

AMENDED DECLARATIONS OF PROTECTIVE COVENANTS  
OF A PORTION OF TABLE BAYS, AMENDED

THIS DECLARATION, made this 13 day of July, 1977, by  
ALBERT W. SEELEY, of Lakeside, Montana, hereinafter called Declarant.

WITNESSETH:

WHEREAS, a Declaration of Protective Covenants of a Portion of  
Table Bays, Amended was recorded under the records of Lake County,  
Montana under Microfile No. 225031; and

WHEREAS, the Declarant under this document is the successor in  
interest to the Declarants under said document; and

WHEREAS, more than seventy-five percent (75%) of the lot owners  
of the subdivision have consented to the amendment of said Declaration  
by instrument in writing.

NOW THEREFORE, the Declarant hereby declares the real property  
described on Exhibit "A" attached hereto shall be held, sold, conveyed,  
encumbered subject to the following easements, restrictions, covenants  
and conditions in lieu of and in place of the prior Declaration of  
Protective Covenants referred to herein. All of the easements, restric-  
tions, covenants, and conditions herein shall run with the real property  
and be binding upon all parties having acquired any right, title or  
interest of the described properties or any part thereof and shall be  
for the benefit of each owner and any portion thereof and shall be  
used for the benefit of each owner and shall inure to the benefit of  
and be binding upon each successor in interest.

ARTICLE I.

DEFINITIONS

Section 1. "Association" shall mean Tamarack of the Wildwood  
Landowners Association, its successors and assigns.

Section 2. "Common Area" shall mean all real property in which  
the Association owns an interest for the common use and enjoyment of  
all of the members. Said interest or interests may include, without  
limitation, estates in fee, estates for a term of years or easements.  
The common area to be owned by the Association at the time of the con-  
veyance of the first lot is that property depicted as common area on  
the plat described as "A Portion of Table Bays, Amended".

Section 3. "Lot" shall mean any lot shown on a recorded sub-  
division plat of a portion of the properties, except common area.

Section 4. "Member" shall mean any person or entity holding  
membership in the Association pursuant to its articles of incorpora-  
tion and its by-laws.

Section 5. "Owner" shall mean the the record owner, whether one  
or more persons or entities, of a fee simple title to any lot, including  
contract purchasers, but excluding those having such interest merely as  
security for the performance of an obligation.



Section 6. "Immediate Family" shall mean husband, wife, son, daughter, father or mother.

## ARTICLE II.

### PROPERTY RIGHTS

Section 1. Owners Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area and shall have use of all common facilities, which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- a. The right of the Association to charge reasonable admission and other fees for the use of any facility situated upon the Common Area;
- b. The right of the Association to establish rules and regulations for use of any and all common facilities and open space;
- c. The right of the Association to suspend the voting rights and right to the use of common facilities by an owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;
- d. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members; no such dedication or transfer shall be effective unless an instrument signed by 90% of all owners agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his immediate family, his tenants, or contract purchasers who reside on the property, or bona fide house guests of any of the above.

Section 3. Each lot and Common Area shall be subject to such rights of way and easements as the Declarants (and the Association after it has acquired title to the Common Area) may grant for installation and maintenance of the water system lines, power lines, and telephone lines. The Declarants specifically reserve the right and power to grant such easements, while title to the Common Area remains in the Declarants and the said Association shall have such right and power after transfer to it of title to the Common Area. Installations for water and utility lines, including electric power and telephone lines, shall be underground and at the expense of the lot owner desiring the same from the property line of each individual lot to the place of use.

## ARTICLE III.

### MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association.



## ARTICLE IV.

## MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarants, for each lot owned within the Properties, hereby covenants, and each Owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessments fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents on the Properties and for the improvement and maintenance of the Common Area.

Section 3. The Association may make annual assessments subject to the following conditions and restrictions.

A. Common Property Assessment. Lots 1, 2, 3, and 15 of the property described on Exhibit "A" shall be subject only to a general assessment for the maintenance of the Common Area and roads of the subdivision and shall not be subject to annual assessments for water purposes. Until the year beginning January 1, 1980, the annual assessment for Common Area purposes only shall be \$35.00 per year. From and after January 1, 1980, the annual assessment may be increased by a vote of the members as hereinafter provided, for the next succeeding three (3) year and at the end of three (3) year periods for each succeeding three (3) years. The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount. The lots referred to in this paragraph will not be provided water from the common water system pursuant to this declaration subject to further amendments.

B. Annual Assessment for Unlimited Lots. All lots on the property described on Exhibit "A" except those referred to in Article IV Section 3A above shall be provided the benefit of the common water system. Until the year beginning January 1, 1980, the maximum annual assessment for water use lots shall be the sum of \$100.00 per lot. From and after January 1, 1980, the annual assessment may be increased by a vote of the members as hereinafter provided for the next succeeding three (3) years and at the end of three (3) year periods for each succeeding period of three (3) years. The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount. The assessments referred to in this paragraph shall be the full assessment for water use lots and the sum assessed hereby shall not be in addition to the assessment provided for in paragraph A above.

C. The Declarant shall not be responsible for annual assessments except as to any lot which he occupies as a residence or which shall be leased to a third party for profit.



Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including roadways, fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments for members must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessment provided for herein shall commence when fixed by the Board of Directors. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty days in advance of each annual assessment, except that the assessment for the year 1978 may be fixed at any time during that year. Written notice of the annual assessment shall be sent to every owner or member subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or trust indenture. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessment thereafter becoming due or from the lien thereof.

#### ARTICLE V.

#### ARCHITECTURAL CONTROL

Section 1. No residential or other structure and no fence,



wall, garage, out building or other structure, nor wire, pipe, walkway, hedge, driveway, antenna, or exterior ornament of any kind or any addition, alteration or remodeling thereof, shall be made, erected, altered, placed or permitted to remain upon the properties until plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to a Design Review Committee consisting of three members appointed by the Board of Directors of Tamarack of the Wildwood Landowners Association and approved in writing by the Committee as to harmony of external design, location in relation to surrounding structures and topography, and the construction and the materials to be used in the construction. At least two of the three committee members shall be members of the Tamarack of the Wildwood Landowners Association and it is suggested that one of the members have professional qualifications in the area of architecture, design or land planning. In the event the Design Review Committee fails to approve or disapprove such design, location, construction and materials within thirty (30) days after the detailed plans and specifications have been submitted to it, approval shall not be required and this article will be deemed to have been fully complied with. Any plans, specifications and proposals so approved, either expressly in writing or by the expiration of the thirty (30) day period, hereinabove provided, shall then permit the owner to commence construction in accordance with said plan, but any deviation from said plan which in the judgment of said Committee is a substantial detriment to the appearance of the structure or of the surrounding area shall be corrected to conform with the plan as submitted. Any structure to be erected in accordance with approval so given must be erected and completed within eighteen months of approval or new approval obtained. If any structure is begun and is not completed within one year of the commencement of construction, and in the judgment of the Design Review Committee is of offensive or unsightly appearance, the said Committee or the Directors of the Tamarack of the Wildwood Landowners Association at the option of either may take such action as may be necessary in its judgment to improve the appearance so as to make the property harmonious with other properties, including completion of the exterior of the structure, screening or covering of the structure or any combination thereof, or similar operations, and the amount of any expenditures made in so doing shall be a lien on the property and may be enforceable by an action at law. The Design Review Committee may act by a majority of its members and any authorization or approval made by the Committee must be signed by a majority of the members thereof.

Section 2. Neither the Association, the Design Review Committee, nor the individual members thereof, may be held liable by any person for any damages for any committee action taken pursuant to these covenants, including, but not by way of limitation, damages which may result from correction, amendment, changes or rejection of plans, the issuance of building permits or any delays associated with such action on the part of the Committee.

#### ARTICLE VI.

##### MINIMUM BUILDING AND USE RESTRICTIONS

No structure which fails to meet the following minimum standards shall be erected, placed or allowed to remain on any lot, and the Design Review Committee shall have no power to approve any structure failing to at least meet these minimum standards:

1. With the exception of the Common Area, none of the lots in the subdivision may be used or improved for other than private residential purposes, and no more than one one-family dwelling shall be erected, placed or maintained on any lots.



2. No lot in the subdivision or any building or improvement erected thereon shall at any time be used for the purpose of any trade, profession, manufacturing or business of any description, nor for hospitals, duplexes, apartment houses, nor any other multiple dwelling house except that nothing herein shall preclude an owner from maintaining a business or professional office within his residence.
3. Plans for improvements on each residential lot shall provide for off-street parking.
4. No residential lot shall be further subdivided in any manner.
5. Dogs, cats or other common household pets may be kept provided they are not bred or maintained for commercial purposes, and that the Association establish a leash law and/or other suitable means of pet control.
6. No signs, billboard, posters or other advertising devices of any kind or character may be erected or displayed upon any of the residential lots except signs displayed to identify the occupants of a dwelling or business office and such signs must have approval of the Design Review Committee. However, the Declarant shall be entitled to maintain reasonable signs for the promotion of sales within the subdivision.
7. Fences must be well constructed, neat in appearance and have the approval of the Design Review Committee.
8. Outside illumination equipment or fixtures shall not be constructed unless attached to the main residential structure or garage, or unless attached to a pole not to exceed eight (8) feet in height, which pole will conform with the general architectural plan of the residence. Any connection between the residence or garage and any other outside illuminations, if such illuminations are not attached to such residence or garage will be underground. All outside wiring within the lot shall be subterranean. The Declarant may, at his discretion, construct overground distribution lines to the boundaries of individual lots. Television, radio and other antennae located upon said premises are to be located so as to be inconspicuous.
9. Except for a one year period during which a permanent structure is being built, no structure of a temporary character, including but not limited to trailers, mobile homes, set together or expanding trailer houses or basement, tent, shack, barn or outbuilding other than as above described shall be constructed, placed or used on any lot at any time as a residence or otherwise, nor shall any residential structure be occupied until the exterior is completed, painted and the water supply and sewer system completed and the written approval of the local health authority.
10. Modular homes, mobile homes or trailers will not be allowed.
11. No trash, debris, organic or inorganic wastes shall be permitted to accumulate on any lot or in any street adjacent thereto, but shall be promptly and efficiently disposed of, and no vacant or other lot shall be used as a dump ground or burial pit.
12. Except in an emergency situation when necessary for the preservation of life or property, the discharge of firearms shall be prohibited.



235767  
13. Snowmobiles, trail bikes, motorcycles and other noisy vehicles and equipment may be used within the Common Area only; however, the said vehicles may be operated within the subdivision upon the condition the owners/operators maintain noise abatement equipment on said vehicles, in accordance with rules established by the Association.

14. Mining, quarrying, excavation, oil drilling, or development of any kind shall not be allowed on any lot or common area except for such excavation as may be necessary in connection with the construction or placement of improvements thereof in accordance with this declaration.

15. All construction shall comply with provision of the following standard codes or their amendments: The Uniform Building Code, the National Plumbing Code and the National Electrical Code.

16. No buildings shall be erected, altered, placed or permitted to remain on any lot other than one single family dwelling not to exceed two stories in height. A daylight basement does not count as a story.

