

**DECLARATION OF PROTECTIVE COVENANTS FOR
SOUTH PARK SUBDIVISION PHASE III,
CITY OF GILLETTE, CAMPBELL COUNTY, WYOMING**

829521

THIS DECLARATION is made this day by Donkey Creek Development Co., a Wyoming corporation, hereafter referred to as "Declarant."

The Declarant is the owner of all lands embraced in the subdivision known as South Park Subdivision Phase III, to the City of Gillette, Campbell County, Wyoming which is platted and of record in the office of the County Clerk and Ex-Officio Register of Deeds of Campbell County, Wyoming. This plat is incorporated by reference in this declaration and is specifically made a part hereof in all respects, as if fully set out herein.

The Declarant intends to sell all of the lots of land contained in South Park Subdivision Phase III.

All of the lots of this subdivision shall be held, transferred, sold, conveyed, or contracted to be conveyed by Declarant subject to the conditions, restrictions, reservations, and covenants now on record and upon the following express conditions, provisions, reservations, restrictions, servitudes, and covenants (hereafter referred to as covenants). Each and every covenant is for the benefit of the entire subdivision and for the benefit of each owner of land therein. These covenants shall run with the land and inure and pass with this property and each and every lot therein. These covenants shall be binding on all owners of land in this subdivision and their successors in interest regardless of how that interest is acquired. This includes, among others, adverse possessors; lessees, and purchasers at mortgage foreclosure sales. These covenants are imposed pursuant to a general plan for the improvement and benefit of the South Park Subdivision Phase III.

It is the intention of the Declarant that the lands located in this subdivision shall be developed and maintained as a highly desirable residential area.

These covenants are imposed upon the lands comprising the South Park Subdivision Phase III as an obligation or charge against the same for the benefit of each and every lot in the subdivision and the owner or owners thereof. Each and every owner of land in this subdivision shall have a right to enforce these covenants which are imposed upon each and every lot in this subdivision:

1. Land Use and Building Type. All lots shall be used only for single family residential purposes. No commercial business of any kind is permitted. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single family dwelling not to exceed two and one-half stories in height, a private garage for not more than three cars, and one storage shed of a permanent nature.

2. Architectural Control. No building, fence, wall or other structure may be constructed, erected or placed on any lot until the plans and specifications for the building or structure and a plan showing the location of the building or structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of exterior design with existing structures and buildings, location with respect to topography and finished grade elevation, and compliance with the covenants contained herein. No fences or walls shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line established by the City of Gillette.

3. Dwelling Valuation. All dwellings constructed on any lot shall be constructed so that they will have a minimum appraised value (including the value of the lot) upon completion of \$175,000.00. At the time the plans and specifications for the dwelling are

submitted to the Architectural Control Committee, the party seeking approval shall submit to the committee the copy of an appraisal in a form acceptable to the Architectural Control Committee showing compliance with this minimum appraisal value.

4. **Building Locations.** All buildings shall be located on all lots in accordance with the minimum building setback requirements established by the City of Gillette.

5. **Landscaping.** Each front yard and side yard visible from a public street must be sodded, hydroseeded or broadcast seeded and landscaped to the rear of the structure. All rear yards not visible from a public street shall, at a minimum, be seeded by broadcast seeding. Three (3) trees which are acclimated to the climate in the Gillette, Wyoming area must be planted in the front or side yard of each lot. All of these requirements must be met within eight (8) months after the occupancy of the dwelling on the lot.

6. **Easements.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structures, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities, or which may change the direction of flow of drainage channels in the easement, or which may obstruct or retard the flow of water through drainage channels in the easement. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

7. **Nuisances.** No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may or may become a nuisance in the neighborhood.

8. **Temporary Structures.** No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time at the residence either temporarily or permanently; provided, however, during active construction of a dwelling on the property, a job or storage trailer and equipment may be on the lot.

9. **Signs.** No sign of any kind shall be displayed to public view on any lot except one sign of not more than five square feet advertising the property for sale or rent.

10. **Oil and Mining Operations.** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall any oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

11. **Livestock and Poultry.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose.

12. **Garbage and Refuse Disposal.** No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. All rubbish, trash, or garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon.

13. **Storage and Protective Screening.** No building material shall be stored on any lot except as needed during active construction on the lot. All garbage cans and storage piles shall be kept screened so as to conceal them from the view of neighboring

residences and from the streets in the subdivision.

14. **Sewer Service.** The purchaser of each lot is responsible for determining the location and elevation of the sewer service and determining how the location and the elevation of the sewer service will affect the type and location of the dwelling to be constructed on the lot.

15. **Construction.** All dwellings must be completed and ready for occupancy within twelve (12) months after the lot is purchased from Declarant. All dwellings shall be "stick built" and constructed on site. No mobile homes or modular or prefabricated dwellings, garages or storage buildings may be placed on the lot. All exterior materials will be wood, brick, stone, stucco, prefinished aluminum siding, prefinished steel siding, or any combination thereof. All roofs shall consist of earthtone asphalt shingles, wood shingles, or shake singles, to the extent permitted by the City of Gillette. There shall be no plastic exteriors. Exterior colors shall be limited to earthtones, unless the Architectural Control Committee grants a variance.

Any person constructing a dwelling on a lot shall maintain in full force and effect a policy of builder's risk insurance with such coverage as is required by the City of Gillette for any contractor constructing a dwelling within the city limits.

16. **Flues and Vents.** Unless otherwise approved by the Architectural Control Committee, all flues and vents shall exit the roof of a dwelling on the rear side of the roof rather than on the street side of the roof.

