

## APPENDIX "A"

### ARTICLE I: DESIGN REGULATIONS

Revised 3-9-15

This subdivision was designed with a focus on solar utilization and the conservation of energy and water. By primarily orienting the lots on an east-west axis and roads primarily in a north-south orientation Middle Creek Parklands is providing as many opportunities for energy efficient design as possible. Middle Creek Parklands is encouraging home designers to develop their designs according to LEED for Homes or Energy-Star guidelines and focus on the conservation of energy and water resources.

These DESIGN REGULATIONS are presented to outline the general requirements of the Middle Creek Parklands Subdivision.

#### Section 1: Purpose

In order to develop the architecture in the Middle Creek Parklands with a variety of design styles and to maintain a cohesive design nature throughout each Neighborhood, these Architectural Regulations allow for a broad range of design freedom. Rather than dictate specific styles of architecture, these regulations are provided to assist architects in designing residences that are unique in nature yet anchored in the fundamentals of architectural design composition, scale, massing and form. Creative architectural design is strongly encouraged. Designs that reflect a modern interpretation of historic styles will be positively considered by the ADRC. Creating a new vision for small and medium scale residential structures will add to the success of the project.

Designs that have been approved on prior applications cannot be re-used without modifications to the roof lines and other architectural elements to aid in creating a unique and diverse neighborhood character.

Although it is not a requirement, it is suggested that each home owner consult with a local Architect for assistance and/or guidance in developing the designs of their residences. The design standards for this development are a high priority, not only for the Developer, but to those that choose to live in this development as well.

Therefore, these design guidelines will be strictly enforced. Professional assistance in the preparation of the designs and construction documents will aid in a smooth design review and approval process.

Additionally, environmentally sensitive design is encouraged. Designs that depart from these architectural guidelines in order to better accommodate energy efficient designs such as photovoltaic materials, solar accommodations, drought tolerant landscaping, specialty insulation- siding materials and products or any other energy efficient design directions will be given special consideration and specifically reviewed and approved or denied based on design merit.

## Section 2: Introduction

Within the Middle Creek Parklands, there have been designed seven unique Neighborhoods. Please refer to the subdivision plat and Exhibit A of these Covenants for the specific boundaries of each Neighborhood. By design, each Neighborhood is intended to have specific unique characteristics in order to best accommodate its geographic location within the Subdivision as well as its views, parks, trails and adjacencies.

These covenants are organized in such a way so as to provide requirements that are specific to all Neighborhoods on a general level, and then succeeding these general guidelines, are covenants that more specifically address the requirements of each individual Neighborhood. In the event of a conflict or contradiction between the General Architectural Covenants and the Neighborhood Specific Covenants, the more stringent will apply and be decided upon by the Architectural Design Review Committee.

Before beginning the design process, the homeowner should read and fully understand the specific requirements for the design and construction of the residences within each Neighborhood. The subdivision does have an Architectural Design Review Committee, (ADRC) and every design must be reviewed and approved by this Committee. The ADRC will issue a letter of approval and stamp the approved set of construction documents prior to the initiation of any construction. It is the intention of this Architectural Review process to help maintain the highest level of quality for the Development in order to protect the investment of each home owner who chooses to reside in The Middle Creek Parklands.

## Section 3: Basic Elements for all Neighborhoods.

### A. Foundations:

The foundation of each residence, both visually and structurally connects the building with the ground.

Foundation walls shall be exposed no less than eight inches (8") and no more than eighteen inches (18") above the ground unless they are integrated into the wall of the house as an architectural element. Concrete foundations exposed more than eighteen inches (18") above grade must have an architectural finish (texture, pattern and/or color) that presents a cohesive composition with the architecture of the residence as a whole.

Exposed foundation walls shall be built of smooth-finished cast in place concrete or as approved by the ADRC, board formed concrete. Colored concrete that is through colored is acceptable.

Note: All foundation designs must be reviewed by a civil engineer prior to submitting plans for a construction permit.

#### B. Middle Elements

The Middle Element is that area of the building located between the Foundation and the Roof Element. This element must be composed to create balanced compositions using various siding patterns, colors and texture. Windows must be placed in such a way as to balance architecturally within these compositions.

Windows shall not be less than 10% of the wall area, measured on each elevation. Elevation calculations shall include exterior window trim.

Windows shall be placed such that:

A window unit is no closer to a corner than  $\frac{1}{2}$  the width of the window unit.

For multiple attached window units, the space between groups shall be no less than a single window unit width.

#### C. Openings:

Windows shall be made of painted or solid stained wood, clad in vinyl or metal, or be a higher- grade vinyl window package.

Glass shall be clear and free of color.

Buildings shall have all openings trimmed in wood bands of minimum 4" nominal width.

Bay window projections shall be wide enough to accommodate 3 windows and extend to the ground. Cantilevered bays are acceptable on structural brackets approved by the ADRC.

Front doors are to be made of solid wood, with complimenting wood storm/screen doors. Traditional sliding glass doors may only be used in backyard locations.

Garage doors shall be plain or patterned and shall be built of wood, steel, or fiberglass with a wood veneer. Windows are acceptable. When alleys are not available, and street front vehicular access is utilized, it is encouraged that garage doors do not face the street. Any garage door that faces the street shall be, or appear to be, separated for each vehicle and will be designed with an articulated pattern, unless approved for design merit.

Single arched openings shall be permitted only above the main entry door and or at each main gable.

#### D. Roof Element.

Pitched roofs shall be clad with cedar shingles, natural slate, artificial slate, asphalt/fiberglass shingles with materials and complimenting color approved by the ADRC. Metal roofs are acceptable, but must be specifically approved by the ADRC.

