formally drafted plans of the project are required."

⁵ The same Revisions referenced in footnote #4 also changed this text from ten (10) to thirty (30).

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approve or disapprove within thirty (30)⁶ days after plans and specifications have been submitted to it, the plans and specifications shall be considered as approved.

Section 2. Architectural Control Committee. The Architectural Control Committee shall consist of at least three owners, appointed by the Declarant, its successors or assigns. The Declarant, its successors or assigns, may constitute one member of the Committee, and the Declarant, its successors or assigns shall have absolute right to remove and appoint members of the Committee at any time. The Declarant, its successors or assigns may, at any time, relinquish its powers to determine the number and members of the Committee to the Association established in this Declaration. Such relinquishment may be accomplished by filing a declaration of such relinquishment with the Board of Directors of the Association. From and after such relinquishment the number and members of the Committee shall be determined by the Board of Directors of the Association. Neither the members of the Committee, nor its designated representatives, shall be entitled to any compensation for services performed pursuant to this covenant.

ARTICLE VII

LAND USE RESTRICTIONS

The real property above described is subjected to the conditions, covenants, restrictions, reservations and easements declared herein in order to obtain the best use and the most appropriate development and improvement of each building site thereof; to protect the owners of building sites against improper use of surrounding building sites which will adversely affect the value and/or enjoyment of their property; to preserve, insofar as is practicable, the natural beauty of such property; to guard against the erection thereon of poorly designed structures, and structures built of improper or unsuitable materials; to obtain the highest and best development of said property; to encourage and secure the erection of attractive homes thereon, appropriately located on said building sites; to secure and maintain proper setbacks, and adequate free spaces between structures; and in general, to provide for a high type and quality of improvement in said property.

Section 1. No structure shall be erected, altered, placed or permitted to remain on any building site subject to this declaration other than one new single family dwelling, for private use, a private garage, and other outbuildings, corrals, or appurtenant structures, incidental to residential use of the premises.

Section 2. In lieu of restrictions heretofore commonly used covering minimum cost, materials used in construction, or heights, all of which have proven inadequate in protecting existing or future property owners because of the fluctuating value of the dollar and changing designs, customs and trends in home building, and the nature of the terrain, these covenants shall and do hereby provide that no single family dwelling or other improvements as herein defined shall be erected, placed, or altered on any premises in LITTLE BEAR until the building or other improvement plans, specifications and plot plan showing the location of such improvements on the particular building site have been submitted to and approved in writing as to conformity and harmony of external design, including the height of such improvement, with existing structures in the development, and as to location of the improvements on the building site, and with respect to topography, grade and finished ground elevation, by an architectural control committee, which shall not be liable in damages to any one so submitting plans for approval, or to

⁶ The same Revisions referenced in footnote #4 also changed this text from ten (10) to thirty (30).

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any owner or owners of land covered by this instrument by reason of mistake in judgment, negligence or nonfeasance of the committee, its agents or employees, arising out of or in connection with the approval or disapproval or failure to approve any such plans. If construction or alteration of original improvements or any subsequent additional improvements are begun in violation of the terms and conditions of this instrument or without the written approval required in this instrument, and no suit to enjoin the erection, establishment or alteration of such improvements has been commenced prior to the completion thereof, then this covenant will be deemed to have been fully complied with.

Section 3. All single family dwellings shall have a minimum fully enclosed, habitable floor area devoted to living purposes of 2250 square feet of which a minimum of 1500 square feet will be on the first floor that is completely above ground level. All square footage calculations shall exclude all porches, terraces, decks, storage areas, attics, lofts and garages. Basements with constructed floors, ceilings and exterior walls and which are provided with electric power and a heating source qualify as habitable floor area. The requirements of this Section shall only be applied to homes built after the adoption of this Section.⁷

Section 4. All single family dwellings and outbuildings and garages shall be erected on any building site so as to be a minimum of twenty-five (25) feet from any property line.

Section 5. No temporary house, trailer, modular home, mobile home, double wide mobile or modular home⁸, tent, garage or outbuilding shall be placed or erected upon any part of the property, and no residence placed or erected on any lot shall be occupied in any manner at any time prior to its being fully completed in accordance with approved plans nor shall any residence when completed be in any manner occupied until there is compliance with all requirements, conditions, covenants, and restrictions herein set forth; provided however, that during the actual construction or alteration of a building on any lot reasonable and necessary, temporary buildings for storage of materials may be erected and maintained by the person doing such work. Such temporary storage buildings shall be removed upon completion of the construction, alteration or remodeling.

