

**DECLARATION OF PROTECTIVE COVENANTS  
AND RESTRICTIONS FOR SPANISH MEADOWS SUBDIVISION**

**THIS DECLARATION** is made this 24th day of May, 2007, by Spanish Meadows Development, LLC, hereinafter referred to as "Declarant";

WITNESSETH:

**WHEREAS**, Declarant is the owner of the following described property situated in Gallatin County, Montana:

A tract of land being Tract B and Tract C of Certificate of Survey No. 228, said tract being located in the Northwest Quarter and the Northeast Quarter of Section 1, Township 2 South, Range 4 East, Principal Meridian Montana, Gallatin County, Montana and being further described as follows:

Beginning at the northwest corner of said Tract B; thence North 89E55'00" East, along the north line of Section 1, a distance of 1990.78 feet; thence South 00E00'34" East, along the east line of said Tract A, a distance of 1318.89 feet; thence North 89E42'15" West, along the north line of Certificate of Survey No. 1097A, distance of 1995.57 feet; thence North 00E11'58" East, along the east line of Tract A of said Certificate of Survey No. 228, a distance of 1305.70 feet; to the Point of Beginning.

**WHEREAS**, Declarant intends to develop, sell and convey the above described real property, hereinafter referred to as "Spanish Meadows"; and,

**WHEREAS**, Declarant desires to subject all of said real property, together with the lots contained therein, to the covenants, conditions, restrictions and reservations herein set forth and referred to as "Covenants";

**NOW, THEREFORE**, Declarant does hereby establish, dedicate, declare, publish and impose upon the property the following Protective Covenants and Restrictions, which shall run with the land, and shall be binding upon and be for the benefit of all persons claiming such property, their grantors, legal representatives, heirs, successors and assigns, and shall be for the purpose of maintaining a uniform and stable value, character, architectural design, use, and development of the property. Such Covenants shall apply to the entire property, and all improvements placed or erected thereon, unless otherwise specifically excepted herein. The Covenants shall inure to and pass with each and every parcel, tract, lot or division.

Said Covenants shall be as follows:

**ARTICLE I**  
**DEFINITIONS & OTHER PROVISIONS**

Section 1. The term “Association” shall mean the Spanish Meadows Homeowners’ Association, its successors and assigns. The Association may be incorporated as a Montana nonprofit corporation, with its members as the lot owners.

Section 2. The term “member” shall mean any owner of the real property or lot owner. Each member or owner agrees to abide and be bound by these Covenants, the Articles of Incorporation, and the Bylaws and the Resolutions of the Association, if any.

Section 3. The term “owner” or “lot owner” shall mean any person or entity owning a fee simple interest in a lot or a contract purchaser, whether one or more persons or entities, owning or purchasing a lot, but excluding those having a mortgage or an interest merely as security for the performance of an obligation; provided, however, that prior to the first conveyance of a lot for value, the term “owner” shall mean “Declarant” or its successors or assigns. The term “person” hereinafter shall include any person, persons or entities.

Section 4. The term “contract purchaser” shall mean a person buying a lot pursuant to a contract for deed.

Section 5. The terms “properties” and “lots” shall mean all of the real property herein described and subsequently surveyed and platted into lots as Spanish Meadows Subdivision, according to the official plats thereof filed of record in the office of the Clerk and Recorder of Gallatin County, Montana.

Section 6. The term “Directors” shall mean the Board of Directors of the Association.

The Directors shall have the authority to act on behalf of the Association and its members as shall be reasonably necessary to carry out the purposes of the Association and enforce these Covenants. The Directors shall act by majority vote. The officers of the Association shall follow the directions of the majority vote of the Directors.

Until seventy-five percent (75%) of the lots in all phases which are the subject of this Declaration are sold, or five (5) years after recordation of this Declaration, which ever occurs first, the Declarant shall have the right to appoint the Board of Directors, who shall not be required to be lot owners or members of the Association. This right can be waived by Declarant at Declarant’s sole discretion.

Section 7. The term “Declarant” shall mean and refer to Spanish Meadows Development, LLC, and its successors and assigns.

Section 8. The term “Open Space” means those areas designated on the final plat as Open Space and trails as designated for use of the owners and the public.

Section 9. The term “Spanish Meadows Design Review Committee” or “DRC” shall mean the Committee as defined in Article IV of these covenants and the Design Guidelines.

Section 10. Other definitions may be found throughout these covenants and those definitions are binding upon all owners. Any term not specifically defined shall be deemed to have a common and ordinary meaning. Further, the headings in these Covenants have been inserted for convenience of reference only and shall not affect the construction or interpretation of these Covenants. Unless the context implies otherwise, words importing the singular number only shall include plural and vice versa and words importing the masculine gender shall include the feminine gender and words importing persons shall include firms, associations, partnerships, limited liability companies and corporations and any other entity and vice versa.

## **ARTICLE II**

### **SPANISH MEADOW HOMEOWNERS’ ASSOCIATION**

Section 1. Establishment of Association. An association is hereby established known as “Spanish Meadows Homeowners’ Association” hereinafter referred to as the “Association”.

