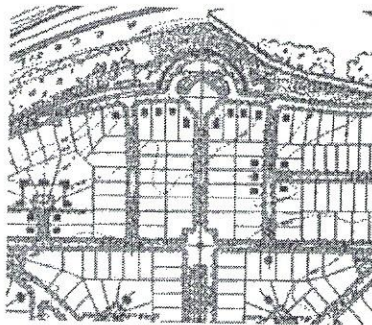


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DECLARATION  
of  
Easements,  
Covenants and Restrictions  
for  
the Residential Neighborhood

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Missoula County Vickie M Zesler COY

N & E VENTURES I, LLC, a Montana limited liability company, also known as the "Founder," makes this Declaration on the 17<sup>th</sup> day of June, year of 2002.

STATEMENT OF PURPOSE:

A. The Founder is developing portions of the real property in Missoula, Missoula County, Montana, a traditional neighborhood development to be known as Hellgate Meadows. *It is the express intention of the Founder that the following Declaration of Easements, Covenants and Restrictions for the Residential Neighborhood, as well as the Design Code adopted in conjunction therewith to regulate land use, architecture and environment, shall apply only to that portion of Hellgate Meadows to be developed by the Founder described on Exhibit A-1 attached. Consequently, notwithstanding anything to the contrary hereinafter contained, this Declaration of Easements, Covenants and Restrictions and the related Design Code described in the preceding sentences, shall apply only to that portion of the 40 acres described on Exhibit A-1 unless other property owned by Founder (or with the express written consent of the Owner and the Founder) is expressly added by the Founder at a later date by the recording of documents reflecting that express intention. Likewise, the name "Hellgate Meadows" shall be used only in conjunction with the development to occur on the property described on Exhibit A-1 and A-2 attached.*

B. Hellgate Meadows comprises two parts: the Residential Neighborhood, which is the primarily residential portion; and the Village Core which brings together a mixture of commercial and high density residential uses, including apartments and townhouses or row houses. Unlike typical suburbs which separate homes from businesses and force dependence on the automobile, Hellgate Meadows design is intended to mix commercial, civic and residential uses in a way which enlivens the community.

C. This Declaration is intended to provide for the maintenance and operation of the Residential Neighborhood, while the Village Core is subject to a separate Declaration. In addition, the Declaration of Covenants and Restrictions for row houses (townhouses) has been recorded contemporaneous with this Declaration and includes additional provisions which relate to row houses constructed within the Residential Neighborhood.

D. *The Residential Neighborhood will have an owners' association to own, develop and maintain certain common parks and boulevards (herein "the Commons").*

E. All of the property within Hellgate Meadows described in Exhibits A-1 and A-2 attached shall be subject to Master Deed Restrictions, which shall be recorded immediately prior to this Declaration. Among other things, the Master Deed Restrictions regulate the construction and modification of buildings and other improvements within Hellgate Meadows.

F. The Founder records this Declaration for the Residential Neighborhood, and establishes an owners' association to enhance community life, to institute and enforce certain covenants and restrictions, to provide for further development and maintenance of the Residential Neighborhood's Commons, and to allow ultimately for self-governing of the Residential Neighborhood by its owners.

#### DECLARATION:

The Founder hereby submits that portion of the Master Plan Area owned by the Founder to this Declaration of Easements, Covenants and Restrictions. The portion of the Master Plan Area which is subject to this Declaration of Easements, Covenants and Restrictions is described on Exhibit A-1 attached hereto and incorporated herein by reference. The Founder hereby declares that the property comprising the Master Plan Area described on Exhibit A-1 shall be held, sold and conveyed subject to the covenants, restrictions and easements of this Declaration, which shall run with the land and be binding on all parties and heirs, successors and assigns of parties having any right, title or interest in all or any part of that portion of the Master Plan Area subject to this Declaration.

NOTE: In accordance with paragraph 14.1 hereof, the following Articles include a brief summary of the purpose and/or content of the article. The summary is not intended to alter or amend or to contradict any substantive provision of any of the articles. Consequently,



only the provisions which follow each numbered article summary shall be referred to or relied upon in interpreting the meaning of any provision of this Declaration.

