

THE LEGENDS AT BRIDGER CREEK SUBDIVISION II DECLARATION OF COVENANTS AND RESTRICTIONS

Section 1. Definitions.

1.1 Subdivision: The Legends at Bridger Creek II Subdivision is referred to as the "Subdivision".

1.2 Homeowner's Association: The Legends at Bridger Creek II Homeowner's Association, Inc.

1.3 Guidelines: The Design Guidelines of The Legends at Bridger Creek II Subdivision, as amended from time to time.

1.4 Bylaws: The Bylaws of The Legends at Bridger Creek II Homeowner's Association, Inc.

1.5 Declaration: This document and amendments thereto from time to time.

1.6 Property Disclosure: The Property Disclosure for the Legends at Bridger Creek II Subdivision, as amended from time to time.

1.7 Lot: Any separate, designated parcel within the Subdivision designated and set apart for the purpose of ownership.

1.8 Residence: An Owner's place of habitation or dwelling which is a structure constructed upon a Lot within the Subdivision, which structure shall meet the requirements set forth in the Guidelines, Declaration, Bylaws, and Property Disclosure.

1.9 Owner: The person owning a Lot or Residence in fee simple absolute, individually or as co-owner in any real estate tenancy relationship recognized under the laws of the State of Montana.

1.10 Common Area: The portion of the Subdivision over which the Homeowner's Association and Declarant retain control, and the portion of the Subdivision in common ownership among the members of the Homeowner's Association.

1.11 Declarant: Initially means Edgefield, LLC.

1.12 Contractor: Any person, general contractor, subcontractor, firm, association, partnership, corporation, limited liability partnership, or limited liability company engaged in construction services or performing any type of labor in or around the Residence or Lot.

Section 2. Preface.

2.1 Description. The Subdivision is a residential development set within three existing neighborhoods at the mouth of Bridger Canyon. The primary goal of the

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Declarant, the current owner of the property, is to create a development which blends into the surrounding neighborhoods and attempts to satisfy the goals of the City of Bozeman. The Subdivision strives to achieve this objective through the implementation of the Declaration, the Guidelines, the Design Board, and the Bylaws, which operate and should be read and construed in conjunction with this Declaration.

2.2 Zoning Regulations. This Declaration is in addition to those requirements set forth in the City of Bozeman Zoning Regulations and Subdivision Regulations (“Zoning Regulations”). In the event there is a conflict between the Zoning Regulations and the Declaration or the Guidelines, the Zoning Regulations shall control.

2.3 Reviewer/Design Review Board. All references to the Reviewer and/or Design Review Board herein shall mean the Reviewer and/or Design Review Board, whichever is currently serving as the reviewing authority per the terms of the Bylaws and Guidelines. All other provisions relating to the responsibilities and operations of the Reviewer and the creation, operations, and responsibilities of the Design Review Board shall be as set forth in the Bylaws and Guidelines. If the Bylaws and the Guidelines contain a conflict in relation to the Reviewer/Design Review Board, in any manner, then the Guidelines will control. The initial Reviewer shall be a professional chosen by Declarant, and named in the Guidelines.

2.4 Ownership and Location. The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is a planned subdivision located in Gallatin County designated on the official plat on file and of record with the Clerk and Recorder of Gallatin County, which was recorded on _____ as Document Number _____. The real property which is subject to the terms of this Declaration may be amended and/or appended in accordance with the following:

2.4.1 Additions by the Declarant. The Declarant, its successors and assigns, shall have the unilateral right to bring within the scheme of this Declaration additional properties in future stages of development which are contiguous to the property described in said Section 2.4. For this purpose, the term “contiguous” shall mean adjacent to or adjoining. Such additions shall be made by the execution and formal filing by the Declarant of one or more supplementary Declaration of Covenants and Restrictions with respect to the additional property, which shall include a description of the additional properties and an attached plan setting forth the development of the additional properties. Further, such supplementary Declaration of Covenants and Restrictions shall set forth that the additional property shall be brought with the scheme of this Declaration and be administered under the provisions of this Declaration, as if such additional property and the original property are a single and unified for this purpose. No consent or approval of such supplementary Declaration must be obtained from any owner or any party who may have acquired a security interest in any of the lots, unless a contract or agreement exists requiring such consent or approval. The addition of such properties shall cause the incorporation of the lots in the additional properties to be brought within the scheme of this Declaration, and such lots shall have



the same rights and authority as any Owners have under the terms of this Declaration. Such addition of properties shall not diminish an owner's interest in his lot or living unit, or such owner's voting rights in the Association.

2.4.2 Merger of Properties. Upon the addition of properties pursuant to a supplementary Declaration (in accordance with Subsection a., above), the supplementary Declaration shall cause the merger of the properties for purposes of control by a single Association. This Association shall administer the covenants and restrictions established by this Declaration as one scheme in relation to the merged properties. In the event that the implementation, administration, and enforcement of the covenants and restrictions as "one scheme" causes inconsistencies, conflicting provisions, questions relating to voting rights or any other issues, then the Declarant shall have the exclusive right to adopt written procedures for resolving and addressing any such issues. The Declarant's written statement(s), in this regard, shall be controlling in this respect, unless later revoked or amended by the Declarant.