The principal roof shall be a symmetrical hip or gable form with a pitch between 6:12 and 12:12. Alternative roof pitches will be reviewed and approved or denied based on design merit.

Flat roofs comprising less than 30% of the total roof area are permitted on all buildings based on design merit. Flat roofs used as balconies on street facades shall be enclosed with solid railings and integrated with the design.

Ridge line and fascia continuous length dimensions shall not exceed 30' for single family garages and 50' for single family residences without a 4' minimum dimensional break.

Skylights shall be flat in profile (no bubbles or domes).

Skylights and solar panels shall be applied parallel and flat to the roof and are not to be on any roof parallel to the street or shall be appropriately placed and will be reviewed and approved or denied based on design merit.

Roof protrusions other than chimneys shall not be placed on a roof facing a street or public space.

A. Dormers:

A dormer width shall be at least wide enough to accommodate one window.

Shed dormers shall have a pitch of at least 3:12. Hip dormers shall have the same pitch as the main roof volume.

Eyebrow dormers are permitted.

B. Eaves:

Overhanging eave depth shall be no less than 18", except in the case of eaves overhanging gable ends, which must protrude at least 12" (and at least 12" on accessory structures unless otherwise approved.)

The eave may be encroached by a bay window or windows for no more than half of the running length of each façade, cumulatively.

Fascia detail must have a minimum dimension of 7" unless otherwise approved for design merit.

C. Soffits

Soffits may be horizontal closed or rafter tail closed or exposed rafter tail, depending on the design of the building.

Closed soffits shall be of material other than vinyl. Aluminum and steel soffits are strongly discouraged.

D. Gutters

Gutters shall be built of copper or painted metal of a color and finish that blends with the finish color scheme.

Gutters shall be half-round or rectangular and downspouts shall be circular

or rectangular.

#### Section 4: Chimneys/Roof Vents

Chimneys shall be constructed of stone, brick or stucco or framed and sided using accent style siding and color.

Chimneys shall be at least 30" x 30".

Prefabricated metal flues shall be concealed within a chimney. Chimney caps may extend no more than 16" above the chimney top.

It is strongly encouraged that chimneys emerge from the highest roof volume.

All roof-mounted equipment shall be integrated into overall design and screened. Vents projecting from the roof shall be painted to match overall roof material color. Rooftop vents shall not face a public street. **Any vent larger than 6" shall have a chimney on it.**

#### Section 5: Walls and Facades

All facades of a building shall be made of similar materials and be similarly detailed.

Facades may change their primary material only at an inside corner. The intent of this regulation is that facades appear to have heavier materials on the bottom and lighter materials above (i.e., concrete and masonry shall be below wood or stucco).

Building walls shall be clad in smooth cut cedar shingles, wood clapboard, wood drop siding, wood board and batten, cement board siding, brick or stone. Vertical or horizontally applied painted corrugated metal used in conjunction with at least one other approved siding type is acceptable based on design merit and approved by the ADRC. Detail amounts of Galv-alum corrugated metal siding is acceptable if presented as an integrated element of the whole of the composition.

Stucco or EIFS comprising less than 10% of a building facade with a smooth sandblasted finish, is also permitted upon ADRC approval based on design merit.

The color palette of the body of the house shall be presented to and approved by the ADRC based on the color scheme merit or historical precedent. All trim, frames, doors, and windows shall be in a compatible accent color. Color schemes must be varied from the two adjacent properties, in each direction.

Exterior wood shall be painted or stained. Wood front doors need not be stained or

painted and may be clear coat finished.

Any style of lap siding shall be run horizontally, with the only exception being between windows in what may be shown to be an open band, where it may be run vertically. Maximum lap siding exposure is 5" (five inches) unless approved otherwise for design merit.

Brick surfaces shall be predominately a horizontally running bond pattern or stack bond pattern. Stone shall be set in an uncoursed pattern with a horizontal orientation.

No boulder or river-rock stone patterns may be used on walls or building facades in a vertical nature.

### Section 6: Porches

Front porches are required on residential structures except as specifically addressed otherwise in specific Neighborhood Design Covenants.

Porch railings may be closed or open and constructed using the same material palette as the remainder of the project or of a complementary material type.

Front stoops shall be made of brick, concrete, or stone. Wood may be used only when constructed to form an apparently solid mass.

Main entry doors are to be composed with the porch design and/or recessed a minimum of 5' from the primary façade.

Porch supports shall be stone, masonry or concrete piers no less than 16" x 16" square, or wood piers no less than 8" square. Column groupings must have an outer min. dimension of 10".

Tapered columns may not be smaller than 7" x 7" at the top. Columns shall match or be similar in design on all elevations of a structure.

The balustrade and the space below porches shall be closed and integrated into a closed band, interrupted as necessary for drainage.

Exterior stairs visible from nearby streets or public spaces are encouraged to only show stepped horizontal walls, except that diagonal handrails may be attached thereto. Exceptions will be considered on design merit.

Flower boxes and planters shall be made of materials integrated into a closed band.

Front porches are intended to be open to allow for interaction with the street. Porch screens and glazing are not permitted.

### Section 7: Decks

Decks must face only rear yards. Decks may continue in side yards but may not extend more than 36" from the side yard-facing facade. Covered porches may wrap side yard facades when composed and integrated with overall design.

The space below first floor elevated decks visible from nearby streets or public spaces shall be wood lattice with a maximum of 1-1/2" space between strips. Said lattice shall be applied between and not concealing deck supports.

