

Revised  
DECLARATION OF RESTRICTIONS  
FOR MOHR ESTATES SUBDIVISION  
(Originally filed as 314812)

MARTIN A. MOHR, ("MOHR"), owner of the following described real property and all portions thereof, located in Stillwater County, Montana, hereby establishes and declares the following building and use restrictions which shall be applicable to the said real property:

Lots 6 through 10 of Mohr Estates Subdivision, Stillwater County, Montana, as shown on the official plat on file in the office of the Clerk and Recorder of said County as Document No. 314812.

The undersigned owner places these covenants and restrictions upon said Lots for the benefit of the owners of all Lots in Mohr Estates Subdivision, for the purpose of protecting the value and desirability of the real property in said Subdivision.

The covenants, restrictions and conditions herein contained shall run with the land and shall be binding on all parties and persons and all persons claiming under them.

The Grantees of any lot and any expansion lot subjected to the provisions of this Declaration, by acceptance of a conveyance, covenant and agree faithfully to observe and abide by all of said conditions, covenants and restrictions.

EXPANSION

1. Developer hereby reserves the right, in his sole discretion, until the tenth anniversary of the recordation of this Declaration, to add all or any part the following described real property to the provisions of this Declaration, without the consent of any other owner, mortgagee, or trustee or beneficiary of any trust indenture:

NW ¼ and NE ¼ of Section 30, Township 2 South, Range 23 East, M.P.M., Stillwater County, Montana, including Government Lot 2.

And

Tracts 1 and 2 of Certificate of Survey 239317, Stillwater County, Montana, according to the official plat thereof on file and of record in the office of the Stillwater County Clerk and Recorder, excepting therefrom, Lots 6 through 10 of Mohr Estates Subdivision, Stillwater County, Montana, as shown on the official plat on file in the office of the Clerk and Recorder of said County as Document No. \_\_\_\_\_.

The above-described real property is herein referred to as the expansion property.

Mohr reserves the right to proceed with addition of the expansion property without consent of Mohr Estates Home Owners Association, Ltd. or any of the members of that Association, subject to the following conditions:

- (a) Developer may add expansion property to the provisions of this Declaration one or more lots at a time, in any order by executing and recording an amendment to this Declaration, adding the expansion lots to the provisions of this Declaration.
- (b) From and after the recording date of each such amendment, the following consequences shall ensue:
  - (i) the owners of the expansion property shall have nonexclusive rights to use Rimrock Drive and the utility easements shown on the plat of Mohr Estates Subdivision, to the same extent as the owners of Lots 6 through 10 of Mohr Estates Subdivision.
  - (ii) The owners of newly added expansion property shall be members of Mohr Estates Homeowners Association and shall be bound by the provisions of this Declaration and the By-laws of Mohr Estates Homeowners Association, Ltd., as the same may be amended from time to time.

#### USE RESTRICTIONS

- 2. For so long as Mohr continues to own any of the above-described real property, the property owned by Mohr may be used for any agricultural purpose except that no hog farm or feedlot may be operated on any lot or tract.
- 3. Except as otherwise provided in paragraph 2 above, no lot shall be used or improved for anything other than private residential purposes, including allowed home businesses.
- 4. No building or other structure shall be located less than 25 feet from the front lot line, nor less than 10 feet from any side lot line, nor less than 25 feet from the rear lot line. Buildings on corner lots shall be located at least 25 feet from each street.
- 5. No residence shall be occupied prior to completion of the exterior of the building.
- 6. Except as otherwise authorized in paragraph 2 above, none of the lots subject to these restrictions, nor any building or improvement erected thereon shall at any time be used for the purpose of any trade, profession, manufacturing, or business of any description, except in-home trades, professions and businesses shall be permitted provided that the use of the property for a home occupation or business complies with the following requirements:
  - (a) The in-home business shall be clearly incidental and secondary to the primary use of the lot for residential purposes and shall be limited in location to the inside of a dwelling or outbuilding.
  - (b) Only a resident of the dwelling may conduct the home occupation or business in the dwelling or outbuilding.
  - (c) No signage or advertising for the home occupation or business shall be allowed.