2.5 Adoption of Declaration. The Declarant hereby adopts this Declaration as such is further defined and set forth herein.

2.6 Purpose. It is the purpose of this Declaration to ensure that the Subdivision attempts to blend into its surroundings, complement and enhance the natural environment and preserve and protect the interests and investment of the individual Owners. This Declaration, and the covenants and restrictions contained herein, shall attach to and run with the land and shall constitute as an equitable servitude upon the real property and every part of it, including all titles, interest and estates as may be held, conveyed, owned, claimed, devised, encumbered, used, occupied and improved. This Declaration is for the benefit of the entire Subdivision and every part of it and for the benefit of each Owner. The Declaration shall constitute benefits and burdens to the Declarant and to all persons or entities hereafter acquiring any interest in the subdivision. The Declaration provides general restrictions as to the use of the Lots, while the Guidelines provide appropriate details in order to ensure compliance with this Declaration. The Guidelines must be carefully consulted and followed to ensure the requirements of this Declaration are met. All the area of the Subdivision shall be controlled by this Declaration.

2.7 Acknowledge and Acceptance of Agricultural Use of Adjacent Property. Lot Owners and residents of the Subdivision are hereby informed that uses of adjacent property may be of an agricultural nature. By purchasing a Lot, each Owner hereby accepts and is aware that standard agricultural and farming practices can result in dust, animal odors and noise, smoke, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. Each Owner acknowledges that they had the opportunity to review this Declaration, and each Owner agrees that he/she/it will not attempt to hold any party, including but not limited to the Declarant, the Homeowner's Association, the City of Bozeman, the adjacent property owner, or any other Owner in the Subdivision, responsible for perceived damages or any other type of damages relating to the agriculture uses of the adjacent property, and further, each



Owner agrees that he/she/it will not attempt to seek any redress in equity for injunctive relief or for damages.

Section 3. Homeowner’s Association.

3.1 Assessments. The Homeowner’s Association assessment is currently estimated to be sixty and no/100 dollars (\$60.00) a month. However, the assessment may be increase based on budget expenses being incurred. Each Lot’s assessment shall be equal to a pro-rata share of the cost of any common expenses (as determined by the Board of the Homeowner’s Association based on the parameters set forth in this Declaration), and any such assessment not paid in a timely manner, per the specific payment deadlines and dates set by the Board of the Homeowner’s Association, shall become a lien on the particular Lot or Lots owned by the Owner whose Assessments are delinquent. At closing of the sale of any lot, two months of Association assessments will be collected up front; one-half of which is associated with the first months assessment, and one-half of which will be deposited into a reserve fund. The assessments will be used in a manner that promotes the general welfare and safety of the Homeowner’s Association members and will include, but may not be limited to, payment of real estate taxes and insurance premiums, snowplowing and maintenance of internal trails and common areas; maintenance, repair, and upkeep of common areas, public parkland/open space corridors, storm water facilities, public trails, signage and other areas common to the association pursuant to Chapter 18.72 of the Bozeman Unified Development Ordinance. Also, per Section 18.44.020.A.2.b. of the Bozeman Unified Development Ordinance, the calculation of assessments by the Board, for purposes of determining the assessment amount for the Lots, shall include a permanent funding source, which is adequate for purposes of sufficiently providing future maintenance and upkeep of all private (non-public) streets, so denoted in, and dedicated to, the Subdivision.

3.2 Formation and Release of Property to Association. The Declarant will transfer ownership and control of the Property (and pertinent Common Areas and Facilities) to the Homeowner’s Association—which ownership and control shall be subject to this Declaration, the Bylaws, Articles of Incorporation and any other document or agreement that pertains to the Subdivision and/or the Homeowner’s Association—when fifty percent (50%) of the Lots are sold. The Lots of any additional properties incorporated under the scheme of this Declaration, pursuant to Section 2.4 of the Declaration, shall be included for purposes of calculating whether fifty percent (50%) of the Lots have been sold. Until fifty percent (50%) of the Lots are sold, the Declarant will be responsible for maintenance and collection of monthly assessments, and the Declarant shall have all the responsibilities of the Homeowner’s Association, as such are set forth herein. Until otherwise notified by the Homeowner’s Association, Owners shall send payment for Homeowner’s Association assessments at the beginning of each month, including the time period prior to the month the Owner moves in, to:

Edgefield, LLC
c/o Brownstone Capital, Inc.
P.O. Box 9079
Missoula, Montana 59807



Section 4. Aggregation of Lots. There shall be no aggregation of Lots, so as to reduce the number of buildable Lots in the Subdivision. Thus, any request to aggregate Lots will be denied, and thus, aggregation will not be permitted or acknowledged. Further, no Lot may be further subdivided.

Section 5. Covenants and Restrictions.

5.1 Residential Use.

5.1.1 Single Family Per Unit. One single family dwelling is allowed per Lot. Owners should carefully review the Zoning Regulations to ensure compliance with all such zoning regulations. All Lots will be used solely for private single family residential uses. Only single family homes with attached or nonattached garages will be permitted. Where possible, each single family residence shall be a minimum of 2,000 square feet of finished or conditioned space, excluding garages and other storage spaces. Notwithstanding, however, any Lots in the Subdivision, which are not large enough to accommodate a 2,000 square foot Residence, Residences on such Lots can be smaller than 2,000 square feet in size. The Reviewer can advise each Owner and/or potential Owner whether or not a Lot will be required to meet the 2,000 square foot requirement, as set forth in this Section.

