

**BAXTER MEADOWS WEST
PHASE 3B**

**AMENDED
RESTATED DESIGN REGULATIONS
AND GUIDELINES**

ARTICLE I
INTRODUCTION, PURPOSES AND DEFINITIONS

Section 1.1 Introductions. This is an amendment to the restated Building and Landscape Design Review Guidelines for Baxter Meadows West 3B that supersede and replace in their entirety the design regulations and guidelines 2482878. These are implemented by the declarant BMW, LLC Building and Landscape Review Committee on behalf of the Baxter Meadows West Property Owners Association, Inc. (Association). Specifically, the real property subject to these Regulations and Guidelines is described as follows:

AN AMENDED PLAT OF BAXTER MEADOWS SUBDIVISION P.U.D.
PHASE 1, TRACT 1A LOCATED IN THE SOUTHWEST QUARTER OF
SECTION 34, T1S, R5E, P.M.M. CITY OF BOZEMAN, GALLATIN
COUNTY, MONTANA. TOTAL AREA: 26.314 ACRES

Section 1.2 Purposes. The purposes of the Building and Landscape Design Regulations and Guidelines is to describe the general nature and appearance of improvements made to Lots within the community, in order that the Baxter Meadows Design Review Board (DRB) may review and approve or disapprove plans, specifications, designs, landscaping, sites and locations of improvements to be constructed or erected on any Lot within the property.

Section 1.3 Definitions. Terms used herein shall have the meanings set forth in the Declaration, unless expressly defined herein.

ARTICLE II
ARCHITECTURAL CONTROL PROCESS

Section 2.1 Intent. The building and landscape design regulations and guidelines which follow are intended to complement the City of Bozeman Uniform Development Ordinance (UDO) which govern this community, and to clarify the intention for the design of buildings and landscaping for this project. Specifically, these guidelines set forth design criteria that address the building design and location, landscaping, lot density, and other improvements. The intent of these guidelines is to allow as much flexibility as possible while at the same time define a minimum level of quality and consistency of building design which will be consistent with and maximize the quality of the overall project. The unique design elements of the Developer, Building Contractor, Architect, Home Builder, and Owners for both the landscaping and the buildings will be respected, and individual expression is encouraged, provided they are harmonious with the overall plan of the Project.

On behalf of The Baxter West Phase 3 B Property Owners Association, the Baxter Meadows Design Review Board (DRB) and or its assigns, shall review and approve or disapprove all plans and specifications submitted to it for any proposed improvement or landscape development.

No construction or alteration of any improvement or any work affecting the external appearance of any improvement shall be made, erected, altered, placed or permitted to remain upon the Lot until a site plan, floor plans, elevations, exterior details, and general specifications showing the design, location, material(s), and color(s) together with the name of the contractor shall have been submitted to and such site plan specifications are approved in writing by the Baxter Meadows Design Review Board (DRB) and/or its assigns.

Section 2.2 Standards for review. It shall be the applicant's responsibility to insure that all proposed construction shall comply with the International Residential Code, National Plumbing Code and the National Electrical Code, and the Design Guidelines. All plans must be harmonious with the overall plan for the development. All plans, materials and specifications must be suitable to the site, adjacent properties and the neighborhood. All improvements must be compatible with the surrounding properties so as to not impair or degrade property or aesthetic values.

Section 2.3 Approval or Disapproval by Building and Landscape Review Committee. The Baxter Meadows Design Review Board (DRB) shall have fifteen (15) business days to approve or disapprove the location, construction design, landscaping, and materials used for the home. This fifteen (15) day approval time period shall commence once all documents necessary for review have been submitted, including but not limited to a detailed site plan, floor plans, roof plans, exterior details, project specifications, color samples, sample materials and landscaping plans. The Baxter Meadows Design Review Board (DRB) may request additional plans, project specifications, color samples, or sample materials. The time for plan review shall be adjusted accordingly if plans are submitted during any holidays. Approval of plans shall require a majority of the Baxter Meadows Design Review Board (DRB). Upon approval the Owner is also required to secure a building permit from the City of Bozeman, with the Baxter Meadows Design Review Board (DRB) approval letter as a prerequisite for City review. Upon securing both the Baxter Meadows Design Review Board (DRB) approval letter and building permit from the City of Bozeman, the Owner may commence construction in accordance with the approved plans. Any deviation from the approved plans, which, in the sole judgment of the Baxter Meadows Design Review Board (DRB), constitutes a deviation of any substance from the approved plans, shall be promptly corrected at the sole expense of the Owner.

