

## ROLLING GLEN RANCH SUBDIVISION PROTECTIVE COVENANTS

WHEREAS Rolling Glen Ranch Corporation, a Montana corporation, and Steven L. Cavanaugh and Susan L. Cavanaugh, of Belgrade, Montana, hereinafter referred to as the "Developer" of those certain lands more particularly described in Exhibit A attached hereto and made a part hereof by reference as is set forth below in its entirety and hereinafter referred to as the "premises" or the "subdivision"; and

WHEREAS, the Developer, by and through the within protective covenants, hereby create and impose certain covenants, restrictions, limitation, and regulations as to the use of the said premises, which premises have been subdivided and platted into lots according to the plats thereof known as Rolling Glen Ranch Subdivision, and which plat has been duly filed of record of the Clerk and Recorder, Broadwater County, Montana, and the same is hereinafter referred to as the "plat";

NOW, THEREFORE, the Developer does hereby establish, dedicate, publish, and impose upon the premises the following protective covenants which shall run with the land and shall be binding upon and be for the benefit and value of the Developer and all persons claiming under them, their grantees, successors and assigns and shall be for the purpose of maintaining a uniform and stable value, character, architectural design, use, and development of the premises and to all improvements placed or erected thereon unless otherwise specifically excepted and shall have perpetual existence unless terminated by law or amended as herein provided.

### I. Land Use.

A. Commercial Activity Prohibited. No commercial use may be made of any lot other than "cottage industries" which may be conducted out of a residence by the owner or tenant. A cottage industry is one conducted by the resident where the public does not purchase merchandise on a regular retail basis at that location. The Developer may permit exceptions if in accordance with state and county regulations.

B. No further subdivision of any lots within the Rolling Glen Ranch Subdivision (including but not limited to the creation of tracts to secure or foreclose financing or the creation of tracts for the purpose of gift or sale to family members) will be permitted, except, that Developer's right of future subdivision shall be exercised only in accordance with all applicable state and county subdivision and environmental regulations and further that no lot may be subdivided less than 2.5 acres in size.

C. There shall be no parking on roads within the subdivision.

D. Developer reserves the right to designate certain lots within the subdivision to be used for Bed-n-Breakfast facility and/or Day Care facility.

E. Homes shall be single-family residences. Inclusion of a guest or relative apartment within the residence is permitted.

F. Duplexes, town houses and multi-family dwellings are specifically prohibited.

G. All property is intended for use as residential property. Activities such as a home office or home-based business that are consistent with use as residential property are permitted. Such use shall not create an imposition upon other property owners.

H. No commercial operations such as an auto repair shop, a boarding and /or grooming kennel or a commercial farming operation shall be maintained on any property.

149076 Fee: \$ 60.00 Bk 79 Pg 655

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Judy R. Gillespie, Clk & Rcdr By David R. Rasmussen

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**2. Building Sites.**

A. No building or improvement shall be placed, constructed, or altered on any single-family residential lot except to provide for a single family dwelling, an attached or detached private garage. Any plans for a dwelling on any lot shall provide for off-street parking for at least two vehicles, which must include a garage at a minimum size of 26 feet by 26 feet for two vehicles.

B. No more than one (1) home per lot shall be allowed and in accordance with state county regulations.

**C. Building Setbacks.**

a. No building or structure shall be located on any property nearer than 50 feet from the sidelines, fifty feet from the rear line and fifty feet from the front line Setbacks shall be measured from the property line to eaves, steps, porches or decks. Home sites should maintain 100-foot firebreak (defensible space) on all sides of any buildings to reduce wildfire risks.

b. The Rolling Glen Ranch Homeowner's Association may grant a variance with respect to setbacks to accommodate exceptional topography of any given lot and/or to cure any unintentional violation not exceeding twenty-five percent of any setback requirement.

D. 50-Foot Perimeter Firebreak/Access. The Developer has created a 50-foot no construction zone around the perimeter of the subdivision on the following lots; 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 19, 20, 27, 28, 33, 34, 39, 40, 41, 42, 45, 46, 49, 50, 53, 54, 58, 59, 60, 63, 64, 67, 68, 71, 72, 75, 79 and 80. The Association will maintain this area as a firebreak and emergency fire access.

F. Additional Emergency Fire Accesses. A 20-foot emergency fire access has been created at the end of each cul-de-sac within the subdivision for access to the 50-foot Perimeter Firebreak/Access and is marked as an easement on the plat map.