7. No discharge of firearms shall be permitted on any lot subject to these restrictions.
8. No trailer, tent, garage, or outbuilding shall at any time be used as a residence, temporarily or permanently, nor shall any structure, of whatsoever nature, of a temporary character, be used as a residence.
9. Trailers of all types, (including cargo trailers), motor homes, recreational vehicles of all types, and boats may be parked in enclosed garages, or at the side or rear of the Lots.
10. No livestock, poultry or other animals, except dogs, cats or small in-house pets, are permitted on the properties. No more than two dogs may be kept on a lot at any time. Animals may not be kept, bred or maintained for any commercial purposes. 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 animals in the subdivision or on surrounding or adjacent properties. Dogs and cats shall be kept on the owner's own property. Dog kennels must not exceed 10 feet by 20 feet and are to be located in the rear yards and screened or fenced from the neighbor's view. Kennels are to be kept clean and odor free at all times.
11. No junk, trash, debris, inoperable or unlicensed motor vehicles or parts thereof, or waste shall be permitted to accumulate on any lot or in any street; all junk shall be promptly and effectively disposed of, and no lot shall be used as a dumping ground or burial pit. Garbage containers and above-ground storage tanks shall be concealed from view by fences, hedges or other means except that garbage containers may be placed near the street on collection days.
12. No signs, billboards, posters, or advertising or political devices of any kind or character shall be erected or displayed upon any of the lots, excepting subdivision promotion signs, signs displayed to identify the occupants of a dwelling and one for sale sign per lot.
13. The owner of each lot shall control the weeds and all noxious plants on their lot; owners shall not use sprays or killing materials in such a way as to be harmful to humans or animals or to the other owners' vegetation. In the event an owner shall not control the weeds and noxious plants, the Mohr Estates Home Owners Association, after ten days written notice to an owner to control the same, will be turned in to the County Weed Department. The Home Owners Association may cause the weeds or noxious plants to be controlled, and may assess the lot owner for the costs thereof.
14. All properties in the Mohr Estates Subdivision will reflect a high pride of ownership. All owners shall be obligated to maintain their homes, garages, outbuildings and yards so that they are clean, tidy and in good repair.
15. Each owner of a lot shall, within a period of one year after that occupancy of a dwelling on said lot area, provide grass and/or other appropriate landscape cover over all unimproved areas of the lot or lots.
16. No lot subject to these restrictions may be re-subdivided into two or more lots. This restriction shall not apply to expansion property until that property is declared to be subject to these restrictions.

## CONSTRUCTION RESTRICTIONS

17. No dwelling shall be constructed without adequate septic tanks or other sewage disposal system. Any septic tank or sewage or waste disposal system, and any private water supply system, shall be located, installed and maintained at all times in compliance with standards established by the Montana Department of Health and Environmental Sciences and by any other governmental agency having jurisdiction.
18. No outside privies or toilets shall be permitted on any lot, except during construction, and all buildings with plumbing shall have modern inside plumbing with sanitary toilets and running water connected with a sanitary septic tank or other sanitary sewage disposal system.
19. Any residence erected or placed on any lot shall meet the following minimum area requirements within the perimeter of the exterior walls, exclusive of open porches and garages:
  - (a) One-story, fourteen hundred (1,400) square feet on the ground level.
  - (b) Two (2) or more stories, one thousand (1,000) square feet on the ground (first) level.
  - (c) Split (multi) level, must have at least fourteen hundred (1,400) square feet above ground.
20. Except as otherwise provided below, all residences, buildings and structures erected on said property shall be of new construction and no old buildings shall be moved upon any lot. All homes shall be constructed on a permanent foundation. Onsite construction only. Any structure erected on the Properties shall be of new construction and no structure or structures shall be moved onto the Properties. No mobile homes or modular or pre-fabricated homes shall be erected, placed or otherwise maintained on any Lot.
21. Any building erected or placed on any lot shall be completed within one hundred eighty (180) days after equipment and/or materials to be used in construction have been moved onto the location, and all construction shall be pursued with reasonable diligence. No excavation shall be permitted on any lot until such time as the actual construction of the building is to begin, except that the owners may test the supply of water under said lands and may drill and excavate for that purpose, and test for subsoil conditions, provided that such test sites are replaced to their original condition.
22. No outbuildings shall be permitted on any Lot until a residence has been built or placed on the Lot.
23. No building shall be erected of material other than commonly used in standard construction. No sheet or corrugated metal shall be used on the outside of said buildings (including roofs). All block buildings shall be stuccoed; however, the use of decorative block or brick shall be permitted.
24. No building shall be erected with less than a 7 foot outside vertical wall, and no geodesic domes shall be permitted.

25. Any addition to any home must be approved in advance, in writing, by Mohr and the Board of Directors of the Home owners Association, so long as Mohr owns any of the above-described real property, including expansion property. These parties may deny approval for any reason.
26. Until the sale of all of the above-described property by Mohr, including the expansion property, the design of any residence or outbuilding on any Lot must be approved in advance, in writing, by Mohr and the Board of Directors of the Home Owners Association. All requests for approval shall include dimensions and height, the type and color of exterior materials to be used, and the location of the building on the lot. Mohr and/or the Board of Directors may disapprove the design of any residence for any reason.
27. No fence or hedge shall exceed six (6) feet in height at any point; fences within thirty (30) feet from any street shall not exceed 3 feet in height. No barbed wire shall be used on fences. Any fence or enclosure must be constructed of sound materials and with posts of uniform size and shape; posts shall be firmly set and maintained upright in the ground. All fences shall be maintained by their owner so that they are not unsightly in their appearance.
28. A maximum of one single family residence and two outbuildings shall be permitted on each lot. The term "outbuilding" shall include any sheds and detached garages. All outbuildings must have the same color siding and roof as used on the main residence; all outbuildings shall be in good state of repair and shall not be allowed to become rundown or an eyesore to the neighbors. Partially enclosed carports shall be permitted.
29. All utility lines and pipes shall be placed underground; no overhead lines shall be permitted. Propane tanks must be placed underground according to the specifications given by the propane provider.

