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DECLARATION OF RESTRICTIVE COVENANTS  
FOR  
BUCK CREEK HOMESITES

This Declaration, made this 27<sup>th</sup> day of MAY, 1998, by Lois Ekstedt, Barry L. Seaman, and Rose Marie Cerovski, hereinafter called the Declarant.

The undersigned, representing real property situated in Missoula County, Montana, more or less particularly described as follows, to-wit:

A tract of land located in the Northeast 1/4 of Section 18, Township 20 North, Range 16 West, Principal Meridian, Montana, Missoula County, Montana; containing 41.35 acres, being known and filed with Missoula County as BUCK CREEK HOMESITES

hereby declare that they wish to apply the following Declaration of Restrictive Covenants to the above-described property.

NOW THEREFORE, the Declarant hereby declares that all Real Property described above shall be held, conveyed, and sold, subject to the following covenants, conditions, restrictions and reservations. These restrictions and covenants shall run with the Real Property and shall be binding upon all parties having or acquiring any right, title, or interest in the Real Property, or any part thereof, and shall inure to the benefit of and be binding upon each successor in interest to the Owner thereof.

ARTICLE I: PROTECTIVE COVENANTS

The following protective covenants are applicable to the above-described Real Property are as follows:

Section 1. Land Use and Building Types. No building shall be constructed or placed on the lot other than one (1) detached single family residential building, together with outbuildings as appropriate, i.e. garage or small shed. No structure shall be located within fifteen (15) feet of any property line. All utility lines shall be placed underground. The owner of each lot is responsible for payment of all utility costs.

Section 2. Grading and Landscaping. All structures and driveways shall have a finished grade so as to have a positive drainage away from the building. Lot owners shall reseed any disturbed ground within the same season to minimize weed growth.

Section 3. Garbage. All garbage shall be placed in sturdy plastic garbage bags and stored in bear-proof containers of metal, plastic, or other suitable materials and shall have sufficiently tight-fitting covers to prevent the escape of noxious odors.

Section 4. Nuisances. Due respect shall always be given the natural environment, the wildlife, and to the rest and repose of nearby residents. No noxious or offensive activities shall be carried on or permitted upon any of the properties, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the other lots in this subdivision; nor shall the premises be used in any way for any purpose which may endanger the health or safety of, or unreasonably disturb the residents of any lot. No part of any lot shall be used for storage or dumping of garbage, waste, trash, junk, including junk vehicles, equipment or scrap iron, or other rubbish. Storage of firewood shall not be considered in violation of this section, but only if such firewood is neatly stacked.

Section 5. Weed Control. The owner of each lot shall be responsible for the control of noxious weeds and the vegetation thereon. Lot owners are encouraged to contact the Missoula County Weed Control Board for information regarding methods of control.

Section 6. Animals and Pets. A reasonable number of domestic animals or pets residing on the premises may be permitted by the owner of each lot. Animals and pets shall not be allowed to become a nuisance to neighbors nor be allowed to chase wildlife.

Section 7. Wildlife. Owners must accept the responsibility of living with wildlife. The following measures are intended to reduce the potential for human-wildlife conflicts:

a. Permanent barbecue pits are not permitted. Clean portable barbecue grills regularly and store indoors when not in use.

b. Fence and protect flowers, ornamental shrubs, fruit trees, and gardens which may be susceptible to damage from wildlife. Plant native vegetation for landscaping and revegetation. Harvest all fruit trees properly so as not to allow an accumulation of rotting organic matter which is a prime wildlife attractant.

c. Enclose gardens with a fence one foot below ground level and at least eight feet in height, with the top rail made of something other than wire to prevent wildlife from entanglement. Bird feeders and compost piles attract bears and are not permitted.

d. Do not use or maintain any lot or part of a lot as a dumping ground. Do not allow any rubbish, trash, or other waste to accumulate, except in sanitary containers. Empty and remove waste in such containers from the premises at least on a weekly basis. Store all garbage in containers of metal, plastic, or other suitable material which has sufficiently tight-fitting covers to prevent entrance or destruction by wild animals.

e. Do not allow salt blocks and feeding platforms for deer or mineral blocks for horses on any premises. Store horse or livestock feed in a secured area, not accessible to wildlife.

f. Store pet and livestock food, such as hay, alfalfa, pellets, and grain indoors or in wildlife proof containers. Feed domestic pets indoors or in an enclosed area to prevent the attraction of wildlife.

g. Do not allow domestic pets, such as dogs, cats, etc. to run freely and potentially harass wildlife. Besides loss of life and the maiming of wildlife, this harassment also causes unnecessary energy expenditures and can displace animals to less suitable habitats. Keep dogs and cats in an enclosed structure when not under direct supervision of the owner.

h. The keeping of rabbits, chickens, turkeys, pigs, sheep, and goats is discouraged. If such animals are kept, build sturdy cages or fences to protect domestic animals from wildlife. These animals have no defense against predators and can be an attractive food source to many wildlife species.

i. Lot owners and tenants shall receive a copy of "Living With Wildlife", a brochure available from the Missoula Office of Planning and Grants, 435 Ryman, Missoula, MT 59801 (406) 523-4657.

