

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
ALBERT'S RIVERSIDE ACRES**

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This Declaration of Covenants, Conditions and Restrictions is made this ____ day of _____, 200__, by Michael Albert, Donna Albert, Dennis Albert and Jodie Albert, ("Declarants"), with reference to the following Recitals.

RECITALS

A. The Declarants are owners of that certain real property located in Mineral County, Montana, and more particularly described on Exhibit A attached hereto (referred to herein as the "Real Property"); The Declarants are Michael Albert, Donna Albert, Dennis Albert and Jodie Albert.

B. The Real Property is being developed as a residential subdivision and consists of twenty-four (24) residential Lots, significant open space areas and streets necessary to access the subdivision.

C. The Declarants desire to place certain covenants, conditions and restrictions upon the Real Property for the use and benefit of the Declarants and any future Owners of any part of the Real Property.

NOW THEREFORE, the Declarants hereby declare that all of the Real Property described in Exhibit "A" shall be held, sold and conveyed subject to the following covenants, conditions, and restrictions and easements, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Real Property as a residential development. The Declarants further declare that these covenants, conditions, restrictions and easements shall run with the Real Property and shall be binding upon and shall inure to the benefit of any party having or acquiring any right, title or interest in the Real Property or any part thereof.

ARTICLE 1 - DEFINITIONS

1.1 Association.

"Association" shall mean the Albert's Riverside Acres Association, Inc., a Montana nonprofit corporation.

1.2 Articles of Incorporation.

"Articles of Incorporation" shall mean the articles of incorporation of the Association, which have been filed with the Secretary of State of the State of Montana, as they may be amended from time to time.

1.3 Common Areas.

"Common Areas" shall mean all real property owned by the Declarants or the Association for the common use, benefit and enjoyment of the Members of the Association, including but not limited to the walkways and open space as shown or described in the final plat of the Real Property recorded or to be recorded in the office of the Clerk and Recorder of Mineral County, Montana. The term "Common Areas" shall not include any Lot acquired by the Association, which is not intended for the common use and enjoyment of the members of the Association. The roads shall be dedicated to the public and shall be maintained by the Association.

1.4 Declarants.

"Declarants" shall mean Michael Albert, Donna Albert, Dennis Albert and Jodie Albert, whose address is 77 Reardon Lane, PO Box 122, Alberton, Montana 59820.

1.5 Declaration.

"Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for *Albert's Riverside Acres*, as may hereafter be amended and supplemented from time to

time.

1.6 Lot.

"Lot" shall mean each of the Lots numbered 1 through 24 as shown or described in the final plat of the Real Property recorded or to be recorded in the office of the Clerk and Recorder of Mineral County, Montana. The term "Lot" shall not include any parcel of land within the Real Property, which constitutes a common area, a dedicated roadway, or a public or private easement.

1.7 Member.

"Member" shall mean the Owner of a Lot located within the Subdivision.

1.8 Owner.

"Owner" shall mean the recorded Owner of a fee simple interest or an undivided fee simple interest as a tenant in common or as a joint tenant, of a Lot within the Subdivision. The term "Owner" shall include the purchaser of a Lot under a contract for deed. The term "Owner" shall not include the seller of a Lot under a contract for deed or a Person having an interest in a Lot solely as security for the performance of an obligation.

1.9 Person.

"Person" shall include any individual, partnership, corporation, Limited Liability Company, trust, joint venture, or other entity.

1.10 Real Property.

"Real Property" shall mean that certain real property known as the *Albert's Riverside Acres*, a residential subdivision located in Mineral County, Montana and more particularly described on Exhibit A and such other real property as is now or may hereafter be bought within the jurisdiction of the Association. The Declarants reserve the right to annex additional lands pursuant to Section 7.6 of this Declaration and those lands shall be subject to this Declaration of Covenants.

1.11 Subdivision.

"Subdivision" shall mean *Albert's Riverside Acres*, a residential subdivision located in Mineral County, Montana, as shown or described in the final plat recorded or to be recorded in the office of the Clerk and Recorder of Mineral County, Montana.

1.12 Albert's Riverside Acres Governing Documents.

"Albert's Riverside Acres Governing Documents" shall mean this Declaration, the Articles of Incorporation, Bylaws and any other procedures, rules, regulations or policies adopted by the Association.