F. Driveways shall be constructed in such a way as to minimize drainage that will damage roads and common areas. Proper ditches, ditch lining, and culverts must be installed. Driveways that are found to be out of compliance with proper drainage must be corrected by the property owner. If the problem is not corrected within a reasonable time, the Association will make the repairs and bill the property owner. If the bill is not paid within 30 days, such billing shall constitute a lien against the owner's property.

**3. Building Construction.**

A. Dwelling homes of not less than 1400 square feet, exclusive of basement and garages, shall be constructed on site with new materials, except that suitable used materials, such as used brick or stone, may be utilized. No modular or manufactured housing will be allowed to be placed on any lot within the subdivision. No previously used structures, whether intended for use in whole or in part as a dwelling house, or as a temporary dwelling house while a permanent dwelling house is being constructed, shall be allowed on the property. All dwellings homes, including garages will be affixed to permanent foundations, concrete slabs, or basements.

B. Appropriate additional buildings with no minimum dimensions, in keeping with the architecture of the principal buildings, shall be permitted.

C. No recreational vehicles shall be used as a permanent residence.

D. All exterior colors of any improvements erected or placed on the property must be

approved by the Developer or Committee.

E. Once construction starts on any structure, including walls, fences, residence, ancillary buildings or other structures, construction of that particular structure shall be completed within one (1) year of the time such construction was initiated.

F. Said land shall not be occupied or used for any noxious or offensive activities and nothing shall be done or permitted to be done on said lands, which is a nuisance or might become a nuisance to the owner or owners of any of the surrounding lands, including the disposal of trash.

G. All zoning or other laws, rules and regulations of any government under whose jurisdiction said lands lies are considered to be a part hereof and enforceable hereunder and all owners of said lands shall be bound by such laws, rules and regulations.

H. Buyer agrees to be bound by each and all easements shown on plat map and right-of-ways of record that are in existence or are recorded with final plat map.

I. Roofing materials: No wood shakes or wood shingles shall be allowed on any structure within the subdivision. Only fire-resistant materials such as metal, asphalt, fiberglass, or concrete shall be allowed.

J. Roof pitch: No roof pitch shall be less than 6 and 12 on all stick-built construction. If the Developer allows modular or manufactured housing in the subdivision they shall have a minimum roof pitch of 4 and 12.

K. The Developer shall require that all construction comply with the provisions of the following standard codes:

1. Uniform Building Code;
2. International Conference of Building Officials;
3. National Plumbing Code;
4. National Electric Code;
5. National Fire Protective Association; and
6. Broadwater County Building Code.

L. Exterior Lights: Exterior lighting for all lots within the subdivision will be in accordance with the International Dark Sky Program.

M. Prior to start of construction for any structure including but not limited to a home, garage, sheds, fences, dog runs, dog houses, etc. three (3) sets of building plans must be submitted to Developer or Committee for review and written approval.

#### 4. Landscaping and Fences.

A. Each lot owner within the subdivision has been given a copy of "Fire-Resistant Plants for Montana Landscapes" which was prepared by Montana State University. The Architectural Committee prior to planting must approve plants not on this list in writing.

B. All fences must be approved in writing by the Developer or Committee prior to constructing or placing a fence on any lot within the subdivision. Three (3) sets of plans must be submitted by owner to the Developer or Committee for review and approval. Plans must be to scale and show the location, design, height, and color of the fence or fences.

The Homeowners Association shall maintain all fences installed by the Developer.

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**5. Animals.**

A. No feedlot, no swine, or pigs (other than those for 4-H projects) can be kept on the premises at any time.

B. No more than two (2) horses, one (1) milk cow, or two (2) sheep can be kept on the premises at any time. No more than two (2) head of any livestock, including horses, cows, or sheep per lot shall be allowed. Livestock shall not be allowed on any lot smaller than 5.0 gross acres. Note: Lots of 4.99 gross acres or less will be restricted from having livestock.

C. Animals such as dogs, cats or birds are allowed in the subdivision as pets only and so long as they do not constitute a nuisance to others. Kennels, or other facilities for the keeping or retention of animals, shall be restricted to areas so as not to create a nuisance to the surrounding property owners.

D. No dog or other pets shall be permitted to roam free at any time outside of owner's property. Dogs and other pets shall be kept tethered or confined on the owner's property, and when the said animal or animals are taken from the owner's property, such animal or animals must be kept on a leash and must be under the owner's control at all times.

