

RUBY MOUNTAIN RANCHES NORTH PROTECTIVE COVENANTS

**DECLARATIONS AND CONFIRMATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION is made this _____ day of _____, 2021 by The Smith Unit, Inc., hereinafter referred to as the “Declarant”.

WHEREAS, Declarant is the owner of that certain real property more particularly described and shown on Certificate of Survey No. ____, and recorded in the records of Beaverhead County, Montana. Such property shall be known as “Ruby Mountain Ranches North.” Declarant intends to sell, dispose of and convey the lots delineated on said survey and desires to subject all of said lots to the protective covenants, conditions and restrictions and reservations hereinafter set forth and referred to as covenants.

THE LOTS COVERED UNDER THIS DECLARATION ARE AS FOLLOWS:

Lots 1 through 6, excepting the west 100 acres of Lot 1

herein after referred to as “the Property.” See Exhibit A.

NOW THEREFORE, Declarant hereby establishes, dedicates, publishes, imposes and declares that all the Property is and shall be held and conveyed upon and subject to the covenants, conditions, and restrictions hereinafter set forth. These covenants, conditions and restrictions shall run with the land and shall be binding upon all persons having any right, title, or interest in the Property or in any part thereof, their heirs, successors and assigns, and shall apply to each present and future Owner thereof. These covenants shall be for the purpose of maintaining a uniform and stable value, character, use and development of the premises and to all improvements placed or erected thereon.

ARTICLE I: DEFINITIONS

Whenever used in this Declaration, the following terms shall have the following meaning:

1. “Animal Unit” shall mean one (1) cow, one (1) horse, five (5) sheep, or five (5) goats each with offspring up to one (1) year in age. Equivalentents for non-listed animals to be determined by the Association.
2. “Auxiliary Structure” shall mean one (1) barn or one (1) shop not to be larger than 6000 square feet each.
3. “Declarant” shall mean The Smith Unit, Inc., its heirs, successors and assigns.
4. “Immediate Family” shall mean an Owner’s or Occupant’s partner and children.
5. “Lot” shall mean any numbered parcel of land shown by the recorded survey of the Property.
6. “Member(s)” shall mean all Lot Owners who are members of the Association and who are required to abide and be bound by these covenants, and any future By-Laws and Resolutions of the Association.

7. "Mobile Home" shall mean a manufactured home, or transportable structure designed for long term residential occupancy to be used with or without a permanent foundation as a dwelling unit when connected to sanitary facilities.
8. "Occupant" shall mean a person or persons, other than the Owner, in possession of a Lot.
9. "Owner" shall mean the record owner, whether one or more persons or entities of a fee simple title to any Lot situated upon said Property, or a contract purchaser if the record owner retains title merely to secure an obligation. An Owner does not include those having any interest merely as security for the performance of an obligation to a mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
10. "Property" or "the Property" shall mean and refer to the above described real property and such additions thereto.
11. "Roadway" means any road or other thoroughfare as shown on the subdivision plat of the Property.
12. "May" is permissive.
13. "Shall" is mandatory.

ARTICLE II: HOMEOWNERS ASSOCIATION

It is the intention of the undersigned that the Association herein be formed and be called Ruby Mountain Ranches North Homeowners Association, but for convenience shall be referred to in the Declaration as the "Association".

1. **Association:** The Association shall be formed by the Declarant and membership therein shall be transferred from the Declarant to purchasers of Lots within the Property. The purpose of the Association is to care for, protect, and maintain the Roadways; to enforce the provisions of the Covenants; to fix and levy assessments on the Lots, and to collect those assessments, in order to obtain funds with which to carry out the duties and obligations of the Association under the Covenants; and any other matters which may serve the development of the individual Lots therein.
2. **Membership:** Every Owner of a Lot in Ruby Mountain Ranches North shall be a member of the Association and such membership shall be mandatory for every Lot Owner. Every person or entity who is the owner of fee title or equitable title in a Lot or living unity, or who is subject to an assessment, either present or future, by the Association, pursuant to the provisions of any instrument relating to such assessment, shall automatically become a Member of the Association.
3. **Voting:** Members shall be entitled to one vote for each Lot in which they hold the interest required for membership. When more than one person or entity holds such interest, such entities or persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot on any one issue. A majority vote shall consist of 75% of Members.

