

HYALITE FOOTHILLS SUBDIVISION NOS. 1 AND 2

Dated: Nov. 15, 1974

DECLARATION OF RESERVATIONS AND RESTRICTIVE COVENANTS FOR HYALITE FOOTHILLS SUBDIVISION

H. B. LANDOE and HELEN M. LANDOE, husband and wife, and F. DELBROOK LICHTENBERG, hereinafter referred to as Developers:

The following Declaration of Reservations and Restrictive Covenants shall be binding on: all that land delineated on the plats of the Hyalite Foothills Subdivision, filed in the public records of the Clerk and Recorder of Gallatin County, Montana.

NON-PROFIT CORPORATION AND MEMBERSHIP FEE:

It is the intention of the developers that a non-profit corporation to be called "Hyalite Foothills Landowners' Association" hereinafter called Association be formed to care for the road easements, boundary fences of each estate, as such fences bound a road right-of-way, as shown on the plats of the subdivision, the parks, and all open areas maintained for the general good of the development and vacant and unimproved estates in Foothills Subdivision, whether such estates be owned by the developers or not; to remove weeds and any unsightly or obnoxious thing therefrom, and to do any other things and perform any labor necessary or desirable in the judgment of such non-profit association to maintain the development in good repair and condition and to landscape the roadways in the platted land.

After sixty per cent (60%) of the estates in the platted land have been sold by the developer, then all privileges, rights, powers, duties and authority of the developers contained in these Reservations and Restrictive Covenants shall thereupon vest in the association and thereafter such privileges, rights, powers, duties and authority shall be exercisable by the association, and thereafter, whenever herein the term "developers" is used it shall be taken to mean the association.

All persons purchasing property in the platted land, by acceptance of their deeds or execution of their purchase agreements, do agree to the formation of this non-profit association and do agree to become a member thereof immediately upon its formation or upon signing their respective agreements to purchase an estate, and further agree to contribute their pro-rata share of the funds necessary to the performance of its aforesaid functions. Membership fee for each estate in the platted land shall be in such sum as a majority of said members shall determine to be equitable and necessary to fulfill the purposes of the association, but in no event shall said fee exceed the sum of \$100.00 per annum, unless at least 95 per cent of the members shall concur. Membership fee for each estate in the platted land shall be paid annually and shall become a lien upon the applicable estate when the purchaser thereof is billed.

The following protective Restrictions and Covenants are hereby established, declared and prescribed to run with the land and to be binding upon all parties and all persons owning estates or tracts in Hyalite Foothills Subdivision or claiming under them, until November 31, 1979.

I.

RESIDENTIAL LAND USE REGULATIONS

A. USE PERMITTED:

- (1) One attached family dwelling on one tract, whether single or multiple.
- (2) Only one dwelling shall be permitted on a single tract, whether it is single or multiple.
- (3) In addition to the dwelling, there may be added a private garage, guest house, servants' quarters, barn, and other outbuildings incidental to residential use of the premises.
- (4) No single family dwelling house on any tract of one (1) acre or more shall have less than 1200 square feet of ground floor area. This is exclusive of garages, carports, porches, or any other addition thereto.
- (5) One temporary building, such as a storage shed or shop, may be used on any tract during the course of continuous construction.
- (6) No permanent dwelling building can be used as a dwelling until house is completely enclosed and the roof is on.
- (7) One house trailer will be permitted only during construction of the main dwelling house, and construction must be continuously prosecuted. Permission to use trailer as a living unit will not at any time exceed eight (8) months.
- (8) No store, theatre, tavern, or entertainment establishment of any kind, or any shop of any kind, set up as a permanent or temporary business for the purpose of a livelihood, shall be permitted upon any lot at any time.

B. ANIMALS AND FOWL:

Saddle horses may be kept on any estate in Hyalite Foothills Subdivision, subject to the following restrictions and conditions:

- (1) Any area in which a horse or horses are kept must be completely fenced, using wooden rails and posts.
- (2) Horses must be controlled and maintained in such a manner as not to trespass upon the privacy or rights of others and so as to prevent being a nuisance in the neighborhood.
- (3) If stables are constructed, the same must be of such material and design and location as are approved by the developers or association.
- (4) No swine, sheep or other objectionable animals or fowl, shall be kept, and no animals may be raised for commercial purposes without prior written permission of the developers or the association. If dogs are kept, the same shall at no time be permitted to run at large and must not be permitted to become a nuisance to others.

C. STORAGE OF MATERIALS.

The storage of supplies or equipment, boxes, refuse, trash, materials, machinery or machinery parts or otherwise that shall distract from the esthetic values of the property shall be placed and stored in buildings for that purpose.