Section 2.4 Inspection of Work. Upon the failure of the owner to complete the agreed upon work within the time allowed, or completion of any improvement, if the Baxter Meadows Design Review Board (DRB) finds that such work was not done in strict compliance with all approved plans and specifications submitted or required to be submitted for its prior approval, it shall notify the Owner and the Directors of such noncompliance, and shall require the Owner to remedy the same. If, upon the expiration of seven (7) days from the date of such notification, the Owner has failed to commence action to remedy such noncompliance, the Directors shall determine the nature and extent of noncompliance thereof and the estimated cost of correction. The Directors shall notify the Owner in writing of the Directors' estimated cost of correction or removal. The Owner shall then have five (5) days to commence such remedy and thirty (30) days to complete such remedy. If the Owner still does not comply with the Directors' ruling within such five (5) day period, the

Directors, at their option, may remove the noncomplying Improvement or remedy the noncompliance, and the Owner shall reimburse the Association upon demand for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Directors shall levy an assessment and file a construction lien against such Owner and the Improvement in question and the land on which the same is situated for reimbursement and the same shall be enforced and/or foreclosed upon in the manner provided for other construction liens. All such work shall be deemed to be made at the request of the owner for the owner's benefit pursuant to the terms of these covenants. It shall not be necessary for the Association to send to the owner a notice of right to claim a lien for any work performed by the Association to correct any noncompliance on the part of the owner.

Section 2.5 Design Submittal Inclusions.

- A) A site plan, depicting all improvements, including, but not limited to setback lines, structure(s), driveways, walks and decks. Scale shall be 1/8" = 1'-0" or similar engineering scale.
- B) Complete construction drawings—Two (2) sets shall be submitted to the Baxter Meadows Design Review Board (DRB) for approval. Each set shall include floor plans, exterior elevations of all sides, roof design, specifications and any construction details. Scale shall be 1/4" = 1'-0".
- C) Samples of all exterior materials with their respective color proposals in an adequate size to evaluate properly.
- D) A review fee will be required at the time of submission of all the design submittal documents and materials. The purpose of the design review fee shall be to defray the Baxter Meadows Design Review Board (DRB)'s cost of review of all proposed site plans and specifications submitted to them. The fee, which shall be set by the Directors from time-to-time, shall initially be \$350.00.
- E) An additional fee for the Baxter Meadows Design Review Board (DRB)'s consideration of a variance will be required for all building and landscape plans that are not compliant with the Design Regulations and Guidelines of Baxter Meadows West, Phase 3B. The fee, which shall be set by the Directors from time-to-time, shall initially be \$200 in addition to the review fee in letter D above. The purpose of the fee shall be to defray costs of additional time and communication between the Baxter Meadows Design Review Board (DRB) and the homeowner as well as for the Baxter Meadows Design Review Board (DRB) members to consider recommendations, approvals or rejections of the proposed construction and or design that is not compliant with the Design Review and Guidelines. The additional fee for consideration of a variance is in no way a guarantee for approval.

Section 2.6 Start of Construction. There shall be no construction work initiated without a building permit issued by the City of Bozeman and without written approval of the plans by the Baxter Meadows Design Review Board (DRB). The City of Bozeman is to be provided a copy of the Baxter Meadows Design Review Board (DRB) approval letter as a prerequisite for

the City review. All building construction and landscaping must conform to both the final approved plans by the City of Bozeman and the Baxter Meadows Design Review Board (DRB)

Section 2.7 Completion. Once started, all work on any improvement upon any Lot must be maintained on a continuous and diligent basis until completion, which shall not exceed 18 months, unless otherwise approved in writing from the Baxter Meadows Design Review Board (DRB).

ARTICLE III BUILDING AND SITE DEVELOPMENT

Section 3.1 Intent of Design Criteria. The primary goal is to ensure that the proposed Project design, including landscaping, maintains or exceeds the general level of quality, size, appearance, and marketability commensurate with the higher quality residential lots and homes in the vicinity of the subject home and higher quality homes in general. All initial or subsequent improvements to the privately owned lots shall be subject to the architectural and landscaping requirements and guidelines contained in this document. Approval by the Baxter Meadows Design Review Board (DRB) shall be obtained prior to application to the City of Bozeman for a building permit. The submittal requirements for review by the Baxter Meadows Design Review Board (DRB) are specified herein. The Baxter Meadows Design Review Board (DRB) shall have no power to approve any structure failing to meet, at minimum, the conditions set forth in this declaration.

Section 3.2 General Regulations. All Lots within The Baxter Meadows West Phase 3B Property Owners Association are subject to the zoning regulations of the City of Bozeman except for any variances thereto granted by the City of Bozeman as shown on the Final Amended Plat of Baxter Meadows Subdivision P.U.D. Phase 1, Lots 1 & 2, Block 7 and Tract I - A, as filed in the Gallatin County Courthouse. All such variances to the zoning requirements of the City of Bozeman shall be specified on the final plat noted above or within the body of this Declaration.

