

**DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS  
OF TIEBUCKER SUBDIVISION**

THIS DECLARATION, made this 12th day of April, 2004, by the undersigned, Northwest Montana Human Resources, Inc. ("the Declarant").

**WITNESSETH:**

WHEREAS, the Declarant is the owner of that certain real property described on Exhibit A hereto ("the Property); and

WHEREAS, the Declarant is desirous of subjecting the Property to the Covenants, Conditions and Restrictions ("CC&R's") hereinafter set forth; and

WHEREAS, each and all of the CC&R's is and are for the benefit of the Property and for the benefit of the owners of the lots within the Property and shall inure to the benefit of the Property and its owners and shall pass with the Property, and apply to and bind successors in interest and any owner(s) of the Property.

NOW, THEREFORE, the Declarant, being the present owner of all the Property, hereby declares that the Property is, and shall be held, transferred, sold and conveyed, subject to the CC&R's hereinafter set forth:

1. **PURPOSE.** These CC&R's are designed to provide a uniform plan for the development of the whole of the Property; to protect the owner(s) and purchasers of lots in the Property against use of surrounding lots in a manner that will depreciate the value of the Property; to guard against the construction of buildings of improper or unsuitable material; to ensure the highest and best development of the Property; to encourage and secure the construction of attractive building and to provide for high quality improvements on the Property; and thereby to enhance the value of the Property and its improvements.

2. **BINDING.** All persons or entity who hereafter acquire any interest in and to the Property shall be taken and held to agree and covenant with the present owner of the Property and with its heirs, successors and assigns, to conform to and observe these CC&R's as to the use thereof and as to the construction of dwellings and improvements thereon.

3. **HOMEOWNERS' ASSOCIATION.**

3.1 **Association.** The Declarant shall form a homeowner's association ("the Association"). No structure shall be erected, placed, or altered on any lot until the construction plans and specifications, along with the proposed site therefore, have been approved by the Association as to the quality of workmanship and materials, harmony of external design with

existing structures, and location of the structure with respect to topography and finish grade elevation.

3.2 Membership. Each owner of the Property shall be a member of the Association so long as it/(s)he retains any interest in the Property, and by accepting the conveyance, the owner binds itself, himself, herself, or themselves to abide by the bylaws, rules and regulations of the Association which may be adopted by its Board of Directors ("the Board") from time to time.

3.3 Directors and Bylaws. The Association shall be managed by a Board consisting of a minimum of three (3) Directors, who shall be elected by the Members pursuant to bylaws to be adopted by the Members at their first meeting.

3.4 Voting. Each lot shall be entitled to a single vote in the Association regardless of the number of owners. If the owners of a lot cannot agree on which owner shall cast the vote, the first name on the last deed of record for the lot shall be deemed the voter for that lot.

3.5 Roads, Common Areas, Perimeter Fence, Mailbox, Fire Suppression and Street Lights. The Association's responsibilities shall include the maintenance and repair of the roads, common areas, fire suppression facilities, common mailboxes and street lights within the Property and the fence located on the perimeter of the Property.

3.6 Dues and Assessments. Each owner shall pay the Association such annual dues and assessments as the Board shall fix and determine, and said dues and assessments shall be paid at such time as the Board shall determine.

3.7 Delegation. Any or all of the Board's rights, duties and obligations Pursuant to these CC&R's may be delegated by the Board to such committee(s) as the Board may create pursuant to the Association's bylaws.

#### 4. USE AND ACTIVITIES.

4.1 Single Family Only. Except to lots 1-4, no lot within the Property shall be used except for one single-family residence, and no building shall be erected, altered, placed or permitted to remain on said lot except for residential purposes (together with the usual outbuildings—see Paragraph 4.8 below).

4.2 Size. Each home shall be a minimum of one thousand ninety-two (1,092) square feet, exclusive of an attached garage.

4.3 Decks. All decks shall be painted, stained or varnished to be a fitting match with the home.

4.4 Height. No building shall exceed thirty-five (35) feet in height as measured from the original grade without the Board's written approval. Such permission may be granted only if the Board is satisfied that unreasonable interference of the view from neighboring lots will not result.

