

Return to:  
Twin Oaks Corporation  
175 N. 27<sup>th</sup> St., Suite 900  
Billings, MT 59101



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## **DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS**

WHEREAS, THE UNDERSIGNED is the owner of the following described real property located in the City of Billings, Yellowstone County, Montana, to-witt:

**All of Twin Oaks Subdivision, Phase I , City of Billings, Yellowstone County, Montana, according to the plat on record a the office of the County Clerk and Recorder of Yellowstone County, Montana.**

Whereas, the undersigned desire to place building restrictions and protective covenants on the above described premises:

Now, therefore, in consideration of the premises, the undersigned hereby establish and declare the following restrictions and protective covenants which shall be applicable to all of the above described real estate unless otherwise stated below.

### **1. LOTS AFFECTED AND PERSONS BOUND**

The above and described lots constituting all the lots in Twin Oaks Subdivision, Phase I, Lot 1, Block 1; Lots 29 through 46, inclusive, Block 1; Lots 1 through 28, inclusive, Block 2; and Lots 1 through 8, Block 3, according to the aforesaid plat thereof filed in the office of the County Clerk of Yellowstone County, Montana shall be subject to these covenants and restrictions and said covenants and restrictions shall be for the benefit of the present owners of said lots, their heirs, executors, administrators, successors and assigns.

- 1.1 All present and subsequent owners shall be held to agree and covenant each with the other and with their heirs, executors, administrators, successors and assigns, to conform to and observe the herein set forth covenants restrictions and stipulations affecting the use of said lots and the construction of dwellings and improvements thereon.



## 2. DEFINITIONS

As used herein, certain terms and words are defined as follow:

- 2.1 Accessory Building: A garage or permanent or portable storage shed which is accessory to main Dwelling Unit.
- 2.2 Commercial Use: The wholesale or retail sale or rental of goods, as well as the providing of any service for which there is a charge or fee, but excluding Home Occupations (defined below), and the sale of lots or homes located within Twin Oaks Subdivision.
- 2.3 Concept Development Plan: The Twin Oaks Subdivision was built using a "coved" design. In a coved subdivision, several of the physical characteristics of the property must be tightly controlled in order to attain the desired result of building a coved community. These variables consist of non-standard setback lines, customized placement of public sidewalks on each Lot, and predetermined locations of the driveway aprons. A copy of the overall Concept Development Plan is available by contacting the Twin Oaks Architectural Review Board.
- 2.4 Twin Oaks Architectural Review Board: Composed of the Board of Directors of the Twin Oaks Corporation. The Board was created to ensure all site location plans, construction drawings, specifications, and proposed dwellings coincide with the Concept Development Plan and with these Restrictions and Protective Covenants. The Twin Oaks Architectural Review Board may be contacted at: 175 North 27<sup>th</sup> Street, Suite 900, Billings, Montana 59101. Contact phone number is (406) 248-3641.
- 2.5 Declarant: TWIN OAKS CORPORATION
- 2.6 Dog Kennels: Dog kennels are not permitted.
- 2.7 Dwelling Unit: A structure or portion thereof, designed for use as permanent living quarters, having sleeping, cooking and complete sanitary facilities. (Allowable Dwelling units in Twin Oaks Subdivision are further defined as Site Built or Modular Home. Manufactured, Mobile, and Move on Homes are not allowable Dwelling Units as defined herein.)
- 2.8 Home Occupation: Any occupational use customarily conducted entirely within a Dwelling Unit by the inhabitants thereof, which is clearly incidental and secondary to the use of the Dwelling Unit as living quarters and in connection with which there are: no commercial manufacturing of goods or products on the premises; no on-site employment of person other than the residents of the Dwelling Unit; no generation of pedestrian or vehicle traffic beyond that customary and incidental to Residential Use of the Dwelling Unit; no use of



commercial vehicles for deliveries to or from the Dwelling Unit other than mail and package delivery services; no Signs or Structures advertising the occupation; and no excessive or unsightly storage of materials or supplies. For guidance, the following uses are examples of Home Occupations: making clothing, giving music lessons, a sole practitioner for professional practice, such as accounting. The operation of a bed and breakfast inn or establishment is not a Home Occupation.