In addition to these Regulations, building design may be regulated by City, County, State and Federal regulatory agencies having jurisdiction. The Owner or his or her agent shall be responsible to ensure conformance with any applicable regulations, and should check with the City of Bozeman, Gallatin County, and State of Montana Building Codes Division to verify that the most recently adopted edition of any applicable regulation is being used. No construction of or alteration to, any improvements, whether temporary or permanent, including but not necessarily limited to buildings, fences, walls, earthwork, paving, vegetation, signs, or secondary structures such as utility or trash enclosure, antennas and storage tanks shall be commenced on any lot prior to receiving the written approval of the Baxter Meadows Design Review Board (DRB) and the City of Bozeman.

Section 3.3 Density, Allowable Uses, Allowable Areas and Setbacks.

A) Density. No more than one (1) single-family residence may be built on each residential Lot.

B) Allowable Uses. Each residential lot shall be used exclusively for residential purposes and not more than one family (as defined by the City of Bozeman Unified Development Ordinance) shall occupy such residences, provided however that nothing in this subparagraph shall be deemed to prevent.

1. Any person from pursuing his or her calling upon the lot or dwelling unit owned by or occupied by such person, if such person primarily uses such lot or dwelling unit for residential purposes, is self-employed and has no employees working on such lot or in such dwelling unit, and does not advertise any product, work for sale, or service provided to the public upon such lot or dwelling unit. The leasing of any lot from time to time by the Owner thereof is subject to all of the restrictions as may be adopted from time to time by the Association.

2. Home occupations or professions shall be allowed on lots in Baxter Meadows provided that they adhere to the requirements of the City of Bozeman Uniform Development Ordinance. No advertising or directional signs relating to a home occupation or profession shall be allowed within the private, public, or commonly held lands within Baxter Meadows. Any such home occupation or profession may require a City of Bozeman Home occupation license or business license.

C) Setbacks. Each lot in Baxter Meadows West Phase 3B shall have a buildable area determined by building or structure setbacks as stipulated by the City of Bozeman. If a utility easement is greater than the building setback required by Chapter 38, B.M.C. said easement shall apply. For all Lots other than corner Lots, these setbacks are as follows:

- Front 15 Feet
- Sides 5 Feet
- Rear 20 Feet

For all corner Lots, these setbacks are as follows:

- Front 15 Feet
- Side adjacent to street or open 15 Feet
- Alternate side 5 Feet
- Rear 20 Feet

Section 3.4 Height limits. Building heights within Baxter Meadows West Phase 3B shall be limited to a maximum of 26 feet for a single story home and 28 feet for a two-story home. Building height shall be measured from the highest ridge to the lowest adjacent grade.

On complex buildings -with multiple heights, the building height shall be determined by, calculating the highest ridge line of the building, and measuring to the average of the highest and lowest finished grade. Finished grade shall be the final elevation of the surface material, whether soil, paving, or decking, adjacent to the building as shown on the Architect's drawings.

With the approval of the Baxter Meadows Design Review Board (DRB), chimneys, cupolas, and other architectural features may exceed the given height limitations by no more than a four feet. Special consideration to the height limitations may be given to unique architectural designs, as determined solely by the Baxter Meadows Design Review Board (DRB).

The maximum building height shall never exceed that stipulated by the City of Bozeman.

Section 3.5 Minimum and Maximum Dwelling Sizes

- A.) Minimum. Each lot shall provide the minimum living space exclusive of garages, decks, porches, and carports of 1,800 square feet.
- B.) Maximum. The maximum building size is 6,000 square feet, exclusive of accessory structures.

Section 3.6 Foundation design. All building foundations shall be constructed "high" to avoid potential problems with high ground water in the area. Due to the potential of higher ground water on certain lots within the subdivision, the Lot Owner is encouraged to solicit a professional engineering evaluation of groundwater conditions on their specific lot, prior to foundation design. Basements within lower-lying areas are strongly discouraged.

**ARTICLE IV
BUILDING GUIDELINES**

Section 4.1 Intent. The intent of the following Building Guidelines is to provide for a degree of continuity throughout Baxter Meadows West Phase 3B while allowing personal taste in choice of housing style. Furthermore, the intent is to establish minimum standards and theme direction to ensure that the type of housing constructed is comparable to and blends with the eclectic styles of housing found in the surrounding developments, and that the type of housing avoids the appearance of "tract housing." All homes shall fully comply with the International Residential Code, as well as any and all pertinent codes established by the State of Montana, Gallatin County, and the City of Bozeman.

Baxter Meadows West Phase 3B is to be a neighborhood of tree lined streets, prominent front porches and architecturally styled homes. Garage doors are to be specifically subdued by recess or other design, which results in the garage being subordinate to the principal facade. The homes are to be designed to reflect the aesthetic lifestyle while providing contemporary floor plans consistent with the needs of today's families.