4.5 Fences and Landscaping. Fences, hedges, and other landscaping shall be erected, located, planted and maintained so as not to be unsightly or restrict the view of neighboring lots. No fence shall be more than six (6) feet high and fences on corner lots cannot extend further into the front yard than the residence.

4.6 No Temporary Structures. Except those owned by the Declarant for use during construction, no temporary building, mobile home, recreational vehicle, house trailer or partly-finished building or structure shall be erected or placed upon the Property. All exterior construction shall be complete within one (1) year from the commencement of construction.

4.7 No Mobile Homes. Except those owned by the Declarant for use during construction, no structure of any kind, and particularly those commonly known as "mobile home," "modular home," "trailer," or other prefabricated structure designed to be hauled or moved on wheels, or "boxed," "sheet metal," or "A-frame" construction, shall be built, used or moved onto any lot.

4.8 Outbuildings. Storage buildings and other outbuildings are allowed provided they are sided or painted. Metal siding and roofing is acceptable on outbuildings if it is colored or painted. No galvanized metal is allowed.

4.9 No Disabled Vehicles. No vehicle in a state of disrepair shall be visible on any part of the Property for more than forty-eight (48) consecutive hours. A vehicle shall be deemed in a state of disrepair when it is incapable of moving under its own power without repair or when, in the Board's opinion, its presence diminishes adjoining property values.

4.10 No Advertising. Except for political signs and signs displayed within residential windows, no signs, advertising billboards, or advertising structures of any kind shall be erected, used or maintained on the Property, including approved residential businesses except for the purpose of advertising for sale or rent of the lot on which it is erected.

4.11 No Commercial Activity. Except to lots 1-4, no trade, profession, commercial or manufacturing activity shall at any time be carried on or conducted on the Property; *provided however*, businesses or professions carried on solely by family members and conducted entirely within residential structures shall be permitted, so long as no traffic is generated by such home activity in greater volume than would normally be expected in a residential neighborhood.

4.12 Neighborhood Residential Business. The Board may approve neighborhood residential business activity on lots 1-4. Each such business shall apply to the Board for approval before conducting business. In approving or denying each application, the Board shall weigh the benefit of the proposed business to the Members against the impact of the business on adjoining properties, taking into consideration traffic, signs, noise, parking, setbacks and buffering.

4.13 Setbacks. Except for additional set backs for lots 1-4 established pursuant to Paragraph 4.12 above as part of the approval of a neighborhood residential business, no building on any lot shall be located closer than 20 feet to the front and rear property lines and 5 feet from side property lines.

4.14 Screening. Small, building mounted, satellite dishes and firewood shall be screened from view by landscaping or decorative fencing. No large satellite dishes, television towers or radio towers are permitted.

4.15 Driveways and Vehicles. Each home shall maintain a paved private driveway and each occupant of a lot shall park all of its, his or her non-recreational vehicles either in a garage or on said driveway. Up to two (2) campers, trailers, recreational vehicles and boats may be stored outside on a lot if owned by the lot owner and shielded from the view of the public right of way and all adjoining lots. No heavy equipment, school busses or semi-trucks may be kept on the Property.

4.16 Sewer and Water. Purchasers will not have the right to protest participating in a sewer or water district. If sewer and water is made available by any governmental or quasi-governmental entity, each lot must hook up at the request of the entity.

4.17 Garbage. Except for trash cans with a tight fitting lid placed on the road on the day of pick up, no part of any lot shall be used as a dumping ground or used to store or place rubbish, trash, garbage, junk cars or parts thereof which are exposed to public view.

4.18 Student Transportation. The Declarant shall initially provide such location(s) for the safe loading and unloading of students as shall be required by Flathead County's Child Transportation Committee. Thereafter, the Association shall maintain and improve said location(s) as desired by the Association or required by said Committee.

4.19 No Interference. No equipment or process shall be used on any lot which creates visual or audible interference with any radio, television, or telephone receivers off the lot or which causes fluctuation in electrical line voltage to other parts of the Property.