Section 2. Membership. Every owner or contract purchaser of a lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of any lot. Nothing contained herein means or implies that each lot within the subdivision has more than one (1) vote within the association. Each owner shall be responsible for advising the Association of their acquisition of ownership, of their mailing address, and of any changes of ownership or mailing address. The initial address of the Association shall be 98 E. Fieldview Circle, Bozeman, MT 59715. The address of the Association may be changed by the Board of Directors upon notice to the owners.

Section 3. Voting. The Association shall have one class of voting membership. Each member shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Section 4. Determination of Membership. For the purpose of determining membership, at any meeting a person or entity shall be deemed to be a member upon the recording of a duly executed deed to that owner, or upon the recording of a Notice of Purchaser’s Interest or an Abstract of Contract for Deed showing a contract purchase by an owner.

The legal title retained by the vendor selling under contract shall not qualify such vendor for membership.

Foreclosure of a mortgage, trust indenture or the termination or foreclosure of a contract for deed wherein title is vested in the mortgage, beneficiary or original seller on a contract, or repossession for any reason of a lot or unit sold under a contract shall terminate the vendee's membership, whereupon all rights to such membership shall vest in the legal owner.

Section 5. Meetings of Association. The annual meeting of the Association shall occur on the 1st Tuesday of December of each year. Special meetings may be called for any purpose or purposes by the President, or in the absence of the President, by the Vice-President. In addition, a special meeting shall be called by the President and held upon call of twenty percent (20%) of the owners. All meetings of the Association shall require written notice of the meeting to every owner not less than ten (10) days or more than sixty (60) days in advance of the meeting. Notice of annual and special meetings shall be mailed to owners at the address for each owner as provided pursuant to Section 2 of this Article. The presence of members, in person or by written proxy, representing fifty-one percent (51%) of the total votes entitled to be cast at the annual meeting shall constitute a quorum.

If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

At the annual meeting, the members shall review and approve a budget for the next year, shall elect Directors to fill any expired term or vacant position, and shall conduct such other business as shall be reasonable or necessary to carry out the purpose of the Association. The members shall have the authority to set the number of Directors, which number shall not be less than three or more than seven. If the number of directors is an even number and in case of a tie vote during board activities, the President's vote shall be the deciding vote.

Section 6. Annual Meeting of Directors. The annual meeting of the Board of Directors shall be held immediately after the annual meeting of the members. At the annual meeting, the Directors shall elect a President, Vice-President and Secretary-Treasurer for the Association from among the Directors, except that the Secretary-Treasurer may be an Association member who is not a Director.

Section 7. Term and Number of Directors. Except as provided otherwise herein, the members of the Association shall elect the Board of Directors. The Board of Directors shall serve for a term to be set by a simple majority of the membership, which shall not be for less than one year. Each director shall serve until replaced by his or her successor.

Any vacancy on the Board of Directors occurring before the next annual meeting of the members shall be filled through an appointment of a lot owner made by the remaining Directors. The initial Board of Directors shall be appointed by the Declarant, and shall serve a term of three (3) years.

Section 8. Authority of Directors. The Board of Directors shall have the power and responsibility of acting on behalf of the Association and its members as shall be reasonably necessary to carry out the purposes of the Association, including but not limited to take such actions as shall be necessary or reasonable to care for, protect and maintain the roads, trails, boundary fences, drainage easements, common use open spaces; to enforce these Covenants; adopt and impose an enforcement fine schedule, to collect assessments; to set annual and/or special meetings; to contract for association management services and to act in any other matters set forth herein or which may serve the development, including the formation of special improvement districts, either public or private, for such improvements as the Association shall approve.

The Directors shall act by majority vote.

Section 9. Duties of Officers. The duties of each of the offices shall be as follows:

A. *President.* The President shall preside over all meetings of the Association. He or she shall call the membership together whenever necessary. The President shall be the general administrative and executive officer of the Association, and shall perform such duties as may be specified, and exercise such powers as may be delegated to the office of President by the Board of Directors.

B. *Vice-President.* The Vice-President shall exercise the powers of the President in the absence of the President.

C. *Secretary-Treasurer.* The Secretary shall give notice of all meetings of the Association, and shall keep a record of the proceedings of the meetings of the Association. The Secretary shall be authorized to sign on behalf of the Association, all records, documents and instruments when such are authorized to be signed by the Association. The Treasurer shall keep and maintain adequate and correct accounts of the accounts, properties, and business of the Association, including accounts of its assets, liabilities, receipts, disbursements, gains and losses of the Association. The Treasurer shall prepare and report such periodic accountings as shall be required by the Association.

Section 10. Vacancy. A vacancy in any office of the Association shall be filled through an appointment of a lot owner made by the remaining Directors until the next annual meeting or until the successor is duly appointed or elected through a special meeting of the Association.

**ARTICLE III**  
**ANNUAL AND SPECIAL ASSESSMENTS**

Section 1. Assessments. Each owner, whether or not it shall be so expressed in any deed or contract, is deemed to have agreed to these Covenants, and to pay to the Association:

- (1) Annual assessments or changes; and,
- (2) Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided; and
- (3) Enforcement fines as levied by the Board of Directors.