Baxter Meadows West Phase 3B has been master planned to include two residential lot types which require specific house design configurations, including:

- A) Lots Backing to Harper Puckett and Baxter Lane. To ensure an attractive appearance of Baxter Meadows West 3B community as viewed by the public utilizing Harper Puckett and Baxter Lane, the improvements located within those particular lots backing to Harper Puckett and Baxter Lane shall be required to meet an elevated architectural standard, in excess of the requirements for those lots not backing onto arterial routes of travel. The Baxter Meadows Design Review Board (DRB) shall emphasize the need for interesting architectural detailing and form, through selection and variation of materials facing the rear elevations of such houses. The roofs of residences located on such Lots must include sufficient interest and variation through the use of secondary roof forms

facing the rear, in the form of dormers, interrupted roof ridge lines, exposed rafter tails, and other variations of traditional, vernacular roof systems.

B) **Conventional Lots with Front-Loaded Garages.** These conventional lots require de-emphasis and subdued garage door locations from the primary street frontage, whether primary or secondary. Garages shall not be the dominant feature of the houses. Plans for front-loaded garages must incorporate one of the following:

1. Courtyard configurations which orient the garage doors inwardly to the interior of the lot and in proximity to the front door. In the event that a courtyard configuration is employed, the Owner shall present, as part of the plan to be approved by the Baxter Meadows Design Review Board (DRB), a landscaping plan that will include at least one coniferous tree, or other screening device approved by the Baxter Meadows Design Review Board (DRB), opposite the garage door, placed in such a manner as to act as a screen so that the garage door will not be readily visible to street traffic approaching from the direction that the garage door faces. As an example, if the garage door faces the east, then the coniferous tree or screening device will be placed near the street on the east side of the driveway. All such trees must be at least 12'tall.
2. Garage doors on a plane which is set back at least 7 feet from the plane that contains the front door for the residential portion of the house. If the house is located on a corner lot and the garage door and the front door of the residential portion of the house face the same street, the garage shall be located on the side of the house opposite the nearest intersecting street, so that the garage is on the side of the house nearest the mid-point of the block.
3. Side access configurations which orient the garage doors outwardly to the side yard.
4. Corner configurations which orient the driveway and garage doors to the secondary streets. In such cases the garage door must still be screened from view from both the primary and secondary streets, as described above.
5. For lots at the intersection of two streets, houses shall have the entry walkway and porch accessed from the same street as the adjacent lot closest to the mid-point of the block. The intention is to end the block with houses that relate to the street in a similar manner as mid-block houses.

Section 4.2 **Roofs.** Roofs are a major element in the building design and therefore will be emphasized by the Building and Landscape Review Committee.

A) **Shape and Form.** Traditional gable, hip and shed roof designs used in creative and aesthetically pleasing combinations are encouraged. Secondary roof forms are highly recommended in designs for Baxter Meadows West Phase 3B. They are particularly useful to give proper scale to large roof masses. They can be particularly effective when special care is given to their massing and pattern.

In addition, no roof ridgeline shall extend more than forty (40) feet without interruption by an intersecting roofline, secondary roof structure, or step down roof in order to break up the overall roof mass.

ROOF ARTICULATION MEASUREMENT CRITERIA

B) Pitches. The minimum roof pitch shall be 6:12 for the major components of any roof. Minor components and secondary roof structures, such as shed roofs and dormer roofs may have pitches as low as 3:12. No component of any roof shall have a pitch less than 3:12. Although, under certain special circumstances the roof design may incorporate as a minor component of the overall roof design a flat roof.

C) Secondary Roof Structures. Dormers, skylights, chimneys and solar collectors are considered secondary roof structures. Dormers and most other secondary roof structures are encouraged, both to add interest and scale to major roof areas and to make habitable use of space within the roofs. Dormers and other secondary roofs may have gable, hip or shed forms and may be stacked in multiple forms.

D) Eaves, Soffits, and Fascias. All major roof components shall have a minimum horizontal eave projection of 18 inches measured from the finished wall. Minor roof structures may have a reduced eave projection as necessary to maintain proper proportion or for a specific architectural effect demonstrated to the Committee. Eaves may have a horizontal or angled return to the wall. Soffits shall be required to cover all rafter tails and rough framing material, except where framing members are intentionally exposed, finished, and protected from exposure. All roof edges shall have a minimum fascia of 6 inches in height.

E) Skylights. When designing the location of skylights, consideration should be given to both the interior and exterior appearance of the unit. Locations should also be coordinated with window and door locations. Skylights shall be located away from the valleys, ridges and other areas where drifting snow and snow ice may hinder the performance and safety of the unit.

