

## ARTICLE XII:

### Insurance

*Insurance is essential to protect the interests of the various Owners and to assure that funds will be available for rebuilding after a casualty. However, because insurance costs may increase significantly or new types of coverage made available, this Article gives some flexibility to the Board to select insurance coverage that is reasonable for the conditions that exist at that time.*

12.1 Review of Coverage. The Board shall review limits of coverage for each type of insurance at least once each year.

12.2 Casualty Insurance. The Board may obtain and, if additional significant insurable improvements are added to the Commons of the Residential Neighborhood, shall be required to obtain and maintain, casualty insurance on the improved Commons for fire damage. Endorsements for extended coverage, vandalism, malicious mischief, flood and windstorm should be obtained where available at reasonable cost. Coverage shall be in an amount not less than necessary to comply with the co-insurance percentage stipulated in the policy, but in any event not less than 80% of the insurable value (based upon replacement) of the insurable improvements constructed on the Commons.

12.3 Public Liability. The Board may obtain public liability insurance in such limits as the Board may from time to time determine, insuring against any liability arising out of, or incident to, the ownership and use of the Commons and any topographic conditions located on or adjoining the Residential Neighborhood. At the Board's discretion, such coverage may include easements, such as walkways, which benefit the Association. Whenever practicable, such insurance should be issued on a comprehensive liability basis and should contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association, the Board or other Owners.

12.4 Director Liability Insurance. The Board may obtain liability insurance insuring against personal loss for actions taken by members of the Board and advisory members in the performance of their duties. Such insurance shall be of the type and amount determined by the Board in its discretion.

12.5 Other Coverage. The Board shall obtain and maintain workman's compensation insurance if and to the extent necessary to meet the requirements of law, and such other insurance as the Board may determine or as may be requested from time to time by a majority vote of the Members.

12.6 Parcel Coverage. Each Owner shall obtain casualty insurance for all improvements on the Parcel. Coverage shall be in an amount not less than necessary to comply with the co-insurance percentage stipulated in the policy, but in any event not less than 80% of the insurable value (based upon replacement) of the improvements constructed on the Parcel. If

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requested by the Association, an Owner shall provide evidence of such insurance to the Association.

12.7 Repair and Reconstruction after Fire or Other Casualty.

(a) Commons. If fire or other casualty damages or destroys any of the improvements on the Commons, the Board shall arrange for and supervise the prompt repair and restoration of the improvements. The Board shall obtain funds for such reconstruction first from the insurance proceeds, if any, then from reserves for the repair and replacement of such improvements, and then from any Special Assessments that may be necessary after exhausting insurance and reserves.

(b) Parcel Improvements. If fire or other casualty damages or destroys a Building or any other improvements on a Parcel, the Owner of that Parcel shall immediately proceed to rebuild and restore the improvements to the condition existing immediately prior to such damage or destruction, unless other plans are approved by Hellgate Meadows Architectural Review Board. If the Owner fails to clean and/or render a Parcel secure from vandalism or unlawful entry within 30 days after a casualty, the Association may, in accordance with the provisions of paragraph 11.8(d) ("Corrective Action for Parcel Maintenance"), remove debris, raze or remove portions of damaged structures and perform any other clean up the Association deems necessary to make the Parcel safe and attractive. The cost of such clean-up shall be assessed to the Parcel Owner as an Individual Parcel Assessment.

ARTICLE XIII:  
Amendment

*Property Owners should be able to rely on the Declaration and the general principles it states. Amendment should not be easy. However, new solutions will be proposed from time to time to make the Association operate more efficiently or to adjust to changing conditions. Where clearly to the community's benefit, these new provisions should be incorporated into the Declaration.*

13.1 Amendment.

(a) By Members. This Declaration may be amended at any time by an instrument signed by the president or vice president and secretary of the Association, certifying approval in writing by Parcel Owners representing eighty percent (80%) of the votes in the Association.

(b) By the Founder. To the extent permitted by law, the Founder specifically reserves the absolute and unconditional right to amend this Declaration without the consent or joinder of any party (i) to conform to the requirements of the Federal Home Loan Mortgage Corporation, Veterans Administration, Federal National Mortgage Association or any other generally recognized institution involved in the guarantee or purchase and sale of

mortgages, (ii) to conform to the requirements of institutional mortgage lenders or title insurance companies, (iii) to clarify the Declaration's provisions or correct errors, or to modify this Declaration with respect to additional property made subject to its provisions by Founder.

