

Missoula Engineering, LLC



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TWO TWENTY-THREE SUBDIVISION

F. COVENANT AND/OR HOMEOWNER'S ASSOCIATION

- Proposed Two Twenty-Three Covenants
- Existing Hawthorn Springs Covenants

Return to:

**DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS
FOR TWO TWENTY-THREE SUBDIVISION**

THIS DECLARATION made this _____ day of _____, 20____, by Tom Deveny for Two Twenty Three, LLC ("Declarant" herein).

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

Lot 1A, 1B, and 2B of Two Twenty-Three Subdivision, located in the NE ¼ of Section 12, Township 14 N, Range 21 W., P.M.M. Missoula County, Montana. (Collectively, "The Property", herein)

Lot 2A of Two Twenty-Three Subdivision, located in the SW ¼ of Section 1, Township 14 N, Range 21 W., P.M.M. Missoula County, Montana. (Collectively, "The Property", herein)

Common Area of Two Twenty-Three Subdivision, located in NE ¼ of Section 12 and SW ¼ of Section 1, Township 14 N, Range 21 W., P.M.M. Missoula County, Montana. (Collectively, "The Property", herein)

Whereas the Two Twenty-Three Covenants Conditions and Restrictions are supplemental to the filed Declaration of Covenants Conditions and Restrictions of Hawthorn Springs Subdivision executed on May 3rd, 2004, and recorded on May 18th, 2004, Bk. 732 Pg. 683 in Missoula County, Montana. And supplemental to an amendment of the Declaration of Covenants Conditions and Restrictions of Hawthorn Springs executed on October 15th, 2012, and recorded on November 1, 2012, Bk. 903 Pg. 123 in Missoula County, Montana. And supplemental to an amendment of the Declaration of Covenants Conditions and Restrictions of Hawthorn Springs executed on June 26th, 2018, and recorded on July 19th, 2018, Bk. 999 Pg. 920 in Missoula County, Montana.

Whereas the Hawthorn Springs Property Owners Association, an existing mutual benefit corporation filed with the Secretary of State, State of Montana, shall have the responsibility for maintaining, administering, and enforcing the covenants, easements, conditions, and restrictions.

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

1. **"Association"** shall mean and refer to the Hawthorn Springs Property Owners Association, and its successors and assigns.
2. **"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.
3. **"Bylaws"** shall mean the Bylaws adopted by the Association as amended from time to time.
4. **"Declarant"** shall mean Tom Deveny for Two Twenty Three, LLC and their successors and assigns. The sale of an individual lot or parcel in the subdivision is not an assignment of any development rights.
5. **"Declaration"** shall mean this document of Declaration of Covenants, Conditions and Restrictions for Double G Ranch Subdivision, as may be amended from time to time.
6. **"Lot"** shall mean and refer to any division of land shown upon any recorded subdivision map of the Properties which shall be used subject to the limitations contained herein.
7. **"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.
8. **"Person"** shall mean an individual, corporation, partnership, association, trust or other legal entity or combination thereof.
9. **"Properties"** shall mean and refer to those properties described herein as Two Twenty-Three Subdivision. "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 "Hawthorn Springs Property Owners Association", hereinafter referred to as the "Association". General responsibilities of the Association are outlined in the Declaration of Covenants Conditions and Restrictions of Hawthorn Springs Subdivision executed on May 3rd, 2004, and recorded on May 18th, 2004, Bk. 732 Pg. 683 in Missoula County, Montana. 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.** All lots shall be used for residential purposes, containing a single-family home. The number of buildings that may be allowed on a Lot shall be limited by such Missoula County regulations as may be applicable. Any further division of a Lot shall comply with state law and Missoula County regulations.
3. **Common Area.** The Hawthorn Springs Property Owners Association shall be responsible for the maintenance, upkeep, and repair of all Common Areas.
4. **Amendments.** The above stated Development Covenants may not be changed or deleted without prior written consent of the governing body.

IN WITNESS WHEREOF, the undersigned have caused these Declaration of Covenants, Conditions and Restrictions for the Two Twenty-Three Subdivision to be executed this ____ day of _____, 20____.

Tom Deveny for Two Twenty Three, LLC, Declarant

State of Montana)
)ss
County of Missoula)

Acknowledged before me this ____ day of _____, 20____, by Tom Deveny for Two Twenty Three, LLC.

Printed Name _____
Notary Public for the state of Montana
Residing at: _____
My commission expires: _____

Return to:

**AMENDMENT AND ANNEXATION OF PROPERTY FOR THE
DECLARATION OF PROTECTIVE COVENANTS AND PROPERTY
OWNERS ASSOCIATION GENERAL RESPONSIBILITIES**

HAWTHORN SPRINGS

THIS AMENDMENT TO THE DECLARATION, made this ___ day of _____ 20___, by Hawthorn Springs Property Owners Association, a Montana Mutual Benefit Corporation, of 13751 Bunchgrass Lane Missoula, MT 59808 (“Declarant” herein) and Two Twenty Three, LLC a Montana Limited Liability Company of 13751 Bunchgrass Lane Missoula, MT 59808.

WHEREAS, Two Twenty Three, LLC, owns certain real property located in Missoula County, Montana, herein referred to as the “Annexed Property” and more particularly described as follows:

Lot 1A, 1B, and 2B of Two Twenty-Three Subdivision, located in the NE ¼ of Section 12, Township 14 N, Range 21 W., P.M.M. Missoula County, Montana.

Lot 2A of Two Twenty-Three Subdivision, located in the SW ¼ of Section 1, Township 14 N, Range 21 W., P.M.M. Missoula County, Montana.

Common Area of Two Twenty-Three Subdivision, located in NE ¼ of Section 12 and SW ¼ of Section 1, Township 14 N, Range 21 W., P.M.M. Missoula County, Montana.

WHEREAS a Declaration of Covenants Conditions and Restrictions of Hawthorn Springs Subdivision was executed on May 3rd, 2004, and recorded on May 18th, 2004, Bk. 732 Pg. 683 in Missoula County, Montana, hereinafter referred to as the “Declaration”.

WHEREAS the parties desire to amend the original Declaration and annex in additional property to be subject to the terms of the Declaration as provided in Article I, Section 12 and Article VII, Section 2h of the Declaration.

NOW THEREFORE, Two Twenty Three, LLC as owner of the Annexed Property with the consent and approval of Declarant hereby declares that the Annexed Property shall be held, sold, and

conveyed subject to the restrictions, covenants, conditions, and easements set forth in the original declaration. Furthermore, terms of the Declaration shall encumber the Annexed Property and shall run with the title to the Annexed Property and shall be binding upon all parties having or acquiring any right, title or interest in the Annexed Property.

NOW THEREFORE, THE Declarant agrees to hold in perpetuity and be responsible for the maintenance, upkeep, and repair of the annexed Common Area.

Article 1 – Annexation

Declarant and Two Twenty Three, LLC hereby state that the Annexed Property shall be added to the Real Property as described in the Declaration as allows by Article I, Section 12, and Article VII, Section 2h of the original Declaration and the properties are herein annexed to the project and brought within jurisdiction of the Association.

Article II – Existing Conditions

Declarant hereby acknowledges that certain conditions exist with respect to the property being annexed as part of this Agreement. Specifically, an existing public wastewater treatment system exists, as well as planned construction of single-family residential homes. These existing conditions and planned construction shall be allowed subject to approval by the Architectural Review Committee (ARC) with reasonable restrictions to conform with the overall aesthetic values being preserved under the Declaration.

IN WITNESS WHEREOF, the undersigned have caused this Amendment and Annexation of Property for the Declaration of Protective Covenants and Property Owners Association General Responsibilities for the Hawthorn Spring Subdivision to be execute on this ___ day of _____, 20__.

HAWTHORN SPRINGS PROPERTY OWNERS ASSOCIATION BOARD OF DIRECTORS

TWO TWENTY THREE, LLC

Tom W. Deveny, Director

Tom W. Deveny, President

Kathy Knudsen, Director

Joe Klimpel, Director

Christine Olson, Director

Robert Gresham, Director

State of Montana)

ss .

County of Missoula)

On this ____ day of _____, 20____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Tom W. Deveny, known to me to be the persons who names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Printed Name _____
Notary Public for the state of Montana
Residing at: _____
My commission expires: _____

State of Montana)

ss .

County of Missoula)

On this ____ day of _____, 20____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Kathy Knudsen, known to me to be the persons who names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Printed Name _____
Notary Public for the state of Montana
Residing at: _____
My commission expires: _____

State of Montana)

ss .

County of Missoula)

On this ____ day of _____, 20____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Joe Klimpel, known to me to be the persons who names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Printed Name _____
Notary Public for the state of Montana
Residing at: _____
My commission expires: _____

State of Montana)

ss .

County of Missoula)

On this ____ day of _____, 20____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Christine Olson, known to me to be the persons who names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Printed Name _____
Notary Public for the state of Montana
Residing at: _____
My commission expires: _____

State of Montana)

ss .

County of Missoula)

On this ____ day of _____, 20____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Robert Gresham, known to me to be the persons who names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Printed Name _____
Notary Public for the state of Montana
Residing at: _____
My commission expires: _____

State of Montana)

ss .

County of Missoula)

On this ____ day of _____, 20____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Tom W. Deveny for Two Twenty Three, LLC, known to me to be the persons who names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Printed Name _____
Notary Public for the state of Montana
Residing at: _____
My commission expires: _____



**DECLARATION OF PROTECTIVE COVENANTS
AND
PROPERTY OWNERS ASSOCIATION
GENERAL RESPONSIBILITIES**

HAWTHORN SPRINGS

THIS DECLARATION, made this 3rd day of May 2004 by Tom W. Deveny for Patchy, Inc.

WITNESSETH:

WHEREAS, Patchy, Inc., of the Hawthorn Springs Subdivision, hereinafter referred to as "Declarant," is the equitable Owner and developer of the real property in Missoula County, Montana, more particularly described as follows:

See Exhibit "A" attached hereto and incorporated herein by this reference.

Subject To: All easements existing, shown and/ or of record,

WHEREAS, Declarant, as the Owner of all the real property described in Exhibit "A," desires to place restrictions, covenants and conditions upon said real property for the use and benefit of itself as present Owner and for future Owners thereof, and

WHEREAS, Declarant, as the Owner of all the real property described in Exhibit "A," desires to provide for the orderly development in accordance with these covenants of the real property for the Declarant as present Owner of said property and for future Owners of said property, and to provide for Property Owners Association guidelines.

NOW THEREFORE, the undersigned declare that all the property described above shall be held, sold, and conveyed 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 and for responsible stewardship of all lands. These restrictions, covenants, conditions, and easements shall run with the real property and shall be binding upon 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

1. **“ARC”** shall mean and refer to the Architectural Review Committee as set forth in Article III.
2. **“Association”** shall mean and refer to Hawthorn Springs Property Owners Association, a Montana nonprofit corporation, its successors, and assigns.
3. **“Buildable Area”** shall mean that area on a Lot within which Buildings may be constructed. The Buildable Area for each Lot shall be that area within the setbacks as described in Article II, Section 2a, exclusive of drainfield and reserve drainfield areas. Specific Lots may have additional restrictions on the Buildable Area due to topography or other site characteristics.
4. **“Building”** shall mean, refer to and include any structures built upon the real property as residences or for other purposes.
5. **“Common Area”** shall describe and refer to real property owned by the Association for the common use and enjoyment of the Members of the Association.
6. **“Declarant”** shall mean and refer to Patchy, Inc.
7. **“Lot”** shall mean and refer to any numbered plot of land shown upon any recorded subdivision plat of the properties described upon Exhibit “A.” In the event a Lot is subdivided or property other than a Lot as shown on any recorded plat is used as a dwelling location, as hereinafter authorized, such location as modified shall thereafter be considered as a Lot.
8. **“Member”** shall mean and refer to every person or entity who is a member of the Association.
9. **“No Build Zone”** is that zone on the Subdivision Plat and identified as a “No Improvement Zone or NBZ.” The purpose of a “No Build” designation is to prohibit the construction of residential housing, and associated out buildings.
10. **“No Improvement Zone”** is that zone depicted on the Subdivision Plat and identified as a “No Improvement Zone.” The purpose of a “No Improvement Zone” designation is to provide for the preservation of the natural characteristics of the drainage area. A No Improvement Zone designation shall not preclude activities in the zone which are designed to enhance the natural characteristics of the zone. A No Improvement Zone designation shall also not preclude utilities, easements or other easements for beneficial purposes provided the utilities are underground and the vegetation is returned to its

preconstruction condition. A No Improvement Zone designation shall not preclude the use of the existing crossings and trails within the zone.

11. **“Owner”** shall mean and refer to the equitable Owner, whether one or more persons or entities, of any Lot which is a part of the properties, including buyers under a contract for deed and contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

12. **“Properties”** shall mean and refer to that certain real property described in Exhibit “A,” attached hereto, and such other real property that is now or may hereafter be brought within the jurisdiction of the Association.

