



Return to:  
High Sierra II, Inc.  
175 N. 27<sup>th</sup> St., Suite 900  
Billings, MT 59101

## DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS

WHEREAS, THE UNDERSIGNED is the owner of the following described real property located in the City of Billings, Yellowstone County, Montana, to-wit:

**All of High Sierra Subdivision, 14th Filing, and Lot 19, Block 32, 16<sup>th</sup> Filing, City of Billings, Yellowstone County, Montana, according to the plats on record in the office of the County Clerk and Recorder of Yellowstone County, Montana.**

WHEREAS, High Sierra II, Inc. owns 100% of the lots in the High Sierra Subdivision 14th Filing, and Lot 19, Block 32, 16<sup>th</sup> Filing, as of the date hereof; and

WHEREAS, the undersigned desire to place building restrictions and protective covenants on the above described premises, and to provide for a Homeowners Association for the maintenance of the portion of a future permanent storm drain system located outside the public right of way:

NOW, THEREFORE, in consideration of the premises, the undersigned hereby establish and declare the following declaration, restrictions and protective covenants which shall be applicable to all of the above-described real estate unless otherwise stated below.

### 1. LOTS AFFECTED AND PERSONS BOUND

- 1.1 The following-described lots in High Sierra Subdivision, 14th Filing: Lots 1 and 2, Block 21; Lots 1, 2, and 29-38, inclusive, Block 23; Lot 1, Block 26; Lots 1 - 25, inclusive, Block 27; Lots 17-24, inclusive, Block 28; Lots 1-16, inclusive, Block 31; Lots 1-18, inclusive, Block 32, and Lots 1- 6, inclusive, Block 33; and the following lot in High Sierra Subdivision, 16<sup>th</sup> Filing: Lot 19, Block 32; according to the aforesaid plats thereof filed in the office of the County Clerk of Yellowstone County, Montana, shall be subject to these covenants and restrictions and said covenants and restrictions shall be for the benefit of the present owners of said lots, their heirs, executors, administrators, successors and assigns.
- 1.2 All present and subsequent Owners shall be held to agree and covenant each with the other and with their heirs, executors, administrators, successors and assigns, to conform to and observe the herein set forth covenants restrictions and stipulations affecting the use of said lots and the construction of dwellings and improvements thereon.



- 1.3 Lot owners are also subject to the provisions of the Bylaws for High Sierra Homeowners Association, dated August 24, 2015, recorded August 27, 2015, under Document No.3752584, in the office of the Yellowstone County Clerk and Recorder, and the First Amendment to Bylaws of High Sierra Homeowners Association, dated December 3, 2018, recorded December 3, 2018, the Second Amendment to Bylaws of High Sierra Homeowners Association, dated August 7, 2019, recorded August 7, 2019, under Document No. 3891448, and the Third Amendment to Bylaws of High Sierra Homeowners Association, dated October 26, 2020, recorded October 27, 2020, under Document No. 3945045, in the office of the Yellowstone County Clerk and recorder, as amended concurrently herewith to include the above property (Bylaws).

## 2. DEFINITIONS

As used herein, certain terms and words are defined as follow:

- 2.1 Accessory Building: A garage or permanent or portable storage shed which is accessory to main Dwelling Unit.
- 2.2 Commercial Use: The wholesale or retail sale or rental of goods, as well as the providing of any service for which there is a charge or fee, but excluding Home Occupations (defined below), and the sale of lots or homes located within High Sierra Subdivision, 14th Filing, or Lot 19, Block 32, 16<sup>th</sup> Filing.
- 2.3 High Sierra Architectural Review Board: Composed of the Board of Directors of the High Sierra II, Inc. The Board was created to ensure all site location plans, construction drawings, specifications, and proposed dwellings coincide with these Restrictions and Protective Covenants. The High Sierra Architectural Review Board may be contacted at: 175 North 27<sup>th</sup> Street, Suite 900, Billings, Montana 59101. Contact phone number is (406) 248-3641.
- 2.4 Declarant: HIGH SIERRA II, INC.
- 2.5 Dog Kennels: Dog kennels are not permitted.
- 2.6 Dwelling Unit: A structure or portion thereof, designed for use as permanent living quarters, having sleeping, cooking, and complete sanitary facilities. (Manufactured, Mobile, and Move on Homes are not allowable Dwelling Units as defined herein.)
- 2.7 Home Occupation: Any occupational use customarily conducted entirely within a Dwelling Unit by the inhabitants thereof, which is clearly incidental and secondary to the use of the Dwelling Unit as living quarters and in connection with which there are: no commercial manufacturing of goods or products on the premises: no on-site employment of person other than the residents of the



Dwelling Unit: No generation of pedestrian or vehicle traffic beyond that customary and incidental to Residential Use of the Dwelling Unit; no use of commercial vehicles for deliveries to or from the Dwelling Unit other than mail and package delivery services; no Signs or Structures advertising the occupation; and no excessive or unsightly storage of materials or supplies. For guidance, the following uses are examples of Home Occupations: making clothing, giving music lessons, a sole practitioner for professional practice, such as accounting. The operation of a bed and breakfast inn or establishment is not a Home Occupation.