#### COMMON AREA

30. Mohr Estates Homeowners Association, Ltd. shall own the property designated as "Rimrock Drive and Storm Water Detention Area" on the plat of Mohr Estates Subdivision, and any other real property subsequently conveyed to the Association. All real property owned by the Association shall be common area which shall be subject to an easement for use by all members of the Association, their families, tenants and guests. Rimrock Drive, which is part of the common area, is also subject to an easement for ingress and egress to the expansion property, described above, by all owners of the expansion property, their families, agents, tenants and guests.

#### HOMEOWNERS ASSOCIATION

31. **Membership in Association.** Each owner of Lots 6-10 of Mohr Estates Subdivision, and each owner of any expansion property added to the provisions of this declaration shall be a member of a Montana non-profit corporation, formed or about to be formed, known as "MOHR ESTATES HOMEOWNERS ASSOCIATION, LTD., hereinafter called "Association".

Owners shall mean each person owning an undivided interest in a lot or tract, as shown by the records of the Stillwater County Clerk and Recorder, provided however, that if such owner has sold to a third person under the terms of an agreement for future delivery of title, and notice of such agreement is recorded with the Stillwater County Clerk and Recorder, such third person shall be deemed the owner. Co-owners, or joint owners, shall be deemed to be one member for the purposes of voting and assessment. The affairs of the Association shall be governed by its Bylaws, attached hereto as Exhibit "A".

**32. Obligations of the Association.**

- (a) The association shall be responsible for payment of property taxes on the common area, and for maintenance of the storm water detention area serving Mohr Estates Subdivision, Rimrock Drive, and all other common areas owned by the Association.
- (b) The Association, and any agent duly designated by the corporation, shall conduct routine safety inspections of the common areas and shall take such action as may be deemed necessary to provide immediate follow-up maintenance to correct unsafe conditions.
- (c) A maintenance program for roads, drainage facilities, and any other common areas shall be developed by the Association on or before a date which is no later than twelve (12) months after sale of the first three (3) residential lots within the subdivision; said maintenance program shall be a written statement of intent with respect to maintenance, and the writing shall be made available to all members of the property owners' association upon request. Maintenance shall include snow removal, blading and addition of gravel as needed on Rimrock Drive, and cutting of weeds and grasses and control of noxious weed on the common areas.
- (d) The Association shall be responsible for control of noxious weeds on the common areas and shall monitor noxious weed growth on residential lots within the subdivision; any lot owner failing to control noxious weeds on his or her property shall be given notice of the requirement to remove and control said weeds, and upon failure to do so within such time as may be designated by the Association, will be subject to assessment by the association for any cost of removal or control of noxious weeds incurred by the Association; failure to pay said assessment shall then permit the Association to file and record a lien against the lot owners' property within the subdivision in a like manner as set forth in paragraph 38 below.
- (e) The Association may establish additional provisions for vegetation reduction and clearance, fuel breaks and green space, and other fire protection standards which may be deemed appropriate by the local fire authority, and to protect the health and safety and welfare of its members.

- (f) Any complaints directed to the Association shall be submitted in writing to the Board of Directors and will be considered by them at their next regular meeting.

**33. Semi-Annual Assessments.**

- a. The Association, through its Board of Directors, shall establish and collect semi-annual assessments from the owners of each of the lots subject to this Declaration, to pay for the cost of all the maintenance set forth above, and for the administrative expenses of the Association. In the event that the Board fails to fix a semi-annual assessment, the previous assessment shall remain in effect until changed by the Board. The initial semi-annual assessments shall be \$100 per lot. Assessments may be changed to meet the changing expenses of the Association. Assessment shall be apportioned equally to each lot subject to this Declaration.
- b. Upon the beginning of construction on a Lot, the owners will be subjected to a one-time fee of \$1000 to be used for the maintenance of the subdivision road. This fee is payable within 30 days of the start of construction on the lot.

**36. Payment of assessments.** Each owner shall be responsible for the payment of assessments within thirty days after notice of assessment is given by the Board. Assessments paid more than thirty days after the due date, shall be charged a \$15 late fee. All payments shall be applied first to the late fee and then to the earliest assessment due. Late fees shall become a part of the Association's account. All assessments collected by the Association may be commingled in a single fund. The Secretary-Treasurer shall maintain records showing the amounts of all assessments paid and unpaid. Such records shall be available for inspection at all reasonable times by owners or their representatives.