### Section 8: Lighting

Definitions:

Fully Shielded lights: Outdoor residential light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by photometric testing.

Indirect Light: Direct light that has been reflected or has scattered off to other surfaces.

Glare: Light emitting from a Luminaire with an intensity great enough to reduce a viewer's ability to see.

General:

All exterior residential lighting must be free of glare and shall be fully shielded or shall be indirect lighting. No lighting shall shine beyond a property's lot line.

Mercury vapor and high-pressure sodium lights are prohibited.

All exterior residential lighting must be incandescent or compact fluorescent.

Builder or Owner shall hardwire at least one light fixture on garages that abut alleyways. Smaller wattages for alley bulbs are encouraged.

All exterior lighting of all lots shall be limited to maximum 60-watt incandescent bulbs and of such focus and intensity so as to not cause disturbance of adjacent lots.



Obtrusive flood lighting is prohibited.

Clear glass or exposed bulb (non-cutoff) fixtures are prohibited.

Recessed or can lighting is encouraged for porches and main entrances for softer lighting effects. Clear glass fixtures (i.e. coach lantern style) are prohibited. Honey glass or amber glass panels are encouraged as an alternate.

Wall wash lighting at front porches, rear decks or garages entrances is encouraged. Street addresses are required to be illuminated and approved by ADRC.

### Section 9: Yards

Generally, fences are allowed for a portion of the back and/or side yards. Plans and designs for specific partial yard fences must be submitted to the ADRC for review and approval on a case by case basis. A Sketch Plan Proposal must be submitted and a meeting set up with the ADRC to discuss the fencing plans prior to a formal application and review of the fence design.

All fences assemblies are required to be maintained for appearance and kept in working order.

All dogs must be restrained in their yards. The installation and use of invisible electric wire fences is encouraged.

Driveways shall be of concrete, or built of brick or concrete pavers or asphalt. Maximum height of landscaping in required vehicle vision triangles is 30".

### Section 10: Easements

There are reserved, as shown in the plat and as may otherwise be reserved, easements for the purposes of constructing, operating, maintaining, enlarging, reducing, removing, laying or relaying lines and related facilities and equipment for utilities, including, but not limited to, those providing gas, communication and electrical power. Fencing, hedges and other items allowed by the Covenants may be placed along and in the easements as long as the intended use of such easements are not prevented.

## Section 11: Basements

Full basements are allowed and encouraged in The Middle Creek Parklands. The required egress openings in full basements are to be located as necessary per all applicable approved Building Codes.

## ARTICLE II: SITE DESIGN

### Section 1: General Guidelines

All building plans shall be submitted to the ADRC to confirm compliance with the standards below. Variances to the code may be granted on the basis of specific urban conditions. All building plans shall conform to the City of Bozeman Building Department's requirements and the appropriate building codes.

#### A. Lot Coverage:

Not more than 40% of the lot shall be occupied by the principal and accessory structures.

#### B. Accessory Structures:

The following uses are permitted either as attached to the main house or as an outbuilding: garage (where allowed), workshop, artist studio, sauna, pool house equipment enclosure, gazebo, and conservatory.

Accessory Dwelling Units (ADU's) are permitted in specific Neighborhoods and must receive prior approval from ADRC. The following conditions apply:

1. The principal dwelling or the ADU must be physically occupied as a principal residence by at least one of the owners of record (minimum 50% fee simple ownership interest). No more than one of the dwellings (principal dwelling or ADU) may be rented by non-owners at the same time.
2. An additional off-street parking space must be provided.
3. The occupancy of the ADU shall not exceed two persons.
4. Only one ADU may be created per lot.

Home occupations in out buildings or the primary residences must receive prior approval from ADRC and adhere to the following requirements:

The business use shall be clearly incidental and secondary to the residential use of the lot

The business use shall be entirely inside a dwelling unit, garage or storage shed including any storage of material.

The business use shall not occupy more than 400 square feet, total, of the residence, garage and storage shed combined

No non-resident employees shall be allowed, nor shall excessive traffic, noise or pollution generation be permitted

The business use does not constitute a nuisance to neighboring property owners.

Cluster mailboxes will be provided in the Middle Creek Parklands as designated by the United States Postal Service.

Street address will be posted on the fronts of the houses in 4" letters in locations that are illuminated and clearly visible from the street.

Newspaper delivery boxes are prohibited and newspapers must be delivered to the front doors of the residences.

Single Family Lots located on alley-street intersections are encouraged to contain outbuildings with second story residential use.

The maximum size of an attached **2 car** garage is 750 square feet and must be a 2 car minimum garage.

The maximum size of a detached garage shall be 750 square feet on the first floor and 550 square feet on the second floor. Second floor plans with integrated roof planes can exceed the maximum 550 square feet when approved based on design merit.

No Basement apartment or basement living units of any type are permitted.

#### C. Building Placement:

Buildings shall be located on lots relative to the following setbacks.

1. Front yard setbacks will be 20 feet.
2. Side yard setbacks will be 10 feet.
3. Rear yard setbacks will be 20 feet.

The front façade of the house must be built on the front yard setback line. The width of the house must occupy a minimum of 30% of the width of the lot measured between the side yard setback lines. Consideration will be given for a maximum of 5 feet of encroachment into the front yard setback, based on design merit. Buildings located on lots with curved property lines at the street may substitute for that line, a straight line, located at the average depth of the curved line segment fronting the building. Some specific lots may request deviations from this requirement.

A 12-foot minimum distance shall separate outbuildings from the main house.