The annual special assessments and enforcement fines, together with interest, costs and reasonable attorney's fees, shall be a charge on the land, and shall be a continuing lien upon the property against which each such assessments and fines are made. Each assessment or fine, together with the interest, costs and reasonable attorney's fees shall be the personal obligation of the owner of such property at the time when the each assessment or fine is due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used to promote the recreation, health, safety, convenience and welfare of the owners, for the improvement, repair and maintenance of roads, easements, trails, open spaces, and for any other purposes, expressed or implied, in these Covenants.

Section 3. Amount and Approval of Assessments. Annual assessments shall be determined by the Board of Directors in an amount reasonably estimated to cover the normal operating expenses of the Association for each year as determined in conformity with standard accounting practices, together with such additional amounts as may, in their reasonable judgment, be necessary to cover any past deficits from operations or to create reasonable reserves for the future cost of operations of the Association.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or other capital improvements on the properties and open space, including fixtures and personal property related thereto, provided that any such assessment shall have the approval of two-thirds (2/3) or more of all of the votes of the members who are present, in person or by proxy, at a meeting duly called for that purpose. Special assessments may be levied to be paid over one or more years. For the sake of clarity, assessments for normal maintenance and repairs shall not require two-thirds (2/3) vote, but shall be governed by Section 3 above.

Section 5. Uniform Rate of Assessment. Annual assessments shall be fixed by the Directors at a uniform rate for each lot, except the Directors may fix a different uniform rate for improved and unimproved lots. The assessments may be collected on a monthly,

quarterly or annual basis, or any other regular basis as shall be determined by the Board of Directors of the Association. Special assessments shall be fixed at the same rate for each lot affected by the special assessments.

Section 6. Purpose of Enforcement Fines. Enforcement Fines may be adopted by the Board of Directors. Such fines may be imposed pursuant to a policy adopted by the Board of Directors. The policy may provide for appropriate notice and right to cure the violation prior to the imposition of the fine. The fine amounts may be increased for repeated violations not cured within the time specified by the policy. The policy shall specify the time and location of each fine payment due. Failure to pay a fine imposed shall become an assessment, which may be a lien on the property of the owner.

Section 7. Date of Commencement of Annual Assessments: Due Dates. Except as herein provided, the annual and special assessments provided for herein shall be due on the date determined by the Board of Directors. The Board of Directors shall fix the amount of the annual assessments against each lot at least thirty days in advance of the due date of each annual assessment, and at least ninety days in advance of a special assessment. Written notice of the annual and special assessments shall be mailed or personally delivered to every member subject thereto, at their last known mailing address.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Upon delivery of the notice of assessment or fine to the owner, the assessment or fine shall be a lien upon the owner's lot until paid. Any assessment and/or fine not paid within thirty days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum, but in no case to exceed the maximum rate permitted under Montana law. The Association may record a notice of lien against the property with the Clerk and Recorder of Gallatin, County, Montana and bring an action at law against the owners personally obligated to pay the same or foreclosure the lien against the property in the same manner as a mortgage on real property. The Association shall be entitled to recover its costs, expenses and reasonable attorneys' fees accrued prior to and in association with the collection of delinquent assessments. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the open space or by abandonment of their lot.

Section 9. Sale or Transfer of a Lot. The sale, transfer or encumbrance of any lot shall not affect the assessment lien or fine, if recorded in the records of Gallatin County, Montana, or the personal liability of the owner responsible for the assessment. No sale or transfer to a third party with actual or constructive knowledge of an assessment shall relieve such new owner from the liability for any outstanding assessments, or from any assessments thereafter becoming due, or from the recorded lien thereof. A person or entity purchasing a lot shall be responsible for checking with the Association for any outstanding assessments against said lot before the closing upon the purchase.

**ARTICLE IV**  
**ARCHITECTURAL GUIDELINES REGULATIONS**

All structures shall be built in conformance with the Design Guidelines & Regulations, a separate document which has been adopted by the Board of Directors to govern the building of any and all structures in the Spanish Meadows Subdivision (the “Design Guidelines”). The Design Guidelines are incorporated by reference herein and are enforceable as if they are a part of this document. The Design Guidelines may be amended pursuant to the provisions set forth in that document.

The procedures for application, consideration and approval of any building are set forth in the Design Guidelines. The Board of Directors shall provide, without cost, a copy of the Design Guidelines then in effect to any requesting owner.

No construction shall commence without the signed approval of the DRC. Each structure shall be constructed in compliance with the Design Guidelines, including but not limited to, location, square footage requirements, color, building materials and all requirements of the Design Guidelines.

All owners are subject to the Design Guidelines and are given notice that (1) their ability to use their privately owned property is limited thereby, and (2) the Board of Directors may add, delete, modify, create exceptions to, or amend the Design Guidelines in accordance with the provisions provided in that document. Each owner by acceptance of a deed acknowledges and agrees that the use, enjoyment, and marketability of his or her property can be affected by this provision and that the Design Guidelines may change from time to time.

**ARTICLE V**  
**LANDSCAPE DESIGN**

All landscaping shall be installed in conformance with the environmental and site guideline regulations section of the Design Guidelines, a separate document, adopted to govern the building of any and all structures in the Spanish Meadows Subdivision. The environmental and site regulations of the Design Guidelines are incorporated by reference herein and are enforceable as if they are a part of this document.