- 2.9 Improvement: Any Dwelling Unit, Accessory Building, fence, road, driveway, well, water line, sewer, drain field, utility, antenna, sign, or and other Structure, whether above or below the surface.
- 2.10 Junk Vehicle(s): Any motor vehicle not in running condition or that is unlicensed or unregistered.
- 2.11 Lot: Any plat of land designated numerically and shown upon any recorded subdivision map of the property.
- 2.12 May: Permissive.
- 2.13 Manufactured Home or Mobile Home: Factory assembled structure or structures, equipped with the service connections necessary to be used as a dwelling unit, and constructed to be readily moveable as a unit or units either on its own running gear or other system. The construction of these units is regulated by the federal Manufactured Housing Construction and Safety Standards Act as determined by the Department of Housing and Urban Development (HUD), and the units are not constructed in accordance with the standards set forth in the Uniform Building Code, or International Residential/Building Code.
- 2.14 Move-on Home: Existing, older home that was either partially or wholly de-constructed in order to be moved and reassembled at a new location.
- 2.15 Modular Home: A new dwelling unit constructed in accordance with the standards set forth in the International Residential/Building Code and bearing the insignia of the state, applicable to site-built homes, and composed of components assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.
- 2.16 Owner: The legal title holders or contract purchasers whether one or more persons or entities, owning or purchasing a fee simple title to a Lot and shall include the purchaser under a contract for deed. Owner does not mean those persons or entities having an interest merely as security for the performance of an obligation; provided, however, that prior to the first conveyance of a lot for value, Owner shall mean the Declarant. Prior to such conveyance or contract sale, the Declarant shall have the right to retain such rights incidental to ownership hereunder as it may desire at its discretion.



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- 2.17 Property or Properties: That certain real property hereinbefore described tighter with such additional real property as may be subject to these Protective Covenants by subsequent declaration.
- 2.18 Replacement Home: A dwelling designed primarily for human occupancy which is located on a permanent foundation within the subdivision to replace, supplement, supersede or restore a pre-existing dwelling that has been rendered uninhabitable because of fire, earth quake or other man-made or natural occurrence that, in the opinion of the local building renders the Dwelling uninhabitable and unfit for human habitation.
- 2.19 Residential Use: The occupying of Dwelling Unit for living purposes.
- 2.20 Setbacks: The horizontal distance required between and Structure and the center of a road, lot line, live source of water or stream. This distance is to be measured at right angles to the road, property line, live source of water or stream.
- 2.21 Shall: Mandatory
- 2.22 Sign: Any man-made structure, object, device, or part thereof, situated out of doors, or prominently visible from the outside the structure in which it is situated, which identifies, advertises, displays or otherwise attracts attention of either itself or some other object, person, institution, organization, business, product, service, event, activity, location, thing or happening of whatever nature, by any means, including words, letters, numerals, figures, designs, symbols, fixture, colors, mottos, illumination, projection, contrast, conspicuous and the like.
- 2.23 Site Built Home: A new dwelling unit that is constructed in accordance with the standards set forth in the International Residential/Building Code and bearing the insignia of the state and that has 85% or more of the unit constructed in the lot where construction materials are delivered and are assembled on a permanent foundation.
- 2.24 Single Family: One or more persons living together as a single non-profit house-keeping unit, as distinguished from a group occupying a hotel, motel, club, fraternity or sorority, commune and the like.
- 2.25 Structure: Any above-ground man-made improvement to real property.
- 2.26 Subdivision: Twin Oaks Subdivision, Phase I, as shown on the plat recorded in the Office of the Clerk and Recorder, Yellowstone County, Montana.