5.1.2 Construction, Lot Site Preparation Maintenance, and Landscaping. Any and all construction, alterations or improvements shall be subject to advance approval by the Reviewer. Each Owner shall also submit a landscape plan with any plans for construction. Construction and landscaping shall be performed diligently and in accordance with the guidance set forth by the Reviewer or Design Review Board, and in accordance with the Declaration, Guidelines, and Property Disclosure. Owner shall reference the Bylaws and Guidelines, and inquire with the Homeowner's Association, as to whom to submit such plans—e.g. name of Reviewer or location of Design Review Board, whichever is applicable.

5.1.3 Commercial Use Prohibition. No Lot shall ever be occupied or used for any commercial or business purpose except for an office or studio fully contained within the single family residence as defined hereinafter. Nothing contained herein limits the Owner's ability to lease the dwelling for residential use.

5.1.4 Occupation Conducted Within Residence. Residence occupations incidental and secondary to residential use as defined in this Declaration are allowed. A Residence occupation is an occupational use of a Residence customarily conducted entirely within the Residence by the inhabitants thereof. Such use must be clearly incidental and secondary to the use of the Residence as living quarters, and in connection with such use, there must be no on-premise sales of products; no on-site employment of persons; no generation of pedestrian or vehicular traffic beyond that customary or incidental to residential use of the Residence; no employees who do not reside in the Residence; no use of commercial vehicles for deliveries to or from the Residence; no signs or structures advertising the occupation; no excessive or unsightly storage of materials or supplies or working on autos, boats, or trailers other than normal maintenance of such vehicles or recreational equipment; and it shall not be used for meeting the general public customers, or clients.



5.1.4.1 Examples. For guidance purposes only, the following uses are examples of Residence occupations: the making of clothing (excluding mass manufacturing of clothing); the giving of music lessons; service or product providers who maintain a telephone and office within the Residence but the services and products are provided and sold off the premises; the pursuit of artistic endeavors such as making of pottery, ceramics, paintings or bronzes, and the like, provided that the products are marketed and sold outside the Residence, and no foundries are located in the Residence.

5.2 Trailers and Mobile Homes. Trailer homes and modular homes are prohibited on any Lot. Recreational vehicles, motor or mobile homes, vehicle trailers or other trailers, and boats must be kept in a garage or otherwise screened from view. The Homeowner's Association may determine if an Owner is in violation of this section.

5.3 Mining Prohibited. No prospecting, mining, quarrying, tunneling, excavating, or drilling for any substance on or within the earth, including oil, gas, hydrocarbons, minerals, gravels, sand, rock, or earth shall be permitted.

5.4 Outbuildings and Temporary Structures. No outbuildings shall be erected or maintained on any Lot before the start of construction of a Residence and no trailer, mobile home, basement, shack, garage or other outbuildings shall be erected upon any part of the Lot for use as a temporary or permanent residence. Temporary structures shall be removed within thirty (30) days after completion of construction.

5.5 Exterior Improvements and Equipment. Application to the Reviewer for approval of pools, spas, hot tubs, or fire pits shall contain adequate details to establish sufficient abatement of equipment noise. If deep excavations are required for these improvements a site evaluation by a geologist or soils engineer may be required by the Reviewer.

5.6 Lots Facing On A Greenway Corridor. Lots fronting on a greenway corridor may have a minimum rear yard of 15 feet subject to the following: per Section 18.16.050.A.4 of the Bozeman Unified Development Ordinance, all vehicle entrances into garages shall be no closer than 20 feet to the property line/public access easement line, unless otherwise explicitly authorized by the Bozeman Municipal Code. The Lots considered as fronting on a greenway corridor in the Subdivision are Lots 26 through 38A, 53 through 59A, 69 through 71, and 76 through 121.

5.7 Fences. Fences located in the front, side or rear yard setback of Lots adjacent to any park or open space shall not exceed a maximum height of 4 feet, and shall be of an open-type construction. In addition to the foregoing restriction concerning fencing, all fencing must be approved and installed consistent with the requirements set forth in the Design Guidelines, and the Reviewer will require that all fences meet the requirements of the City of Bozeman. Finally, any and all fences bordering agricultural lands shall be maintained by Owners in accordance with the laws of the State of Montana.



5.8 Certificate of Compliance. Before any Owner may occupy or otherwise use a Residence or other structure in the Subdivision, the Owner must obtain a certificate of compliance from the Reviewer in the form set forth in the Guidelines. Such certificate shall acknowledge compliance with the Guidelines in the design and construction of the Residence or other structure built within the Subdivision.