**37. Covenant to pay maintenance assessments.** Each owner of a lot subject to this Declaration, by acceptance of a deed, whether or not it shall be expressed in said deed, is deemed to covenant and agree to pay to the Association all assessments made by the Association and to waive any right said owner may have, under the laws of the United States or the State of Montana, to claim a homestead exemption for said assessments. Owners and their grantees shall be jointly and severally liable for all unpaid assessments due and payable at the time of conveyance of any lot, but without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefore. The Secretary-Treasurer of the Association shall notify third parties, upon their request, of the amount of unpaid assessments on any lot.

**38. Remedies for non-payment of assessments.** All unpaid sums assessed by the Association to any lot, together with interest, collection costs, costs of suit, and reasonable attorney fees, shall constitute a lien on such lot, and if filed of record, may be foreclosed in the same manner as a construction lien. Such lien shall not take priority over any sums unpaid on a first mortgage or trust indenture of record prior to the recording of the lien for assessments. Each assessment, together with

interest, collection, costs and costs of suit, and reasonable attorney fees, shall also be the personal obligation of the owner of the Lot against which the assessment was made at the time the assessment fell due and suit to recover a money judgment for unpaid assessments shall be maintainable by the Association against said owner without foreclosing or waiving the lien securing the same. All costs of collection of delinquent assessments, including but not limited to, court costs, costs of filing liens, and attorney fees, shall be the obligation of the non-paying lot owner, and may be added to the next regular assessment for that lot. No sale or transfer of a lot shall relieve the acquirer from liability for past due assessments or from the lien thereof. All rights, remedies and privileges granted to the Association or the owners pursuant to the terms hereof, shall be deemed to be cumulative.

**39. Limitations on Liability of Association.** In no event shall the Association or its members be liable to any property owner, his or her heirs, successors, assigns, family or guests, employees, agents, invitees, or lessees or to any person using the road for any damages arising out of the maintenance of the road by the Association.

### **RIGHT TO ENFORCE**

The restrictions herein set forth shall run with the land and bind the present owners, their heirs, devisees, trustees, and assigns of all lots subject to these restrictions; and any and all parties claiming by, through or under them, shall be taken to hold, agree and covenant with the owners of said lots, their heirs, devisees, trustees, and assigns, and with each of the owners of said lots, to conform to and observe said restrictions as to the use of said lots and the construction of improvements thereon; but no restrictions herein set forth shall be personally binding upon any corporation or person except in respect to breaches committed during the time the corporation or person held an ownership interest in said land. The owner or owners of any of lots subject to these restrictions set forth above, in addition to the ordinary legal action for damages; and the failure of the owners, or the Association to enforce the restrictions herein set forth at the time of any violation thereof shall not be construed as a waiver of the right to do so in the future. In the event of a suit to enforce these Restrictions, the losing party shall be obligated to pay all costs and attorney fees incurred by the prevailing party.

### **AMENDMENT**

Except for amendments which add expansion property to the terms of this Declaration, these restrictions may be amended and added to, or rescinded, in whole or in part, only with written consent of the owners of a least eighty (80%) percent of the lots subject to these restrictions. Any amendment must also be approved by the County Commissioners of Stillwater County, or such other governing body having responsibility for regulation of subdivisions in Stillwater County, and until such time as Mohr has sold all property subject to these restrictions, including expansion property, such amendment or restriction must

also be approved, in writing by Mohr; approval by Mohr may be withheld for any reason. No amendment or revocation of these restrictions shall be effective unless it is signed by the requisite owners and the governing body and filed of record in the office of the Clerk and Recorder of Stillwater County, Montana.

*Revised*  
DECLARATION OF RESTRICTIONS  
FOR MOHR ESTATES SUBDIVISION  
(Originally filed as 323449)

MARTIN A. MOHR, ("MOHR"), owner of the following described real property and all portions thereof, located in Stillwater County, Montana, hereby establishes and declares the following building and use restrictions which shall be applicable to the said real property:

Lots 6 through 10 of Mohr Estates Subdivision, Stillwater County, Montana, as shown on the official plat on file in the office of the Clerk and Recorder of said County as Document No. 323449.

The undersigned owner places these covenants and restrictions upon said Lots for the benefit of the owners of all Lots in Mohr Estates Subdivision, for the purpose of protecting the value and desirability of the real property in said Subdivision.

The covenants, restrictions and conditions herein contained shall run with the land and shall be binding on all parties and persons and all persons claiming under them.

The Grantees of any lot and any expansion lot subjected to the provisions of this Declaration, by acceptance of a conveyance, covenant and agree faithfully to observe and abide by all of said conditions, covenants and restrictions.

EXPANSION

1. Developer hereby reserves the right, in his sole discretion, until the tenth anniversary of the recordation of this Declaration, to add all or any part the following described real property to the provisions of this Declaration, without the consent of any other owner, mortgagee, or trustee or beneficiary of any trust indenture:

NW ¼ and NE ¼ of Section 30, Township 2 South, Range 23 East, M.P.M., Stillwater County, Montana, including Government Lot 2.