Prior to the construction of a single family dwelling as approved by the Architectural Control Committee, no lot shall be used for the storage of equipment, supplies, lumber, machinery, trailers, motorhomes, vehicles of any kind, or other items; nor subject to excavation, filling, underground or above ground construction or other alteration of the landscape or existing vegetation, unless consistent with plans previously approved by the Architectural Control Committee.⁹

Section 6. No lot or lots within LITTLE BEAR shall be resubdivided into lots smaller than five acres in size or for the purpose of combining portions of one lot with an adjoining lot provided that no additional building site is created thereby. Any ownership or single holding by any person comprising the whole of one lot and part or parts of one or more adjoining lots shall for all purposes of this Declaration be deemed as constituting a single lot, allowing construction of one single family dwelling. Provisions of this Article VII, Section 6, shall not apply to Declarant, consistent with prior provisions set forth in this Declaration, nor shall its provisions preclude the dedication or conveyance of easements additional to

⁷ Amendment by Resolution approved by vote on 9/9/15 and recorded on 9/16/15 deleted all previous text of this section (which was previously amended) and replaced it with the text shown.

⁸ Amendment by Revisions on 10/14/95 and recorded on 3/14/96 in Book 161, Page 3257 added "modular home, mobile home, double wide mobile or modular home" to Section 5.

⁹ Amendment by Resolution approved by vote on 9/9/15 and recorded on 9/16/15 added this second paragraph to Section 5.

those reflected on the plat.

Section 7. No animals or poultry of any kind, other than house pets belonging to the occupiers of the premises, shall be kept or maintained on any part of the real property subject to these covenants. With the written approval of the Grantor, or Grantor's duly authorized agents, this covenant shall not apply to horses (ONE HORSE PER ACRE, NOT TO EXCEED FOUR HORSES PER LOT)¹⁰ kept for riding pleasure of the occupiers of the premises.

Section 8. No retail, wholesale, manufacturing or repair business of any kind, shall be permitted on any building site or in any single family dwelling or appurtenant structure.

Section 9. No activity which may be or which may become an annoyance or nuisance to the neighborhood shall be carried on upon any building site or in any single family dwelling or appurtenant structure.

Section 10. No signs (except decorative home identifications), advertisements, bill boards or advertising structures, of any kind may be erected or maintained on any of the building sites herein restricted, provided however, that one sign not more than five square feet in size may be erected for the sole and exclusive purpose of advertising the building site and improvements thereon for sale or lease.

Section 11. Each lot shall provide an enclosed area for containment of trash, garbage, or other refuse. Each owner must provide for regular removal of trash and garbage, and each lot at all times shall be kept in a clean, attractive condition. Weeds shall be kept mowed. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon any lot so it is visible from any neighboring lot or roadway except as reasonably necessary during a period of construction. In the event any structure is destroyed either wholly or partially by fire or other casualty, said structure shall be promptly rebuilt or remodeled to conform to this Declaration or all debris and remaining portions of the structure including the foundations shall be promptly removed from the property. No noxious or offensive activity shall be carried on upon the property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

The storage of equipment, supplies, lumber, machinery, trailers, motorhomes, vehicles of any kind including recreational vehicles, and other items deemed incidental to and accompanying the current residential use of any property shall be such that it is visually screened or located so as to minimize its impact on the view from other lots and roadways, and shall not occur within 25 feet of property boundaries. Trailers, motorhomes, recreational vehicles and other vehicles or machinery over 30 feet in total length cannot be stored on any lot unless kept inside a fully enclosed and roofed structure approved by the Architectural Control Committee.¹¹

Section 12. No elevated tanks of any kind shall be erected, placed or permitted upon a building site. Any tank for use in connection with any residence on the lots, including tanks for storage of gas, fuel or oil, must be buried or kept screened so as to conceal them from view from neighboring lots and streets.

Section 13. Mining operations of any kind or quarrying shall not be permitted upon or in any of

¹⁰ Amendment by Revisions on 10/14/94 and recorded on 6/17/99 in Film 199, Page 2782 added the parenthetical "one horse per acre, not to exceed four horses per lot".

¹¹ Amendment by Resolution approved by vote on 9/9/15 and recorded on 9/16/15 added this second paragraph to Section 11.

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the building sites subject to these covenants, nor shall tunnels, mineral excavations or shafts be permitted upon or in any of the building sites covered by these covenants.

Section 14. All of the property, insofar as is reasonably possible, shall be used and developed so as to enhance, and not destroy the property's native habitat for birds, small wild animals, and deer, elk, moose, and other big game animals. In furtherance of this general objective, native trees and underbrush shall be maintained in its original condition at the time development and use of the property occurs, and shall not be cut down or destroyed without express written approval of Association Board of Directors and Architectural Committee.¹²

Section 15. All lavatories and toilets shall be installed indoors and connected with outside septic tanks and leaching fields which shall be constructed and maintained in accordance with standards established by the State and/or County Health Department.