The procedures for application, consideration and approval of any building are set forth in the Design Guidelines.

No landscaping shall be installed without the signed approval of the DRC. Landscaping should begin no later than the beginning of the first growing season after completion of the home and should be substantially completed by the end of the second growing season.

**ARTICLE VI**  
**GENERAL COVENANTS**

Section 1. Hunting. No hunting of, shooting at or harassing of birds, animals or any wildlife will be permitted. Skunks, gophers and rodents may be trapped; however, poison may not be used.

Section 2. Livestock & Pets. No livestock, poultry or other animals, except two (2) commonly domesticated animals such as dogs and cats are permitted on a lot.

All dogs, cats and other pets shall be strictly controlled by their owners so as not to annoy or interfere with the use of the properties by the other owners and to prevent any interference or harassment of wild birds or other wild animals in the subdivision or on surrounding or adjacent properties. Dogs shall be kept on the owner's own property and shall not be allowed to roam free. Cats shall not be allowed outside of the dwelling unit. Cats are to be housed in this manner to insure that they do not prey upon the wild birds and other wild animals, which reside in the open space of the subdivision.

No commonly domesticated animal maintained on a lot, whether owned by the lot owner or not, shall be allowed to make such noise as to cause an annoyance to any other owner of a lot within the subdivision. Upon complaint of annoyance, such as noise, the Association may take any appropriate action to eliminate the annoyance, including contacting animal control authorities and/or seeking injunctive relief from the court prohibiting the animal causing the annoyance from remaining on the lot.

Section 3. Road Maintenance. The Association shall be responsible for road maintenance and snow plowing on the roads within Spanish Meadows. The Association may use the provision of Article III for collecting funds to pay for such road maintenance.

Section 4. Trail Maintenance. The Association shall be responsible for maintenance of trails and all associated trail signage and structures within Spanish Meadows. The Association may use the provision of Article III for collecting funds to pay for such maintenance.

Section 5. Fire Protection. Spanish Meadows, in conjunction with the Central Valley Fire District, developed a fire protection plan, which addressed the fire protection needs and emergency service needs for rural living in Gallatin County. The plan includes the construction and maintenance of a fire protection water source and adequate access for fire protection vehicles. The Association shall be responsible for maintenance of the fire protection equipment within Spanish Meadows. The Association may use the provision of Article III for collecting funds to pay for such maintenance.

Section 6. Neighboring Farming. Lot owners and residents of the subdivision are informed that adjacent uses are likely to be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, smoke, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays, periodic burning and the use of machinery early in the morning and sometimes late into the evening.

Section 7. Noxious Weed Control. Each lot owner shall be responsible for the control of noxious weeds on the owner's lot, whether constructed upon or not. Such weed control shall be in compliance with the Montana County Noxious Weed Control Act (7-22-2116, MCA, and as may be amended).

The control of noxious weeds by the Association on those areas which the Association is responsible and the control of the noxious weeds by individual owners on their respective lots shall be 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 Weed Control District. The Association is responsible for control of state and county declared noxious weeds in Spanish Meadows opens spaces, trails and roadways. The landowner shall be responsible for the control of the state and county declared noxious weeds on his or her own lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 day notice from the Association, the Association may cause the noxious weeds to be controlled. The costs and expenses associated with such weed control and management shall be assessed to the lot and such assessment may become a lien if not paid within thirty (30) days of mailing of such assessment.

Section 8. Irrigation Management Plan. The purpose of this Section is to set forth the Irrigation Water Management Plan for the areas of Open Space within Spanish Meadows.

(a) Declarant hereby transfers to the Association all water rights appurtenant to the real property subject to this Declaration. These water rights are set forth below:

41H 30025723                      Ground Water Certificate

Declarant reserves the right, for a period of up to five (5) years after the date of recording this Declaration, to make additional ground water appropriations and drill additional wells for the benefit of the Spanish Meadows. The Association, acting through its Board of Directors, shall accept assignment of the water rights from Declarant upon transfer of the same and shall assume responsibility for the maintenance, repair, replacement and operation of all wells serving Spanish Meadows.

(b) Declarant shall designate areas within the Open Space for irrigation using the water rights appurtenant to the Spanish Meadows and shall be responsible for the initial installation of irrigation pipeline and equipment necessary for said irrigation.

(c) Irrigation of the Open Space shall be limited to the months of April 15 through November 15 of each year (the "Period of Use"). The Board of Directors shall determine the actual dates within the Period of Use for beginning and ending irrigation. The Board of Directors may discontinue irrigation at any time during the Period of Use if it determines, in its sole discretion, that conditions warrant such discontinuance.

      (d) The Association shall be responsible for the repair, maintenance and replacement of the irrigation pipeline, equipment and wells, as well as all expenses associated with operating the irrigation equipment and wells. Assessments may be levied by the Association for the repair, maintenance, replacement and operation of the irrigation pipeline, equipment and wells in accordance with Article III of these Covenants. The amount reasonably estimated to cover such expenses shall be determined by the Board of Directors at their annual meeting.