ARTICLE II

PROTECTIVE COVENANTS

1. **Land Use.** With exceptions noted herein, the only land uses permitted are single family residential, as defined and allowed by Missoula County zoning regulations. Commercial, retail, manufacturing, or industrial use is prohibited. Home offices and home-based businesses are allowed. Activities that create noise or pollution beyond levels expected by permitted uses are prohibited. The intent is to create a desirable subdivision that maintains and respects the quality of a semi-rural neighborhood atmosphere. Exceptions are that agricultural use may take place on Lots 95, 96, and 97. Lot 1 and Lot 2 may be used commercially as a neighborhood market. All commercial development will be subject to guidelines and use restrictions as contained in the Commercial Development Guidelines promulgated by the ARC. With the exception of Lots 1, 10, 29, 30, 94, 95, 96 and 97, no lots shall be further subdivided without the express written consent of Declarant having been first obtained.

2. **Building Construction, Location, Colors, and Type:**

a. All residences shall be on-site constructed, having a minimum of a double car garage, with heated floor area of at least 1200 square feet for a one story home or at least 800 square feet on the ground floor of a multi-story home, not including the garage or basement. The use of recycled materials is encouraged. Incorporation of energy efficient and/or sustainable design features is encouraged. Log homes, modular homes or mobile homes are not permitted on any Lot. One outbuilding (i.e., garage or storage); up to 1,120 square feet in area may be allowed if aesthetically compatible with the home with height limits as proposed by the ARC. Additional outbuildings may be located on Lots 95, 96, and 97. Buildings shall not be located closer than 15 feet from the front or rear property lines and shall not be located closer than 15 feet from side property lines. In addition, no building shall be located within a dedicated street or road easement. This setback requirement shall apply to all components, including but not limited to roof overhangs, balconies, and porches of the residential structure, outbuildings and any other

constructed elements greater than four feet in height. The setback shall not apply to approved fences. During construction, a contractor may provide a temporary or mobile type structure for office and storage on the land during active construction, but such structure shall be immediately removed upon completion of the dwelling house.

b. Plans for all Buildings, fences, color schemes, and landscaping shall comply with the Design Standards and be reviewed and approved by the ARC prior to any construction. If a commercial use is located on Lot 1 or Lot 2, the ARC shall review the plans for compatibility, involving exterior design, colors, signage, lighting, parking, access, and landscaping. Commercial development shall generally comply with the Design Standards of the ARC with the understanding that the ARC is vested with the power to grant reasonable variances to accommodate the Commercial Use if the variance is warranted as determined at the sole discretion of the ARC and the Declarant. The goal is to allow for a non-intrusive and aesthetically appealing site.

c. All Buildings shall conform to the latest editions of the codes adopted by state and local authorities having jurisdiction. Permits as required by said authorities shall be obtained prior to commencing any construction activities.

d. No structure within the premises shall be used for occupancy by people without first having complied with the laws of the State of Montana and any rules or regulations prescribed by the County of Missoula now or hereafter in effect.

3. **Radon Mitigation.** The EPA has designated Missoula County as having a high radon potential (Zone 1). All residences should incorporate passive radon mitigation systems into the building design.

4. **Utility Lines.** All new utility lines, wherever located, shall be installed underground.

5. **Septic Systems.** Septic and drainfield systems shall be approved by the State of Montana and installed only as approved by a licensed contractor, and shall be properly maintained by the Owner.

6. **Firearms and Fireworks.** No fireworks may be ignited on any Lot at any time. No firearms may be discharged on any Lot at any time, except in emergencies.

7. **Fire and Casualty Damage.** Any Building damaged by fire or other casualty must be completely repaired as to external appearances within twelve (12) months after the occurrence of such damage and, if not so repaired, it shall be removed.

8. **Nuisances, Trash and Garbage.**

a. No noxious or offensive activity shall be carried on or permitted on any Lot, nor shall any Lot be used in any way which 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 on any individual Lot or Common Area, except as provided herein. Storage of firewood shall not be considered in violation of this section, but only if such firewood is neatly stacked. No unlicensed, inoperable, or junk vehicles or vehicle parts are allowed on any Lot unless kept within an enclosed garage. No Owner shall permit noise, including but not limited to continual barking of dogs, to emanate from his or her Lot. Lack of weed control shall be considered an offensive activity. Lot Owners understand and agree that Lots 95, 96, and 97 will include agricultural uses. Notwithstanding anything in this paragraph to the contrary, customary agricultural uses, husbandry, and farming practices shall not be considered nuisances.

b. Owners shall use 95-gallon closed-container polyurethane carts from BFI to contain all garbage; no other types of garbage containers are allowed. The carts must be stored inside fully enclosed sheds or garages until the day of garbage pickup. The carts may be placed outside for pickup only between 7 a.m. and 7 p.m. on the day of BFI pickup. When there are 50 residences in this subdivision, the effectiveness of this garbage plan to deter wildlife will be evaluated by Fish, Wildlife & Parks and the Homeowners Association. If FW&P recommends a different collection method, including but not limited to bear-resistant roll-off dumpsters located at the base of the subdivision (Lot 1 or 2) with appropriate facilities, the Association shall be responsible for implementing such recommendations. The Association shall maintain the Common Area needed for the dumpsters and set up whatever process is necessary to centralize the billing for the garbage service, infrastructure, and related construction costs.

9. **Mineral Development.** No mineral development or ground extraction of any kind is allowed. No mining, quarrying, excavation, drilling, or other such activity shall be allowed within any Lot except as may be necessary in connection with the construction or placing of improvements thereon. No wells of any sort are allowed.

10. **Property Maintenance.** The Owner of each Lot shall provide proper exterior maintenance of all vegetation and landscaping, structures, fences, and the like so that the premises and improvements thereon will be in a safe, clean, neat and orderly condition. Property maintenance of each Lot shall include any land area within the roadway easement not covered by walkway or roadway. Maintenance shall include proper mowing, irrigation, and weed control. Landscaping shall be planted and maintained to the edge of pavement or pavement shoulder.

11. **Roads and Boulevard Pathway.** The roads within the subdivision are County roads and as such will be maintained by the County. The pathway along the roadway shall be maintained by the Association.



12. **Driveways.** Lot Owners shall continually maintain their individual driveways at their own cost. In the event that two Lots share one driveway, then maintenance costs for the shared portion of the driveway shall be equally divided among the users of the driveway. Driveways on Lots 1-93 shall be paved within one year of occupancy. No driveway or portion thereof shall exceed a grade of 8 percent, or as allowed by the County. Driveways in excess of 150 feet shall have a turnaround for fire apparatus as approved by the Frenchtown Rural Fire District. Driveways shall be constructed to each Lot in a manner that protects and preserves approved drainfield sites. No driveway may cross a drainfield site without prior approval of the Department of Environmental Quality.

13. **Landscaping.** The Owner of each Lot shall provide substantially completed attractive landscaping within 6 months of completion of their home. Landscaping and revegetation plans must be approved by the ARC. Consulting with a professional landscape designer is advised. The use of beneficial native and water-wise vegetation is strongly encouraged while the use of potentially invasive plants is discouraged.

14. **Weed Control.** The Owner of each Lot shall be responsible for the control of noxious weeds, in compliance with the Montana County Noxious Weed Control Act and the Missoula County Noxious Weed Control Management Plan. Lot Owners are encouraged to contact the Missoula County Weed Control Board for more information regarding methods of control. Lot Owners shall revegetate any ground disturbance on their property with beneficial species at the first opportunity after the ground disturbance occurs. Native grassland vegetation is not considered a weed. Its establishment and maintenance is encouraged. In the event the Owner neglects to provide control of noxious weeds, the Association shall notify the Owner in writing demanding the problem be rectified within thirty (30) days. If the problem is not addressed, the Association will procure services to provide control and assess the Lot Owner the costs.

15. **Wildlife.** Owners must accept the responsibility of living with wildlife. Owners may watch elk, deer, and other wild animals from a far distance but shall never approach or attempt to approach them. There are potential dangers associated with the occasional presence of bears, mountain lions, elk deer, etc. 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. There is potential for vegetation damage by wildlife, particularly from deer feeding on lawns, gardens, flowers, ornamental shrubs and trees. Fence and protect flowers, ornamental shrubs, trees, and gardens which may be susceptible to damage from wildlife. Plant native vegetation for landscaping and revegetation. Do not plant fruit trees, as they can be a major wildlife attractant.

c. 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 that have sufficiently tight-fitting covers to prevent entrance or destruction by wild animals.

d. Do not feed wildlife or offer supplements (such as salt blocks) or bait for deer or other wildlife. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. Owners should be aware that deer might occasionally attract mountain lions to the area.

e. 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 pets in an enclosed structure when not under direct supervision of the Owner.

f. For Lots that allow livestock, feed must be kept indoors or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, etc.

g. Except as provided in paragraph 30, new boundary fencing on the large Lots must be no higher than 3 ½ feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order 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.

h. Gardens can attract wildlife and are not recommended. If done, keep produce picked because rotting vegetable material can attract bears and skunks. To help keep wildlife such as deer out of gardens, fences should be at least eight feet in height. Netting over gardens can help deter birds from eating berries.

i. Bird feeders attract bears and should not be used in this area between the months of April through October. Even if they could be strung high enough off the ground such that bears could not reach them, the feeding action of birds scatters the seeds to the ground, which can attract bears.

j. Compost piles can attract bears and skunks and are prohibited in this subdivision.

k. Apiaries (bee hives) can attract bears and are prohibited in this subdivision.

l. "Exhibit B" to these covenants is a copy of "Living With Wildlife", a brochure available from Missoula Office of Planning and Grants, 435 Ryman, Missoula, MT 59802, and from the Department of Fish, Wildlife and Parks, 2400 Spurgin Road, Missoula, MT, 59804.

16. **Natural Draw on Lot 95 and Lot 97.** The natural draw located on Lot 95 and Lot 96 east of the development is private property and any trespassing (by foot, bicycle or vehicle) is prohibited, except for the Owners of the Lot or as directed by the Owners. The purpose is to preserve this natural wildlife habitat and to encourage continued presence of the native wildlife and to protect people, domestic animals, and wildlife.
17. **Mailbox Clusters.** Mailboxes and newspaper delivery boxes shall be located only within clusters as provided.
18. **Address Numbers.** Each home shall have address numbers at least 5 inches in height that are affixed to the home near the front entryway of the home. The color of the numbers shall contrast with the color of the home.
19. **Fire Standards.**
- a. **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.
 - b. **Driveways.** Dead-end driveways in excess of 150 feet in length shall be provided with provisions for turning around of fire fighting apparatus as approved by the Frenchtown Rural Fire District. 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.
 - c. **Fuel Management.** When planting trees and shrubbery within the Lot, the Owner should consider placement and species. Trees and shrubs should be located away from and 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:
 - i. **Perennial:** Choose hardy, perennial plants that are adapted to the local climate. 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 tend to ignite easily and should be spaced in accordance with fire protection guidelines.
 - d. **Roofing materials.** Use only class A, B or C fire-rated roofing materials for new construction.
20. **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.

21. **Signs.** Except as hereafter permitted, no signs, billboards, or unsightly objects shall be erected, placed or permitted to remain on any Lot.
- a. Building contractors and/or architects may maintain one sign not to exceed ten (10) square feet in size on any Lot upon which improvements are being made.
 - b. For a period of five (5) years from the date of this Declaration, the Declarant may place signs within the properties to promote the development of Hawthorn Springs.
 - 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'.
22. **Antennas/Flag Poles/Detached Lighting.** No exterior television, radio antenna or satellite dishes measuring over thirty-six (36) inches in any direction shall be erected, placed, or permitted to remain on any Lot. Mini satellite dishes and antennas measuring less than 36 inches may be attached to the rear, side or within one foot of a front corner of the dwelling unit. No flag poles other than those attached to the residential structure nor exterior antennas shall be allowed on any Lot except with the express permission of the ARC.
23. **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.
24. **Propane Tanks.** Propane tanks shall be buried or located and screened as approved by the ARC.
25. **Off Road Driving.** No motorized vehicles shall be permitted in the Common Area except to provide service and maintenance to the Common Area, such as weed control. No motorized vehicles shall be permitted in the 30' strip on Lot 96 adjoining or running along the westerly boundary.