- 2.8 Improvement: Any Dwelling Unit, Accessory Building, fence, road, driveway, well, water line, sewer, drain field, utility, antenna, sign, or other Structure, whether above or below the surface.
- 2.9 Junk Vehicles(s): Any motor vehicle not in running condition or that is unlicensed or unregistered.
- 2.10 Lot: Any plat of land designated numerically and shown upon any recorded subdivision map of the property.
- 2.11 May: Permissive.
- 2.12 Manufactured Home or Mobile Home: Factory assembled structure or structures, equipped with the service connections necessary to be used as a dwelling unit, and constructed to be readily moveable as a unit or units either on its own running gear or other system. The construction of these units is regulated by the federal Manufactured Housing Construction and Safety Standards Act as determined by the Department of Housing and Urban Development (HUD), and the units are not constructed in accordance with the standards set forth in the Uniform Building Code, or International Residential/Building Code.
- 2.13 Move-on Home: Existing, older home that was either partially or wholly de-constructed in order to be moved and reassembled at a new location.
- 2.14 Modular Home: A new dwelling unit constructed in accordance with the standards set forth in the International Residential/Building Code and bearing the insignia of the state, applicable to site-built homes, and composed of components assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.
- 2.15 Owner: The legal title holders or contract purchasers whether one or more persons or entities, owning or purchasing a fee simple title to a Lot and shall include the purchaser under a contract for deed. Owner does not mean those persons or entities having an interest merely as security for the performance of an obligation; provided, however, that prior to the first conveyance of a lot for value, Owner shall mean the Declarant. Prior to such conveyance or contract sale, the



Declarant shall have the right to retain such rights incidental to ownership hereunder as it may desire at its discretion.

- 2.16 Property or Properties: That certain real property hereinbefore described together with such additional real property as may be subject to these Protective Covenants by subsequent declaration.
- 2.17 Replacement Home: A dwelling designed primarily for human occupancy which is located on a permanent foundation within the subdivision to replace, supplement, supersede or restore a pre-existing dwelling that has been rendered uninhabitable because of fire, earthquake or other man-made or natural occurrence that, in the opinion of the local building authority renders the Dwelling uninhabitable and unfit for human habitation.
- 2.18 Residential Use: The occupying of Dwelling Unit for living purposes.
- 2.19 Setbacks: The horizontal distance required between the Structure and the center of a road or lot line. This distance is to be measured at right angles to the road or property line.
- 2.20 Shall: Mandatory
- 2.21 Sign: Any man-made structure, object, device, or part thereof, situated out of doors, or prominently visible from the outside the structure in which it is situated, which identifies, advertises, displays or otherwise attracts attention of either itself or some other object, person, institution, organization, business, product, service, event, activity, location, thing or happening of whatever nature, by any means, including words, letters, numerals, figures, designs, symbols, fixture, colors, mottos, illumination, projection, contrast, conspicuous and the like.
- 2.22 Site Built Home: A new dwelling unit that is constructed in accordance with the standards set forth in the International Residential/Building Code and bearing the insignia of the state and that has 85% or more of the unit constructed on the lot where construction materials are delivered and are assembled on a permanent foundation.
- 2.23 Single Family: One or more persons living together as a single non-profit house-keeping unit, as distinguished from a group occupying a hotel, motel, club, fraternity or sorority, commune, and the like.
- 2.24 Structure: Any above-ground man-made improvement to real property.
- 2.25 Subdivision: High Sierra Subdivision, 14<sup>th</sup> Filing, and Lot 19, Block 32, 16<sup>th</sup> Filing, as shown on the plat recorded in the Office of the Clerk and Recorder, Yellowstone County, Montana.



- 2.26 Subdivision Improvements Agreement (SIA): Agreement between High Sierra II, Inc. and the City of Billings. The High Sierra Subdivision 14th Filing SIA was recorded with the Yellowstone County Clerk and Recorder on October 26, 2020, under Document No. 3944846; the High Sierra Subdivision 16<sup>th</sup> Filing SIA was recorded with the Yellowstone County Clerk and Recorder on October 26, 2020, under Document No. 3944850. The covenants, agreements, and all statements in each of the SIA's apply to and shall be binding on the heirs, personal representatives, successors, and assigns of the respective parties.

3. GENERAL PROVISIONS

Declaration.