(e) There are hereby reserved unto Declarant, so long as Declarant owns any Property in the Spanish Meadows, the Association, and the designees of each, nonexclusive access and maintenance easements upon, across, over and under all of the Properties to the extent reasonably necessary for the purpose of installing, repairing, replacing, and maintaining the irrigation pipeline and equipment for the irrigation of any area of Open Space within Spanish Meadows. The exercise of this easement right shall not unreasonably interfere with the use of any Property, nor shall the holder of this easement be entitled to install any irrigation pipeline or equipment under or through any existing dwelling on a Lot. Furthermore, the Properties immediately adjacent to the areas of Open Space are hereby burdened with a nonexclusive easement for any overspray of water from any irrigation system serving the Open Space. Under no circumstances shall the Association or Declarant be held liable for any damage or injury resulting from overspray or the exercise of this easement.

## **ARTICLE VII** **PROPERTY USES**

Section 1. Prohibited Commercial Use. No residence or other structure erected on the real property which is the subject of these Covenants shall be used for any commercial endeavor or activity including day care or other business type activity, except that home office shall be allowed so long as the home office does not employ persons residing outside of the home and the home office remains subordinate to and ancillary to the residential use.

The above paragraph shall not prevent any artist, artisan, or craftsman from pursuing his or her artistic calling upon the lot or dwelling unit owned by such artisan, if such artist, artisan, or craftsman uses such lot or dwelling unit for residential purposes, is self-employed and has no employees working on such lot or in such dwelling unit, and

does not advertise any product or work or art for sale to the public upon such lot or dwelling unit and does not create a nuisance to surrounding owners.

Section 2. Storage of Equipment. No lot or adjacent street, roadway or alleyway shall be used for the outside storage of any inoperable vehicle, machinery, equipment or commercial vehicles. No lot shall be used for the outside storage of any articles, vehicles, equipment or other personal property of any quantity in excess of the immediate needs and personal use of the owner of a lot or the occupants and guests thereof as the case may be, and shall not interfere with the use or enjoyment of neighboring lots.

Section 3. Commercial Vehicles. No lot or road way shall be used for the outside parking or storage of any commercial trucks, large commercial vehicles or other heavy equipment, except as may be necessary during reasonable periods of construction. Nothing herein shall prohibit the storage of such vehicles within the confines of a garage approved by the DRC.

Section 4. Recreational Equipment. All campers, trailers, motor homes, boats, and all other recreational equipment and the like shall only be parked on the owner's lot. In no event shall such equipment be parked on roads, nor shall any equipment be parked such that it is visible from the streets or adjacent lots for a period exceeding 3 days in any 30 day period. Storage or location of such equipment and vehicles, in excess of the requirements of this section, shall occur in an enclosed garage or other screened area with such garage or screen having been pre-approved in writing by the DRC.

Section 5. Storage of Waste Bins. All waste bins, garbage cans or other forms of trash receptacles shall at all times be stored within an enclosed area, such as a garage, except that such receptacles may be placed outside for a reasonable period of time on trash collection service days (and only on such days).

Section 6. Offensive Activity. No noxious odors or offensive activity shall take place upon any portion of the above-described property, nor shall anything be done thereon which may be, or may become, an annoyance to the neighborhood. No fireworks of any kind may be discharged on the above-described property, except as may be approved by the Board of Directors. No firearms shall be discharged on the above-described property.

Section 7. Leasing. The leasing of any lot from time to time by the Owner thereof is permitted, subject, however, to all of the restrictions as may be adopted from time to time by the Association.

Section 8 No Subdividing of Lots. No Lot may be further subdivided.

**ARTICLE VIII**  
**INSURANCE AND CASUALTY LOSSES**

**Section 1. Association Insurance.**

A. The Association, acting through its Board of Directors or its duly authorized agent, shall obtain appropriate insurance coverage for all Association real and personal property, and any personal or real property owned by another person or entity, including Declarant, for which it has responsibilities of maintenance, upkeep, repair or any other legal obligation.

B. The Association shall also obtain an appropriate commercial liability insurance policy on the open space, insuring the Association and its members for damage or injury caused by the negligence of the Association or any of its members, employees, agents, or contractors while acting on its behalf.

**Section 2. Owners' Insurance**

A. By virtue of taking title to a lot, each Owner covenants and agrees with every other Owner and with the Association to carry blanket "risks of direct physical loss" property insurance on the structures on its lot, providing full replacement cost coverage less a reasonable deduction.

B. Each Owner further covenants and agrees that in the event of damage to or destruction of structures on a lot, the Owner thereof shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved by the DRC in accordance with these covenants and the Design Guidelines. Alternatively, the Owner shall clear the lot of all debris and ruins and maintain the lot in a neat and attractive landscaped condition consistent with the community-wide standard. The Owner shall pay any costs which are not covered by insurance proceeds.

**ARTICLE IX**  
**OPEN SPACE AND WILDLIFE**

**Section 1. Purpose.** Spanish Meadows is designed to protect two of Montana's greatest assets: open space and wildlife while integrating appropriate residential uses into the land.

