

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
RIVERFRONT TRAILS

This declaration, made this ____ day of _____, 20____, by Tollefson Properties, LLC., a Montana limited liability company of 15311 Tyson Way, Frenchtown, MT 59834, hereinafter called the "Declarant."

RECITALS

- A. The undersigned, representing real property situated in The City of Missoula, Montana, as set forth on the final plat of Riverfront Trails as filed in the office of the Missoula County Clerk and Recorder and shown on the attached Exhibit A (the "Subdivision").
- B. Declarant desires to place beneficial covenants, conditions, and restrictions upon the real property within the plat of the Subdivision for the use and benefit of Declarant and for the use, benefit, and protection of the future owners thereof.

NOW, THEREFORE, the Declarant hereby declares that all real property within the Subdivision as described above shall be held, conveyed, and sold subject to the following COVENANTS, CONDITIONS, and RESTRICTIONS, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property by providing a reasonably uniform plan for its development as a desirable development. These Covenants, Conditions, and Restrictions shall run with the Real Property and shall be binding upon all the parties having or acquiring any right, title, or interest in the Real Property, or any part thereof, and shall inure to the benefit of and be binding upon each successor in interest to the Owner thereof.

ARTICLE I. DEFINITIONS

- 1. Declarant. "Declarant" shall mean and refer to Tollefson Properties, LLC., and successors and assigns if such successors or assigns should acquire a majority of the undeveloped Lots from the Declarant for the purpose of development. The conveyance of a single Lot shall not be deemed a transfer of any Declarant or development rights identified herein, and certain rights or privileges may be reserved to Declarant and not to all Owners.

2. Declaration. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions, including subsequent amendments as provided for herein.
3. Lot. "Lot" shall mean and refer to any plot of land designated as a Lot on the face of the recorded plat for Riverfront Trails, and exclusive of any common area or roadway as depicted on said plat.
4. Owner. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of any Lot which is part of the plat, including buyers under a contract for deed, but excluding those having such interest as merely security for the performance of an obligation.
5. Real Property. "Real Property" shall mean and refer to that certain Real Property described in the Recitals, above, and commonly known as the plat of Riverfront Trails.

ARTICLE II. PROTECTIVE COVENANTS

The following protective covenants are applicable to the above-described Real Property and are designed to provide a uniform plan for the development of the Property. They shall constitute a covenant running with the land for each Lot, parcel, common area, or roadway within the property.

Section 1. Land Use and Building Types. All lots may be used for any purpose consistent with the uses permitted by the Riverfront Trails Neighborhood Character Overlay as approved by the City of Missoula.

Section 2. Temporary Structures. No mobile homes shall be placed on any Lot. No temporary or mobile structure including, but not limited to, trailers, mobile homes, recreational vehicles, motor homes, campers, boats, basements, tents, shacks, garages, barns, or auxiliary buildings may be used at any time as a residence, either temporarily or permanently, except during construction.

Section 3. Lighting. All exterior lighting shall meet City of Missoula standards.

Section 4. Weed Control. Lot Owners shall revegetate any ground disturbances created by construction or maintenance activities with beneficial species at the earliest appropriate opportunity after construction or maintenance is completed. Owners shall maintain their Lots in compliance with the Montana Noxious Weed Control Act, the Missoula County Noxious Weed Management Plan, and the Riverfront Trails Weed Management and Revegetation Plan, appended to these covenants, conditions, and

restrictions. The Declarant is responsible for weed management on all undeveloped Lots until transfer to Owners.

Section 5. Utilities. All utilities shall be installed underground to the fullest extent possible.

Section 6. Easements. Easements for installation and maintenance of utilities are reserved as shown on the final plat. No building or structure shall be erected, placed, or permitted to remain on such easements.

Section 7. Animals. Only domestic pets such as dogs and cats shall be permitted on the Lots. All animals shall be kept within the Owner's Lot unless leashed or otherwise under the immediate control of the owner. No cows, pigs, chickens, sheep, goats, or other livestock shall be permitted on the Lots.

Section 8. Garbage. No Lot shall be used as a dumping ground, nor shall any rubbish, trash, garbage, or other waste be allowed to accumulate except in sanitary containers which shall be emptied on a weekly basis.

Section 9. Exterior Maintenance. Each Owner shall provide exterior Lot and structure maintenance. Maintenance shall include painting and repairing the structures and caring for the Lot and landscaping to preclude noxious weeds.

Section 10. Junk Vehicles. Motor vehicles unable to move under their own power shall not be left on any Lot, driveway, or roadway for more than seventy-two hours.

Section 11. Radon Mitigation. The EPA has designated Missoula County as having a high radon gas potential (Zone 1). Therefore, the Missoula City-County Health Department recommends that all new construction incorporate radon resistant construction features.

Section 12. Wildlife. Homeowners and residents must accept the responsibility of living with wildlife (LWW) and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food and other potential attractants. Homeowners must be aware of potential problems associated with the possible presence of wildlife such as deer, black bear, mountain lion, coyote, fox, skunk, and raccoon. Contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for information that can help homeowners "live with wildlife." Alternatively, see FWP's web site at <http://fwp.mt.gov> for LLW information.