- 3.1 Declarant hereby establishes that all of the foregoing real property is and shall be conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred subject to the Declaration of Protective Covenants.
- 3.2 All of the covenants, conditions and restrictions set forth herein are referenced to ensure the best use and most appropriate development of the real property to protect the Owner of Lots against improper use of surrounding lots such as would depreciate the value of the real Property; to preserve, insofar as is practical, the natural beauty of the real Property; to provide for the highest and best use and development of the real Property and to encourage and secure the orderly development of said real Property.
- 3.3 All of the covenants, conditions and restrictions herein contained shall run with the real Property for all purposes and shall be binding upon and inure to the benefit of Declarant, and all Lot Owners, occupants, and their successors-in-interest as set forth herein.

4. PERMANENT STORM DRAIN SYSTEM.

- 4.1 During construction of High Sierra Subdivision, 14th Filing, and Lot 19, Block 32, 16<sup>th</sup> Filing, the Declarant will install a portion of the Permanent Storm Drain System in accordance with the overall subdivision storm drain system as approved by the City of Billings. During construction of future filings, Declarant will install and maintain temporary storm water ponds. The Declarant will also install a permanent storm drain system as required by the City of Billings with future filings of the High Sierra Subdivision. The Permanent Storm Drain System will be in accordance with the recommendations of an approved storm drain study to be submitted to the City of Billings Engineering Department by the Declarant. Because the City of Billings storm drain system is not available in the area of the High Sierra Subdivision, storm water will be handled on site through surface flow on the streets, inlets, and piping. Temporary detention facilities may also be used as required for future filings of High Sierra Subdivision. The permanent and



temporary storm water system design for High Sierra Subdivision will be approved by the City of Billings Public Works Department. Maintenance for the storm water facilities located within the public right of way will be the responsibility of the City of Billings. Maintenance of the permanent storm drain facilities outside of the public right of way, including storm water detention facilities, storm drain piping, inlets, and manholes, (HOA Storm Water System) will be the responsibility of the single purpose High Sierra Homeowners Association. The Association shall comply with the requirements of the "HOA Storm Water Facility Maintenance Agreement," between the HOA and the City of Billings for the Subdivision, and the "Homeowners' Associations Requirements," a copy of which is attached. The High Sierra Homeowners Association shall have no other purpose.

5. MEMBERSHIP IN HIGH SIERRA HOMEOWNERS ASSOCIATION.

5.1 Each Owner of a completed Lot shall be a member of the High Sierra Homeowners Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Owner shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as the Owners determine, but in no event shall more than one vote be cast with respect to any Lot.

6. COVENANT TO PAY MAINTENANCE ASSESSMENTS.

6.1 The Declarant, for each completed Lot owned by it, and each Lot Owner, by acceptance of a deed, whether or not it shall be expressed in said deed, is deemed to covenant and agree to pay to the High Sierra Homeowners Association all periodic and special assessments made by the Association for the HOA Storm Water System expenses and to waive any right said Owner may have, under the laws of the United States or the State of Montana, to claim a homestead exemption for said assessments.

7. ASSESSMENTS.

7.1 Assessments shall be made by the High Sierra Homeowners Association only for the repair, replacement and general maintenance, management and administration of the HOA Storm Water System, and for no other purpose. No assessments will be made until a portion of the Permanent HOA Storm Water System is complete.

8. REMEDIES FOR NON-PAYMENT OF ASSESSMENTS.

8.1 All sums assessed by the Association, but unpaid for the share of common expenses chargeable to any Lot, together with interest, collection costs, costs of suit, and reasonable attorney fees, shall constitute a lien on such Lot, and if filed of record, may be foreclosed in the same manner as a Construction Lien. Such



lien shall not take priority over any sums unpaid on a first mortgage or trust indenture of record prior to the recording of the lien for assessments. Each assessment, together with interest, collection costs or costs of suit, and reasonable attorney fees, shall also be the personal obligation of the owner of the Lot against which the assessment was made at the time the assessment fell due, and a suit to recover a money judgment for unpaid assessments shall be maintainable by the Association against said owner without foreclosing or waiving the lien securing the same. All costs of collection of delinquent assessments, including, but not limited to, court costs, costs of filing liens, and attorney fees, shall be the obligation of the non-paying Lot owner, shall be deemed a common expense chargeable only to the non-paying Lot owner, and may be added to the next regular assessment for that Lot. If a mortgagee, beneficiary of a trust indenture or other purchaser of a Lot obtains title to the Lot as a result of foreclosure of a first mortgage or trust indenture, such acquirer of title, its successors and assigns, shall not be liable for the share of the assessed, but unpaid, common expenses or assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to such unit by such acquirer unless expressly assumed by them. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the Lot owners, including such acquirer, its successors and assigns. However, no sale or transfer of a Lot shall relieve the acquirer from liability for assessments thereafter becoming due or from the lien thereof.