#### ARTICLE VII.

##### PROPERTY EXCLUSION

Lots 4 and 5 of the Amended plat of a portion of Table Bays are hereby expressly excluded from the benefits and obligations of this declaration and all prior declarations.

#### ARTICLE VIII.

##### GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to so thereafter do.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this declaration shall run with and bind the land for a term of twenty-five years from the date this declaration is recorded, after which time such covenants shall automatically be extended for successive ten year periods, unless an instrument is recorded signed by the owners of 60% of the area of all of the lots within this subdivision, agreeing to revoke or amend said covenants in whole or in part. This declaration may be amended during the first twenty-five year period by an instrument signed by not less than 75% of the lot owners, except that no Article or Section shall be amended without approval of the Board of County Commissioners. Any amendment must be recorded to be effective.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration this 29 day of July, 1977.

  
Albert W. Seeley







235767

EXHIBIT "A"

Lots 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 of the Amended plat of a Portion of Table Bays, according to the map or plat thereof on file and of record in the office of the County Clerk and Recorder of Lake County, Montana.

*Return to  
Lee Simmons  
Lakeside Rd.*

STATE OF MONTANA, COUNTY OF LAKE  
RECORDED AT 2:55 O'CLOCK P. M. JUL 29 77  
MICROFILM 235767 EIMEL M. HARDING RECORDER  
FEE \$ 18<sup>00</sup> BY Glenn C. Wilson DEP.



206129

AMENDED DECLARATION OF PROTECTIVE COVENANTS  
OF A PORTION OF TABLE BAYS, AMENDED

THIS DECLARATION, made this 15<sup>th</sup> day of August, 1977, by  
ALBERT W. SEELEY, of Lakeside, Montana, hereinafter called Declarant.

WITNESSETH:

WHEREAS a Declaration of Protective Covenants of a Portion of  
Table Bays, Amended was recorded under the records of Lake County,  
Montana under Microfile No. 225031; and

WHEREAS, the Declarant under this document is the successor in  
interest to the Declarants under said Declaration as further amended  
by document recorded under the records of Lake County, Montana under  
Microfile No. 235767; and

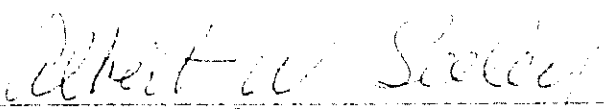
WHEREAS, more than seventy-five percent (75%) of the lot owners  
of the subdivision have consented to the amendment of said Declaration  
by instrument in writing.

NOW THEREFORE, the Declarant hereby declares that the real  
property described as Lots 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,  
16, 17, 18, 19, 20, 21, 22, and 23 of the Amended plat of a Portion of  
Table Bays according to the map or plat thereof on file and of record  
in the office of the County Clerk and Recorder of Lake County, Montana,  
shall be held, sold, conveyed, encumbered subject to the following  
easements, restrictions, covenants and conditions in addition to all  
prior Declarations referred to above. Except as expressly modified  
herein, all prior declarations shall remain in full force and effect.

The following language shall modify Article VI, subsections  
1 and 9:

In addition to one building for private residential  
purposes, one guest house not to exceed six hundred  
(600) square feet may be placed or maintained on each  
individual lot of the subdivision provided that said  
guest house shall be subject to the approval of the  
design review committee as to location, materials  
and other aspects provided for in the original  
Declaration.

IN WITNESS WHEREOF, the undersigned, being the Declarant  
herein has executed this Declaration this 15<sup>th</sup> day of August, 1977.

  
Albert W. Seeley

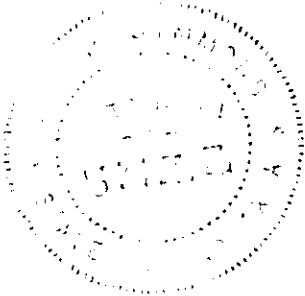


236124

STATE OF MONTANA )  
 : SS.  
County of Flathead )

On this 17 day of August, 1977, before me, the undersigned Notary Public for the State of Montana, personally appeared ALBERT W. SEELEY, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate above written.



*William J. Anderson*

Notary Public for the State of Montana  
Residing at Lakeside, Montana  
My Commission expires 1/12/79

by Order of the Board of  
County Commissioners

*W. J. Anderson* 8/18/77  
*W. J. Anderson*  
*Wesley Jackson*

STATE OF MONTANA, COUNTY OF LAKE  
RECORDED AT 8:32 O'CLOCK A. M. AUG 19 77  
MICROFILM 236124 CHIEF CLERK  
FEE 4.00 BY Gloria A. Wilson



9-6192

50-

367070

TAMARACK OF THE WILDWOOD  
LANDOWNERS ASSOCIATION

Amended Declaration of  
protective covenants of a por-  
tion of Table Bays Amended

FLOWER, CAROL

PUBLIC, TO THE

STATE OF MONTANA } SS  
County of Lake  
Filed on this 5 day of July  
A.D. 1995 at 11:47 A M.  
\_\_\_\_\_  
County Clerk and Recorder  
By Judith M. Juncy  
Deputy  
FEE 5.00



## Tamarack of the Wildwood Landowners Association

### Amended Declarations of Protective Covenants of a Portion of Table Bays, Amended

THIS DECLARATION, made this 5 day of July, 1995, by CAROL FLOWER, of Lakeside, Montana (President of Tamarack of the Wildwood Landowners Association), hereinafter called Declarant.

WITNESSETH:

WHEREAS, a Declaration of Protective Covenants of a Portion of Table Bays, Amended, was recorded under the records of Lake County, Montana, under Microfile No. 225031, and

WHEREAS, an Amended Declaration of Protective Covenants of a Portion of Table Bays, Amended, was recorded under the records of Lake County, Montana, under Microfile No. 235767, and

WHEREAS, an Amended Declaration of Protective Covenants of a Portion of Table Bays, Amended, was recorded under the records of Lake County, Montana, under Microfile No. 236120, and

WHEREAS, the Declarant under this document is the successor in interest to the Declarants under said document; and

WHEREAS, more than seventy-five percent (75%) of the lot owners of the subdivision have consented to the amendment of said Declaration by instrument in writing.

NOW THEREFORE, the Declarant declares that the real property described as Lots 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 of the Amended plat of a Portion of Table Bays according to the map or plat thereof on file and of record in the office of the County Clerk and Recorder of Lake County, Montana, shall be held, sold, conveyed, encumbered subject to the following easements, restrictions, covenants and conditions in addition to all prior Declarations referred to above. Except as expressly modified herein, all prior declarations shall remain in full force and effect.



**ARTICLE I**

**DEFINITIONS**

**Section 1**

"Association" shall mean Tamarack of the Wildwood Landowners Association, its successors and assigns.

**Section 2**

"Common Area" shall mean all real property in which the Association owns an interest for the common use and enjoyment of all of the members. Said interest or interests may include, without limitation, estates in fee, estates for a term of years or easements. The common area to be owned by the Association at the time of the conveyance of the first lot is that property designated as common area on the plat described as "A Portion of Table Bays, Amended "

**Section 3**

"Lot " shall mean any lot shown on a recorded subdivision plat of a portion of the properties, except common area.

**Section 4**

"Member" shall mean any person or entity holding membership in the Association pursuant to its articles of incorporation and its by-laws

**Section 5**

"Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any lot, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation

**Section 6**

"Immediate Family" shall mean husband, wife, son, daughter, father or mother



**ARTICLE II****PROPERTY RIGHTS****Section 1 Owners Easements of Enjoyment.**

Every owner shall have a right and easement of enjoyment in and to the Common Area and shall have use of all common facilities, which shall be appurtenant to and shall pass with the title to every lot, subject to the following provision:

- a. The right of the Association to charge reasonable admission and other fees for the use of any facility situated upon the Common Area.
- b. The right of the Association to establish rules and regulations for use of any and all common facilities and open space;
- c. The right of the Association to suspend the voting rights and right to the use of common facilities by an owner for any period during which any assessment against his lot remains unpaid, and for a period not to exceed 60 days for any infraction of its published rules and regulations.
- d. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members; no such dedication or transfer shall be effective unless an instrument signed by 90% of all owners agreeing to such dedication or transfer has been recorded

**Section 2 Delegation of Use.**

Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his immediate family, his tenants, or contract purchasers who reside on the property, or bona fide house guests of any of the above

**Section 3**

Each lot and Common Area shall be subject to such rights of way and easements as the Declarants (and the Association after it has acquired title to the Common Area) may grant for installation and maintenance of the water system lines, power lines, and telephone lines. The Declarants specifically reserve the right and power to grant such easements, while title to the Common Area remains in the Declarants and the said Association shall have such right and power after transfer to it of title to the Common Area. Installations for water and utility lines, including electric, power and telephone lines, shall be underground and at the expense of the lot owner desiring the same from the property line of each individual lot to the place of use

**ARTICLE III****MEMBERSHIP AND VOTING RIGHTS****Section 1**

Every owner of a lot which is subject to assessment shall be a member of the Association

## ARTICLE IV

## MAINTENANCE ASSESSMENTS

**Section 1 Creation of the Lien and Personal Obligation of Assessments.**

The Declarants, for each lot owned within the Properties, hereby covenants, and each Owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessments fell due.

**Section 2 Purpose of Assessments.**

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents on the Properties and for the improvement and maintenance of the Common Area.

**Section 3** The Association may make annual assessments subject to the following conditions and restrictions.

**a. Common Property Assessment.**

Lots 1, 2, 3, and 15 \* of the property described in the introductory statement ("Now Therefore...") shall be subject only to a general assessment for the maintenance of the Common Area and roads of the subdivision and shall not be subject to annual assessments for water purposes. Until the year beginning January 1, 1980, the annual assessment for Common Area purposes only shall be \$35.00 per year. From and after January 1, 1980, the annual assessment may be increased by a vote of the members as hereinafter provided, for the next succeeding three (3) years and at the end of three (3) year periods for each succeeding three (3) years. The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount. The lots referred to in this paragraph will not be provided water from the common water system pursuant to this declaration subject to further amendments.

**b. Annual Assessment for Unlimited Lots.**

All lots on the property described in the Introduction ("Now Therefore...") except those referred to in Article IV Section 3 above shall be provided the benefit of the common water system. Until the year beginning January 1, 1980, the maximum annual assessment for water use lots shall be the sum of \$100 per lot. From and after January 1, 1980, the annual assessment may be increased by a vote of the members as hereinafter provided for the next succeeding three (3) years and at the end of three (3) year periods for each succeeding period of three (3) years. The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount. The assessments referred to in this paragraph shall be the full assessment for water use lots and the sum assessed hereby shall not be in addition to the assessment provided for in paragraph a. above.

c. The Declarant shall not be responsible for annual assessments except as to any lot which he occupies as a residence or which shall be leased to a third party for profit.



**Section 4 Special Assessments for Capital Improvement.**

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including roadways, fixtures, and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

**Section 5 Notice and Quorum for Any Action Authorized Under Section 3 and 4.**

Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

**Section 6 Uniform Rate of Assessment.**

Both annual and special assessments for members must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

**Section 7 Date of Commencement of Annual Assessments: Due Dates.**

The annual assessment provided for herein shall commence when fixed by the Board of Directors. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty days in advance of each annual assessment, except that the assessment for the year 1978 may be fixed at any time during that year. Written notice of the annual assessment shall be sent to every owner or member subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified lot has been paid.