For lots at the intersection of two streets, an unobstructed view triangle must be maintained for traffic visibility. To define the triangle, measure 110' (one hundred ten feet) from the center of the paved intersection along the centerline of each street. The triangle created by connecting the endpoints of these 2 lines creates the clear vision triangle.

The face of any alley accessed garages must be built eighteen (18) feet from the alley property line.

Street accessed garages, where allowed with single family dwellings, must be set back from the face of the residence a minimum of ten (10) feet for front loading garages and a minimum of 15 (fifteen) feet for side loading garages. Exceptions to this requirement will allow forward positioned garages if the width of the main 2 car garage is less than 50 % of the front façade of the residence and the residential portion has a covered front porch with an integrated entry. Additionally, the garage protrusion cannot extend beyond the face of the front porch more than 4 feet.

#### D. Permitted Encroachments:

Front porches, steps, balconies, stoops, open porches, and covered walkways may encroach 5 feet into the front yard set back. Front facades with integrated porch design will be reviewed for the 5' encroachment based on design merit.

On lots that have adjacency to public open space or park space at the rear of

the property, encroachment into the rear 20' yard setbacks are permitted to be 10' maximum and will be reviewed and approved or denied based on design intent and design merit..

On street corner lots, porches and bay windows may not encroach into the street vision triangle.

Cantilevered bay or box windows are permitted to encroach 2'-0" into setbacks. The location of bay window projections in an encroachment area between two buildings must be approved by the ADRC and is subject to building code separation requirements.

#### E. Parking:

Private parking spaces shall be no less than 9 feet x 19 feet with access to a street or alley.

Trash containers shall be located adjacent to or within the parking area and shall be screened from public view.

One off-street parking space is required where net residential square footage is eight hundred square feet or less. Two off-street parking spaces are required where net residential square footage is greater than eight hundred square feet. An additional off-street parking space is required for an auxiliary dwelling unit.

#### F. Building Height:

The first floor elevations shall be a minimum of 18 inches and a maximum of 5 feet above the average fronting street elevations measured on the property line. Variances may be granted on a case-by-case basis. The intent is to create a defining edge and a street friendly appearance, with an open porch raised to enhance privacy.

Maximum building height is 32' measured from average finish grade, at the face of the foundation, to the ridgeline. The maximum outbuilding height is 26' from average finished grade.

Buildings located on lots with curved property lines at the street may substitute for that line, a straight line, located at the averaged depth of the curved line segment fronting the building.

## Section 2: Neighborhood Specific Guidelines

### A. The Parklands West

This Neighborhood is unique in that it is situated in close proximity to the new school property and fronts onto the new re-aligned Circle F Trail, which is a minor arterial county road.

Subsequently, those lots located on Circle F Trail will rely on access to the rear of the residences from the paved alley access system. The following design criteria is specific to this Neighborhood.

- Maximum building height is 32'.
- All residences are required to have covered front porches.
- Accessory Dwelling Units (ADU) are acceptable either above detached garages or at grade located at the rear of the property and with approval of the ADRC.
- All residences that front on Circle F Trail shall construct a concrete sidewalk (minimum width 3 feet) that extends to their front property line and connects to the public sidewalk.
- The scale of the homes allowed in this Neighborhood will be small, so detail will be critical to add texture and character to each structure.
- A minimum of 3 exterior colors is required as a design element for residences in this Neighborhood. This is to be accomplished in the trim and siding only. Shingle colors and window color will not be considered a part of that palette.
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### B. The Parklands East

This Neighborhood is the transition Neighborhood between the Commerce Park Neighborhood and The Parklands West Neighborhoods. The following design criteria is specific to this Neighborhood.

- **Maximum building height is 28'.**
- All residences are required to have covered front porches.
- Accessory Dwelling Units (ADU) are acceptable above detached garages or at ground level at the rear of the property with ADRC approval.

- Shared driveways are acceptable.
- All residences that are adjacent to the existing MSU Agricultural Experiment Station will have a fence and living hedge at the rear of their properties that will be maintained by the HOA and MSU through a joint agreement. Designs should consider this element.
- The scale of the homes allowed in this Neighborhood will be small to medium, so detail will be critical to add texture and character to each structure.
- A minimum of 3 exterior colors is required as a design element for residences in this Neighborhood. This is to be accomplished in the trim and siding only. Shingle colors and window color will not be considered a part of that palette.

#### C. The Parklands South

The following design criteria is specific to this Neighborhood.

- **Maximum building height is 28'.**
- All residences are required to have covered front porches.
- Accessory Dwelling Units (ADU) are acceptable above detached garages if incorporated into the roof system with maximum 5' upper level sidewalls and located at the rear of the property or at ground level at the rear of the property and with approval of the ADRC.
- The scale of the homes allowed in this Neighborhood will be small to medium, so detail will be critical to add texture and character to each structure.
- A minimum of 3 exterior colors is required as a design element for residences in this Neighborhood. This is to be accomplished in the trim and siding only. Shingle colors and window color will not be considered a part of that palette.

#### D. South Park Overlook

This Neighborhood is situated in such a way as to provide views to the distant Gallatin Range and the Spanish Peaks while at the same time overlooking the planned South Park area. Additionally, the topography of these lots provides opportunities for day lighted lower levels. Designers should consider these elements

in their designs. The following design criteria is specific to this Neighborhood.

- Maximum building height is 26’.
- Covered front porches are encouraged but not required.
- Accessory Dwelling Units (ADU) are allowed at ground level with a maximum building height of 18’.
- The scale of the homes allowed in this Neighborhood will be small to medium, so detail will be critical to add texture and character to each structure.
- A minimum of 3 exterior colors is required as a design element for residences in this Neighborhood. This is to be accomplished in the trim and siding only. Shingle colors and window color will not be considered a part of that palette.
- Shallow roof pitches are encouraged.