9. LOTS SUBJECT TO DECLARATION, BY-LAWS, RULES AND REGULATIONS, AND RESTRICTIVE COVENANTS.

- 9.1 All present and future owners of Lots shall be subject to, and shall comply with, the provisions of this Declaration, the By-Laws, restrictive covenants, and rules and regulations adopted by the High Sierra Homeowners Association, as these instruments may be amended from time to time. The execution of the purchase contract by a Lot owner or the acceptance of a deed thereto shall constitute acceptance of the provisions of such instruments by such owner. All owners shall be responsible for insuring compliance by their tenants, family members, other occupants of their Lot and their guests. The provisions of the Declaration and the By-Laws, restrictive covenants and rules and regulations adopted by the High Sierra Homeowners Association shall be covenants running with the land and shall bind any person having an interest in such Lot as though the provisions were recited and fully stipulated in each deed or conveyance thereto. The invalidity of any provision of this Declaration shall not affect in any manner the validity or enforceability of the remainder of the Declaration. No provision in this Declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations which may occur.

10. PROPERTY RIGHTS AND EASEMENTS



- 10.1 Utility Easement(s): Easements for drainage, electricity, telephone, lighting, water, sewer, cable television and other utilities, or any other service or utility as more particularly set forth on the plats of High Sierra Subdivision, 14th Filing, and Lot 19, Block 32, 16<sup>th</sup> Filing, shall be and hereby are reserved.
- 10.2 Mail Delivery: United States Postal Service mail delivery will be made to centralized delivery locations. The general location of each centralized delivery location is indicated on the preliminary plat. Subdivider shall install the centralized boxes within the Private Contracts for each Phase.
- 10.3 Off-Street Parking: Each Lot shall provide two (2) concrete off-street driveway-type parking places, which shall extend from the paved street to the entrance of the garage. No gravel or asphalt driveways or parking pads shall be permitted.

11. MINIMUM RESTRICTIONS ON BUILDING

- 11.1 Each Lot, as above-described, in said subdivision, shall be known as a residential Lot and shall be used solely for residential purposes.
- 11.2 No structure shall be erected, altered, placed, or permitted upon any such residential lot, other than one detached single-family dwelling not to exceed two stories in height and, except as provided below, a private, attached garage for a minimum of two cars, but not more than three cars; provided, however, that a room may be built over an attached garage, but in any case the roof pitch of the main part of the house and garage shall not be less than five (5) inches rise to the foot nor exceed twelve (12) inches rise to the foot; provided, further, however, that the following Lots shall have a private, attached garage for a minimum of one car:

Lots 4-16, inclusive, Block 31, and Lots 14-25, inclusive, Block 27.

- (A) Satellite Dishes and Television Antennas: All satellite systems, wireless DSL connections, or antennae of any kind, must meet the requirement of all applicable building codes and FCC regulations. Lot owners are encouraged to place satellite dishes and television antennas so as to be least obtrusive to adjoining lots.
- (B) No basement or portion thereof shall be converted or made into an apartment to be used for rental purposes.
- (C) No Lot shall be subdivided for the purpose of constructing more than one dwelling on any Lot as platted, and each dwelling shall be located on a building site having at least an area equal to the area of the Lot, as platted, on which the dwelling is located.





- 11.3 No trailer, recreational vehicle, basement, tent, shack, garage or other outbuilding erected on said Lots shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence. Additionally, the exterior of any building shall be finished in its entirety before it can be occupied.
- 11.4 All dwelling units constructed on the Lots shall be site-built and shall have a minimum of floor space enclosed within the perimeter of the exterior walls as follows:
- (A) In the case of a one-story dwelling, a minimum of 1050 square feet of floor space, and in the case of a two-story dwelling, a minimum of 900 square feet on the main level.
- The minimum square footage must be at or above grade, excluding basements, garages, porches, patios, basements, terraces, and decks.
- 11.5 No construction equipment or materials of any nature may be moved onto a Lot until within thirty (30) days of the start of construction, and the dwelling shall have its exterior completed within one year from the time of starting.
- 11.6 All dwellings must be placed on a permanent foundation, and construction must comply with the International Residential Code and all applicable City of Billings building and zoning requirements.
- 11.7 All concrete structures and steps that protrude over three feet above the finished grade shall be placed on a footing.
- 11.8 Sidewalks: All sidewalks adjacent to 14th Filing, and Lot 19, Block 32, 16<sup>th</sup> Filing, Parks shall be installed within the Private Contract for High Sierra Subdivision. The balance of all sidewalks within the Subdivision shall be five-foot wide boulevard style and shall be placed at the time that dwelling units are constructed on the Lots and shall be included in each building permit. Subdivider will install, within the private contract, corner intersection handicap ramps and aprons, where required for the sidewalk development plan, and will grade all street frontages for the boulevard sidewalk finish grade.
- 11.9 Private driveways: Construction specifications for the driveway shall meet all applicable City of Billings requirements.
- 11.10 The exterior siding of all residential and outbuilding structures shall consist of wood, wood products or wood look-alike products, cement board siding, brick, stone, simulated stone, or select vinyl building materials approved by the Architectural Review Board. Stucco or EFIS with a smooth or roughcast (pebble) finish, is also permitted upon approval. No sheet or panel metal siding, cement block, or panel siding similar to T1-11 siding or plywood sheet siding is



permitted. All facades of a building shall be made of the same materials and similarly detailed.