5.9 Domestic Pets. No domestic animals or fowl shall be maintained on any Lot except as provided herein. Not more than three generally recognized house or yard pets are permitted, provided that such animals shall at all times be restrained or leashed. The Homeowner's Association shall make the final determination in any dispute as to whether a pet is "generally recognized." Excessive barking or other animal noises shall not be tolerated. If any animals are caught or identified chasing or otherwise harassing wildlife or people, or barking excessively, the Homeowner's Association shall have the authority to have such animal(s) impounded at any available location, and may assess a penalty against the owner of such animal(s) of not more than fifty dollars (\$50.00) plus all costs of impoundment. If any such animal(s) are caught or identified chasing or harassing wildlife or people, or barking excessively on any additional occasion, the Homeowner's Association shall have the authority to have such animal(s) impounded and may assess a penalty of not more than one hundred dollars (\$100.00) per animal, plus costs of impoundment. No owner of any animals(s) impounded for chasing or harassing wildlife or people, or for barking excessively, shall have a right of action against the Homeowner's Association or any member thereof, for the impoundment of any such animal(s).

5.10 Maintenance of Lots. Owners shall maintain Lots and improvements in good repair and appearance at all times. All landscaping improvements and property shall be kept and maintained in good, clean, safe, sound, attractive, thriving and slightly condition and in good repair at all times.

5.11 Vegetation and Weeds. The control of noxious weeds by the Homeowner's Association on those areas for which the Homeowner's Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weal Control District. "Noxious Weeds" shall mean those weeds, which have been declared noxious by the State of Montana and/or Gallatin County. Re-vegetation by the Owners is required, and any plan of re-vegetation must be approved by the Reviewer. Owners shall be responsible for the control of noxious weeds on his or her respective lot. Both unimproved and unproved lots shall be managed for noxious weeds. In the event an Owner does not control noxious weeds, on his or her lot, within ten (10) days after receiving notice of such from the Homeowner's Association, the Homeowner's Association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within thirty (30) days of the mailing of such assessment. The Homeowner's Association is responsible for control of any noxious weeds on the Subdivision's parks, open spaces, community areas, trails, roadways. If the Homeowner's Association is not yet formed, then for purposes of this Section, maintenance, including any cost and expense, of any such noxious weeds in the



subdivisions, parks, open spaces, community areas, trails, roadways shall be the responsibility of all of the Owners, as a whole.

5.12 Noxious, Offensive, or Hazardous Activities. No noxious, offensive, or hazardous activities shall be permitted upon any portion of the Lot nor shall anything be done on or placed upon any portion of the Lot which is or may become a nuisance to others. No light shall be produced upon any Lot or other portion of the Lot which shall be unreasonably bright or cause unreasonable glare. No sound shall be produced on any Lot or other portion of a Lot which is unreasonably loud or annoying, including but not limited to speakers, horns, whistles and bells or excessive barking or other animal noises.

5.13 Off-Road Motorized Vehicles. No off-road motorized travel shall be permitted. Use of snowmobiles within the Subdivision is also prohibited. Use of motorized vehicles is subject to ordinances and regulations of the City of Bozeman.

5.14 Hunting and Firearms. Neither hunting nor the discharge of firearms shall be allowed in the Subdivision.

5.15 Signs. No signs, billboards, posters, displays, advertisements or similar structures shall be permitted except as approved in advance in writing by the Reviewer.

Section 6. Common Areas, Easements, Utilities, and Right of Access.

6.1 Common Area. The design of the Subdivision incorporates Common Areas and Facilities. Each Owner shall have the right to use and enjoy the Common Areas and Facilities. Such Common Area and Facilities are described with more particularity in Section 6.2, below. No improvements shall be constructed on such Common Areas. No gates or obstructions shall be placed upon or shall impede access to any Common Area. The Homeowner's Association shall maintain liability insurance and pay any applicable tax assessments on the Common Areas. The Common Areas shall be perpetually reserved for use as Common Areas, per the terms set forth herein, and shall be limited in use, as such is set forth herein, and accordingly, the Common Areas shall continue in full force and effect and shall run with land as legal and equitable servitude in perpetuity.

6.2 Common Area and Facility Maintenance Plan. This Section shall be considered the Common Area and Facility Maintenance Plan for the Subdivision ("Maintenance Plan") and shall be considered an integral part of these Covenants. The intent of this Maintenance Plan is to provide definition to different types of uses of the Common Area, (i.e. dedicated park land and open space as shown on the Final Plat) and to provide for the management, maintenance, implementation, and protection of the different Common Area types and facilities within the Subdivision. The overall objective is to landscape the Common Areas such that there is no stark contrast between any contiguous areas of the Subdivision, in terms of appearance. The landscaping and management should blend the appearance of the areas from more to less formal maintenance. This Maintenance Plan shall apply to all Common Areas in the Subdivision. All improvements within the Common Areas must comply with the approved Master Park Plan for the Subdivision.



The terms of this Maintenance Plan apply to the dedicated park land and the following Opens Space Parcels as shown on the Final Plat: O.S. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16. The Maintenance Plan also applies to Medicine Wheel Lane, Atsina Lane, Blackfeet Lane, Cree Lane, and Richau Lane and associated sidewalks. The Homeowner’s Association will be responsible for operation and maintenance of the Common Areas and facilities until a City wide Park Maintenance District is created. The terms of the Maintenance Plan shall be as follows:

6.2.1 Common Area. The design of the Subdivision incorporates Common Areas, including the dedicated parkland and public open space as shown on the final plat of the Subdivision. Owners shall have the right to use and enjoy the Common Areas and facilities. No improvements shall be constructed on such Common Areas (aside from the improvements indicated in the Master Park Plan). No gates or obstructions shall be placed upon or shall impede access to any Common Area. The Homeowner’s Association shall maintain liability insurance and pay any applicable tax assessments on the Common Areas.