F) Solar Collectors. Solar collectors shall be integrated into the overall roof design, and shall be placed parallel with the slope of the roof or wall of the building, located so as to minimize their appearance from public right of ways.

Section 4.3 Roofing Materials. Roofing materials enhance the building and need to be compatible with the single-family residential neighborhood. There commended roofing materials are natural cedar shakes, cedar shingles, fiberglass, and asphalt composition in an "architectural" grade.

Other materials may also be considered, but must have written approval from the Baxter Meadows Design Review Board (DRB).

Section 4.4 Gutters. Down Spouts and Flashing. Gutters and down spouts must be of a color and finish that blends with the finish colors of the structure. Unpainted gutters, down spouts or flashing will not be allowed. Flashing materials shall be copper, painted or anodized sheet metal.

Section 4.5 Roof Mounted Equipment and Ventilating Roof Protections. All roof-mounted equipment shall be integrated into the overall roof design and screened. All sewer, bathroom, clothes dryer, hot water heater, wood or gas stove, or other roof venting stacks shall exhaust to the exterior of the building, and not into the attic, crawl space or basement. The visibility of all such venting stacks from the street front shall be minimized, and all such stacks shall be painted a color as similar as possible to the roof material color.

Section 4.6 Exterior Walls. The exterior walls are one of the most important aesthetic elements in the building design and will reflect the image of the entire subdivision. Elements of specific concern are scale, proportion, texture and color. The scale and proportion of the exterior walls must have inherent interest and diversity, and harmonize with the high quality nature of the subdivision. Log homes may be considered.

- A) Material. Acceptable wall cladding materials are natural and manufactured stone and brick, synthetic or wood siding which is painted or stained, and stucco. Vinyl siding, and aluminum siding may be acceptable provided it is of high quality and effectively simulates wood materials, but will only be considered on a case-by-case basis. Plywood siding, such as Tl-11 is unacceptable.
- B) Colors. Exterior wall colors used shall be tones which harmonize and complement the surrounding site and neighboring buildings. Trim may be more colorful and contrasting in order to add visual interest.
- C) Concrete. Exposed concrete shall be limited to a maximum of 8 inches from the bottom of the siding to the finished grade. Exposures in excess of 8 inches of concrete shall be covered by shrubs, masonry veneer, textured concrete surface such as exposed aggregate, or synthetic stucco.
- D) Chimneys. Chimneys, other than those used to exhaust heating systems, may exit the building on an exterior wall or within the structure through the roof. When part of an exterior wall they may be used as an accent form to break up the mass of the wall. They shall be of material that complements other exterior finishes. Acceptable materials include brick, natural stone, stucco, or wood framing when the finished wood material is the same as the siding.
- E) Wall Form. No wall shall consist of a single finish treatment for more than 14 horizontal feet without interruption by a wall projection or a different siding material, window, wall corner, chimney, wall recess, porch or other architectural form that adds interest.
- F) Windows and Doors. Windows are an important architectural element and therefore significant numbers are highly encouraged. All windows shall be of double or triple glazing. No mirror glazing shall be allowed. All windows and siding glass, French or atrium doors shall be vinyl, aluminum clad, wood or similar material acceptable to the Baxter Meadows Design

Review Board (DRB). Unclad custom-built windows for individual applications shall be trimmed and painted to appear the same as the other windows in the structure and must be approved. The patterns, sizing, symmetry (or asymmetry) of windows and doors determines the scale and feel of a home. The Baxter Meadows Design Review Board (DRB) will require that the following aspects be carefully addressed in the window and door design:

- Consistency of types and shapes
- Special shapes for "future" windows in appropriate areas
- Window patterns consistent with design of the structure

Section 4.7 Decks, Balconies and Porches. Decks, balconies and porches shall be designed to enhance the overall architecture of the building by creating variety and detail on exterior elevations.

Decks at grade level shall be skirted to grade. Decks which are on the second story (that are not cantilevered) and high off the ground shall either be sided down to a continuous concrete grade beam and sided with the same siding as the main body of the structure, or they shall be required to have additional mass and size in the vertical support posts and a soffit treatment to the underside of the deck which is approved by the Committee. Treated Douglas Fir, except in structural members, is not an acceptable decking material.

Section 4.8 Garages and Parking. Each single family home is required to have a minimum of an attached or detached two (2) car garage with a sectional roll up door(s). There will be no long-term storage of cars or other vehicles outside the garage after completion of construction. Parking of cars, trucks, or any other vehicles in the street is prohibited to the extent allowed by Montana law. In the event that Montana law will not allow the Association to prohibit such parking on the street, such parking shall nevertheless be discouraged. Garage doors are to be specifically subdued and if possible, should not directly face the street. Garage doors shall be painted a color matching or of similar tone to that of the primary siding color of the structure.