- 11.11 Roofs shall be covered with shakes, tiles or shingles, and no rolled roofing or metal roofing shall be allowed. No triple tab shingles will be allowed. Exposed aluminum or silver flashing around chimneys or roof valleys shall not be allowed unless colored, textured or painted to match or complement the roof design and color. Rain gutters are allowed, provided the same are colored to match the trim or color of the roof. Steel galvanized gutters are not permitted.
- 11.12 The exterior colors of all structures shall be traditional colors, earth tones, pastels, white or wood colors. No bright or shiny colors on exterior siding shall be allowed. For example, bright oranges, royal blues, pinks, purple, and like bright colors are not allowed. No overly dark colors on exterior siding shall be allowed. For example, very dark brown or black colors are not allowed. Lot owners shall have written approval from the Architectural Review Board for the exterior color before the exterior siding material is installed on the dwelling unit.
- 11.13 No Mobile Homes, Manufactured Homes, or Move On Homes shall be allowed, and all construction shall be Site-Built Homes.
- 11.14 Building Orientation: (Intentionally left blank, as it is covered by 12 below.)
- 11.15 No building shall be erected, placed, or altered on any Lot in High Sierra Subdivision, until construction plan and specifications, and the site location plan have been approved by the Architectural Review Board as to the quality of materials, harmony of external design with existing structures, and location of structures with respect to topography and finished grade elevations. Approval shall be granted pursuant to the standards contained in these restrictions and protective covenants at the time an application for approval is submitted.
- 11.16 The Architectural Review Board referenced above is composed of the Officers of the High Sierra II, Inc., of Billings, Montana. Either officer(s) of the Board may designate a representative to act for it or provide advice. In the event of the death or resignation of any Officer, the remaining Officer(s) shall have full authority to designate a successor or successors. Neither the members of the Board nor its designated representatives shall be entitled to any compensation for services performed pursuant to the covenant; however, the Board may offer reasonable compensation to its designee. A reasonable fee commensurate with the cost of this review may be assessed against each Lot. The Officers of High Sierra II, Inc. will remain the only Board members of the Architectural Control Board until 100% of the Lots have been sold and all construction plan, specifications, and site location plans have been submitted and approved, at which time the Board will resign and will not be replaced. The Architectural Review Boards approval or disapproval, as required in these covenants, shall be in writing. In the event the Board or its designated representative fails to approve or disapprove within thirty

(30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

- 11.17 Accessory Buildings are Allowed: Location of the Accessory Building(s) must be approved by the Architectural Review Board. The building materials of all Accessory Building must match the building materials of the home. (This includes siding, roof material, paint colors, etc...). It is the Lot Owner's responsibility to acquire all necessary permits from the City of Billings before placing or constructing any Accessory Buildings.

12. SET BACKS

Set Back Requirement: In relationship to front, side and rear lot setbacks, no buildings or other structures shall be located closer to the front, side and rear lot lines than is permitted in the City of Billings Zoning Regulations as it may exist at the time of construction.

13. FENCING

Backyards and side yards may only be fenced with a 6-foot solid privacy fence, white in color. The front yard toward the public road shall not be fenced and the fencing may not protrude past the front of the home. The style of fence must be approved by the High Sierra Architectural Review Board prior to fence being installed.

14. LANDSCAPING PLANS AND REQUIREMENTS

- 14.1 Landscape Requirements: Unless exempted by the Architectural Review Board, Lot Owners shall, within two (2) months after each residence is completed, plant, maintain, and in case of death or destruction, replace, at least two (2) trees (7) seven-feet high, with a minimum of 1.5-inch caliper trunks in the front yard of each Lot. In all areas, yards must be planted in lawn or otherwise permanently landscaped within (2) two months after occupancy, if occupied during March, April, May, June, July, or August. Otherwise, the yards must be planted in lawn or otherwise permanently landscaped no later than the first day of June following occupancy.
- 14.2 Owners are required to establish lawn and other suitable landscaping for their Lot. They shall also mow, irrigate, control noxious weeds and otherwise maintain their Lot so that the landscaping does not detract from the general appearance of the Subdivision.
- 14.3 Due to the hydro-collapse and settlement potential of native soils on this site, plants should not be placed within 3 feet of foundations. Care should be taken



with the landscaping not to create drainage obstructions such as concrete curbing, which will collect and retain water near the foundations.