**Section 8 Effect of Nonpayment of Assessments: Remedies of the Association.**

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 10 percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

**Section 9 Subordination of the Lien to Mortgages.**

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or trust indenture. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessment thereafter becoming due or from the lien thereof.

## ARTICLE V

## ARCHITECTURAL CONTROL

**Section 1**

No residential or other structure and no fence, wall, garage, out building or other structure, nor wire, pipe, walkway, hedge, driveway, antenna, or exterior ornament of any kind or any addition, alteration or remodeling thereof, shall be made, erected, altered, placed or permitted to remain upon the properties until plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to a Design Review Committee consisting of three members appointed by the Board of Directors of Tamarack of the Wildwood Landowners Association and approved in writing by the Committee as to harmony of external design, location in relation to surrounding structures and topography, and the construction and the materials to be used in the construction.

At least two of the three committee members shall be members of the Tamarack of the Wildwood Landowners Association, and it is suggested that one of the members have professional qualifications in the area of architecture, design or land planning.

In the event the Design Review Committee fails to approve or disapprove such design, location, construction and materials within thirty (30) days after the detailed plans and specifications have been submitted to it, approval shall not be required and this article will be deemed to have been fully complied with.

Any plans, specifications and proposals so approved, either expressly in writing or by the expiration of the thirty (30) day period, hereinabove provided, shall then permit the owner to commence construction in accordance with said plan, but any deviation from said plan which in the judgment of said Committee is a substantial detriment to the appearance of the structure or of the surrounding area shall be corrected to conform with the plan as submitted.

Any structure to be erected in accordance with approval so given must be erected and completed within eighteen months of approval or new approval obtained.

If any structure is begun and is not complete within one year of the commencement of construction, and in the judgment of the Design Review Committee is of offensive or unsightly appearance, the said Committee or the Directors of the Tamarack of the Wildwood Landowners Association at the option of either may take such action as may be necessary in its judgment to improve the appearance so as to make the property harmonious with other properties, including completion of the exterior of the structure, screening or covering of the structure or any combinations thereof, or similar operations, and the amount of any expenditures made in so doing shall be a lien on the property and may be enforceable by an action at law.

The Design Review Committee may act by a majority of its members and any authorization or approval made by the Committee must be signed by a majority of the members thereof.

**Section 2**

Neither the Association, the Design Review Committee, nor the individual members thereof, may be held liable by any person for any damages for any committee action taken pursuant to these covenants, including, but not by way of limitation, damages which may result from correction, amendment, changes or rejection of plans, the issuance of building permits or any delays associated with such action on the part of the Committee.



**ARTICLE VI****MINIMUM BUILDING AND USE RESTRICTIONS**

No structure which fails to meet the following minimum standards shall be erected, placed or allowed to remain on any lot, and the Design Review Committee shall have no power to approve any structure failing to at least meet these minimum standards:

1. With the exception of the Common Area, none of the lots in the subdivision may be used or improved for other than private residential purposes, and no more than one one-family dwelling shall be erected, placed, or maintained on any lots.

In addition to one building for private residential purposes, one guest house not to exceed six hundred (600) square feet may be placed or maintained on each individual lot of the subdivision provided that said guest house shall be subject to the approval of the Design Review Committee as to location, materials and other aspects provided for in the original Declaration.

2. No lot in the subdivision or any building or improvement erected thereon shall at any time be used for the purpose of any trade, profession, manufacturing or business of any description, nor for hospitals, duplexes, apartment houses, nor any other multiple dwelling house except that nothing herein shall preclude an owner from maintaining a business or professional office within his residence.

3. Plans for improvements on each residential lot shall provide for off-street parking.

4. No residential lot shall be further subdivided in any manner.

5. Dogs, cats or other common household pets may be kept provided they are not bred or maintained for commercial purposes, and that the Association establish a leash law and/or other suitable means of pet control.

6. No signs, billboards, posters or other advertising devices of any kind or character may be erected or displayed upon any of the residential lots except signs displayed to identify the occupants of a dwelling or business office and such signs must have approval of the Design Review Committee. However, the Declarant shall be entitled to maintain reasonable signs for the promotion of sales within the subdivision.

7. Fences must be well constructed, neat in appearance and have the approval of the Design Review Committee.

8. Outside illumination equipment or fixtures shall not be constructed unless attached to the main residential structure or garage, or unless attached to a pole not to exceed eight (8) feet in height, which pole will conform with the general architectural plan of the residence. Any connection between the residence or garage and any other outside illuminations, if such illuminations are not attached to such residence or garage will be underground. All outside wiring within the lot shall be subterranean. The Declarant may, at his discretion, construct overground distribution lines to the boundaries of individual lots. Television, radio and other antennas located upon said premises are to be located so as to be inconspicuous.

9. No structure of a temporary character, including but not limited to trailers, mobile homes, set together or expanding trailer houses, or basement, tent, shack, barn or outbuilding other than as above described shall be constructed, placed or used on any lot at any time as a residence or otherwise, nor shall any residential structure be occupied until the exterior is completed, painted and the water supply and sewer system completed and the written approval of the local health authority.

10. Modular homes, mobile homes or trailers will not be allowed.

11. No trash, debris, organic or inorganic wastes shall be permitted to accumulate on any lot or in any street adjacent thereto, but shall be promptly and efficiently disposed of, and no vacant or other lot shall be used as a dump ground or burial pit.

12. Except in an emergency situation when necessary for the preservation of life or property, the discharge of firearms shall be prohibited.

13. Snowmobiles, trail bikes, motorcycles and other noisy vehicles and equipment may be used within the Common Area only; however, the said vehicles may be operated within the subdivision upon the condition the owners/operators maintain noise abatement equipment on said vehicles, in accordance with rules established by the Association.

14. Mining, quarrying, excavation, oil drilling, or development of any kind shall not be allowed on any lot or common area except for such excavation as may be necessary in connection with the construction or placement of improvements thereof in accordance with this declaration.

15. All construction shall comply with provision of the following standard codes or their amendments: The Uniform Building Code, the National Plumbing Code and the National Electrical Code.

16. No buildings shall be erected, altered, placed or permitted to remain on any lot other than one single family dwelling not to exceed two stories in height. A daylight basement does not count as a story.

#### ARTICLE VII

#### PROPERTY EXCLUSION

Lots 4 and 5 of the Amended plat of a portion of Table Bay are hereby expressly excluded from the benefits and obligations of this declaration and all prior declarations.



367070

## ARTICLE VIII

### GENERAL PROVISIONS

#### Section 1 Enforcement.

The Association, or any Owner, shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to so thereafter do

In the event action is brought by the Homeowners Association to enforce any provision of its covenants, the prevailing party shall be entitled, in addition to any other relief awarded, to an award of their attorney's fees and court costs incurred in the action to enforce the covenants.

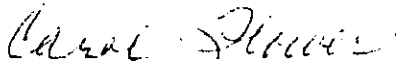
#### Section 2 Severability.

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

#### Section 3 Amendment.

The covenants and restrictions of this declaration shall run with and bind the land for a term of twenty-five years from the date this declaration is recorded, after which time such covenants shall automatically be extended for successive ten year periods, unless an instrument is recorded signed by the owners of 60% of the area of all of the lots within this subdivision, agreeing to revoke or amend said covenants in whole or in part. This declaration may be amended during the first twenty-five year period by an instrument signed by not less than 75% of the lot owners, except that no Article or Section shall be amended without approval of the Board of County Commissioners. Any amendment must be recorded to be effective

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration this 5 day of July, 1995



Carol Flower President, Tamarack of the Wildwood Landowners Association

STATE OF MONTANA )  
 )  
 ) ss.  
County of Flathead )

On this 5<sup>th</sup> day of July, 1995, before me, the undersigned Notary Public for the State of Montana, personally appeared CAROL FLOWER, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate above written.

[Signature]  
Notary Public for the State of Montana  
Residing at Lakeside, Montana  
My commission expires Sept. 2, 1995

Lake County Commissioners approval this 5 day of July, 1995

[Signature]

STATE OF MONTANA )  
 ) ss.  
County of Lake )

On this 5<sup>th</sup> day of July, 1995 before me, the undersigned a Notary Public for the State of Montana, personally appeared Dave Steyer & Barry Baker known to me to be the person (s) described in and whose name (s) is subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this day and year on this certificate there above written.

[Signature]

[Signature]  
NOTARY PUBLIC for the State of  
MONTANA, RESIDING at POLSON  
My Commission Expires on 12-17-97

NOTE:

- 1 Declaration of Covenants. Amended - October 20, 1975  
Microfile 225031 - Donald H Wolvern & Edith A Wolvern. Declarants
- 2 Amended Declaration of Covenants. Amended - July 13, 1977  
Microfile 235767 - Albert Seeley. Declarant
- 3 Amended Declaration of Covenants. Amended - August 15, 1977  
Microfile 236129 - Albert Seeley. Declarant
- 4 Amended Declaration of Covenants. Amended - July 1995  
Microfile - Carol Flower. Declarant



## Tamarack of the Wildwood Landowners Association

### Amended Declarations of Protective Covenants of a Portion of Table Bays, Amended

THIS DECLARATION, made this 22<sup>nd</sup> day of July 1996, by CAROL FLOWER, of Lakeside, Montana (President of Tamarack of the Wildwood Landowners Association), hereinafter called Declarant.

WITNESSETH:

WHEREAS, a Declaration of Protective Covenants of a Portion of Table Bays, Amended, was recorded under the records of Lake County, Montana, under Microfile No. 225031; and

WHEREAS, an Amended Declaration of Protective Covenants of a Portion of Table Bays, Amended, was recorded under the records of Lake County, Montana, under Microfile No. 235767; and

WHEREAS, an Amended Declaration of Protective Covenants of a Portion of Table Bays, Amended, was recorded under the records of Lake County, Montana, under Microfile No. 236129; and

WHEREAS, an Amended Declaration of Protective Covenants of a Portion of Table Bays, Amended, was recorded under the records of Lake County, Montana, under Microfile No. 367070; and

WHEREAS, the Declarant under this document is the successor in interest to the Declarants under said document; and

WHEREAS, more than seventy-five percent (75%) of the lot owners of the subdivision have consented to the amendment of said Declaration by instrument in writing,

NOW THEREFORE, the Declarant declares that the real property described as Lots 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 of the Amended plat of a Portion of Table Bays according to the map or plat thereof on file and of record in the office of the County Clerk and Recorder of Lake County, Montana, shall be held, sold, conveyed, encumbered subject to the following easements, restrictions, covenants, and conditions in addition to all prior Declarations referred to above. Except as expressly modified herein, all prior declarations shall remain in full force and effect.

**ARTICLE I****DEFINITIONS****Section 1**

"Association" shall mean Tamarack of the Wildwood Landowners Association, its successors and assigns.

**Section 2**

"Common Area" shall mean all real property in which the Association owns an interest for the common use and enjoyment of all of the members. Said interest or interests may include, without limitation, estates in fee, estates for a term of years or easements. The common area to be owned by the Association at the time of the conveyance of the first lot is that property depicted as common area on the plat described as "A Portion of Table Bays, Amended."