4.20 No Subdivision. Except for lot 30, subdivision of the lots is not permitted. Boundary line adjustments are permitted if they do not create a new lot with exception of lot 39.

4.21 Weeds. Each owner shall maintain its/his/her lot and fence line free and clear of any noxious weeds, watered, and keep any lawns mowed and gardens reasonably free of unsightly weeds

4.21 Guests. Each occupant shall be responsible to see that visitors and guests to its/his/her lot comply with the terms of these CC&R's and park on the lot being visited or on the road immediately in front of said lot.

4.23 Maintenance. Once constructed, each structure, shall be kept in the same condition as at the time of its initial construction, excepting normal wear and tear. All structures (including fences) shall be preserved and of pleasant appearance by maintaining paint, stain or sealer as needed. All structures (not including fences) shall be of a color, design, and construction compatible with the residential structure located on the lot and no structure (including the residential structure) shall be of a color or intensity not normally used for the exterior of residences. If any structure is damaged in any way, the owner shall, within nine (9) months of the casualty, exercise due diligence to rebuild, repair and restore the structure to its appearance and condition prior to the casualty.

4.24 Addresses. All residence and business addresses shall be readily visible from the road described in Paragraph 5.1 below.

4.25 Right to Farm. The Property is located within an agricultural area. Normal agricultural activities include noise, dust, odors and irregular hours of operation. All owners take title to their lot subject to, and with a clear understanding of, and waives all objections to or remedies for, such conditions. Neither the development or occupancy of the Property nor any provision of these CC&R's shall be provide a basis for interfering with normal agricultural activities on surrounding properties.

## 5. ROADS AND EASEMENTS.

5.1 Roads. Within 30 months the Declarant shall pave the entire road within the Property to mitigate any impacts to adjoining properties. The road shall be twenty (20) feet in width and built to AASHTO standards. The Declarant shall name the road, subject to the approval of the Flathead County Plat Room. The road shall be open to public use.

5.2 Maintenance. The Association shall maintain the road, including necessary repairs and snow removal, to insure safe all weather travel for two-way traffic.

5.3 Road Assessments. All lots will be subject to a road maintenance fee to be determined by the Board.

5.4 Easements. The Declarant hereby conveys to the Association an easement over, under and across each of the lots as for the purpose of locating, installing, erecting,

constructing, maintaining or using the road described in Paragraph 5.1 above, underground electric and telephone lines and other utilities, student transportation facilities, fire suppression facilities and common mailboxes.

5.5 Utility Installation. All electrical, telephone, cable TV and other utility lines shall be installed underground as approved by the Association and the applicable utility company. All costs for extension of utilities and telephone lines from a lot line to structures on the lot shall be borne entirely by the owner of the benefitted lot. Any structure, building, improvement, shrub, hedge or tree on an easement or right-of-way described in Paragraph 5.4 above shall be required, at the request of any owner, the Association or the utility company, be removed, at the expense of the requesting party.

6. ANIMALS, BIRDS AND PETS.

6.1 Pets Permitted. No agricultural animals, such as, but not limited to pigs, llamas, horses, chickens and/or ducks shall be kept or raised on the Property. Cats, dogs, or other small household pets, not to exceed a total of four (4) per lot, may be kept. All animals must be leashed when not within a fenced area. The owner of any animal is responsible for preventing its/his/her animal from disturbing the other residents on the Property and cleaning up any waste deposited by its/his/her animal.

6.2 Confinement. All animals shall be confined to the owner's(s') lot in an enclosure which is not unsightly or shall be kept within a fenced area or on a leash; *Provided, however,* any animal that barks, howls, bites, roams at large, or chases persons or vehicles shall not be kept within the Property at any time. All animals must not create or cause an annoyance or nuisance or disturbance to the neighborhood or any resident of the neighborhood.

7 REMOVAL OF WASTE, PROPERTY APPEARANCE AND UPKEEP.

7.1 No Nuisance. No noxious or offensive activity shall be carried on upon the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to any owner of the Property; nor shall the Property be used in any way or for any purpose which may endanger the health or safety of or unreasonably disturb the residents of the Property.