### 3. GENERAL PROVISIONS

#### Declaration.

- 3.1 Declarant hereby establishes that all of the foregoing real property is and shall be conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred subject to the Declaration of Protective Covenants.
- 3.2 All of the covenants, conditions and restrictions set forth herein are referenced to ensure the best use and most appropriate development of the real property to protect the Owner of Lots against improper use of surrounding lots such as would depreciate the value of the real Property; to preserve, insofar as is practical, the natural beauty of the real Property; to provide for the highest and best use and development of the real Property and to encourage and secure the orderly development of said real Property.
- 3.3 All of the covenants, conditions and restrictions herein contained shall run with the real Property for all purposes and shall be binding upon and inure to the benefit of Declarant, and all Lot Owners, occupants, and their successors-in-interest as set forth herein.

### 4. PROPERTY RIGHTS AND EASEMENTS

- 4.1 Utility Easement(s): Easements for drainage, electricity, telephone, lighting, water, sewer, cable television and other utilities, or any other service or utility as more particularly set forth on the plat of Twin Oaks Subdivision, shall be and hereby are reserved.
- 4.2 Mail Delivery. United States Postal Service mail delivery will be made to centralized delivery locations. The general location of each centralized delivery location is indicated on the preliminary plat. Sub divider shall install the centralized boxes within the Private Contracts for each Phase.
- 4.3 Off-Street Parking: Each Lot shall provide two (2) Concrete off-street driveway-type parking places, which shall extend from the paved street to the entrance of the garage. No gravel or asphalt driveways or parking pads shall be permitted.

### 5. MINIMUM RESTRICTIONS ON BUILDING

- 5.1 Each lot, as above described, in said subdivision, shall be known as a residential lot and shall be used solely for residential purposes.
- 5.2 No structure shall be erected, altered, placed or permitted upon any such residential lot, other than one detached single family dwelling not to exceed two stories in height and a private attached garage for a minimum of one car, but not



more than two cars; provided, however, that a room may be built over an attached garage, but in any case the roof pitch of the main part of the house and garage shall not be less than 6 inches rise to the foot nor exceed 12 inches rise to the foot.

(A) Satellite Dishes and Television Antennas: All satellite systems, wireless DSL connections, or antennae of any kind, must meet the requirement of all applicable building codes and FCC regulations. Lot owners are encouraged to place satellite dishes and television antennas so as to be least obtrusive to adjoining lots.

(B) No basement or portion thereof shall be converted or made into an apartment to be used for rental purposes.

(C) No lot shall be subdivided for the purpose of constructing more than one dwelling on any lot as platted, and each dwelling shall be located on a building site having at least an area equal to the area of the lot, as platted, on which the dwelling is located.

5.2 No trailer, basement, tent, shack, garage or other outbuilding erected on said lots shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence. Additionally, the exterior of any building shall be finished in its entirety before it can be occupied.

5.3 All dwelling units constructed on the lots shall be site-built or modular homes and shall have a minimum of floor space enclosed within the perimeter of the exterior walls as follows:

(A.) In the case of a one-story dwelling, a minimum of 1150 square feet of floor space, and in the case of a two-story dwelling, a minimum of 900 square feet on the main level.

The minimum square footage must be at or above grade, excluding basements, garages, porches, patios, basements, terraces, and decks.

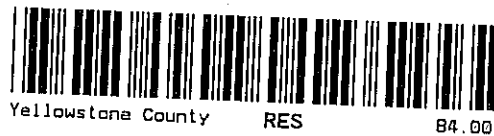
5.4 No construction equipment or materials of any nature may be moved onto a lot until within 30 days of the start of construction, and the dwelling shall have its exterior completed within one year from the time of starting.

5.5 All dwellings must be placed on a permanent foundation, and construction must comply with the International Residential Code and all applicable City of Billings building and zoning requirements.

5.6 All concrete structures and steps that protrude over three feet above the finished grade shall be placed on a footing.