**Section 3**

"Lot" shall mean any lot shown on a recorded subdivision plat of a portion of the properties, except common area.

**Section 4**

"Member" shall mean any person or entity holding membership in the Association pursuant to its articles of incorporation and its by-laws.

**Section 5**

"Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any lot, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 6**

"Immediate Family" shall mean husband, wife, son, daughter, father or mother.



**ARTICLE II**  
**PROPERTY RIGHTS**

**Section 1 Owners Easements of Enjoyment.**

Every owner shall have a right and easement of enjoyment in and to the Common Area and shall have use of all common facilities, which shall be appurtenant to and shall pass with the title to every lot, subject to the following provision:

- a. The right of the Association to charge reasonable admission and other fees for the use of any facility situated upon the Common Area;
- b. The right of the Association to establish rules and regulations for use of any and all common facilities and open space;
- c. The right of the Association to suspend the voting rights and right to the use of common facilities by an owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;
- d. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members; no such dedication or transfer shall be effective unless an instrument signed by 90% of all owners agreeing to such dedication of transfer has been recorded.

**Section 2 Delegation of Use.**

Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his immediate family, his tenants, or contract purchasers who reside on the property, or bona fide house guests of any of the above.

**Section 3**

Each lot and Common Area shall be subject to such rights of way and easements as the Declarants and the Association after it has acquired title to the Common Area) may grant for installation and maintenance of the water system lines, power lines, and telephone lines. The Declarants specifically reserve the right and power to grant such easements, while title to the Common Area remains in the Declarants and the said Association shall have such right and power after transfer to it of title to the Common Area. Installations for water and utility lines, including electric, power and telephone lines, shall be underground and at the expense of the lot owner desiring the same from the property line of each individual lot to the place of use.

**ARTICLE III**  
**MEMBERSHIP AND VOTING RIGHTS**

**Section 1**

Every owner of a lot which is subject to assessment shall be a member of the Association.

## MAINTENANCE ASSESSMENTS

**Section 1 Creation of the Lien and Personal Obligation of Assessments.**

The Declarants, for each lot owned within the Properties, hereby covenants, and each Owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessments fell due.

**Section 2 Purpose of Assessments.**

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents on the Properties and for the improvement and maintenance of the Common Area.

**Section 3** The Association may make annual assessments subject to the following conditions and restrictions.

**a. Annual Assessment for Unlimited Lots.**

All lots on the property described in the Introduction ("Now Therefore...") shall be provided the benefit of the common water system. Until the year beginning January 1, 1980, the maximum annual assessment for water use lots shall be the sum of \$100 per lot. From and after January 1, 1980, the annual assessment may be increased by a vote of the members as hereinafter provided for the next succeeding three (3) years and at the end of three (3) year periods for each succeeding period of three (3) years. The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount.

**b.** The Declarant shall not be responsible for annual assessments except as to any lot which he occupies as a residence or which shall be leased to a third party for profit.

**Section 4 Special Assessments for Capital Improvement.**

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including roadways, fixtures, and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.



**Section 5 Notice and Quorum for Any Action Authorized Under Section 3 and 4.**

Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

**Section 6 Uniform Rate of Assessment.**

Both annual and special assessments for members must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

**Section 7 Date of Commencement of Annual Assessments: Due Dates.**

The annual assessment provided for herein shall commence when fixed by the Board of Directors. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty days in advance of each annual assessment, except that the assessment for the year 1978 may be fixed at any time during that year. Written notice of the annual assessment shall be sent to every owner or member subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified lot has been paid.

**Section 8 Effect of Nonpayment of Assessments: Remedies of the Association.**

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 10 percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

**Section 9 Subordination of the Lien to Mortgages.**

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or trust indenture. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessment thereafter becoming due or from the lien thereof.

ARCHITECTURAL CONTROL

Section 1

No residential or other structure and no fence, wall, garage, out building or other structure, nor wire, pipe, walkway, hedge, driveway, antenna, or exterior ornament of any kind or any addition, alteration or remodeling thereof, shall be made, erected, altered, placed or permitted to remain upon the properties until plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to a Design Review Committee consisting of three members appointed by the Board of Directors of Tamarack of the Wildwood Landowners Association and approved in writing by the Committee as to harmony of external design, location in relation to surrounding structures and topography, and the construction and the materials to be used in the construction.

At least two of the three committee members shall be members of the Tamarack of the Wildwood Landowners Association, and it is suggested that one of the members have professional qualifications in the area of architecture, design or land planning.

In the event the Design Review Committee fails to approve or disapprove such design, location, construction and materials withing thirty (30) days after the detailed plans and specifications have been submitted to it, approval shall not be required and this article will be deemed to have been fully complied with.

Any plans, specifications and proposals so approved, either expressly in writing or by the expiration of the thirty (30) day period, hereinabove provided, shall then permit the owner to commence construction in accordance with said plan, but any deviation from said plan which in the judgment of said Committee is a substantial detriment to the appearance of the structure or of the surrounding area shall be corrected to conform with the plan as submitted.

Any structure to be erected in accordance with approval so given must be erected and completed within eighteen months of approval or new approval obtained.

If any structure is begun and is not complete within one year of the commencement of construction, and in the judgement of the Design Review Committee is of offensive or unsightly appearance, the said Committee or the Directors of the Tamarack of the Wildwood Landowners Association at the option of either may take such action as may be necessary in its judgment to improve the appearance so as to make the property harmonious with other properties, including completion of the exterior of the structure, screening or covering of the structure or any combinations thereof, or similar operations, and the amount of any expenditures made in so doing shall be a lien on the property and may be enforceable by an action at law.

The Design Review Committee may act by a majority of its members and any authorization or approval made by the Committee must be signed by a majority of the members thereof.

Section 2

Neither the Association, the Design Review Committee, nor the individual members thereof, may be held liable by any person for any damages for any committee action taken pursuant to these covenants, including, but not by way of limitation, damages which may result from correction, amendment, changes or rejection of plans, the issuance of building permits or any delays associated with such action on the part of the Committee.

**ARTICLE VI****MINIMUM BUILDING AND USE RESTRICTIONS**

No structure which fails to meet the following minimum standards shall be erected, placed or allowed to remain on any lot, and the Design Review Committee shall have no power to approve any structure failing to at least meet these minimum standards:

1. With the exception of the Common Area, none of the lots in the subdivision may be used or improved for other than private residential purposes, and no more than one one-family dwelling shall be erected, placed, or maintained on any lots.

In addition to one building for private residential purposes, one guest house not to exceed six hundred (600) square feet may be placed or maintained on each individual lot of the subdivision provided that said guest house shall be subject to the approval of the Design Review Committee as to location, materials and other aspects provided for in the original Declaration.

2. No lot in the subdivision or any building or improvement erected thereon shall at any time be used for the purpose of any trade, profession, manufacturing or business of any description, nor for hospitals, duplexes, apartment houses, nor any other multiple dwelling house except that nothing herein shall preclude an owner from maintaining a business or professional office within his residence.

3. Plans for improvements on each residential lot shall provide for off-street parking.

4. No residential lot shall be further subdivided in any manner.

5. Dogs, cats or other common household pets may be kept provided they are not bred or maintained for commercial purposes, and that the Association establish a leash law and/or other suitable means of pet control.

6. No signs, billboards, posters or other advertising devices of any kind or character may be erected or displayed upon any of the residential lots except signs displayed to identify the occupants of a dwelling or business office and such signs must have approval of the Design Review Committee. However, the Declarant shall be entitled to maintain reasonable signs for the promotion of sales within the subdivision.

7. Fences must be well-constructed, neat in appearance and have the approval of the Design Review Committee.

8. Outside illumination equipment or fixtures shall not be constructed unless attached to the main residential structure or garage, or unless attached to a pole not to exceed eight (8) feet in height, which pole will conform with the general architectural plan of the residence. Any connection between the residence or garage and any other outside illuminations, if such illuminations are not attached to such residence or garage will be underground. All outside wiring within the lot shall be subterranean. The Declarant may, at his discretion, construct overground distribution lines to the boundaries of individual lots. Television, radio and other antennae located upon said premises are to be located so as to be inconspicuous.



9. No structure of a temporary character, including but not limited to trailers, mobile homes, set together or expanding trailer houses, or basement, tent, shack, barn or outbuilding other than as above described shall be constructed, placed or used on any lot at any time as a residence or otherwise, nor shall any residential structure be occupied until the exterior is completed, painted and the water supply and sewer system completed and the written approval of the local health authority.
10. Modular homes, mobile homes or trailers will not be allowed.
11. No trash, debris, organic or inorganic wastes shall be permitted to accumulate on any lot or in any street adjacent thereto, but shall be promptly and efficiently disposed of, and no vacant or other lot shall be used as a dump ground or burial pit.
12. Except in an emergency situation when necessary for the preservation of life or property, the discharge of firearms shall be prohibited.
13. Snowmobiles, trail bikes, motorcycles and other noisy vehicles and equipment may be used within the Common Area only; however, the said vehicles may be operated within the subdivision upon the condition the owners/operators maintain noise abatement equipment on said vehicles, in accordance with rules established by the Association.
14. Mining, quarrying, excavation, oil drilling, or development of any kind shall not be allowed on any lot or common area except for such excavation as may be necessary in connection with the construction or placement of improvements thereof in accordance with this declaration.
15. All construction shall comply with provision of the following standard codes or their amendments: The Uniform Building Code, the National Plumbing Code and the National Electrical Code.
16. No buildings shall be erected, altered, placed or permitted to remain on any lot other than one single family dwelling not to exceed two stories in height. A daylight basement does not count as a story.

## ARTICLE VII

### PROPERTY EXCLUSION

Lots 4 and 5 of the Amended plat of a portion of Table Bays are hereby expressly excluded from the benefits and obligations of this declaration and all prior declarations.

## ARTICLE VIII

## GENERAL PROVISIONS

**Section 1 Enforcement.**

The Association, or any Owner, shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to so thereafter do.

In the event action is brought by the Homeowners Association to enforce any provision of its covenants, the prevailing party shall be entitled, in addition to any other relief awarded, to an award of their attorney's fees and court costs incurred in the action to enforce the covenants.

**Section 2 Severability.**

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

**Section 3 Amendment.**

The covenants and restrictions of this declaration shall run with and bind the land for a term of twenty-five years from the date this declaration is recorded, after which time such covenants shall automatically be extended for successive ten year periods, unless an instrument is recorded signed by the owners of 60% of the area of all of the lots within this subdivision, agreeing to revoke or amend said covenants in whole or in part. This declaration may be amended during the first twenty-five year period by an instrument signed by not less than 75% of the lot owners, except that no Article or Section shall be amended without approval of the Board of County Commissioners. Any amendment must be recorded to be effective.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration this 22 day of July, 1996.

Carol Flower

Carol Flower, President, Tamarack of the Wildwood Landowners Association

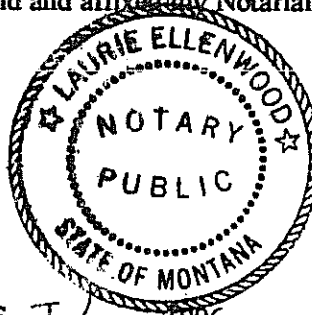
375560

STATE OF MONTANA )  
: ss.  
County of Flathead )

On this 22 day of July, 1996, before me, the undersigned Notary Public for the State of Montana, personally appeared CAROL FLOWER, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate above written.

