

**PARADISE FOUND SUBDIVISION WATER USER'S
AND HOMEOWNER'S ASSOCIATION**

TOM GOULD, being the developer of certain real property located in Park County, Montana, and more fully described as:

Paradise Found major subdivision No. 471 within the SW $\frac{1}{4}$ Section 24, township 5 south, range 8 east, P.M.M.

do hereby establish this Water User's and Homeowner's Association for the benefit of said property.

I. NAME

The name of the association shall be the "Paradise Found Subdivision Water User's and Homeowner's Association".

II. FORM OF ORGANIZATION

The association shall exist perpetually and may be incorporated by either the developer or by the ultimate owners of the property covered by this association. If a corporation is created, it shall be a non-profit corporation as defined by the Internal Revenue Code Section 501(c)(3) and will be incorporated under the laws of the State of Montana as recognized by the Secretary of State for the State of Montana.

III. WATER USER'S ASSOCIATION

- A. The Water User's Association shall be comprised of the owners of the seventeen (17) tracts shown on the final subdivision plat No. 471. All of these seventeen (17) tracts which make use of irrigation water from the Mill Creek Pipeline are members of the water users association.
- B. The Paradise Found property has historically been irrigated with a water right of 70 miners inches (785.5 gpm). This water right will be held in the name of the Home Owners and Water Users Association. The Association will be responsible to fairly distribute irrigation water available from the Mill Creek Pipeline under this water right to the individual tracts. The entire water right is available from the Mill Creek Pipeline. The Homeowner's Association shall allow tract owners to use irrigation water on their individual tracts proportional to the number of acres in each tract.
- C. The developer does not represent or guarantee any amount of water to be available at any given time for any of the tracts affected by or belonging to this Water User's Association. Many factors, including the limited flow of irrigation water to these tracts, priority date of the water right, a tract owner's effective use

of water, the operating schedule of the pipeline project, and the consequences imposed by the Irrigation Covenants on a tract owner due to excessive consumption of irrigation water by individual tracts owners, to name a few, will affect the amount of water available at any given time for any given tract.

D. Any change in the allocation of the water to the individual tracts shall be administered by the board of directors of the Home Owners Association on a proportional use basis. Any changes in allocation of water shall be determined by a majority vote of the board of directors. In the event a majority cannot be reached, then the board of directors shall obtain guidance from the Mill Creek Pipeline Board of Directors to resolve the stalemate.

E. Duties of the Home Owners Water User's Association. The duties of the Association shall include administering the provisions of the covenants, and the allocation of irrigation water from the Mill Creek Pipeline as set forth in paragraph III(D).

It shall also include the duty to inspect and maintain all of the distribution pipelines installed to the tracts.

It shall also include the duty to inspect and maintain the storm water drainage structures and ditches constructed along the edges of subdivision roads as approved by MDEQ for this subdivision.

The Association Board of Directors shall elect one person annually to represent the Association in all matters related to water as it pertains to this subdivision. The purpose of this election is to provide one designated contact point or public representative for the Association.

The Association shall maintain in usable condition the underground tanks which provide water storage for the sole purpose of fighting fires that may occur within the Paradise Found major subdivision. The Association must take the measures necessary to keep the tanks full, and refill these tanks using water from the Mill Creek Pipeline when the pipeline is operational or from potable water wells on the property.

Each tract owner shall be responsible for the timely purchase and installation of an appropriately sized water flow meter to their respective tract at the time such flow meter is required by the Association Board and the Mill Creek Pipeline Board of Directors. The Association shall determine the timetable for flow meter installation on each lot.

The Association shall approve the type, size and brand of flow meter proposed by each tract owner, and shall monitor and approve the installation of the meter and appurtenances. The flow meter shall be maintained by each respective tract

owner, who shall bear all costs for operation, upkeep, repair, and replacement if required. Each tract owner shall ensure that their flow meter is operational at all times when there is water in the supply pipeline to the subdivision.

Each tract owner acknowledges that the Association shall have unencumbered free access to all flow meters at any time. The Association shall have the right to monitor, change or adjust, and/or shut off the flow of water to each tract as deemed necessary by the Associations' Board Of Directors.

The Association and each individual tract owner recognize that the tracts in this subdivision are encumbered by existing underground irrigation pipelines and other irrigation facilities. There are easements shown on the final plat of the subdivision for the approximate locations of the existing and future water lines. The underground pipelines and facilities are assumed to be centered within the designated easements. Due to ongoing renovations, repairs, improvements and modifications to the existing water system within this subdivision, the location of these water related features may not be exactly as depicted on the final plat.

The Association also recognizes that Mill Creek Pipeline which does not belong to the Association has easements across this property. The Irrigation covenants grant the Mill Creek Pipeline Board of Directors and designated representative the authority to enter upon the property for purposes of caring for and maintaining the existing pipelines.

IV. MEMBERSHIP

Membership in this Association will be limited to those persons owning real property as set forth in this document. Each tract is entitled to one (1) vote.

V. ASSIGNMENT OF MEMBERSHIP

Any member may transfer and assign their membership only as part of a sale or exchange of their property or transfer of their property by gift to a family member or by an order of probate court in the event of the death of the owner of the tract. In other words, ownership of the water use rights shall run with the land and be appurtenant to each tract in this development.

VI. ARCHITECTURAL COMMITTEE

There shall be formed an architectural committee comprised of Tom Gould, William Smith and Allen Carter. This committee will be charged with developing in conjunction with the protective covenants criteria for developing each tract. This shall include, but not be limited to, the style and size of housing and outbuildings. It shall also include developing criteria for any outside lighting, perimeter fencing and other uses common to rural lot development.

VII. REVENUE AND EXPENSES

- A. The Association shall assess sufficient revenue from the members to cover all necessary expenses. The members shall vote on an annual budget at the annual meeting. The budget shall set forth the revenue to be received and the expenses authorized for the ensuing year. Regular expenses shall include, but not be limited to:
- i. reimbursement of the development's representative's expenses.
 - ii. any and all expenses required to maintain the roadways through the subdivision, including, but not limited to, storm water drainage structures and ditches approved by MDEQ for this subdivision, snow removal, grading, gravel, signage, etc. A separate road maintenance agreement may be incorporated herein.
 - iii. any review fees required by any governing body related to subdivision compliance.
 - iv. repairs and maintenance of the subdivision's distribution pipelines and associated facilities.
 - v. assessments charged by the Mill Creek Pipeline Board of Directors and included on the property taxes for each tract.
- B. All expenses for road maintenance as defined in Section A.ii. and upkeep of the fire water fill site are to be borne equally by the owners of each tract.
- C. There shall be no profit to the Association. Any excess revenue shall be returned to the Association members or be applied on the following year's budget.
- D. The Association's treasurer will collect all revenues and pay all expenses and make any and all accountings which may be needed. The Association treasurer shall be elected at each annual meeting.
- E. All tracts connected to the irrigation water distribution piping shall be collectively responsible for the operational costs, maintenance and improvements of the system including, but not limited to, any utility costs. These costs shall be borne by each member on a pro-rata share basis. This pro-rata share is determined by each tract owner's acreage ownership in the Association.