D. SIGNS:

No signs of any kind shall be displayed to the public view on any part of the property, except one sign of not more than five (5) square feet for identification purposes, one sign of not more than five (5) square feet advertising any portion of the property for sale, or signs used by developers to advertise the property during the construction and sales.

E. STRUCTURE SETBACKS:

A front setback on lots of one (1) acre or more shall conform to a minimum of fifty (50) feet from the roadway easement line, as noted on the recorded plat to the furthest structural projections but not including eaves, overhangs or plantings of any structure. A side setback and rear setback shall be maintained of at least thirty (30) feet from all property lines to the building line of any structure.

F. SANITARY RESTRICTIONS:

No building or shelter, the use of which necessitates supplying water, sewage or waste disposal, shall be used as a dwelling until the water supply system, including location and construction thereof, together with location and construction of sewage or waste disposal system, shall comply with the standards of rules and regulations of the State Board of Health or any other governing body having jurisdiction thereof.

G. USE OF EASEMENTS:

No dwelling or improvements shall be placed on nor shall any material equipment or refuse be placed on any part of said property within the area of the easements reserved as indicated on the plat of the property filed in the office of the Clerk and Recorder of Gallatin County, Montana, or the easements reserved and created in these Protective Covenants.

H. NUISANCES:

No noxious or offensive activity shall be carried on upon any portion of the property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

I. GARBAGE AND REFUSE DISPOSAL:

No part of the property shall be used or maintained as a dumping ground for rubbish, trash, slash, garbage, debris or other waste, except when kept in sanitary containers, which shall be disposed of promptly. All incinerators or other equipment for disposal of such material shall be kept in a sanitary condition and reasonable precautions shall be taken against fire hazards.

J. UTILITY EASEMENTS AND DRAINAGE EASEMENTS.

In addition to the easements shown on the plat of the property of record in the office of the County Clerk and Recorder of Gallatin County, Montana, which are hereby reserved for wires, pipes and conduits for heating, lighting, electricity, gas, telephone, sewer, drainage, water, or any other utility service purposes, a strip of land ten (10) feet wide, running adjacent and parallel to each side and each property line of each parcel is subject to an easement for the installation and maintenance of utilities and for the construction and maintenance of drainage facilities by the developers, their successors or assigns, or by a utilities company franchised to do business in the area of Hyalite Foothills Subdivision.

II.

ENFORCING OF COVENANTS

Violation of any covenant or restriction may be restrained by any court of competent jurisdiction, and for a violation or a breach of any of these restrictions by any person claiming by, through

or under the developers, or by virtue of any judicial proceedings, the developers, their successors and assigns, and the estate owners, or any of them, jointly and severally, shall have the right to proceed at law or in equity to compel a compliance with the terms hereof or to prevent the violation or breach of any of them. In addition to the foregoing right, the developers, their successors and assigns, shall have the right, whenever there shall have been built on any estate any structure which is in violation of these restrictions, to enter upon the property where such violation of these restrictions exists and summarily abate or remove the same at the expense of the owner, and any such entry and abatement or removal shall not be deemed a trespass. The failure promptly to enforce any of the restrictions shall not bar their enforcement. The invalidation of any one or more of the restrictions, reservations or covenants by a Court of competent jurisdiction in no wise shall affect any of the other restrictions, but they shall remain in full force and effect.

III.

BUILDING MATERIALS AND DESIGN

All buildings constructed or erected upon said premises shall be approved prior to construction, in writing, by the developers, or their representative, as to placement of buildings, landscaping and design. In all cases, all architectural design and construction methods must be approved by the developers prior to commencement of construction in order to maintain the high standards of the community. Whether or not provision therefor is specifically stated in any conveyance of an estate made by the developers, the owner or occupant of each and every estate by acceptance of title thereto and/or by taking possession thereof, covenants and agrees that no building, wall, or other structures shall be placed upon such estate unless and until the plans and specifications therefor and plot plans have been approved, in writing, by the developers. Each such building, wall or structure shall be placed on the premises only in accordance with the plans and specifications and plot plans so approved. Said plans shall show a culvert to be placed in the front or side drainage swail at the point any drive crosses said swail, and said culvert shall be of a size approved by the developers. Developers may require a certificate from an engineer licensed in the State of Montana, certifying that said culvert is of adequate size to prevent blockage of drainage. Refusal of approval of plans and specifications by the developers may be based on any grounds, including purely esthetic, which in the sole and uncontrolled discretion of the developers shall seem sufficient. No alteration in the exterior or appearance of the buildings or structures shall be made without like approval. If the developers shall fail to approve or disapprove the plans and specifications within thirty (30) days after a written request therefor, then such approval shall not be required, provided that no building or other structure shall be erected which will violate any of the other covenants herein contained.

IV.

