

**~~EASEMENT FOR AGREEMENT FOR GRANT OF~~ PUBLIC RECREATIONAL TRAIL  
ACCESS**

**~~EASEMENT~~ ACROSS SELECT COMMON AREAS WITHIN  
THE MANSION HEIGHTS SUBDIVISION**

**GEOCODES: 04-2093-04-3-05-20-0000, 04-2093-04-3-01-45-0000**

**This Agreement** is made and entered into as of the dates of the below signatures between the **CITY OF MISSOULA, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, 435 Ryman St., Missoula, MT 59802-4297, referred to here as “City and/or GRANTEE,” and **STONE MOUNTAIN MISSOULA HOMEOWNERS’ ASSOCIATION**, a Montana registered nonprofit corporation whose mailing address is P.O. Box 7099, Attn HOA President, MISSOULA, MT 59807, referred to here as “GRANTOR” and/or HOA.”

In consideration of the mutual covenants and agreements contained here, the receipt and sufficiency of the same being acknowledged, the parties agree as follows:

**RECITALS**

**WHEREAS** Grantor Stone Mountain Missoula Homeowner’s Association is a Montana Non-Profit Corporation that originally was named the “Mansion Heights Homeowner’s Association,” consistent with the subdivision name, but which later changed its name to the current Stone Mountain Missoula Homeowner’s Association.

**WHEREAS** Grantor is the lawful owner of Common Area parcels of land located in the Mansion Heights Subdivision, Section 4, T. 12 N., R. 19 W., PMM more particularly described on the attached Exhibit A.

**WHEREAS** Mansion Heights Subdivision is subject to a trails condition dated August 18, 1997 providing for development of a trail system, public access, and rights of control including ability to amend the agreement or revoke permission for non-compliance.

**WHEREAS** Grantor and Grantee’s original trail agreement is recorded in Book 571, page 0236, in Missoula County, Montana.

**WHEREAS** the Mansion Heights trail system is over twenty-five (25) years and the parties have mutually identified and agreed that portions of the trail system are appropriate to recognize in a

permanent easement and others are no longer suitable or appropriate for public access and therefore wish to amend the terms of the agreement.

IN CONSIDERATION OF the above recitals and for other good and valuable consideration, Grantor conveys to Grantee a permanent easement to the public for recreational access and use of those trails shown in Exhibit A and subject to the following rights, restrictions, duties and conditions:

1. Public recreational access and use is expressly limited to walking and jogging within, on and across the designated improved, travelled trails per Exhibit A. No public use of these trails by horse or bike is allowed.
2. Public recreational access and use is limited by the specified in City ~~Code Ordinance 12.40.010 Park—Closed Hours~~. Public use outside of these hours may constitute trespass, excepting use by Grantor and its members.
3. Grantee shall enforce all applicable city ordinances and state laws within the permitted trails, especially ~~regarding littering and disorderly conduct Missoula Municipal Code, Chapter 28.28.100 Littering and Chapter 9.34 Panhandling, as well as MCA 45-8-101 Conduct Disruptive to Public Order~~.
4. Grantee is responsible for construction, repair, and maintenance of the trail tread on permitted trails. Grantor retains responsibility for weed and vegetation management on its lands.
5. Grantee shall be responsible for installation and maintenance of improvements, trail signs, trash containers, benches and any other minor trail appurtenances as the grantee deems necessary to support and mitigate public trail use, health and safety.
6. Grantor, the Stone Mountain Missoula HOA and the City, or their respective assigns, shall periodically conduct a joint inspection for the purpose of identifying and coordinating any anticipated improvements, construction, maintenance, repair or alterations to the established public trails and adjoining lands over which they cross. This inspection shall be initiated by request of the Grantor.
7. At no cost to Grantor, Grantee agrees to remove each existing set of trail stairs and provide for placement of topsoil and seed for restoration of the resulting disturbed hillside per Exhibit B. Grantee shall not be responsible to restore or remove any of the existing trails leading to and from the stairs nor the construction accesses. Grantor approves Grantee's construction access needs across its lands for removal of the stairs. Grantee shall complete all stair removals on or before October 30, 2025.

