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AMENDED
DECLARATION OF PROTECTIVE RESTRICTIONS,
COVENANTS AND CONDITIONS

THIS DECLARATION, made this 24th day of March, 1982, by E. M. SMALL, R. M. SMALL, and SKIP BUCK, hereinafter called Declarants:

WITNESSETH:

WHEREAS, Declarants are the owners of more than two-thirds of all of the real property, as described in Exhibit "A" hereto attached, and desire to place restrictions, covenants and conditions upon said real property for the use and benefit of themselves as present owners and for the future owners thereof.

WHEREAS, the following restrictions, covenants and conditions shall only be placed on said premises and the owners and contract purchasers shall be charged with the following restrictions, covenants and conditions; and

WHEREAS, the said real property described shall be known as Riverview Orchards--Bitterroot Vista.

NOW, THEREFORE, Declarants hereby make the following declarations as to limitations, uses and restrictions to which the specifically above-named tracts or any part thereof constituting said real property may be put, hereby specifying that such declarations shall constitute covenants to run with the land specified herein and shall be binding on all parties and persons claiming under them, for the benefit of and limitations on all future owners in said Riverview Orchards--Bitterroot Vista, and shall inure to the benefit of and be binding upon each successor in interest of the owners thereof, and further declare that all the specified property above described shall be held, used, sold and conveyed subject to the following restrictions, covenants and conditions and easements for the purpose of enhancing and protecting the value of the real property as a highly desirable rural subdivision, to prevent nuisances, to prevent the impairment of the attractiveness of the property, and to maintain the desired tone of the subdivision, thereby securing to each site owner the full benefit and enjoyment of his home.

ARTICLE I. DEFINITIONS

Section 1. "Association" shall mean and refer to Riverview Orchards--Bitterroot Vista Homeowners Association, a proposed Montana non-profit corporation, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinbefore described, namely, Riverview Orchards--Bitterroot Vista, a Ravalli County subdivision and such other real property as is now or may hereafter be brought within the jurisdiction of the Association.

Section 3. "Lot" shall mean and refer to any tract of land specified herein as subject to this Declaration and as shown upon any recorded subdivision of properties with the exception of any dedicated street, road easements, irrigation easements, drainage easements, public utility easements, and common area.

Section 4. "Member" shall mean and refer to every person or entity who is a member of the Association.

Section 5. "Owner" shall mean and refer to every person or entity who is a record owner of any Lot which is a part of the Properties, including buyers under a contract for deed, excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Common Area" shall mean and refer to all real property owned by the Association for the common use and enjoyment of the Members of the Association.

Section 7. "Declarants" shall mean and refer to E. M. Small, R. M. Small, and Skip Buck, their heirs, successors or assigns, if such heirs, successors or assigns should acquire the entire interest of said properties.

Section 8. "Declaration" shall mean and refer to the Amended Declaration of Protective Restrictions, Covenants, and Conditions of Riverview Orchards--Bitterroot Vista.

ARTICLE II. ANNEXATION

The Association may, at any time, annex additional residential properties that border property within the jurisdiction of the Association, and so add to its membership; provided, that such annexation shall have the assent of two-

thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly and properly called for the purpose and the assent of the owner of the bordering property.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership: Every person or entity who is the owner of a fee or the equitable title, when purchasing under a contract for deed, of a Lot which is subject by covenants of record to assessment by the Association, including buyers under a contract for deed and contract sellers, shall be a Member of the Association. For the purpose of determining membership, such ownership shall be deemed to have vested upon the recording of a duly executed deed or a notice of purchaser's interest to the grantee or vendee with the clerk and recorder of Ravalli County, Montana. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of the Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.

Section 2. Voting: The Association shall have two clases of voting membership:

Class A. Class A Members shall be all owners, with the exception of the Declarants, and 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 determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Members shall be the Declarants and shall be entitled to three votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) On December 31, 1989.

Section 3. Suspension of Voting Rights: The voting rights of any Member shall be suspended by action of the Board of Directors for any period during which any assessment against said Member's Lot remains unpaid. The Board shall suspend the voting rights of any Member, for a period not to exceed sixty (60) days, if the Member, his family, or any guest, shall have violated any rule or regulation of the Association regarding the use of any property or conduct with respect thereto.

ARTICLE V. PURPOSES

The Association shall represent the Owners and serve them in accordance with the provisions of this Declaration.

Its services may include, but shall not be limited to architectural control and providing such other services and representation as are authorized in accordance with the provisions of this Declaration.