E. The Parklands North West and North East and The Golf Course Park

These Neighborhoods are situated in the northern portion of the “Parklands” separated from the higher density school Neighborhoods and the commercial activity of Huffine Lane. Views to the Bridger Range and the Black Bull Run Golf Course are dominant from these Neighborhoods. These Neighborhoods will have a more rural sense with the larger lots integrated with the park space provided. Additionally, these lots will be provided with some restricted initial views of the golf course open spaces to the North. The topography of these lots provides opportunities for limited vertical separation of the residences to capture the distant views. Designers should consider these elements in their designs. The following design criteria is specific to these Neighborhoods.

- Maximum building height is 32’ in the Parklands North West Neighborhood.
- **Maximum building height is 28’ in the Parklands North East and Golf Course Neighborhoods.**
- Lot #211 thru 216 may have a maximum building height of 32’.
- Covered front porches are encouraged but not required.
- Accessory Dwelling Units (ADU) are not allowed.
- The scale of the homes allowed in this Neighborhood will be medium to large, so massing, scale, form and proportion as well as detail will be



critical to add texture and character to each structure.

- A minimum of 3 exterior colors is required as a design element for residences in this Neighborhood. This is to be accomplished in the trim and siding only. Shingle colors and window color will not be considered a part of that palette.

(The Golf Course Park Covenants have been incorporated into the previous section)

### Section 3: Type III – Commercial Property Development

All building plans shall be submitted to the ADRC to confirm compliance with the standards below. Variances to the code may be granted on the basis of specific urban conditions. All building plans shall conform to the State of Montana Building requirements and the International Building Code.

#### A. Building Use:

**As required by Four Corners Zoning Ordinance.**

#### B. Building Placement:

Buildings shall be located on lots relative to the setbacks identified.

Buildings shall be set on lots at 4 feet from property lines with pavement/sidewalk extending to building.

Building street facades must occupy 90% of the lot frontage. On corner lots, building street façade must occupy a minimum 75% of the total lot frontage.

Buildings at street corner lots shall clear a view triangle generated by connecting the two curb edges at a distance of 50 feet from their intersection if the street is an arterial and 40' if the street is a local or collector street.

#### C. Permitted Encroachments:

Paved yards are a mandatory encroachment beyond the build-to line.

Balconies and roof eaves are permitted encroachments beyond the build-to line.

#### D. Parking:

On-site parking spaces shall be provided only to the rear of the lot and be

screened from any residential adjacencies.

Private parking spaces shall be no less than 9 feet x 19 feet with access to a street or alley. Trash containers shall be located within the parking area and screened from public view.

One parking space is required per every 400 gross square feet of net office or commercial space. (1) Space per residential unit less than 800 SF, (2) spaces for units above 800 SF.

#### E. Building Height:

Heights shall be measured relative to the fronting street elevation measured on the frontage line to the parapet or ridgeline.

Maximum building height is 38'.

### ARTICLE III: LANDSCAPE DESIGN / SITE

#### Section 1: Definitions

Front Yard: The areas from the set back line to the property line and from side lot line to side lot line.

Side Yard Corridor: The area from the side of the house to the side lot line, less front yard and rear yard.

Rear Yard: The area from the back of the structure extending to the rear property line.

#### Section 2: Yards

A landscaping plan shall be submitted to the ADRC prior to the completion of the home. Upon ADRC approval of the landscape plan, per Article III, Landscape Design/site, Section 2 Yards, the minimum landscaping must be completed within sixty (60) days after completion of the home.

Homes completed late fall and during the winter months will have sixty (60) days for completion, beginning no later than May 1<sup>st</sup>. If a more complex plan is approved and more time is needed, a variance can be applied for from the ADRC.

Each site owner will be required to meet minimum landscape specifications consistent with the overall plan. These will include, but are not limited to: street trees, large canopy trees in specified yards, shrubs, mixed planting beds, turf lawns and in-ground irrigation systems.

The Owner is encouraged to plant native species of grasses, shrubs and trees that are drought tolerant.

Planting of at least three (3) minimum 2" diameter caliper trees, two (2) front yard, one rear yard and at least two appropriately sized planting beds at the house perimeter containing mixed shrubs is required. Variances will be granted based on design merit and individual lot conditions.

All properties are required to have full in-ground landscape irrigation systems that connect to the HOA irrigation water supply system.

Irrigation water for each individual lot will be provided by the Middle Creek Parklands and the use of potable water from the residential water system for purposes of landscape irrigation is strictly prohibited. Irrigation water is a flow right from the West Gallatin River owned by the Middle Creek Parklands HOA and will vary according to the available flow.

Planting beds shall have a top layer of mulch or earth tone stone (non-white). Deciduous trees must be planted a minimum of 20 feet from the eaves.

Xeriscape landscape design is encouraged but must be designed and specified by a licensed landscape designer qualified and experienced in xeriscape design and implementation guidelines.

It is the responsibility of the Owner to contact the appropriate utility companies before digging.

### Section 3: Garbage

There shall be no incineration or burning of garbage, trash or other waste or debris on, or coming from any lot except as allowed during the construction of a residence on an individual lot. In the case of construction burning, a construction burning permit must be procured from the Central Valley Fire District prior to any burning of construction debris. No junk, garbage, trash, equipment, nonworking or out of use vehicles, parts, metals, lumber, debris or other waste shall be allowed to accumulate on any lot or originate from any lot during construction. Garbage

containers shall be kept in the garage or other enclosures except on garbage pick-up day. Each lot owner shall maintain the alley right-of-way adjacent to the owner's property. Such maintenance shall include, but not be limited to, picking up and appropriately disposing of debris and garbage, mowing and trimming of the alley right-of-way.