26. **Exterior Lighting.** No direct outside or yard 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. 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.
27. **Christmas Lighting and Similar Lighting Decoration.** Christmas lighting decoration is permitted on any Lot for a period limited to December 1 through January 10. Lighting decoration is prohibited outside of these dates. Excessive or unsightly lighting decoration, as defined by the ARC, is prohibited. Blinking and/or flashing lighting is prohibited.
28. **Pets and Animals.** No more than two dogs or two cats, or one dog and one cat 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 ARC 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. Likewise when walking a pet, the cleanup of animal manure is required. No livestock, commercial kennels, or the commercial breeding, raising, training or boarding of any animals shall be allowed.
29. **Common Area.**
- a. **Wildlife.** All Owners, family members, and guests must respect the wildlife of the area. At no time shall anyone disturb wildlife or their habitat, nor shall wildlife be approached or fed. The Common Area contains a draw where wildlife may be found. If wildlife is encountered, people must back away and leave the wildlife alone.
- b. **Maintenance of Common Area and Facilities.** The Association shall be responsible for the maintenance, upkeep and repair of all Common Areas and Facilities including, but not limited to, the trails, play fields, and commonly used utility systems, including the maintenance of all fire hydrants located within the subdivision. Upon formation of a County Water District, the Water District shall assume responsibility for maintaining water facilities, including the maintenance of all fire hydrants located within the subdivision.
- c. **Vegetation Management and Weed Control.** Declarant shall properly manage and maintain the vegetation on all unsold Lots and the Common Area until title to the Common Area is transferred to the Association. Upon transfer of the Common Area to the Association, the Association shall correctly manage and maintain the

vegetation in the Common Area in compliance with Montana County Weed Control Act and the Missoula County Noxious Weed Management Plan. Additionally, the Association shall revegetate any ground disturbance on the Common Area caused by construction or maintenance.

d. **Use of Common Area.** Use of the Common Area shall be limited to the use by the Lot Owners, their immediate families, guests, and invites.

e. **Designated Play Area.** The approximate six (6) acre area within the Common Area located behind Lots 56-64 is designated as a play area. This area may be graded and developed into active fields, playgrounds, or picnic areas.

f. **Western Draw/Ravine.** All Common Area outside of the approximate six (6) acre play area is part of the western draw which shall be preserved and protected in its natural condition. Passive recreation is allowed, such as a walking path. Motorized vehicles and bicycles are prohibited except to provide service and maintenance. Motorized vehicles and bicycles are also prohibited in the thirty foot (30') strip of Lot 96. All provisions of Article IV (Area of Riparian Resource) apply and are enforceable for this area.

g. **Mandatory Maintenance Requirements.** The Common Area within the property as designated on the subdivision plat shall be preserved in perpetuity. The Association Board of Directors, among its other duties, shall establish assessments for the taxes, insurance and maintenance of all Common Area and other common facilities, as established within the requirements of this document.

h. **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 Area.

i. **Pathways to Common Area.** Declarant shall be responsible for constructing a 3' wide gravel pathway within the 30' wide Public Pedestrian Easements indicated on the Hawthorn Springs plat within two years from the date of final plat filing. The Association shall be responsible for maintaining the pathways and for controlling weeds within the easement areas.

30. **Fences.** Lot Owners shall have the right to fence the perimeter of their Lot. Fencing shall be constructed in conformance with the Design Standards. With the exception of the common boundary fence between the Owners of Lots 95 and 97 described below, any new perimeter fencing on Lots 95-97 must be no higher than 3 ½ feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire), to facilitate movement of wildlife. The Owner of Lot 96 agrees that the 30' strip on the southwestern portion of Lot 96 shall only be fenced on the western boundary in order not to create a thirty foot alley way between Lot 96 and the common area. The Owners of Lot

95 and 97 shall fence along its common boundary with the smaller lots within two years of the date of the filing of the final plat. This common boundary fence may be constructed of field fence woven wire, beginning at ground level, with a top wire height not to exceed 4.5 feet.

31. **Parking and Storage.** No parking is allowed on the public access roadway at any time. Each home shall include at a minimum a double car garage and provide space for the parking of two additional 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. 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 or any type or descriptions, trucks exceeding one ton capacity, campers, pickups carrying campers, farm tractors, farm machinery, boats, snow mobiles, 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 approved by the ARC, 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 an engine, shall be stored on the properties, provided, however, that the provisions of this section shall not apply to emergency vehicle repairs. All vehicles must be currently licensed.

32. **Development Guidelines.** Homes shall be constructed using techniques to "fit" the home onto the Lot, considering the unique topography of the Lot, and the finished grade of the home shall be shaped so as to create water flow away from the home. Prior to planning the development of a Lot, it is strongly suggested that the Owner/Designer/ Contractor familiarize themselves with these Covenants and the Design Standards and contact the ARC for additional information.

33. **Limitation on Application of Protective Covenants.** The Protective Covenants set forth in this Article II shall be limited in application as provided herein. If a commercial Building is located on Lot 1 or Lot 2, then Lot 1 or Lot 2 shall not be subject to Article II Protective Covenants set forth in Paragraphs 21, 26, 31, and 32. Lots 95, 96, 97 shall not be subject to the Article II Protective Covenants set forth in Paragraphs 6, 9, 22, 30, 31 and 32.

34. **Commercial Use Designation.** Lot 1 and Lot 2 may be used for residential or commercial purposes. All structures, whether residential or commercial in nature, shall be reviewed and approved by the ARC. It is contemplated that commercial uses compatible with residential development, such as a neighborhood grocery market and convenience store, neighbor gas station, neighborhood deli, sale of beer and wine for off-premises consumption, are allowed. Commercial uses, such as a car wash, mini-storage



200413390

Page: 13 of 45
05/18/2004 10:21A

Bk-732 Pg-683

units, gaming and liquor license, restaurant establishments, are specifically prohibited. No Commercial Use that is not specifically enumerated in this Paragraph shall be allowed on the Property without the specific approval of the Declarant and the ARC.

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 ARC a written request for approval. The Owner's request shall include structural plans, specifications, and plot plans conforming to the requirements below. Each Lot Owner shall obtain a Missoula County Sewer Permit that identifies the exact location and design of the drain field prior to submitting plans to the ARC for review. 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 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 Lot, including, without limitation, the rights of other Owners to enjoy scenic and solar access free of unreasonable obstruction. The purpose of the ARC is to achieve and maintain the aesthetic goals of the Declarant in order to implement, protect, and further the common plan and scheme of development contemplated by this Declaration. The function of the ARC is to review and act upon any request for approval of improvements submitted by an Owner in order to ensure compliance with the building restrictions and other requirements of this Declaration and the Architectural rules. The ARC 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 ARC. 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 as a whole against nonconforming designs or construction that is substandard in quality. Therefore, exceptions or variances to any of the restrictions contained in the Design Standards and this Declaration may be granted by the ARC, in accordance with the provisions of this Declaration after proper written application has been so made by the requesting Owner. Only written variance shall be granted.

2. **Committee Members, Organization and Term.** The ARC shall consist of three (3) persons appointed as follows:

a. The Declarant shall appoint all of the original members of the ARC and all replacements until the third anniversary of the recordation of this document.

b. Until such time as Declarant has sold all of its Lots 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 on 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 to the Owners the powers of appointment of said committee members, in which case all members of the committee shall be appointed in the manner described.

3. **Design Standards.** Attached hereto and made a part hereof is Design Standards. All plans, specifications, drawings and sections must be in conformance with the Design Standards.

4. **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 harmony 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.

5. **Action by the Architectural Review Committee.** The ARC shall review drawings and specifications submitted in accordance with these Declarations within thirty (30) days of submission. All decisions of the ARC is final. The ARC's written approval or notice of rejection shall be conclusive evidence of such approval or rejections. The action or inaction of the ARC or its agents, when the ARC 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 ARC or any member of the ARC 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 ARC or any member of the ARC, or there 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.

6. **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 ARC. 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.

7. **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.

8. **Inspection of Work by ARC.** Inspection of the work relating to any approved improvement and correction of defects therein shall proceed as follows:

a. During the course of construction, members of the ARC shall have the right to inspect the construction site at any reasonable time to confirm that construction is proceeding in accordance with the approved plans and specifications and any applicable ARC rules.

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

ARC 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.

9. **Landscaping.** Landscaping shall be deemed to be a work of improvement requiring ARC approved hereunder.

10. **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.

11. **Variance.** The ARC, in its sole discretion, shall be entitled to allow reasonable variances of any procedures specified in this Section 11 or of any restrictions specified in



other Sections in order to overcome practical difficulties, avoid unnecessary expense, or prevent unnecessary hardships.

12. **Fees.** The ARC shall be empowered to assess a reasonable review fee as determined from time to time by the ARC.

13. **Limitation to Application of Article III.** Notwithstanding anything else in this document to the contrary, Lots 95, 96, and 97 shall not be subject to Article III and the Design standards of Exhibit "C".

ARTICLE IV

AREA OF RIPARIAN RESOURCE

1. **Introduction.** This section summarizes the management and protection proposed for the two riparian areas in the Hawthorn Springs Subdivision. A map is included to illustrate their location, see Exhibit "D" attached hereto. The area is a typical southern exposure grassland community that has been heavily grazed in the past resulting in reduced species diversity and a strong noxious weed community.

The western riparian area is located in a draw that contains a very small intermittent stream. The riparian shrub vegetation, almost exclusively hawthorn, exists in clumps in this riparian zone. There is a spring in the draw that supplements the spring runoff flows. By early summer 2002 and 2003, surface water in the draw was reduced to an area directly below the spring.

The eastern riparian area is located in a deeper and wider draw with a small intermittent stream. During spring runoff in 2002 and 2003 surface flows disappeared into the ground before reaching the property line. This draw contains a spring in the upper end that flows year round. By mid summer surface water was reduced to the upper third of the draw. The woody vegetation along this riparian area is limited to hawthorn shrubs with an occasional black cottonwood tree and elderberry bush, chokecherry, serviceberry, snowberry, elderberry and woods rose.

Both riparian areas have been impacted by heavy grazing resulting in the presence of noxious weeds and the loss of many species that would normally be present in a healthy, functioning riparian system.

2. **Management Goals.** The management goals for the riparian areas are to restore functioning native riparian vegetation, restore native grasslands and to promote healthy plant communities. Increased plant diversity will provide a greater variety of available habitats for birds and mammals. The management methods include weed control, restoration planting and vegetation replacement, grazing management and access control. We will attempt to coordinate the storm water management plan with our riparian plan.



3. **Vegetation Enhancement.** The management objective for both riparian areas is to increase species diversity. Native shrub, forb and grass species will be selected for planting. The shrub community presently is over 90% hawthorn. Shrubs that will be planted include chokecherry, red-osier dogwood, alder and serviceberry. This may entail removal of some hawthorn shrubs to make openings as needed for these plantings.

4. **Weed Control.** The riparian areas in both draws have been infested with a number of weed species. These include hounds tongue, musk thistle, canada thistle, spotted knapweed, and sulfur cinquefoil. An integrated pest management approach to controlling weeds will be employed including, chemical, biological, cultural, and mechanical methods. Only herbicides approved for use near water and areas with high water tables will be used within the riparian zone. Generally treatment with an herbicide will be by spot application. Mechanical control methods to remove plants and reduce seed production will include hand pulling, mowing, weed whipping, and digging. Any openings caused by weed treatment or other disturbance will be seeded with appropriate mix of riparian grasses and forbs to prevent re-invasion.

5. **Access.** The western riparian zone is located in the Common Area for the subdivision. Access to and through this area is, in general, restricted to non-motorized pedestrian traffic. Authorized personnel may access the area by vehicular means for management purposes. Utility access and easement may result in temporary disturbances. Areas disturbed as a result of these actions will be rehabilitated.

Access to the eastern draw and associated riparian area is restricted to and controlled by the Owners of that Lot or their designees and assigns. It may be necessary to fence the area along the western boundary of Lot 95 and 97 in order to control access. The historic access roads and trails and maintenance roads for the properties follow the stream from the lower to the upper end of the Draw crossing the riparian zone. Vehicular crossings are allowed in the areas where the historic access roads, trails and maintenance roads cross the riparian area. The goal is to protect this riparian area for wildlife benefits while allowing for access along existing crossings. The Lot Owner will make all further management decisions to support the goals of the management plan for the riparian area.

6. **Off Road Driving.** No motorized vehicles shall be permitted in the Common Area except to provide service and maintenance to the Common Area, such as weed control.

7. **Grazing.** Grazing in the riparian resource area shall be closely monitored to prevent any signs of overgrazing or degregation. Fencing may be used as a management tool. Fencing shall be wildlife friendly and shall comply with all fencing requirements of the Fish, Wildlife and Parks.



ARTICLE V

EASEMENTS

1. **Easements of Encroachment.** There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area.

2. **Easements for Utilities, Etc.** There are hereby reserved unto Declarant, so long as the Declarant owns any property described on Exhibit A of this Declaration, the Association, and the designees of each (which may include, without limitation, Missoula County, Montana and any utility) access and maintenance easements upon, across, over, and under all of the Property to the extent reasonably necessary for the purpose of constructing, replacing, repairing, and maintaining cable television systems, master television antenna systems, internet access, security and similar systems, roads, walkways, bicycle pathways, trails, ponds, wetlands, drainage systems, street lights, signage and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas and electricity, and for the purpose of installing any of the forgoing on property which it owns or within easements designated for such purposes on recorded plats of the Property. This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under, or through any dwelling on a Lot, and any damage to a structure or improvement resulting for the exercise of this easement shall promptly be repaired by, and at the expense of, the person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

Declarant specifically grants to the local water supplier, electric company, and natural gas supplier easements across the Property for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes. However, the exercise of this easement shall not extend to permitting entry into the dwelling on any Lot, nor shall any utilities be installed or relocated on the Property, except as approved by the Board of Directors of Declarant.

3. **Easements for Cross-Drainage.** Every Lot and the Common Area shall be burdened with easements for natural drainage of storm water runoff from other portions of the Property, provided, no person shall alter the natural drainage on any Lot so as to materially increase the drainage of storm water onto adjacent portions of the Property without the consent of the Owner of the affected property.