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their pets and property, and the wildlife that Montanans value.

- a. There is potential for **vegetation damage by wildlife, particularly from deer** feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Landowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems.
- b. **Landscaping** comprised of native vegetation is less likely to suffer extensive feeding damage by deer than non-native plants. Planting native flowering plants will benefit pollinating insects, and native shrubs and trees produce favorable food resources and nesting sites for a variety of bird species. Landscape plants can often spread beyond the original planting site, so using native plants also avoids problems with non-native plants spreading in nearby open areas.
- c. **Gardens and fruit trees** can attract wildlife such as deer and bears. Keep produce and fruit picked and off the ground, because ripe and rotting vegetable material can attract bears and skunks. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. Netting over gardens can help deter birds from eating berries.
- d. **Do not feed wildlife** or offer supplements (including salt or mineral blocks), attractants, or bait for deer or other wildlife, including during the winter. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission among wildlife. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (§ 87-6-216, Montana Code Annotated [MCA]) to purposely or knowingly attract any ungulates (deer, elk, etc.), bears, mountain lions or wild turkeys with supplemental food attractants (any food, garbage, or other attractant for game animals). Also unlawful is purposely or knowingly providing supplemental feed attractants in a manner that results in an artificial concentration of game animals or wild turkeys that may potentially contribute to the transmission of disease or that constitutes a threat to public safety. Finally, homeowners must be aware that deer can attract mountain lions to an area.
- e. **Pets** should be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and/or kill big game and small birds and mammals.

Under current state law it is illegal for a person to purposely, knowingly, or negligently permit a dog to chase, stalk, pursue, attack, or kill a hooved game animal, and the owner may be held personally responsible (§ 87-6-404, MCA).

- f. **Pet food** must be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, and raccoons. **When feeding pets** do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- g. **Boundary fencing** shall be no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the wire or injuring themselves when trying to jump the fence. Contact FWP or see its website for information or a brochure regarding building fence with wildlife in mind.

Section 13. Notice of Adjacent Agricultural Activities. The Riverfront Trails Subdivision is located directly adjacent to an existing agricultural operation. Agricultural practices can sometimes cause some discomfort and inconveniences for neighboring residents. Many practices are a necessary function of certain agricultural operations and are protected when they are in accordance with the law.

Agricultural activities you may experience can include, but are not limited to, the following – noise, odors, fumes, dust, fertilizers, smoke, pesticides, insects, farm personnel and truck traffic, visual impacts, nighttime lighting, operation of machinery, and the storage, warehousing, and processing of agricultural products or other inconveniences or discomforts associated with the protected agricultural operations 24 hours a day.

Section 14. Wildland Urban Interface. The property owner shall create a defensible space for fire protection purposes as approved by the City Fire Chief. Vegetation shall be removed and reduced around each building according to the slope. Single ornamental trees and shrubs need not be removed as long as all vegetation near them is reduced according to the guideline. Ornamental trees and shrubs should not touch any buildings. When planting, the property owner shall select trees, shrubs, and vegetation that limit or retard fire spread as suggested below:

- i. Perennial: Choose hardy perennial flowers that are adapted to Missoula's climate. These green, leafy, succulent plants are difficult to burn. Water and regular weeding improves fire resistance;
- ii. Shrubs: Evergreen shrubs such as dwarf conifers or junipers tend to ignite easily: avoid them unless well spaced; and
- iii. Trees: Deciduous trees can be clumped, scattered, or planted in greenbelts or windbreak patterns. Evergreen trees tend to ignite easily and should be spaced in accordance with the Vegetation Reduction Guidelines in the next section.

Roof Construction: The following standards shall be used in roof construction:

Use only Class A or B fire-rated roofing materials.

FIRE RATING	TYPE OF MATERIAL	SPREAD INDEX
Class A	Slate Rock Shingle Concrete Tile	0-25
Class B	Fiberglass-based: -Asphalt Shingle -Rolled Roofing Aluminum Shingle Aluminum or Steel Panels	26-75

Vegetation Reduction Guidelines: Included as an Attachment to this Declaration of Covenants, Conditions, and Restrictions.

Section 15. SID Waiver Statement. Acceptance of a deed for a Lot constitutes the Owner's assent to any future SID, based on benefit, for future improvements and maintenance to Lower Miller Creek Road, Old Bitterroot Road, Riverfront Place, Naomi Lane, Tolley Lane, Drago Lane, Meyers Way, Anders Way, Cassidy Court, or any public Alley within Riverfront Trails, including, but not limited to, the installation of paving, drainage facilities, curbs and gutters, traffic control devices, motorized and non-motorized facilities, street widening, and all streets within, and providing access to, the Property.

Section 17. Boulevards. It is the duty of the Owner of any Real Property within the city to maintain or cause to be maintained any boulevard that adjoins the Real Property. Maintain shall mean the watering of trees, shrubs, plants, grass, and vegetation within the boulevard, mowing the grass, eliminating the weeds, and complying with the provisions of city ordinances pertaining to the trimming, pruning, or removal of any trees, shrubs, plants or vegetation. Adjoins shall include those areas that are separated by only a sidewalk. It is illegal to degrade a boulevard.