7.2 No Fires. Open fires, except barbecues, are prohibited.

7.3 No Mining. No oil drilling, gravel, sand or soil operations, or mining operations of any kind are permitted.

7.4 Good Repair. All structures upon the Property shall be kept in good repair and appearance.

7.5 Landscaping. All lots shall be kept free of weeds and shall be mowed regularly so as to avoid an unsightly appearance. Each owner of an improved lot shall plant lawns within one (1) year from date of the improvement and shall maintain said lawn to the edges of the road pavement in a prudent fashion so as to avoid an unsightly appearance.

7.6 No Waste. No part of the Property shall be used or maintained as a dumping or storage ground for rubbish, trash, garbage, old automobiles or other wastes. All waste shall be removed as often as necessary. Equipment for the disposal of such material shall be kept in a clean, sanitary condition.

## 8. GENERAL PROVISIONS.

8.1 Beneficiaries. These CC&R's contained herein shall inure to the benefit of the owners of the separate lots of the Property and are enforceable by the Association or any owner of the Property.

8.2 Term. These CC&R's are to run with the Property, and shall be binding on all parties, and all persons claiming under them, unless amended or terminated pursuant to Paragraph 8.7 below.

8.3 Enforcement. The Declarant, the Association or any owner shall have the right to prevent or stop a violation of any of these CC&Rs, as they may from time to time be amended, by injunction or other lawful procedure in law or in equity. The failure of the Association, the Declarant or any owner to enforce any CC&R shall not be deemed to be a waiver of the right to do so thereafter. The Declarant, the Association nor its Board shall have any duty to take any affirmative action to enforce any CC&Rs nor shall they be subject to any liability for their failure to so act.

8.4 Attorney's Fees. If the Association, any owner or the Declarant commences legal proceedings to enforce any provisions of these CC&R's, the prevailing party in such action shall be entitled to recover from the other party reasonable attorney's fees and costs of said action.

8.5 Interpretation. These CC&R's shall be construed pursuant to the laws of the State of Montana and shall be binding upon the heirs, successors and assigns of the Declarant and all owners, and time is of the essence in complying with these CC&R's. These CC&R's should be broadly construed to accomplish their intended purpose.

8.6 Invalidation. Invalidation of any one of these CC&R's by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

8.7 Amendment. These CC&R's may be terminated or amended with the written consent of seventy-five percent (75%) of the then owners of the Property, with each lot having one vote. Notice of termination or amendment shall be signed by such owners before a Notary Public, and filed with the office of the County Clerk and Recorder of Flathead County, Montana.

8.8 Additional Property. These CC&R's may bind additional properties with the written consent of the Association and the owner(s) of the additional property. Said consent shall be signed by such owners and the appropriate officers of the Association before a Notary Public, and filed with the office of the County Clerk and Recorder of Flathead County, Montana.

IN WITNESS WHEREOF, we have hereunto set our hands the day and year first above written.

NORTHWEST MONTANA HUMAN RESOURCES, INC.

By: *Douglas D. Rauthe* Executive Director  
 Douglas D. Rauthe for *Douglas D. Rauthe*  
 Its: Executive Director Date 4/12/04

STATE OF MONTANA )  
 :ss  
 County of Flathead )

On this 12th day of April, 2004, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared Douglas D. Rauthe, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same on behalf of Northwest Montana Human Resources, Inc..

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.



*Peggy A. Schaff*  
 Notary Public for the State of Montana  
 Residing at: Kalispell, MT  
 My Commission Expires: 10-4-07

Declaration of Conditions, Covenants and Restrictions of Tiebucker Subdivision

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STATE OF MONTANA

County of Flathead

RECORDED AT THE REQUEST OF Nolan  
 THIS 28 DAY OF April, 2004 AT 11:10 O'CLOCK AND  
 RECORDED IN THE RECORDS OF FLATHEAD COUNTY, STATE OF MONTANA.

FEE \$ 48.00 PD.

RECEPTION NO. 2004119 11100

RETURN TO PO Box 8300

10214 11 MT 59909

*Paula Robinson*  
 (Flathead County Clerk and Recorder)

*Christie M. H.*  
 (Deputy Clerk)