4. **General Easements.**

a. Declarant or any assignee, retains rights of ingress and egress to, upon, and from Properties for purposes of locating, installing, erecting, constructing, maintaining or

using, water lines, sewers, electrical lines, telephone lines, gas lines, cable, internet and other utilities. Declarant further reserves the right to erect signage, mail box structures, at locations to be determined by Declarant for the purpose of properly signing of the Property and for the purpose of providing mail box service to area residences. Declarant further retains the right to erect an entryway sign and entryway, including entryway gate and entrance facilities at the locations where the subdivision roads meet the frontage road.

b. Declarant or any assignee reserves and retains rights of ingress and egress to, upon, and from Properties to any other parcel created by the Hawthorn Springs Subdivision, or to any adjoining lands designated by Declarant. This retained right shall include the right to grant ingress and egress easements through or to the Common Area to any parcel or to other adjoining lands designated by Declarant or his assigns.

c. Declarant reserves the right to grant signage easement and entry gate easements over and across Lot 1 and Lot 2 for the benefit of the Hawthorn Springs Subdivision and the Association for the purpose of construction, erection and placement and maintenance of entry gates and subdivision signage.

ARTICLE VI

PROPERTY OWNERS ASSOCIATION GENERAL RESPONSIBILITIES

1. **Purpose.** The purpose of the Association is to enforce the provisions of this Declaration. The Association shall represent Owners and serve them in accordance with the provisions of the Declaration, and the purposes set forth in the Articles of Incorporation. These services may include maintenance of the Properties, coordination with governmental agencies concerning the properties, and providing such other services and representation as are authorized in accordance with the provisions of the Declaration. The purpose of this Declaration is to enhance and protect the value, desirability, and attractiveness of the real property described herein as a residential development.

2. **Membership.** Each Owner of a Lot within this subdivision will automatically be a Member of the Association, hereinafter called the "Association."

3. **Voting.** Members shall have one (1) vote for each Lot. If there is more than one Owner of a single Lot, the vote for such shall be exercised in the manner which the Owners of the Lot themselves determine. If one Owner owns more than one Lot, each Lot owned would have one (1) vote and the Owner may exercise all of those votes as he or she so chooses. The Declarant shall have 51% of the vote until such time as 80% of the Lots have been sold.

4. **Formation.** The Association shall form before any property is sold. There shall be an organizational meeting of the Association arranged by Declarant in accordance with

Montana law. Notice of this meeting shall be provided two (2) weeks in advance of the meeting, by certified mail sent to all purchasers of record. At the first meeting the Board of Directors shall be appointed, Bylaws adopted and the next meeting of the Association scheduled.

5. **Board of Directors.** The Board of Directors shall consist of a President, Secretary, and Treasurer. The business affairs of the Association shall be managed by the Board of Directors, the number of which is established in the Bylaws. The Declarant shall appoint the members of the Board of Directors until such time as 80% of the Lots have been sold. At that time, the Board of Directors shall be duly elected per requirements of the Bylaws. The Board of Directors and interested members may meet at any time to respond to any complaints or violations of these covenants.

6. **Annual Meeting.** The Articles of Incorporation and By-laws of the Association shall set forth and determine the date for the annual meeting the first year the Association is formed, and the annual meeting shall be held at a similar time set forth by the By-laws and Articles of Incorporation in every subsequent year.

7. **Assessments.**

a. **Creation of the Lien of Assessments.** Each Lot Owner hereby covenants and agrees to pay to the Association annual assessments, all such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual assessment, together with such interest thereon and costs of collection thereof as is hereinafter provided, shall be a charge and continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof is hereinafter provided, shall be the obligation of the Owner of such Lot from the date when such assessment becomes payable. Prior to the first meeting of the Association, each Owner will be charged on a pro rata basis for Common Area and maintenance assessments by the developer.

b. **Purposes of Assessments.** The assessments levied by the Association shall be used for such purposes as are deemed desirable by the Association or as required. The purpose of assessments shall include, but not be limited to maintenance of the Common Area, the pathways along the public access roadway and the community water system and fire hydrants serving the subdivision. Maintenance of the Common Area shall include, but not be limited to landscape maintenance, vegetative plantings, weed control, irrigation, as well as Common Area structures such as play equipment, benches, or pathways constructed by the Association and any other commonly owned facilities or other expenditures deemed necessary by the Association. Maintenance of said pathway shall include, but not be limited to snow removal, resurfacing, and any repairs deemed necessary by the Association.

c. **Amount of Annual Assessments.** The Board of Directors of the Association shall set the amount of assessments. The Board may, after consideration of the current maintenance costs and future needs of the Association, fix or adjust the annual assessment for each year to meet changing needs. The initial annual assessment shall be \$180.00 per year, with payments made in semi-annual installments, due and payable on January 1st and June 30th of each year. The Declarant shall be exempt from annual assessments until such time as Declarant has sold eighty percent (80%) of the Lots of this subdivision.

d. **Payment of Annual Assessments.** The assessments provided for herein shall be computed on a yearly basis, commencing on the first day of January each year and terminating on the thirty-first day of December the same year. The assessments shall become due and payable on the schedule determined by the Board of Directors of the Association. The Board of Directors of the Association shall fix the amount of the assessment against each 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 hereto, which shall be kept in a location designated by the Association and shall be open to inspection by any Lot Owner. Written notice of the Assessment shall thereupon be sent to every Lot Owner subject hereto and may be prorated in proportion to the total assessment for the entire year.

e. **Water Assessment, Usage and Connection Fees.** Declarant has reserved the right to transfer the water system servicing the individual Lots to the Association for payment of construction costs, operation and maintenance charges associated with providing water to each Lot. If the construction, operation or maintenance of the water system is transferred to the Association by the Declarant, then the following fees shall apply:

i. **Connection Fee.** There shall be a \$1,000 tapping fee associated with an Owner's request to connect the Owner's Lot to the water system. The Board of Directors reserves the right to modify the amount of the water connection fee after consideration of costs associated with providing water to the individual Lots.

ii. **Usage Fee.** The Association shall be empowered with the authority to collect water assessments in an amount determined by the Board of the Directors of the Association. The Board may, after consideration of current maintenance costs and future needs of the Association, fix or adjust the amount of the water assessment. The initial water usage assessment shall be \$420.00 due and payable in semi-annual installments of \$210.00 on January 1st and June 30th of each year, or as determined by the Board of Directors. The water usage assessment shall commence at such time as a Lot Owner requests water service to the individual Lot.

iii. **Transfer of Fees to Water District.** In the event Declarant transfers the water system to a Water District for construction, maintenance and operation of the water system or requests the Association to transfer the system to the Water District, then

the Association shall remit any excess water assessment fees collected to the Water District at Declarant's request.

f. **Effect of Non-Payment of Assessment.** If the assessments are not by midnight on the date when due (being the date specified by the Board of Directors), then such assessment shall become delinquent and shall, together with any interest thereon, become a continuing lien on the Lot which shall run thirty (30) days after such due date, the assessment shall bear interest from the due date at the maximum annual percentage rate permitted by law but not in excess of fourteen percent (14%). The obligation of the then Lot Owner to pay any assessment or interest shall not be affected by any conveyance or transfer of title to said Lot. The Association may bring action against the Lot Owner obligated to pay the same and or to foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of collecting the same for foreclosing the lien thereof, including reasonable counsel fees.

g. **County Assessments.** Declarant reserves the right to request assistance from Missoula County in assessing individual Lot Owners on their general tax statements for Lot Owner's dues required pursuant to the terms hereof. In such event, Missoula County shall be entitled to add to the Lot Owner's assessment a reasonable administration fee.

ARTICLE VII

GENERAL PROVISIONS

1. **Duration.** The covenants, conditions and restrictions of this Declaration shall run with the protected property in perpetuity 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.**

a. By Declarant. Until Declarant has sold 80% of Declarants' Lots, Declarant may unilaterally amend this Declaration for any purpose except as provided in paragraph c. below. Thereafter, the Declarant may unilaterally amend this Declaration if such amendment is (i) necessary to bring any provision into compliance with any applicable governmental statutes, rule, regulation, or judicial determination; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots; or (iii) required by mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable it to make, purchase, insure, or guarantee mortgage loans on the Lots; or (iv) otherwise necessary to satisfy the requirements of any governmental agency. However, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent thereto in writing.

b. **By Owners.** Thereafter and otherwise, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof; of voting Members representing seventy-five percent (75%) of the votes in the Association. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

c. **Approval by Governing Body for Certain Amendments.** No covenants or sections thereof pertaining to nuisance, trash and garbage, weed control, wildlife, riparian resource management, or fire protection standards may be changed without prior approval of the governing body.

d. **Validity and Effective Date of Amendments.** Amendments to this Declaration shall become effective upon recordation in the land records of Missoula County, Montana; unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration. If any Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority to so consent, and no contrary provisions in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment. No amendment may remove, revoke, or modify any right of privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

e. **Enforcement, Receiving and Processing Complaints.**

i. **Interested Parties.** The Declarant, or any Owner shall have the option and right to process and enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, and charges now or thereafter imposed by the provisions of this Declaration upon receipt of complaints by any Lot Owner. The method of enforcement may include proceedings to enjoin the violation, to recover damages, or both. Failure by any Owner or by the Declarant to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter.

ii. **Costs of Enforcement.** Should any lawsuit or other legal proceeding be instituted against an Owner who is alleged to have violated one or more of the provisions of this Declaration, and should the plaintiffs be wholly or partially successful in such proceeding, the offending Owner shall be obligated to pay the costs of such proceeding, including a reasonable attorney's fee.

iii. **Riparian and Wildlife Enforcement.** Missoula County shall have the option and right to process and enforce, by any processing at law or in equity, the restrictions and charges now or after imposed by the provisions of this Declaration regarding the protection of wildlife and riparian areas. Failure by Missoula County to



enforce any such provision shall in no event be deemed a waiver of the right to do thereafter. Missoula County has no obligation to inspect the property and they shall not be liable for damages as a result of any claims made against the County as a result of undetected lack of compliance filed by riparian protection requirements.

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

g. **Liability of Declarant.** The Declarant shall have no liability for any of its actions or failures to act, or for any actions or failures to act of the Association or any Owners of property within the Protected Property. The relationship between the Declarant, the Association, and the Lot Owners shall be deemed to be that of independent contractors, and not that of principal and agent, partnership or joint venture. The Declarant shall have no liability or obligation under this Declaration to any person or entity except such liabilities and obligations as the Declarant has expressly assumed herein.

h. **Annexation.** The Declarant and/or the Association may annex other neighboring properties into the Association and this Declaration.

IN WITNESS WHEREOF, the undersigned have caused this Declaration of Protective Covenants and Property Owners Association General Responsibilities for the Hawthorn Springs Subdivision to be executed this 3rd day of May, 2004.

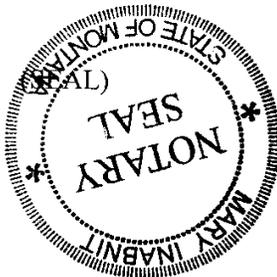
DECLARANT - PATCHY, INC.,

By: Tom W Deveny
Tom W. Deveny, President

STATE OF MONTANA }
County of Missoula }

On this 3rd day of May 2004, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Tom W. Deveny, known to me to be the President of Patchy Inc. that executed the within instrument and acknowledged to me that Patchy, Inc. executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



Mary Inabnit
Notary Public for the State of Montana,
Print Name: Mary Inabnit
Residing at: Missoula
My Commission Expires: Oct. 20, 2005



ATTORNEY VERIFICATION

STATE OF MONTANA)
County of Missoula) ss.

I, Kirby S. Christian, being first duly sworn upon oath, depose and state:

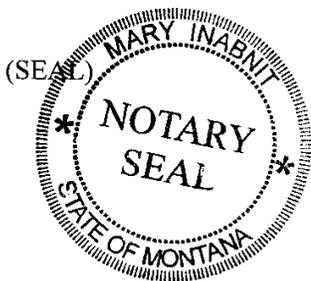
- a. That I am an attorney licensed to practice law in the State of Montana;
- b. That I have reviewed the Articles of Incorporation and By-Laws for Hawthorn Springs Property Owners Association, Inc., the proposed Declaration of Protective Covenants and the provisions required by Missoula County for the subdivision; and
- c. That it is my opinion that these documents comply with the laws of the State of Montana and include all of the requirements delinitated by Missoula County in the October 17, 2003, Conditions of Approval for Hawthorn Springs Subdivision.


Kirby S. Christian

STATE OF MONTANA)
County of Missoula) ss.

On this 3rd day of May, 2004, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Kirby S. Christian, know to me to be the person that executed 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 first above written.



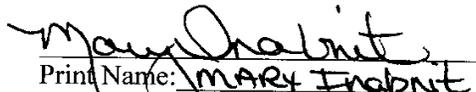

Print Name: MARY INABNIT
Notary Public for the State of Montana
Residing at: Missoula, Montana
My Commission Expires: Oct. 29, 2005

EXHIBIT A

Legal Description

Lots 1-97 Hawthorn Springs, a platted subdivision in Missoula, County,
Montana, according to the official plat thereof.