- 14.4 Final elevations at the site should be planned so that drainage is directed away from all foundations and concrete slabs. Parking areas should be designed to drain surface water off the site and away from structures.
- 14.5 As noted in the Rawhide Engineering January 22, 2020 report, and in accordance with the International Residential Code, downspouts with 6-foot extensions should be used. Positive drainage away from all foundations should have 6 inches of fall in the first 10 feet away from the foundations. If sufficient room is not available to construct the 10-foot slope, drainage swales should be constructed as far from the foundations as possible.

## 15. SIGNS

- 15.1 No permanent outside signs are allowed except for name and address designations. This provision shall not apply to the Developer or to the Community Sign.

## 16. ILLEGAL OR NOXIOUS USES OR ACTIVITIES

- 16.1 No illegal, noxious, unsightly or offensive use or activity shall be made of, or carried on, any lot, nor shall any use or activity be permitted which may be, or may become, annoyance or nuisance to adjacent Owners.

## 17. ANIMALS

- 17.1 No more than two (2) pets over the age of six (6) months are permitted per dwelling unit. All pets are subject to applicable City of Billings Animal Control Ordinances.
- 17.2 Household pets may not be kept, bred, or maintained for any commercial purposes. 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 shall be prohibited from barking or causing other nuisance, odors or interference with other Lot Owners. Dogs and cats shall be kept on the Owner's own property or on a leash, and shall not be allowed to roam free. Dogs that have a history of aggression toward people or other animals, including but not limited to biting, shall not be permitted in the subdivision. No exotic pets, including venomous reptiles, shall be permitted in the subdivision.
- 17.3 In addition to the foregoing restrictions, the following animals are prohibited within the subdivision: horses, mules, donkeys, cows, goats, pigs, sheep, poultry, pigeons or other livestock.



18. JUNK VEHICLES, COMMERCIAL VEHICLES, AND GARBAGE AND REFUSE DISPOSAL.

- 18.1 No junk vehicles, garbage or other refuse shall be stored, dumped or maintained on any of the Lots or real Property covered by these Protective Covenants. The Owner shall be responsible for the proper disposal of all junk vehicles, garbage and other refuse.
- 18.2 All trash containers shall be hidden from view by keeping such containers in garages or an enclosure. No trash container enclosure shall be located on the front of the building. When put out for pick-up, they shall be placed in an animal-proof container.
- 18.3 No burning barrels shall be allowed on the premises.
- 18.4 Commercial vehicles, commercial equipment, or inoperable machinery shall not be parked, stored, or permitted to accumulate on the lots. Machinery, commercial equipment, and construction equipment shall not be parked on streets for a period in excess of twenty-four (24) hours. This provision shall not apply to the High Sierra II, Inc. during construction of the subdivision, and shall not apply to any equipment currently used in construction or improvements on a Lot.

19. RECREATIONAL VEHICLES & MOTORHOMES

- 19.1 No pickup camper, camping trailer, snowmobile, boat, trailer, motor home, or any type of vehicle or similar item used for recreational purposes shall be used for habitation, and such vehicle shall not be placed upon a Lot or driveway for a period of longer than thirty (30) days in a calendar.

20. SOIL AND GEOTECHNICAL CONSIDERATIONS.

- 20.1 Owners of Lots within High Sierra Subdivision, 14th Filing, and Lot 19, Block 32, 16<sup>th</sup> Filing, shall be advised that in accordance with a geotechnical report prepared from actual drilling and field-testing by Rawhide Engineering, Inc, there exists the potential for variable soil conditions and the potential for collapsible and/or expandable soils within the Subdivision. Assessment and mitigation, if any, of these conditions shall be the responsibility of the Lot Owner. The City may require the Owner of each Lot to include a geotechnical investigation report with the building permit submittal. High Sierra II, Inc. has requested a geotechnical investigation and the findings of the report are on file with the City of Billings Building Department.

21. AMENDMENT

- 21.1 After 100% of the Lots in the past, current, and future filings of the High Sierra Subdivision have been sold, this Declaration, or any provision thereof, may be amended or revoked and any additional provisions added at any time, (except



those Declarations required under the Subdivision Improvements Agreement between High Sierra II, Inc. and the City of Billings), by written instrument duly signed and acknowledged by the Owners of record of not less than two-thirds (2/3) of the Lots, and recorded with the Yellowstone County Clerk and Recorder. Until 100% of the Lots in the 14<sup>th</sup> filing and Lot 19, Block 32, 16<sup>th</sup> filing, and future filings of the High Sierra Subdivision Master Plan have been sold, the Board of Directors and Officers of High Sierra II, Inc. reserves the right to amend or revoke and make any additional provisions at any time, including the right to add Lots in future filings of High Sierra Subdivision to membership in the High Sierra Homeowners Association (except those Declarations required under the Subdivision Improvements Agreement.)