ARTICLE III: ASSESSMENTS

1. Maintenance of Lots: The maintenance, repair and replacement of all improvements, including, but not limited to landscaping and structures, on each Lot shall be the responsibility of the Owner or Occupant of such Lot, and not the Association. All Roadways are to be graveled, plowed, and graded by the Association, however, all driveways leading from the Roadways to a Lot or an improvement thereon shall be maintained entirely by the Owner or Occupant of said Lot and at the Owner's or Occupant's expense.
2. Primary Access to Lots: The primary access to all Lots will be gained from a permanent easement road delineated on the subdivision plat and constructed as a 60-foot right of way for ingress and egress. See Exhibit A.
3. Creation of the Lien and Personal Obligation of Assessments: Each Owner of a Lot, by acceptance of a deed granting the Owner title to the Lot, whether or not it shall be so expressed in such deed, is deemed to covenant, consent and agree to pay the Association for the assessments levied for the following activities:
 - a. Roadway Maintenance;
 - b. Snow Removal from Roadway;
 - c. Collection and Enforcement Costs; and
 - d. Legal and Accounting Expenses.

The Association does not need to obtain the Owners' approval of an annual assessment or special assessment levied to pay the following costs: routine maintenance and repair of the Roadways regardless of each Owner's use; premiums for insurance policies which in the judgment of the Association are prudent or necessary for the Association to purchases; and the maintenance of a reasonable allowance for contingencies and reserves. For purposes of this section "routine maintenance and repair" shall include, but not be limited to: grading, graveling, filling potholes, snow removal, dust suppression, prevention of erosion and runoff, and the repair or replacement of existing elements of the Roadways. The assessments levied on a Lot, together with accrued interest and late charges on unpaid assessments, will be a personal obligation of the Lot's Owner.

4. Notice: Notice of the assessment and the amount thereof, shall be served on all Owners by mailing a copy of the same to the Owners at their addresses of record at least thirty (30) days prior to the due date for such assessment
5. Effect of Nonpayment of Assessments: Liens and Foreclosures:
 - a. All assessments that are not paid within thirty (30) days from the date they are due and payable become delinquent and shall bear interest from the due date at a rate of ten percent (10%) per annum.
 - b. Upon the mailing of the notice of the assessment to the Owner, all sums assessed, but unpaid, chargeable to any Lot shall constitute a lien on such Lot superior to all other liens and encumbrances, except for tax liens on the Lot in favor of any assessing authority, and all sums unpaid on a first mortgage or a first trust indenture of record. To evidence such lien, the Association shall prepare a written notice of lien setting forth the amount of such unpaid indebtedness, the amount of accrued interest and late charges thereon, the name of the Owner of the Lot and a description of the Lot. Such notice shall be signed and

verified by one of the Association members or its authorized agent, and shall be recorded in the office of the Clerk and Recorder of the Beaverhead County, Montana. Such lien shall attach from the date of the recording of such notice of lien. The lien may be enforced by the Association through the foreclosure of the defaulting Owner's Lot in the manner set forth under Montana Law.

- c. No Owner may waive or otherwise escape liability for the assessments provided herein by non-use of the Roadway or abandonment of the Lot.