Section 4.9 Energy Considerations. All occupied structures shall be designed so that the primary heat source is fueled by natural gas or electricity. The use of wood, wood bi-products, propane or coal burning appliances as the principle source of heat is prohibited. All wood burning devices except fireplaces shall be fitted with catalytic converters.

Section 4.10 Exterior Lighting.

- A) Recessed or canned lighting is encouraged for porches, main entrances and other exterior applications to achieve softer, non-glare, lighting effects. Clear glass or translucent panels are specifically discouraged. Honey glass or amber glass panels are encouraged as an alternative to "down light" type fixtures. No exposed bulbs shall be allowed.
- B) All residential lighting (non-street lighting) shall be illuminated with lights that meet the City of Bozeman standard requirements. In addition, all outdoor residential lighting shall be free of glare, and shall be fully shielded or shall be indirect lighting. No

illumination shall extend beyond a property's lot line. No unshielded lights shall be permitted. No mercury vapor lights shall be permitted. For purposes of this paragraph, the following definitions shall apply:

1. Fully shielded lights: Outdoor residential light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test expert.
2. Indirect light: Direct light that has been reflected or has scattered off of other surfaces
3. Glare: Light emitting from a luminary with an intensity great enough to reduce a viewer's ability to see, and in extreme cases, causing momentary blindness; and
4. Outdoor Lighting: The nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

ARTICLE V SITE DEVELOPMENT AND LANDSCAPE GUIDELINES

All site improvement plans shall be reviewed and approved by the Baxter Meadows Design Review Board (DRB) prior to commencement of construction or alteration. As stated previously, Baxter Meadows Design Review Board (DRB) approval is a prerequisite to the City of Bozeman building permit applications. Minor adjustments to the home site and landscaping after initial construction shall not require submittal of plans. Minor adjustments shall include replacement of dead or dying vegetation and the addition of trees, shrubs or other landscaping features, providing that such additions are consistent with the Site Development and Landscape Guidelines.

Section 5.0 Topography. All site plans must indicate surface drainage patterns.

Section 5.1 Driveways and Driveway Culverts. Construction and maintenance of all driveways and driveway culverts shall be the responsibility of the owner. All driveways and parking areas shall be surfaced with asphalt or concrete.

Section 5.2 Driveways Swale Prohibitions. No lot owner shall fill or obstruct the natural flow of any borrow ditch or drainage swale with the exception of the materials placed for the location of the driveway culvert. No borrow ditches may be filled.

Section 5.3 Sidewalks. Sidewalks, constructed to City standards, shall be installed at the time houses are constructed on individual lots. Upon the third anniversary (3 years) of the final plat recordation, any lot owners who have not constructed their sidewalks shall be required to install sidewalks on their lots, regardless of whether a home is constructed on the lot or not. Sidewalk maintenance, including snow removal, shall be the responsibility of the Baxter Meadows Master

Community Association, and shall comply with the City of Bozeman Ordinances. At no time shall the sidewalk right of way be obstructed by parked automobiles straddling the sidewalk.

Section 5.4 Kennels. In general, kennels are discouraged in favor of the "invisible fence" system. Kennels shall not exceed 300 square feet in size, and shall not be higher than six (6') feet. Kennels shall be built of the same building materials as Privacy Screening and all kennels and dog runs must be placed within the area allowable for rear yard fencing, however, chain link kennels may be allowed if they are located within a rear yard which is fully privacy-fenced. Kennels shall be attached to the dwelling in order to provide as much aesthetic appeal as possible. All kennels and dog runs must be approved by the Baxter Meadows Design Review Board (DRB) prior to construction.

Section 5.5 Fences. Fencing of front yard areas shall not be allowed, and only rear yards and portions of side yards shall be permitted to be fenced.

- A) Fencing extending from the rear yard toward the front of the house (within the side yards) shall not extend past the mid-point of the house. The mid-point of the house shall be measured from the plane that is the greatest distance from the street which the house faces, to the plane of the house that is closest to the street. Included in the measurement shall be the front porch of the house, or the garage, at the point closest to the street, if the front porch or the garage is the portion of the house closest to the street. If there is a walk-through door ("man door") from the garage to the side yard enclosed by a fence, such door shall be located to the rear of the midpoint of the house in order to be within the area of the side yard enclosed by the fence.
- B) No fence along the boundary of any lot shall exceed a height of 5' above the ground at the point of measurement. Fences bordering open spaces shall not exceed a height of 4' above the ground at the point of measurement. And must be open style fences turned post & rail of substantial quality. These fences may have a heavy gauge wire fence attached to help contain pets. From the open space boundary toward the house, the side lot lines must continue this style of fence for 15 feet, from there forward there may be a solid fence subject to the same guidelines outlined herein. Other maximum fence heights may be dictated by City code or an amendment or addendum to these Covenants. All fences shall be constructed in such a manner as to take into consideration variations in the grade along the run of the fence, so that the height restriction is not exceeded when measured from the ground.
- C) Owners may construct privacy screens exceeding 5' in height with the approval of the Baxter Meadows Design Review Board (DRB), provided that such privacy screens do not extend more than half the distance from the rear of the house to the rear lot line, and do not extend into the side lot beyond the rear corners of the house.
- D) All fencing shall be of natural wood, or other man-made material that appear to be of earth tones, as may be approved by the Baxter Meadows Design Review Board (DRB). All fencing designs and layouts shall be approved by the Baxter Meadows Design Review Board (DRB) in writing before construction shall be permitted.