ARTICLE 2 - HOMEOWNERS ASSOCIATION

2.1 Formation of Association.

Upon execution of this Declaration, and before the Declarants sell any Lot located upon the Real Property, the Declarants shall incorporate in the State of Montana a nonprofit corporation to be named Albert's Riverside Acres Homeowners' Association, Inc. (the "Association"). The Association shall be incorporated for the following purposes:

- (a) To provide for the improvement, maintenance, and preservation of the value of the residential lots (referred to herein as "Lots") and the Common Areas located within that certain tract of real property known as *Albert's Riverside Acres*, a residential subdivision located in Mineral County, Montana (referred to herein as the "Subdivision"), which Lots and Common Areas are subject to the terms of the Declaration of Covenants, Conditions and Restrictions (referred to herein as the "Declaration") for the Subdivision recorded or to be recorded in the office of the Clerk and Recorder of Mineral County, Montana;
- (b) To promote the convenience, enjoyment, health, safety, and welfare of the Owners of the Lots which are subject to this Declaration;
- (c) To enforce the restrictions, regulations, and requirements set forth in this Declaration and to exercise architectural control over all buildings and other improvements erected or constructed on the Lots;
- (d) To maintain and hold all right, title and fee simple interest in and to the Common Areas of the Subdivision including, but not limited to, walkways and open space and to provide for the proper administration of such Common Areas;
- (e) To fix, levy, collect and enforce payment of all fees, charges, expenses and costs assessed in accordance with this Declaration; to pay all costs and expenses incurred in the

administration of the Association's affairs; and to pay all licenses, taxes or other governmental charges levied, assessed or imposed against any real property owned by the Association, including the Common Areas;

(f) To exercise all of the rights, powers and privileges and to perform all of the duties and obligations of the Association as set forth in this Declaration; and

(g) To exercise any and all rights, powers and privileges otherwise available to a nonprofit corporation incorporated under the Montana Non-profit Corporation Act.

ARTICLE 3 - MEMBERSHIP & VOTING RIGHTS

3.1 Membership.

The Association shall have Members. Every Owner of a Lot within the Subdivision shall be deemed to be a Member of the Association. Ownership of a Lot shall be the sole qualification for membership in the Association. Only one (1) membership shall be appurtenant to each Lot and such membership may not be separated from the Ownership of the Lot. The foregoing shall be construed to include as a Member of the Association the purchaser of a Lot under a contract for deed and to exclude as a Member of the Association the seller of a Lot under a contract for deed. Further, the foregoing shall be construed to exclude as a Member of the Association any Person who holds an interest in a Lot solely as security for the performance of an obligation. Notwithstanding anything to the contrary, in no event shall the Association be considered a Member either for voting or assessment purposes if the Association becomes an Owner of a Lot for any reason.

3.2 Transfer of Membership.

A Member may not pledge, assign, alienate or otherwise transfer such Member's membership interest in the Association in any manner, except upon the sale or encumbrance of such Member's Lot, and then only to the purchaser or mortgagee of the Lot.

3.3 Notice of Membership.

Any Person, upon becoming a Member of the Association, shall furnish the secretary of the Association with a photocopy or certified copy of the recorded instrument or such other evidence as may be specified by the Board of Directors of the Association, establishing that such Person is the Owner of a Lot within the Subdivision, thereby entitling such Person to a membership in the Association. In addition, the Member shall provide the Association with a single name and address to which the Association may send any notice required to be delivered to Members by the Association.

3.4 Voting Rights of Members.

The Members of the Association shall be entitled to one vote for each Lot in which they hold an interest; except for so long as the Declarants are the Owner of two or more Lots, they shall be entitled to two votes for each Lot they own. When there is more than one (1) record Owner of a Lot (co-owners), all of the co-owners shall be Members, but only one (1) of them shall be entitled to cast the single vote attributable to the Lot.

3.5 Compliance with Albert's Riverside Acres Governing Documents.

Each Member of the Association shall benefit from and shall be obligated to comply with the Albert's Riverside Acres Governing Documents, as they may hereafter be amended or supplemented from time to time.

3.6 Meetings.

The Members of the Association shall meet, at a minimum, at least once per calendar year (annually) beginning in the year following final plat approval of the Albert's Riverside Acres.

3.7 Officers.

The Members of the Association shall designate by vote, Members for the positions of Association President and Secretary. Positions are to be held for three (3) years or for a time frame determined by a majority vote of the Members. Positions vacated prior to full-term will be elected at the next meeting of the Association.

ARTICLE 4 - PROPERTY RIGHTS OF MEMBERS AND ASSOCIATION

4.1 Membership Easement to Common Areas.

Every Member shall have a right and easement of enjoyment in and to the Common Areas and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions and the provisions of Article 4.2 pertaining to the Common Areas Management.

