

**DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
OVERLOOK ESTATES SUBDIVISION**

Overlook Homes, LLC and Overlook Condominiums, LLC (the "Declarant"), being the owner of the Subdivision herein described in Article I of this Declaration, hereby adopt the following Declaration of Protective Covenants, Conditions and Restrictions pertaining to and in addition to or in contrast with the City of Helena zoning requirements or conditions and effecting the use, regulations, restrictions, reservations, easements and development of that Subdivision.

It is the intent of the Declarant that the real property in the Subdivision described in Article I shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, regulations, easements and reservations herein described, all of which shall be binding upon and shall apply to owners of any lots, parcels, tracts, townhouse or condominium units or townhouse or condominium elements of the herein described real property, and to heirs, assigns, grantees, personal representatives and/or successors in interest thereto.

**ARTICLE I - DEVELOPER AND PROPERTY SUBJECT TO THIS
DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS**

Section 1. For purposes of this Declaration the term "Developer" shall include Declarant and any developer to which Declarant transfers or assigns all of its rights, title and interest to the Overlook Estates Subdivision.

Section 2. The term "Subdivision" shall mean the real property which is and shall be held, conveyed, transferred, occupied and sold subject to the conditions, covenants, restrictions, regulations, reservations and easements, as set forth herein. The Subdivision is located in the City of Helena, County of Lewis and Clark, State of Montana, described as the Overlook Estates Subdivision and more particularly described as:

Tract "A" located in the N ½ SW ¼ of Section 23, Township 10 North, Range 4 West, P.M.M., Lewis and Clark County, Montana, as shown on Certificate of Survey filed under Document Number 3018904 and as more fully described on the official plat thereof on file and of record with the office of the Clerk and Recorder, Lewis and Clark County, Montana.

ARTICLE II - LAND USE REGULATIONS

Section 1. All structures built in the Subdivision shall be new and constructed on-site. No temporary structure, such as trailer, tent, garage or outbuilding shall be used on any lot at any time as a residence, either temporarily or permanent. All structures shall be maintained in a reasonable manner to present a neat and attractive exterior appearance.

- Section 2. All single family residential homes, multifamily homes, townhouses or condominiums and commercial buildings in the Subdivision shall be built by a designated "Preferred Builder" unless specifically exempted in writing. A "Preferred Builder" is a contractor that is specifically approved in writing by the Developer for construction of buildings in the Subdivision. Construction shall start within 24 months of any lot purchase and shall be completed within 18 months of construction start unless exempted by Developer.
- Section 3. No homes or garages constructed off the premises, regardless of the age, shall be moved into the Subdivision. No mobile homes, manufactured homes, trailer homes, modular homes or like dwellings shall be permitted within the Subdivision. No geodesic domes or like dwellings shall be built within the Subdivision. No solar greenhouses shall be built at the front of a structure or permitted at the front of a lot.
- Section 4. No recreational vehicles, motor homes, campers, trailers, boats, horse trailers, snowmobiles, four-wheelers and like recreational equipment shall be stored on a resident's property unless stored within the garage or behind a wood fence and not in public view.
- Section 5. Pets shall be controlled and contained within the resident's property and not be allowed to roam from the resident's property or become a nuisance or annoyance to neighboring property owners. Breeding for commercial purposes shall not be allowed. No more than two dogs and two cats are allowed. No horses, cows or any farm animals shall be housed or fed on any lot.
- Section 6. No lot shall be used or maintained as a dumping ground for garbage. All waste shall be kept in sanitary containers or trash receptacle and shall be concealed from public view (i.e., in the garage, behind the residence or behind a privacy fence on the side of a residence) at all times except within 24 hours of trash pickup day. All storage areas shall be kept in a clean and sanitary condition.
- Section 7. No lot shall be used for the storage of any inoperable vehicle, machinery or equipment. No lot shall be used for storage of any articles, vehicles, equipment or other personal property of any quantity in excess of the immediate needs and personal use of the owner of a lot or the occupants thereof as the case may be. No lot or street frontage shall be used for the parking or storage of any large commercial vehicle or any commercial trucks.
- Section 8. No offensive activity shall take place upon any portion of the Subdivision. Nor shall anything be done thereon that shall be, or shall become, an annoyance to the neighborhood. The construction of buildings or site preparation during normal business hours is not deemed to be offensive or annoying activity. All improvements, construction, reconstruction, alterations, remodeling, or any other related activity shall be completed within 1 year from the date construction is commenced.

ARTICLE III -ARCHITECTURAL CONTROLS

The following architectural controls shall apply to any and all construction within the Subdivision.

Section 1. All structures shall be new and constructed in the Subdivision. All structures shall be constructed and maintained in a reasonable manner to present a neat and attractive exterior appearance.

Section 2. The exterior colors of all structures, including permitted outbuildings, shall consist of muted tones including, but not limited to, earth tones, pastels, white or wood colors. Bright or shiny colors such as oranges, royal blues, pinks or purples shall not be allowed. The trim color should accent or contrast the main body to add visual interest.

