

After Recording Return to:

Bluemoon Refinery, LLC
105 Cyclone Drive
Kalispell, MT 59901

**DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS OF BLUEMOON ESTATES LOTS 1-5**

This Declaration of Covenants, Conditions, and Restrictions (“CCRs”) for Bluemoon Estates Subdivision (“Bluemoon Subdivision” or “Subdivision”) is made this _____ day of _____ 2023, by Bluemoon Refinery, LLC of 105 Cyclone Drive, Kalispell, MT 59901 (“Declarant”).

RECITALS:

Declarant is the owner of real property legally described as follows:

A TRACT OF LAND, SITUATED, LYING AND BEING IN THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 29 NORTH, RANGE 22 WEST, P.M.,M., FLATHEAD COUNTY, MONTANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT:

Lots 1 through 5 of Bluemoon Estates subdivision, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana. Subject to and together with a 60 foot declared county road known as West Springcreek Road as shown on the map or plat thereof; and subject to and together with a 60 foot private road and utility easement known as _____; Subject to and together with all appurtenant easements of record.

All Lots located within the Bluemoon Subdivision shall be held, sold, conveyed, encumbered, used, occupied and improved subject to the following restrictions and protective covenants, which are deemed to run with all of the Lots located within the Subdivision, and shall be binding on all parties having or acquiring any right, title or interest in all or any portion of the Bluemoon Subdivision.

**ARTICLE I
Declaration**

Section 1. Declaration. The Bluemoon Subdivision is hereby subjected to the covenants, conditions, and restrictions of this Declaration.

Section 2. Purpose. The purpose of this Declaration is to insure the best use and most appropriate development and improvement of each building site thereof; to protect the owners of building sites against such improper use of surrounding building sites as will depreciate the value of their property; to preserve so far as is practicable the natural beauty of the property; to guard against the erection thereon of structures built of improper or unsuitable material; to ensure the highest and best development of the property; to encourage and secure the erection of attractive homes thereon with appropriate locations; to secure and maintain adequate setbacks from streets and adequate free space between structures; and, in general, to provide adequately for a high quality of improvements on the property and thereby to enhance the values of improvements made by purchasers of building sites therein.

ARTICLE II Covenants

Section 1. Use. The Property may be used only for single-family residential use, and no building shall be erected, altered, placed or permitted to remain except for residential purposes. Each Tract may have one primary residential dwelling and one guesthouse/accessory dwelling for a total of two separate residential dwellings on each Tract; however, living spaces contained within in a detached shop or garage (e.g. garage lofts/studios, F.R.O.G. rooms, or secondary suites) (“Outbuilding Suites”), are also allowed and shall not be considered as the secondary guesthouse/accessory dwelling for purposes of these CCRs. No trailer homes, mobile homes, modular homes, or prefabricated homes of any kind or type shall be placed on a Lot.

Section 2. Subdivision of Lots. No Lots shall be further subdivided.

Section 3. Dwelling Construction. All construction shall consist of new materials which are aesthetically suitable. All dwellings shall be constructed of wood frame, brick, block, rock, metal, or log construction. Once construction is started, it shall be substantially completed within one (1) year.

All areas of a Lot disturbed during construction shall be landscaped or returned to natural vegetation within one (1) year of construction. If construction activity on any Lot should somehow cause damage to any other Lot, including but not limited to the road areas, the cost of repair shall be solely borne by the Owner who caused the damage. No Owner may change the alignment and grade of the ditch next to the Road which would redirect or inhibit the flow of runoff.

A driveway with at least a graveled surface and a culvert as needed for drainage shall be constructed on each Lot prior to site clearing or any excavation, including excavating for a foundation or basement or for a drainfield. All workers shall use the graveled driveway for access to and from the road and the construction site during construction.

Section 4. Building Location. No building shall be located on any Lot nearer than 50 feet to the front or rear property line, or nearer than 50 feet to any side Lot line. Buildings on corner Lots shall maintain a 50-foot setback from all right-of-ways.

