

Section E: DECLARATION OF COVENANTS

- ✓ Covenants for Remington Flats Subdivision (6 pages)

After recording return to:
Lance Cox
Zootown Investments, LLC
PO Box 16568
Missoula, MT 59808

**REMINGTON FLATS
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

This Declaration is made this _____ day of _____, 2020 by Zootown Investments, LLC, a Montana limited liability company of 2336 Aspen Grove Loop, Missoula, Montana, 59801, herein referred to as “Declarant.”

RECITALS

A. Declarant owns certain real property located in Missoula County, Montana, as set forth on the final plat of Remington Flats Subdivision as filed in the office of the Missoula County Clerk and Recorder and shown on the attached Exhibit A (the “Subdivision”).

B. Declarant desires to place beneficial covenants, conditions and restrictions upon the real property within the plat of the Subdivision for the use and benefit of Declarant and for the use, benefit and protection of the future owners thereof.

NOW, THEREFORE, Declarant hereby declares that all the property within the Subdivision as described above shall be held, sold, and conveyed subject to the following COVENANTS, CONDITIONS and RESTRICTIONS, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property by providing a reasonably uniform plan for its development as a desirable development. These Covenants, Conditions and Restrictions shall run with the real property and shall be binding upon all owners thereof, and shall inure to the benefit of and be binding upon each successor in interest to the owner thereof.

1. Land Use. All Lots may be used for any purpose consistent with the City of Missoula Zoning Regulations as such may be amended from time to time, except to the extent such uses are further restricted or qualified as provided herein. In the event of a conflict between these Covenants and City of Missoula Zoning Regulations or other ordinances, the more strict provision shall control.

2. Auxiliary Structures. Each Lot may have a maximum of one outbuilding (such as a free-standing garage or shed) which shall conform to the architectural style of the dwelling and use the same exterior materials. The auxiliary structure must be subordinate and incidental to the dwelling and may not be constructed prior to the commencement of construction of the dwelling.

3. Temporary Structures. No mobile homes shall be placed on any Lot. No temporary or mobile structure including, but not limited to, trailers, mobile homes, recreational vehicles, motor homes, campers, boats, basements, tents, shacks, garages, barns or auxiliary buildings may be used at any time as a residence, either temporarily or permanently.

4. Lighting. All exterior lighting shall be shielded to direct light downward and to eliminate glare onto adjacent properties or roadways.

5. Weed Control. Lot Owners shall revegetate any ground disturbances created by construction or maintenance activities with beneficial species at the earliest appropriate opportunity after construction or maintenance is completed. Owners shall maintain their Lots in compliance with the Montana Noxious Weed Control Act.

6. Utilities. All utilities shall be installed underground

7. Easements. Easements for installation and maintenance of utilities and roadways are reserved as shown on the final plat. No building or structure shall be erected, placed, or permitted to remain on such easements.

8. Common Wall Easement. Certain structures within the Subdivision are constructed with a common wall or walls with an adjoining lot owner. Each owner of such a lot has a perpetual easement in that part of the premises of the other owner's lot and structure on which the common wall or walls are located, together with the right of access in and across the others' property and structure, solely for the purposes of maintaining, repairing, and replacing the common wall or walls.

9. Animals. Only domestic pets such as dogs and cats shall be permitted on the Lots. All animals shall be kept within the Owner's Lot unless leashed or otherwise under the immediate control of the Owner. No cows, pigs, chickens, sheep goats or other livestock shall be permitted on the Lots.

10. Garbage. No Lot shall be used as a dumping ground, nor shall any rubbish, trash, garbage or other waste be allowed to accumulate except in sanitary containers which shall be emptied on a weekly basis.

11. Exterior Maintenance. Each Owner shall provide exterior Lot and structure maintenance. Maintenance shall include painting and repairing the structures and caring for the Lot and landscaping to preclude noxious weeds.

12. Junk Vehicles. Motor vehicles unable to move under their own power shall not be left on any Lot, driveway or roadway for more than seventy-two hours. Work on all vehicles must be done inside the Lot Owner's garage.

13. Basements and Crawl Spaces. No structures shall be constructed with basements. Structures may include crawl spaces, so long as such crawl spaces do not include any living area.

14. Airport Influence/Affected Area. Notice is hereby given that the Property is in the Airport Influence/Affected Area and subject to the requirements of the Airport Influence Area Resolution. The Property may also be within an Extended Approach and Departure Zone for a proposed second runway as shown in the Airport Authority's 2004 Plan and all Owners should be aware of the resultant safety risk. Owners should consult the Airport Layout Plan and any relevant documents to determine the status of the proposed runway location at the time of purchase. The placement and construction of any proposed second runway is subject to prior governmental approval.

Property that is located within the Missoula County Airport Influence/Affected Area is subject to the requirements of the Missoula County Airport Influence/Affected Area Resolutions. The resolutions that created the Airport Influence Area were adopted by the Board of County Commissioners for Missoula County pursuant to resolution No. 78-96 and amended by Resolution No. 78-187 dated July 5, 1978 and December 6, 1978, respectively, and recorded in Book 121 of Micro Records, page 1391 (Resolution 78-96), Book 135 of Micro Records, page 474 (Amendment by Resolution 78-187) and Book 749 of Micro Records, Page 1077 (Amendment by Resolution 2005-033). The Property is further subject to an Avigation Easement entered between the Declarant and the Missoula County Airport Authority, dated the ____ day of _____, 20__ and recorded on the records of the Missoula County Clerk and Recorder in Book _____, Micro Records at Page _____, all of which limit and restrict the rights of the Owners now and into the future.