# ARTICLE I:

## Definitions

*The following definitions apply wherever the capitalized terms appear in this Declaration. Additional terms which apply only to one article are defined the first time they appear.*

1.1 Architectural Review Board (Hellgate Meadows). "Hellgate Meadows Architectural Review Board" or "Architectural Review Board" is the panel established to administer Hellgate Meadows Design Code as established by the Master Deed Restrictions and described in Article V.

1.2 Articles. "Articles" are the Articles of Incorporation of the Association, which are attached as Exhibit C to this Declaration (Articles of Incorporation are to accompany the final Declaration for recording to establish a Montana nonprofit corporation as the legal entity creating the owners' association.).

1.3 Assessments. "Assessments" is the collective term for the following Association charges:

a) General Assessment. The "General Assessment" is the amount allocated among all Members to be paid to meet the Association's annual budgeted expenses, as described in Section 10.3 and 8.4.

b) Individual Parcel Assessment. An "Individual Parcel Assessment" is a charge made to a particular Parcel Owner for charges relating only to that Parcel, as provided in Section 10.5 and 8.7, or for Zone charges.

c) Special Assessment. A "Special Assessment" may be charged to each Parcel for capital improvements or emergency expenses, in accordance with the provisions of Section 10.4.

1.4 Association. "Association" is Hellgate Meadows Residential Neighborhood Association, Inc., a Montana nonprofit corporation, its successors and assigns. The Association, whose members are the Owners, is responsible for maintaining the Neighborhood and enforcing the Declaration.

1.5 Board. "Board" is the Board of Directors of the Association.

1.6 Building. "Building" is any residential, mixed-use or commercial building constructed on any Lot. If permitted by Hellgate Meadows Design Code, a Building may



be attached to another Building and share party walls. Hellgate Meadows Design Code may permit the construction of two or more Buildings or two or more Residential Units on a Lot.

1.7 Bylaws. "Bylaws" are the Bylaws of the Association which are attached as Exhibit D to this Declaration. (The Bylaws of the Association are to accompany the final Declaration for recording to establish the Bylaws for the Montana nonprofit corporation which will be the legal entity creating the owners' association).

1.8 Commons. "Commons" comprises real property and non-exclusive easement rights within the Residential Neighborhood described on Exhibit B, or as designated on a plat or granted by the Founder to the Association, for the common use and enjoyment of all Owners. "Commons" shall include planter strips which are adjacent to dedicated common roads and lanes and which may be maintained by the Residential Neighborhood. "Commons" shall also include any improvements on that real property, all utilities, utility easements and other easement rights or personal property for the Owners' common use, and any other property of any type specifically designated as Commons. The Commons may include areas dedicated to the public to the extent that the Association agrees to maintain, or is required by this Declaration to maintain, such property.

1.9 Common Roads. "Common Roads" are the streets, lanes and alleys located within the Neighborhood which are intended for automobile and bicycle traffic, as well as for pedestrian walkways. Most of the Common Roads are intended to be dedicated to the public.

1.10 Declaration. "Declaration" is this Declaration of Easements, Covenants and Restrictions for that portion of Hellgate Meadows described on Exhibit A-1 attached. The term "Declaration" shall also include the Declaration of Covenants and Restrictions for townhouses or row houses recorded contemporaneous with this Declaration, to the extent that any property hereto is also included within and subject to the additional provisions which relate to townhouses or row houses constructed within the Residential Neighborhood.

1.11 Design Code (Hellgate Meadows). "Hellgate Meadows Design Code" establishes the development of Hellgate Meadows through its regulation of land use, architecture and environment. Hellgate Meadows Design Code is originally adopted by the Founder as provided in the Master Deed Restrictions and may be amended from time to time. The provisions of the Master Deed Restrictions which relate to Hellgate Meadows Design Code, including, but not limited to, paragraph 3.1 thereof, are incorporated herein by reference as if set forth herein in full. Hellgate Meadows Design Code does not need to be recorded to be effective but shall be available from Hellgate Meadows Architectural Review Board.

1.12 Founder. The "Founder" is N & E Ventures I, LLC, a Montana limited liability company, and its successors and assigns.



1.13 Lot. A "Lot" is a parcel of land intended for a single building, or a building and an outbuilding. Ordinarily, Lots are designated as numbered or lettered, separately identifiable parcels on the recorded subdivision plat of Hellgate Meadows, or, for unplatted areas, as shown on a site plan of property offered for sale as a part of Hellgate Meadows.