ARTICLE IV: RESIDENTIAL LAND USE REGULATIONS

1. **Residential Use:** The Lots that make up the Property are available to accommodate private, single residential dwellings only. The Owner or Occupant of a Lot may engage in business activities on that Lot, provided that the Owner or Occupant is occupying the residential dwelling on the Lot as his or her residence, and the business activities are carried on inside the residential dwelling. In connection with the business activities, there will be no on-premise sales of products, no generation of pedestrian or vehicular traffic beyond that customary or incidental to residential use, no employees who do not reside on the premises, no signs or structures advertising the occupation, and no excessive or unsightly storage of materials and/or supplies. To the extent that an Owner or Occupant of a Lot is involved in commercial trucking, excavating or construction, no semi-trucks, heavy equipment, drilling rigs, trailers, construction trailers, inventory or stockpile of building materials, including, but not limited to, lumber, pipe, wire, steel or other materials not intended for incorporation into improvements presently and actively being constructed on the Lot, shall not be kept, stored or maintained on the Lot.
2. **Subdivision:** Each Lot may not be further subdivided with the exception of Lot 2, which may be subdivided one time creating one parcel up to five acres. The resulting parcel shall be subject to these covenants excepting any assessments levied for Roadways.
3. **Restrictions on the Number of Buildings on a Lot:** In addition to one (1) single family residential dwelling, Owners will be allowed to construct one (1) Auxiliary Structure. A detached garage for only the storage of vehicles will not be included in the definition of Auxiliary Structure and will be allowed.
4. **Restrictions on the Construction of Buildings:** All buildings (including the residential dwelling, detached garage, and Auxiliary Structure) must comply with the following requirements:
 - a. No residential dwelling less than 1200 square feet will be allowed.
 - b. No detached garage larger than 3000 square feet will be allowed.
 - c. All buildings shall be sided with either wood, stone, stucco, metal, engineered siding, or brick building materials and the consideration of terrain should be taken into consideration when designing the buildings. Vinyl siding is expressly prohibited.
 - d. All roofs shall be a muted color. No red, blue, or other bright color is allowed. Metal roofs are allowed.

- e. No building may be constructed of tar paper, straw, asbestos, or cinder block materials. No mobile homes or double-wide homes may be placed on a Lot.
 - f. Modular homes are allowed provided that the modular home is placed on a permanent foundation.
 - g. No temporary structures are allowed on any Lot except during the construction phase.
5. Time for Construction: All construction, including but not limited to, the construction of any residential dwelling, detached garage, or Auxiliary Structure, must be completed within two (2) years of breaking ground on construction.
 6. Restrictions on External Lights: All external lights must shine directly down on the ground and be attached to the residential dwelling, detached garage, or Auxiliary Structure and may not be yard lights that illuminate more than the immediate vicinity of the residential dwelling, detached garage, or Auxiliary Structure.
 7. Requirements for Utilities: Any propane tanks placed on a Lot must be buried. Personal windmills are allowed, but cannot exceed thirty (30) feet in height. Personal solar panels are allowed through rooftop installations or ground bank installations.
 8. Restriction on Cell Towers: No cell towers, antennas, or communication structures are allowed on any Lot with the exception of personal satellite or dish installations smaller than 50 inches in diameter as long as such satellite or dish is installed on a building.

ARTICLE V: ADDITIONAL PROTECTIVE COVENANTS

1. Neighboring Farming: Owners or Occupants of any Lot must understand and be aware that neighboring adjacent uses are likely to be agricultural or farming in nature. Owners and Occupants accept and acknowledge that standard practices from such usage may result in dust, smoke, animal odors and noise, flies and machinery odors and noise. All fences bordering agricultural lands shall be maintained by the Owner or Occupant in accordance with Montana Law.
2. Maintenance:
 - a. No garbage, trash, manure, unsightly debris, organic or inorganic waste will be permitted by an Owner or Occupant to accumulate on any Lot, adjacent Lot, or roadway. All such waste will be made unavailable to animals and disposed of promptly and efficiently by the Owner or Occupant at the Owner's or Occupant's expense. No Owners or Occupants shall use vacant lands or Lots as dumping grounds or burial pits. No Owner or Occupant can allow the collection of unlicensed vehicles, or inoperable vehicles on their Lot. The storage of firewood will not be considered a violation of this section if the firewood is neatly stacked. All garbage must be kept in containers and/or bags which prevent the escape of noxious odors.
 - b. Owners and Occupants shall maintain the improvements on their Lots, and the appearance thereof, in good repair and condition at all times.
 - c. Fire hazards must be controlled and weeds must be controlled. If damage occurs through the negligent act of an Owner, members of their family, Occupants, guests, invitees,

employees, or agents, then such Owner shall be responsible and liable for all related damages. Lack of maintenance, lack of weed control, accumulation of garbage, refuse, manure, debris, or unsightly materials by an Owner or Occupant can result in forcing the Association to maintain and clean up the Owner's Lot. The assessment of costs shall be at the sole expense of the negligent Owner and if the assessment is not paid within thirty (30) days of the mailing of the notice, the Lot in question shall be subject to a lien and all related penalties and costs as provided in Article III.