Section 16. Easements for installation and maintenance of utilities and drainage facilities are reserved by Declarant over the five feet of any lot lying next to any property line, or other easement, this being in addition to any easements specifically set forth on the recorded plat of LITTLE BEAR subdivision.

Section 17. Once construction has been commenced on the erection of any single family dwelling on any building site covered by these covenants, the exterior thereof must be completed within three hundred sixty-five (365) days.

Section 18. No hunting shall be allowed within the boundaries of LITTLE BEAR, as reflected on the recorded plat.

Section 19. All electric, and telephone line installations and connections from the owner's property line to the residence shall be placed underground.

Section 20. Domestic animals shall not be permitted to graze upon any park or common area.

Section 21. Notwithstanding any other provision of this Declaration, Declarant, and the owner of any lot or parcel within the boundaries of the plat of LITTLE BEAR (including Lots 27, 28, and 48, or any part thereof) shall have the right to drill and maintain a water well, within the property designated on the subdivision plat as "park", and transmit the water to the lot or parcel owned along the easements reserved on the plat, or the easements noted in Article VII, Section 16, hereof.

Section 22.¹³ It is the intent of the LBHOA, the LBHOA Architectural Committee, as well as, the majority of the homeowners, to maintain the natural character and architectural style conducive to the Montana mountain environment of Little Bear Subdivision. It is also the intent of all of the above to give homeowners and their Design Professionals some direction toward a specific design solution, therefore, the LBHOA has established the following suggested guidances. All building exteriors should be log construction, natural wood siding or simulated wood siding. Plaster or stucco siding should not be used. Stone or brick should only be used as an architectural feature material, i.e. fireplace, chimney, etc. and should not be considered as a predominant siding material All siding should have a natural wood finish, i.e. stain finish, solid body stain or paint finishes in natural, wood tone or colors.

¹² Amendment by Revision on 10/14/95 and recorded on 3/14/96 in Book 161, Page 3257 added "without the express written approval of the Association Board of Directors and Architectural Committee".

¹³ Amendments by Revisions on 10/14/95 and recorded on 3/14/96 in Book 161, Page 3257 added Sections 22, 23, 24 and 25.

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Section 23.¹⁴ Roof covering shall be natural wood shingle or shake, asphalt, fiberglass composition shingles (in natural colors) or standing seam metal panels.

Section 24.¹⁵ No solid fencing is allowed. All fencing shall be a minimum of 50% open and shall be no higher than 6'0" above grade. Fencing at trash enclosures and fencing around fuel tanks may be solid if kept to a minimum and are only 5'0" in height.

Section 25.¹⁶ No continuous dusk to dawn security lighting will be allowed.

ARTICLE VIII

GENERAL

Section 1. Each of the provisions, conditions, covenants, restrictions and reservations set forth in this Declaration, shall continue and be binding upon the Declarant and each and every grantee and all parties and all persons claiming under it for a period of ten (10) years and automatically shall be continued thereafter for successive period of five (5) years each, provided, however, that the property owners, as hereinafter defined, owning sixty percent (60%) of the total of the real property subjected to this Declaration, may release all of the land so restricted from any one or more of said restrictions or may change or modify any one or more of restrictions at the end of the first ten (10) year period or any successive five (5) year period thereafter, by executing and acknowledging an agreement in writing for such purposes and filing the same for record in the office of the County Clerk and Recorder of Gallatin County, at lease [sic] one (1) year prior to the expiration of the first ten (10) year period or any successive five (5) year period thereafter.

Section 2. For the purpose and to determine who may be the property owners as that term is used herein, they shall be any person, persons, firm, corporation or other legal entity last named as grantees in any deed to property subject to these covenants recorded in the office of the County Clerk and Recorder of Gallatin County. A certificate by an abstractor, title company, or other legally recognized authority as to property ownership, or the record ownership of the property, and a certificate by a certified surveyor authorized to practice in Montana as to the area owned by the record owners shall be deemed conclusive evidence of fee simple title ownership of property and area with regard to compliance with the provisions of this section.

Section 3. The provisions of this Declaration shall run with the land herein described and bind the present owner, their successors and assigns; and all parties claiming by, through or under them shall be taken to hold, agree and covenant with the owner of said building sites, their successors and assigns, and with each of them, to conform to and observe said provisions. No provision herein set forth, shall be personally binding on any person or persons, except with respect to breaches committed during his or their seisin of, or possession of, said land, and Declarant or the owner or owners of any of the property shall have the right to sue for and obtain an injunction prohibitive or mandatory, to prevent the breach, or to enforce the observances of the provisions herein, in addition to ordinary legal action for damages. The failure of Declarant or the owner of any other lot or lots or building sites hereby restricted, to enforce any

¹⁴ See Footnote # 13.

