

WHEN RECORDED RETURN TO:

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Eric Semerad - Gallatin County, MT MISC



**FIFTH AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS, AND RESTRICTIONS FOR THE LAKES AT VALLEY WEST**

THIS FIFTH AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE LAKES AT VALLEY WEST (“Fifth Amendment to Declaration”) is made effective the 15th day of July, 2020 by The Lakes at Valley West, Bozeman, Two, LLC, Bozeman Investment Holdings, LLC, and KS DevCor, Inc., Inc. (jointly referred to as “Declarant”).

WHEREAS, the Declaration of Protective Covenants, Conditions, and Restrictions for The Lakes at Valley West (“Declaration”) was recorded on October 14, 2015, as Document No. 2527605, as supplemented by the Affidavit of Omission Concerning the Declaration of Protective Covenants, Conditions, and Restrictions for The Lakes at Valley West, recorded on June 20, 2016, as Document No. 2548465, as amended by the First Amendment to the Declaration of Protective Covenants, Conditions, and Restrictions for The Lakes at Valley West (“First Amendment to Declaration”), recorded on April 6, 2017, as Document No. 2576475, as amended by the Second Amendment to the Declaration of Protective Covenants, Conditions, and Restrictions for The Lakes at Valley West (“Second Amendment to Declaration”), recorded on April 17, 2018, as Document No. 2611208, as amended by the Third Amendment to the Declaration of Protective Covenants, Conditions, and Restrictions for The Lakes at Valley West (“Third Amendment to Declaration”), recorded on March 13, 2019, as Document No. 2639849, as amended by the Fourth Amendment to the Declaration of Protective Covenants, Conditions, and Restrictions for The Lakes at Valley West (“Fourth Amendment to Declaration”), recorded on March 11, 2020, as Document No. 2675542, all in the Office of the Clerk and Recorder, Gallatin County, Montana;

WHEREAS, the Declaration, Section 16.2, authorizes the Declarant to amend, modify, add, or delete any provision of the Declaration, in whole or in part, which amendment, modification, addition, or deletion shall be effective upon the recording of the same with the Office of the Clerk and Recorder, Gallatin County, Montana and upon notice being provided of the same to all Members;

WHEREAS, the Declarant desires to amend the Declaration so that it conforms with the development of each phase of The Lakes Subdivision and in order to include those covenants and restrictions that are required by the City of Bozeman, MT for each phase of The Lakes Subdivision;

NOW THEREFORE, THE DECLARANT HEREIN AMENDS, MODIFIES, ADDS, OR DELETES THE DECLARATION AS FOLLOWS (the portion in *italics* shall be added to the Declaration and the portion with a ~~striketrough~~ shall be deleted:

Article XII
Additional Covenants Required by the City

...

12.11. In addition to any other covenants contained in Article XII, the following covenants are required by the City of Bozeman, MT, in order to obtain Final Plat approval for The Lakes at Valley West, Phase 3, Phase 4, Phase 5 (including 5A and 5B), and Phase 6:

12.11.1 Only four (4) Lots in The Lakes at Valley West, Phase 3, are authorized to have accessory dwelling units (“ADUs”). The Lots that are permitted to have ADUs are Lots 31, 48, 49, and 50. Only two (2) Lots in The Lakes at Valley West, Phase 4, are authorized to have ADUs. The Lots that are permitted to have ADUs are Lots 6 and 17. Only eleven (11) Lots in The Lakes at Valley West, Phase 5A, are authorized to have ADUs. The Lots that are permitted to have ADUs are Lots 13, 18, 38, 40, 42, 43, 45, 47, 55, 57, and 58. Only six (6) Lots in The Lakes at Valley West, Phase 5B, are authorized to have ADUs. The Lots that are permitted to have ADUs are Lots 1, 3, 6, 7, 9, and 12. *Only three (3) Lots in The Lakes at Valley West, Phase 6, are authorized to have ADUs. The Lots that are permitted to have ADUs are Lots 3, 4, 9, and 18.* No other Lot in The Lakes at Valley West, Phase 3, Phase 4, Phase 5A, ~~and~~ Phase 5B, ~~and~~ Phase 6 are permitted or allowed to have ADUs without the express written authorization of the City of Bozeman.

12.11.2 The City of Bozeman has authorized certain relaxations to the Bozeman Municipal Code for The Lakes at Valley West, Phase 3, Phase 4, Phase 5A, ~~and~~ Phase 5B, ~~and~~ Phase 6. These relaxations are contained in the Design Manual. These relaxations are incorporated herein by reference and, like other covenants contained in Article XII, may not be revised or terminated without the express written consent of the City of Bozeman.

12.11.3 The Lakes at Valley West, Phase 3, Phase 4, Phase 5A, ~~and~~ Phase 5B, ~~and~~ Phase 6 falls within a known area of high groundwater. No crawl spaces or basements that require sump pumps to pump water shall be constructed in Phase 3, Phase 4, Phase 5A, ~~and~~ Phase 5B, ~~and~~ Phase 6. Sump pumps are not allowed to be connected to the sanitary sewer system. Sump pumps are also not allowed to be connected to the drainage system unless capacity is designed into the drainage system to accept the pumped water. Water from sump pumps may not be discharged onto streets, such as into the curb and gutters where they may create a safety hazard for pedestrians and vehicles.

12.11.4 A storm water maintenance plan specific to The Lakes at Valley West, Phase 3, a storm water maintenance plan specific to The Lakes at Valley West, Phase 4, and a storm water maintenance plan for Phase 5 (including 5A and 5B) and Phase 6 are contained in the Design

DECLARANT: Bozeman Investment Holdings, LLC

By: Kilday & Stratton, Inc.
Its: Manager

By: *Greg Stratton*
Greg Stratton
Its: Vice-President

STATE OF MONTANA)
 : ss.
County of Gallatin)

On this 15th day of July, 2020 before me, the undersigned Notary Public for the State of Montana, personally appeared Greg Stratton, Vice-President of Kilday & Stratton, Inc., Manager of Bozeman Investment Holdings, LLC, and acknowledged to me that he executed this document in his authorized capacity and on its behalf.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the date and year hereinabove first written.

Cynthia M. Edgmond
Notary Public for the State of Montana

(NOTARIAL SEAL)