3. Noxious or Offensive Activities/Quiet Enjoyment: No Owner or Occupant shall cause or allow the origination of excessive odors, sounds or lights from his or her Lot, or cause any other nuisance of any kind whatsoever to exist on his or her Lot. No sound shall be produced upon any Lot or any other portion of the Property that is unreasonable loud or annoying.
4. Mining, Quarrying, Excavation, Oil Drilling or Development: The extraction or drilling of oil and gas shall be allowed. No mining, quarrying, excavation, or development of any kind shall be allowed in or on the Owner's Lot.
5. Fences: Each Owner or Occupant of a Lot shall be responsible for any fencing on the Lot. No plastic fencing materials are allowed. All newly constructed fencing on the Lot shall be constructed so as to conform as much as possible to the natural surroundings and other improvements on the Lot and shall be wildlife friendly to the extent that it also contains livestock or domestic pets as needed. Temporary snow fences are allowed.
6. Weed Control: Each Owner or Occupant must prevent noxious weeds from growing and propagating on the Owner's Lot, must re-vegetate any areas disturbed by construction or maintenance with beneficial species as soon as the construction or maintenance is completed, and must comply with all applicable Montana and Beaverhead County weed control requirements.
7. Roadways: The Roadways shown on the subdivision plat shall be maintained by the Association. Maintenance and snow removal expenses for the Roadways shall be shared equally by the Owners of the Lots. The assessments specified in Article III shall be utilized to pay for the road maintenance. As used herein, maintenance or upkeep shall include periodic grading, graveling, snow plowing, annual mowing of vegetation adjacent to either side, and weed control on either side of the Roadway. No gate or any other obstruction shall be placed over or across the Roadways. There is no obligation of the Association or the Declarant to maintain or plow any private driveways, it is understood that each Owner or Occupant is responsible solely for the construction and maintenance of private driveways off of the Roadway.
8. Hunting and the Use of Firearms: The Owner or Occupant of each Lot, including the Owner's or Occupant's Immediate Family, is permitted to hunt and use a firearm, bow and arrow, crossbow, slingshot, or any other device on their Lot in accordance with the State of Montana's Laws and Regulations. The Owner or Occupant of each Lot may not invite guests to use their Lot for hunting purposes.
9. Signs. No signs of any kind shall be erected on a Lot except as follows. Each Owner of a Lot may erect a sign on the Lot with the street number and/or the Owner's name. Such signs may not

exceed three square feet in size. Each Owner of a Lot may erect a “for sale” sign on the Lot. Such sign may not exceed five square feet in size. All signs must be consistent with the scenic nature of the Lot.

10. Recreational Vehicles and Personal Belongings and Equipment: Boats, trailers, snowmobiles, motorcycles, ATV’s and other recreational equipment, personal belongings and equipment shall not be stored in plain view on any Lot. An area screened by landscaping, fencing, or structures will be necessary to store recreational vehicles. Under no circumstances may a recreational vehicle be utilized to the extent that it becomes a nuisance to other Owners or Occupants. No recreational vehicle may be stored on a parcel prior to the completion of a residential dwelling and may not be used for longer than twenty-one (21) days during a calendar year prior to completion of a residential dwelling.
11. Domestic Animals: Domestic animals are allowed on all Lots. No snakes, game, bird, fowl, exotic animals or other animals not commonly recognized as a domesticated pet shall be maintained on a Lot. Chickens will be allowed in small numbers for personal consumption or personal egg production. Any commercial dog kennels or sled dog kennels are expressly prohibited. Owners and Occupants of Lots will not permit their pets to disturb their neighbors or create a nuisance, including but not limited to repeated barking, disturbance of plants and planting areas, unsolicited contact with people, and chasing of wild animals or ranch livestock. All pets must be under control of their owner at all times and must be on a leash when off of the Lot owned or occupied by their owner. Domestic animals that have been subject of Owners’ complaints, excessive barking, or that have chased wildlife may be declared a nuisance animal and shall have to be relocated by the Owner.
12. Large Livestock and Pasture Management: There shall be no overgrazing of any Lot which may cause dust, erosion, and visual impacts to other Lot Owners. There shall be no more than eight (8) Animal Units on a Lot annually. Declarant strongly suggests aggressive pasture management, with stock rotation, and dry lot plan as to preserve the native grass species and reduce impact.