(a) The right of the Association to provide reasonable restrictions on use of the Common Areas for the overall benefit of all Members. Such restrictions may include limiting the number of guests of Members allowed to use the Common Areas and restricting or prohibiting the use of motorized vehicles on the Common Areas;

(b) The right of the Association to charge reasonable admissions and other fees for the use of any recreational facility situated upon the Common Areas;

(c) The right of the Association, in accordance with its Articles of Incorporation and Bylaws, to borrow money for the purpose of improving its property.

(d) The right of the Association or Declarants to dedicate or transfer all or any part of the Common Areas to any public agency, authority, utility or to the public for such purposes and subject to such conditions as may be agreed to by all the Members; and

(e) The right of the Association or Declarants to grant easements under any Common Areas to any public agency, authority, utility or to the public without charge;

4.2 Common Areas Management.

The Association shall take such steps and actions as it shall deem appropriate to protect the Common Areas from environmental degradation and to preserve its natural vegetation

and characteristics. These steps and actions will not, however, preclude the use of designated areas within the Common Areas for utilities, both above and underground, for community shared water system facilities, or for development for recreational use as the Association shall determine is in the best interests of its Members.

4.3 Assignment of Use.

Each Member shall be entitled to assign to such Member's family, tenants, or others who reside on such Member's Lot, subject to compliance with the Albert's Riverside Acres Governing Documents, such Member's right of use and enjoyment of the Common Areas. Upon this assignment, such Member's right of use and enjoyment ceases.

4.4 Title to the Common Areas.

The Declarants hereby covenants and declares that they will convey title to the Common Areas to the Association, free and clear of all encumbrances and liens, except those rights of way, easements, covenants, or restrictions as might appear of record at the time of such conveyance. Title to the Common Areas shall be held in the name of the Association for the benefit of the Members, subject to any restrictions or limitations set forth in the Albert's Riverside Acres Governing Documents.

4.5 Rules and Regulations.

The Association, through its Board of Directors or committees thereof, shall be authorized to establish such rules and regulations as it deems appropriate for the reasonable management and maintenance of the Real Property, including the Common Areas, and to impose fines or other penalties for violations of these rules and regulations, after providing notice of the violation and an opportunity for the violator to be heard by the Board of Directors.

4.6 Re-vegetation of Common Areas.

All disturbed areas shall be re-vegetated with native grasses and materials. (The Declarants shall be responsible for the initial re-vegetation of the road system.)

ARTICLE 5 - ASSESSMENTS

5.1 Creation of Lien and Personal Obligation

The Declarants, for each Lot located upon the Real Property, hereby covenants, and each Owner of any Lot, by accepting a deed or other means of conveyance for a Lot, is deemed to hereby covenant and agree to pay assessments to the Association which shall be fixed, established and collected from time to time as hereinafter provided. The Declarants are exempt from assessment payments. These assessments, together with interest and costs of collection as herein provided, including reasonable attorney's fees, shall be a charge on the land and shall constitute a lien upon the Owner's Lot against which such assessment is made. Such lien shall be deemed perfected upon filing with the Clerk and Recorder of Mineral County an account of the assessments due, together with a correct description of the Lot to be charged with such lien, and shall continue until all unpaid assessments, interest and costs of collection shall have been fully paid. The priority of such lien shall be determined as of the time of filing with the Clerk and Recorder, and it shall be deemed subordinate to all previously recorded or filed interests. Each such assessment, together with interest and costs of collection as herein provided, shall also be the personal obligation of the Owner of such Lot at the time when such assessment becomes due. Delinquent personal obligations shall not pass to successors in title unless expressly assumed by them, but this shall in no way limit the effect of any lien created upon a Lot herein. The Association may establish rules and regulations concerning collection of obligations and perfecting of liens.

5.2 Assessments

(a) Regular Assessments. The regular assessments levied by the Association shall be used for such purposes as are deemed desirable by the Association including but not limited to expenditures for construction, reconstruction, repair or replacement of any capital improvement which includes the roads; maintenance, upkeep, real property taxes, hazard and liability insurance, and related expenses in regard to the Common Areas;

administrative costs of the Association incurred in its day-to-day activities; and any costs or expenses, including attorneys fees, incurred in enforcing the conditions, restrictions or charges set forth in this Declaration.

(b) Special Assessments. If the Board determines that the amount to be collected from regular assessments will be inadequate to defray the common expenses for the year due to the cost of any construction, unexpected repairs or replacements of capital improvements upon the Common Areas, or any other reason, it shall make a special assessment for the additional amount needed. Special assessments shall be levied and collected in the same manner as regular assessments.

(c) Individual Assessments. Individual assessments for unforeseen expenses and for costs incurred by the Association on behalf of a particular Lot may be levied, as necessary, and collected in accordance with this Article.