- 5.7 Sidewalks: All sidewalks designed for Fire Department access within the Subdivision Parks and sidewalks in the Parks, shall be installed within the Private Contract for Twin Oaks Subdivision, Phase I. The balance of all sidewalks within the Subdivision shall be four-foot wide boulevard style, and shall be placed at the time that dwelling units are constructed on the lots, and shall be included in each building permit, in conformance with the overall concept development plan. Public Easements are provided on the Plat for locations where the boulevard walk is located upon private property. Subdivider will install, within the private contract, corner intersection handicap ramps and aprons, where required for the sidewalk development plan, and will grade all street frontages for the boulevard sidewalk finish grade.
- 5.8 Private driveways: All private driveways within the Subdivision shall be installed in conformance with the overall concept development plan. Driveways shall be located in the same location as show on the concept development plan. Any variation in the location of the Driveway must be approved in writing by the Twin Oaks Architectural Review Board, and any cost associated with the movement of the driveway location will be the responsibility of the Lot owner. Construction specifications for the driveway shall meet all applicable City of Billings requirements.
- 5.9 The exterior siding of all residential and outbuilding structures shall consist of wood, wood products or wood look-alike products, cement board siding, brick, stone, simulated stone, or select vinyl building materials approved by the Architectural Review Committee. Stucco or EFIS with a smooth or roughcast (pebble) finish, is also permitted upon approval. No sheet or panel metal siding, cement block, or panel siding similar to T1-11 siding or plywood sheet siding is permitted. All facades of a building shall be made of the same materials and similarly detailed.
- 5.10 Roofs shall be covered with shakes, tiles or shingles, and no rolled roofing or metal roofing shall be allowed. No triple tab shingles will be allowed. Exposed aluminum or silver flashing around chimneys or roof valleys shall not be allowed unless colored, textured or painted to match or complement the roof design and color. Rain gutters are allowed, provided the same are colored to match the trim or color of the roof. Steel galvanized gutters are not permitted.
- 5.11 The exterior colors of all structures shall be traditional colors, earth tones, pastels, white or wood colors. No bright or shiny colors on exterior siding shall be allowed. For example, bright oranges, royal blues, pinks, purple, and like bright colors are not allowed. Lot owners shall have written approval of the exterior color before the exterior siding material is installed on the dwelling unit.
- 5.12 No Mobile Homes, Manufactured Homes, or Move On Homes shall be allowed, and all construction shall be new Modular or Site-Built Homes.



- 5.13 Building Orientation: The front of the dwelling unit must be placed on the required front yard setback line and be constructed parallel to the front yard set back line, as shown on the Concept Development Plan. The garage location of the dwelling unit must take the location of the driveway into consideration at the time the plans are submitted to the Architectural Control Committee. The driveway locations for each lot have been predetermined.
- 5.14 No building shall be erected, placed, or altered on any lot in Twin Oaks Subdivision, until construction plan and specifications, and the site location plan have been approved by the Architectural Control Committee as to the quality of materials, harmony of external design with existing structures, and location of structures with respect to topography and finished grade elevations. Approval shall be granted pursuant to the standards contained in the Concept Development Plan and in these restrictions and protective covenants at the time an application for approval is submitted.
- 5.15 The Architectural Control Committee referenced above in Paragraph 2.3, 2.4, 5.8, 5.9, 5.13, and 5.14 is composed of the Board of Directors and Officers of the Twin Oaks Corporation, of Billings, Montana. Either member(s) of the Committee may designate a representative to act for it or provide advice. In the event of the death or resignation of any member of the Committee, the remaining member(s) shall have full authority to designate a successor or successors. Neither the members of the Committee nor its designated representatives shall be entitled to any compensation for services performed pursuant to the covenant; however, the Committee may offer reasonable compensation to its designee. A reasonable fee commensurate with the cost of this review may be assessed against each lot. The Board of Directors and Officers of Twin Oaks Corporation will remain the only Committee members of the Architectural Control Committee until 100% of the Lots have been sold and all construction plan, specifications, and site location plans have been submitted and approved, at which time the Committee will resign and will not be replaced. The Architectural Control Committee's approval or disapproval, as required in these covenants, shall be in writing. In the event the Committee or its designated representative fails to approve or disapprove within (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.
- 5.16 No Accessory Buildings are allowed on any of the lots in Twin Oaks Subdivision, including yard sheds.
6. SET BACKS

Set Back Requirement: In relationship to front, side and rear lot setbacks, no buildings or other structures shall be located closer to the front, side and rear lot



lines than is permitted in the concept development plan and the City of Billings Zoning Regulations as it may exist at the time of construction.