FILL AND GRADING

No fill, dirt, muck or rock shall be removed from the premises hereby conveyed, nor shall the elevation thereof be changed in any manner, if by so doing it shall result in a detriment to adjacent parcels. No property owner shall obstruct, divert or alter by unnatural means, the flow of water or any water course existing on the lands of Hyalite Foothills, without providing equal or better substitute drainage facilities. No lake or pond shall be constructed, filled, or altered without the prior written consent of the developers.

v.

MODIFICATIONS AND EXCEPTIONS

Developers shall have the right to approve reasonable modifications or exceptions to the above Reservations and Restrictive Covenants, where, in the sole discretion of the developers, such modifications or exceptions will not defeat the purpose of the overall Reservations and Restrictive Covenants.

H. B. Landoe
H. B. Landoe

Helen M. Landoe
Helen M. Landoe

F. Delbrook Lichtenberg
F. Delbrook Lichtenberg

Borghild J. Lichtenberg
Borghild J. Lichtenberg

STATE OF MONTANA)
: ss.
County of Gallatin)

On this 15th day of November, 1974, before me, the undersigned, a Notary Public for the State of Montana, personally appeared H. B. LANDOE and HELEN M. LANDOE, husband and wife, and F. DELBROOK LICHTENBERG and BORGHILD J. LICHTENBERG, husband and wife, known to me to be the persons whose names are subscribed to the within and foregoing Declaration of Reservations and Restrictive Covenants for Hyalite Foothills Subdivision, as Developers, and acknowledged to me that they executed the same.

Paul Shaw
Notary Public for the State of Montana.
Residing at Bozeman, Montana.
My Commission expires April 5, 1975.



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PLATTED

State of Montana } ss.
County of Gallatin }
Filed February 3, 19 75
at 3:30 P.M., and
Recorded in book 27 of
Miscellaneous Page 723

CARL L. STUCKY
County Clerk & Recorder
By Alta Haugen
Deputy

Fee \$ 10:00
Landoe & Gery

Sections 10 & 15
T38
R5E

\$10.00 pd RT: Michele G. Stinnett 203595

INDEXED
PLATE

FILM 107 PAGE 4791

9601 Meadowlark, BZN
State of Mont., County of Gallatin, ss Filed for record

October 10th, 1989

at 2:35 P. M., and recorded in Book 107 of MISCELLANEOUS page 4791

Shelley M. Cheney Recorder. By *Sandra A. Janned* Deputy

DECLARATION OF THE MODIFICATION
OF THE DECLARATION OF RESERVATIONS AND RESTRICTIVE
COVENANTS OF HYALITE FOOTHILLS SUBDIVISION

WHEREAS, certain reservations and restrictive covenants were executed on the 15th day of November, 1974, by H.B. Landoe, Helen M. Landoe, husband and wife and F. Delbrook Lichtenberg, as developers, said declaration of reservations and restrictive covenants for said subdivision was filed on the 3rd day of February, 1975, at 3:30 o'clock p.m. and recorded in Book 27, Miscellaneous, page 723 on said date;

WHEREAS, said restrictive covenants has an expiration date of November 30, 1979 and on November 28, 1979 the members of the board of Hyalite Foothills Subdivision No. 1 and 2 Homeowners Association declared that the board shall have the power to enforce and extend the restrictive covenants pursuant to the modification of the declaration of reservation and covenants filed for record on November 29, 1979 at 4:35 p.m. at Film 35 of Miscellaneous, Page 2302, records of Gallatin County;

NOW, THEREFORE, under V of the Declaration of Reservations and Restrictive Covenants of Hyalite Foothills Subdivision and the modification filed for record on November 29, 1979, the undersigned being all of the members of the Board of Hyalite Foothills Subdivision No. 1 and 2 Homeowners Association herein declare:

That the restrictive covenants hereinbefore referred to as established, declared, and prescribed to run with the land and to

be binding upon all parties and all persons owning estates or tracts in Hyalite Foothills Subdivision, or claiming under them are hereby extended for consecutive ten (10) year periods in perpetuity.

DATED this 2nd day of October, 1989.

Michele H. Stinnett
Michele Stinnett

Joannah Hill
Joannah Hill

Bernard Jones
Bernard Jones

Frank Armknecht
Frank Armknecht

Dennis L. Silbernagel
Dennis Silbernagel

STATE OF MONTANA)
 : ss.
County of Gallatin)

On this 2nd day of October, 1989, before me, a Notary Public in and for said State, personally appeared MICHELE STINNETT, JOANNAH HILL, BERNARD JONES, FRANK ARMKNECHT, and DENNIS SILBERNAGEL, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.



Duane L. Baugh

Notary Public for the State of Montana.
Residing at Bozeman, Montana.
My commission expires: 2-7-90