5.3 Commencement of Assessments.

The Association is authorized to commence initial assessments as herein authorized at such time as it determines appropriate. Written notice of assessments shall be sent to the Owner of each Lot. The Association shall establish the due dates. If Assessments are not paid by such due date then interest shall begin to accrue on them at a rate as determined by the Association.

5.4 Certificate of Payment.

The Secretary of the Association shall, upon demand at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Association for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid. In addition, the Secretary of the Association shall maintain a roster of each Lot and the assessments due thereon.

5.5 Nonpayment of Assessments.

Any assessments or installment payments on assessments, which are not paid when due shall be delinquent. The Association may bring an action at law to collect the amount of the delinquent assessment together with all interest, costs, and reasonable attorney's fees incurred in such action, or may take action to perfect and foreclose the lien for assessments.

5.6 Property Subject to Assessment.

With the exception of any Lot owned by the Declarants or any Lot acquired by the Association and the Common Areas, each Lot located upon the Real Property shall be subject to assessments by the Association as herein provided.

5.7 No Waiver by Nonuse

An Owner may not waive or otherwise escape liability for the assessments provided for in this Article by nonuse of the Common Areas or abandonment of the Owner's Lot.

ARTICLE 6 - PROTECTIVE AND RESTRICTIVE COVENANTS

The following protective and restrictive covenants are designed to provide a uniform plan for the development of the Real Property and they shall constitute a covenant running with the land for each Lot located upon the Real Property:

6.1 Permitted Land Uses.

No Lot shall be used except for residential purposes, and no business, trade, or manufacture shall be conducted thereon, except as provided in section 6.3 herein. No Lot shall be further subdivided.

6.2 Building Construction.

No residence shall be erected, altered, placed, or permitted to remain on any Lot other than a single-family log, brick, open beam or stick-built dwelling. The residence and attached garage may not exceed thirty (30) feet in height from ground level natural grade at the high point of the foundation to ridgeline. A detached garage may not exceed 22 feet in height from ground level natural grade at the high point of the foundation to ridgeline. Roof pitch shall be 5/12 or greater for the residence and all outbuildings. All lots shall have an attached or detached private garage with a minimum of two car capacity. Any outbuilding shall be subject to the prior approval of the Architectural Control Committee. Exterior finish for outbuildings shall match the residence. All structures shall be constructed of new materials and must utilize a concrete or CMU foundation. Siding for all buildings will be natural wood or have a natural wood like appearance. Vinyl, steel or aluminum siding will not be approved. Exterior building colors will be natural earth tones and approved by the Architectural Control Committee. Old structures, whether intended for use in whole or in part as the main dwelling house or as a garage or other structure shall not be moved upon any Lot. Suitable used materials such as used brick or beams may be utilized provided that advance approval has been obtained from the Board of Directors of the Association or the Architectural Control Committee as herein provided. Roof

construction shall be limited to the use of only Class A fire-rated roofing materials such as Arc. 80 asphalt shingles or metal roofs with the color approved by the Architectural Control Committee. A 4 foot wainscoting of rock, brick or natural looking material to enhance the appearance of the residence will be strongly encouraged by the Architectural Control Committee.

No one shall start clearing a site or start constructing, installing, erecting or maintaining any addition to a building or other structure until the complete plans and specifications for each development, addition, change or alteration have been submitted to and approved of in writing by the Board of Directors of the Association or by any Architectural Control Committee. Said plans and specifications shall include but shall not be limited to the following: site clearance; septic tank and drainage field location; the architectural design, including dimensions, location and principal materials and color schemes to be used; as well as a full description of all fences, lighting and off-street parking planned in connection with the construction. Any construction that is approved under this Article shall be performed in strict accordance with the approved plans and specifications, the approval of which may be based on engineering, architectural, or purely aesthetic grounds.

Structures shall not be built on slopes greater than twenty-five (25) percent. No portion of a driveway shall exceed seven (7) percent slope.

Driveways will be paved for the first 15ft. from the main subdivision road into each residence. The remainder of the driveway must be chip seal or asphalt surface two years from residence completion.

6.3 Commercial Usage Prohibited.

No office, business, manufacture, commercial enterprise, hospital, sanitarium, rest home, theater, or saloon of any kind or anything of that nature shall be carried on or conducted on any Lot. A home occupation that has a minimal impact on other Members of the

Association is allowed. Impacts might include increased traffic generation and stockpiling of materials on a Lot. The Board of Directors is authorized to require any Member to cease the operation of any such business if the Board determines that the business has a greater than minimal impact on the other Members.

6.4 Architectural Control.

The Association may establish an Architectural Control Committee to serve the functions as described in this Article. In the event the Association does not establish an Architectural Control Committee, then the Board of Directors shall serve the functions described herein.

