

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made this 21st day of August, 1995, by MISSION MOUNTAIN PARTNERSHIP, a general partnership consisting of Joseph W. Keava and Cindy L. Johnson, hereinafter referred to as "DECLARANT";

## WITNESSETH:

WHEREAS, the Declarant is the owner of certain real property hereinafter referred to as "Property" and described on EXHIBIT "A" attached hereto and by this reference incorporated herein; and

WHEREAS, Declarant is desirous of subjecting said real property to the conditions, covenants and restrictions hereinafter set forth, each and all of which is and are for the benefit of said property and for each owner thereof, and shall insure to the benefit of and pass with said property, and each and every tract thereof, and shall apply to and bind the successors in interest and any owner thereof;

NOW THEREFORE, Declarants hereby declare that the said real property is and shall be held, transferred, sold and conveyed subject to the conditions, restrictions, covenants and reservations hereinafter set forth;

PURPOSE: The real property described in attached Exhibit "A" is subject to the conditions, covenants and restrictions hereby declared to insure the best use and highest quality of living of each of the above described tracts of real property. The intention is to guard against improper use of the subject property such as to depreciate the value of neighboring lands.

LAND USE:

1. The property may not be further subdivided, except for Tract A, which may be divided into 2 tracts of not less than 10 acres in size.
2. Except for a one year period during which a permanent structure is being built, no structure of a temporary character, including, but not limited to, trailers, mobile homes, set together or expanding trailer houses, tents, shacks or other similar structures shall be constructed, placed, or used on any tract or lot at any time.
3. No commercial or public enterprise of any kind, except Tract A may be used as a commercial orchard.
4. No animals or livestock of any kind other than horses, llamas, dogs, cats, or birds shall be kept or maintained on any tract. Horses, llamas, dogs, cats, or birds shall not be kept in commercial quantities, bred or maintained for any commercial purpose, including but not limited to kennels, and shall be contained within the boundaries of their owners tract and in such a fashion as to not create an annoyance or nuisance or disturbance to the other owners of the property. Over-grazing and a barnyard or feedlot appearance is prohibited.
5. The property shall not be used to store vehicles which are not in serviceable or usable condition, nor to store junk or wrecked cars or other similar materials and no inoperable or unlicensed automobile or vehicle shall be parked on any lot or roadway, nor permitted to remain thereon.
6. All recreational vehicles, (motorhomes, boats, snowmobiles, etc.), satellite dishes, etc., shall be parked or placed in such a manner as to not interfere with views or appearance of the property.

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7. Any sewage disposal system shall be of a type approved by the county and/or state department of health and shall be maintained by the owner at all times in proper sanitary condition and in accordance with applicable laws. No outside toilet facilities, portable or otherwise, shall be maintained on the Property, except as such temporary facilities are placed upon in connection with construction activity and in connection with maintenance and harvest of the orchards on Tract A.

8. No building on any Tract shall have a roof or exterior siding which is silver or metallic colored, shiny or reflective.

9. No building shall be located on any Tract noarer that thirty feet (30) of any property line.

10. All utility lines shall be installed underground.

11. The Property shall not be used or maintained as a dumping ground for rubbish or trash and no garbage or other waste shall be kept in sanitary containers and in such a fashion as to not allow or attract wildlife.

12. No signs shall be allowed, except for the purposes of identifying owner or occupant or advertising the sale of a tract. No billboards shall be allowed and any signs shall not be unsightly.

13. Cutting of timber is allowed only for the purposes of constructing improvements, access roads and utilities, views, fire control and forest management.

14. Primary access roadways as depicted on Certificate of Survey No. 5054 shall be used in common with all present and future Property owners for access and utilities. All costs of maintenance (including but limited to grading, snowplowing, weed spray, etc.) shall be contributed 1/7 each (and in the event Tract A is further divided, then 1/8 each).

15. No Tract shall have more than one dwelling together with a garage and guest house and outbuilding.

ENFORCEMENT:

Any owner of any of the subject tracts shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure of any owner to enforce the covenants or restrictions herein contained, shall in no event be determined or deemed a waiver of the right to do so thereafter.

SERVERABILTY:

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

AMENDMENT:

The covenants and restrictions of this Declaration shall run with and bind the land and all owners of the subject Property, their heirs, successors and assigns. It is the intent of the parties hereto to bind the subject lands with these covenants forever. These covenants can be amended or removed only with the express written consent of 75% of all of the owners of all of the Property described herein.

IN WITNESS WHEREOF, the Declarants have hereunto set their hands and seals to this instrument, the day and year first written above.

MISSION MOUNTAIN PARTNERSHIP

By: Joseph W. Keays  
Joseph W. Keays, Partner

By: Cindy L. Johnson  
Cindy L. Johnson, Partner

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STATE OF MONTANA )  
 )SS.  
County of Lake )

On this 21st day of August, 1995, before me, the undersigned, a Notary Public for the State of Montana, personally appeared JOSEPH W. KEEVA and CINDY L. JOHNSON, known to me to be all the general partners of MISSION MOUNTAIN PARTNERSHIP, the partnership that executed the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate last written above.