And

Tracts 1 and 2 of Certificate of Survey 239317, Stillwater County, Montana, according to the official plat thereof on file and of record in the office of the Stillwater County Clerk and Recorder, excepting therefrom, Lots 6 through 10 of Mohr Estates Subdivision, Stillwater County, Montana, as shown on the official plat on file in the office of the Clerk and Recorder of said County as Document No. \_\_\_\_\_.

The above-described real property is herein referred to as the expansion property.

Mohr reserves the right to proceed with addition of the expansion property without consent of Mohr Estates Home Owners Association, Ltd. or any of the members of that Association, subject to the following conditions:

351689 MISC Page: 1 of 11  
STATE OF MONTANA STILLWATER COUNTY  
RECORDED: 6/7/2012 4:24 PM KOI: DECLARATION OF REST. COVENANT  
Pauline Mishler CLERK AND RECORDER  
Fee: 5.00 BY: Pauline Mishler  
TO: FILED

- (a) Developer may add expansion property to the provisions of this Declaration one or more lots at a time, in any order by executing and recording an amendment to this Declaration, adding the expansion lots to the provisions of this Declaration.
- (b) From and after the recording date of each such amendment, the following consequences shall ensue:
  - (i) the owners of the expansion property shall have nonexclusive rights to use Rimrock Drive and the utility easements shown on the plat of Mohr Estates Subdivision, to the same extent as the owners of Lots 6 through 10 of Mohr Estates Subdivision.
  - (ii) The owners of newly added expansion property shall be members of Mohr Estates Homeowners Association and shall be bound by the provisions of this Declaration and the By-laws of Mohr Estates Homeowners Association, Ltd., as the same may be amended from time to time.

#### USE RESTRICTIONS

- 2. For so long as Mohr continues to own any of the above-described real property, the property owned by Mohr may be used for any agricultural purpose except that no hog farm or feedlot may be operated on any lot or tract.
- 3. Except as otherwise provided in paragraph 2 above, no lot shall be used or improved for anything other than private residential purposes, including allowed home businesses.
- 4. No building or other structure shall be located less than 25 feet from the front lot line, nor less than 10 feet from any side lot line, nor less than 25 feet from the rear lot line. Buildings on corner lots shall be located at least 25 feet from each street.
- 5. No residence shall be occupied prior to completion of the exterior of the building.
- 6. Except as otherwise authorized in paragraph 2 above, none of the lots subject to these restrictions, nor any building or improvement erected thereon shall at any time be used for the purpose of any trade, profession, manufacturing, or business of any description, except in-home trades, professions and businesses shall be permitted provided that the use of the property for a home occupation or business complies with the following requirements:
  - (a) The in-home business shall be clearly incidental and secondary to the primary use of the lot for residential purposes and shall be limited in location to the inside of a dwelling or outbuilding.
  - (b) Only a resident of the dwelling may conduct the home occupation or business in the dwelling or outbuilding.
  - (c) No signage or advertising for the home occupation or business shall allowed.

7. No discharge of firearms shall be permitted on any lot subject to these restrictions.
8. No trailer, tent, garage, or outbuilding shall at any time be used as a residence, temporarily or permanently, nor shall any structure, of whatsoever nature, of a temporary character, be used as a residence.
9. Trailers of all types, (including cargo trailers), motor homes, recreational vehicles of all types, and boats may be parked in enclosed garages, or at the side or rear of the Lots.
10. No livestock, poultry or other animals, except dogs, cats or small in-house pets, are permitted on the properties. No more than two dogs may be kept on a lot at any time. Animals may not be kept, bred or maintained for any commercial purposes. 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 animals in the subdivision or on surrounding or adjacent properties. Dogs and cats shall be kept on the owner's own property. Dog kennels must not exceed 10 feet by 20 feet and are to be located in the rear yards and screened or fenced from the neighbor's view. Kennels are to be kept clean and odor free at all times.
11. No junk, trash, debris, inoperable or unlicensed motor vehicles or parts thereof, or waste shall be permitted to accumulate on any lot or in any street; all junk shall be promptly and effectively disposed of, and no lot shall be used as a dumping ground or burial pit. Garbage containers and above-ground storage tanks shall be concealed from view by fences, hedges or other means except that garbage containers may be placed near the street on collection days.
12. No signs, billboards, posters, or advertising or political devices of any kind or character shall be erected or displayed upon any of the lots, excepting subdivision promotion signs, signs displayed to identify the occupants of a dwelling and one for sale sign per lot.
13. The owner of each lot shall control the weeds and all noxious plants on their lot; owners shall not use sprays or killing materials in such a way as to be harmful to humans or animals or to the other owners' vegetation. In the event an owner shall not control the weeds and noxious plants, the Mohr Estates Home Owners Association, after ten days written notice to an owner to control the same, will be turned in to the County Weed Department. The Home Owners Association may cause the weeds or noxious plants to be controlled, and may assess the lot owner for the costs thereof.
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15. Each owner of a lot shall, within a period of one year after that occupancy of a dwelling on said lot area, provide grass and/or other appropriate landscape cover over all unimproved areas of the lot or lots.
16. No lot subject to these restrictions may be re-subdivided into two or more lots. This restriction shall not apply to expansion property until that property is declared to be subject to these restrictions.

