



First American Title™

**These documents are provided by First American Title as a courtesy to you. Should you have any questions regarding these documents, please contact your Realtor or a Real Estate Attorney.**

*Please be advised that any provision contained in this document, or in a document that is attached, linked, or referenced in this document, that under applicable law illegally discriminates against a class of individuals based upon personal characteristics such as race, color, religion, sex, sexual orientation, gender identity, familial status, disability, national origin, or any other legally protected class, is illegal and unenforceable.*

STATE OF WYOMING     )  
  )SS  
COUNTY OF LARAMIE    )

THE POINTE, LIMITED LIABILITY COMPANY  
TO  
THE PUBLIC

DECLARATION OF PROTECTIVE COVENANTS  
OF  
THE POINTE, PHASE II

A Subdivision Of The City Of Cheyenne, Laramie County, Wyoming

KNOW ALL MEN BY THESE PRESENTS, that The Pointe, LLC, Grantor, the owner of all lands in The Pointe, a Subdivision of approximately 296.4 acres located in portions of Sections 17 and 18, Township 14 North, Range 66 West, 6<sup>th</sup> P.M., Laramie County, Wyoming (the "Subdivision") and developed by the undersigned does hereby covenant, agree and make the following declarations ("Declarations") as to the limitations and restrictions of use to which the Lots within Phase II of the Subdivision may be put, which lots are described as:

The Pointe – First Filing:

Block 9, Lots 29 – 38;  
Block 13, Lot 12

The Pointe – Second Filing

Block 6, Lots 39 – 69;  
Block 7, Lots 1 – 18;  
Block 9, Lots 3 – 13; Lots 46 – 57; Lots 92 – 112;  
Block 10, Lots 1 – 19;  
Block 14, Lots 8 – 26;  
Block 15, Lots 1 – 11; and  
Block 16, Lots 36 – 39;  
The Pointe, a Subdivision of the City of Cheyenne, Laramie County,  
Wyoming

1. INTENT. It is in the intent of these covenants to protect and enhance the value, desirability and attraction of the Subdivision; to protect Lot owners from development and use of other Lots within the Subdivision which may depreciate the value and/or restrict the use of their Lot(s); to prevent the erection or construction of unsightly, unsuitable or unsafe structures; to insure adequate and reasonably consistent value of the homes and improvements constructed on Lots of the Subdivision; to encourage the construction and maintenance of appropriate structures and improvements; to insure and encourage the provision of adequate and suitable landscaping; and to insure the proper location of improvements. The restrictions imposed by this Declaration are intended to be kept to a minimum while preserving the right of property owners to enjoy their property in attractive surroundings free of nuisances, undue noise and danger. It is the further intent to provide by this Declaration that disturbance of the natural environment be kept to a



minimum. This Declaration is intended to apply only to Phase II but is intended to benefit the entire Subdivision.

2. **RESTRICTIVE USE.** All Lots within Phase II shall be known and described as residential Lots and will be restricted by the covenants contained in this Declaration. Residential Lots shall be used and occupied as residential home sites only. The owners of Lots within Phase II shall have full enjoyment of the Lots, subject, however, to the covenants contained in this Declaration.

3. **ARCHITECTURAL CONTROL COMMITTEE.** An Architectural Control Committee (the "Committee") for Phase II is constituted. The Committee is composed of Dan Haugen, Eric Malinski and Ross Malinski or their successors as provided for herein. All notices to the Committee required herein shall be sent to "Architectural Control Committee – The Pointe, Phase II, c/o Guardian Development Company, LLC, 6636 Cedar Avenue South, Suite 300, Minneapolis, MN 55423." All Committee actions or decisions shall be by majority vote. A majority of the Committee may designate a representative to act for it. In the event of a vacancy due to the death or determination or resignation of any member, the remaining members shall have full authority to designate a successor. None of the members of the Committee shall be entitled to compensation of any kind for services performed as a member of the Committee.

The Committee shall not be liable for damages by reason of any action, inaction, approval or disapproval by it with respect to any request or application made pursuant to this Declaration. Any approval or permission granted by the Committee shall not be construed to constitute approval or permission by any official or commission of any governmental agency. Obtaining permits, applications or other written instruments required by any public or governmental agency shall be the sole responsibility of the applicant.