**Section 2. Open Space Management.** The Open Space shall be managed in conformance with the following goals:

- a) Maintain or improve the condition of the Open Space in order to enhance the quality of life and property values of the Spanish Meadows residents;

- b) If the Board of Directors elects to do so, purchase and install recreational playground type equipment. If such equipment is purchased, then see that the equipment is highly functional, aesthetic and safe;
- c) Maintain any structures on the Open Space (*e.g.*, fire ponds, bridges and benches)
- d) Establish and maintain tasteful signage to advise visitors of leash laws, private property and other important information;
- e) Minimize wildfire hazards;
- f) Maintain a contract with a professional landscape and maintenance company for mowing, irrigation, tree and shrub management; and
- g) Maintain trails.

Section 3. Mandatory Requirements. The Open Space within Spanish Meadows as designated on a final plat shall be preserved in perpetuity. The Board, among its other duties, shall establish assessments for the taxes, insurance, and maintenance of all open space, roads, and trails under the control and authority of the Association.

The Association shall be responsible for liability insurance, local taxes and maintenance of recreation and other facilities in the Open Space areas. The assessments levied by the Board for the maintenance, upkeep, repair and operation of Open Spaces like all other assessments, become a lien on each lot within the Spanish Meadows. The Board, at its discretion, may adjust the assessments to meet the changing needs of the community and the areas serving the community.

Section 4. Nuisance. No Owner, guest or invitee may use or occupy the open space, trails, roads, or any lot in such a manner as to disturb or interfere with the peaceful use, occupancy or enjoyment of any other owner, guest or invitee of Spanish Meadows Subdivision.

Section 5. Wildlife. (a) *Human/Wildlife Interaction Mitigations.* Residents and guests on the property shall not harass wildlife and should avoid areas of wildlife concentration. Loud, offensive, or other behavior, which harasses or frightens wildlife in common areas, is prohibited. Indiscriminate use and disturbance of wildlife refuge is discouraged. No snowmobile, motorcycles or similar device shall be operated on any lot or off of paved roads within Spanish Meadows for recreational purposes for the purpose of owners' association maintenance of Open Spaces. (b) *Damage Claims.* Owners acknowledge that wildlife damage to landscaping will undoubtedly occur since the property is located within wildlife habitat. Owners shall accept that risk and shall not file claims against the Owner's Association or any other governing body for such damages. (c) *Wildlife Habitat Enhancement.* Wildlife habitat improvements and enhancements are controlled by the DRC. Such activities, if any, shall be developed by a knowledgeable professional and submitted to the DRC for approval. Any activities of this nature shall be coordinated, if required, with the Montana Department of Fish, wildlife & Parks, soil Conservation Service, US Army Corps of Engineers and other applicable City, County, State and

Federal regulations. (d) *Non-Native Animal Species*. Introduction into the wild of any non-native animal species which might compete with, or harm native species and result in their decline is prohibited. This includes domestic waterfowl in common or private aquatic areas. (e) *Taking of Wildlife*. The taking of any and all wildlife species by any means within the property is prohibited except for the control of individual animals known to be causing unacceptable damage to property (e.g. a beaver damming an irrigation ditch or a porcupine identified as girdling planted trees). No hunting or shooting of firearms shall be allowed on any lot or common areas. (f) *Artificial Feeding*. Artificial feeding of moose, deer, elk, fox, coyote, black bear or mountain lion anywhere on the property is prohibited. Artificial feeding greatly enhances disease infection and transmission potential, tends to lead to accelerated habitat degradation on feed sites, and attracts or “short stops” wildlife en route to natural winter ranges and causes them to rely on humans when it is not necessary.

## **ARTICLE X**

### **WATER SUPPLY AND WASTEWATER TREATMENT AND DISPOSAL**

Section 1. Purpose. Spanish Meadows is designed to protect Montana’s groundwater while integrating appropriate residential uses into the land.

Section 2. Water Supply. Each residential building shall provide its own water supply system and such system shall conform to all applicable standards of the State of Montana, Gallatin County, or any other regulatory agency. Domestic water supplies shall be specifically regulated as follows:

- a) Owners are encouraged to use water saving appliances and devices in the design of the residence.
- b) Home site landscape irrigation areas shall be limited to designated landscape areas adjacent to homes to reduce the water consumption demand from the wells.
- c) Water wells shall be constructed to the following standards:
  - 1) Water wells shall have un-perforated casing to a minimum depth of 25 feet from the surface of the ground.
  - 2) Permanent steel water well casing pipe shall be in accordance with ARM 36.21.640 and shall extend above the ground surface at least 18 inches, equipped with a drive shoe when driven, and have all joints in accordance with ARM 36.21.642.
  - 3) Plastic well casing shall be in accordance with ARM 36.21.645 and ARM 36.21.646. A steel surface casing is required to the minimum depth of 25 feet and grouted to seal the upper casing to prevent surface water intrusion.
  - 4) Water well packers shall be required of material that will not impact taste, odor, toxic substance or bacterial contaminant to the well water.