8. Grantor may request of the Grantee a temporary closure of the public use trails granted herein due to poor condition or failure by Grantee to comply with any of the restrictions, duties, or conditions cited herein. Notice shall be sent to the Grantee stating the specific violations of restrictions, duties or conditions and provide 30 days in which to present an acceptable plan to resolve the conditions of non-compliance and/or violation.

Upon acceptance of the Grantee's plan by Grantor, which may not be unreasonably withheld, the notices shall be withdrawn.

9. Grantee and Grantor mutually place specific reliance upon MCA 70-16-301 and 302 to limit their respective liabilities associated with the public recreational use of the trail easements. If the subject MCA citations are repealed, modified, limited, weakened or overturn by legislative or judicial action, this permit shall be immediately revoked and public use closed until Grantee provides an alternative acceptable to Grantor which would hold harmless and indemnify Grantor from all losses, damages, claims, costs or expenses including legal fees associated with the public's access and/or use of said trails and appurtenances.

10. Grantor and Grantee further agree as follows:

- a. Modification and Waiver

This agreement may not be modified, altered or changed except pursuant to a written agreement signed by the parties hereto. A waiver of any term or condition of this Agreement or any breach of this Agreement shall not be deemed a waiver of any other term or condition of this Agreement or any part hereof or any later breach of the Agreement. Any waiver must be in writing.

- b. Construction and Venue

This Agreement will be construed under and governed by the laws of the state of Montana. In event of litigation concerning it, venue is the Fourth Judicial District in and for the County of Missoula, Montana.

- c. Notices

Any and all notices shall be sent to:

City of Missoula  
Attn: Parks & Recreation Director  
435 Ryman Ave  
Missoula, MT 59802

Stone Mountain HOA  
c/o MT Properties Group  
P.O. Box 1042  
Missoula, MT 59806

d. Binding Effect

This Agreement and all of the covenants hereof shall inure to the benefit of and be binding upon Grantor and Grantee, respectively, and their partners, successors, assigns and legal representatives, and shall run with the title to the property.

e. Severability

If a part of this Agreement is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this Agreement is invalid in on or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

IN WITNESS WHEREOF, the parties have signed this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

Stone Mountain HOA (Grantor)

By \_\_\_\_\_

Date: \_\_\_\_\_, 2025

Notary block

City of Missoula (Grantee)