- 21.2 Any amendment or change of this Declaration, or any provision thereof, shall be effective upon the filing and recording of such an instrument in the office of the Yellowstone County Clerk and Recorder.
- 21.3 Any amendment or change in this Declaration, or any provision thereof, shall not affect existing structures and uses of the Lots, provided that such structure or use would have been a valid structure or use under this Declaration of Protective Covenants for High Sierra Subdivision, 14<sup>th</sup> Filing, and Lot 19, Block 32, 16<sup>th</sup> Filing, at the time the structure was built or the use commenced.

## 22. ENFORCEMENT

- 22.1 Declarant and every Owner of a Lot shall have a right to enforce the provisions of these Protective Covenants, and to prevent or stop any violation thereof by injunction or other lawful means.
- 22.2 Every violation of the provisions of these Protective Covenants is hereby declared a nuisance.
- 22.3 Failure by any Owner of a Lot to enforce any covenant or restriction herein contained shall not be deemed a waiver of the right to do so thereafter.
- 22.4 In the event any action is maintained to enforce, enjoin any violation of, or to construe the provisions of these Protective Covenants, the prevailing party shall be entitled to recover from the losing party all damages and costs thereby incurred, including a reasonable attorney's fee.
- 22.5 The Undersigned shall not be liable to any Owner, or any other person from any loss, damage or injury arising out of or in any way connected with the adoption, implementation, or enforcement of the Protective Covenants, and all Owners hereby waive, release and forever discharge the Undersigned from any liability arising out of, or in any way connected with adoption, implementation or enforcement of these Protective Covenants, and any amendment thereto.



23. BEST MANAGEMENT PRACTICES DURING CONSTRUCTION

- 23.1 Individual Lot Owners should be aware that Best Management Practices for stormwater control shall be required for any construction on lots. Best Management Practices are defined within Section 28-201 BMCC and detailed in the Billings Stormwater Management Manual. For a copy of the Billings Stormwater Management Manual, contact the City of Billings.
- 23.2 The Developer and subsequent Builders/Lot Owners acknowledge that there is a Stormwater Pollution Prevention Plan (SWPPP) filed with the City of Billings and the State Department of Environmental Quality (DEQ). This SWPPP shall be adhered to during all phases of construction. For information regarding the SWPPP requirements, contact the City of Billings.
- 23.3 Once any lot has been sold by the Developer, the Developer shall no longer be considered an owner or operator for any future home building construction.

DATED this 2<sup>nd</sup> day of November, 2020.

HIGH SIERRA II, INC., a Montana Corporation,

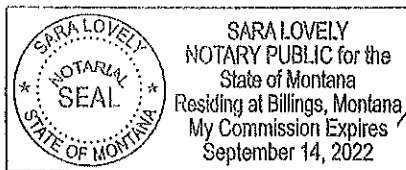
By:

[Signature] VP  
Landy Leep  
Its: Vice President

STATE OF MONTANA )  
: ss.  
County of Yellowstone )

On this 4<sup>th</sup> day of November 2020, before me the undersigned Notary Public for the State of Montana, personally appeared Landy Leep known to me to be the Vice President of High Sierra II, Inc., a Montana Corporation, that executed the foregoing instrument and acknowledged to me that said Company executed the same.

IN WITNESS WHEREOF, I hereunto set my hand and affixed my Official Seal the day and year in this certificated first above written.



(NOTARIAL SEAL)

[Signature]  
Notary Public of the State of Montana  
Sara Lovely (print name)  
Residing at Billings, Montana  
My Commission expires: 9-14-22



Return to:  
City Clerk  
City of Billings  
PO Box 1178  
Billings, MT 59103

## HOA STORMWATER FACILITY MAINTENANCE AGREEMENT HIGH SIERRA SUBDIVISION, FOURTEENTH FILING

**THIS AGREEMENT** is made by and between the City of Billings, a Municipal Corporation of the State of Montana, hereinafter referred to as the "City" and High Sierra II, Inc., a Developer, as owner (including successors and assignee's of the City as may become applicable including the heirs, executors, administrators, successors and assigns of above owner(s) as may be or may become applicable), hereinafter called "Grantor,"

**WHEREAS**, the undersigned is proceeding to build on and develop the property; and has submitted the Site Plan/Subdivision Plan know as High Sierra Subdivision, Fourteenth Filing hereinafter called the "Plan", which is expressly made a part hereof, as approved or to be approved by the City, provides for detention of stormwater within the confines of the property; and

**WHEREAS**, the City and the undersigned, its successors and assigns, including any homeowners association, (hereinafter the "Landowner") agree that the health, safety, and welfare of the residents of the City, requires that on-site stormwater management facilities be constructed and maintained on the Property; and

**WHEREAS**, the City requires that on-site stormwater management facilities as shown on the plan (the "Facilities") be constructed and adequately maintained by the Landowner.