Section 8. Fire Standards. Purpose and Intent. The reduction of 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. Driveways. Dead-end driveways in excess of 150 feet in length shall be provided with approved provisions for turning around of fire apparatus. Driveways shall have a minimum 12 feet of all weather surface and a maximum grade of 10 per cent. A minimum unobstructed width of not less than 20 feet and an unobstructed vertical clearance of 13'6" for any driveway over 150 feet in length shall be provided. Final driveway design and turnaround areas for emergency vehicles shall be approved by the Swan Valley Volunteer Fire District prior to home construction.

b. Fuel Management. The owner shall create a defensible space around structures on the lots for fire protection purposes and vegetation removed and reduced around each building, as approved by the appropriate fire jurisdiction. Suggested is to consult the Department of State Lands circular "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 and shrubs should not touch any buildings. When planting, the owner should select trees, shrubs and vegetation that limit or retard the spread of fire as outlined:

Perennial: Choose hardy, perennial plants that are adapted to the local climate. These green, leafy, succulent plants are difficult to burn. Watering and regular weeding improves fire resistance.

Shrubs: Evergreen shrubs such as dwarf conifers or junipers tend to ignite easily. They should be avoided unless well spaced.

Trees: Deciduous trees can be clumped, scattered, or planted in greenbelt or windbreak patterns. Evergreen trees tend to ignite easily and should be spaced in accordance with the fire protection guidelines.

c. Roofing materials. Use only class A or B fire-rated roofing materials for any new construction.

Section 9. Landscaping. The owner of Lot 3 is required to landscape the property in accordance with the Primary Travel Corridor Standards of Section 3-14(3)(A), and shall be responsible for compliance with the below landscaping and irrigation system installation, if planting types need seasonal irrigation. These standards shall be met within one calendar year after filing of the Buck Creek Homesites subdivision plat. Specifically, Section 3-14(3)(A), Primary Corridor Travel Standards of the Missoula County Subdivision Regulations, are as follow:

- (1) The right-of-way between private property lines and the edge of the pavement of a recognized travel corridor shall be maintained and kept in a weed free condition;
- (2) Landscaping shall be installed on private property adjoining travel corridor approximately twenty five (25) feet from the right-of-way line. This landscaping shall consist of living groundcover, lawn, trees, and shrubs excluding approved paths, trails, and ingress/egress points. At a minimum, one 2-inch caliper tree (based on American Standards for Nursery Stock) or vertically branching five gallon shrubs shall be planted for every thirty (30) feet of frontage along any travel corridor. Placement of the trees and shrubs is not specified in order to provide flexibility and creativity by the property owner or a representative. Existing trees and living groundcover may be used to satisfy the landscaping requirements. Placement of the required trees and shrubs in the right-of-way is encouraged yet subject to approval by the agency under whose jurisdiction the right-of-way is held;
- (3) If the landscaping design incorporates plants that require seasonal watering, an automatic underground irrigation system, with backflow prevention, shall be installed and maintained by the developer, property owner association or individual property owner;
- (4) Placement of trees and irrigation systems shall consider the location of overhead and underground utilities;
- (5) A permit shall be obtained, if required, from the agency under whose jurisdiction the right-of-way is held prior to planting or preparation of planting. The property owner adjoining the planted right-of-way shall be responsible for its maintenance, unless otherwise provided;
- (6) Existing healthy trees and vegetation clusters in development areas shall be identified and preserved to the maximum extent possible;

Section 10. Building Construction, Colors, and Maintenance.

- a. Building Construction. All buildings shall be constructed to Uniform Building Code Standards.
- b. Building Colors. All buildings shall be neatly painted with reasonable colors.
- c. Building Maintenance. All buildings shall be properly maintained so as to have a neat external appearance and safe external and internal structure.
- d. Building sites. Construction on slopes with grades over 25% (twenty five per cent), or west of the ridgeline, is prohibited. Construction within 75 (seventy five) feet of the centerline of Buck Creek, or the northern property boundary, is prohibited.

Section 11. Burning Devices and Burn Permits. The installation of solid fuel burning devices shall be limited to low emission units of 4.1 grams per hour and less. Burn permits after March 1 of each year for vegetation clean-up purposes are required.