(c) Limitation and Required Concurrence of Missoula City Council. Whenever any action described in this Declaration requires approval of greater than eighty percent (80%) of the Parcel Owners, amendment of that provision shall require the same percentage vote as would be required to accomplish that action directly. Rights reserved to the Founder may not be amended without the specific consent of the Founder. Provided further, that notwithstanding any other provisions of this Article XIII or the Residential Neighborhood Declaration to the contrary, the provisions of Article 11.3(f) and (g) hereof may not be amended, deleted or terminated without the express approval of the City Council of the City of Missoula or its successor.

(d) Recording. Any amendment shall take effect upon recording in the public records.

### 13.2 Dedication.

(a) Common Roads. If any portion of the Common Roads has not previously been dedicated to the public, the Founder or Association shall have the right to convey title to or dedicate the Common Roads to the appropriate public agency or authority.

(b) Commons. All other Commons may be dedicated to the public by the Board upon consent in writing of Parcel Owners representing eighty percent (80%) of the votes in the Association.

(c) Footpaths and Walkways. At least twenty (20) years from and after the recording of this Declaration, if the Association determines that it no longer wishes to maintain all or some of the footpaths or walkways between Parcels, the ownership of such footpaths or walkways may be divided evenly between the adjacent Parcel Owners, with the consent in writing of Parcel Owners representing eighty percent (80%) of the votes in the Association. The property shall be subject to an easement for any then-existing utilities, and an easement may be reserved for continued use of the footpaths or walkways if required by the approving Owners.

(e) Necessary Approval. Any dedication or conveyance described above is subject to acceptance by the applicable governmental agency

13.3 Condemnation. If all or part of the Commons is taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be paid to the Association. The Board shall have the right to act on behalf of the Association with respect to the negotiation and litigation of the taking or condemnation affecting such property.

13.4 Duration; Termination. The covenants and restrictions contained in this Declaration shall run with and bind the Neighborhood and shall inure to the benefit of and be enforceable

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by the Founder, the Association, and all Owners of property within the Neighborhood, their respective legal representatives, heirs, successors or assigns for twenty years, and shall be automatically extended for each succeeding ten year periods unless an instrument signed by Owners representing 90% of the votes in the Association shall have been recorded, agreeing to terminate the Declaration as of a specified date.

This Declaration may also be terminated by the consent in writing of all Owners.

## ARTICLE XIV:

### General Provisions

#### 14.1 Interpretation.

(a) Construction. The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform and consistent plan for the development and operation of the Neighborhood as a community of the highest quality. Founder shall have exclusive and broad discretion in exercising its judgment regarding determination of matters of "reasonableness" or in the application of any other subjective standard in the interpretation and/or application or enforcement of the provisions of this Declaration. The italicized portions at the beginning of each Article are intended to state the purposes for the provisions that follow and may be used as an aid to interpretation. However, if the italicized portion conflicts with the operative provision, the operative provision shall govern.

(b) Governmental Regulation. All provisions of this Declaration, including without limitation modifications to the Master Plan, shall be subject to applicable government regulation or agreements.

14.2 Invalidity. The invalidity of any part of this Declaration shall not impair or affect the validity or enforceability of the rest of the Declaration, which shall remain in full force and effect.



#### 14.3 Enforcement of Declaration.

(a) Enforcement. Suit may be brought against any person, persons or entity violating or attempting to violate the provisions of this Declaration, either to restrain violation or to recover damages, and against his or its property to enforce any lien created by this Declaration. To enforce this Declaration or the Rules and Regulations, the Association, the Founder or any Owner may bring an action for damages, specific performance, declaratory decree or injunction, or any other remedy at law or in equity. The Board shall be empowered to bring suits on behalf of the Association.

(b) No Waiver. Failure to enforce any provision of this Declaration or the Rules and Regulations shall not be deemed a waiver of the right to do so at any time thereafter.