7. FENCING

Fences of any style are not allowed. Lot Corner demarcation is required as approved by the Twin Oaks Architectural Committee.

8. LANDSCAPING PLANS AND REQUIREMENTS

8.1 Landscape Requirements: Unless exempted by the Architectural Control Committee, lot owners shall, within two (2) months after each residence is completed, plant, maintain, and in case of death or destruction, replace, at least two (2) trees (7) seven feet high, with a minimum of a 2 inch caliper trunks in the front yard of each Lot. In all areas, yards must be planted in lawn or otherwise permanently landscaped within (2) two months after occupancy, if occupied during March, April, May, June, July. Otherwise, the yards must be planted in lawn or otherwise permanently landscaped no later than the first day of June following occupancy.

8.2 Owners are required to establish lawn and other suitable landscaping for their Lot. They shall also mow, irrigate, control noxious weeds and otherwise maintain their Lot so that the landscaping does not detract from the general appearance of the Subdivision.

9. SIGNS

9.1 No permanent outside signs are allowed except for name and address designations. This provision shall not apply to the Developer or to the Community Sign.

10. ILLEGAL OR NOXIOUS USES OR ACTIVITIES

10.1 No illegal, noxious, unsightly or offensive use or activity shall be made of, or carried on, any lot, nor shall any use or activity be permitted which may be, or may become, annoyance or nuisance to adjacent Owners.

11. ANIMALS

11.1 No more than two (2) pets over the age of six (6) months are permitted per dwelling unit. All pets are subject to applicable Animal Control Ordinances.

11.2 Household pets may not be kept, bred or maintained for any commercial purposes. All dogs, cats and other pets shall be strictly controlled by their owners



so as not to annoy or interfere with the use of the properties by the other owners, and shall be prohibited from barking or causing other nuisance, odors or interference with other lot owners. Dogs and cats shall be kept on the owner's own property or on a leash, and shall not be allowed to roam free. Dogs that have a history of aggression toward people or other animals, including but not limited to biting, shall not be permitted in the subdivision. No exotic pets shall be permitted in the subdivision.

- 11.3 In addition to the foregoing restrictions, the following animals are prohibited within the subdivision: horses, mules, donkeys, cows, goats, pigs, sheep, poultry, pigeons or other livestock.

12. JUNK VEHICLES, COMMERCIAL VEHICLES, AND GARBAGE AND REFUSE DISPOSAL.

- 12.1 No junk vehicles, garbage or other refuse shall be stored, dumped or maintained on any of the Lots or real Property covered by these Protective Covenants. The Owner shall be responsible for the proper disposal of all junk vehicles, garbage and other refuse.
- 12.2 All trash containers shall be hidden from view by keeping such containers in garages or an enclosure. No trash container enclosure shall be located on the front of the building. When put out for pick-up, they shall be placed in an animal-proof container.
- 12.3 No burning barrels shall be allowed on the premises.
- 12.4 Commercial vehicles, commercial equipment, or inoperable machinery shall not be parked, stored, or permitted to accumulate on the lots. Machinery, commercial equipment, and construction equipment shall not be parked on streets for a period in excess of twenty-four (24) hours. This provision shall not apply to the Twin Oaks Corporation during construction of the subdivision, and shall not apply to any equipment currently used in construction or improvements on a lot.

13. RECREATIONAL VEHICLES & MOTORHOMES

- 13.1 No pickup camper, camping trailer, snowmobile, boat, trailer, motor home, or any type of vehicle or similar item used for recreational purposes shall be used for habitation, and such vehicle shall not be placed upon a Lot or driveway for a period of longer than thirty (30) days in a calendar.