Section 3. Each single family dwelling unit shall have a minimum of 1,500 square feet of finished floor space together with an attached double car garage of not less than 20 feet wide. If approved by the Architectural Review Committee, an unattached garage, or single or triple car attached garage, may be permitted. Carports shall not be allowed. The 1,500 square feet per dwelling unit shall be considered living area and shall not include basements, garages, crawl spaces, porches, patios and the like.

Section 4. Each townhouse or condominium shall have a minimum of 1050 square feet of finished floor space.

Section 5. Exterior lighting consisting of mercury vapor or other types of obtrusive flood lighting shall not be allowed. Any exterior lighting shall not protrude or infringe on surrounding properties, or offend any neighbor. Exterior lighting shall be directed towards the ground and diffused so as not to glare onto surrounding properties. Exterior motion detector lighting is permitted so long as the light is not on for over 2 minutes when activated.

Section 6. Only backyards and side yards may be fenced. Front yards shall not be fenced. Chain link fences shall not be allowed. Fence height shall not exceed 6 feet.

Section 7. Retaining walls shall be constructed of concrete, stone, brick, or similar materials.

Section 8. Antennas shall be placed in unobtrusive locations with respect given to local aesthetics and views from adjacent properties. Satellite dishes larger than 2 feet in diameter shall not be allowed.

ARTICLE IV-ARCHITECTURAL REVIEW COMMITTEE

Section 1. No residential or other structures, including fences, garages, retaining walls, outbuildings, sheds, tanks, antenna, or other improvement shall be constructed,

remodeled, added onto, or altered in the Subdivision until the plans (construction drawings and plot plans) and specifications showing the nature, kind, shapes, height, materials, colors, and location of the proposed improvement have been reviewed and approved in writing by the Architectural Review committee for the Subdivision. Approval or disapproval of the requested improvement(s) shall be based on a written finding by the Architectural Review Committee that the proposed improvement(s) conforms with this and other governing documents, will be in harmony with the external design of other structures and/or landscaping within or proposed to be within the Subdivision and, will not unreasonably interfere with the enjoyment of other lot owners.

Section 2. The purpose of the Architectural Review Committee is to achieve and maintain the aesthetic goals planned for the Subdivision by the Developer. The function of the Architectural Review Committee is to review and act upon requests for approval of improvements submitted by lot owners in an attempt to ensure compliance with the regulations and controls described herein. It is the purpose of the Architectural Review Committee to protect the owners of property in the Subdivision against non-conforming designs or construction that is substandard in quality. Exceptions or variances to any of the regulations or controls presented in this declaration may be granted by the Architectural Review Committee. The regulations and controls listed herein are not intended to replace any standards, limitations or requirements adopted or established by the City of Helena. Instead, the regulations and controls are intended to supplement the City of Helena standards and requirements.

Section 3. The Architectural Review Committee shall be comprised of representatives of each Preferred Builder, the Developer and three persons appointed by the Developer. The Architectural Review Committee shall exist until such time as the Developer has sold all of the lots in the Subdivision or until Developer determines that the services of the Architectural Review Committee are no longer needed and the Developer notifies all property owners in the Subdivision of such. The Architectural Review Committee will review the plans and specifications submitted in a timely manner and provide written approval to construct the improvement or a notice of rejection to construct the improvement within 30 days of the date the Architectural Review Committee received the improvement request from the lot owner. All decisions of the Architectural Review Committee shall be subject only to the Developer's right to reverse a decision if in its sole judgment the decision is warranted. In the case of a protest, in its sole judgment, the Developer reserves the right to approve or disapprove. No deviations or modifications from any approved plans or specifications shall be permitted unless the deviation or modification is approved in writing prior to construction by the Architectural Review Committee. The approval by the Architectural Review Committee of any plans and/or specifications shall not be deemed to constitute a waiver of any right to withhold approval or reject any similar plan and/or specification by the same or some other lot owner.

Section 4. The Architectural Review Committee may take any action it deems necessary to

correct deviations or modifications from any approved plans or specifications and the amount of any expenditures made in doing so shall be a lien of the lot and enforceable by law. If, in the opinion of the Architectural Review Committee any improvement is determined to be offensive, unsightly in appearance or not harmonious with other properties in the Subdivision, the Architectural Review Committee may take action it deems necessary to improve the appearance of the improvement and the amount of any expenditures made in doing so shall be a lien of the lot and enforceable by law. The actions or inactions of the Architectural Review Committee, and the individual members thereof, shall not be the basis for damages to any lot owner or any other person; nor, shall any such actions or inactions constitute a cause of action for damages or equitable relief to any lot owner or any other person. In addition, the Architectural Review Committee, and the individual members thereof, shall not be held liable by any lot owner or any other person for damages, real or perceived, for any actions taken, inactions or delays.