In the event an owner shall not control waste on or coming from their property, the Association, after ten days written notice to an owner to control the same, may cause the waste to be controlled or collected, and may assess the lot owner for the costs thereof.

Construction materials shall not at any time prior to, during, or after construction be placed or stored in the street right-of-ways or Common Areas. All construction materials shall be removed from the entire Lot within thirty (30) days of substantial completion of construction. Construction sites shall be kept clean, neat and well organized at all times. Any construction debris shall be the responsibility of the Building Contractor and Owner and shall be maintained and properly stored on a daily basis. All debris blown from any Lot under construction shall be immediately cleaned and removed by the Lot Owner sourcing the debris. Under no circumstances shall construction debris, mud, dirt, gravel, lumber, garbage, waste, or other inappropriate materials be allowed to accumulate on, or be stored upon or within Common Areas or street right-of-ways at any time. The Middle Creek Parklands ADRC reserves the right to fine negligent parties up to five hundred dollars (\$500.00) for construction debris per infraction cited and noticed by Property Manager and failure to abide by the contract terms in the design approval letter.

#### Section 4: Weed Control

The owner of each lot shall control the weeds and all noxious plants on their lot (built on or unbuilt); provided, however, that the owner shall not use spray 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 Association, after ten days written notice to an owner to control the same, may cause the weeds or noxious plants to be controlled, and may assess the lot owner for the costs thereof.

If construction does not commence on a lot within 18 months, the lot must be seeded to xeriscape grasses and/or plants and maintained.

## ARTICLE IV: DESIGN REVIEW PROCESS

### Section 1: Submission of Plans Before Construction.

No residence, fence, wall, garage, outbuilding or other structure shall be made, erected, altered or permitted to remain upon the properties until written plans and specifications showing the design, nature, kind, color, dimensions, shape, elevations, material, use and location of the same shall have been submitted and approved, in writing, by a majority of the ADRC as to compliance with these Covenants.

### Section 2 General Requirements.

Submit two copies of the required documents for each design review to:

#### **Architectural Design Review Committee -**

Upon ADRC review, the owner will be notified within ten (10) business days after the receipt of drawings that the design has been approved, approved with stipulations, disapproved or the review period extended. Incomplete applications may be returned and are subject to a re- submittal fee.

An application for withdrawal may be made without prejudice, provided the request for withdrawal is made in writing to the ADRC.

All variance requests pertaining to the ADRC approvals must be made in writing to the ADRC. Any variance granted shall be considered unique and will not set any precedent for future decisions.

If an application has been denied, or the approval is subject to conditions that the owner feels are unacceptable, the owner may request a hearing before the ADRC to justify his/her position. The ADRC will consider the arguments and facts presented by the owner and notify the owner of its final decision within ten (10) days of the hearing.

### Section 3: Twelve Months to be Completed.

Any structure to be erected in accordance with an approval so given must be erected and completed within one year from the date of approval. If construction of a structure is not commenced within one year after approval, new approval must be obtained. If any structure is commenced and is not completed in accordance with

the plans and specifications within one year, the Directors of the Association, at their option, may take such action as may be necessary, in their judgment, to improve the appearance so as to make the property harmonious with other properties and to comply with these Covenants, including completion of the exterior of the combination thereof, or removing the uncompleted structure or similar operations. The amount of any expenditure made in so doing shall be an obligation of the owner. A lien on the property may be recorded and shall be enforceable by an action at law. In lieu thereof, the Association may take such action as is available by law, including an injunction, or action for damages.

Any and all construction alterations or improvements shall be subject to advance approval by the ADRC and shall be diligently worked on to completion and shall be completed within six (6) months following commencement. No aspect of construction shall at any time impede, obstruct, or interfere with pedestrian traffic. No construction material, or construction equipment, trailers or vehicles shall be placed or stored upon a residential lot more than thirty (30) days before commencement of construction or more than thirty (30) days following completion of construction as determined by the ADRC. No construction materials may be stored on any portion of the street at any time. The owner shall be responsible for compliance with construction schedules and guidelines, and for compliance with all terms and conditions established by the ADRC.

#### Section 4: Liability and Variances.

Neither the Association, the Declarant, the Directors, the ADRC nor the individual members thereof, may be held liable to any person for any damages for any action taken pursuant to these Covenants, including but not limited to, damages which may result from correction, amendment, changes or rejection of plans and specifications, the issuance of approvals, or any delays associated with such action on the part of the Board of Directors.

#### Section 5: Procedure.

##### STEP 1: SKETCH PLAN DESIGN REVIEW

The Design Review Process is a 2 step process. The first submittal will be for a Sketch Plan Review. This review is intended to indicate to the applicant if their design direction will be

deemed appropriate for the Middle Creek Parklands Subdivision and the appropriate Neighborhood in which the project is proposed. The Sketch Plan Review is intended to establish a dialogue between the owner, the designer and the ADRC to resolve any questions or specific criteria of the design guidelines and for the owner/designer to present the direction of the design only. Scaled plans and elevations are not required for this portion of the process, but can be by any medium that represents the owners/designers/ intention.