¹⁵ See Footnote # 13.

¹⁶ See Footnote # 13.

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of the restrictions herein set forth at the time Of its violation, shall in no event be deemed to be a waiver of the right to do so thereafter, nor shall such failure give rise to any cause of action of any kind against Declarant or any owner of the property.

Section 4. Invalidation of any of these covenants or any part thereof by judgments or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

Section 5. Excavations along easements or rights of way as reflected on the plat of LITTLE BEAR, for roadways, water lines, or electric shall be reseeded after completion of installation so as to prevent erosion. Road barrow pits, likewise, shall be reseeded after construction.

Section 6. The Association herein established shall have the duty and responsibility of implementing such procedures as may be necessary for weed control, and dust abatement within the boundaries of LITTLE BEAR.

ARTICLE IX

COMPLIANCE AND ENFORCEMENT¹⁷

Section 1. All purchasers of Lots within Little Bear and every member and occupant of a Lot shall comply with these Covenants, as lawfully amended from time to time, and with resolutions adopted by the Board. Each Member shall have the right to enforce applicable covenants in this Declaration. Each member shall be responsible to the Association for compliance with the foregoing by his/her tenants, guests and/or invites.

Section 2. Any enforcement action taken by the Association through the Board under this Article shall only be taken pursuant to a procedure adopted by the Board that provides for due process, including the provision of verbal and written notice of any violation; sufficient time to remedy or correct the violation prior to the imposition of any fine or other sanction; and the opportunity to appeal any determination made by the Board to a panel of Association Members who are not Board Members, such panel to be selected by the Board and the Member subject to the determination. Any fine imposed shall be appropriate for the nature of the violation.

Section 3. The Association, acting through the Board, may enforce all applicable provisions of this Declaration and may impose sanctions for violation. Such sanctions may include, without limitation:

- (a) imposing reasonable monetary fines, after notice and opportunity for a hearing, which fine shall constitute a lien upon the violator's Lot;
- (b) suspending the right to vote;
- (c) suspending any person's right to use any Common Areas; provided, however, nothing herein shall authorize the Board to limit ingress or egress from a Lot;
- (d) suspending any services provided by the Association to an Member or the Member's Lot if the Member is more than thirty (30) days delinquent in paying any Assessment or other charge owed to the Association;

¹⁷ Amendment by Resolution approved by vote on 9/9/15 and recorded on 9/16/15 added this new Section IX to the Covenants.

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(e) exercising self-help or taking action to abate any violation of the Covenants in an emergency situation;

(f) requiring a Member, at his/her expense, to remove any structure or improvement on such Member's Lot in violation of the Covenants, By-Laws and Board resolutions as legally adopted and to restore the Lot to its previous condition; or

(g) levying specific Assessments to cover costs incurred by the Association to bring a Lot into compliance with the Covenants, By-Laws and Board resolutions legally adopted.

Section 4. In addition, the Association, acting through the Board, may take the following enforcement procedures to ensure compliance with the Covenants:

(a) exercising self-help in any emergency situation; or

(b) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or;

(c) both.

Section 5. All remedies set forth in the Covenants shall be cumulative of any remedies available at law or in equity. In any action to enforce the Covenants, the prevailing party shall be entitled to recover all costs, including, without limitation, attorney's fees, court costs and the costs of collecting judgment, reasonably incurred in such action.

Section 6. The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(a) the Association's position is not strong enough to justify taking any or further action;

(b) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(c) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(d) it is not in the Association's best interests, based upon hardship, expense or other reasonable criteria, to pursue enforcement action.

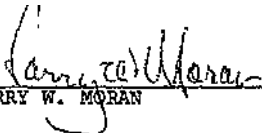
Such a decision shall not be construed as a waiver of the Association's right to enforce such provisions at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

-----END-----


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IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed this 21st day of May, 1979.

The original Covenants were notarized on May 21, 1979 and filed for record at the Office of County Recorder on May 25, 1979, in Book 50 Miscellaneous Records, Page 817. Various amendments and revisions made at a later date were subsequently recorded at different dates and different locations within the Gallatin County Records.



LARRY W. MORAN



ROBERT R. REISER

STATE OF MONTANA
County of Gallatin) SS.

SUBSCRIBED AND SWORN to before me this 21 day of May, 1979.

WITNESS MY HAND AND OFFICIAL SEAL.

Notary Public for the State of Montana
Residing at Bozeman, Montana
My Commission Expires: 9/21/81

62459

State of Mont., County of Gallatin, Filed for record May 25 1979

at 9:55 AM., and recorded in Book 50 of MISCELLANEOUS page 817