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Page: 28 of 45

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Missoula County Vickie M Zeler COV

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"LIVING WITH WILDLIFE"
BROCHURE

EXHIBIT 'B'

SIMPLE SOLUTIONS® REFERENCE SHEET

200413390
 Page: 29 of 45
 05/18/2004 10:21:19
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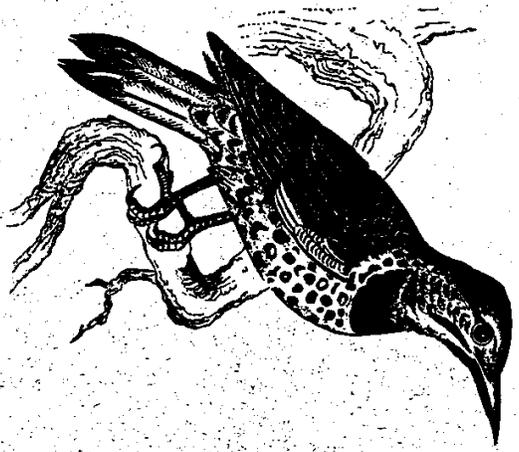
LIVING WITH WILDLIFE

The Indian Creek Nature Center publishes a complete damage reference sheet in "There's a Rat in the Attic and a Woodchuck in the Garden". An abbreviated and supplemental version is reproduced below. Copies of the book are sold by the Center, 6665 Old Road SE, Cedar Rapids, Iowa 52401.

Species	Common Problems	Prevention or Solution
Bats	Pying in house Roosting in Attic	Turn off lights. Open windows and doors. Plug entry holes after bats have left. Spray bat houses.
Cottontails*	Eating garden plants Grinding tree bark	Fence. Live trap. Whip trees. Leave branches for food.
Snakes	In basements In yards	Remove snakes. Plug entry holes. Remove shelter. Eliminate rodents. Protect predators (spontaneously).
Mice	In houses	Remove food sources. Trap. Protect predators (spontaneously).
Skunks	In buildings, etc.	Plug entry holes after they have left. Use trap and remove. Keep pet food inside. Secure compost piles. Remove unused culverts, pipes, etc.
Raccoons	In house	Keep fireplace damper closed. Plug entry hole. Secure cans**
Various animals	In garages	Remove or cover drumming object. Plug tiny holes between overlapping siding.
Woodpeckers	Drumming on house Damaging siding	

*Rabbit/larvae in general in Montana.

**In bear country, secure garbage by placing it in a bear-proof container, or by keeping garbage cans indoors in a secure area.



A Guide To Coexistence

This pamphlet is intended for residents and property owners who share their homesites with wildlife. Few people in the world have this opportunity, and we are fortunate to experience almost daily the wildlife others may see only once in a lifetime.

Since sharing land with others is not always an easy task, Missoula County and Brown Bear Resources cooperatively published this booklet to help reduce conflict between people and wildlife. It is our hope that "Living With Wildlife" will be beneficial to you - and to your wild neighbors.

Key to successful coexistence is the recognition that wild animals are in fact wild and can harm humans or their property with seemingly little provocation. "Living With Wildlife" will not guarantee the absence of conflict or injury, but it will reduce problems. However, as more people move into wildlife habitat, conflicts may increase unless we respond by taking the precautions outlined here. With mounting development pressure in formerly wild areas, it is up to us to decide if the wildlife which attracts new residents will survive into the future.

While reading the brochure, remember that our domestic animals and pets are not adapted to wild environments. Each resident must carefully consider the responsibilities that accompany the introduction of such animals into the habitat occupied by our wild friends.

Habitat Improvement References

To learn more about avoiding conflicts with wild animals while improving their habitat, contact the following agencies:

- Montana Department of Fish, Wildlife and Parks
3201 Spurgin Road
Missoula, Montana 59803
406-542-5300
- U. S. Fish and Wildlife Service
Grizzly Bear Recovery Coordinator
NS 312
University of Montana
Missoula, Montana 59812
406-329-3223
- U.S. Fish and Wildlife Service
Montana Wolf Recovery Program
301 S. Park
Helena, Montana 59626
406-449-5225

Acknowledgments

Special thanks to the numerous agencies that participated in gathering information for this publication. The U. S. Fish and Wildlife Service, U. S. Forest Service (Lolo Forest) and Montana Department of Fish, Wildlife & Parks contributed greatly as did private organizations such as the Indian Creek Nature Center.

For more information, contact the Missoula County Rural Planning Office, 200 West Broadway, Missoula, Montana 59802 or Brown Bear Resources, 315 South 4th East, Missoula, Montana 59801.



PETS, PEOPLE AND WILDLIFE

Pets are one of the highest causes of wildlife mortality in the continental United States. Dogs and cats are especially dangerous to rodents, snakes, and birds. Mammals such as deer and elk are chased to exhaustion, injured or killed by dogs. Most deaths caused by pets are easily preventable by the owners of these domestic predators.

Residents can make a significant contribution to wildlife populations by controlling dogs and cats. By keeping one's "mouser" confined to the house, bird life will often readily return to the front yard. Likewise, by preventing the family dog from roaming neighboring fields, not only can you avoid a substantial fine if he is caught chasing deer or livestock, you may also save his life - pursuit of game animals and livestock by dogs often results in death by gunshot! In addition, uncontrolled pets can be attacked by lions and other large carnivores.

KEEPING "FOOD" UNDER WRAPS

A second important action is the *control of garbage and pet food*. By simply storing such items indoors or in a wildlife-proof container, unwanted animals are not attracted to an item they continually spend their life searching for: an easily accessible source of rich food.

How often do human-wildlife contacts in residential areas (ranch sites, rural subdivisions, etc.) end in the death of the animal? Almost always for bears, mountain lions and skunks; frequently for deer and other animals that become "habituated" to humans. Garbage kills, not by poisoning or other direct methods, but just as effectively by forcing management agencies to "remove" (kill or relocate) an animal that frequents human food sources. While some find it entertaining to watch a bear in a dumpster or apple tree, that "entertainment" is provided at the cost of a bear's life. By keeping garbage in proper bear-proof containers or locked indoors, we can often forego a very unpleasant situation.

The same is true for pet food: Montana is no stranger to the use of pet foods by bears looking for a "free" meal. Since the grizzly bear is a threatened species, if a grizzly is attracted to pet food you leave out, fines or imprisonment could result and could also cause the needless killing of the animal.

A COMMUNITY EFFORT

Around the house the goals are clear: keep pets under control and food under wraps. Garbage and bone piles attract wildlife and other "pests" that can cause grief to both humans and animals, so it is best to keep a clean homestead at all times. Store the bar-b-que grill indoors. And make your work a community effort - the neighbors' garbage might just attract a mountain lion that decides your family dog would make a great meal late one night.

Domestic animals such as rabbits, chickens, turkeys, pigs, sheep and goats have been bred with no defense

against native predators. Consequently they become an attractive food source to many species. While domestic animals can be an enjoyable hobby or source of income to rural homeowners, please carefully weigh the costs to both your family and to wildlife before raising such animals. An attack on domestic animals usually results in a death sentence for predators and livestock, so build sturdy cages and fences to protect your animals and the wildlife that make Montana such a desirable place to live, work and recreate.

Eliminating access to building foundations, pipe piles and unused culverts, porch openings and similar areas will discourage skunks and other species from taking up residence.

If you wish to augment certain wild populations without endangering either them or yourself, consider installing bird-feeding stations and nesting boxes a safe but visible distance from a good picture window. Placing such items too close to a window will invite collisions as birds misidentify your window's reflection as open space. One bird, the fascinating woodpecker, can quickly damage houses with wood siding, particularly cedar siding. Consequently, it is advisable to consult with neighbors to determine if these creatures have caused problems to others before attracting them to your home.

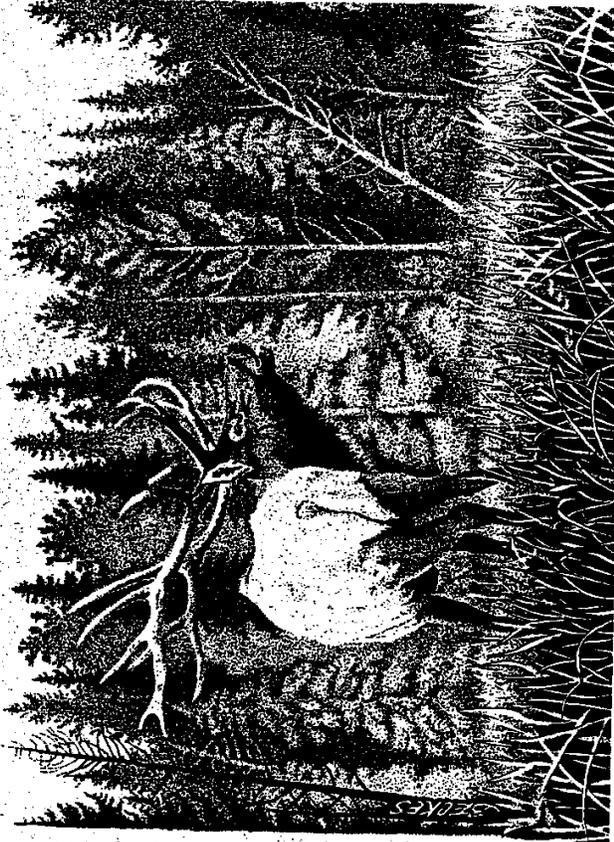


Photo by the author

200413390
Page: 38 of 48
05/18/2004 10:21A
Missoula County Vickie M Zeller, MD
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Be sure to maintain your plot to prevent rotting vegetable matter from attracting those with sensitive noses such as bears. In addition, planting unpalatable species is often recommended, but since deer are like people with individual tastes, there is no guarantee. It's simply best to avoid plantings that are known to attract wildlife.

Orchards. If you plant fruit trees in areas frequented by deer or beavers, you will undoubtedly experience competition for the fruits of your labor. Most farm supply outlets sell fencing to protect fruit trees from deer and beavers until the trees are of sufficient height to be out of reach from the most persistent deer. Planting orchard trees more than 100-feet from streams, lakes and irrigation ditches will also help dissuade beavers from paying a visit.

Bears are also attracted to orchards, particularly orchards that are not promptly harvested. As with compost piles, it is important to remove rotting organic matter to avoid attracting bears, a species that travels miles to reach prime feeding areas, including tending to orchards. If possible, in grizzly country, it is safest to forego planting fruit trees. After all, anyone can grow a tree - but only a very small fraction of the American public can live in grizzly habitat.

As with people, individual tastes vary and while one animal or species may avoid your patiositakingly landscaped yard like the plague, another may wish to partake of your diligently set "dinner table" on a regular basis. And remember, you can help wildlife while challenging your green thumb by gathering and re-establishing native plants on your property.

WELCOME & UNWELCOME VISITORS

Landscaping around your home can also attract wildlife, from birds to long-legged mammals. In general, the denser the foliage on your trees and shrubs, the better the hiding cover for songbirds. Different trees and bushes attract different animals. The Forest Service notes:

If you'd like to see songbirds in your back yard, you'll need to have deciduous trees and shrubs such as cottonwood, aspen, paper birch and mountain maple or ribebark.

Insects feed on leaves, attracting insect-eating warblers, kinglets and vireos. Conifers attract birds such as chickadees, nuthatches and juncos, especially in winter, because the densely needed branches offer protection from the cold. Fruit-bearing plants such as crabapple, mountain ash, juniper and serviceberry are sure to attract all kinds of animals like waxwings, grosbeaks, chipmunks, squirrels, deer and bear.

By attracting birds you should also expect to attract their predators so do not be upset if a hawk snatches an occasional finch from your yard.

A SPECIAL NOTE

On Lions.

Lions (cougars, mountain lions) often receive a great deal of publicity. While the chances of encountering a lion are very slim, certain precautions will help keep your rural home from becoming a "destination resort" for this species:

1. Do not feed the deer. Deer are a preferred prey species for lions and by providing salt blocks, grain and other foods for deer one also attracts their predators.
2. Keep pets at home. Cats & dogs can become easy prey for lions. Dogs can also wound deer which then attract large predators such as lions. Keep pet food indoors.

3. Teach children to identify various wildlife species in your neighborhood. Several children's books are available which will help teach the distinctions between lions and other animals. Then be sure to instruct your children to stay indoors and inform you immediately if a lion is sighted in the neighborhood. Since lions have extensive home ranges, the chances are great that the animal will move on if it fails to find food associated with residential development or livestock operations.

4. If facing a mountain lion, be loud, appear as "big" as you can and pick-up any children in the area. For more specific information on what action to take if you see a mountain lion, contact the Montana Department of Fish, Wildlife and Parks in Missoula.

And Wolves. Wolves are scattered throughout western Montana and will become increasingly common in wild areas. Wolves tend to avoid people and are not a threat to humans. However, wolves may attack a dog or livestock in their territory, particularly if they feed on livestock carcasses that have not been properly removed. To avoid conflicts with resident wolves:

1. Properly dispose of attractants, including livestock carcasses.
2. Keep family dogs close to home or confined at night. This will prevent harassment of wildlife and a potential fight between your dog and a wolf.





A LIVELIHOOD FOR PEOPLE AND WILDLIFE

Many people try to conserve resources and recycle their waste to save energy and money. While the goal seems simple, some conservation ideas are not always sound outside major metropolitan areas, at least not without modification.

Apiaries (bee hives). Professionals and hobbyists can have problems with bees and bears. When living in grizzly country, it's best to avoid raising bees all together. However, if you feel you must have an apiary, contact the U.S. Fish and Wildlife Service Grizzly Bear Recovery Coordinator in Missoula or the Department of Fish, Wildlife and Parks to discuss your plans and how to best avoid conflicts with grizzlies on the prowl for honey and bee larvae.