E. No roosters shall be allowed in the subdivision.

F. No livestock shall be permitted to overgraze causing damage to vegetation on any premises in the subdivision. All livestock shall be provided with hay, pellets or other supplemental feeds to prevent overgrazing and to insure the health of vegetation.

**6. Junk Vehicles.** No junk vehicles shall be parked on the street nor retained or parked on any lot. A junk vehicle is one which cannot be driven away under its own power, or which is not operated for a period exceeding ninety (90) days.

**7. Utilities.**

A. All federal, state and local laws and regulations regarding sewage disposal, water supply, air pollution, and sanitation shall be complied with by each property owner.

B. There shall be no buried fuel tanks with the exception of propane tanks.

C. Within the area of a 100-foot radius from any water wells, the following uses are prohibited:

- a. Dog Kennels
- b. Storage or spreading of manure
- c. Drain fields, waste water disposal, and
- d. Storage or disposal of chemicals, insecticides, herbicides, or fertilizers.

D. Propane tanks must be buried, marked and identified.

**8. Trash and Garbage.** No trash, waste, garbage, litter, junk, or refuse shall be thrown, dumped, or left on any portion of the premises. Each owner or lessee shall provide suitable receptacles for the containment and collection of trash and garbage, which must be enclosed or screened. Nothing contained herein shall be construed to prohibit or deny the installation of wood-burning fireplaces or stoves. Burn barrels are prohibited.

**9. Mailboxes.** The Developer will provide cluster mailboxes for all Rolling Glen Ranch lot owners. Lot owners are prohibited from placing mailboxes on their lots.

10. **Easements.** The grantor retains the right to grant utility easements incidental to the service of telephone, electric, and any other utilities required.

11. **Architectural Committee.**

A. After eighty-five percent (85%) of the lots have been sold within the subdivision an Architectural Committee will be created, hereinafter referred to as "Committee" or "Architectural Committee", which shall consist of three persons appointed by the Developer. Until such time the Developer will act as the Architectural Committee.

B. Each member of the Committee shall serve until he or she resigns or is replaced by the Homeowners' Association at any annual or special meeting. At any meeting of the Homeowners' Association, a majority vote of those Association members present or voting by proxy may replace a member of the Architectural Committee.

C. The Developer or Committee may make such reasonable rules and By-Laws and adopt such procedures as it deems necessary to carry out its functions, which rule, By-Laws, and procedures may not be inconsistent with the provisions of these covenants.

D. The Developer or Committee shall have the authority to reject materials and/or designs submitted with plans, or the plans themselves, if they are not appropriate or are not compatible with the rest of the subdivision.

E. All improvements, construction, re-construction, alterations, exterior re-modeling, or any activity requiring the approval of the Developer or Committee, must be completed in substantial compliance with the plans and specifications initially approved by the Developer or Committee. All such construction must be completed within one (1) year from the date construction is commenced.

F. The Developer, Committee, or Broadwater County shall have the power, authority, standing, and right to enforce these covenants in any court of law or equity when it reasonably believes the same have been violated and as more particularly set forth in Section 20 and shall have the authority to revoke or suspend building permits and/or order suspension or cessation of any construction or work in violation of these covenants or of any permit issued by the Developer.

G. No plans or specification shall be approved which will be so similar or dissimilar to other improvements or structures that monetary or aesthetic values of the property in the subdivision will be impaired.

H. All plans and specifications shall be in full compliance with all of the terms and provisions of these covenants except for any variances, which may be granted by the Developer or Committee.

I. All plans and specifications must be acted upon by the Developer or Committee within thirty (30) days after the date of official acknowledgment and submittal.

12. **Homeowners' Association.**

A. When the Developer has sold fifty-one percent (51%) of the lots in the Rolling Glen Ranch Subdivision a Homeowners' Association will be formed known as THE ROLLING GLEN RANCH Homeowners' Association, Inc., a Montana Non-Profit Corporation, for the purpose of promoting, developing, and operating the subdivision; as well as all road maintenance, grading, graveling, snow removal, and/or surfacing, and maintenance of the fire protection water tank. All owners of real property within the subdivision shall be members of such Homeowners' Association ("Association") and shall be bound by the provisions of the Articles of Incorporation and the By-Laws of such Association, copies of which are made a part hereof by this reference. All owners shall have one vote per lot on any issue to come

before the Association.