**NOW, THEREFORE**, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The Facilities shall be constructed by the Landowner, in accordance with the plans and specifications identified in the Plan.
2. The City shall, at all time, adequately maintain The Facilities within the public right-of-way.





3. The Landowner shall, at all time, adequately maintain the Facilities outside of the public right-of-way. Such maintenance obligation shall include the obligation to properly maintain all surface and subsurface inlets, pipes, channels, structures, rock pits, vegetation, and all other improvements provided to control the quantity and quality of the stormwater within the facility. Adequate maintenance is herein defined as keeping the Facilities and all components thereof in good working condition so that these Facilities continue to perform their design functions.
4. In the event the Landowner fails to maintain the Facilities in good working condition acceptable to the City, the City shall provide written notice to the Landowner of the perceived deficiencies identified in the inspection report and required actions to return the Facilities to good working condition. The Landowner shall be given a reasonable time frame to respond to the City or perform the required work. If the Facilities are not returned to good working condition within a reasonable time frame, the City may enter upon the Property and take such steps as are necessary to correct deficiencies identified in the inspection report and charge costs of such repairs to the Landowner. This provision shall not be construed to allow the City to erect any structure of permanent nature on the land of the Landowner outside of the easement for stormwater management facilities. It is expressly understood and agreed that the City is under no obligation to routinely maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the City. The Landowner grants to the City, its authorized agents and employees, a non-exclusive, perpetual easement over, across, under and through the Property for such purposes.
5. The Landowner shall perform all work necessary to keep the Facilities in good working order. In the event a maintenance schedule for the stormwater management facilities (including sediment removal) is outlined on the approved plans, the Landowner shall comply with such schedule.
6. In the event the City performs work of any nature on the Facilities in accordance with this Agreement, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Landowner shall reimburse the City upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the City hereunder.
7. This Agreement imposes no liability of any kind whatsoever on the City and the Landowner agrees to hold the City harmless from any liability in the event the stormwater management facilities fail to operate properly.



8. This Agreement shall be recorded among the deed records of Yellowstone County, Montana, and shall constitute a covenant running with the land, and shall be binding on the Landowner, its administrators, executors, assigns, heirs and any other successors in interests, including any homeowners association.

IN WITNESS THEREOF, the parties hereto acting through their duly authorized agents have caused this Agreement to be signed, sealed and delivered:

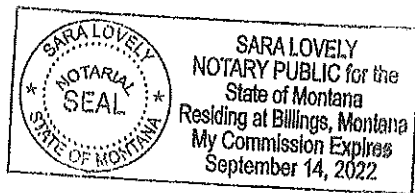
“SUBDIVIDER”

HIGH SIERRA II, INC.

By: [Signature]  
Its: Vice President

STATE OF MONTANA )  
: ss  
County of Yellowstone )

On this 29<sup>th</sup> day of April, 2020, before me, a Notary Public in and for the State of Montana, personally appeared Landy Keip, known to me to be the Vice President of **HIGH SIERRA II, INC.** who executed the foregoing instrument and acknowledged to me that he/she executed the same.



Sara Lovely  
Notary Public in and for the State of Montana  
Printed Name: Sara Lovely  
Residing at: Billings MT  
My commission expires: 9-14-22



ACKNOWLEDGEMENT AND ACCEPTANCE OF CONVEYANCE

The City of Billings acknowledges receipt of his HOA Stormwater Facility Maintenance Agreement and hereby accepts the property interest conveyed through this instrument.

"CITY"

CITY OF BILLINGS, MONTANA

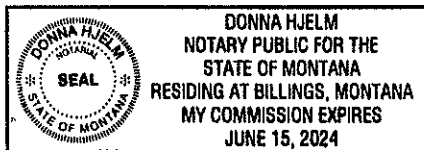


By: Chris Kukulski  
Chris Kukulski,  
City Administrator, City of Billings

Attest: Denise R. Bohlman  
City Clerk

STATE OF MONTANA     )  
  : ss  
County of Yellowstone    )

On this 5<sup>th</sup> day of November, 2020, before me, a Notary Public in and for the State of Montana, personally appeared Chris Kukulski and Denise R. Bohlman, known to me to be the City Administrator and City Clerk, respectively, of the City of Billings, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.



Donna Hjelm  
Notary Public in and for the State of Montana  
Printed Name: Donna Hjelm  
Residing at: Billings MT  
My commission expires: 6/15/2024