Compost Piles often inadvertently become wildlife feeders. Organic foods are both odoriferous and tasty to skunks, deer, elk, bear and other critters that are constantly searching for nutrition, be it natural or restaurant-rejects. If you need compost for your garden, enclose it well or try to combine efforts with neighbors so that composting takes place in an area that will not attract wildlife. Or consider an "under the sink" five-gallon bucket with a tight fitting lid.

Gardens bring nutrition, savings and sanity to many people who take great pride in their ability to be self-sustaining. And while gardens attract animals from mice to deer, you can protect your labors from unwanted visitors.

Fencing gardens, one-foot below ground level and up to eight feet above ground, often keeps deer and large rodents from eating your greens. Some gardeners have recommended double fences in the belief that deer will not jump two fences, even short ones. However, barbed wire or loose wire/netting is a certain trap and can maim or trap even the most agile wildlife.

LANDSCAPING WITH WILDLIFE

Flowers also attract deer and others who eat tender plant shoots. Sometimes the attraction is intentional, sometimes not. Boulder, Colorado (one of the few urban areas in the West with their own city-managed deer herd) has published a guide to the most heavily browsed flowers enjoyed by their deer. Among the findings:

FLOWER	BROWSING FREQUENCY
Penstemon, low	Often
Phlox, common	Often
Salsify	Often
Strawberry	Often
Sunflower, low	Often
Tulips	Often
Onion	Often
Flax, blue	Rarely
Rhubarb	Rarely
Harebell, mountain	Rarely

The Boulder study also suggests the following for **grasses, trees and shrubs**:

GRASSES	BROWSING FREQUENCY
Bluegrass	Often
Timothy	Sometimes
Wheatgrass, crested	Sometimes
Wheatgrass, western	Sometimes
Butalোগrass	Rarely
Gamma, blue	Rarely

TREES/SHRUBS	BROWSING FREQUENCY
Roses, most	Often
Juniper, rocky mountain	Often
Olive, russian	Sometimes
Pine, ponderosa	Sometimes
Pine, lodgepole	Sometimes
Plum, wild	Sometimes
Pine, limber	Rarely
Pine, mugo	Rarely
Spiraea	Rarely
Spruce, blue	Rarely
Spruce, engelmann	Rarely

LOG HOMES - FOR WILDLIFE

Live trees are not the only home for wildlife. Too often we forget that other species live in log homes. The Forest Service observes that over 40 different kinds of animals use holes in dead and dying trees or logs on the ground. What do they use them for? Almost everything: nesting, sleeping, feeding, perching and attacking a mate. **Snags**, or standing dead trees, make great wildlife habitat for:

Woodpeckers which dig holes in snags to make their nests. **Bluebirds**, nuthatches and kestrels which nest in old woodpecker holes. **Black bears**, foxes, raccoons, martens and squirrels which den in snags or logs. **Songbirds** which sing from the tops of dead tree branches. **Bald eagles** which often choose the tallest snag on a lake or river to use as a perch to hunt for fish. Small forest birds which will pack together in holes to sleep and to stay warm. **Bats** which roost beneath the loose bark of snags. **Saw-Whet** owls which raise owlets in snags.

Forest wildlife call trees their home, the Forest Service concludes. With luck and some foresight on our part, we can keep their homes, and ours, intact by retaining snags as homesites and feeding perches for owls, eagles and osprey.



EXHIBIT C

Design Standards



200413390
Page: 33 of 45
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EXHIBIT C

DESIGN STANDARDS FOR HAWTHORN SPRINGS

These Design Standards ("Standards") are promulgated effective this ____ day of _____, 20____, pursuant to the Declaration of Protective Restrictions, Covenants and Conditions.

- A. **Purpose and Intent.** The purpose of the Hawthorn Springs Design Standards is to encourage individual lot development that maintains the aesthetic value and unique character of this hillside subdivision and preserves the property values of individual and neighboring parcels. The intent is to preserve natural landforms and native vegetation, open space, views on and off site, while mitigating adverse visual and environmental impacts of the development. In order to protect the special qualities of Hawthorn Springs and to provide a method to achieve the stated purpose the following requirements and guidelines are to be followed.
- B. **Goals.** The Design Standards are intended to accomplish the following goals:
 1. Encourage innovative and attractive forms of residential development appropriate to this specific site while reducing property construction and maintenance costs;
 2. Provide for development and construction activities that are environmentally and visually sensitive to the neighborhood, the community and natural characteristics of the site.
 3. Reduce impact on native vegetation and restore vegetation as soon as possible after disturbance;
 4. Reduce impact on native wildlife habitat

In order to accomplish these goals the following Standards/Guidelines have been developed. Each section contains three parts -Purpose, Requirements and Guidelines. The Purpose states the intended objective of the particular Standard. The Requirements lists and describes specific rules for design and construction of a specific element or group of elements. Each Requirement contains an objective, measurable method of determining compliance. These Requirements shall be met unless a written exception is provided by the Architectural Review Committee (ARC). The Guidelines provide general recommendations and/or examples of how to meet the goals and objectives. The Guidelines tend to be more subjective and may be used as an aid by the Lot Owner during design and during review by the ARC to determine whether the proposed design meets the intent of the Design Standards.

Two attachments to these Standards are included to help the Owner determine compliance with the Standards: 1) Diagram B is a sketch illustrating how the intent of several of the major Requirements and Guidelines may be met and 2) A Design

Standards Checklist is provided to allow the Owner to determine whether each of the Requirements has been addressed in the submittal.

C. Standards/Guidelines

1. Site: Survey/Base information and Site Plan

a. Purpose: To provide accurate base information upon which to design all constructed elements to fit the site and as a basis for the ARC to evaluate impacts and conformance with the Standards. Note that the Declarant will provide a survey of existing conditions to the first purchaser of each Lot. Subsequent Owners shall be responsible for updating or providing a new survey indicating then current information.

b. Requirements. Include the following existing conditions information on the survey. The scale used for the site plan is to allow the site to fit on a 24 X 36 inch sheet. The Buildable Area must be enlarged to a minimum 1" = 20' scale which may require a second sheet. Locate property corners and boundaries with bearings and distances. Dimensionally locate setbacks and Buildable Area.

i. Topography 2 foot contour intervals over the property

ii. Existing site features

iii. Setbacks and Buildable Area

iv. Area designated for septic drainfield and reserve drainfield.

v. Legal description including all restrictions, easements, and rights-of-way, utilities and services

c. Guidelines.

i. Provide additional information affecting the proposed design

ii. Accurate survey information provides the means to make accurate building and earthwork design, cost and site impact decisions when planning construction

2. Grading

a. Purpose: The purpose is to integrate new construction with existing conditions, reduce wind and water erosion, facilitate reclamation of disturbed areas, to reduce long term maintenance efforts, to prevent runoff to adjacent private properties or common areas, and to avoid foundation damage.

b. Requirements:

i. Fill pads for buildings are prohibited.

- ii. Cut and Fill is limited to 6 feet vertical change. Cut and Fill slopes shall be graded to maximum 2 feet horizontal for 1 foot vertical (2:1) and terraced between with flat areas a minimum of 4 feet in width. Such flat terraces shall have a maximum slope of 20 feet horizontal for 1 foot vertical (20:1)
 - iii. Retaining Walls may be used in lieu of cut or fill slopes. Maximum height of retaining wall is 6 feet. If another wall is necessary it must be offset a minimum of 4 feet, creating a flat terrace as described above between adjacent retaining walls. All walls shall be engineered for permanent structural stability and include provisions for drainage.
 - iv. Designate area on site plan to stockpile topsoil. Reuse topsoil on site to top-dress all disturbed areas to prepare for revegetation.
 - v. Imported topsoil shall be a loamy soil free of rocks, debris and noxious weeds.
 - vi. Grading must be accomplished to allow new finish grades to meet existing grades within the Buildable Area.
- c. Guidelines:
- i. Limit Construction Activity: Contractors should not store materials, park on or otherwise disturb areas beyond those specifically identified for construction activities. Construction activities should be kept within 30 feet of the foundation wall of the building and 10 feet each side of trenches.
 - ii. Design and locate structures to follow natural terrain, fitting into the existing land massing to minimize grading.
 - iii. Use of pumper trucks to pour concrete will minimize need for access road around foundation perimeter and reduce disturbance and compaction.
 - iv. Use of smaller, rubber tracked equipment will help reduce adverse impact on site.
 - v. Cut and Fill slopes of 3 feet horizontal to 1 foot vertical (3:1) and less steep (4:1) are easier to reestablish vegetation and to maintain. Feather the toe of the slope into the natural terrain to reduce contrast between existing features and new construction.
 - vi. Use trees for focal points and screening of cuts and fills and structures.
 - vii. Retaining Walls of a 4 foot height are less intrusive and easier to maintain. Use materials that will blend with the natural landscape away from the home (boulders, stone, timbers) and those that are consistent with the home near to it.
3. Drainage
- a. Purpose: The purpose is to avoid creating erosion and drainage problems, both on and off site, as a result of construction. Construction alters established patterns of drainage and increases the quantity of



water no longer able to soak into the ground. These requirements will reduce long-term maintenance and prevent structural problems resulting from water damage.

b. Requirements

- i. Footing drains at foundation walls are required. Subdrainage behind retaining walls is required
- ii. Retain surface water generated from new construction within property lines. Provide areas for infiltration of water into subsurface.
- iii. Subgrades and finish grades to provide positive drainage away from structures.
- iv. Minimize alteration of natural drainage patterns
- v. Where entry driveway crosses a drainage ditch or swale adjacent to roadway, a culvert must be provided. Culvert size shall be established by ARC. Culvert shall be a minimum of 20 feet long and extend a minimum of 2 feet beyond the width of the constructed driveway on both sides and protected from damage as approved by ARC.

c. Guidelines

- i. Maximize use of permeable paving, for example use unit pavers such as bricks or flagstone set on sand bed for walkways, patios and parking areas.
- ii. Use compacted gravel for informal pathways.
- iii. Minimize alteration of natural drainage patterns.
- iv. Collect roof drainage and direct into small sumps or utilize for watering planting areas.
- v. Utilize surface water for watering planting areas. Diverting surface water over large grassy areas is beneficial. Always consider what may happen when soils are frozen.

4. Exterior Lighting:

a. Purpose: The purpose of this Standard is to reduce the impact of undesirable lighting on adjacent Lots and the area in general

b. Requirements:

- i. Exterior lighting shall be designed and adequately shielded to prevent glare onto adjacent Lots, streets, and property
- ii. Indirect lighting mounted at soffit areas and indirect fixtures such as sconces mounted to sidewalls are acceptable. Flood lights and spot lights mounted on the exterior face of improvements, poles or trees are prohibited.
- iii. Colored lights shall be prohibited except during the Christmas Holiday season. Blinking and/or flashing lights are prohibited

- iv. All exterior lighting shall be controlled by timer to shut off automatically at 11:00 p.m.
 - v. Entry lighting may be controlled to turn on by motion detector after 11:00 p.m. and must automatically shut off after a period of not longer than five minutes.
- c. Guidelines :
- i. Provide indirect lighting to illuminate surfaces or objects while concealing the source. Use of indirect path or task type lighting should be considered in lieu of area lighting
5. Roads, Parking, Utilities
- a. Purpose: To provide safety while also minimizing physical and visual impact created on and off site.
 - b. Requirements
 - i. All applicable county requirements shall be in effect
 - ii. Driveways shall be maximum 10 percent grade and designed of such width to minimize cut and fill.
 - iii. Parking areas shall be limited to the area necessary for two cars outside of the garage before breaking the area up-with landscape planting. If additional parking is desired each group of two spaces must be separated by landscape planting areas.
 - iv. All utilities shall be underground.
 - v. A minimum of one frost-free yard hydrant installed for year around use set a minimum of 20 feet from the building is required at each residence.
 - c. Guidelines
 - i. Ideal slopes are 5-6 percent on driveways. Narrower widths will require less grading, surfacing and cause less impact - 12 feet paved width is typically sufficient. Short steep areas allow for longer, less steep areas in other portions of drive.
 - ii. Minimize expanse of paving for parking areas; break up with trees and planting islands to blend with natural landscape and allow areas for water infiltration. This also accomplishes a cooling effect.
 - iii. Avoid collecting (ponding) water on the uphill side of buildings
6. Vegetation



- a. Purpose: The purpose is to conserve water resources, decrease long-term maintenance and promote improved health of the natural environment.
 - b. Requirements
 - i. Create a defensible space for fire protection purposes. Refer to the publication, Protection Guidelines for Wildland Residential Interface Development, Dept. of State Lands, July 1993
 - ii. Provide plant list with Landscape Plans for review and approval by ARC
 - c. Guidelines
 - i. Minimize the use of irrigated, mowed turf areas. (2) Highly developed, non-native landscape areas should be limited to 7000 square feet adjacent to the home.
 - ii. Use drip and porous pipe irrigation in planting areas to increase water efficiency. Use low trajectory spray and sprinklers in grass areas. Plan some areas to eliminate watering once established. Use of graywater for landscape irrigation is encouraged.
 - iii. Maximize the use of native and drought tolerant tree, shrub, perennial and grass species.
 - iv. Use stone available on site in landscape.
 - v. Be aware that wildlife populations, especially deer, elk and bear are common, frequent visitors to your property. Bears and skunks are attracted to compost piles. Bears seek fruit in the fall. The deer depend on many shrub species for winter and spring forage. They are particularly fond of prunus species and eat most anything under the right conditions. Aspen trees provide the ideal medium for rubbing velvet off the antlers. Corrective measures include; planting large material so it is not flexible or within easy reach, physical or chemical barriers, selecting browse resistant species. Overwatering generates succulent new growth which is particularly appetizing. Refer to the brochure, Living With Wildlife, Comments from the Office of Planning and Grants.
 - vi. In general you are encouraged to concentrate landscape areas where you will gain the most enjoyment and ease of use. This will also limit maintenance efforts, decrease expenses and clearly define designed, cultivated areas from natural areas.
7. Buildings - Siting
- a. Purpose: The purpose of this Standard is to locate structures so they fit on the site without becoming overpowering and detracting from the natural beauty of the hillsides.