Section 5. Temporary Structures. No structure of a temporary character such as a mobile home, trailer, camper, tent, shack, garage, barn, or other outbuildings shall be used on any Lot within the Subdivision for a permanent residence; except, however, it shall be appropriate to use any of the structures listed for a temporary residence for one (1) year or less for purposes of establishing or constructing a separate permanent residence otherwise complying with the restrictions set forth in this Declaration. Nothing herein contained, however, is to be construed as limiting the right of an owner to own and keep a recreational vehicle, provided such vehicle is used for recreation, and is not used as a residence.

Section 6. Weed Control. Each Lot owner is responsible for weed control on the Lot and is required to keep an unimproved lot clean of weeds, and debris and shall store nothing on the Lot until the time construction begins.

Section 7. Vehicles. No snowmobiling or off-road vehicles of any kind will be allowed on any roads, trails, or other property in the subdivision except for emergency reasons. Motorcycles, motor scooters, four-wheelers, golf carts, and similar vehicles may be used on roads only for transportation to and from a dwelling. Such vehicles may not be used for recreational purposes within the subdivision. Such vehicles shall be operated in the quietest possible manner.

Section 8. Animals. Livestock may be kept in accordance with County regulations, except no swine of any kind shall be raised, bred, or kept on any building site. Dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose, or allowed to become a nuisance to wildlife or other property owners. Dogs shall be restricted to their owner's property and not be allowed to roam free.

Section 9. Garbage and Refuse Disposal. No portion of any Lot shall be used or maintained as a dumping ground or storage ground for rubbish, trash, garbage, old automobiles, or other wastes. No unsightly materials shall be allowed to accumulate upon the Lot so as to impair its attractiveness. All garbage and other waste shall be removed as reasonably necessary, but in any event not less frequently than twice each month. Garbage containers or equipment used for the disposal of such material shall be garaged (except for scheduled pickups) and must be removed from the street within a day of the pickup. Undeveloped Lots shall be mowed at least monthly during growing season and may not be used as a dumping ground for trimmings or grass clippings.

Section 10. Sewage Disposal. No individual sewage disposal system shall be permitted on any Lot unless such a system is designed, located, and constructed in accordance with the requirements, standards, and recommendations of the Flathead City-County Health Department and Montana Department of Environmental Quality, and other local authorities.

Section 11. Landscaping and Fences. No hedges, shrubs, or other plantings, or any fences, shall be permitted which unreasonably obstruct the view of an owner or motor vehicles drivers. No fence shall be placed on any Lot in excess of six (6) feet in height.

Section 12. Utilities. All utilities shall be underground. No antennae, poles, cellular telephone towers, communication towers, or other similar structures shall be erected.

Section 13. House Numbers. Owners shall maintain house numbers either on the house itself or at the driveway entrance.

Section 14. Signs. No signs, billboards, or advertising devices of any kinds shall be displayed to the public view on any building site except for one sign of not more than five feet square advertising the property for sale or rent, or such signs used by a builder to advertise the property during the construction and sales period.

Section 15. Nuisances. No noxious or offensive activities shall be carried on upon any building site nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No building materials, junk vehicles, or other unsightly objects shall be stored or allowed to accumulate on any Lot within the Subdivision.

Section 16. Fire Clearance Measures. In the construction and landscaping of houses, owners shall create and maintain defensible space/vegetative clearance measures around structures to meet the Montana Department of State Lands' standards for the purpose of reducing fire danger.

Section 17. Roofing Material. Owners shall utilize only Class A or B roofing materials as rated by the National Fire Protection Association. Use of wood shake roofs is prohibited.

Section 18. Building Code. All improvements shall be constructed in accordance with the applicable building codes of the governmental entity having jurisdiction, or if no such building codes are in effect, then in accordance with the Uniform Building Code then in effect.