B. The Homeowners' Association shall be governed by a Board of Directors elected each year at the annual meeting by a majority of members present or voting by proxy, one vote for each lot. The board shall be the same persons who comprise the Architectural Committee and shall have the powers and duties set forth in the Articles of Incorporation and the By-Laws of the Homeowners' Association. The Association, through its Board, shall have the authority to make such changes and assessments to the members as are reasonably necessary to carry out its functions and duties. The Association shall have the power to levy assessments, which assessments shall be in two classes: Capital Assessments and Operating Assessments.

C. Such Assessments may be levied by the Board of Directors of the Association against any parcel of real property within the Rolling Glen Ranch Subdivision. Assessments shall be billed on an annual basis and notice of the amounts shall be mailed to each property owner on or before the first day of June of each year. All Assessments become due 30 days after the date of mailing. The Association has the authority to impose reasonable charges for interest and penalties for overdue payments. Assessments must be made divided equally between each parcel of real property, e.g. each lot owned, or equivalent thereof, shall pay 1/126th of the annual assessment. Assessments must be based upon an annual budget prepared and submitted to the membership in advance of the annual meeting and which must have the approval of a majority of the members. No increase may be made in the assessment without the prior approval of a majority of the membership interest in the Homeowners' Association. Unpaid assessments, upon notice thereof being duly filed of record, shall be a lien against the parcel of real property against which said unpaid assessment was made. Such lien may be foreclosed upon in like manner as a mortgage on real property, which foreclosure proceeding may include the addition of court costs, expenses, and reasonable attorney's fees.

D. The annual Homeowners Association dues for each lot within the subdivision shall be One Hundred and Fifty & No/100 Dollars (\$150.00), which may be amended by the Board of Directors of the Association.

E. Rural Improvement District: Lot owners waive their right to protest the formation of any maintenance district or rural improvement district (RID) for, including but not limited to, Price Road improvements, paving of the Rolling Glen Ranch interior roads and bike trails.

**13. Signage.**

A. All signs, billboards, posters, displays, advertisements, or any structures relating thereto are prohibited unless they have received approval of the Developer prior to installation or use; which restrictions shall also include signs for identification of streets, residences, and directional or location markers or signs.

B. Each home must be clearly labeled with the address assigned to it by the Broadwater County Road Dept.

C. Real Estate signs shall be placed only on the property that is for sale or rent. No more than two signs per property shall be posted. Realtors/owners must maintain their signs in an upright, orderly way.

D. No commercial or business signs shall be displayed.

**14. Environment.**

A. Every attempt shall be made to preserve and protect the environment indigenous to the area. All areas not utilized as sites for improvements where disturbed by construction or any human activity shall be returned as quickly as possible to their natural condition and replanted with native plant life except where otherwise utilized for lawns, gardens, or exterior living areas.

B. No mining, quarrying, excavation, oil drilling, or development of any kind shall be allowed in or on the premises except for such excavation as may be necessary in connection with the construction or placing of improvements thereof in accordance with the terms and restrictions of these covenants.

**15. Temporary Structures.**

A. No temporary structures, trailers, campers, tents, shacks, or similar structures shall be used at any time on the premises for temporary or interim habitation purposes except for initial dwelling construction and then only for a period not to exceed twelve (12) months. Trailers, boats, motor home, snow mobiles, campers, motor-cycles, heavy equipment or other similar articles may be kept or stored on the premises so long as they are not used for habitation on the premises other than for construction as set forth above. Recreational vehicles, visitors, or campers, may be parked on a lot and occupied by visitors or guests for a period not to exceed two (2) months or sixty (60) consecutive days in any six (6) month period.

**16. Nuisance.**

A. No noxious or offensive use or activity shall be carried on within the subdivision nor anything done or permitted on or in the premises which shall constitute a public nuisance.

**17. Weed Control.** Every lot owner shall be responsible for the care of his or her lot, including weed control. All lot owners shall be responsible for eradication of noxious weeds, as listed on the Broadwater County noxious weed list, and other weeds on their property and to include any access roads bordering their property. All costs of noxious weed control are the responsibility of the property owners of record. A revegetation plan/ management plan is on file with the Broadwater County Weed District as pursuant to Section 7-22-2152 MCA.