ARTICLE VI: ENFORCEMENT, DURATION, AMENDMENT, VIOLATION, WAIVER AND CONDITIONS

1. Violations: In the event of violation or threatened violation of any of the provisions of these covenants, or additional covenants adopted pursuant to the terms of these covenants, legal proceedings may be brought in a court of law or equity for injunction, relief and damages
2. Enforcement:
 - a. Enforcement of the provisions of these covenants shall be by proceedings at law or equity against any person or Owners or Occupants violating or attempting to violate any provision, covenant, condition or restriction either to restrain any such violation or to recover damages therefore, and may be brought by a damaged Owner, the Association, or the Declarant, and any party who shall prosecute an action successfully, whether wholly or partially, may recover any damages resulting from such violation. It is expressly understood by all Owners

- purchasing a Lot in the Property that if an action is successfully, whether wholly or partially, brought for a violation of these covenants, that reasonable attorney's fees and costs associated with enforcing these covenants shall be assessed against said offending Owner, in addition to any other remedies or damages provided pursuant to Montana Law.
- b. Failure by the Declarant, the Association, or any other Owner to enforce any provision of these covenants contained herein shall in no event be deemed a waiver or in any way prejudice the rights to later enforce that covenant, or any other covenant thereafter, or to collect damages for any subsequent breach of the covenants.
 - c. The waiver or approval of a variance of a covenant, or non-action of the Association or the Declarant in the event of a violation of a covenant by a particular Owner or Occupant, shall not be deemed to delete or waive the covenant or enforcement thereof as it pertains to other Owners or Occupant.
3. Duration of Covenants: All of the covenants as set forth herein shall continue and remain in full force and effect at all times against the Property and the Owners thereof, subject to the right of amendment or modification provided for in this Article for a term of twenty (20) years, after which time they shall be automatically extended for successive periods of ten (10) years unless revoked or terminated by a recorded Declaration that has been signed by the Owners of seventy-five percent (75%) of the Lots.
 4. Conveyance: In any conveyance of the Property or Lot located thereon, it shall be sufficient to insert a provision in any deed, or conveyance, to the effect that the Lot is subject to these covenants without setting forth said covenants verbatim or in substance in said deed nor referring to the recording date.
 5. Binding Effect: It is agreed and understood by the parties hereto that these covenants shall be binding upon and inure to the benefit of, and be enforceable by the Declarant, the Association and the Owners, their heirs, assigns, and personal representatives and successors-in-interest. These Covenants shall be binding upon and inure to the benefit of any subsequent owner whose titles thereto was acquired by foreclosure, trustee sale or otherwise.
 6. Occupants: All Occupants that will occupy and hold their interest in a Lot subject to the terms and conditions of these covenants and all leases granted by Owners to Occupants will be subordinate and subject to the terms of these Covenants.
 7. Amendment: This Declaration may be changed or amended, or additional covenants added, by the Declarant or the Association upon approval of seventy-five (75%) of the votes of the Members of the Association at a meeting duly noticed and called for that purpose.
 8. Attorney Fees: An Owner who fails to abide by these covenants shall be liable for any attorney fees or costs incurred by the Association.
 9. Waiver: No waiver of any provision of this Declaration will be valid or binding unless the waiver is in writing, signed by the Association, Declarant, or the Owner waiving the provision.
 10. Interpretation to Support Validity: If any provision of this Declaration can be interpreted in two ways, one of which would render the provision valid and the other of which would render the provision invalid, the provision will be interpreted in the manner which would render it valid.

11. Severability of Invalid Provisions: If any provision of this Declaration is declared or becomes invalid, unenforceable, or contrary to law, the provision will be considered severed from the remaining provisions of this Declaration and will not affect the validity, legality, or enforceability of the other provisions of this Declaration, and this Declaration will be interpreted as if it never contained the provision.
12. Applicable Law: This Declaration will be governed by and construed in accordance with the laws of the State of Montana.

DATED this _____ day of _____, 2021.

THE SMITH UNIT, INC.

Its President