The limitations and restrictions set out in these documents should be reviewed carefully prior to purchase by all prospective purchasers of Lots. Prospective purchasers and Owners are advised that the operations at the airport may change and/or expand in the future, thereby changing and/or expanding the impacts felt on the portion of the Property subject to the Avigation Easement. Prospective purchasers and Owners are advised and should consider before purchasing a Lot that noise, vibration, dust, fumes, smoke, vapor and other such similar effects from aircraft may occur, which may cause inconvenience or annoyance that may vary from Lot to Lot and that may affect people in different ways or extent. Federal funding for soundproofing, other mitigation of these impacts, or for acquisition of these properties is not available at present, nor in the future.

The provisions of paragraph 3 of the above-described Avigation Easement executed by the Declarant provides for a full waiver and release by each Owner and Declarant of any right or cause of action which it now has or may have in the future against the Missoula County Airport Authority, its successors and assigns, on account of or arising out of such noise, vibration, dust, fumes, smoke, vapor or other similar effects heretofore or hereafter caused by the aircraft in said air space and/or by operations at the Missoula County Airport. The acquisition of a Lot or Lots subject to the Avigation Easement and the aforementioned Resolutions by a prospective purchaser shall constitute an express acknowledgement and agreement by such prospective purchaser, on behalf of himself or herself, and his or her heirs, personal representatives, successors and assigns, that they fully waive and release Declarant and the Missoula County Airport Authority and its successors and assigns, of any right or cause of action which they may have now or in the future, on account of or arising out of such noise, vibration, dust, fumes, smoke, vapor or other similar effects heretofore or hereafter caused by the operation of aircraft in the air space and/or by the

operations at the Missoula County Airport within the Missoula County Airport Influence/Affected Area. This paragraph may not be amended without the written consent of the Missoula County Airport Authority, which consent shall not be unreasonably withheld.

15. Wildlife. Homeowners and residents 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 and other potential attractants. Homeowners must be aware of potential problems associated with the presence of wildlife such as deer, black bear, mountain lion, coyote, fox, skunk and raccoon. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for information that can help homeowners "live with wildlife." Alternatively, see FWP's web site at <http://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.

a. There is high 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.

b. Landscaping comprised of native vegetation is less likely to suffer extensive feeding damage by deer than non-native plants. Planting native flowering plants will benefit pollinating insects, and native shrubs and trees produce favorable food resources and nesting sites for a variety of bird species. Landscape plants can often spread beyond the original planting site, so using native plants also avoids problems with non-native plants spreading in nearby open areas.

c. Gardens and fruit trees can attract wildlife such as deer and bears. Keep produce and fruit picked and off the ground, because ripe and rotting vegetable material can attract bears and skunks. 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.

d. Do not feed wildlife or offer supplements (including salt blocks), attractants, or bait for deer or other wildlife, including during the winter. 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 (§ 87-3-130, MCA) to purposely or knowingly attract any ungulates (deer, elk, etc.), bears, or mountain lions 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 can attract mountain lions to an area.

e. 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/or kill big game and small birds and mammals. Under current state law it is illegal for a dog to chase, stalk, pursue, attack, or kill a hooved game animal, and the owner may be held personally responsible (§ 87- 6-404, MCA). Keeping pets confined also helps protect them from predatory wildlife.

f. Pet food must be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such bears, mountain lions, skunks, and raccoons. When feeding pets do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.

g. Bird feeders attract bears and should not be used from March to December 1. If used, bird feeders should: 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.

h. Barbecue grills should be stored indoors. Keep all portions of the barbecues clean, because food spills and smells on/near the grill can attract bears and other wildlife. Due to the potential hazard of fire and explosion, propane cylinders for gas-fueled grills should be disconnected and kept outdoors. Under no circumstances should propane cylinders be stored indoors.

i. Compost piles can attract skunks and bears. If used, they should be kept in wildlife-resistant containers or structures. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Do not add food scraps. Adding lime can reduce smells and help decomposition. Due to the potential fire hazard associated with decomposition of organic materials, compost piles should be kept at least 10 feet from structures.

j. 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 becoming entangled in the wire or injuring themselves when trying to jump the fence. Contact FWP or see its website for information or a brochure regarding building fence with wildlife in mind.

16. Duration. The covenants, conditions, and restrictions of this Declaration shall run with and bind the land in perpetuity and shall inure to the benefit of Declarant and each Owner, their respective legal representatives, heirs, successors, or assigns, subject to the right of amendment provided in this Article.

17. Amendment. Declarant reserves the right in Declarant's sole discretion to amend, modify, make additions to or subtractions from this Declaration by written instrument, signed and recorded by Declarant until the Declarant has sold all the lots in the subdivision. Thereafter, this Declaration may be amended or repealed upon the written approval of the property Owners comprising seventy-five (75) percent of the Lots. Any amendment or repeal shall become effective only upon the filing of such amendment or repeal in the records of the Clerk and Recorder of Missoula County, Montana.

18. Enforcement. The Declarant or any lot owner within the Subdivision may take action to enforce the provisions of this Declaration. Enforcement may be by injunction, declaratory judgment, action for damages, or any other legal claims, all of which shall be cumulative and non-exclusive. The prevailing party in any action shall be entitled to recover, in addition to other damages, its reasonable litigation expenses, including attorney's fees, as may be awarded in the judgment of the court.

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

IN WITNESS WHEREOF the DECLARANT has signed this instrument and arranged for its recordation in the real property records of Missoula County, Montana.

Zootown Investments, LLC, a Montana limited liability company

By: _____
Lance Cox, authorized member

STATE OF MONTANA)
 : ss.
County of Missoula)

This instrument was acknowledged before me on this _____ day of _____, 2020, by Lance Cox, as authorized member of Zootown Investments, LLC, a Montana limited liability company.

Notary's signature: _____

EXHIBIT A
Subdivision Plat