## CONSTRUCTION RESTRICTIONS

17. No dwelling shall be constructed without adequate septic tanks or other sewage disposal system. Any septic tank or sewage or waste disposal system, and any private water supply system, shall be located, installed and maintained at all times in compliance with standards established by the Montana Department of Health and Environmental Sciences and by any other governmental agency having jurisdiction.
18. No outside privies or toilets shall be permitted on any lot, except during construction, and all buildings with plumbing shall have modern inside plumbing with sanitary toilets and running water connected with a sanitary septic tank or other sanitary sewage disposal system.
19. Any residence erected or placed on any lot shall meet the following minimum area requirements within the perimeter of the exterior walls, exclusive of open porches and garages:
  - (a) One-story, fourteen hundred (1,400) square feet on the ground level.
  - (b) Two (2) or more stories, one thousand (1,000) square feet on the ground (first) level.
  - (c) Split (multi) level, must have at least fourteen hundred (1,400) square feet above ground.
20. Except as otherwise provided below, all residences, buildings and structures erected on said property shall be of new construction and no old buildings shall be moved upon any lot. All homes shall be constructed on a permanent foundation. Onsite construction only. Any structure erected on the Properties shall be of new construction and no structure or structures shall be moved onto the Properties. No mobile homes or modular or pre-fabricated homes shall be erected, placed or otherwise maintained on any Lot.
21. Any building erected or placed on any lot shall be completed within one hundred eighty (180) days after equipment and/or materials to be used in construction have been moved onto the location, and all construction shall be pursued with reasonable diligence. No excavation shall be permitted on any lot until such time as the actual construction of the building is to begin, except that the owners may test the supply of water under said lands and may drill and excavate for that purpose, and test for subsoil conditions, provided that such test sites are replaced to their original condition.
22. No outbuildings shall be permitted on any Lot until a residence has been built or placed on the Lot.
23. No building shall be erected of material other than commonly used in standard construction. No sheet or corrugated metal shall be used on the outside of said buildings (including roofs). All block buildings shall be stuccoed; however, the use of decorative block or brick shall be permitted.
24. No building shall be erected with less than a 7 foot outside vertical wall, and no geodesic domes shall be permitted.

25. Any addition to any home must be approved in advance, in writing, by Mohr and the Board of Directors of the Home owners Association, so long as Mohr owns any of the above-described real property, including expansion property. These parties may deny approval for any reason.
26. Until the sale of all of the above-described property by Mohr, including the expansion property, the design of any residence or outbuilding on any Lot must be approved in advance, in writing, by Mohr and the Board of Directors of the Home Owners Association. All requests for approval shall include dimensions and height, the type and color of exterior materials to be used, and the location of the building on the lot. Mohr and/or the Board of Directors may disapprove the design of any residence for any reason.
27. No fence or hedge shall exceed six (6) feet in height at any point; fences within thirty (30) feet from any street shall not exceed 3 feet in height. No barbed wire shall be used on fences. Any fence or enclosure must be constructed of sound materials and with posts of uniform size and shape; posts shall be firmly set and maintained upright in the ground. All fences shall be maintained by their owner so that they are not unsightly in their appearance.
28. A maximum of one single family residence and two outbuildings shall be permitted on each lot. The term "outbuilding" shall include any sheds and detached garages. All outbuildings must have the same color siding and roof as used on the main residence; all outbuildings shall be in good state of repair and shall not be allowed to become rundown or an eyesore to the neighbors. Partially enclosed carports shall be permitted.
29. All utility lines and pipes shall be placed underground; no overhead lines shall be permitted. Propane tanks must be placed underground according to the specifications given by the propane provider.

#### COMMON AREA

30. Mohr Estates Homeowners Association, Ltd. shall own the property designated as "Rimrock Drive and Storm Water Detention Area" on the plat of Mohr Estates Subdivision, and any other real property subsequently conveyed to the Association. All real property owned by the Association shall be common area which shall be subject to an easement for use by all members of the Association, their families, tenants and guests. Rimrock Drive, which is part of the common area, is also subject to an easement for ingress and egress to the expansion property, described above, by all owners of the expansion property, their families, agents, tenants and guests.

#### HOMEOWNERS ASSOCIATION

31. **Membership in Association.** Each owner of Lots 6-10 of Mohr Estates Subdivision, and each owner of any expansion property added to the provisions of this declaration shall be a member of a Montana non-profit corporation, formed or about to be formed, known as "MOHR ESTATES HOMEOWNERS ASSOCIATION, LTD., hereinafter called "Association".