\_\_\_\_\_  
Andrea Davis, Mayor

Date: \_\_\_\_\_, 2025

Attest

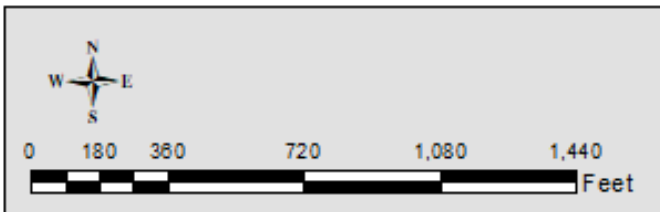
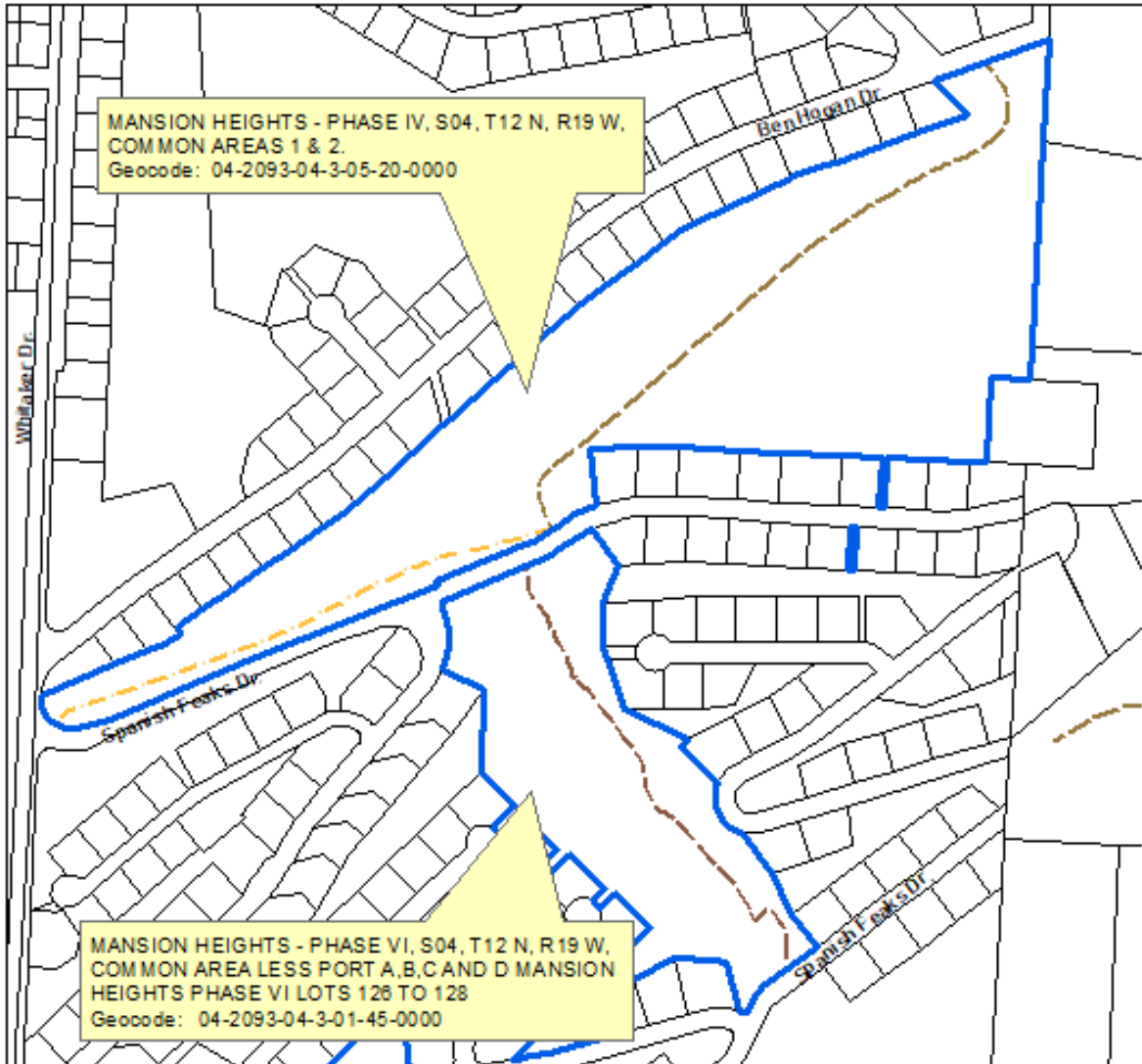
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Clair Tremble, City Legislative Director and Clerk

Approved as to form

\_\_\_\_\_  
Tim DeFors, Deputy City Attorney

# EXHIBIT A

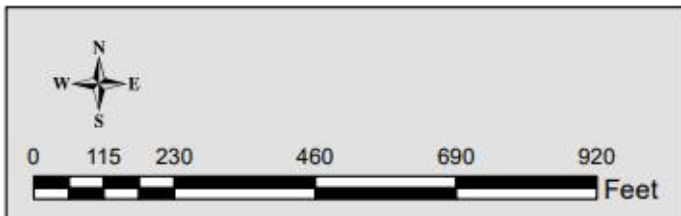
## Mansion Heights Subdivision - Stone Mountain HOA Public Trail Access Parcels





- 4' wide dirt trail (public access)
- .-.- 10' wide paved trail (public access)
- HOA Common Areas with public trail access easement

# EXHIBIT B

## Mansion Heights Subdivision Public access stairs removal



-  Stairs to be removed
-  Construction access route