Section 5.6 Outdoor Storage and Privacy Screening. Not limited to, but including all building and landscape materials (on lots with occupied residences), furniture (indoor and outdoor), all forms of recreational equipment, recreational vehicles, and all boats, lawn, garden and snow removal maintenance equipment, garden implements and tools, firewood and bicycles shall

be stored in an enclosed area, such as a garage, covered porch, or outbuilding/garden shed, so as to be invisible from neighboring owners and the street frontage when not in use. Such structures shall be architecturally compatible with the material and color of the residence. Privacy screens will be allowed, but must be constructed of siding (to be of the same material and color the main building), stucco, brick, or stone materials, and they shall be integrated into the main building. The screening shall be consistent with the overall design, construction and materials of the primary residence, and shall not exceed 14 feet in uninterrupted length. The height of privacy screening shall not exceed seven (7') feet. Plans for privacy screening must be submitted and approved by the Baxter Meadows Design Review Board (DRB).

Section 5.7 Antennas and Satellite Dishes. Smaller satellite dishes of the latest technology (not exceeding two feet in diameter) will be the only kind allowed. These dishes must be located so as to be obscured from view as much as possible, and shall require BLRC approval prior to installation.

Section 5.8 Utilities. All utilities, including, but not limited to, natural gas, electricity, telephone and cable T.V. shall be located underground.

Section 5.9 Temporary Structures. No temporary structures, trailers, campers, motor homes, tents, shacks, or similar structures shall be used as a residence on the lot.

Section 5.10 Solid Waste. All rubbish, trash, waste and garbage shall be regularly removed from the property and shall not be allowed to accumulate thereon.

Section 5.11 Construction Debris, Materials Storage and Clean-up. Construction materials shall not at any time prior to, during, or after construction be placed or stored in the street right-of- ways or Common Areas. All construction materials shall be removed from the entire Lot within thirty (30) days of substantial completion of construction. Construction sites shall be kept clean, neat, and well organized at all times. Any construction debris shall be the responsibility of the building Contractor and Owner and shall be maintained and properly stored on a daily basis. All debris blown from any lot under construction shall be immediately cleaned and removed by the lot Owner sourcing the debris. Under no circumstances shall construction debris, mud, dirt, gravel, lumber, garbage, waste, or other inappropriate materials be allowed to accumulate on, or be stored upon or within Common Areas or public right-of-ways at any time. At the time of obtaining a building permit, each owner shall be required to post a bond with the BMW BLRC for the sole purpose of guaranteeing the cleanup of the lot and common areas during construction. Such bond shall be in the amount of \$1000 and its return to the owner shall be conditioned upon faithful compliance with the requirements of this section. In the event that the Owner or Owner's contractor does not adhere to the requirements of this section, the Association shall have the right to engage in cleaning of the lot or the affected common areas and to deduct the costs of such cleaning from the bond. In the event that the bond posted is not sufficient to pay all such costs, the Owner of the lot shall be liable to the Association for such excess costs and failure to pay immediately upon demand may result in the filing of lien against the property, which may be enforced in the same manner as an assessment lien against the property.

Section 5.12 Recreational Vehicles. Trailers, motor homes, boats, snowmobiles,

campers, motorcycles, boats and other recreational vehicles may be stored on the lot as long as they are not used for habitation, and only if they are stored completely out of sight from all directions within an attached, covered structure which is aesthetically acceptable to the Baxter Meadows Design Review Board (DRB). Motor homes and trailers that allow for sleeping within may be kept overnight to facilitate preparations for trips and cleanup following a trip. Such overnight parking shall be for no more than 24 hours and shall not occur more than two times per month. Boats, snowmobiles, motorcycles and other such items which are not suitable for, or customarily used for sleeping, may be parked in a driveway for no more than four hours while they are being prepared for use or being cleaned up after use. There shall be no overnight parking of such items outside of an enclosure, as stated above.