- b. Requirements: With the exception of those portions of driveways connecting to the street and perimeter fences all Improvements shall be located within the Buildable Area designated for each Lot.
 - c. Guidelines:
 - i. Locate structures to follow natural terrain, fitting into the existing land massing.
 - ii. Orientation and height of the building should complement existing topography, taking into account views, solar access, and neighboring properties
 - iii. Placement of walls and fences should respect existing site characteristics
8. Buildings - Form
- a. Purpose: The purpose of this Standard is to provide for the massing, scale and proportion of structures so they are not obtrusive and do not loom over the hillside.
 - b. Requirements:
 - i. Maximum height of buildings shall be 30' as determined by zoning regulations in effect at the time this subdivision is approved. Heights shall be based on actual topographic information as required in Section C.1., above.
 - ii. Roof forms shall be limited to simple elements; mansard, gambrel, A-frame, or geodesic roof forms are prohibited.
 - iii. Roof pitches greater than 12:12 are prohibited
 - iv. Gable ends and eaves at pitched roofs shall have an overhang of not less than two feet.
 - v. Garage doors: The maximum height of a garage door shall not exceed 9'-0" and the maximum width shall not exceed 12'-0" for a single vehicle space or 20'-0" for a double vehicle space.
 - c. Guidelines:
 - i. Major roof forms should be simple and of consistent style. Mixing a variety of styles and forms should be limited
 - ii. Hip roofs at pitches of 3:12 to 6:12 are appropriate
 - iii. Gable end roofs at pitches of 6:12 to 9:12 are appropriate
 - iv. Roof pitches of 9:12 to 12:12 should only be used on small elements such as dormers or pop- outs.
 - v. Generous roof overhangs are encouraged.
 - vi. Horizontal massing keeping the structures low to the existing landforms is encouraged.
 - vii. Taller elements should be placed near the center of the overall mass.
 - viii. Stepping the building forms up the hillside and utilizing terraces is encouraged.



- ix. Large blank wall planes and large unbroken glass surfaces should be avoided.
- x. Incorporating the upper story(s) within the overall roof mass incorporating projecting dormers and crossing gables is encouraged.
- xi. The building should be visually tied to the ground with a strong base element.
- xii. Stepped foundations, pier foundations, and other alternative foundations systems when properly engineered and implemented may reduce adverse impact on the site and reduce long term maintenance costs.
- xiii. Garages and garage doors should be designed and located so as not to dominate or overwhelm the main exterior elevations of the home. Detached or semi-detached garages are encouraged.
- xiv. Designs that break up the overall mass of the structure, such as connected clustering, courtyards, etc., are encouraged.

9. Building - Materials, Finishes, and Colors

- a. Purpose: The purpose of this Standard is to recognize the dynamic relationship between the local landscape and built elements. The detailed exterior treatment of these elements is to visually harmonize with the colors and textures of- the surrounding site.
- b. Requirements:
 - i. Vinyl siding is prohibited. Metal siding replicating traditional lap siding is prohibited. Prefabricated metal sided buildings are prohibited
 - ii. Bright, harshly contrasting color combinations and reflective colors or surfaces are prohibited.
 - iii. Roof colors shall be medium to dark. Light colored or reflective materials are prohibited
 - iv. Wood shake or shingle roof materials are prohibited
- c. Guidelines:
 - i. Stucco, masonry, or finished concrete foundations bases are encouraged.
 - ii. Use of indigenous materials is encouraged
 - iii. Use of fire-resistive materials is encouraged
 - iv. Use of low maintenance materials is encouraged
 - v. While material changes may be used to enhance the appearance of a building or accentuate a certain element, the change should not be used in a manner than results in a tacked-on veneer appearance (i.e., brick veneer on the "front" of the home). Material changes should take place as major elements, such as a

masonry base all the way around the building, or changing siding patterns at floor levels, gable ends, and large pop-outs.

10. Accessory Buildings and other Improvements

a. Purpose: The purpose of this Standard is to provide for consistency between the main residential structure on a lot and other Improvements, as well as appropriateness of scale and form.

b. Requirements:

- i. Accessory Buildings shall be of similar scale, style, materials, colors and finishes as the main residential structure.
- ii. Garage doors at Accessory Buildings shall comply with requirements of Section 8.b.v., above.
- iii. Satellite dishes larger than 24" in diameter, antennas taller than 8' above existing grade, are prohibited, unless and approved in writing by the ARC.
- iv. Fences in front yards shall not exceed four feet in height and shall be of an open design complementing the home and landscape. All other fences shall not exceed 6 feet in height. Chain link fences shall only be allowed in the rear yard.
- v. Utility meter panels, air conditioning condenser units and similar devices shall be located and/or screened so as not to be visible from the street or adjacent lots

c. Guidelines:

- i. Placement and design of Accessory Buildings and other Improvements should follow the same criteria as the main building.
- ii. Accessory buildings should not dominate the main building or be obtrusive from areas off the Lot.

11. Construction Operations and Site Compliance

a. Purpose: The purpose of this standard is to provide for well-being of residents and property owners during construction activities and to protect the character and value of the subdivision.

b. Requirements:

- i. No pets or other animals shall be allowed on the job site unattended during the course of construction.
- ii. Portable toilets must be made available at each job site for workers.
- iii. All building materials must be kept completely on the construction site.

- iv. The lot owner, builder and/or developer shall assume complete responsibility for the actions of their workers, subcontractors, suppliers and other persons on site in connection with their construction activities.
 - v. No construction activities shall be allowed prior to 7:00 am or after 7:00 pm. Exterior construction activities shall not be permitted on Sundays. Interior work on new homes and normal maintenance on existing buildings is permitted on Sundays. Loud music is not allowed at any time.
 - vi. No fires are allowed at any time. Trash and construction debris shall be removed from the site on a weekly basis. No burying of trash or debris is allowed. The construction area shall be kept free of litter and debris.
- c. Guidelines:
- i. Consult with ARC regarding any unusual construction activities or procedures.

D. Procedures

- 1. Preliminary Design Application and Review
 - a. Purpose and Intent: The purpose of the preliminary application and review process is to enable the ARC to review designs at a preliminary stage and comment on elements which may not be in keeping with the stated purpose of these Design Standards. The intent is to identify and work out potential problems at an early stage thereby expediting the overall process.
 - b. Form: Two copies of Preliminary Application information shall be provided which illustrates and describes the general character, size, shape, height, and materials of improvements proposed. At a minimum the following shall be provided:
 - i. Survey of existing conditions (see Site Requirements above)
 - ii. A Conceptual Site Plan at the same scale as the Survey which shows the Lot orientation by north arrow; adjacent street; dimensions of the Lot, dimensions of the required and proposed setbacks and building reference lines; easements and rights-of-way; building footprint dimensions; existing and proposed finished grades and drainage patterns; proposed locations, sizes and shapes of all Improvements including accessory buildings, retaining walls, driveways, sidewalks and parking areas, patios, terraces, decks; building entries; locations of all utilities and service meters; location of septic system, drainfield and reserve drainfield; locations of all mechanical and electrical items not attached to the building; and fences. Floor Plans of interior layout are optional, but desirable at this stage.



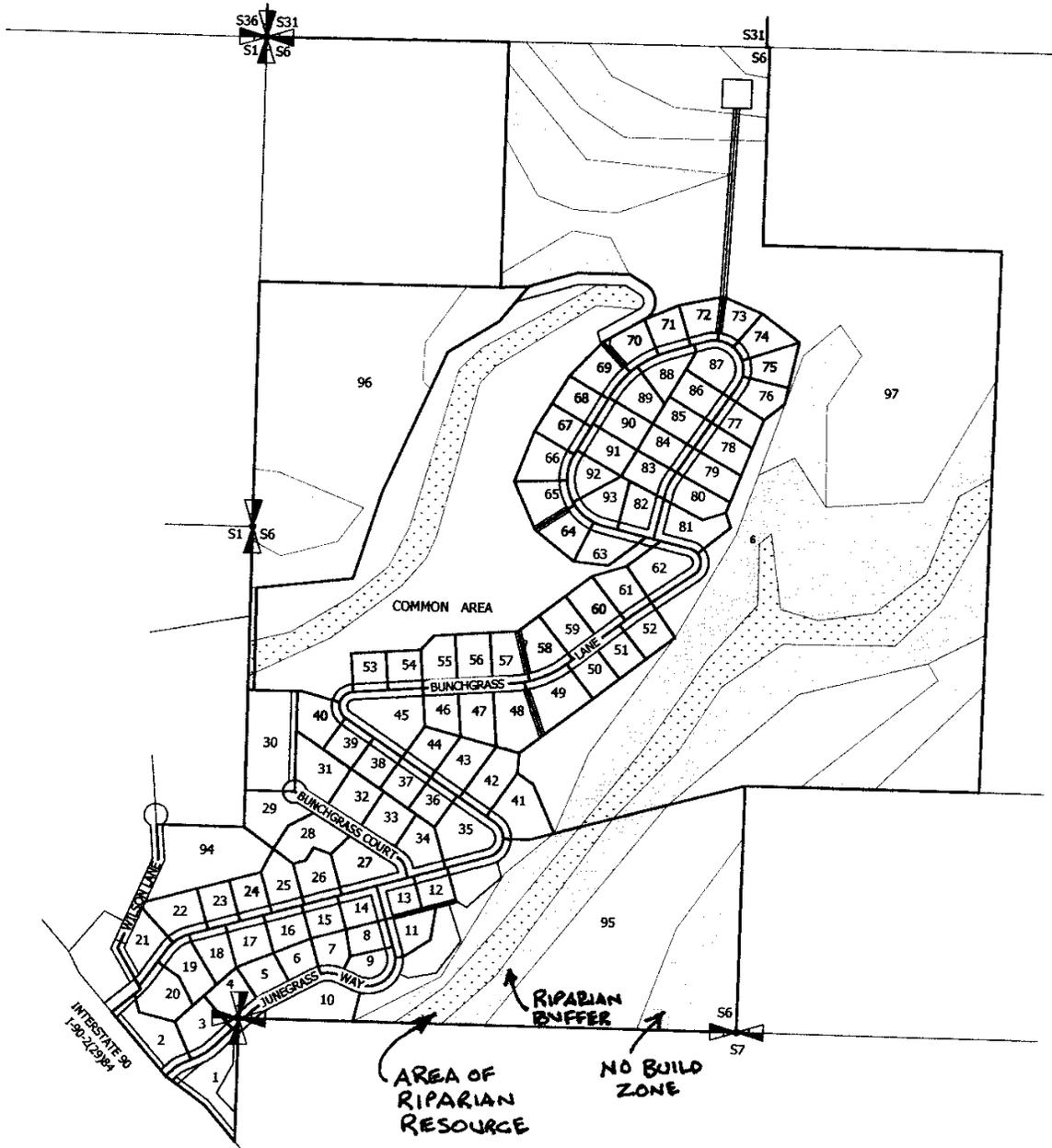
- iii. Building Elevations at minimum 1/8" = 1'-0", which provide sufficient detail to illustrate the character and materials of the proposed design. Elevations must clearly indicate existing and proposed grading at the building and how the building height has been determined.
 - iv. Building Section(s) at minimum 1/8" = 1'-0" drawn accurately with respect to the Site Plan and Elevations. One major section cut to show maximum grade change is required. Other full or partial sections may be required. Sections shall indicate existing and proposed grading through the building and disturbed areas on each side and how the building height has been determined.
 - v. Exterior materials and finishes: Either by note on the drawings, samples or other written verbal description, information on the proposed exterior materials and finishes is required.
- c. Review and Approval: The applicant may submit the Preliminary Application information to the ARC for review or arrange a meeting with the Committee to present the Preliminary Design. Upon review the Committee may request additional drawings for clarification. The Applicant shall receive a memorandum of the review within 3 weeks from the date when all required submittal information is received. The memorandum shall, either: 1) note approval; or 2) approval with specific conditions; or 3) a requirement to revise and resubmit the Preliminary Design which addresses the specific design criteria that have not been met. The receipt of conditional or complete preliminary approval shall not be deemed to be approval for the construction of the improvement. The preliminary approval shall be valid for a period of six months, at which time it shall expire.