Owners shall mean each person owning an undivided interest in a lot or tract, as shown by the records of the Stillwater County Clerk and Recorder, provided however, that if such owner has sold to a third person under the terms of an agreement for future delivery of title, and notice of such agreement is recorded with the Stillwater County Clerk and Recorder, such third person shall be deemed the owner. Co-owners, or joint owners, shall be deemed to be one member for the purposes of voting and assessment. The affairs of the Association shall be governed by its Bylaws, attached hereto as Exhibit "A".

**32. Obligations of the Association.**

- (a) The association shall be responsible for payment of property taxes on the common area, and for maintenance of the storm water detention area serving Mohr Estates Subdivision, Rimrock Drive, and all other common areas owned by the Association.
- (b) The Association, and any agent duly designated by the corporation, shall conduct routine safety inspections of the common areas and shall take such action as may be deemed necessary to provide immediate follow-up maintenance to correct unsafe conditions.
- (c) A maintenance program for roads, drainage facilities, and any other common areas shall be developed by the Association on or before a date which is no later than twelve (12) months after sale of the first three (3) residential lots within the subdivision; said maintenance program shall be a written statement of intent with respect to maintenance, and the writing shall be made available to all members of the property owners' association upon request. Maintenance shall include snow removal, blading and addition of gravel as needed on Rimrock Drive, and cutting of weeds and grasses and control of noxious weed on the common areas.
- (d) The Association shall be responsible for control of noxious weeds on the common areas and shall monitor noxious weed growth on residential lots within the subdivision; any lot owner failing to control noxious weeds on his or her property shall be given notice of the requirement to remove and control said weeds, and upon failure to do so within such time as may be designated by the Association, will be subject to assessment by the association for any cost of removal or control of noxious weeds incurred by the Association; failure to pay said assessment shall then permit the Association to file and record a lien against the lot owners' property within the subdivision in a like manner as set forth in paragraph 38 below.
- (e) The Association may establish additional provisions for vegetation reduction and clearance, fuel breaks and green space, and other fire protection standards which may be deemed appropriate by the local fire authority, and to protect the health and safety and welfare of its members.

- (f) Any complaints directed to the Association shall be submitted in writing to the Board of Directors and will be considered by them at their next regular meeting.

**33. Semi-Annual Assessments.**

- a. The Association, through its Board of Directors, shall establish and collect semi-annual assessments from the owners of each of the lots subject to this Declaration, to pay for the cost of all the maintenance set forth above, and for the administrative expenses of the Association. In the event that the Board fails to fix a semi-annual assessment, the previous assessment shall remain in effect until changed by the Board. The initial semi-annual assessments shall be \$100 per lot. Assessments may be changed to meet the changing expenses of the Association. Assessment shall be apportioned equally to each lot subject to this Declaration.
- b. Upon the beginning of construction on a Lot, the owners will be subjected to a one-time fee of \$1000 to be used for the maintenance of the subdivision road. This fee is payable within 30 days of the start of construction on the lot.

**36. Payment of assessments.** Each owner shall be responsible for the payment of assessments within thirty days after notice of assessment is given by the Board. Assessments paid more than thirty days after the due date, shall be charged a \$15 late fee. All payments shall be applied first to the late fee and then to the earliest assessment due. Late fees shall become a part of the Association's account. All assessments collected by the Association may be commingled in a single fund. The Secretary-Treasurer shall maintain records showing the amounts of all assessments paid and unpaid. Such records shall be available for inspection at all reasonable times by owners or their representatives.

**37. Covenant to pay maintenance assessments.** Each owner of a lot subject to this Declaration, by acceptance of a deed, whether or not it shall be expressed in said deed, is deemed to covenant and agree to pay to the Association all assessments made by the Association and to waive any right said owner may have, under the laws of the United States or the State of Montana, to claim a homestead exemption for said assessments. Owners and their grantees shall be jointly and severally liable for all unpaid assessments due and payable at the time of conveyance of any lot, but without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefore. The Secretary-Treasurer of the Association shall notify third parties, upon their request, of the amount of unpaid assessments on any lot.

**38. Remedies for non-payment of assessments.** All unpaid sums assessed by the Association to any lot, together with interest, collection costs, costs of suit, and reasonable attorney fees, shall constitute a lien on such lot, and if filed of record, may be foreclosed in the same manner as a construction lien. Such lien shall not take priority over any sums unpaid on a first mortgage or trust indenture of record prior to the recording of the lien for assessments. Each assessment, together with

interest, collection, costs and costs of suit, and reasonable attorney fees, shall also be the personal obligation of the owner of the Lot against which the assessment was made at the time the assessment fell due and suit to recover a money judgment for unpaid assessments shall be maintainable by the Association against said owner without foreclosing or waiving the lien securing the same. All costs of collection of delinquent assessments, including but not limited to, court costs, costs of filing liens, and attorney fees, shall be the obligation of the non-paying lot owner, and may be added to the next regular assessment for that lot. No sale or transfer of a lot shall relieve the acquirer from liability for past due assessments or from the lien thereof. All rights, remedies and privileges granted to the Association or the owners pursuant to the terms hereof, shall be deemed to be cumulative.