Members of the Architectural Committee shall be appointed and serve as set forth in the Bylaws of the Association.

6.5 Architectural Control Committee Approval.

Approval or disapproval of the Board of Directors or the Architectural Control Committee responsible for making architectural and other building decisions shall be provided in writing. The Board or the Committee shall act within thirty (30) days after the proposed plans and specifications for any structure are submitted and accepted as complete.

6.6 Building Size.

The minimum building size for single-family dwelling shall be no less than 2,250 square feet exclusive of the garage for a conventional wood frame residence. Log home square footage shall be a minimum of 1,800 square feet exclusive of the garage.

6.7 Setback Lines.

No building shall be located on any Lot closer than twenty (20) feet to the front property line or road right-of-way, whichever is greater, nor closer than fifteen (15) feet to either side lot line, nor closer than twenty (20) feet to the rear lot line; provided, however, that in the case of a corner Lot, the setback from the side street line shall be not less than twenty (20) feet.

Where more than one Lot as dedicated is utilized as a single building site, the side lot lines

shall refer only to lot lines bordering and adjoining those of other property Owners. All decks, porches, or other similar building extensions are considered part of the structure and will be included in the above minimum setbacks. Notwithstanding anything to the contrary, the Board of Directors or Architectural Control Committee shall have the right to permit reasonable modifications of the setback requirements when in its discretion such action is considered in the interests of the Owners of the Lots located upon the Real Property.

6.8 Temporary Structures.

Except as herein provided, no structure of a temporary character such as a trailer, basement, tent, shack, garage, barn or other similar building shall be used at any time as a residence, temporarily or permanently, nor shall any building be occupied for residential purposes until it is completely finished in accordance with the plans furnished to the Architectural Control Committee. A recreational vehicle may be used as a temporary residence for a time not to exceed one (1) year, while the owner is constructing a permanent residence.

6.9 Fences.

Barbed wire may not be used for fencing. Fenced enclosures for pets must prevent pets from escaping said enclosure and becoming a nuisance to neighbors and wildlife. Fencing around homesites should be no higher than 3-1/2 feet (at the top rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence. Fencing shall be limited to 10,500 square-feet (1/4 acre) per single lot.

Fences around a garden plot will be permitted. They should not exceed eight feet in height and the construction materials must be approved by the Homeowners Association Board of Directors. Vegetable garden size shall not exceed 1,000 square feet per acre per lot. (Example: 1.5 acre lot = 1,500 sq. ft. maximum garden size).

6.10 Exterior Maintenance.

Each Owner of a Lot shall maintain said Lot in a weed free manner in accordance with County requirements and provide exterior maintenance on the Lot and to the structures, if any. Said maintenance includes painting and repairing the structures; maintaining the grounds to preclude weeds and other unsightly growths; and not permitting refuse piles or other unsightly objects to accumulate or remain on the grounds. Lot owners are required to manage noxious weeds that are present on their property. If not done properly by the lot owner, the Association may have the work done at the lot owner's expense.

6.11 Utilities.

The Owner of each Lot shall pay all utility connecting costs from property line to structure. All utilities shall be underground.

6.12 Easements.

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. No building of any kind shall be erected, placed, or permitted to remain on such easements.

6.13 Boundary Control Monuments.

The Declarants have caused survey monuments to be placed on the corners of each Lot. It shall be the responsibility of the Owner of each Lot to provide for immediate professional replacement of any survey monuments that are removed or become lost or obliterated from that owner's Lot.

6.14 Garbage.

No Lot shall be used or maintained as a dumping ground, nor shall any rubbish, trash, garbage or other waste be allowed to accumulate except in wildlife-proof containers which shall be emptied on at least a weekly basis. This provision does not prohibit temporary

storage of gravel, topsoil or building materials on Lots if such items are to be used in future construction. Garbage cans shall be stored indoors or in bear-proof containers.

6.15 Living with Wildlife.

Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, elk, black bear, mountain lion, wolf, coyote, skunk, and raccoon. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners “live with wildlife.” Alternatively, see FWP’s web site at www.fwp.mt.gov.

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

1. **Domestic sheep and goats** (including those kept as 4H projects) shall not be allowed in this subdivision because of the proximity to the Petty Creek bighorn sheep herd. The possibility exists that domestic sheep could transmit a potentially fatal bacterial infection to bighorn sheep, leading to heavy mortality in the native bighorns.
2. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with

native vegetation that is less likely to suffer extensive feeding damage by deer.