6.2.2 Maintenance Responsibility of Common Areas. The Homeowner’s Association will be responsible for operation and maintenance of the Common Areas and facilities until a City wide Park Maintenance District is created.

6.2.3 Common Area Improvements.

1) **Trails.** The trails will be maintained by the Homeowner’s Association. Trails may be located so as to provide opportunities for interior walking loops and stream side viewing. Ancillary facilities such as benches, picnic tables or overlook locations may be located along trails. Mowed areas are proposed adjacent to trails. All trails are to be Class II trails constructed 3/8” minus gravel with a clay binder.

2) **Stormwater Facilities.** The Stormwater Facilities will be maintained by the Homeowner’s Association.

a) Stormdrain inlets and pipes should be visually checked once a year. If excessive sedimentation is evident in the manhole sumps and or pipes the City of Bozeman should be contacted to remove the sediment. The StormTech stormwater system located in Legends Park should be maintained per the manufactures specifications. Those specifications can be found at <http://www.stormtech.com>.

b) Retention Ponds should be visually checked once a year or after major storm events as necessary. Any excessive runoff debris should be removed.

3) **Park, Turf, Shrubs, Playground Equipment and Irrigation Systems.** These items should be maintained in accordance with the



Master Park Plan. The cost of maintenance and repair of these components shall be the responsibility of the Homeowner’s Association.

- 4) **Trees.** The maintenance of the trees installed within the boulevard portion of the public right-of-way, with the exception of tree trimming and tree removal, shall be the responsibility of the adjacent property owners. The maintenance of trees installed adjacent to Common Areas within the boulevard portion of the public right-of-way, with the exception of tree trimming and tree removal, shall be the responsibility of the Homeowner’s Association. The City Forestry Department is responsible for pruning and removing any tree within the boulevard portion of the public right-of-way.
- 5) **Homeowner’s Association Clubhouse.** The Homeowner’s Association shall hire and be responsible for the cost of having a management company perform operation and maintenance of the Clubhouse. The management company shall be responsible for maintenance, security, cleaning, scheduling and all other functions of the facility.

6.2.4 Landscaping. Landscaping plants and plantings shall be in accordance with the approved Master Park Plan. Terrain modification may occur where needed to enhance opportunities for human activities, especially in conjunction with the trails, or to improve the effectiveness of vegetative screening.

6.2.5 Riparian Area Management. In general, the objective along stream riparian areas is to encourage the return of native plant and animal species while recognizing that people are drawn to and like to be near water. As such, it is necessary to provide opportunities for people to satisfy this natural reaction. In all riparian habitats, wildlife enhancement projects will be completed in conjunction with public or private professional consultants.

6.2.6 Management Coordination. The Association may, and when necessary and appropriate shall, solicit the advice or recommendations of professionals or agencies regarding the management and maintenance of the Common Areas.

6.2.7 Vegetation and Weeds. In relation to the Common Areas, the control of noxious weeds by the Homeowner’s Association on those areas for which the Homeowner’s Association is responsible shall be in accordance with the provisions of the Montana Noxious Weed Control Act (MCA §7-22-2101 through §7-22-2153) and the Rules and Regulations of the Gallatin County Weed Control District. “Noxious Weeds” shall mean those weeds, which have been declared noxious by the State of Montana and/or Gallatin County. The Homeowner’s Association is responsible for control of any noxious weeds in the Subdivision’s parks, open spaces, community areas, trails, roadways. If the Homeowner’s Association is not yet formed, then for purposes of this section, maintenance, including any cost and expense, of any such noxious weeds in the



subdivisions, parks, open space, community areas, trails, roadways shall be responsibility of all the Owners, as a whole.

6.2.8 Animal Control.

- a) Domestic pets shall not be allowed at any time in the Common Areas or trails unless on a leash or under the Owner's control.
- b) Temporary fencing around shrubs and trees to prevent destruction by the animals shall be permitted for the period of time necessary to ensure survival of the plantings.
- c) Rodents may be controlled if levels of depredation threaten the survival of plantings or constitute a health hazard. If poisons are used they shall be applied only in accordance with applicable laws and with prior approval of the Homeowner's Association.
- d) Pesticides may be used to control insect populations that are a nuisance, threaten the survival of plantings or constitute a health hazard. Pesticides may be applied only in accordance with applicable State laws and with prior approval of the Association.
- e) Residents and guests shall not harass wildlife and should avoid areas of wildlife concentration. Loud, offensive, or other behavior which harasses or frightens wildlife in the Common Areas is prohibited.

6.2.9 Taking of Wildlife. The taking of any and all wildlife species by any means within the Subdivision is prohibited, except for the catching and release of fish, and the control of specific animals known to be causing unacceptable damage to property or persons (e.g. a beaver damming the stream or porcupine identified as girdling planted trees), but only if such is allowed by all laws, in the specific area. No hunting or shooting of firearms shall be allowed in the Common Areas, or on personal private property.