ARTICLE VI. ASSESSMENTS

Setion 1. Assessment Obligation: The Declarants for each Lot owned within the Properties covenant to, and each other Owner of any Lot by acceptance of a deed or contract for deed of any Lot within the Properties, whether or not it shall be so expressed in said deed or contract, is deemed to covenant and agree to, and shall be a member of, and subject to the rules of the Association. The assessments in this regard shall be paid promptly when the same becomes due, as hereinafter provided, and in the event of Declarants' or Owner's failure to pay the same promptly when due shall constitute a lien upon the above described premises and the same may be enforced in equity as in the case of any lien foreclosure. The Board of Directors of the Association may duly record said lien upon and against any such Lot, and such recording thereof shall constitute notice of said lien to all persons, including successors in title, who shall take said Lot subject to that recorded lien.

Section 2. Purpose of Assessments: The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the properties and in particular for the improvement of the Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Property.

Section 3. Rate of Assessments: The Board of Directors of the Association may, after consideration of certain maintenance costs and future needs of the Association, fix the annual assessment each year at a uniform rate per Lot.

Section 4. Annual Assessments: Assessments shall be fixed annually by the Board of Directors of the Association. Until January 1, 1990, the maximum monthly rate shall be Five Dollars ($5.00) per Lot.

(a) From and after January 1, 1990, the maximum annual assessment may be increased effective January 1st of each year in proportion to the annual rise, if any, in the Consumer's Price Index as published for the preceding month of July by the United States Department of Labor.

(b) From and after January 1, 1990, the maximum annual assessment may be increased above that established by the Consumer's Price Index formula or decreased to a different basis (subject to subsequent adjustment by the Consumer's Price Index formula) provided that any such change shall have the assent of two-thirds (2/3) of each class of Members who are voting in person or by proxy at a meeting duly and properly called for this purpose. These limitations shall not apply to any change in the assessments incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation, nor shall these limitations apply to any special assessments as hereinafter mentioned.

(c) After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessments at an amount not in excess of the maximum allowable.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for that purpose.

Section 6. Notice and Quorum for Any Activity Authorized Under Section 4 and 5: Written notice of any meeting called for the purpose of taking any action authorized under Section 4 and 5 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called the presence of Members or proxies entitled to cast sixty percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, 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.

Section 7. Assessment Procedures: The Board of Directors of the Association is authorized to make the initial assessments at such time as it determines appropriate. Such board shall fix the amount of assessments against each Lot and send written notices to every Owner at least thirty (30) days in advance of the due date. The payment of assessment installments shall be made at such intervals as are established by the Board of Directors. The Association shall upon demand at any time furnish a certificate in writing signed by any authorized officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Non-Payment of Assessment: Any assessments or installment payments or assessments which are not paid when due shall be delinquent. If not paid within thirty (30) days after the due date, the amount shall bear interest from the date of delinquency until paid at the rate of twelve percent (12%) per annum. The Association may bring an action at law or in equity to collect the amount of the assessment, by a personal action against the delinquent Owner and by foreclosure of the line against said Lot, together with interest, costs and reasonable attorney's fees for such action. The Board may also suspend all voting rights as hereinabove mentioned.

Section 9. Subordination of the Lien to Mortgages: The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not effect the assessment lien. However,

the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceedings in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property: The following property subject to this Declaration shall be exempt from the assessments created herein.

(a) All properties dedicated to and accepted by public authority or agencies;

(b) All properties owned by the Association, including the said Common Area; and

(c) All properties owned by charitable organizations exempt from taxation by the laws of the State of Montana.

However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VII. PROTECTIVE COVENANTS

The following protective covenants are designed to provide a uniform plan for the development of the Properties.

Section 1. All Lots in the above-described property shall be used for residential purposes only. No business, trade, manufacture or other commercial activity shall be conducted thereon. All Lots in the above-described property shall be five (5) acres or more in size and shall never be subdivided into parcels of less than five (5) acres.

Section 2. No building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to, and approved in writing, as to harmony of external design and location in relation to surrounding structures and topography, by the Board of Directors of the Association, or by an Architectural Control Committee composed of three or more representatives appointed by the Board. In the event said Board, or its designated Committee, fails to approve or disapprove such design and location within thirty (30) days

after said plans and specifications have been submitted to it, approval will not be required and this article will be deemed to have been fully complied with.

Section 3. No building shall be erected, altered, placed or permitted to remain on any Lot other than a single family dwelling, duplex, or private garage, and related outbuildings. All such dwelling houses, buildings or structures shall be completed as to external appearances within six months after commencement of construction. No structure other than a fully completed residence shall be occupied. No outbuilding, garage, shed, tent, camping trailer, basement or temporary building shall be used for permanent or temporary residence purposes.

Section 4. No building shall be located on any Lot closer than seventy-five (75) feet to any street or roadway easement nor closer than fifteen (15) feet to any property line. The Architectural Control Committee shall have exclusive control and approve all building sites as hereinafter provided and the right to grant, in its sole discretion, a variance to the fifteen (15) foot setback when necessary.