Section 12. Area of Riparian Resource Management Plan.

Buck Creek flows along the northern boundary of the property; the approximate centerline of the creek forms the courses of the boundary. The creek and resource area may support aquatic species, i.e. fish or amphibians, and does provide some food and cover for mammals and birds. Dominant vegetation types include hawthorne and serviceberry shrubs, with many cottonwood trees. The resource area can be generally defined as the area of land and water approximately 75 feet each side of the center of the creek.

The area of the creek meets the criteria for designation as an area of riparian resource according to Chapter 3-13 of the Missoula County Subdivision Regulations. The intent of these regulations as listed in 3-13(1)(A-G) will be upheld with this project. To meet these purposes, the following items as per 3-13(3)(A-E) are addressed.

- A) Proposed access to or through the area: Access to the creek shall be allowed for via pedestrian traffic only. No additional road or building construction shall be permitted within the riparian area.
- B) Proposed low-impact use of the area: No buildings or alteration of the land shall take place within the area of riparian resource. The area of riparian resource shall have no human use except for occasional pedestrians.
- C) Planned restoration of the area with native species: The area contains native vegetation and there has been no apparent alteration of the natural biosystem. There appears to be no need for native species restoration. The management plan is to allow the native vegetation to remain unaltered and to grow naturally. Monitoring over time should be done to ensure non-degradation of native plant species in the riparian area.

**D) Planned mitigation of impacts from all proposed uses:** The existing and proposed uses on this property are located a good distance from the area of riparian resource. The distance involved and the prohibition of construction and alteration within the area of riparian resource serves as the mitigation of impacts from all proposed and existing uses.

**E) Planned buffer to mitigate development adjacent to areas of riparian resources:** Because alterations of or construction within the riparian areas are prohibited in this subdivision, a buffer is not practical or necessary.

**F) Wildlife-human conflict mitigation:** The area of riparian resource should also be preserved for its habitat value although it is not critical habitat. To mitigate any conflicts between humans and wildlife, property owners should be aware of measures to help prevent such occurrences. These measures include but are not limited to those listed within the "Wildlife" section of these covenants. There are additional methods of proper landscaping and important wildlife considerations that are found in the brochure entitled "Living With Wildlife," available from the Office of Planning and Grants, 435 Ryman, Missoula, MT 59801, (406) 523-4657.

**G) Weed Management:** The application of chemicals to control noxious weeds shall be strictly prohibited. Alternative methods such as the planting of hardy native grasses, pulling or digging out weeds, and regular irrigating are helpful. For more information, contact the Missoula County Weed Control Board or the Soil Conservation Service.

**Section 13. Enforcement.** These covenants are understood and agreed to be and shall be taken and held for the benefit of all lot owners, be they such now or become such hereafter, and all covenants herein shall attach to the land and run with the title hereto and shall be binding on all lot owners in the said real property.

The Declarant, or any Owner shall have the option and right to enforce, by any proceeding at law or in equity, all restrictions, covenants, conditions, reservations, and charges now or hereafter imposed by the provision of this Declaration. The method of enforcement may include proceedings to enjoin the violation, to recover damages, or both.

Should any lawsuit or other legal proceedings be instituted by the Declarant or Owner against an owner who is alleged to have violated one or more of the provisions of this Declaration, the party that loses shall pay the attorney's fees and court costs for both the Plaintiff and Defendant.

Failure to enforce any of the restrictions, rights, reservations, limitations, and covenants contained herein shall not in any event be construed or held to be a waiver thereof or consent to any further or succeeding breach or violation thereof. All deeds

shall be given and accepted upon these expressed understanding that the said real property has been carefully planned as a desirable residential and church use subdivision exclusively and to assure owners that under no pretext will there be an abandonment of the original plan to preserve the property as such.

Section 14. Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Article 15. Amendment. The covenants, conditions, restrictions, and uses created and established herein may be waived, abandoned, terminated, modified, or altered as to the whole of the said real property or any portion thereof with the written consent of the owners of all lots covered by these restrictions. Written permission of the governing body is required before any restriction regarding the Riparian Management Plan, fire standards, wood burning devices, or primary travel corridors may be modified. No such waiver abandonment, termination or modification shall become effective until a proper instrument in writing shall be executed and recorded in the office of the Clerk and Recorder of Missoula County, Montana.

Article 16. Liability of Declarant. The relationship between the Declarant and the property owners shall be deemed to be that of independent contractors and not that of principal and agent, partnership or joint venture. In addition, the Declarant shall have no liability or obligation under this declaration to any person or entity except such liabilities and obligations as the Declarant have expressly assumed herein.