(c) Association's Legal Fees. Any and all costs, including but not limited to attorneys' fees and court costs, which may be incurred by the Founder or the Association in the enforcement of any of the provisions of this Declaration, whether or not suit is brought, may be assessed as an Individual Parcel Assessment to the Owner against whom such action was taken.

14.4 Assignment of Founder's Rights. Founder may assign all or a portion of its rights or obligations at any time to a successor or assign or to the Residential Neighborhood Association. If Founder conveys all of its property within the Residential Neighborhood Association without assigning its rights, then the Founder's rights shall automatically be assigned to the Residential Neighborhood Association.

14.5 Notices. Any notice required to be sent to the Owner shall be deemed to have been properly sent when mailed, postage prepaid, or hand delivered to the Parcel and, if different, to the last known address of the person who appears as Owner of the Parcel as that address is stated on the records of the Association at the time of the mailing. If the Owner has given approval, notice may be given by electronic means to an address provided by the Owner.

14.6 Gender and Number. The use of the masculine gender herein shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.



14.7 Consent of Mortgagees.

(a) When Consent Required. This Declaration contains provisions concerning various rights, priorities, remedies and interests of Mortgagees. Such provisions are to be construed as covenants for the protection of the Mortgagees on which they may rely in making loans secured by a mortgage on a Parcel. Accordingly, no amendment or modification of this Declaration specifically impairing such rights, priorities, remedies or interests of a mortgagee shall be adopted without the prior written consent of Mortgagees as provided in subsection (b). This section shall not be construed, however, as a limitation upon the rights of the Founder, the Association or the Members to make amendments which do not adversely affect the Mortgagees.

(b) Percentage Required. Wherever consent of the Mortgagees is required, it shall be sufficient to obtain the written consent of Mortgagees holding a lien on sixty percent (60%) or more of all Parcels encumbered by a mortgage.

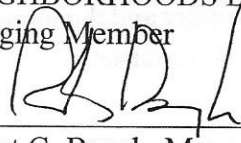
(c) Timely Response. Any such required consent shall be given promptly and shall not be unreasonably withheld. Any consent not given or denied within 30 calendar days of receipt of request for consent shall be deemed given.

14.8 Law to Govern. This Declaration shall be construed in accordance with the laws of the State of Montana.

IN WITNESS WHEREOF, the undersigned does hereby make this Declaration of Easements, Covenants and Restrictions for Hellgate Meadows and has caused this Declaration to be executed as of the day and year first above written.

N & E VENTURES I, LLC, a  
A Montana limited liability company

By: NEIGHBORHOODS BY DESIGN, LLC  
Its Managing Member

By:   
Robert G. Brugh, Managing Member

STATE OF MONTANA)  
: ss.  
County of Missoula )

This instrument was acknowledged before me on this 17<sup>th</sup> day of JUNE, 2002  
by ROBERT G. BRUGH, known to me to be the Managing Member of

NEIGHBORHOODS BY DESIGN, LLC, a Managing Member of N & E Ventures I, LLC,  
a Montana limited liability company.

(SEAL)

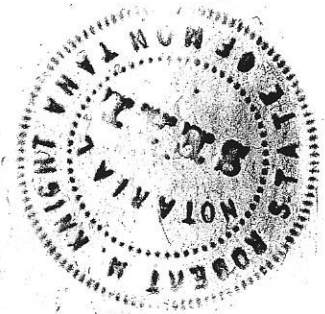


Printed or Typed Name ROBERT M. KNIGHT

Notary Public for the State of Montana

Residing at MISSOULA, MONTANA

My commission expires JAN 27 2004



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## SCHEDULE OF EXHIBITS:

### Exhibit A:

A-1: Description of That Portion of the 40 Acres to be Developed by Founder Within the Master Plan Area to be Subject to the Residential Neighborhood Declaration:

Phase II, Hellgate Meadows Subdivision (separate document)

A-2: Description of The Meadow Village Core:  
Lots 1- 39, Phase I, Hellgate Meadows Subdivision (separate document)

Exhibit B: Initial Commons (separate document)

Exhibit C: Articles of Incorporation of Hellgate Meadows Residential Neighborhood Association, Inc.

Exhibit D: Bylaws of Hellgate Meadows Residential Neighborhood Association, Inc.