2. Final Design Application and Review

- a. Purpose and Intent: The purpose of the final application and review process is to enable the ARC to review the final design for conformance with the conditional or complete preliminary approval and comment on additional elements which may not be in keeping with the stated purpose of these Design Standards. The intent is to identify and work out remaining problems prior to commencement of construction.
- b. Form: Two copies of Final Application information shall be provided which illustrate and describe in detail the character, size, shape, height, and materials of all improvements proposed. Documents shall be as for permitting and construction of the actual project work; include the same drawings as required for preliminary approval and complete floor plans; specifications; and physical samples of exterior materials and colors. Such documents shall also describe erosion and weed control; identify all areas of construction activity; and identify and indicate method of protecting existing features to remain.

EXHIBIT 'D'

AREA OF RIPARIAN RESOURCE MAP



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Missoula County Vickie M Zeier COV

11/3

**AMENDMENT AND ANNEXATION OF PROPERTY FOR THE
DECLARATION OF PROTECTIVE COVENANTS
AND
PROPERTY OWNERS ASSOCIATION
GENERAL RESPONSIBILITIES**

HAWTHORN SPRINGS

THIS AMENDMENT TO DECLARATION, made this 15th day of October, 2012, by Patchy, Inc. a Montana Corporation of 13751 Bunchgrass Lane, Missoula, MT 59808 hereinafter referred to as "Declarant", Hawthorn Springs Property Owners Association a Montana Mutual Benefit Corporation of 13751 Bunchgrass Lane, Missoula, MT 59808 herein after referred to as "HSPOA" and by Rebound Investments, LLC an Montana limited liability company of 13751 Bunchgrass Lane, Missoula, MT 59808 hereinafter referred to as "Rebound".

WITNESSETH:

WHEREAS, Declarant caused to be developed certain real estate located in Missoula County, Montana, herein after referred to as the "Real Property", and more particularly described as follows,:

Lots 1-97 Hawthorn Springs, a platted subdivision in Missoula, County, Montana, according to the official plat thereof.

WHEREAS, the Declarant also caused a Declaration of Protective Covenants and Property Owners Association General Responsibilities to be recorded against the Real Property executed on May 3, 2004 and filed with Missoula County in Book 732, Page 683 hereinafter referred to as the "Declaration".

WHEREAS, Rebound Investments, LLC owns certain real property located in Missoula County, Montana, hereinafter referred to as the "Annexed Property" and more particularly described as follows:

Tract B of Certificate of Survey No. 1669, located in the SE ¼ of Section 1, Township 14 North, Range 21 West, P.M.M., Missoula County, Montana.

WHEREAS the parties desire to amend the original Declaration and annex in additional property to be subject to the terms of the Declaration as provided in Article I, Section 12 and Article VII, Section 2h of the Declaration.

NOW THEREFORE, Rebound Investments, LLC as owner of the Annexed Property with the consent and approval of Declarant and the HSPOA hereby declares that the Annexed Property shall be held, sold, and conveyed subject to the restrictions, covenants, conditions, and easements, set forth in the original Declaration. Furthermore, terms of the Declaration shall



encumber the Annexed Property and shall run with the title to the Annexed Property and shall be binding upon all parties having or acquiring any right, title or interest in the Annexed Property.

ARTICLE I – Annexation

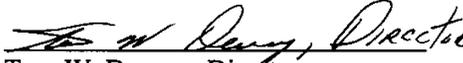
Declarant and Rebound hereby state that the Annexed Property shall be added to the Real Property described in the Declaration as allowed by Article I, Section 12, and Article VII, Section 2h of the original Declaration and the properties are herein annexed to the project and brought within the jurisdiction of the Association.

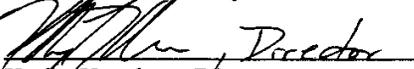
ARTICLE II – Existing Conditions

Declarant and HSPOA hereby acknowledge that certain conditions exist with respect to the property being annexed as part of this Agreement. Specifically, there is an existing well, a planned US flag pole, and a motorhome parking area on the real property being annexed. These existing conditions and planned construction shall be allowed subject to approval by the Architectural Review Committee (ARC) with reasonable restrictions to conform with the overall aesthetic values being preserved under the Declaration.

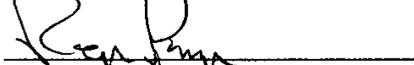
IN WITNESS WHEREOF, the undersigned have caused this Amendment and Annexation of Property for the Declaration of Protective Covenants and Property Owners Association General Responsibilities for the Hawthorn Springs Subdivision to be executed this 15th day of October, 2012.

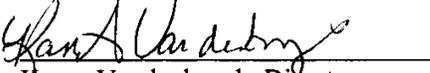
**HAWTHORN SPRING PROPERTY
OWNERS ASSOCIATION BOARD
OF DIRECTORS**


Tom W. Deveny, Director


Kathy Knudsen, Director


Joe Klimpel, Director


Roger Payne, Director


Karen Vandenburg, Director

**DECLARANT
PATCHY, INC.**


By: Tom W. Deveny, President

REBOUND INVESTMENTS, LLC

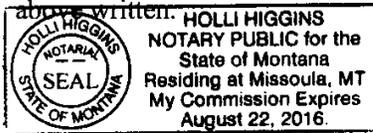

By: Tom W. Deveny, Member


By: Richard Christopher, Member

STATE OF MONTANA)
) ss.
County of Missoula)

On this 15th day of October, 2012, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Tom W. Deveny and Kathy Knudsen, 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 seal the day and year first

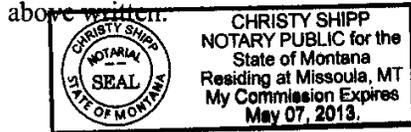


Holli Higgins
Print Name: _____
Notary Public for the State of Montana

STATE OF MONTANA)
) ss.
County of Missoula)

On this 23 day of October, 2012, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Joe Klimpel, 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 seal the day and year first



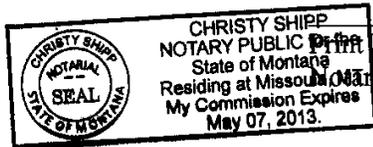
Christy Shipp
Print Name: Christy Shipp
Notary Public for the State of Montana

STATE OF MONTANA)
) ss.
County of Missoula)

On this 23rd day of October, 2012, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Roger Payne, 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 seal the day and year first

above written.

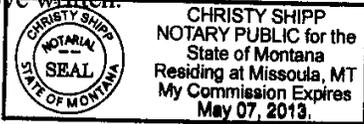


Christy Shipp
Print Name: Christy Shipp
Notary Public for the State of Montana

STATE OF MONTANA)
) ss.
County of Missoula)

On this 19th day of October, 2012, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Karen Vandenburg, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

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

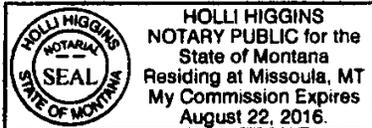


Christy Shipp
Print Name: Christy Shipp
Notary Public for the State of Montana

STATE OF MONTANA)
) ss.
County of Missoula)

On this 15th day of October, 2012, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Richard Christopher, 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 seal the day and year first above written.



Holli Higgins
Print Name: _____
Notary Public for the State of Montana

Return To:
Hawthorn Springs
13751 Bunchgrass Lane
Missoula, MT 59808

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07/19/2018 08:08:15 AM Covenants
Tyler R. Gernant, Missoula County Clerk & Recorder



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**2nd AMENDMENT TO
DECLARATION OF PROTECTIVE COVENANTS
AND
PROPERTY OWNERS ASSOCIATION
GENERAL RESPONSIBILITIES**

HAWTHORN SPRINGS

To further enhance living at Hawthorn Springs, this 2nd Amendment To Declaration is made this 26 day of June, 2018, by Patchy, Inc., a Montana corporation ("Declarant"), and Hawthorn Springs Property Owners Association, a Montana mutual benefit corporation ("HSPOA"), both of 13751 Bunchgrass Lane, Missoula, MT 59808.

The Original Declaration was recorded May 18, 2004 Book 732, Page 683, and the 1st Amendment annexing Tract B to Hawthorn Springs was recorded November 1, 2012 Book 903, Page 123 Missoula County, Montana.

The Declarant, having sold fewer than 80% of its lots and is therefore authorized, joins with the board of directors for HSPOA to approve the below amendments to the Declaration.

- Lots 1, 2, and 20 are allowed to build multiple houses per lot. These lots may be later subdivided into one single family house per lot. Commercial use as originally allowed is terminated.
- Agricultural use and all related rights are further allowed on Lots 10, 29, 30 and 94.
- Outbuilding size is not restricted to 1120 square feet but requires ARC approval.
- Recreational trailers and vehicles may be parked on member's lots; however, they must be licensed and cannot be used as a living space.

- Colored chain link fences are allowed. Fence height and design variances are available with ARC approval.
- Driveways shall provide adequate room for a vehicle to turn around on the lot. Vehicle access to the backyard of each lot is required.
- Gardens, fruit trees, and composting are allowed with proper harvesting and maintenance so as not to become a wildlife attractant.
- Fire pits are permitted. They must comply with Rural Fire Department regulations.
- The Declarant and its assigns may place signage on Lots for the promotion of sales until all lots are sold.
- Alternative energy resources are allowed and encouraged. Approval from the Architectural Review Committee is required.
- Frost-free hydrants are encouraged but not required.

Directors: HSPOA

Declarant: Patchy, Inc.


Tom W. Deveny, Director


Tom W. Deveny, President


Joe Klimpel, Director


Kathy L. Knudsen, Director


Christine Olson, Director


Karen Vandenburg, Director

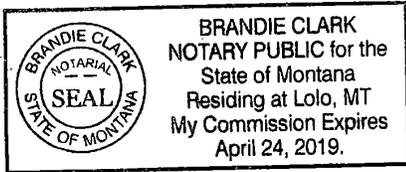
STATE OF Montana

) ss.

County of Missoula

On this 26 day of June, 2018 before me, the undersigned, a Notary Public for the State of Montana, personally appeared Tom W. Deveny, President of Patchy, Inc., known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that such entity executed the same.

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



Brandie Clark

Name: BRANDIE CLARK
Notary Public for the State of Montana
Residing at: Lolo
My Commission Expires: 04/24/2019

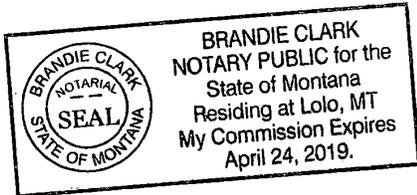
STATE OF Montana

) ss.

County of Missoula

On this 26 day of June, 2018 before me, the undersigned, a Notary Public for the State of Montana, personally appeared Tom W. Deveny, Director of HSPOA, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that such entity executed the same.

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



Brandie Clark

Name: BRANDIE CLARK
Notary Public for the State of Montana
Residing at: Lolo
My Commission Expires: 04/24/2019

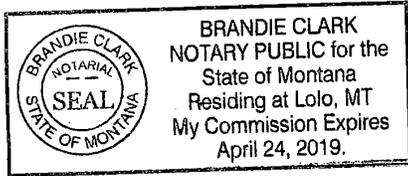
STATE OF Montana

) ss.

County of Missoula

On this 26 day of June, 2018 before me, the undersigned, a Notary Public for the State of Montana, personally appeared Joe Klimpel, Director of HSPOA, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that such entity executed the same.

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



Brandie Clark
Name: BRANDIE CLARK
Notary Public for the State of Montana
Residing at: Lolo
My Commission Expires: 04/24/2019

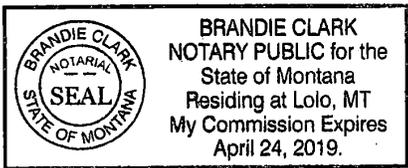
STATE OF Montana

) ss.

County of Missoula

On this 26 day of June, 2018 before me, the undersigned, a Notary Public for the State of Montana, personally appeared Kathy L. Knudsen, Director of HSPOA, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that such entity executed the same.

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



Brandie Clark
Name: BRANDIE CLARK
Notary Public for the State of Montana
Residing at: Lolo
My Commission Expires: 04/24/2019

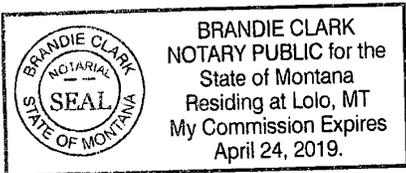
STATE OF Montana

) ss.

County of Missoula

On this 26 day of June, 2018 before me, the undersigned, a Notary Public for the State of Montana, personally appeared Christine Olson, Director of HSPOA, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that such entity executed the same.

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



Brandie Clark
Name: BRANDIE CLARK
Notary Public for the State of Montana
Residing at: Lolo
My Commission Expires: 04/24/2019

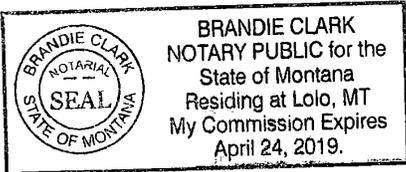
STATE OF Montana

) ss.

County of Missoula

On this 26 day of June, 2018 before me, the undersigned, a Notary Public for the State of Montana, personally appeared Karen Vandenburg, Director of HSPOA, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that such entity executed the same.

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



Brandie Clark
Name: BRANDIE CLARK
Notary Public for the State of Montana
Residing at: Lolo
My Commission Expires: 04/24/2019