Section 18. Basements and Crawl Spaces. No structures shall be constructed with basements. Structures may include crawl spaces, so long as such crawl spaces do not include any living area.

Section 19. Short Court Maintenance. A Property Owners' Association shall be responsible for maintenance associated with private road infrastructure constructed in the 26' public access and utility easements associated with Lots 3 through 42, Lots 105 through 112, and Lots 122 through 125.

Section 20. Riparian Resource Management Plan. All Lot Owners shall be subject to and must abide by the Riparian Resource Management Plan.

Section 21. Air Stagnation Zone. All Lot Owners shall abide by the Woodstove, Paving, and Outdoor Burning rules provided by the Missoula City-County Health Department in accordance with the Missoula Air Stagnation Zone.

ARTICLE III. GENERAL PROVISIONS

Section 1. Property Owners' Association.

Riverfront Trails requires the establishment of a Property Owners' Association for the ownership and maintenance of common areas depicted on the Plat of Riverfront Trails. The following provisions apply to the Property Owners' Association:

1. The Property Owners' Association shall be established before the transfer of ownership of any Lot from the Declarant to a new Owner.
2. Membership in the Property Owners' Association shall be mandatory for each Lot Owner.
3. The established restrictions on open space and common areas shall be perpetual and shall run with the land.

4. The Property Owners' Association shall be responsible for liability insurance, local taxes, and the maintenance of any recreational and other facilities within the common areas depicted on the Plat of Riverfront Trails.
5. Lot Owners shall pay their pro rata share of association costs. The assessment charged by the Property Owners' Association can become a lien on the property.
6. The Property Owners' Association may adjust the assessment to meet changed needs.
7. Prior to final plat approval, the Property Owners' Association articles of incorporation, bylaws, covenants, and restrictions must be prepared or reviewed by an attorney licensed to practice law in the State of Montana in order that applicable Property Owners' Association requirements are met.
8. The Property Owners' Association shall have means of enforcement and means of receiving and processing complaints.
9. The permission of the Missoula City Council shall be required before the Property Owners' Association can be dissolved or the restrictions modified.
10. The Property Owners' Association shall have a regular maintenance program for private roads, parks, buildings, drainage facilities, and other mutually controlled facilities, as applicable.

Section 2. Duration.

The covenants, conditions, charges and restrictions of this Declaration shall run with and bind the land in perpetuity and shall inure to the benefit of and be enforceable by the Declarant or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, or assigns.

Section 3. Enforcement.

These covenants are understood and agreed to be and shall be taken and held for the benefit of all lot owners, be they such now or become such hereafter, and all covenants herein shall attach to the land and run with the title hereto and shall be binding on all lot owners in the said real property.

The Declarant, or any Owner shall have the option and right to enforce, by any proceeding at law or in equity, all restrictions, covenants, conditions, reservations, and charges now or hereafter imposed by the provision of this Declaration. The method of enforcement may include proceedings to enjoin the violation, to recover damages, or both.

Should any lawsuit or other legal proceedings be instituted by the Declarant or Owner against an owner who is alleged to have violated one or more of the provisions of this

Declaration, the party that loses shall pay the attorney's fees and court costs for both the Plaintiff and Defendant.

Failure to enforce any of the restrictions, rights, reservations, limitations, and covenants contained herein shall not in any event be construed or held to be a waiver thereof or consent to any further or succeeding breach or violation thereof. All deeds shall be given and accepted upon these expressed understanding that the said real property has been carefully planned as a desirable subdivision and to assure owners that under no pretext will there be an abandonment of the original plan to preserve the property as such.

Section 4. Severability.

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

Section 5. Amendment.

The covenants, conditions, restrictions, and uses created and established herein may be waived, abandoned, terminated modified, or altered as to the whole of the said real property or any portion thereof with the written consent of the owners of all lots covered by these restrictions. No such waiver abandonment, termination, or modification shall become effective until a proper instrument in writing shall be executed and recorded in the office of the Clerk and Recorder of Missoula County, Montana. Sections of the Development Covenants regarding weed control, radon mitigation, wildlife, Riparian Resource Management Plan, Basements and Crawlspace, Short Court Maintenance, and Boulevards may not be amended or deleted without written approval by the governing body.

Section 6. Liability of Declarant.

The relationship between the Declarant and the property owners shall be deemed to be that of independent contractors and not that of principal and agent, partnership, or joint venture. In addition, the Declarant shall have no liability or obligation under this declaration to any person or entity except such liabilities and obligations as the Declarant have expressly assumed herein.

Section 7. Radon Exposure.

The property Owners understand and accept the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures.

IN WITNESS THEREOF, this document has been executed the day and year first above written.

Tollefson Properties, LLC., a Montana limited liability company

By: _____
Nate Tollefson, authorized member

State of _____

County of _____

On this ____ day of _____, 20____, before me a Notary Public for the State of Montana, personally appeared Nate Tollefson, known to me as the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

SS _____

Notary Public for the State of Montana

Residing at _____

My commission expires _____