14. SOIL AND GEOTECHNICAL CONSIDERATIONS.



14.1 Owners of lots within Twin Oaks Subdivision, Phase I shall be advised that in accordance with a geotechnical report prepared from actual drilling and field-testing by Terracon Consultants, Inc., and Rimrock Engineering, there exists the potential for variable soil conditions and the potential for collapsible and/or expandable soils within the Subdivision. Assessment and mitigation, if any, of these conditions shall be the responsibility of the lot owner. The City may require the owner of each lot to include a geotechnical investigation report with the building permit submittal. Twin Oaks Corporation has completed a geotechnical investigation and the findings of the report are on file with the City of Billings Building Department.

15. AMENDMENT

15.1 After 100% of the lots have been sold, this Declaration, or any provision thereof, may be amended or revoked and any additional provisions added at any time, (except those Declarations required under the Subdivision Improvements Agreement dated May 7, 2008 between Twin Oaks Corporation and the City of Billings), by written instrument duly signed and acknowledged by the Owners of record of not less than two-thirds (2/3) of the Lots, and recorded with the Yellowstone County Clerk and Recorder. Until 100% of the lots have been sold, the Board of Directors and Officers of the Twin Oaks Corporation reserves the right to amend or revoke and make any additional provisions at any time, (except those Declarations required under the Subdivision Improvements Agreement.)

15.2 Any amendment or change of this Declaration, or any provision thereof, shall be effective upon the filing and recording of such an instrument in the office of the Yellowstone County Clerk and Recorder.

15.3 Any amendment or change in this Declaration, or any provision thereof, shall not affect existing structures and uses of the lots, provided that such structure or use would have been a valid structure or use under this Declaration of Protective Covenants for Twin Oaks Subdivision, at the time the structure was built or the use commenced.

16. ENFORCEMENT

16.1 Every Owner of a Lot shall have a right to enforce the provisions of these Protective Covenants and to prevent or stop any violation thereof by injunction or other lawful means.

16.2 Every violation of the provisions of these Protective Covenants is hereby declared a nuisance.

16.3 Failure by any Owner of a Lot to enforce any covenant or restriction herein contained shall not be deemed a waiver of the right to do so thereafter.



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16.4 In the event any action is maintained to enforce, enjoin any violation of, or to construe the provisions of these Protective Covenants, the prevailing party shall be entitled to recover from the losing party all damages and costs thereby incurred, including a reasonable attorney's fee.

16.5 The Undersigned shall not be liable to any Owner, or any other person from any loss, damage or injury arising out of or in any way connected with the adoption, implementation, or enforcement of the Protective Covenants, and all Owners hereby waive, release and forever discharge the Undersigned from any liability arising out of, or in any way connected with adoption, implementation or enforcement of these Protective Covenants, and any amendment thereto.

Twin Oaks Corporation, a Montana Corporation, is the owner of 100% of the above described lots.

Dated this 3 day of JULY, 2008.

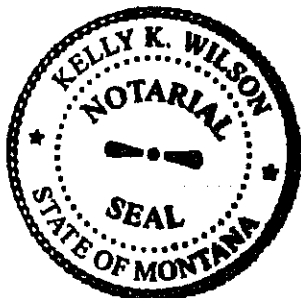
Twin Oaks Corporation, a Montana Corporation,

By: *Gary Oakland*  
Gary Oakland

Its: President

On this 3 day of July, 2008, before me the undersigned Notary Public for the State of Montana, personally appeared Gary Oakland known to me to be the authorized Officer of the Twin Oaks Corporation, a Montana Corporation, that executed the foregoing instrument and acknowledged to me that said Company executed the same.

IN WITNESS WHEREOF, I hereunto set my hand and affixed my Official Seal the day and year in this certificated first above written.



*Kelly Wilson*  
Notary Public of the State of Montana  
Residing at BLES MONTANA  
YELLOWSTONE  
My Commission expires: 7/23/2011  
KELLY K WILSON