Upon the sale of all Lots by the Grantor, the rights and responsibilities of the Architectural Control Committee shall be assigned to and assumed by The Pointe Homeowners' Association.

4. **PRIOR COMMITTEE APPROVAL REQUIRED.** No building or improvement shall be constructed or erected upon any Lot within Phase II until the Architectural Control Committee has approved the construction plans and specifications submitted to it by the Lot owner in the form and manner set forth herein. All submissions to the Committee must include, at a minimum:

a. A site plan showing the location of the structure(s) to be constructed on the Lot, the location and size of all roads, paths, driveways and sidewalks, the drainage across such Lot and any other site improvements which the applicant considers to be important and which are known to the applicant at the time of the submission;

b. The floor plan of the structure(s) with square footage indicated;

c. A drawing showing the front, side and rear elevations of all structure(s); and

d. A description on the drawings or on a separate specification sheet of the type and color of all exterior finishes and materials and roofing materials.

The Committee reserves the right to require the applicant to submit such other information which it deems necessary for its determination. If the Committee seeks additional information, the time period for its decision shall not start until such information is received by the Committee. The Committee shall consider each such application as to quality of workmanship and materials described, conformance with this Declaration and harmony of the proposed structure with the overall design objections of The Pointe as well as the harmony of the exterior colors, exterior construction materials and exterior design with existing structures and location with respect to topography and finish grade elevations. The Committee shall advise the applicant in writing of its decision within thirty (30) days of receipt of the fully completed application. In the event that the Committee disapproves any submitted plan, it shall inform the applicant, in writing, of the specific basis for disapproval and the manner in which the applicant may amend such plan to secure approval. The plans, specifications and any other documents and materials submitted for approval shall remain in the possession of the Committee.

In the event the Committee or its designated representative fails to approve or disapprove any such plan so submitted within thirty (30) days after receipt of all required information and any other information which the Committee may, in writing, require of applicant, Committee approval will not be required. In such event, the Committee's failure to approve or reject the application shall not constitute a waiver of the rights of the Committee, the Homeowner's Association or any Lot owner to enjoin the construction of any structure which does not comply with any other provision of this Declaration.

In the event that any construction is commenced upon any Lot within Phase II without having first secured Committee approval, the Committee and/or the Homeowner's Association and/or any owner of a Lot within Phase II may institute an action to enjoin such construction until Committee approval has been granted. No such suit may be commenced after any such unapproved construction has been completed. The prevailing party in any such injunction action shall be entitled to recover its or their attorney's fees and costs of such action.

5. Reserved.

6. USE OF LOTS. No structure other than one (1) private single family dwelling, together with a private attached garage and an outbuilding meeting the standards set forth below shall be constructed or erected on any of the Lots of Phase II. All construction shall be new and must comply with all applicable building codes, rules, regulations and requirements, all applicable zoning laws and the minimum building standards as set forth in this Declaration. No structure may be moved from any location outside Phase II onto any Lot within Phase II.

All detached outbuildings shall meet the following minimum design and construction standards:

- a. The maximum size of any detached outbuilding shall be 200 square feet and confined to one level only;
- b. Construction shall meet the same standards applicable to the primary residence set forth herein;
- c. The construction materials of such outbuilding shall be the same quality, color and style as the primary residence;
- d. The distance separating the outbuilding from the primary residence shall be subject to the approval of the Architectural Control Committee, the intent being that all structures on a Lot shall appear to constitute an integrated unit; and
- e. Construction of any detached outbuilding may not precede but must be contemporaneous with or subsequent to the construction of the primary residence.

No activity of a noxious or offensive nature may be conducted upon any Lot in Phase II, nor shall any activity be permitted which may be or may become a nuisance or annoyance to the neighborhood. All dwellings, buildings and other improvements are to be kept in a state of good general condition and repair at all times.

Television antennas are prohibited. Specialty antennas utilized for purposes other than television must be approved by the Architectural Control Committee. Television satellite dishes may be allowed, but their location and the screening design must take into account adjacent Lot owners' views and the views from the public roadways which serve Phase II. Approval for the installation of satellite dishes must be obtained by the Architectural Control Committee prior to any installation. Satellite television dishes of eighteen (18) inches or less shall not require approval of the Architectural Control Committee.