- 5) Grouting: all permanent well casing shall be sealed in accordance with ARM 36.21.649.
- 6) Upper Terminal Construction: Permanent casing for all ground water sources shall be in accordance with ARM 36.21.647. Where a well house is constructed, the floor surface shall be at least 6 inches above the final ground elevation.
- 7) Water Well Development: Every well shall be developed in accordance with ARM 36.21.653.
- 8) Capping Requirements: Temporary capping requirements shall be in accordance with ARM 36.21.661.
- 9) Abandonment Procedure: All wells that have no further use shall be abandoned in accordance with ARM 36.21.670 through ARM 36.21.678.
- 10) Well pumps, discharging piping and appurtenances: The top of the casing shall be effectively sealed against the entry of water under all conditions of vibration or movement of conductors or cables for submersible pumps. Discharge piping shall be protected from freezing. Pitless units and pitless adapters shall be shop fabricated. Provisions shall be made for venting the well casing to atmosphere. Venting shall be provided by factory manufactured vented well cap or fabricated vent assembly. All vents shall be screened with corrosion resistant material to prevent entry of insects and oriented so as to prevent entry of rainwater. Fabricating vents shall terminate in a down-turned position, at or above the top of the casing or pitless unit on a minimum 1 ½" diameter pipe opening covered with a 24 mesh screen. The pipe connecting the casing to the vent shall be of adequate size to provide rapid venting of the casing. Fabricated vent assemblies shall be of such design and strength as to be vandal-resistant.
- 11) Wells shall be located as shown on the approved "Septic System Lot Layouts" drawing, recorded with the subdivision plat, or at another location approved by the Gallatin County EHS.

Section 3. Wastewater Treatment and Disposal. Each residential lot shall provide its own sewage disposal system at the owners' sole expense, and such sewage disposal system shall conform to all applicable standards of the State of Montana, Gallatin County, or other regulatory agency. No outdoor toilets shall be permitted, except for periods of construction as required by Gallatin County.

The individual septic tanks, effluent pump and force mains, and pressure dosed drain field systems have been sized for four bedroom homes and specifically located on each lot to meet State requirements. The drain field locations cannot be changed without Gallatin County EHS approval. A permit is required from the Gallatin County EHS office for each septic system.

The effluent pumps, drain field sizes, configuration, location, and specific detail requirements are on file with the plat for each lot.

All septic tanks shall be routinely inspected and pumped as required by the Association. Sewage disposal shall be specifically regulated as follows:

- a) Each septic tank shall be new and have a total volume of 1500 gallons. The dosing tanks shall also be new and have a minimum volume of 500 gallons. The tanks shall be certified leak-free by the manufacturer. The test shall consist of a 24-hour presoaking, followed by a 4-hour test period where the filled tank shall have no measurable water loss. This test shall be completed when the tanks are in place with all backfill in place and compacted.
- b) Type V Portland Cement, resistant to sulfate attack, shall be used in the concrete mix design for the tanks.
- c) An effluent filter shall be built into the tank outlet to prevent sludge from entering the drain field piping system.
- d) The tanks shall be thermally insulated over the top and sides to preserve waste water temperature for optimum storage treatment during the winter season. The insulation shall be high density extruded polystyrene or foil-backed Thermax Insulation Board by Celotex. The minimum insulating value shall be R-8.
- e) The backfill around the tanks shall be compacted to at least the density of the undisturbed soils adjacent to the tank pit. The pipe locations at both inlets and outlets shall be compacted to a greater density to provide support for the piping. Inlet pipes shall be pressure pipes so as to prevent breaking upon settlement of backfill.
- f) Access to each tank shall be extended to grade.
- g) Household hazardous wastes, such as oils, cleaning fluids, or toxic liquids shall not be disposed into domestic septic systems or ground surfaces.

## **ARTICLE XI**

### **TERM, ENFORCEMENT, APPLICABILITY AND CHANGE**

Section 1. Term. The term of the provisions of these Covenants shall be binding from the date of these Covenants and may be modified, altered or amended by the Declarant at the Declarant's sole option during the first five (5) years after recordation, or until seventy-five percent (75%) of the lots in all phases which are the subject of this Declaration are sold (whichever comes first), and thereafter upon agreement signed by the Owners of eighty percent (80%) of the lots in Spanish Meadows Subdivision. Any covenant required as a condition of subdivision approval shall not be altered or amended without the agreement of the governing body – also see Section 8 below.

Section 2. Enforcement. Enforcement of these Covenants shall be by proceedings either at law or in equity against any person or persons violating, or attempting to violate, any Covenant; and the legal proceedings may either be to restrain violation of these Covenants, to recover damages, or both.

Should any lawsuit or other legal proceeding be instituted by the Association or an owner against an owner alleged to have violated one or more of the provisions of these Covenants and should the Association or owner enforcing the provisions of the covenants be wholly or partially successful in such proceedings, the offending owner shall be obligated to pay the costs of such proceeding, including reasonable attorney's fees for all time associated with the action.

Section 3. No Waiver. The failure of Declarant, the Association or an owner, to enforce any Covenant or restriction contained herein shall not be deemed a waiver or in any way prejudice the rights to later enforce that Covenant, or any other Covenant thereafter, or to collect damages for any subsequent breach of Covenants.