Section 5.13 Landscaping. Landscaping will be required to enhance the value of the property and the aesthetics of the site. The entire Lot shall be landscaped, including up to the actual edge of the road curb, and all owners are required to maintain their grounds. Landscape, grading and irrigation plans shall be submitted and approved by the Baxter Meadows Design Review Board (DRB) concurrently with the completion of the home, and all Lots must have underground irrigation systems servicing the entire area of the Lot installed upon initial landscape installation. In locating bushes and trees, consideration must be given to surrounding neighbors concerning view corridors. Rock and gravel type ground covers will not be allowed as a general surface finish, but may be allowed for limited areas around tree and planter areas.

- A) Lots Backing or Siding to Harper Puckett and Baxter Lane. To ensure an attractive appearance of Baxter Meadows West Phase 3B community as viewed by the public utilizing Harper Puckett and Baxter Lane, the rear and side yards of residences adjacent to Baxter Lane and Harper Puckett shall include sufficient landscape material and design so as to present a visually attractive rear yard to the public from such public right of way as well as to buffer potential noise and visual conflicts between the rear of the residence and arterial routes of travel. This may include, but is not limited to the Baxter Meadows Design Review Board (DRB) requiring additional appropriate fencing, trees, and/or shrubs meeting the standards stated herein.

Section 5.14 Landscaping Maintenance. Lawns and landscaping shall be maintained at all times in a manner which shall not detract from the appearance and value of the adjoining lots or diminish the aesthetics of the subdivision. Pathway and open space maintenance shall be contracted on yearly basis by the HOA with a certified landscape nursery person. HOA will be responsible for enforcing and maintaining the noxious weed program per the Gallatin County Weed Control District.

Section 5.15 Trees. Lot Owners shall plant a minimum of ten (10) trees per lot, and such trees shall be planted with initial landscaping installation. Within the front yard boulevard areas (between the sidewalk and the property line), lot owners shall plant deciduous trees of either ash or maple varieties at intervals of thirty (30) feet, and all trees within the boulevard areas shall be a minimum of 1- caliper trunk dimensions. The planting hole shall be at least twice the diameter of the root ball, the roof flare of the newly planted tree invisible and above ground, and

there shall be a mulch ring 3'- 4'in diameter around each newly planted boulevard tree. Three (3) of the minimum ten (10) required trees shall be conifers, and these coniferous trees shall be not less than six (6) feet in height.

- A) Trees are encouraged to be planted in clusters rather than at regular intervals around the property. Deciduous trees and shrubs can be placed on the southern and western side to provide shade in the summer months and allow sun to penetrate to the building during the winter months. Suggested deciduous trees are Aspen, European Green Birch, Patmore Ash, Rocky Mountain and Big Tooth Maple, as well as others recommended by the City of Bozeman. Suggested evergreen trees are Colorado Spruce, Lodge Pole Pine, Engleman and White Spruce, Subalpine Fir, and Scotch Pine.

Section 5.16 Waiver of SID's. Lot owners agree to execute waivers of right to protest the creation of special improvement districts (SID's) for special improvements including lighting in the subdivision.

ARTICLE VI ENFORCEMENT

Enforcement of these covenants shall be through Baxter Meadows West 3B Association, or the Baxter Meadows Design Review Board (DRB). It is anticipated that the covenants for the Master Community will be amended to allow each sub-association to enact its own building and landscape covenants and to enforce the same. Upon such amendment, the covenants contained herein shall have priority over all other covenants addressing the same subject matter and, in the event of any conflicts with any other covenants addressing such matters, the provisions contained herein shall prevail. All homeowners and lot owners in Baxter Meadows West Phase 3B shall be responsible for paying the monthly assessment (dues) to the Baxter Meadows Master Community Association.

In all situations involving a breach of any covenant contained herein, the Association or the Baxter Meadows Design Review Board (DRB) shall have the right to file a court action seeking appropriate relief, including the right to seek injunctive relief precluding construction of any structure being erected in violation of these covenants or for any other continuing violation, which shall be in addition to any other relief specifically mentioned above, or for money damages. In the event it becomes necessary for the initiation of a court action, the prevailing party shall be entitled to recover all reasonable court costs and attorney fees.

ARTICLE VII
DECLARANT'S RIGHT TO AMEND

For a period of ten years following the recording of this document, or until 75% of the lots within Baxter Meadows West Phase 3B are sold, whichever is the last to occur, the Declarant reserves the right to amend these covenants as the Declarant deems necessary or advisable. Such amendments shall have prospective application only, unless agreed to by the affected homeowners. Each lot owner and each holder of a mortgage or trust indenture on a unit, by acceptance of the deed or security instrument, hereby consents to all such amendments and grants unto the Declarant, as well as its successors and assigns, a limited irrevocable power of attorney, coupled with an interest, to amend this document without the need for a vote of the owners.