Upon completion of the review of the design intent, the Applicant can proceed with design and then make formal application for Final Design Review. The Sketch Plan Review criteria can be submitted in any format that successfully presents the intended results of the design directions. **It is important to note that all designs of all structures must be 4 sided designs. Designed elevations of all sides of all building must be presented during the Final Design Review and all building elevations will be reviewed.**

#### STEP 2: FINAL PLAN DESIGN REVIEW

In addition to verifying the required setbacks, this review checks the designs for correct interpretation of the Architectural Regulations..

Form Required: Design Review

Application. Review Fee:

A \$300 Review Fee, made out to Circle F LLC, is to be collected at the time of design submittal for all Single family projects. All returned incomplete applications are subject to a \$50 re- submittal fee. Fees are based on each individual property, regardless of proposed project or prior design approvals.

In addition to the Design Review Fee, there is also a fully refundable Contractor Performance Deposit of \$1000 that is to be made out to the Middle Creek Parklands H.O.A. (MCP HOA). This deposit will be held until the completion of construction, to insure that Contractor and his/her subcontractors abide by all requirements of the Design Guidelines and the specific requirements outlines in the Design Approval Letter which will be signed by the Contractor/Owner and Circle F, LLC at the time of design approval. The cost of any infractions by the Contractor or his/her Subcontractors, will be withheld from this deposit prior to refunding the balance upon the successful completion of construction.

If construction is not begun with 360 days of receiving plan design approval from the ADRC, plans must be resubmitted and another \$300 fee will be collected.

Minimum Drawings Required:

Site Plan (1/8" = 1'-0" scale or larger) showing:

North arrow.

Property lines and setback lines with dimensions

Building footprints with entry area delineated and overhangs shown as dashed lines. Solar Shading study\*

Garden walls, fence lines, location, height and material quality of retaining walls. Water, electric and sewer service.

Grading plan.

Location of streets.

Location, dimensions and materials for walks and drives.

Limits of construction activity (no construction, traffic or storage of materials will be permitted beyond these limits).

Exterior light locations and type

Location of external equipment (electric meter, location of waste bins, etc.)

Floors Plans (1/8" = 1'-0") minimum

showing: Foundation plan dimensioned.

Room use labeled and rooms

dimensioned. Wall, window and door openings dimensioned. Exterior walls dimensioned.

All overhangs of floors and roofs as dashed lines. Gross square footage.

Elevations & Sections showing:

Each Elevation at 1/8" = 1'-0" minimum with colors rendered of fronting street elevation.

Landscape Plan:

Including plant listing (name, planting and mature sizes) and their respective locations.

Material Samples:

As requested by ADRC.

Siding and trim sample with actual color applied.



### STEP 3: CONSTRUCTION COMMENCEMENT

Construction may not commence without the approval of the ADRC and any other regulating governmental authority, and the State to Montana Building Division's necessary permits obtained and fees collected.

The ADRC reserves the right to inspect in the field for compliance during any stage of construction. The ADRC is empowered to enforce its policy as set forth in the Architectural Regulations and Neighborhood Association's Declaration of Covenants, Conditions & Restrictions by any action, in law or equity, to ensure compliance.

### STEP 4: MINOR CHANGES

It is anticipated that owners may wish to make improvements or modifications to their buildings or property during initial construction or at a future date. A change may be executed upon receipt of Form B -Application for Change(s) bearing the ADRC stamp of approval.

[blank intentionally]

MIDDLE CREEK PARKLANDS DESIGN REVIEW APPLICATION

Lot Number \_\_\_\_\_ Phase \_\_\_\_\_

\_\_\_\_\_ **OWNER :**

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

**BUILDER :**

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

**ARCHITECT :**

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

**LANDSCAPE ARCHITECT :**

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

**INFORMATION**

1. Is the design based on any Historic Precedent? \_\_\_\_\_
2. Are any variances from the Middle Creek Parklands Covenants being requested under this application? \_\_\_\_\_
3. Drawings submitted (Please check): Site Plan \_\_\_ Floor Plans \_\_\_ Roof Plan \_\_\_ Elevations \_\_\_ Landscape Concept Plan \_\_\_

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Architectural Design Review Committee Use Only:

Design Review Fee of \$300.00 Paid to Circle F, LLC Received (Please check upon receipt): \_\_\_

Performance Deposit of \$1000.00 Paid to MCP HOA Received (Please check upon receipt): \_\_\_

X \_\_\_\_\_

ADRC COMMITTEEMEMBER

**MIDDLE CREEK PARKLANDS APPLICATION FOR CHANGE(S)**

Lot Number \_\_\_\_\_ Phase \_\_\_\_\_

**OWNER :**

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

**BUILDER:**

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

**ARCHITECT:**

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Change Description: (attach sketch of proposed change) Reason for Change:

Submitted by: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

ARTICLE V:  
THE MIDDLE CREEK PARKLANDS DESIGN REVIEW COMMITTEE

Section 1: Function of the Architectural Design Review Committee (ADRC)

The function and purpose of the ADRC is to encourage the architectural harmony of the Middle Creek Parklands Subdivision. The developer and all property owners are bound by regulations defined in the Middle Creek Parklands Covenants, Conditions and Restrictions, the Middle Creek Parklands code, and the design review process. To that end, no structure shall be erected or altered until Municipal, ADRC and any other required approvals have been obtained.

Section 2: Scope of Responsibilities.

The ADRC has the right to exercise control over all construction in the The Middle Creek Parklands Development. It will also review all homeowner's alterations and modifications to existing structures (including but not limited to walls, painting, renovations, and landscaping).

Section 3: Enforcing Powers.