*Laurie Ellenwood*  
Notary Public for the State of Montana  
Residing at ~~Bozeman~~, Montana  
My commission expires 3-13-99



Lake County Commissioners approval this 22 day of July, 1996

*Mike Hutchins*  
*Dave Steyer*  
*Benny Baker*

NOTES:

1. Declaration of Covenants, Amended - October 20, 1975  
Microfile 225031 - Donald H. Wolven & Edith A. Wolven, Declarants
2. Amended Declaration of Covenants, Amended - July 13, 1977  
Microfile 235767 - Albert Seeley, Declarant
3. Amended Declaration of Covenants, Amended - August 15, 1977  
Microfile 236129 - Albert Seeley, Declarant
4. Amended Declaration of Covenants, Amended - July 5, 1995  
Microfile 367070 - Carol Flower, Declarant.  
(J-6192 = file)
5. Amended Declaration of Covenants, Amended - , 1996  
Microfile 375560 - Carol Flower, Declarant  
(J-6361 = file)



J-7811

472287

**PROTECTIVE COVENANTS**

**TAMARACK OF THE WILDWOOD  
LANDOWNERS ASSOCIATION**

**TO**

**PUBLIC, TO THE**

**AMENDED DECLARATIONS OF PROTECTIVE COVENANTS  
OF PORTION OF TABLE BAYS**

STATE OF MONTANA }  
County of Lake } SS

Filed on the 28 day of Aug

A.D. 2006 at 11:00 A M.

**RUTH E. HODGES**

County Clerk and Recorder

By Judy Murray  
Deputy

FEE \$5.00

472287

**TAMARACK OF THE WILDWOOD  
LANDOWNERS ASSOCIATION**

**Post Office Box 10  
Lakeside, MT 59922**

**PROTECTIVE COVENANTS**

**July 24, 2003**

**Amended Declarations of Protective Covenants of a Portion of Table Bays**

**THIS DECLARATION, made this 24<sup>th</sup> day of July ,2003, by JACK G. THOMAS, of Rollins, Montana, (President of Tamarack of the Wildwood Landowners Association), hereinafter called Declarant.**

**WITNESSETH:**

**WHEREAS, a Declaration of Protective Covenants of a Portion of Table Bays, Amended, was recorded under the records of Lake County, Montana, under Microfile 225031; and**

**WHEREAS, an Amended Declaration of Protective Covenants of a Portion of Table Bays, Amended, was recorded under the records of Lake County, Montana, under Microfile 235767; and**

**WHEREAS, an Amended Declaration of Protective Covenants of a Portion of Table Bays, Amended, was recorded under the records of Lake County, Montana, under Microfile 236129; and**

**WHEREAS, an Amended Declaration of Protective Covenants of a Portion of Table Bays, Amended, was recorded under the records of Lake County, Montana, under Microfile 367070; and**

**WHEREAS, an Amended Declaration of Protective Covenants of a Portion of Table Bays, Amended, was recorded under the records of Lake County, Montana, under Microfile 375560; and**

**WHEREAS, THE Declarant under this document is the successor in interest to the Declarants under said document; and**

**WHEREAS, more than seventy-five percent (75%) of the lot owners of the subdivision have consented to the amendment of said Declaration by interest in writing,**

**NOW THEREFORE, the Declarant declares that the real property described as lots 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 of the Amended plat of a Portion of Table Bays according to the map or plat thereof on file and of record in the office of the County Clerk and Recorder of Lake County, Montana, shall be held, sold, conveyed, encumbered subject to the following easements, restrictions, covenants, and conditions in addition to all prior Declarations referred to above. Except as expressly modified herein, all prior declarations shall remain in full force and effect.**



## TABLE OF CONTENTS

<b>ARTICLE I. DEFINITIONS</b>	<b>5</b>
<b>ARTICLE II. PROPERTY RIGHTS</b>	<b>6</b>
Section 1. Declaration of Covenants, Conditions and Restrictions	6
2. Owners Easements of Enjoyment	6
3. Delegation of Use	7
4. Easements and Utilities	8
5. Insurance	8
6. Proceeds for Damages or Destruction	8
<b>ARTICLE III. MEMBERSHIP, VOTING, OFFICERS, MEETINGS</b>	<b>9</b>
Section 1. Membership	9
2. Voting Rights	9
3. Officers, Authority and Duties	9
4. Proxies	12
5. Meetings	12
6. Special Meetings	12
7. Notice of Meetings	12
8. Quorum	13
<b>ARTICLE IV. ANNUAL AND SPECIAL ASSESSMENTS</b>	<b>13</b>
Section 1. Lien Creation & Personal Obligation of Assessments	13
2. Purpose of Assessments	13
3. Annual Assessments	13
4. Special Assessments	14
5. Notice and Quorum for Action Authorized	14
6. Uniform Rate of Assessment	14
7. Annual Assessment Due Dates	14
8. Nonpayment of Assessments Actions	15
9. Subordination of the Lien to Mortgages	15
<b>ARTICLE V. ARCHITECTURAL CONTROL</b>	<b>15</b>
Section 1. Intent, Association Rights and Changes	15
2. Architectural Liability Limits	18
<b>ARTICLE VI. MINIMUM BUILDING &amp; USE RESTRICTIONS</b>	<b>18</b>
Section 1. Minimum Standards, Limitations, Construction Rules	18
2. Sanitation, Storage, Eyesore Remedy, Burning	22
<b>ARTICLE VII. PROPERTY EXCLUSION</b>	<b>23</b>
<b>ARTICLE VIII. GENERAL PROVISIONS</b>	<b>23</b>
Section 1. Enforcement of Protective Covenants & Rules and Regs	23
2. Severability	24
3. Amendment of Protective Covenants	24

<b>EXECUTION OF THE DECLARATION INSTRUMENT</b>	<b>25</b>
<b>NOTARY PROOF OF EXECUTION</b>	<b>25</b>
<b>LAKE COUNTY COMMISSIONERS APPROVAL</b>	<b>25</b>
<b>HISTORY OF AMENDMENTS</b>	<b>26</b>

**ARTICLE I**  
**DEFINITIONS**

**Section 1**

**“Association” shall mean Tamarack of the Wildwood Landowners Association, its successors and assigns.**

**Section 2**

**“Common Area” shall mean all real property in which the Association owns an interest for the common use and enjoyment of all the members. Said interest or interests may include, without limitation, estates in fee, estates for a term of years or easements. The common area to be owned by the Association at the time of the conveyance of the first lot is that property depicted as common area on the plat described as “A Portion of the Table Bays, Amended.”**

**Section 3**

**“Lot” shall mean any lot shown on a recorded subdivision plat of a portion of the properties, except common area.**

**Section 4**

**“Member” shall mean any person or entity holding membership in the Association pursuant to its articles of incorporation and its by-laws.**

**Section 5**

**“Owner” shall mean the recorded owner, whether one or more persons or entities, of a fee simple title to any lot, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.**

**Section 6**

**“Immediate Family” shall mean husband, wife, son, daughter, father or mother.**

**Section 7**

**“Regulations” shall mean and refer to any rules or regulations with respect to the use of the Common Area adopted by the Association from time to time in accordance with its Articles of Incorporation and By-Laws.**

**Section 8**

**“Board”, “BOD” or “Board of Directors” shall mean and refer to the Board of Directors of the Association.**

**Section 9**

**“Design Review Committee” or “DRC” shall mean the committee appointed to review and approve all construction of projects within the subdivision.**

**Section 10**

**"Certificate of Incorporation"** shall mean and refer to the Certificate of Incorporation of the Association as same may be amended from time to time.

**Section 11**

**"By-Laws"** shall mean and refer to the By-Laws of the Association as same may be amended from time to time.

## **ARTICLE II**

### **PROPERTY RIGHTS**

**Section 1 – Declaration of Covenants, Conditions and Restrictions.**

1. This declaration, made by the owners of lots in Tamarack of the Wildwood Subdivision and the common area contiguous to said subdivision, desire to place covenants, conditions and restrictions upon said lots and lands for the use and benefit of themselves as present owners of said lots and lands, it being the belief of all said persons that such covenants, conditions and restrictions are necessary for the protection of their said properties in the present and future use thereof, and the retention of favorable livability and environmental conditions.
  
2. The members of the Tamarack of the Wildwood Landowners Association hereby declare and agree, one with the other, that the properties described on Exhibit "A" hereto attached and by this reference made a part hereof, 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. These easements, covenants, conditions and restrictions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof. Additionally, as established through litigation, there are no easement rights extending onto or from Lot 3 from those lots originally described in Exhibit A as Lots 4 and 5 in the Tamarack of the Wildwoods subdivision.

**Section 2 – Protective Covenants and Owners Easements of Enjoyment**

1. The protective covenants in Articles II through VIII are designed to provide a uniform plan for the development of the herein described land; to preserve, insofar as is practical, the natural beauty of said property; and to encourage the development of said property for residential and recreational use. In this, and subsequent changes to the protective covenants, the members of the Association agree that changes to existing building structures will not be required to bring them into compliance with new, added or revised architectural or building standards.



2. Every owner shall have a right and easement of enjoyment in and to the Common Area and shall have use of all common facilities, which shall be appurtenant to and shall pass with the title to every lot, subject to the following provision:
- a. The right of the Association to charge reasonable admission and other fees for the use of any facility situated upon the Common Area;
  - b. The right of the Association to establish rules and regulations for use of any and all common facilities and open space. Said rules and regulations may be amended, changed or deleted by a two-thirds vote of the membership at the annual landowners association meeting or by a majority vote of the Board of Directors if urgently needed to protect the interests of the Association. Such action for change by the BOD will be made a part of the agenda for the subsequent annual Landowners Association meeting and voted upon for approval or disapproval. The existing Declaration of Protective Covenants need not be changed for these amendments to become effective or altered as described above.
  - c. The right of the Association to suspend the voting rights and right to the use of common facilities by an owner(s) for any period during which any assessment against his lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations. The Board of Directors shall determine when a member is in violation of the above conditions and shall have the authority to suspend the use of the common area by such member. Any member violating the term of the suspension by using said area shall be deemed to be trespassing and will be subject to action by local law enforcement authorities without further notice.
  - d. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members; no such dedication or transfer shall be effective unless an instrument signed by ninety percent (90%) of all owners agreeing to such dedication of transfer has been recorded.

### **Section 3 – Delegation of Use.**

Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his immediate family, his tenants, or contract purchasers who reside on the property, or bona fide house guests of any of the above. House guests using the common area or any of its facilities, including the boating dock, may use those facilities without being accompanied directly by the owner(s). The owner(s), however, must be immediately available either physically or by some means of direct voice communication.