**39. Limitations on Liability of Association.** In no event shall the Association or its members be liable to any property owner, his or her heirs, successors, assigns, family or guests, employees, agents, invitees, or lessees or to any person using the road for any damages arising out of the maintenance of the road by the Association.

### **RIGHT TO ENFORCE**

The restrictions herein set forth shall run with the land and bind the present owners, their heirs, devisees, trustees, and assigns of all lots subject to these restrictions; and any and all parties claiming by, through or under them, shall be taken to hold, agree and covenant with the owners of said lots, their heirs, devisees, trustees, and assigns, and with each of the owners of said lots, to conform to and observe said restrictions as to the use of said lots and the construction of improvements thereon; but no restrictions herein set forth shall be personally binding upon any corporation or person except in respect to breaches committed during the time the corporation or person held an ownership interest in said land. The owner or owners of any of lots subject to these restrictions set forth above, in addition to the ordinary legal action for damages; and the failure of the owners, or the Association to enforce the restrictions herein set forth at the time of any violation thereof shall not be construed as a waiver of the right to do so in the future. In the event of a suit to enforce these Restrictions, the losing party shall be obligated to pay all costs and attorney fees incurred by the prevailing party.

### **AMENDMENT**

Except for amendments which add expansion property to the terms of this Declaration, these restrictions may be amended and added to, or rescinded, in whole or in part, only with written consent of the owners of a least eighty (80%) percent of the lots subject to these restrictions. Any amendment must also be approved by the County Commissioners of Stillwater County, or such other governing body having responsibility for regulation of subdivisions in Stillwater County, and until such time as Mohr has sold all property subject to these restrictions, including expansion property, such amendment or restriction must

also be approved, in writing by Mohr; approval by Mohr may be withheld for any reason. No amendment or revocation of these restrictions shall be effective unless it is signed by the requisite owners and the governing body and filed of record in the office of the Clerk and Recorder of Stillwater County, Montana.

Revised  
DECLARATION OF RESTRICTIVE COVENANTS  
MOHR ESTATES SUBDIVISION  
2<sup>ND</sup> FILING, PHASE TWO

This DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is made on this 21<sup>st</sup> day of July, 2005 by Martin Mohr, developer of Mohr Estates Subdivision, 2<sup>nd</sup> Filing, Phase Two, 218 Cemetery Road, Park City, Montana 59063 ("Declarant");

WHEREAS, this DECLARATION OF RESTRICTIVE COVENANTS FOR Mohr Estates Subdivision, 2<sup>nd</sup> Filing Phase 2 is a supplement to and not a change of the DECLARATION OF RESTRICTIONS FOR Mohr Estates Subdivision, Phase 1 & 2, Second Filing; and

WHEREAS, the Declarant is all of the owners of the following described real property located in Stillwater County, Montana to -wit:

Mohr Estates Subdivision, 2<sup>nd</sup> Filing, Phase Two, located in the NW ¼ of Section 30, T2S, R23E, PMM, Stillwater County, Montana, according to the official plat filed and of record in the Office of the Clerk and Recorder of said County, as Document No. 323449

WHEREAS, the Cove Ditch is located within 100 feet of the northerly boundary of the subdivision and the Big Ditch is located within 50 feet of the southerly boundary of the subdivision, both of these ditches may pose a safety problem for future property owners. These ditches may attract small children to the waters edge where water accidents may occur. Efforts must be made by homeowners to protect their children to prevent them from trespassing onto the ditch right-of-ways where accidents may occur.

WHEREAS, the Montana Department of Fish, Wildlife and Parks has indicated that mountain lions and black bears do move through the area of Mohr Estates Subdivision, 2<sup>nd</sup> Filing, Phase Two, and domestic pets, food, and garbage found in and adjacent to subdivisions do attract wildlife. Efforts shall be made by homeowners to control domestic animals, and to keep food and garbage inside structures to minimize attractions. Homeowners accept responsibility for living in association with mountain lions, black bears, and other wildlife. No feeding of any wildlife other than birds is allowed.

WHEREAS, the purchases of lots understand that they live in a rural area near agricultural operation which use pesticides and herbicides and which create noise, dust, and odors. Landowners in the subdivision may also experience straying farm animals as well as the need to control domestic pets.

FURTHERMORE, no water rights are transferred with this subdivision.

Roads shall be open to the public but not maintained by Stillwater County. Road maintenance shall be the responsibility of the "Mohr Estates Homeowners Association, Ltd."

Fire protection standards which may be deemed appropriate by the local fire authority shall be established by the "Mohr Estates Homeowners Association, Ltd."

These covenants shall supplement but not replace existing covenants for previous filings of this subdivision, and these covenants shall be an addendum to those for the first filing which shall also apply to this 2<sup>nd</sup> Filing, Phase 2.

NOW THEREFORE, the Declarant states the following shall run with the land and bind all owners of each of the above-described lots, their heirs, successors and assigns:

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2012