17. **Soil Analysis.** The purchaser of any lot in the subdivision shall be responsible for obtaining and reviewing soil reports relating to the lot and engaging a geotechnical engineer to evaluate the soil condition.

18. **Vehicles.** No recreational vehicles, boats, trailers, campers, or commercial trucks (other than pickups) shall be parked either on any street in the subdivision or on any lot in the subdivision except behind the building setback lines.

19. **Architectural Control Committee.**

(a) The Declarant shall be the Architectural Control Committee under this Declaration of Covenants until such time as all of the lots in this subdivision have been sold and conveyed by the Declarant or until Declarant resigns as the Architectural Control Committee, whichever date occurs first. At the time all of the lots in the subdivision have been sold and conveyed by the Declarant or on the date Declarant resigns as the Architectural Control Committee, whichever date occurs first, the owners of the lots in the subdivision shall elect an Architectural Control Committee consisting of three members and shall then replace the Declarant as the Architectural Control Committee under the provisions of these covenants.

(b) The members of the elected committee must be owners of lots in the subdivision. The three nominees receiving the most votes shall serve as members of the committee. Each lot shall be entitled to one vote in the election for members of the committee. Joint owners of a lot shall have only one vote, and if a person owns more than one lot, he shall have one vote for each lot.

(c) After Declarant is no longer the Architectural Control Committee, elections for the committee shall be held annually on the first day of March of each year at a meeting called for that purpose or on such other date as the committee may determine. At least twenty-four hours notice of the meeting shall be given by telephone or by mail to all lot owners by the committee. Upon the death or resignation of any member of the committee, the remaining members shall have authority to designate a successor who shall remain on the committee until the next annual election.

(d) Members of the committee shall elect a chairman who shall keep a written record of all proceedings and actions taken by the committee and who shall be responsible for all correspondence. Meetings of the committee may be called at any time by the chairman as required to transact any business, and the committee shall formulate its own rules and regulations for the calling of such meetings and the conduct of its business. The decisions of the committee shall be made by majority vote.

(e) Within forty-five days after receiving a written request for approval of plans as provided herein, the Architectural Control Committee shall either approve or disapprove the request in writing. In the event the Architectural Control Committee fails to approve or disapprove in such period of time, approval will not be required, and the related covenants shall be deemed to have been fully complied with. If the request for approval is rejected because of noncompliance with the covenants, the reasons therefor shall be stated. The person submitting the plan shall have a right to make application to the Architectural Control Committee for review of its decisions.

(f) Upon written request, the Architectural Control Committee may, in its sole discretion, vary the limitations contained in the covenants when strict compliance with the covenants would result in hardship on a lot owner, but only to the extent that the requested variance is consistent with the intent and purpose of the covenants which is to insure a subdivision that is aesthetically attractive and a highly desirable residential area. The Architectural Control Committee shall approve or disapprove the request for variance within forty-five days of the receipt thereof. Failure of the Architectural Control Committee to approve or disapprove a request for a variance within forty-five days shall not be deemed approval nor waive the requirement for approval.

(g) To the maximum extent permitted by law, Declarant shall have no liability to any person for any act or omission by Declarant (including negligent acts or omissions) in acting as the Architectural Control Committee.

20. **Amendment.** These covenants may be amended by Declarant at any time before Declarant has sold eighty percent of the lots in the subdivision. Once eighty percent of the original lots in the subdivision have been sold and conveyed by Declarant, these covenants may be amended or altered upon the approval of the owners of eighty percent of the original lots of the subdivision.

21. **Miscellaneous.**

(a) These covenants are to run with the land and shall be binding upon all persons claiming under them for a period of twenty-five years from the date of this Declaration. These covenants shall be automatically extended for successive periods of ten years unless an instrument signed by eighty percent of the then owners of the lots has been recorded, agreeing to repeal or amend these covenants.

(b) If anyone violates or attempts to violate any of these covenants, the Architectural Control Committee or any owner of any lot in the subdivision may bring a suit against the person or persons violating or attempting to violate the covenant in order to prevent them from violating or attempting to violate the covenant or to recover damages for such violation, and any person violating these covenants shall be liable for all costs incurred in prosecuting this suit, including a reasonable attorney's fee, and for liquidated damages in the amount of \$25.00 per day until the violation is cured; provided, however, Declarant shall under no circumstances be liable for costs incurred in prosecuting any suit against it or for attorney fees or for liquidated damages.

(c) If the City of Gillette imposes any limitations on the use or development of these lots which is more restrictive than the restrictions imposed by these covenants, then the more restrictive limitations of the City of Gillette shall take

precedence over these covenants.

(d) Invalidation of any one of these covenants by judgment or court order shall in no way effect the validity of any of the other provisions of these covenants, which shall remain in full force and effect.

Dated this 12 day of February, 2004.

Donkey Creek Development Co.

By: *R.D. Saunders*
President

Attest: _____
Secretary

STATE OF WYOMING)
) ss.
COUNTY OF CAMPBELL)

The foregoing instrument was acknowledged before me this 12 day of February, 2004 by Raymond D. Saunders, President of Donkey Creek Development Co.

Witness my hand and official seal.



Krista Terry
Notary Public

My Commission Expires: Aug 13, 2008

STATE OF WYOMING)
Campbell County) ss.

Filed for record this 13th day of February, A.D. 2004 3:38 o'clock P. M. and recorded in Book 1945
of Photos on page 578-582 Fees \$20.00 **829521**

Raymond D. Saunders RECORDED
County Clerk and Ex-Officio Register of Deeds ABSTRACTED
By *E. Dean Miller* Deputy INDEXED
CHECKED