#### **Section 4 – Easements and Utilities.**

Each lot and Common Area shall be subject to such rights of way and easements as the Association may grant for installation and maintenance of the water system, power, natural gas, cable television and telephone lines. The Association specifically reserves the right and power to grant any other easements or rights of way deemed essential to the general welfare, development, improvement, maintenance, replacement or usability of the lands within the subdivision. The Design Review Committee will review all such petitions or requests and make a timely recommendation for approval or disapproval to the Board of Directors. For the purposes of this section, the final decision for approval or disapproval for any action will lie with the Board of Directors. Installations for water, electric, natural gas, propane gas, cable television, telephone lines, or any other utility, energy or communication technology developed in the future and requiring any form of transmission line or apparatus, shall be underground and at the expense of the lot owner desiring the same from the property line of each individual lot to the place of use. As a result of approval at an earlier time, the owners of Lots 1, 2 and 3 are specifically permitted to replace, improve or maintain the existing septic lines between these lots and Lot 10 within the guidelines of Article V.

#### **Section 5 – Insurance**

The Association shall maintain at all times a policy or policies of insurance by an insurer licensed to do business in the State of Montana. Such policy or policies shall provide coverage for at least the following:

1. Insurance against loss or damage by fire and other hazards covered by the standard extended coverage endorsement, in an amount equal to the full insurable replacement value (without deduction for depreciation) of the common areas of the subdivision and the common landscape areas, with the Association identified as the named insured, as trustee for the benefit of owners and mortgages of lots in the subdivision as their interests appear.
2. General comprehensive liability insurance which provides coverage for both defense and indemnity with a combined single limit of no less than One Million Dollars (\$1,000,000) for each occurrence, which identifies the Association and the owners as the named insured, and which provides coverage against any liability to the public, to the owners, guests, invitees, licensees, or tenants, incident to the ownership or use of the common areas.
3. No owner shall permit any use of his property or make any use of the Common Areas that will increase the cost of insurance upon the land above that required when the property is used for the approved purposes, or that they will cause any such insurance to be cancelled, except with the prior written consent of the Association Board of Directors.

#### **Section 6– Proceeds for Damages or Destruction**

1. In the event of substantial damage to or destruction of any of the common areas, the Association shall give prompt written notice of such damage or destruction

to the owners. Insurance proceeds for damage or destruction to any common area or portions thereof, shall be paid to the Association as the trustee for the owners and shall be segregated from other funds of the Association. Such proceeds shall be used for the repair and/or replacement of the common area unless the Association decides not to repair or replace such area. In such event, all insurance proceeds shall become an asset of the Association and used for the benefit of the lot owners.

2. In the event that any common area, or portion thereof, is condemned, acquired through eminent domain proceeding, acquired through inverse condemnation, or is otherwise sought to be acquired by any condemning authority, the Association shall give prompt notice of any proceeding or proposed acquisition to the owners. All compensation, damages, or other proceeds thereof shall be payable to the Association and shall be used for the benefit of the property owners.

### ARTICLE III

#### MEMBERSHIP, VOTING RIGHTS, OFFICERS, PROXIES AND MEETINGS

##### **Section 1 – Membership**

Every owner of a lot subject to assessment shall be a member of the Association.

##### **Section 2 – Voting Rights**

Voting rights shall extend only to those members current as to annual or special assessment fees. Each legal owner, or group of legal owners, defined as two (2) or more individuals shown as legal joint owners of the same lot or lots, will be authorized to cast a total of one (1) vote, pertaining to any circumstance requiring a vote, other than a special assessment, regardless of the number of lots owned. In the case of a vote for or against a special assessment, owners, as defined above, of multiple lots may cast one vote for each lot currently supplied with water, whether being used or not, from the community water system or private potable water well. To preclude any one owner(s) from unilaterally controlling a special assessment vote, individual owners of multiple water lots may cast no more than three (3) votes at any meeting held for such purposes.

##### **Section 3 – Officers, Authority and Duties**

1. **Selection.** The President, Vice-President and Secretary-Treasurer will normally be selected at the annual Landowners meeting by majority vote. Said officers to serve for a term of one year unless extended by majority vote, including proxies, of those voting at the annual meeting. The Board of Directors will consist of five (5) members to include the three current officers plus the most recent past President and past Vice-President. Should either or both of these individuals decline to serve, the current President will appoint a willing member of the

Association to fill that position(s). All officers and members of the Board of Directors must be members in good standing with the Association.

2. **Authority.** The Board of Directors shall consistently act only in the best interests of the Association and shall have the authority to remove by majority vote any officer or member of the Board of Directors whose actions are deemed to be in conflict with said interests. In the event of the incapacitation, resignation or removal of an officer, the BOD will, by majority vote, choose a replacement member. The BOD shall have the authority to approve the expenditure of monetary funds to meet the needs, both emergency and common, of the Association. The BOD will closely monitor the financial condition of the treasury and, as much as possible, plan for future expenditures. If needed, the board will make recommendations for an increase, or decrease, in the amount of the annual assessment or the need for a special assessment. The officers of the Association must be allowed to perform their duties without unnecessary influence by the board. However, the Board, by majority vote, may direct any officer, within legal guidelines, to take action deemed to be in the best interests of the Association. The BOD, by majority vote, may approve or direct the initiation of Association or public legal action against any member in violation of any portion of the Protective Covenants to include published Common Area Rules and Regulations. Article VIII will provide further guidance.
3. **Duties and Authority of the President.**
  - a. Will serve at the pleasure of the Association and the Board of Directors and will actively enforce the Protective Covenants and associated Rules & Regulations.
  - b. Will actively promote good will and a sense of willing compromise in all matters between all members of the Association.
  - c. Will, unless incapacitated or otherwise unavailable, preside over all meetings of the membership or BOD.
  - d. Will promptly act on all legal actions directed by a majority vote of the Association or Board of Directors.
  - e. Will closely monitor the financial condition of the Association and take prompt action to notify the BOD of irregularities and/or needed attention to meet the current or future fiscal needs of the Association.
  - f. Will ensure items of special interest are communicated to the membership to include minutes of meetings, financial reports, significant BOD actions, annual meeting notification, special assessment meetings or any other special interest items he or she deems significant.
  - g. Will negotiate, or delegate the responsibility for negotiating, all contracts and bids for construction or maintenance projects as directed by the BOD or membership, as required. All resulting paperwork will be made a part of the historical files of the Association.
  - h. Will keep a record of out-of-pocket Association expenses including valid receipts to be made a part of the historical files. Receipts will be required prior to reimbursement.



- i. Will assure all required reports to the Secretary of State, Water Resources Board, Water Testing, etc. are submitted.
- j. May unilaterally act to:
  - (1) Prevent imminent damage to any common areas structure, vegetation, trail, roadway, water system or capital improvement within the subdivision.
  - (2) Authorize expenditures, not to exceed three hundred dollars (\$300) without BOD approval, for justifiable projects within the subdivision including signage, grading and maintenance of roads or trails, snow plowing, dust control, common area weed and brush control, downed tree removal, emergency water system repairs, etc. To preclude the need for a formal change to the Protective Covenants, the Three Hundred Dollar (\$300) limit may be increased to a greater amount by a majority vote of the BOD to account for monetary inflation rates in future years.
  - (3) Initiate Protective Covenant enforcement procedures as outlined in Article VIII.
  - (4) Call for meetings of the BOD to discuss regular or emergency business.
  - (5) Call for a meeting of the members of the Architectural Design Review Committee if needed.
  - (6) Solicit volunteers to be considered to fill existing or expected vacancies within the Association officers, BOD, Design Review Committee or any other working committee.

#### 4. Duties and Authority of the Vice-President.

- a. Will assume the duties of the President in his or her absence, incapacitation or removal.
- b. Will serve as a member of the Board of Directors.
- c. Will assist other officers of the Association as needed.

#### 5. Duties and Authority of the Secretary-Treasurer

- a. Distribute correspondence to the membership to include minutes of meetings and financial reports or any other needed communication.
- b. Keep the records of the Association and record the minutes of all meetings, or
- c. Designate a Recorder for all meetings requiring minutes to be kept.
- d. Maintain the Association financial accounts to include the checkbook, safe deposit box and signature cards.
- e. Promptly pay all bills of the Association.
- f. Submit the annual tax forms.
- g. Monitor the Association insurance requirements and expenses.
- h. Promptly notify the President of any financial irregularities or unexpected increases in Association costs or projected expenditures.
- i. Maintain a current chronological "to do" list for Association business.

6. **Officer protection in the performance of duties.** The Association shall indemnify and hold harmless every officer, director and any committee member of any committee authorized to act on behalf of the Association against any and all expenses, including attorney's fees reasonably incurred by, or imposed upon, any officer, director or committee member in connection with any action, suit or proceeding to which he or she may be a party by reason of being, or having been an officer, director or committee member. The officers, directors and committee members shall not be personally liable for any mistakes of judgment or negligence, but shall only be personally liable for his or her own individual malfeasance, misconduct, bad faith or acts beyond the scope of his or her authority. The officers, directors and committee members shall have no personal liability for any contract or other commitment made by him or her in good faith and within his or her authority, on behalf of the Association (except to the extent that such officers, directors and committee members may also be members of the Association), and the Association shall indemnify and forever hold each officer, director or committee member free and harmless against any and all liability to others on account of any such contract or commitment.

#### **Section 4 – Proxies**

Members in good standing may assign, in writing, their proxy to any other member in good standing for the purposes of voting on any valid issue requiring a vote. Members designated as proxies by any member in good standing must vote as specifically authorized by such member. Members assigning their proxy are responsible for expressing the scope and term of such proxy. Any one member may not vote the proxies of more than three (3) other members. Every proxy shall be revocable and shall automatically cease upon conveyance of his lot by the member. Proof of proxies being held by any member must be physically presented to the officer conducting a vote prior to the counting of said vote. Due to the wide displacement of the membership, proxies may be presented by letter, fax copy or e-mail copy.

#### **Section 5 – Meetings**

The annual meeting of the Association shall be held in approximately the same week of the same month of each year at a time and place designated by the Board of Directors.

#### **Section 6 – Special Meetings**

Special meetings may be called at any time by the President or the Board of Directors, or upon written request of at least fifty percent (50%) of the members of the Association.

#### **Section 7 – Notice of Meetings**

Written notice of each meeting of the members shall be given, at the direction of the President or Secretary of the Association, by mailing a copy of such notice at least 30 days prior to the established date of the meeting to each member. Notices will be mailed to the member's last address appearing on the records of the Association. It

will be the responsibility of each member to supply the Association with his or her most current mailing address.

### **Section 8 – Quorum**

For the purposes of the annual meeting, the presence of members in good standing, or of member in good standing proxies, entitled to cast fifty percent (50%) of all eligible votes shall constitute a quorum. If the required quorum, as defined above, is not present, another meeting may be called subject to the same notice requirement. The required quorum at the subsequent meeting shall be one-half (1/2) the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

## **ARTICLE IV**

### **ANNUAL AND SPECIAL ASSESSMENTS**

#### **Section 1 – Creation of the Lien and Personal Obligation of Assessments.**

The owner(s) of each lot owned within the Properties, hereby covenants, and by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments and (2) special assessments for capital improvements or maintenance, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the legal owner(s) of such property at the time the assessments fell due.

#### **Section 2 – Purpose of Assessments.**

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents on the Properties and for the improvement and maintenance of the Common Area.