1.14 Master Deed Restrictions. The Founder, as the grantor of deeds within Hellgate Meadows, has recorded an instrument immediately prior to this Declaration known as the Master Deed Restrictions. The Master Deed Restrictions, which apply to all deeds granted within that portion of Hellgate Meadows being developed by Founder, are intended to ensure the proper application of Hellgate Meadows Design Code during the development stage and to impose other restrictions designed to further the development of the community.

1.15 Master Plan. The Master Plan is the initial plan for the development of the Master Plan Area. The Master Plan is subject to change based on market conditions, governmental requirements and other modifications which may be made as development progresses if approved by the City of Missoula, and if necessary, with the concurrence of the County of Missoula.

1.16 Master Plan Area. As further defined in the Master Deed Restrictions, the initial Master Plan Area comprises approximately 97 acres, 40 acres of which shall be developed by the Founder, N & E Ventures I, LLC. Adjacent land may possibly be added at a later date.

1.17 Member. Each Owner is a "Member" of the Association, as provided in Article VII of this Declaration.

1.18 Mortgagee. A "Mortgagee" is any institutional lender which holds a bona fide first mortgage, deed of trust or trust indenture encumbering a Parcel as security for the performance of an obligation. The term "institutional lender" specifically includes a bank, savings and loan association, a mortgage lending company, an insurance company, and the Federal National Mortgage Association or similar agency.

1.19 Neighborhood Meeting. The "Neighborhood Meeting" is the public meeting of Members for discussion and voting, as described in Article VII.

1.20 Owner. "Owner" is the record owner, whether one or more persons or entities, of the fee simple title to any Parcel. Owners shall not include those having such interest merely as security for the performance of an obligation.

1.21 Parcel. A "Parcel" is the smallest piece of real property which may be separately conveyed. A Parcel may be a Lot (whether or not improved by a Building), a Special Use Parcel, or certain Residential Units such as condominium units.



1.22 Residential Neighborhood (Hellgate Meadows). The "Residential Neighborhood (Hellgate Meadows)" is the real property described on Exhibit A-1. The "Residential Neighborhood does not include Hellgate Meadows Village Core which is described on Exhibit A-2 and which is dedicated to higher density, more intense form of use, and which will be subject to a separate Declaration of Easements, Covenants and Restrictions for Hellgate Meadows Village Core. Hellgate Meadows Residential Neighborhood is also zoned within the Master Plan. Hellgate Meadows Residential Neighborhood shall also include any additional property owned by Founder or which is added with the Owner's consent by Supplemental Declaration of the Founder. The name "Hellgate Meadows" will only be used by Founder in conjunction with the 40 acre tract of the Master Plan Area to be developed by the Founder.

1.23 Residential Unit. A "Residential Unit" is an individual dwelling unit and shall include a row house or townhouse or other attached dwelling (such as each half of a duplex unit), an apartment or condominium unit, a residential dwelling within a mixed-use building, or an assisted living facility unit (but not a nursing home).

1.24 Special Use Parcel. A "Special Use Parcel" is a Lot of unconventional size, shape, location or use which calls for special design considerations. Typically, a Special Use Parcel will be used for commercial purposes, multi-family residential or community or recreation facilities.

1.25 Supplemental Declaration. "Supplemental Declaration" is any declaration which may be recorded by the Founder in accordance with Section 2.3 to add Additional Property to the Neighborhood.

1.26 Zone. "Zones" are smaller, contiguous areas within the Master Plan Area which by virtue of the Village Regulations adopted as a part of the Master Plan, define the type(s) of use permitted within each zone, including, but not limited to, building type(s) and character. The Master Plan as approved by the City of Missoula for the property described on Exhibit A-1 and the Village Regulations adopted therein are incorporated herein by reference as if set forth herein in full. Owners of property within a Zone may be assessed for maintenance of property primarily serving that Zone. The Village Regulations, which are in the form of Ordinance No. 3198 adopted by the City of Missoula on February 4, 2002, are available at the office of the City Clerk, Missoula City Hall, Missoula, Montana, and that ordinance is otherwise available at the office of the Founder and/or Hellgate Meadows Village Architect.

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