BUCK CREEK HOMESITES  
COVENANTS

BOOK 548 PAGE 2135

IN WITNESS THEREOF, this document has been executed the day and  
year first above written.

SS Rose Marie Cerovski  
Rose Marie Cerovski

SEE ATTACHED ACKNOWLEDGEMENT

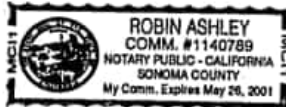
State of \_\_\_\_\_  
County of \_\_\_\_\_  
On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me a Notary  
Public for the State of Montana, personally appeared Rose Marie  
Cerovski, known to me to be the person whose name is subscribed to  
the within instrument, and acknowledged to me that she executed  
the same.

SS \_\_\_\_\_  
Notary public for the State of \_\_\_\_\_  
Residing at \_\_\_\_\_  
My Commission expires \_\_\_\_\_

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Sonoma
On 9/18/97 before me, Robin Ashley, Notary Public
personally appeared Rose Marie Cerovski

personally known to me - OR - X proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Signature of Notary Public: Robin Ashley

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

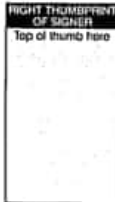
Title or Type of Document: Declaration of Restrictive Covenants for Buck Creek Homesites
Document Date: 9/18/97 Number of Pages: 7

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:

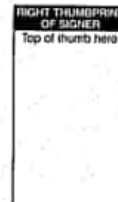
- Individual
Corporate Officer
Partner - Limited General
Attorney-in-Fact
Trustee
Guardian or Conservator
Other:



Signer Is Representing:

Signer's Name:

- Individual
Corporate Officer
Partner - Limited General
Attorney-in-Fact
Trustee
Guardian or Conservator
Other:



Signer Is Representing:

BUCK CREEK HOMESITES  
COVENANTS

BOOK 548 PAGE 2137

IN WITNESS THEREOF, this document has been executed the day and year first above written.

SS Lois Ekstedt  
Lois Ekstedt

State of Montana  
County of Missoula  
On this 1 day of June, 1998 before me a Notary Public for the State of Montana, personally appeared Lois Ekstedt, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.



[Signature]  
Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My commission expires 10/31/00

BUCK CREEK HOMESITES  
COVENANTS

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IN WITNESS THEREOF, this document has been executed the day and year first above written.

SS Barry L. Seaman  
Barry L. Seaman



State of Montana  
County of Teton  
On this 8 day of June, 1998, before me a Notary Public for the State of Montana, personally appeared Barry L. Seaman, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

SS Karin Coates  
Notary public for the State of MT  
Residing at Augusta  
My Commission expires 1-05-99

'98 JUL 22 AM 8:25

9818747

I RECEIVED AND FILED THIS INSTRUMENT FOR RECORD ON THE 22 DAY OF July 1998 AT 8:25 O'CLOCK A M AND IT IS RECORDED IN VOL. 548 OF MICRO RECORDS OF THE COUNTY OF MISSOULA, STATE OF MONTANA, ON PAGE 2138 FEE 66 PAID CR  
RETURN TO Fli. & Associates BY Vickie M. Jelf COUNTY RECORDER  
ADDRESS PO Box 7162 DEPUTY REC. DM  
Helena, MT 59802

22-

BOOK 548 PAGE 2139

HWB

A F F I D A V I T

I, Steven M. Inabnit, a registered land surveyor in the State of Montana, Registration Number 9328LS, do hereby certify that hand printed, pen and ink additions have been made to the original record set of BUCK CREEK HOMESITES, as described below:

1. The dimension of 532.37 shown on the boundary between Lots 2 and 3 has been changed to 472.37.
2. The name of the P.A.E. and U.E. across Lots 2 and 3 has been changed to "SEAMAN LANE".

*Steven M. Inabnit*  
 Steven M. Inabnit, Professional Land Surveyor  
 Montana Registration No. 9328LS



State of Montana  
County of Missoula

On this 20th day of July, 19 98, personally appeared Steven M. Inabnit, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this instrument first above written.

*Andrew C. Fisher*  
 Notary Public for the State of Montana  
 Residing at Missoula  
 My Commission Expires 1/24/2000



'98 JUL 22 AM 8:25

9818748

I RECEIVED AND FILED THIS INSTRUMENT FOR RECORD ON THE 22 DAY OF July, 1998 AT 8:25 O'CLOCK A M AND IT IS RECORDED  
 IN VOL. 548 OF MICRO RECORDS OF THE COUNTY OF MISSOULA, STATE OF MONTANA, ON PAGE 2139 FEE 6 PAID CR  
 RETURN TO affidavit stamp BY Andrew C. Fisher COUNTY RECORDER  
 ADDRESS SAC # 2340 DEPUTY DOC APF