#### **Section 3 – Annual Assessments.**

The Association may make annual assessments subject to the following conditions and restrictions:

1. **Annual Assessment.** All lots on the property described in the Introduction (“Now Therefore...”), and currently supplied with water, whether being used or not, from the community water system, or private well, shall be subject to an annual assessment fee. The annual assessment fee will be established as recommended by the Board of Directors of the Association prior to April 1 of each year for all assessable property by determining the sum necessary to fulfill the obligations and purposes of said assessment. Members must be notified in writing at least 30 days prior to the annual membership meeting of any proposed

change in the amount of the annual assessment. The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any one year at a lesser amount.

2. All members of the Association are subject to the payment of all annual, maintenance or special assessments whether or not they, or a lessee, occupy the property as a residence.

#### **Section 4 – Special Assessments**

In addition to the annual assessments authorized above, the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including roadways, vegetation management, fixtures, and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

#### **Section 5 – Notice and Quorum for Any Action Authorized Under Sections 3 and 4.**

Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be mailed to all members not less than 30 days before the meeting. Quorum rules for these meetings will be as established in Article III.

#### **Section 6 – Uniform Rate of Assessment.**

Both annual and special assessments for members must be fixed at a uniform rate for all lots.

#### **Section 7 – Date of Commencement of Annual Assessments: Due Dates.**

The due dates shall be established by the Board of Directors. Unless otherwise needed, the annual assessment will be due on the first day of the month during which the annual membership meeting is held. This will enable the Secretary-Treasurer to prepare an up-to-date financial report for presentation to the membership. The Association shall, upon demand, and for a reasonable charge furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified lot has been paid.

#### **Section 8 – Effect of Nonpayment of Assessments: Remedies of the Association.**

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 10 percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape

liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

### **Section 9 – Subordination of the Lien to Mortgages.**

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or trust indenture. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessment thereafter becoming due or from the lien thereof.

## **ARTICLE V**

### **ARCHITECTURAL CONTROL**

#### **Section 1. Intent, Association rights and Changes.**

1. The intent of this covenant is to preserve the natural setting and beauty of the subdivision, to establish and preserve a harmonious and aesthetically pleasing design and to protect and promote the value of the properties of the subdivision while granting as much flexibility to the landowners as possible. The Association reserves the right to amend the following covenant provisions of this article or create new provisions regarding architectural review without formal amendment of the entire Protective Covenants document. Such changes to this article may be made only upon approval by a two-thirds (2/3) vote, including proxies, of those members voting at an annual membership meeting.
2. No structure of a permanent or temporary nature, such as but not limited to, a fence, wall, gate, wire, pipe, exterior lighting device, stairway, parking lot, mail box, owner's name sign, courtyard, swimming pool, tennis court, greenhouse, playhouse, animal kennel, walkway, hedge, driveway, antenna, sign, deck, patio, fireplace, enclosure or any addition, alteration or remodeling thereof shall be made, erected, altered, placed or permitted to remain upon the properties until plans and specifications have been submitted and approved.
3. Plans and specifications showing the nature, kind, shape, dimensions, materials and location of the same shall have been submitted to a Design Review Committee and approved in writing by said Committee as to harmony of external design, colors, location in relation to surrounding structures and topography, and the construction and materials to be used in the construction. All plans must include as a minimum a site plan showing the location of the structure on the lot, setbacks from property lines, utility line locations and septic/ drain field locations. Also included must be plans for the structural



foundation, floor, wall and roof plans, and exterior elevations. Materials lists and specifications must accompany the package. Basic heating, electrical and plumbing may be shown on floor plans and are not required to be drawn in detail.

4. The Design Review Committee will consist of three primary members and one alternate member appointed by the Board of Directors of Tamarack of the Wildwood Landowners Association. It is preferable that the Design Review Committee review plans prior to the completion of working drawings. The Committee is not responsible for additional costs resulting from changes in structure or landscape design. No approval of plans and specifications and no publication of architectural standards shall be construed as representing or implying that such plans, specifications or standards will, if followed, result in properly designed improvements. The Association, Design Review Committee and Board of Directors shall not be responsible or liable for any defects in any plans or specifications submitted, revised, or approved pursuant to the terms of this article, nor any defects in construction undertaken pursuant to such plans and specifications.
5. At least two of the three committee members shall be current members of the Tamarack of the Wildwood Landowners Association, and it is preferable that one of the members have professional qualifications in the area of architecture, design or land planning. Committee members may be replaced by a majority vote of the Board of Directors due to resignation, incapacitation or failure to serve in accordance with the Protective Covenants.
6. The Design Review Committee is authorized to approve only those plans specifically authorized by the Protective Covenants. In the event the Design Review Committee fails to approve or disapprove any plan as to design, location, construction or materials within thirty (30) days after the detailed plans have been submitted, approval shall not be required and this article will be deemed to have been fully complied with. However, the thirty (30) day limit does not apply if a plan is submitted which appears to violate any written limitation of the Protective Covenants, Lake County building codes or any Uniform Building Code. Members of the Design Review Committee will immediately notify the President of the Association, or, in his or her absence, a member of the Board of Directors, if they receive a plan they perceive to violate any covenant of the Association. The BOD will act to resolve the question as soon as reasonably possible. If not in unanimous agreement, the BOD will decide the question by majority vote. At that point the President will notify the DRC and the plan submitter of the decision of the BOD. If the plan in question is deemed to be in compliance with all regulations, the DRC will resume their consideration of the plan as submitted. If decided that the plan is not in compliance with the applicable regulations, the President, or his or her

appointed representative, will immediately notify both the plan submitter and the DRC members of the changes required to bring the plan into compliance.

7. The Design Review Committee may act by a majority of its members and any authorization or approval made by the Committee must be signed by a majority of the members thereof.
8. Landowners submitting plans for consideration by the Design Review Committee will send such plans directly to each committee member. Each committee member will then communicate by letter, fax or e-mail his or her approval or disapproval of the subject plans to the association President who will in turn notify the landowner by letter, fax or e-mail. DRC members must vote "yes" or "no" to approve or disapprove plans under consideration. An abstention vote is not a valid choice. Refusal of the approval of plans and specifications may be based, either by the DRC or the BOD, upon any grounds consistent with the objectives and purposes of the Protective Covenants, including purely aesthetic considerations, so long as such grounds are not arbitrary or capricious.
9. Any plans, specifications and proposals so approved, either expressly in writing or by the expiration of the thirty (30) day period, hereinabove provided, shall then permit the owner to commence construction in accordance with said plan, but any deviation from said plan which in the judgment of said Committee is a substantial detriment to the appearance of the structure or the surrounding area shall be corrected to conform with the original plan or approved revision.
10. Any structure to be erected in accordance with approval so given must be erected and completed within eighteen (18) months of original approval or new approval obtained. The Design Review Committee is authorized, within reasonable constraints, to extend this time limit if bona fide legal or material supply difficulties arise.
11. If any structure is begun and not completed within one year of the commencement of construction, and in the judgment of the Design Review Committee is of offensive or unsightly appearance, the said Committee or the Board of Directors of the Tamarack of the Wildwood Landowners Association, at the option of either, may take such action as may be necessary in its judgment to improve the appearance so as to make the property harmonious with other properties, including completion of the exterior of the structure, screening or covering of the structure or any combination thereof, or similar operations, and the amount of any expenditures made in so doing shall be a lien on the property and may be enforceable by an action at law. Here again, the DRC is authorized, within reasonable constraints, to extend this time limit if bona fide legal or material supply difficulties arise.

12. Upon approval, and prior to the commencement, of the construction of any structure requiring the use of heavy construction equipment (Bull dozers, excavators, cranes, concrete pumpers, etc.) a Five Hundred Dollar (\$500) deposit will be deposited with the Secretary- Treasurer of the Association by the owner of the subject property. Subject deposit to be returned upon completion of the project unless needed for the repair of damage to roads or any other common areas.

### **Section 2- Architectural Liability Limits**

1. Neither the Association, the Design Review Committee, the Board of Directors nor the individual members thereof, may be held liable by any person for any damages for any committee action taken pursuant to these covenants, including, but not by way of limitation, damages which may result from correction, amendment, changes or rejection of plans, the issuance of building permits or any delays associated with such action on the part of the Committee.
2. One copy of the approved plans for any project requiring DRC approval will be retained in the records of the Association.
3. Following DRC review and approval of any plans and specifications, any officer of the Association or member of the DRC shall have the right during reasonable hours to enter upon and inspect any site or other improvements with respect to which construction is underway to determine whether or not the plans and specifications therefore have been approved and are being complied with. In the event it is found that the approved plans and specifications are not being complied with, the Association shall be entitled to enjoin further construction and to require the removal or correction of any work in place.

## **ARTICLE VI**

### **MINIMUM BUILDING AND USE RESTRICTIONS**

#### **Section 1- Minimum standards, Building limitations, Construction Rules.**

1. No structure failing to meet the following minimum standards shall be erected, placed or allowed to remain on any lot, and the Design Review Committee shall have no power to approve any structure failing to meet these minimum standards. Additionally, all structures must meet the current minimum building standards as required by the building codes of Lake County, Montana, the Uniform Building Code, the National Plumbing Code, the National Electrical Code and any other code hereafter enacted by local, county, state or national legal authority. It shall be the sole responsibility of the owner to ensure that their builder(s) and/or contractor(s) are completely familiar with all requirements and restrictions of Articles V, VI and VII prior to beginning work.

2. With the exception of the Common Area, none of the lots in the subdivision may be used or improved for other than private residential purposes, and no more than one primary, one-family dwelling shall be erected, placed or maintained on any lots. Said primary one-family dwelling, to be constructed on a lot purchased by the current owner after July 31, 2003, must total at least two thousand (2,000) square feet of living area excluding any attached garage area, porch, deck or patio.
3. In addition to one building for private residential purposes, one permanent guest house, not to exceed one thousand (1,000) square feet, may be built or maintained on each individual lot of the subdivision provided that said guest house shall be subject to the approval of the Design Review Committee as to design, location, materials and other aspects provided for in the original declaration. Plans for said guest house will not be approved unless a primary one-family residence already exists on the property except that plans for both a primary one-family residence and a guest house, to be constructed concurrently on the same or adjacent lots, may be approved. If for any reason, the planned primary residence is not subsequently completed within the herein defined construction period, the guest house, or any part thereof, will be immediately removed. However, owners of lots, purchased by them on or prior to July 31, 2003, may construct the guest house first and then the primary residence.
4. Approval may given for the construction of one other building, not to exceed a total of six hundred (600) square feet or twenty (20) feet in average height, as defined by the Lake County building code restrictions, for use as a garage, private shop or storage. To preclude the arbitrary construction of garages, shops or storage buildings, such structures will not be approved unless there already exists a primary residence on that same lot or the owner(s) of that lot currently owns another lot(s) within the subdivision upon which a primary residence exists. In no case will such building be used for any business or commercial endeavor. Such building is subject to approval as to design, location and materials and must be placed on an approved concrete foundation or concrete slab if larger than one hundred (100) square feet.
5. Additions to existing primary residential structures may be approved by the Design Review Committee in accordance with all applicable building guidelines herein described. Additions to guest houses, currently totaling less than one thousand (1,000) square feet, and storage buildings, garages or shops currently totaling less than six hundred (600) square feet, may also be approved by the Design Review Committee.
6. No structure of a temporary character, including but not limited to travel or camper type trailers, fifth wheels, truck or cab-over campers, motor homes, modular homes, mobile homes on wheels or otherwise, manufactured homes, set together or expanding trailer houses, or basement, tent, shack, barn, outbuilding, framed fabric enclosure, stable or outbuilding other than as above

described shall be constructed, placed or used on any lot at any time as a residence or otherwise, nor shall any residential structure be occupied until the exterior is completed, painted and the water supply and sewer system completed and the written approval of the governing health authority obtained.