6.2.10 Fencing. See Subdivision Design Guidelines for details. No fencing shall be placed in the Common Areas, except as approved by the Homeowner's Association and only if such placement is within the parameters of the further of the intent of the care of the Common Areas. See also Section 5.7 for fencing restrictions for specifically owned lots.

6.2.11 Signage. Signs shall be permitted to identify trail routes, direct human activity or provide interpretive information. All sign posts or support structures shall be of wood construction. Signs shall meet all City of Bozeman requirements and shall only be placed in the Common Areas after being approved by the Homeowner's Association.



6.2.12 Personal Use. The Common Areas shall not be used for the following personal uses: gardens, storage, compost piles or landscape waste, refuse disposal and such other uses as are inconsistent with the intent of these Covenants. The uses referenced herein are not an exhaustive list of prohibited uses, and the Homeowner's Association shall have the authority to determine prohibited uses of the Common Areas.

6.2.13 Wetlands Enhancement and Maintenance. It shall be the intent of Legends to maintain the jurisdictional wetlands. All wetland enhancement projects shall be completed in accordance with plans to be prepared by professional organizations specializing in such, and such plans shall be in compliance with recommendations from the Montana Department of Fish, Wildlife and Parks. The Homeowner's Association shall have the authority to establish reasonable rules for operation and maintenance of enhancing wetlands areas, and such operation and maintenance shall be consistent with the overall intent of the Maintenance Plan.

6.2.14 Additional Restrictions.

- a) No feeding of wildlife other than birds shall be allowing in the Common Areas.
- b) No non-native species of animals shall be introduced to the lands or waters of the Common Areas.
- c) Access through the Common Areas for maintenance of public facilities shall be allowed only by the most direct route.
- d) All buildings shall be prohibited in the Common Areas except structures related to the function and intent of the Common Areas shown on the Master Park Plan.
- e) Motorized vehicles are prohibited within the Common Areas and trails except for maintenance and construction of landscaping, facilities or structures related to the function or intent of the open spaces.
- f) No open burning or privately generated debris shall be permitted within the Subdivision including the burning of construction materials. Open burning of debris generated from commonly held Common Areas may be allowed in accordance with local burning regulations but only by someone authorized by the Homeowner's Association.

6.2.15 Road and Sidewalk Management Plan. The Homeowner's Association shall establish a plan for long term maintenance of all roads and sidewalks. The Homeowner's Association shall also establish a plan for the day-to-day maintenance of the roads. In accordance with such plans, the Homeowner's



Association shall ensure that the roads are maintained, cleaned and snowplowed in a timely fashion. Such maintenance shall also include cleaning of culverts, weed mowing, crack sealing, and patching of potholes in the interior roads and lanes. The Association may, and when necessary and appropriate shall, solicit the advice or recommendations of professionals or agencies specializing in the maintenance of roadway surfaces. However, the Homeowner's Association shall not be responsible for maintaining the driveways and sidewalks of an individual Lot Owner. It shall be the duty of the individual Lot Owners to maintain their own sidewalks in front of their houses, and to maintain their driveways from the edge of the paved street to their own garage door(s). The Right-of-way boulevards are to be mowed and maintained by the Lot Owner on their lot and by the Homeowner's Association in Common Areas.

The Homeowner's Association may choose to hire contract services for road, sidewalk and driveway maintenance providing that there is a clear and accurate method of separating common and private costs. The Homeowner's Association shall have the authority to assess the Lot Owners for service rendered in maintaining and repairing all streets and sidewalks.

6.2.16 Enforcement.

- a) If the Homeowner's Association fails to install or maintain the improvements to the Common Areas in accordance with any approved plans, the City of Bozeman may, at its option, complete construction of the improvements and/or maintain improvements in compliance with the Bozeman Unified Development Ordinance, October 1, 2005, Section 18.72.040 and Chapter 18.74 BMC. The City's representative, contractors, and engineers shall have the right to enter upon the property and perform such work, and the Homeowner's Association shall permit and secure any additional permission required to enable them to do so. The City shall bill the Homeowner's Association for any costs associated with the installation or maintenance of improvements.

6.2.17 Common Area and Facility Maintenance Guarantee. In the event any organization established to own and maintain commonly owned open spaces, recreational areas, facilities, private streets, and parking lots, shall at any time fail to maintain the Common Areas of facilities in reasonable order and condition in accordance with the approved plan, the City Commission may cause written notice to be served upon such organization or upon the Lot Owners in the Subdivision. The written notice shall set forth the manner in which the Common Areas or facilities have failed to be maintained in a reasonable condition. In addition, the notice shall include the demand that the deficiencies noted be cured within thirty (30) days thereafter and shall state the date and place of any hearing to be held in relation thereto; such date being within fourteen (14) days of the notice. At the time of hearing, the City Commission may modify the terms of the original notice as to deficiencies and may extend the time within which the same