3. **Gardens and fruit trees** can attract wildlife such as deer and bears. Keep produce and fruit picked and off the ground, because rotting vegetable material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. Netting over gardens can help deter birds from eating berries.
4. **Garbage** must be stored in secure bear-resistant containers or indoors to avoid attracting animals such as bears, raccoons, and dogs. If stored indoors and if on-site trash pickup service is used, then garbage cans may not be set out until the morning of garbage pickup, and must be taken back indoors that day after garbage pickup. If no on-site pickup service is used, trashcans that are not bear-resistant must be stored indoors until transport to an off-site garbage collection facility.
5. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in “an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety.” Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.
6. **Birdseed** is an attractant to bears. Use of bird feeders is not recommended from April 1st through the end of November. If used, bird feeders must: a) be suspended

a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.

7. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124).
8. **Pet food and/or livestock feed** must be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, and other wildlife. **When feeding pets and/or livestock** do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
9. **Barbecue grills** should be stored indoors, and permanent outdoor barbecue grills are discouraged. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
10. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer and/or elk becoming entangled in the fence or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.
11. **Compost piles** can attract skunks and bears and should be avoided. If used they

should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Kitchen scraps could be composted indoors in a worm box with minimum odor and the finished compost can later be added to garden soil.)

12. **Apiaries (bee hives)** could attract bears in this area and should be avoided. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
13. Residents within this subdivision must recognize that portions of this subdivision include or are adjacent to the Clark Fork River, where lawful **waterfowl hunting** and the associated discharge of shotguns could occur from early morning until sunset, and the season can run from September into January. **No discharging of fire arms is allowed within the boundaries of the subdivision.**
14. Residents should also familiarize themselves with the provisions of the **Montana Stream Access law** (MCA 23-2-301 through 322) as it relates to water-related recreational activities allowed within the high water marks of the Clark Fork River, including any side sloughs. Under this law, the general public is allowed to partake in water-related activities on the Clark Fork River, which include (but are not limited to) swimming, picnicking, fishing, floating, boating and waterfowl hunting. Contact MFWP for a brochure about stream access.
15. These “living with wildlife” covenants and the pets, and garbage covenants cannot be altered or eliminated without consent of the governing body (county commissioners).

6.16 No-build/No-alteration Zone along the Clark Fork River.

Healthy, naturally functioning riparian areas benefit fish and wildlife, as well as agriculture and recreation. The following covenants (restrictions) are designed to help avoid damage to the Clark Fork River and its riparian areas, as well as possibly enhancing the river area.

Along the Clark Fork River the 100-year floodplain line shall be set as a “No-Disturbance Area”, and hereafter referred to as the “buffer zone.” The following restrictions apply to the river and to the buffer zone:

1. No building, no new roads or alteration is allowed in the zone.
2. Only non-motorized access and use of the buffer zone is allowed (except for certain maintenance needs such as weed spraying).
3. Do not cut or remove live or dead vegetation, particularly shrubs and trees from the buffer zone. Wood (i.e., fallen branches, downed trees) is an important part of fish habitat and contributes significantly to overall stream health. Wood regularly causes bed scour that creates pools where fish reside to feed and seek cover. Wood also stores sediment that is used for spawning. Dead trees also function as important wildlife nesting habitat. Exception: proper use of chemicals or other methods of control (other than mowing) for noxious weeds is allowed, and planting appropriate native riparian vegetation (trees, shrubs) is allowed.
4. Do not plant lawns in the buffer zone. Leave or plant native vegetation as ground cover as this avoids the use of fertilizers that contribute to water quality problems.
5. If planting is planned for this area, the goal should be to re-establish native plant species appropriate to the site.

6. Keep livestock out of the Clark Fork River or develop off-stream watering facilities (e.g., water troughs) for livestock. Use fences if necessary to keep livestock from trampling and grazing riparian vegetation in the buffer zone.
7. It is illegal to modify the streambed or streambanks of a perennial stream without a “310” permit (Montana Natural Streambed and Land Preservation Act). Any stream crossings need to follow any and all local and/or state regulations relative to bridge/culvert construction materials/methods. Certain other actions near the Clark Fork River may require state and/or federal permit(s). Work in/along a lake shoreline would require the proper floodplain permit. Contact the Mineral County Conservation District office in Superior for further information.
8. In summary, allow riparian areas—the river and its buffer zone—to remain undisturbed. Do not modify them unless such change would help return the area to a natural state.
9. Owners of riverfront lots in this subdivision should familiarize themselves with the provisions of the Montana Stream Access law (MCA 23-2-301 through 322) as it relates to water-related recreational activities allowed within the high water marks of the Clark Fork River, including any side sloughs. Under this law, the general public is allowed to partake in water-related activities on-and within the high water marks of the Clark Fork River, which include (but are not limited to) swimming, fishing, floating, boating and waterfowl hunting. Contact MFWP for a brochure about stream access.
10. These riparian covenants cannot be altered or eliminated without consent of the governing body (county commissioners).