Should a violation occur, the ADRC has the right to an injunctive relief, which requires the owner to stop, remove, and/or alter any improvements in a manner that complies with the standards established by the ADRC. Approval by the ADRC does not relieve an owner of his/her obligation to obtain any government approvals. If such approvals are required and are not obtained by the owner, the ADRC and/or the applicable government agency may take whatever actions are necessary against the owner to force compliance.

Section 4: Committee Members.

The ADRC will consist of \_\_\_\_\_ as the principal of Declarant, his successors, assigns, agents or appointees. \_\_\_\_\_ may, in his sole discretion, engage architects, engineers or other advisors in the ADRC review process.

Section 5: Limitation of Responsibilities.

The primary goal of the ADRC is to review the submitted applications, plans, specifications, materials, and samples in order to determine if the proposed structure conforms to The Middle Creek Parklands Architectural Regulations. The ADRC does not assume responsibility for the following:

The structural adequacy, capacity, or safety features of the proposed

structure or improvement.

Soil erosion, ground water levels, non-compatible or unstable soil conditions.

Compliance with any or all building codes, safety requirements, and governmental laws, regulation or ordinances.

## ARTICLE VI: PROPERTY USE

### Section 1

No hunting of, shooting at or harassing of birds, animals or any wildlife will be permitted. Skunks, gophers and rodents may be trapped; however.

### Section 2

No livestock, poultry or other animals, except dogs, cats or small inhouse pets, are permitted on the properties.

All dogs, cats and other 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 property and shall not be allowed to roam free.

Dogs and cats shall each be limited to 3 per household. In the event of homes with ADU's, this limit is the total for the lot. Numbers of dogs or cats over this limit are grandfathered as accepted effective as March of 2015 until the animal's death.

### Section 3

Subdivision sewer and water lines, power, natural gas, cable television, and telephone primary service lines are provided to each lot. However, each lot owner is responsible for the costs of connecting to the main utility lines to his or her improvements from the primary line near his or her lot, including any additions to the primary line that may be required by location of the improvements on the lot. All utility lines shall be underground.

### Section 4

No signs shall be erected on the property or lot thereof, except to identify the owner of the property. "For Sale" signs shall be allowed upon the lot being sold. A sign may be placed at the entrance(s) to the subdivision to

identify the subdivision and/or neighborhood.

#### Section 5

If the applicable zoning now or hereafter requires a greater setback or contains other more restrictive provisions regarding the placement of buildings, the Zoning Code shall control as if incorporated herein.

#### Section 6

Any lot may be subject to the declarations of a condominium property formed and filed. The additional restrictions and requirements of any such form condominium do not, in any way, relieve the lot or owner from compliance with all restrictive covenants stated herein.

#### Section 7

All zoning, land use regulations and all other laws, rules and regulations of any government or agency under whose jurisdiction the land lies are considered to be part of these Covenants and enforceable hereunder; and all of the owners of said lands shall be bound by such laws, rules and regulations.

In the event there is a conflict between the Covenants and the applicable zoning, the most restrictive provision of either the Covenants or the zoning shall control.

#### Section 8

There are reserved, as shown in the plat and as may otherwise be reserved, easements for the purposes of constructing, operating, maintaining, enlarging, reducing, removing, laying or relaying lines and related facilities and equipment for utilities, including, but not limited to, those providing gas, communication and electrical power. Fencing, hedges and other items allowed by the Covenants may be placed along and in the easements as long as the intended use of such easements are not prevented.

### ARTICLE VII: OPEN SPACE AND COMMON AREA

#### Section 1: Use of Open Space and Common Area.

No property owner shall have the right to occupy or possess any of the open space and common area by reason of owning a lot in The Middle Creek Parklands Subdivision.

### Section 2: Active Parks

All Parks shall be maintained by the Middle Creek Parklands Home Owners Association in perpetuity.

The Association shall maintain the active parks, including any surrounding sidewalks.

### Section 3: Parkways.

Parkways, providing pedestrian access to and from the residential areas are intended for passive pedestrian use and shall be maintained by the Association. No motorcycles, snowmobiles or similar means of transportation are permitted.

### Section 4: Park trails.

Park trails shall be maintained by the Association. No motorcycles, snowmobiles or similar means of transportation are permitted. Motorized vehicles are allowed exclusively for snow removal.

### Section 5: Mandatory Requirements.

The Open Space within The Middle Creek Parklands as designated on a final plat or approved PUD site plan shall be preserved in perpetuity. The Board, among its other duties, shall establish assessments for the taxes, insurance, and maintenance of all open space, roads, easements, active parks under the control and authority of the Association, owners' parks and parkways.

The Association shall be responsible for liability insurance, local taxes and maintenance of recreation and other facilities in the Open Space areas. The assessments levied by the Board for the maintenance, upkeep, repair and operation of Open Space and other common areas like all other assessments, become a lien on each lot within The Middle Creek Parklands. The Board may, in its discretion, adjust the assessments to meet the changing needs of the community and the areas serving the community.

All open space and common area shall be maintained pursuant to the adopted OpenSpace Maintenance Plan for The Middle Creek Parklands.

### Section: Nuisance.

No Owner, guest or invitee may use or occupy the common area, trails, roads, open space, parking areas or any lot in such a manner as to disturb or interfere with the peaceful use, occupancy or enjoyment of any

other owner, guest or invitee of The Middle Creek Parklands. Violations shall be enforced as provided for in Article XI of these Covenants.

Section 8: Control and Management.

The Association shall have the exclusive right and obligation to manage, control and maintain the Open Space and Common Area.

Every lot owner shall be responsible for maintenance of any sidewalks located on, adjacent to and between the owner's lot and the nearest right-of-way. Maintenance shall include, but not be limited to snow and ice removal.