Section 5. No advertising signs, bill boards or unsightly objects shall be erected, placed or permitted to remain on any Lot except those that are approved in writing by the Architectural Control Committee.

Section 6. Each property Owner shall provide exterior maintenance. The premises, improvements and appurtenances shall be maintained in a safe, clean, neat and orderly condition. No rubbish or other waste shall be allowed to accumulate on the property. All containers for the storage and disposal of garbarge shall be kept in a clean and orderly condition. No refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon.

Section 7. Only normal family pets, 4-H project animals and cattle, horses and poultry may be kept on the premises. No swine or goats shall be kept on any portion of said premises. No large scale agricultural operations such as feed lots, dairy herds or poultry farms shall be allowed to operate on the premises. Such pets and animals, as allowed, shall be confined within the property of their owner and shall not be permitted to become a nuisance or annoyance to neighbors. All pets and animals shall be kept within the Lot of the property owner.

Section 8. The premises shall not be utilized for communal living and no noxious or offensive activities shall be carried on or permitted on any Lot; nor shall the property be used in any way which may endanger the health or safety of, or unreasonably disturb the neighborhood.

Section 9. All water systems and sewage disposal systems must be located and constructed in accordance with the requirements, standards and recommendations of the appropriate state and county governmental authorities.

Section 10. No trucks exceeding One Ton capacity or other unsightly vehicles shall be parked or allowed to remain in said Properties unless stored in a garage or completely screened from view by screening as is approved by the Architectural Control Committee.

Section 11. Certain access routes and roads within the Properties have been estabished by easement and are not dedicated. Also, certain easements for public utilities have been established. No fence or other obstruction shall be built upon any easement thereon.

Section 12. Roads shall be dust oiled as and when required by local sanitary regulations.

Section 13. No inoperative junk vehicles shall be permitted to remain on the property.

Section 14. The Declarants have caused survey monuments to be placed on the corners of each Lot. It shall be the responsibility of the Owner of each Lot to provide for the immediate professional replacement of any survey monument that is removed or becomes lost or obliterated from his Lot.

Section 15. No wild bird or animal shall be trapped, hunted or killed within the Properties, except for the protection of life, limb or to prevent unreasonable property damage.

Section 16. There shall be no fires started on any Lot without adequate on-site supervision necessary to protect the other Lots. All burning shall be done according to the regulations promulgated by the Association. Any Owner who fails to control any fire he has started which damages another's property shall be liable for all damage caused by said fire.

Section 17. All outdoor yard lights, including mecury vapor lights, shall be limited to one per Lot and no such light shall be erected, placed or altered until its location has been approved by the Architectural Control Committee.

Section 18. All irrigation on the Properties shall be accomplished by use of sprinkling systems which comply with all governing laws and regulations relating to water supply, sanitation and sewage disposal.

Section 19. All access driveways from the private developed roads within the Properties to the dwelling site shall be graveled with a minimum width of ten (10) feet.

Section 20. Pre-engineered homes and all modular homes placed and erected on a Lot within the Properties shall be placed and erected upon a concrete foundation, as approved by the Architectural Control Committee. All homes must conform to F.H.A. minimum building specifications or with the approval of the Architectural Control Committee. All building will conform to the protective covenants. Mobile homes will not be allowed.

ARTICLE VIII: ENFORCEMENT

These covenants may be enforced by the Declarants, the Association or any Owner of real property in the subdivision, by an appropriate proceeding at law or in equity, and may include proceedings to enjoin the violation and recover damages. Invalidation of any one of the restrictions shall in no way affect other provisions which shall remain in full force and effect. Failure to enforce any provisions shall not be deemed a waiver of the right to do so thereafter.

ARTICLE IX: TERM

The covenants shall be binding until January 1, 1998, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by the Owners of a majority of the Lots in the subdivision has been recorded agreeing to change the covenants in whole or in part.

ARTICLE X. AMENDMENT

These covenants may be amended by an instrument signed by the Owners of three-fourths (3/4) of the Lots in the subdivision which has been recorded, agreeing to such amendment.

ARTICLE XI. SEVERABILITY

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

IN WITNESS WHEREOF, the Declarants have executed this instrument this 24 day of March, 1982.

E. M. Small

R. M. Small

Skip Buck

STATE OF MONTANA)
)ss.
County of Missoula)

On this 24 day of March, 1982, before me, the undersigned, a Notary Public for the State of Montana, personally appeared E. M. Small, R. M. Small, and Skip Buck, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they each executed the same.