6.17 Satellite Television Dishes.

Satellite television antennas (dishes) not to exceed one meter in size are allowed on individual lots providing they are non-reflective and of natural colors that blend with the background landscape. White-colored dishes are not allowed.

6.18 Animals and Pets.

Pets, limited to two (2) cats and two (2) dogs, may be kept on any Lot. In no event may any animals or fowl be raised, bred or maintained for any commercial purpose. Household pets shall not be permitted to become a nuisance or annoyance in any manner. Household pets (dogs and cats) shall not be allowed to run free and potentially harass wildlife. The natural existence of wild animals and birds is recognized, and shall not be hunted upon the property of this Subdivision. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124). Dogs and cats shall be kept in an enclosed structure when not under the direct supervision of the owner. Pet food shall not be allowed outside and shall be stored inside. Horses, cattle or any type of farm animal will not be allowed to occupy any lot within the subdivision.

6.19 Vehicles.

There shall be no washing or repairing of vehicles in the street. Recreational vehicles, campers, boats, boat trailers, or disabled vehicles shall not be permanently parked or allowed to remain for more than two weeks on any adjoining streets. This provision is not intended to preclude the entry of construction, maintenance, delivery, moving, or other such service vehicles while they are being utilized in connection with services for the property. Disabled vehicles shall not be allowed to be permanently parked or remain on any part of a Lot for more than one month.

6.20 Addressing.

All house numbers shall be visible from the street either at a driveway entrance or on the house.

6.21 Nuisances.

No noxious or offensive activity shall be carried on or permitted upon the Real Property, including the Lots and the Common Areas, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood; nor shall the premises be used in any way or for any purpose which may endanger the health or safety of, or unreasonably disturb the residents of any Lot. No discharging of firearms will be allowed within the subdivision unless for personal protection.

6.22 Damaged Property.

Any dwelling damaged by fire or other casualty must be removed from the premises or repairs commenced within one hundred twenty (120) days unless an extension of time for such removal or repair is granted by the Association. Any damaged dwelling not so removed or repaired may be removed at the Owner's expense and the Association may pursue any and all legal and equitable remedies to enforce compliance and to recover any expenses incurred in connection herewith. Any cost incurred by the Association under this section shall become an individual assessment upon the Lot of the Owner. The Association may exercise all rights to collect this special assessment as it does other assessments pursuant to Article 5.

6.23 Damage or Destruction of Common Areas by Owner.

In the event any part of the Common Areas or Right-of-Ways is damaged or destroyed by an Owner or by any of the Owner's guests, tenants, licensees, agents or members of his family, or pets belonging to same, such Owner does hereby authorize the Association to repair said damaged area in a good workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or

altered subsequently. The amount necessary for such repairs shall become an individual assessment upon the Lot of the Owner if not otherwise paid by Owner. The Association may exercise all rights to collect this individual assessment as it does other assessments pursuant to Article 5.

6.24 Sanitary Restrictions.

Each Owner of a Lot shall comply with all governing laws and regulations relating to water supply, sanitation, sewage disposal, and air pollution. Sanitary features are not permitted on Lot 24 or in any Common Area.

6.25 Base Flood (100 Year Event) Elevations and Floodplain.

This subdivision is located adjacent to the Clark Fork River. The Federal Emergency Management Agency (FEMA) has determined ground elevations in which a base flood (a 100 year flood event) of the Clark Fork River will inundate. These elevations are shown on the recorded plat. The area between the flood elevations and the Clark Fork River is the 100 year flood plain (floodplain). No structures shall be built within the floodplain, no drinking water well may be within 10 feet horizontal to the floodplain, and no sanitary drainfield may be within 100 feet horizontal to the floodplain. It is against Federal and State laws to dredge, fill or alter the natural ground surface within the floodplain. The removal of vegetation within the floodplain is prohibited except in accordance to fuels mitigation as directed by the local fire department.

6.26 At Grade Foundations.

Raised crawl-space foundations are required. Under no circumstance may mechanical or operational equipment be built of an elevation less than the floodplain elevation. No residences may be built on a basement foundation.

6.27 Residential Fire Sprinklers.

All permanent residential structures shall be constructed with internal residential fire sprinkler systems. Residential fire sprinkler systems must meet NFPA 13 regulations and must include one (1) fire department connection on the street-side exterior of the structure.

A visible/audio alarm must be located above the fire department connection in plain view of the street. Residents shall be responsible for keeping the fire department connection and alarm free from blockage all year long.