7. **Bona fide guests visiting owners or tenants of lots in the subdivision may not live in or park recreational vehicles on said lot to exceed a total of twenty (20) days in any calendar year.**
8. **No lot in the subdivision or any building or improvement thereon shall at any time be used for the purpose of any trade, profession, manufacturing or business of any description, nor for hospitals, duplexes, apartment houses, townhouses, condominiums, nor any other multiple dwelling structure except that nothing herein shall preclude an owner from maintaining a business or professional office restricted completely within the confines of his residence.**
9. **Plans for improvements on each residential lot shall provide for off-street parking.**
10. **No residential lot shall be subdivided in any manner.**
11. **Dogs, cats or other common household pets may be kept provided they are not bred or maintained for commercial purposes, and the Association shall establish a leash law and/or other suitable means of pet control. Such leash law or other means to be included in the Common Areas Rules & Regulations document. Outdoor pet kennels, cages, rabbit hutches, etc. will be shielded from public view by an appropriate enclosure. All animal enclosures must be submitted for approval to the Design Review Committee.**
12. **All property line setbacks and building height restrictions for new structures must comply with the current Lake County zoning regulations unless a variance is granted by Lake County, the Design Review Committee and all adjacent landowners who are members of the Tamarack of the Wildwoods Landowners Association and may be affected. Documentation verifying the approval of a variance will be made a part of the historical records of the Association.**
13. **Roof pitch: 4:12 minimum, 12:12 maximum.**
14. **Roof plan: No rooftop mechanical except flues and vents. Solar collectors and/or skylights mounted on roof plane are not to exceed 20% of total roof area.**
15. **Exterior color scheme: Materials used for external surfaces of all structures shall blend in color, hue and tone with the surrounding natural forest setting to avoid high contrast. Surface materials of walls, retaining walls or fences shall be similar to and compatible with those of the adjacent buildings. Reflective building materials are prohibited excluding metals which will naturally dull**



after exposure. Mirrored surfaces, or any treatments which change ordinary glass into a mirrored surface, are prohibited. No paint colors shall be used having a Light Reflecting Value (LRV) greater than 40%. (The LRV of a specific paint is available from paint manufacturers and measures the amount of light reflected by a certain color. Earth tones are encouraged.

16. **Window sash:** Wood, anodized bronze aluminum, white or brown vinyl, color coated aluminum desired. Bare, natural color aluminum not permitted.
17. **Garage:** No carports permitted. Any garage, shop or storage building must be fully enclosed.
18. **Exterior lighting:** The objective is to eliminate glare and annoyance to adjacent property owners and passersby. Type and placement of exterior lighting devices must be approved by the DRC. All proposed exterior fixtures must be indicated on the exterior elevation plans. Shielded indirect lighting is desired. Any direct lighting exceeding 25 watts must be switched by timed security monitor/ motion detector only.
19. **Fences:** Must be constructed of materials harmonious with the structures on the property. Chain link or metal construction is not permitted unless completely shielded from public view.
20. **Antennas:** Satellite dishes and other similar items are to be no larger than 36" in diameter and not mounted on any base or structure taller than two feet or in any location obstructing the view of an adjacent neighbor. Traditional TV or other radio antennas are to be mounted only in locations shielded from public view.
21. **Signs:** One sign identifying an address or the occupants of a residence is permitted however it must be compatible with the surroundings in design and color and no larger than two (2) square feet in area. Except for reasonably sized "Children at Play" or other safety related signs, no sign of any kind shall be displayed to public view on any lot except one sign of not more than five (5) square feet advertising the property for sale or rent, or three signs, not to exceed one and one-half (1 1/2) square feet each, to be used by a contractor(s) realtor or owner to advertise the property during the construction and sales period. Such signs to be immediately removed upon sale. All signs, with the exception of sales signs, must be presented to the DRC for review and approval.
22. **Enclosures:** Must be submitted to and approved by the DRC.
23. **Construction mess:** Construction sites will be monitored for the accumulation of unnecessary construction debris. A written notice will be issued by the President to clean up unsightly construction sites. If not cleaned up within one month of

the receipt of written notice the Association will have the authority to have the site cleaned up and to charge the property owner accordingly.

24. **Construction trailers:** All trailers or "job shacks" must be kept unobtrusive. They will be small in size, as far off the street as possible and neatly maintained.
25. **Temporary sanitary facilities:** The unit will be located well into the property in an inconspicuous as possible location.
26. **Common courtesy:** The impact of the construction process upon neighbors must be kept to an absolute minimum. Issues include unauthorized borrowing of utilities from neighbors, parking, radios and profanity. Construction crew pets will not be permitted.
27. **Work hours:** Weekdays between the hours of 7:00 A.M. and 7:00 P.M. Saturdays between 8:00 A.M. and 5:00 P.M. No construction on Sundays or holidays.
28. Except in an emergency situation when necessary for the preservation of life or property, the discharge of firearms shall be prohibited.

## **Section 2- Sanitation, Outdoor storage limitations, Eyesore remedy, Burning.**

1. No illegal, noxious, or offensive activity shall be permitted or carried on within any part of the subdivision, nor shall anything be permitted or done thereon which is or may become a nuisance or a source of embarrassment, discomfort or annoyance to the neighborhood. No rubbish, lawn clippings, brush slashings or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the subdivision, nor shall any nuisance or odors be permitted to exist or arise from any portion of the subdivision, so as to render any portion thereof unsanitary, unsightly, offensive or detrimental to persons using or occupying any other portions of the subdivision. All garbage and other waste shall be kept out of public view in approved sanitary containers.
2. No tools, tractors, lawn mowers, drums, barrels, equipment, parabolic or other unused antennas, household appliances, machinery or non-operational vehicles of any type shall be kept on the property unless housed from view.
3. One recreational vehicle, (travel trailer, fifth wheel, motor home, camper, cab-over camper, etc.) not to exceed thirty-five (35) feet in length may be kept on the property. Others must be kept in a closed building. This restriction does not apply to visitors complying with Art. VI, Sect. 1, Para. 7.
4. One boat/ trailer combination may be kept within view on the property. All other boats and/or boat trailers must be kept in a closed building.
5. Utility trailers must be kept in a closed building unless no boat trailer is being kept on the property.

6. Snowmobiles, all terrain vehicles, small maintenance vehicles, quads, dune buggies, jet skis, etc. must be stored out of public view unless being immediately used.
7. Vacant lots will not be used for storage, other than an approved structure, or dumping of any kind.
8. Enclosures constructed to protect, conceal, or hide from view items so required by the covenants, must be submitted to and approved by the DRC. Tarps, canvas, landscaping materials, plastic sheeting, etc., do not qualify as an enclosure unless the item is otherwise completely obscured from public view.
9. The Association shall have the right to determine if an owner, by his actions, is causing an eyesore, by any means, within the subdivision and shall have the right to determine a remedy for the problem.
10. All burning must be accomplished with respect to established local laws. When required, a burning permit must be obtained and all requirements for issuance of the permit must be strictly observed. The burning of trash or man-made materials is prohibited. Burn barrels are not permitted.
11. Owners are responsible for the removal and control of noxious weeds, as defined by the Montana Department of Agriculture, on all portions of their property. The Association retains the right to hire labor for the removal of such vegetation and to bill the owner for labor and materials.

## ARTICLE VII

### PROPERTY EXCLUSION

Lots 4 and 5 of the Amended plat of a portion of Table Bays are hereby expressly excluded from the benefits and obligations of this declaration and all prior declarations.

By prior agreement, Lot 10 of the Amended plat of a portion of Table Bays may not be used for residential purposes. If requested, plans for a garage, private shop or storage building, including no waste or sewage requirements, may be approved.

## ARTICLE VIII

### GENERAL PROVISIONS

#### **Section 1. Enforcement of Protective Covenants and Rules /Regulations.**

1. The Association or any owner shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereinafter imposed by the provisions of the Declaration. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

2. In the event action is brought by the Landowners Association, or an individual landowner, to enforce any provision of its covenants, the prevailing party shall be entitled, in addition to any other relief awarded, to an award of their reasonable attorney's fees and court costs incurred in the action to enforce these covenants.
3. Procedure for owner notification of an infraction of the Protective Covenants.
  - a. The President or his designated representative will, as a courtesy, notify the offending owner, by telephone, of his or her violation of the covenants. The infraction will be stated as will a satisfactory remedy and a reasonable period of time to correct the problem.
  - b. Failure to satisfactorily respond to the courtesy call will result in a certified letter being sent to the offending owner again stating the violation, remedy and the length of a short period in which to reply.
  - c. Upon evidence of further failure to comply, the President will notify the Board of Directors who will then, without further notice, begin legal proceedings. At that point, the attorney appointed to represent the Association will initiate litigation in accordance with paragraphs 1 and 2 of this section.

### **Section 2. Severability**

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

### **Section 3. Amendment.**

The covenants and restrictions of this declaration shall run with and bind the land for a term of twenty-five years from the date this declaration is recorded, after which time such covenants shall automatically be extended for successive ten year periods, unless an instrument is recorded, signed by the owners of 60% of the area of all the lots within this subdivision, agreeing to revoke or amend said covenants in whole or in part. This declaration may be amended during the first twenty-five year period by an instrument signed by not less than 75% of the landowners, except that no Article or Section shall be amended without approval of the Board of County Commissioners. Any amendment must be recorded to be effective.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration this 24<sup>th</sup> day of July, 2003.

*Jack G. Thomas*

Jack G. Thomas, President, Tamarack of the Wildwood Landowners Association

STATE OF MONTANA )

: ss.

County of FLATHEAD )

On this 24 day of July, 2003, before me, the undersigned Notary Public for the State of Montana, personally appeared JACK G. THOMAS, known to me to be the person subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate above written.

*Rhonda J. Castner*  
 RHONDA J. CASTNER  
 Notary Public for the State of Montana  
 Residing at: *FALISPELL*, Montana  
 My commission expires *5-16-2007*  
 SEAL

Lake County Commissioners approval this                    day of                    ,2003.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



**NOTES:**

- 1. Declaration of Covenants, Amended – October 20, 1975**  
**Microfile 225031 – Donald H Wolven & Edith A. Wolven, Declarants**
- 2. Amended Declaration of Covenants, Amended – July 13, 1977**  
**Microfile 235767 – Albert Seeley, Declarant**
- 3. Amended Declaration of Covenants, Amended – August 15, 1977**  
**Microfile 236129 – Albert Seeley, Declarant**
- 4. Amended Declaration of Covenants, Amended – July 5, 1995**  
**Microfile 367070 – Carol Flower, Declarant**  
**(J-6192 = file)**
- 5. Amended Declaration of Covenants, Amended – July 22, 1996**  
**Microfile 375560 – Carol Flower, Declarant**  
**(J-6361 = file)**
- 6. Amended Declaration of Covenants, Amended – July 24, 2003**  
**Microfile - Jack G. Thomas, Declarant**