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

Cheye Ann Butler
Notary Public for the State of Montana
Residing at Missoula, Montana
My Commission expires: 8-14-85

(SEAL)

State of Montana, County of Ravalli:
Recorded [illegible] at 12:55 P.M. Book 161 Page 742
[illegible] Clerk & Recorder By [illegible] Deputy
Fee $ 7.00 Return to [illegible]

EXHIBIT "A"

CERTIFICATE OF DEDICATION

WE, EDWARD M. SMALL, JOHN H. BUCK and ROBERT M. SMALL, do hereby certify that we have caused to be surveyed and platted into lots, streets, and public easements, as shown on the attached plat, the following tract of land:

Lots 3 through 7 and 18 through 33, Block 2; Lots 1 through 16, and Lots 18 through 29, Block 3; Lots 1 through 5, and Lots 19 through 22, RIVERVIEW ORCHARDS, a recorded subdivision in the south one-half (S 1/2) of Section 5, the south one-half (S 1/2) of Section 6, Section 7, and Section 8, Township 10 North, Range 19 West, Principal Meridian, Ravalli County, Montana, being further described as follows:

Beginning at the westerly corner common to Lots 2 and 3, Block 2, RIVERVIEW ORCHARDS, a recorded subdivision in Ravalli County, Montana; thence, S.89°56'14"E., 1320.01 feet along the lot line common to Lots 2 and 3; thence, N.00°01'54"E., 809.83 feet along the westerly boundary of Lots 32 and 33; thence along the northerly boundary of RIVERVIEW ORCHARDS as follows: S.68°07'53"E., 283.55 feet; S.89°12'13"E., 933.56 feet; S.69°03'04"E., 142.47 feet; S.78°36'15"E., 450.39 feet; S.58°01'40"E., 412.04 feet; S.67°11'20"E., 417.46 feet; S.76°25'49"E., 188.62 feet; N.80°40'59"E., 672.42 feet; S.81°28'20"E., 663.26 feet; S.75°07'02"E., 303.14; N.87°40'25"E., 222.73 feet; S.75°05'10"E., 363.75 feet; continuing, S.80°56'00"E., 499.18 feet; S.78°34'50"E., 514.99 feet; N.84°18'35"E., 716.71 feet; and, S.73°11'58"E., 148.45 feet; thence, S.00°03'40"W., 1504.35 feet along the westerly boundary of Block 5 to the northerly boundary of the Reserved Parcel as shown on original plat of RIVERVIEW ORCHARDS: thence along said northerly boundary, N.89°53'14"W., 121.12 feet; and S.00°16'40"W., 23.72 feet to a point on the southerly right-of-way of the Eight Mile Road; thence along said Eight Mile Road, N.89°56'57"W., 2559.49 feet to a point on the easterly right-of-way of the county road shown on the original plat of RIVERVIEW ORCHARDS; thence along said county road and along the westerly boundary of Lots 6 through 12, Block 4, S.00°02'04"W., 2532.92 feet; thence, N.71°25'48"W., 42.19 feet; thence, N.00°02'04"E., 209.96 feet along the easterly boundary of Lot 17, Block 3; thence, N.89°57'18"W., 1319.99 feet along the southerly boundary of Lot 18, Block 3; thence, S.00°03'53"W., 876.85 feet along the easterly boundary of Lots 14, 15, and 16 to the southerly boundary of said RIVERVIEW ORCHARDS; thence along said southerly boundary S.69°16'13"W., 180.39 feet; S.82°48'13"W., 309.37 feet; S.49°13'13"W., 224.99 feet; S.82°17'13"W., 185.58 feet; continuing, S.54°43'13"W., 265.39 feet; and, N.79°58'47"W., 318.88 feet to the easterly boundary of Block 2, RIVERVIEW ORCHARDS; thence, N.00°05'13"E., 589.96 feet along the easterly boundary of Lot 17, Block 2 to the intersection with the lot line common to Lots 17 and 18; thence, N.89°56'06"W., 1319.60 feet; thence, N.00°04'50"E., 383.21 feet along the westerly boundary of Lot 18 and a portion of Lot 19; thence, N.89°10'38"W., 15.06 feet along said westerly boundary of Lot 19; thence, N.00°38'54"E., 1312.58 feet along the westerly boundary of Lots 19, 20, 21, 22 and a portion of Lot 23; thence, S.89°08'58"E., 2.06 feet to the southeast corner of Lot 11, Block 2; thence along the common boundary of Lots 8, 9, 10, 11, 23, 24, 25, and 26 of Block 2, N.00°04'50"E., 1273.39 feet to the northerly corner common to Lots 8 and 26, Block 2; thence along the northerly boundary of Lot 8, Block 2, N.89°57'34"W., 1319.93 feet to the westerly boundary of Block 2, RIVERVIEW ORCHARDS; thence along said westerly boundary, N.00°02'24"E., 50.00 feet; thence, N.00°01'44"E., 1650.19 feet to the point of beginning. According to survey data, monuments and easements as shown on Amended Subdivision Plat No. 344, and containing 617.9 acres, more or less.

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