6.28 Fuels Mitigation – FIREWISE Homesites.

Residential lots shall be fuel mitigated and maintained by the Owner in accordance to Frenchtown Rural Fire District’s FIREWISE requirements and recommendations.

6.29 Tree Removal

Total tree removal will be allowed for the driveways (12 foot maximum width) and the house footprint plus the 30 foot fire protection buffer. The remainder of the lot may be thinned only in accordance with government documented forest practices thinning guidelines.

6.30 County-Required Covenants.

The following covenants are conditions of the approval of the plat for Albert's Riverside Acres and shall not be deleted or amended without the permission of the Board of County Commissioners for Mineral County:

- a) The tract owner(s) are required to reseed any ground disturbed by construction, cutting, filling, landscaping, grading or other soil disturbances (with an approved seed mixture) in accordance with Mineral County Weed Policy. In addition, whenever any person disturbs vegetation on an easement or right-of-way within the county, the Mineral County Weed Board (mineral County Weed Supervisor) shall be notified and the disturbed areas shall be managed to re-establish a cover of beneficial plants in accordance with the Montana Codes Annotated (MCA) 7-22-2151. Also, lot owners are required to manage the noxious weeds that are on their property (by reducing the quantity). The Mineral County Weed Supervisor will assist the owners with this restrictive covenant.

- b) Bear proof garbage cans shall be used or garbage cans shall be stored inside garages or sheds. Parcel owner(s) shall be made aware that mountain lions, black bears, coyotes, elk, deer and other wild animals naturally inhabit the surrounding land and may enter the parcel property. Certain human activities may attract these animals, and preventive measures should be taken to reduce the risk of human and animal endangerment. Dogs shall be restrained from chasing wildlife at all times in accordance with Montana Fish Wildlife and Parks recommendations and regulations and these covenants.

- c) A homeowners' association shall be responsible for maintaining the subdivision roads.

- d) No portion of a driveway shall exceed 7% gradient.
- e) No structures shall be built on slopes greater than 25% gradient.
- f) The purchaser and/or owner of this lot or parcel understands and agrees that private subdivision road construction, maintenance, and snow removal shall be the obligation of the owner or homeowners' association and that Mineral County is in no way obligated to maintain, upkeep or repair the subdivision roads.

ARTICLE 7 - GENERAL PROVISIONS

7.1 Duration.

The covenants, conditions, charges and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association, The Declarants, their respective legal representatives, successors, or assigns, in perpetuity.

7.2 Enforcement.

The Declarants or Association shall have the option and right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, and charges now or hereafter imposed by the provisions of this Declaration. The method of enforcement may include legal action seeking an injunction to prohibit any violation, to recover damages, or both. Failure by the Declarants or Association to enforce any such provisions shall in no event be deemed a waiver of the right to do so thereafter. Should any lawsuit or other legal proceeding be instituted against an Owner who is alleged to have violated one or more of the provisions of this Declaration, the prevailing party in such proceeding shall be entitled to reimbursement for the costs of such proceeding, including reasonable attorney's fees.

7.3 Severability.

Invalidation of any one of these covenants or restrictions by judgment or court shall in no way affect any other provisions, which shall remain in full force and effect.

7.4 Amendment.

The Declarants reserve the sole rights to amend, modify, and make additions to or deletions from this Declaration as long as it owns all the lots in the subdivision. After the sale of the first lot, this Declaration may be amended by the vote or written consent of

Owners representing not less than sixty-seven percent (67%) of the total voting power of the Association.

7.5 Non-Liability of Declarants.

The Declarants shall have no liability for any of its actions or failures to act, or for any action or failure to act of any Owner of any Lot located upon the Real Property.

7.6 Annexation.

The Declarants or Association, as the case may be, may, at any time, purpose to annex any additional adjacent properties to the jurisdiction of the association. If this property is developed for residential use, the owners of those residences shall add to the membership of the Association. Any annexation shall require the consent of sixty-seven percent (67%) of the members who are voting in person or by proxy at a meeting duly called for this purpose.

7.7 Repeal of or Amendment of These Covenants – Mineral County

The restrictive covenants for Albert's Riverside Acres, a major subdivision, shall not be repealed or amended without the prior written consent of Mineral County Board of Commissioners.

EXHIBIT A
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
ALBERT'S RIVERSIDE ACRES

Legal Description of the Real Property

GOV'T LOTS 4, 5, 6, & 9

In Portions of the NW $\frac{1}{4}$, NE $\frac{1}{4}$, SW $\frac{1}{4}$, and
SE $\frac{1}{4}$ All of Section 32
Township 15 North, Range 23 West P.M.M.
Alberton, Mineral County, Montana

(To be completed upon recording)