ARTICLE III

Enforcement and Miscellaneous Provisions

Section 1. Enforcement. The provisions of this Declaration, and any lawful amendment thereto, may be enforced by Declarant or any Lot owner. In any action brought for the enforcement of this instrument, if the relief required is granted in whole or in part, the person and/or entity bringing the action shall be entitled to recover their court costs and reasonable attorney's fees.

Section 2. Breach. If a Lot owner breaches these Declarations, the breach shall not render invalid any lien, mortgage, trust indenture or any other encumbrance or security interest on any Lot in favor of a third-party lender.

Section 3. Severability. If any one or more of the provisions of this Declaration is held to be invalid by an order, judgment or decree of an appropriate court, the remaining provisions hereof shall remain in full force and effect.

Section 4. Successors and Assigns. This Declaration and all the rights, powers and duties herein shall be binding upon and inure to the benefit of the successors and assigns of Declarant, and such successors and assigns shall be bound by this Declaration.

Section 5. Modification. This Declaration, or any part hereof, may be amended, modified, supplemented or repealed at any time by the unanimous consent of the Lot owners, with each Lot being entitled to one (1) vote, as well as the written approval of the following individuals for so long as they own any of the Lots described below:

1. Darla and Larry Meadors (“Meadors”), who are the owners of the following real property that sits adjacent to the Bluemoon Subdivision:

Lots 1 through 4 of the Legacy Ranch Subdivision, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

2. The Robin Hollingsworth Bender, as Trustee of the 2006 Bender Family Trust, dated June 26, 2006 (“Bender Trust”) is the owner of real property legally described as:

Lot 5 of the Legacy Ranch Subdivision, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

3. Josh and Jaimie Nelson (“Nelson”), who are the owners of the following real property that sits adjacent to the Bluemoon Subdivision:

Lot 3A of the Amended Plat of the D & K Subdivision Amended Plat of Lots 2 & 3 of D&K Subdivision located in the West Half of the Northwest Quarter in Section 26, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana.

Any such amendment shall be in writing, acknowledged by the Lot owners, as well as the Meadors, Bender Trust, and Nelsons, and then recorded in the office of the Flathead County Clerk and Recorder.

Section 6. Binding. The restrictions and limitations set forth herein are to be construed as covenants running with the land and shall be binding on all parties and persons claiming an ownership interest in any Lot within the Subdivision for a period of ten (10) years from the date of recording in the office of the Flathead County Clerk and Recorder, and thereafter shall be automatically extended for successive periods of five (5) years, unless terminated by a written instrument signed by all of the then record owners of the Lots, with each Lot being entitled to one (1) vote, as well as the Meadors, Bender Trust, and Nelsons so long as they still own any of the Lots described in Article III, Section 5, above. Said termination must be recorded in the office of the Flathead County Clerk and Recorder.

Section 7. Failure to Enforce. The failure of Declarant, its successors or assigns, or any subsequent Lot owner, to enforce the restrictions herein set forth at the time of any violation thereof shall in no event be deemed to be a waiver of the right to do so thereafter, nor a waiver to enforce a subsequent violation or breach hereof.

ARTICLE IV
Annexation

Section 1. Annexation. Additional property may be annexed to and made subject to these CCRs and any amendments thereto if approved by an eighty percent (80%) vote of the Lot owners of the Subdivision.

IN WITNESS THERETO, we have set our hands on the day and date set opposite our names.

By: _____ Date: _____
Jaimie Nelson, Individually and as an
Authorized Member of Declarant, Bluemoon Refinery, LLC

By: _____ Date: _____
Josh Nelson, Individually and as an
Authorized Member of Declarant, Bluemoon Refinery, LLC

STATE OF MONTANA)
 :SS
County of Flathead)

This instrument was acknowledged before me this ____ day of _____, 2023, by Jaimie Nelson and Josh Nelson, individually as interested parties to this agreement, and as the Authorized Members of Bluemoon Refinery, LLC a Montana limited liability company, and the named Declarant herein.

(SEAL)

Printed Name: _____
Notary Public for the State of Montana