may be cured. If the deficiencies set forth in the original notice or modifications are not cured with the time set, the City may enter upon such common facilities and maintain the same for a period of one year, in order to preserve the taxable values of properties within the Subdivision and to prevent the common facilities from becoming a public nuisance. Such entry and maintenance shall not vest in the public any right to sue common facilities not dedicated to public use. Before the one year period expires, the Commission shall, upon its own initiative or upon written request of the organization theretofore responsible for the maintenance, call a public hearing and give notice of such hearing to the organization responsible for maintenance and/or the property owners of the Subdivision, whichever is appropriate. At the hearing, the organization responsible for maintenance and/or the residents of the Subdivision may show cause why maintenance by the City should not be continued for a succeeding year. If the City Commission determines that it is not necessary for the City to continue such maintenance, the City shall cease such maintenance at the time established by the City Commission. Otherwise the City shall continue maintenance for the next succeeding year subject to a similar hearing and determination at the end of each year thereafter. The following provisions shall also apply in this case:

- a) The cost of maintenance by the City shall be a lien against the common facilities of the Subdivision and the private properties within the Subdivision. The City Commission shall have the right to make assessments against properties in the Subdivision on the same basis that the organization responsible for maintenance of the facilities could make such assessments. Any unpaid assessment shall be a lien against the property responsible for the same, enforceable the same as a mortgage against such property. The City may further foreclose its lien on the common facility by certifying the same to the County Treasurer for collection as in the case of collection of general property taxes.
- b) Should the Lot Owners request the City assume permanent responsibility for maintenance of facilities, all facilities shall be brought to City standards prior to the City assuming responsibility. The assumption of responsibility must be brought by action of the City Commission and all cost to bring facilities to City standards shall be the responsibility of the Homeowner's Association and Lot Owners. The City may create special financing mechanisms so that those properties within the area affected by the Homeowner's Association continue to bear the costs of maintenance.

6.2.18 Guarantee for Open Space Preservation. Open space shown on the approval final plan or plat shall not be used for the construction of any structures not shown on the final plat.



6.3 Ingress and Egress Easement. An easement for general ingress and egress to each Lot and to all Common Areas for the general use of all Owners and their guests shall exist over all Common Areas, roads, and trails within the Subdivision.

6.4 Pathways and Residential Sidewalks. As set forth in the Guidelines, all Owners shall construct residential sidewalks conforming to City of Bozeman standards on all public street frontages of the Owner's lot prior to the occupancy of any Residence, excepting that sidewalks need not be constructed on Atsina, Blackfeet, Cree, Medicine Wheel or Richau Lanes with the requirement that all lots fronting on open space areas shall have a sidewalk connection from the front door of the Residence to the pedestrian walkway in the open space area. However, notwithstanding the foregoing, any required sidewalks shall be constructed no later than two (2) years after the Subdivision plat is recorded. The Declarant shall perform reasonable maintenance on all pathways within the Subdivision until fifty percent (50%) of the Lots are sold. Thereafter, the Homeowner's Association shall be wholly responsible for all pathway maintenance.

6.5 Utility Easement. A general utility easement for such utilities as electricity, gas, sewer, communications, telephone, water, television, cable communications and other utility equipment is provided for within the Subdivision. All Owners shall have the right to enter upon and excavate in such easements but only upon the written approval of the Reviewer. Easements for ingress and egress and for utilities shall not be moved, deleted or restricted without the written approval of all affected Owners. Utility companies and Owners must restore disturbed land as close as possible to the natural condition of the land before work commenced.

6.6 Installation and Maintenance of Utilities. The source for the installation of electric power, telephone, and water line service shall exist at the junction of the main access road and Lot driveways. Owners shall bear all responsibility and costs from such junction to Residences. All utilities of every nature shall be installed and maintained underground. Piping and wiring shall be concealed. Each Owner shall be responsible for utility installation and maintenance in accordance with state and local regulations.

6.7 Right of Access. A right of access shall be reserved and be immediate for making of emergency repairs in improvements and/or within the boundaries of each Lot. These repairs may be needed to prevent property damage, personal injury, continued property damage, or for any other emergency purpose.

6.8 Dedication to Public Use. Nothing contained in this Declaration shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Subdivision or the Common Areas to or for any public use other than those areas indicated on the preliminary plat application.

Section 7. Enforcement.

7.1 Parties That Can Enforce. The provisions of this Declaration may be enforced by the Homeowner's Association, Reviewer, or the Declarant.



7.2 Action upon Violation. In the event of violation or threatened violation of any provision of this Declaration, or the Guidelines or any other rules or regulation adopted by the Homeowner’s Association, legal proceedings may be brought in a *court of law* or equity for injunctive relief and damages. In addition, the City of Bozeman or a representative thereof, the Homeowner’s Association, Reviewer, or the Declarant may enforce this Declaration by serving notice in writing on the person or entity violating this Declaration which notice shall specify the offense, identify the location and demand compliance with the terms and conditions of this Declaration. Such notice shall be personally served. Enforcement of this Declaration shall be by proceedings either at law or in equity against any person or persons violating or attempting to violate this Declaration. Such legal proceedings may be either to enjoin or restrain violation of the Declaration or to recover damages or both. In the event of action to enforce this Declaration, the prevailing party shall be entitled to costs and a reasonable attorney's fees.