**18. Construction.**

A. All construction on or in the premises shall be diligently prosecuted to completion and be completed within twelve (12) months of commencement unless specific written extension is granted by the Developer or Architectural Committee. No construction material shall at any time be placed or stored so as to impede, obstruct, or interfere with pedestrian or vehicle traffic, and no construction materials shall be placed or stored on residential lots or for a period in excess of ninety (90) days following substantial completion of construction as shall be determined by the Developer or Committee.

**19. Surrounding Uses.** Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural and farming which can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late in the evening.

**20. Enforcement.**

A. In the event of any violation or threatened violation of these covenants, any owner of real property in the subdivision, the Developer, or Committee, may enforce these covenants by legal proceedings in a court of law or equity, including the seeking of injunctive relief and damages. In association with such legal proceedings or as a separate remedy, the Developer, or Committee may enter upon the property in question and remove, remedy, or abate the violation or threatened violation after first having given proper notice and a reasonable opportunity for the violator to take action himself or herself to comply with these covenants or to show cause why he/she is not in violation of the same, as set forth in sub-paragraph 20 B and C below.

B. Notice as required in sub-paragraph 20-A above shall be in writing and shall be served on the person or entity concerned and shall specify the violation or threatened violation, identifying the property, demand compliance with the terms and conditions of these covenants, and state the action which

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will be taken under sub-paragraph 20-A above, if the violation is not abated, remedied, or removed. If such notice cannot be personally served, service may be had by posting a copy of such notice at a conspicuous place on the property which is the subject of the violation and mailing a copy of the notice by Certified Mail, return receipt requested, to the last known address and/or address of record of the violator.

C. Such written notice must also set forth a time, date, and place for a hearing where the owner shall have an opportunity to appear to deny the statements set forth in such notice and to show cause why he or she is not in violation of these covenants. Such hearing shall be set at a reasonable time subsequent to the date of service of the notice to the property owner charged with such violation. Such hearing shall be presided over by an independent hearing officer who shall not be a property owner in the subdivision and who shall be an attorney at law duly licensed to practice in the State of Montana. Following such hearing, the hearing officer shall rule on whether a violation of these covenants is found. If a violation has been found to have occurred, the hearing officer shall give the property owner a time within which to remedy such violation, not to exceed ninety (90) days. If not so remedied within the specified time, then the self-help abatement or litigation provisions set forth herein may be invoked and pursued.

D. Actual costs, expenses, and reasonable attorney's fees incurred in connection with any hearing or correcting, remedying, abating, preventing, or removing any violation or threatened violation of these covenants established either through litigation, entry, or self-help following a hearing as provided in sub-paragraph 20-C above, shall constitute a claim by the owner, Developer, or Committee initiating such action against the owner of the property which is subject of such violation or threatened violation. An owner shall incur no costs if no violation is found and in such event the Developer, Committee, or person bringing such charge shall pay for the costs and fees for such hearing and action. Such claim shall not, however, exceed \$5000 for any one claim. If a violation is found to have occurred, the Committee, Developer, or owner making such claim may file a lien against the subject property in the amount of and for the collection of the claim by filing a verified statement of a lien with the office of the Clerk and Recorder, Broadwater County, Montana. Such lien statements must set forth the names of the claimant, a description of the property, the amount of the claim, the date of the claim, and a brief statement of the manner in which the costs and expenses constituting the claim against the property until paid in full or foreclosed in the manner otherwise provided by the law for liens and encumbrances on real property subject to rights or redemption.

E. Invalidation of any one of these covenants, conditions, or restrictions by judgment of a Court or competent jurisdiction shall in no way affect any of the other provisions, which shall remain in full force and effect.

#### 21. Mining

No mining, quarrying, excavation, oil drilling, or development of any kind shall be allowed in or on the premises except for such excavation as may be necessary in connection with the construction of placing of improvements thereof in accordance with terms and restrictions of these covenants.

#### 22. Compliance.

A. The owners, residents, lessees, and tenants of the property in the subdivision shall be in compliance with the laws, rules and regulations of Broadwater County or other municipal or governmental entity having jurisdiction over the subdivision.

#### 23. Amendment.

A. These covenants, or any portion thereof, may be amended, abandoned, terminated, modified, or supplemented at anytime by the written consent, duly recorded with the office of the Clerk and Recorder, Broadwater County, Montana, of the owners of seventy-five (75%) of the privately owned land included within the boundaries of the subdivision. Any covenant which is included as a condition of preliminary and final plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedure in these