Arlene J. Raymond  
Notary Public for the State of Montana  
Residing at Polson, Montana  
My Commission Expires 11-2-97

EXHIBIT "A"

TRACTS A, B, C, D, E, F and G on Certificate of Survey No. 5054 located in portions of the E $\frac{1}{2}$ N $\frac{1}{2}$ E $\frac{1}{2}$  and the SE $\frac{1}{2}$ N $\frac{1}{2}$ E $\frac{1}{2}$  of Section 9, and in the W $\frac{1}{2}$ NW $\frac{1}{2}$  of Section 10, all in Township 24 North, Range 19 West, P.M.M., Lake County, Montana, and in Lots 1, 4, 7 and 9 of Block 1 of ORCHARD VILLA SITES, a recorded subdivision in Section 9, Township 24 North, Range 19 West, P.M.M., Lake County, Montana.

STATE OF MONTANA, COUNTY OF LAKE  
Recorded At 2:24 O'Clock P. AUG 23 '95  
M. No. 368213 MITH E. HODGES  
Fee \$ 1.00 By [Signature] Deputy

Return to:  
Mission Mountain Partnership  
100 One Buffalo Road  
Columbia Falls, MT 59912

29- 405073

**AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**

THIS AMENDMENT made this 30 day of November, 1999, by **MISSION MOUNTAIN PARTNERSHIP**, a general partnership consisting of Joseph W. Keeva and Cindy L. Johnson, **MICHAEL C. MALONE** and **SHARON C. MALONE**, ~~MICHAEL D. STRONBERG~~ and ~~SUSAN C. STRONBERG~~, being the owners of more than 75% of the following described real property:

Tracts A, B, C, D, E, F and G on Certificate of Survey No. 5054 located in portions of the E1/2NE1/4NE1/4 and the SE1/4NE1/4 of Section 9, and in the W1/2NW1/4 of Section 10, all in Township 24 North, Range 19 West, P.M.M., Lake County, Montana, and in Lots 1, 4, 7 and 9 of Block 1 of **ORCHARD VILLA SITES**, a recorded subdivision in Section 9, Township 24 North, Range 19 West, P.M.M., Lake County, Montana.

**WHEREAS**, all of the above described real property is subject to that certain Declaration of Covenants, Conditions and Restrictions dated August 21, 1995, and recorded August 23, 1995 under Microfile No. 368213, records of Lake County, Montana;

**WHEREAS**, the undersigned, being at least 76% of the fee owners of the above described real property, desire to amend those covenants, conditions, and restrictions by replacing the existing **LAND USE** Paragraph 3 in order to allow for commercial orchards on Tracts A and E.

**NOW THEREFORE**, Declarants hereby amend the Declaration of Covenants, Conditions and Restrictions recorded at Microfile No. 368213, by deleting the existing **LAND USE** Paragraph 3 and replacing it with the following:

- 3. No commercial or public enterprise of any kind, except that Tract A and Tract E may be used as commercial orchards.

Except as herein specifically modified and amended, said Declaration of Covenants, Conditions and Restrictions dated August 21, 1995, and recorded August 23, 1995 under Microfile No. 368213, records of Lake County, Montana, are hereby ratified and affirmed and remain in full force and effect.

**IN WITNESS WHEREOF**, the Declarants have hereunto set their hands and seals to this instrument the day and year first above written.

**MISSION MOUNTAIN PARTNERSHIP**

By: Joseph W. Keeva  
Joseph W. Keeva, Partner

By: Cindy L. Johnson  
Cindy L. Johnson, Partner

Michael C. Malone  
Michael C. Malone

Sharon C. Malone  
Sharon C. Malone

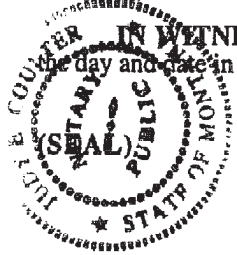
~~Michael D. Stronberg~~

~~Susan C. Stronberg~~

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STATE OF MONTANA )  
County of Lake ) :SS.

On this 30 day of November, 1999, before me, the undersigned, a Notary Public for the State aforesaid, personally appeared **JOSEPH W. KEEVA and CINDY L. JOHNSON**, known to me to be the partners of **MISSION MOUNTAIN PARTNERSHIP**, the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in such capacity.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and date in this Certificate first above written.

Jody E. Coulter  
Notary Public for the State of Montana  
Residing at: Polson  
My commission expires: 8-9-2002

STATE OF OREGON )  
County of Multnomah ) :SS.

On this 15<sup>th</sup> day of December, 1999, before me, the undersigned, a Notary Public for the State aforesaid, personally appeared **MICHAEL C. MALONE and SHARON C. MALONE**, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and date in this Certificate first above written.



Romelle L. Guidry  
Notary Public for the State of Oregon  
Residing at: Polson  
My commission expires: 4/24/01

After recording, return to:  
Mission Mountain Partnership  
P.O. Box 681  
Polson, MT 59860

STATE OF MONTANA, COUNTY OF LAKE

Recorded At 1:55 O'Clock P M. DEC 23 1999  
Microfilm 405073 RUTH E. HODGES Recorder  
Fees \$ 12.00 By Jody Coulter Deputy