7.3 Disputes Between Owners. In an attempt to avoid protracted legal actions and disputes between Owners of Lots, the Owners shall adhere to the following alternative dispute resolution process before initiating any legal action against another Owner for disputes between Owners in relation to the use of the Property and Lots by such parties:

7.3.1 Mediation. If the Owners are unable to resolve any specific dispute relating to the use of the Property, upon written request of the offended Owner (“Petitioning Owner”), the dispute shall be submitted to mediation by an individual mutually agreed upon by the effected parties. If they cannot mutually agree upon a mediator, then the parties shall each select a mediator, and those mediators shall select a mediator to mediate the matter. The Owners agree to follow the mediation procedure selected by the mediator. The Petitioning Owner shall bear all costs of mediation, other than the other parties’ attorney’s fees, if any. If the parties cannot reach a resolution with the assistance of the mediator, then the Petitioning Owner may only submit the dispute to a Court of Law for resolution, if such Petitioning Owner has proper standing to do so.

7.4 Liability and Wavier. The Reviewer, Homeowner’s Association, and the Declarant shall not be liable to any person or entity for any entry, self help or abatement of a violation or threatened violation of this Declaration. All Owners, invitees and guests shall be deemed to have waived any and all rights or claims for damages for any loss or injury resulting from such action except for intentionally wrongful acts.

7.5 Failure to Enforce Not Constitute Waiver. The failure by the Declarant or its assigns, the Homeowner’s Association, the Reviewer or any Owner to enforce any covenants or restrictions contained herein shall not be deemed a waiver or in any way prejudice the right to enforce this Declaration at any time against any person breaking any covenant or restriction breached thereafter or to collect damages for any subsequent breach of this Declaration.

Section 8. Covenant Applicability. All of the real property and Lots, referenced above and described as the being part of this Subdivision, shall be subject to the restrictions and covenants set



forth herein whether or not there is a reference to the same in a deed or conveyance. A breach of any of the foregoing covenants or restrictions shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value upon any Lot or portion of the real property or any improvements thereon. However, this Declaration shall be binding upon and inure to the benefit of any subsequent Owner who acquires by foreclosure, trustee sale or otherwise, title to property within the Subdivision.

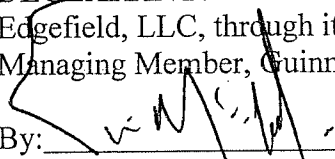
Section 9. Perpetuity. This Declaration shall continue in full force and effect and shall run with land as legal and equitable servitude in perpetuity unless amended as set forth herein.

Section 10. Amendments. This Declaration shall remain in effect until amended or terminated. This Declaration, and any portion thereof, may be amended, terminated or supplemented at any time by the execution of a written document containing the terms of the amendment, supplement or termination of any of the covenants, (duly acknowledged by a Notary Public, and recorded with the office of the Gallatin County Clerk and Recorder), in the following manner: (1) if the subdivision has not been released to the Homeowner's Association, then the Declarant may amend this Declaration unilaterally at any time; (2) if the Subdivision has been released to the Homeowner's Association, then amendment, termination, or supplementation of this Declaration shall only occur through a written document executed: by the Owners of at least seventy-five percent (75%) of the Lots in the Subdivision based on one vote per Lot. If one or more Lots has been combined, the Owner thereof shall be entitled to one vote and/or one signature for each original Lot which created the combined Lot. If there is more than one Owner for an individual Lot, each Owner must execute the amendment, supplement or termination document to count for one vote towards the seventy-five percent (75%) total.

Section 11. Severability. Captions and paragraph headings are designated herein as a matter of convenience. A determination of invalidity of any portion of this Declaration shall not in any manner affect the other portions or provisions, all of which shall remain in full force and effect.

Section 12. Homeowner's' Association. The Homeowner's' Association shall be constituted, shall conduct its business, and shall have the authority and responsibility as provided herein and in its Bylaws. In the event of a conflict between the Bylaws and this Declaration, the Bylaws shall prevail.

IN WITNESS WHEREOF, this instrument has been executed this 23rd day of July, 2007.

DECLARANT:
Edgefield, LLC, through its
Managing Member, Guinness Partners, Inc.
By: 
James P. McLeod,
Vice President and Authorized
Agent of Guinness Partners, Inc.

(Notary Follows)

STATE OF MONTANA)

County of Missoula : SS.)

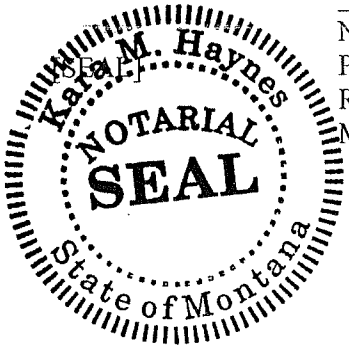


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Charlotte Mills-Gallatin Co MTMISC 734.00

On the 23rd day of July, 2007, before me, the undersigned, a Notary Public in and for said County and State, personally appeared James P. McLeod, personally know to me (or proved on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same in his authorized capacity.

WITNESS my hand and official seal.



Kara M. Haynes
Notary Public for the State of Montana
Print Name: Kara M. Haynes
Residing at: Missoula, CA
My commission expires: 08/15/2009