

GRANT CREEK CENTER, PHASE II, Lots 22A & 22B
Missoula, Montana

COVENANTS, CONDITIONS AND RESTRICTIONS

WHEREAS, the undersigned, Grant Creek Center, Phase II, Lot 22A and 22B, owned by Edgell Family Limited Partnership, owners of certain property in Missoula County, Montana, which is particularly described:

Located in Section 7, Township 13 North, Range 19 West, Principal Meridian, Montana, Missoula, Missoula County, Montana. Containing 1.16 acres.

WHEREAS, Grant Creek Center, Phase II, Lot 22A and 22B, Edgell Family Limited Partnership, as owner of all real property described above, desires to place covenants, conditions and restrictions upon said real property for the use and benefit of Edgell Family Limited Partnership, as present owner, for future owners and for the County of Missoula.

Whereas, these covenants are supplemental to the filed covenants for Grant Creek Center, Phase II, Book 161, Page 1351 on February 25, 1981, which shall remain in effect.

NOW, THEREFORE, Grant Creek Center, Phase II, Lot 22A and 22B, Edgell Family Limited Partnership, hereby declares all property described above shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and City of Missoula Subdivision Regulations, all of which are for the purpose of enhancing and protecting the value and desirability and attractiveness of the real property. These conditions and restrictions shall run with the real property and shall be binding on all the parties having or acquiring any right, title or interest in the described real property or any part thereof and shall ensure to the benefit of and be binding upon each successor in interest of the owners thereof.

DEVELOPMENT COVENANTS

1. WILDLIFE:

Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed, and other potential attractants. Homeowners must be aware of potential problems associated with the presence of wildlife such as deer, black bear, mountain lion, coyote, fox, skunk, magpie and other species. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners “live with wildlife.” Alternatively, see FWP’s web site at www.fwp.mt.gov.

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

- a. Homeowners must be aware of the potential for vegetation damage by wildlife, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation

(fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.

- b. Gardens and fruit trees can attract wildlife such as deer and bears. Keep produce and fruit picked and off the ground, because ripe or 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.
- c. Garbage should be stored in secure animal-resistant containers or indoors to avoid attracting wildlife such as bears or raccoons. If stored indoors, it is best not to set garbage cans out until the morning of garbage pickup, and to bring cans back inside that same night.
- d. Do not feed wildlife or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in “an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety.” Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.
- e. Birdseed is an attractant to bears. If used, bird feeders should: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- f. Pets must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the direct control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.
- g. Pet food and/or livestock feed should be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, skunks, and other wildlife. When feeding pets and/or livestock do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- h. Barbecue grills should be stored indoors. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
- i. Consider boundary fencing that is 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 or elk becoming entangled in the wire or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.
- j. Compost piles can attract skunks and bears. If used, composting systems should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps.
- k. Apiaries (bee hives) could attract bears in this area. If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.

1. These “living with wildlife” covenants cannot be altered or eliminated without consent of the governing body (Missoula City Council).

2. WEED MANAGEMENT:

The Owner of any lot shall not allow noxious weeds to remain or grow on the lot. Weeds shall be controlled by the use of allowable chemicals, cutting, pulling, tillage or some other form of weed management allowed under the guidelines of the Missoula County weed control program. Ground disturbances caused by construction or maintenance shall be vegetated with beneficial species at the first appropriate opportunity and in accordance with Missoula County Weed Control.

Resources to assist in land management can be obtained from the DNRC and the Conservation District. Examples but not limited to are; “Tips For Fighting Weeds on Small Acreage in Montana” and Tips on Land and Water Management on Small Farms and Ranches in Montana.” The following DNRC website lists multiple resources available, <http://dnrc.mt.gov/>.

3. ADDRESS SIGNAGE:

The Owner of each home/business shall post an address sign that is visible in all light conditions, a minimal size of 6” numbers attached to a platform that is required to be clearly visible from the road. During construction temporary signs are allowed, but shall properly display the property address for construction and emergency purposes. At the time of construction completion, all permanent signs shall comply with the Missoula City Police Department, Missoula County Sheriff Department, Missoula Emergency Services and Missoula Fire Department Standards and current Manual on Uniform Traffic Control Devices (MUTCD) edition.

4. FIRE PROTECTION:

As indicated in the *NFPA Firewise Communities, A Lean, Clean and Green Landscape Publication of 2008*, the three zone landscaping outline (attached) is instrumental to reducing fire danger in combination with the required 20’ setbacks for all structures from property lines. Continued maintenance to insure the safety and health of the lot will be completed by the property owner.

5. ROADS & APPROACH:

Access to Lots 22A and 22B are from Expressway, a City road maintained by MDT. A Variance has been requested to address the current width of Expressway fronting said property is only 70 feet wide and not 80 feet wide, per MDT.

6. WOODSTOVES:

The Property is within the Air Stagnation Zone. The Missoula City-County Air Pollution Control Program regulations prohibit the installation of wood burning stoves or fireplaces. Pellet stoves meeting emission requirements or natural gas/propane fireplaces may be installed upon receipt of an installation permit from the Missoula County Health Department.

7. LAND USE:

The Missoula 2035 City Growth Policy Future Land Use Map recommends a land use designation of light industrial (IND-L) and associated zoning designation of M1-2, the current zoning designation as recommended by the growth policy. The proposal complies with the M1-2 in parcel area, and use. Limited Industrial-Commercial, 2 buildings per 5000 square feet.

8. WATER USE & RIGHTS:

This subdivision is not located on land with agricultural water user facilities and is not adjoining an agricultural water user facility. There are no impacts to ditches or water rights and no impacts are anticipated in the future, thus no mitigations are required and none are proposed. No surface water rights are applicable to this property.

9. RADON MITIGATION:

EPA has designated the Missoula Area as having a high radon gas potential (Zone 1). Therefore the Missoula City-County Health Department recommends that all new buildings incorporate radon resistant construction features.

10. ENERGY EFFICIENCY :

Builders/Owners should consider using energy efficient building technique such as building orientation to the sun, appropriately sized eaves, wind breaks, super insulation techniques, day lighting, passive solar design, photovoltaic cells, and ground source heat pumps for heating and cooling. Ground source heat pumps are usually more efficient and so create less pollution than other systems for heating and cooling. Increased Energy efficiency reduces air pollution, reduces the need for people to use cheaper heating methods that pollute more, and helps protect the consumer from energy price changes.

11. AMENDMENTS:

The above stated Development Covenants 1-11 (Wildlife, Weed Management, Address Signage, Fire Protection, Roads & Approach, Wood Stoves, Land Use, Water Use and Rights, Radon Mitigation and Energy Efficiency) may not be changed or deleted without prior governing body approval, subject to review and approval by Development Services, prior to final plat approval.

DATED this _____ day of _____, 20__.

Grant Creek Center, Phase II, LOTS 22A & 22B (Owners: Edgell Family Limited Partnership)

By: _____

By: _____

STATE OF MONTANA)
 : ss.
County of Missoula)

This instrument was acknowledged before me on the _____ day of _____, 20__,

By _____.

SS: _____

Notary Seal