ARTICLE V- GRADING, LANDSCAPING AND MAINTENANCE

Section 1. Lot owners shall not allow storm water runoff from their lot(s) to run on to, or across, an adjacent lot. Owners shall establish a lawn or other suitable landscaping on their lot(s) including trees, plants and shrubs. They shall mow and control noxious weeds and otherwise maintain their lot(s) so that the landscaping does not detract from the general appearance of the Subdivision and other adjoining subdivisions.

Section 2. All graded yard areas shall be smoothed and seeded with appropriate grass seed, sodded or otherwise landscaped with other appropriate types of landscape material (e.g., decorative rock, trees, plants, shrubs, etc). Yards shall be adequately maintained to control noxious weeds and to present an appealing yard. This shall include fertilizing, watering, mowing, trimming, tree trimming and the like. Landscaping shall be completed within 6 months after a dwelling unit/residence is constructed on a lot.

ARTICLE VI – EASEMENTS

Section 1. Each lot in the Subdivision shall be subject to utility easements for the purposes of constructing, operating, maintaining, enlarging, reducing, removing, laying or relaying lines (wire, pipe or conduit) and/or related facilities and equipment for those utilities providing electricity, gas, telephone, cable television, sewer, water, storm drainage, fiber optics and the like. Utility easements are shown on the final plat of the Subdivision which will be filed in the office of the County Clerk and Recorder of Lewis and Clark County, Montana.

Section 2. No temporary or permanent structures, outbuildings, swimming pools, concrete pads or patios (except concrete driveways where the easements are located along

the front of the lot) or other similar type structures shall be built within these easements, unless the structure, such as a storage shed for a lawn mower and garden equipment (as described herein), may be easily and quickly moved by the resident of the property requiring access by a utility company. Fencing across utility easements is permitted so long as the fencing is of a type that can be easily and quickly removed in the form of sections, panels, gates or other similar units of construction.

ARTICLE VII - ENFORCEMENT, APPLICABILITY, CHANGE AND GENERAL PROVISIONS

Section 1. **Effects of Covenants on Mortgage.** A breach of any of the foregoing provisions, conditions, restrictions or covenants shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value on any lot, or portion of any lot, and any improvements thereon, but said provisions, conditions, restrictions and covenants shall be binding upon and effective against any owner thereof whose title thereto was acquired by foreclosure, trustee sale or otherwise.

Section 2. **Incorporation by Reference.** In any conveyance of the lands in the Subdivision, it shall be sufficient to insert a provision therein to the effect that the conveyance is subject to the restrictions and covenants contained in this document, without setting forth such restrictions and covenants verbatim or in substance in such conveyance. All of the above described real property and lots shall be subject to the restrictions, conditions and covenants set forth herein whether or not there is a reference to the same in a deed of conveyance.

Section 3. **Enforcement.** Enforcement of these covenants shall be by an action at law or in equity against any person or persons violating or attempting to violate any covenants, and the legal proceedings may be either to restrain the violation of the covenants or to recover damages or both. Each person who has been found by a Court of competent jurisdiction to have violated one or more of these covenants shall be liable for all reasonable attorney's fees and costs incurred in connection with the litigation. The failure of any owner or owners of any lot to enforce any of the restrictions set forth herein shall be personally binding upon any person, persons or corporation, only with respect to breaches committed during it's, his/her or their ownership of or title to any of said tracts and any part thereof. Developer or individual lot owners may not be held liable by any person for any damages which may result from actions taken pursuant to these covenants, including, but not by way of limitation, damages which may result from changes or delays associated with such action on the part of the Developer or the individual lot owners.

Section 4. **Additional Covenants Imposed with Townhouse or Condominium Declarations.** Various areas in the Subdivision may be subject to addition covenants imposed by reason of townhouse or Condominium unit declarations which will be separately recorded prior to sale of such units.

Section 5. **Severability.** Invalidation of any of these covenants by a Judgment or a Court Order shall in no way affect any of the other provisions in this document, and they shall remain in full force and effect.

Section 6. **Amendment.** The covenants, conditions and restrictions of the Declaration shall run with and bind the land from the date this Declaration is recorded. This Declaration in whole or in part, or any covenant, condition or restriction thereof, may not be amended without the vote of the owners of 80% of the total square footage of the subdivision and the approval of the Helena City Commission the property in the subdivision.

DATED this ___ day of _____, 2006.

Declarant _____

By: _____

STATE OF MONTANA

County of Lewis and Clark

On this ___ day of _____, 2006 before me, a Notary Public for the State of Montana, personally appeared _____ known to me to be _____, the company that executed the foregoing Protective Covenants, and acknowledged to me that he executed the same for and on behalf of said corporation.

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

STATE OF MONTANA
County of Lewis and Clark

 This instrument was acknowledged before me on _____ by _____.

(Signature)

(Print Name)

Notary Public for the State of Montana
Residing at _____, Montana
My Commission expires: _____

SEAL