The waiver or approval of a variance of a Covenant provision by the Board of Directors, or non-action of the Association or Declarant in the event of a violation of a Covenant by a particular owner or lot, shall not be deemed to delete or waive the Covenant or enforcement thereof as it pertains to other owners or lots.

Section 4. Nonvalidity. Invalidation of any one of these Covenants by judgment or by Court order shall in no way affect any of the other Covenants or provisions, all of which shall remain in full force and effect.

Section 5. Future Conveyances. In any conveyance of the above described real property or of any lot thereon, it shall be sufficient to insert a provision in any deed or conveyance to the effect that the property is subject to protective or restrictive Covenants without setting forth such restrictions and Covenants verbatim or in substance in said deed nor referring to the recording data. All of the above described real property and lots shall be subject to the restrictions and Covenants set forth herein, whether or not there is a specific reference to the same in a deed or conveyance.

Section 6. Breach. A breach of any of the foregoing restrictions or Covenants 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, the Covenants shall be binding upon and shall inure to the benefit of any subsequent owner whose title thereto was acquired by foreclosure, trustee sale or otherwise.

Section 7. Recording of Amendments. After initial five year period, the President or Vice-President shall execute and record the amendment, change or addition with the Clerk and Recorder of Gallatin County, Montana. Any change of these Covenants shall

be effective upon the filing and recording of such an instrument in the office of the Gallatin County Clerk and Recorder. Any change in these Covenants shall not affect existing structures and uses of the lots.

Section 8. Compliance with Gallatin County Commission. Notwithstanding the foregoing, any covenant, condition or restriction which is included herein or in the Design Guidelines may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedure set forth above, and the consent of the governing body of Gallatin County. In this regard, reference is specifically made to the FINDINGS OF FACT AND ORDER OF SPANISH MEADOW SUBDIVISION, dated December 6, 2005, and the requirements which are listed on Exhibit "A" which is attached hereto.

IN WITNESS WHEREOF, Declarant has hereunto set its hand as of the date first written above.

SPANISH MEADOWS DEVLEOPMENT, LLC

By: \_\_\_\_\_  
Its: \_\_\_\_\_

State of Montana )

County of Gallatin )

On this \_\_\_\_ day of \_\_\_\_\_, 2007, before me, the undersigned, a Notary Public of the State of Montana, personally appeared \_\_\_\_\_, being a member of Spanish Meadows Development, LLC, known 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 as of the day and year first above written.

\_\_\_\_\_  
NOTARY PUBLIC for the State of Montana  
Printed Name: \_\_\_\_\_  
My Commission expires \_\_\_\_\_

**EXHIBIT “A”**

**PROVISIONS REQUIRED BY GALLATIN COUNTY**  
**AS ORDERED IN THE FINDINGS OF FACT AND ORDER**  
**OF SPANISH MEADOWS SUBDIVISION**

The Declaration of Protective Covenant and Restrictions for Spanish Meadows Subdivision shall include the following provisions:

- a) The control of noxious weeds by the property owners’ association on those areas for which the association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth under the Montana Noxious Weed Control Act (Section 7-22-2101 through 7-22-2153 MCA) and the rules and regulations of the Gallatin County Weed Control District.

The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after ten days notice from the property owners’ association, the 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 30 days of the mailing of such assessment.

- b) All lot access from County public roads shall be built to the standards of Section 7.G.2 of the Gallatin County Subdivision Regulations.
- c) The property owners’ association shall be responsible for the maintenance of interior subdivision roads.
- d) The property owners’ association shall be responsible for the maintenance of the trails and trail easements.
- e) No structure, including fences shall be constructed within 150 feet of the ordinary high water mark of Dry Creek.
- f) With exception of trails, road right-of-way and ditch easements, the natural vegetation within 10 feet of Dry Creek banks shall be left undisturbed and remain in natural vegetation. Invasive weeds and deadfall may be removed.
- g) All building pads shall be raised eighteen inches above existing ground with sloping such that the drainage is away from the homes. [Note: the County’s

Findings of Fact and Order required a height of one foot. However, the Declarant has increased this requirement by an additional 6 inches to a total of 18 inches as set forth in the Design Guidelines].

- h) Lots 1, 2, 3, 4, 7, and 8 of Block 1 are prohibited from including basements.
- i) Property owners of the subdivision are informed that nearby uses may be agricultural. Property owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into evenings.
- j) Lot owners may not remove water or cause water to be removed from irrigation ditches or other surface water sources, without deeded water rights. With the approval of ditch companies, lot owners shall remove all deadfall from the banks of ditches within their property. Before any maintenance or improvements are performed on the ditches the owner of the water right and the ditch company must give written permission for the work proposed.
- k) All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.
- l) All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for pertinent Seismic Zone.
- m) The artificial feeding of all wildlife and big game shall be prohibited, including providing any food, garbage or other attractant.
- n) Domestic animals (pets) shall be controlled by each property owner and not allowed to roam at large.
- o) Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.
- p) A septic monitoring program shall be established and managed by the property owner's association that includes a provision for fees to provide inspections by qualified personnel and requirements for having each septic system pumped every three years.

- q) Property owners, through the property owner's association, are required to contribute a proportionate share of dust abatement on the unpaved portion of Monforton School Road between Baxter Lane and Huffine.