No Lot shall be used or maintained as a dumping ground for rubbish or junk, specifically junked vehicles, unlicensed vehicles, vehicles which are not in running condition or are in a state of disrepair or appliances and similar objects. Trash, garbage or other waste shall be kept only in sanitary containers. All sanitary containers or disposal equipment shall be of the type and kind that can be removed and/or emptied on a regular basis. No burning of grass, weeds, trash, construction materials, waste or any other material of any sort shall be allowed at any time. All equipment for the storage or disposal of such material shall be kept in clean and sanitary condition. No trash, litter or junk shall be permitted to remain exposed upon any Lot.

During construction, it shall be the Lot owner's responsibility to insure that all construction related trash, waste materials and debris are contained. All building materials must be secured and protected. The Lot owner bears the responsibility to insure that at no time during or after construction will any trash, debris or material of any kind be allowed to blow or be carried off of the Lot to other Lots, the Subdivision's public road right-of-ways or onto other properties.

No business activity except home occupation uses as defined by the City of Cheyenne Zoning Ordinance shall be permitted upon any Lot in Phase II.

7. FURTHER SUBDIVISION OF LOTS. No Lot may be further divided into smaller Lots without the approval of the Architectural Control Committee.

8. TEMPORARY BUILDINGS. No structure of a temporary character, trailer, modular home, basement, tent, shack, barracks, garage, barn or other outbuilding shall be used on any Lot as a family dwelling, either temporarily or permanently. This covenant shall not restrict a home builder from maintaining a temporary tool shed or lumber shed for the purpose of erecting dwellings, provided that the Architectural Control Committee shall have the authority to order the removal of said temporary structures whenever the same have been on a Lot for an unreasonable length of time. The expected use of a construction related tool or job site shed or shelter must be anticipated and so stated at the time of application to the Architectural Control Committee for approval of construction. Said temporary construction tool shed or shelter will not be allowed to remain on any site more than nine (9) months after the date on which construction is started. No mobile home shall be used as or converted to a permanent dwelling on any site.

9. MINIMUM SIZE. All single-story floor plans for the principal dwelling constructed upon any of the Lots of Phase II shall have a minimum fully enclosed ground floor area devoted to living purposes, exclusive of porches, terraces, basements, walk-out basements or attached garage of fifteen hundred (1,500) square feet. Any one and one-half story dwelling floor plan constructed upon any of the Lots of Phase II shall have a minimum fully enclosed floor area devoted to living purposes, exclusive of porches, terraces, basements, walk out basements and attached garage of one thousand (1,000) square feet on the main floor level. Any multi-level floor plan constructed upon any of the Lots of Phase II shall have a minimum fully enclosed floor area devoted to living purposes, exclusive of porches, terraces, basements, walk out basements and attached garage of seventeen hundred (1,700) square feet. Square footage shall be determined by measurement of the framing dimensions of the living quarters only and is exclusive of basement area, storage areas or garages.

10. CONSTRUCTION REQUIREMENTS. It is the intent of this Declaration that all dwellings within Phase II be custom built and that no tract housing be constructed within Phase II. Accordingly, no proposed dwelling shall be substantially similar to an adjacent dwelling already existing or under construction in Phase II. All exterior surface materials and roofing shall be subject to approval by the Architectural Control Committee.

All dwellings and improvements shall be constructed to meet the minimum requirements of this Declaration and each of the following codes and regulations in effect at the time of such construction:

- a. Uniform Building Code;
- b. Uniform Plumbing Code;
- c. Uniform Mechanical Code;



- d. National Electrical Code;
- e. Laramie County Department of Environmental Health regulations; and
- f. Ordinances and regulations of the City of Cheyenne.

Once construction is begun on any residence or outbuilding, such construction shall be completed within one (1) year following the date on which such construction was commenced or within the time period established by the Architectural Control Committee in its approval of such improvement, whichever is less.

11. **LANDSCAPING.** Unless otherwise provided by Grantor, the first grantee of any Lot within Phase II shall be responsible for the installation and continued maintenance of landscaping upon such Lot in at least the minimum amounts set forth herein. Unless weather conditions prevent the completion of such landscaping requirements, installation of all required landscaping shall be completed within six (6) months after completion of construction of the primary residence. Landscaping plans must be submitted to the Architectural Control Committee in advance for approval. It is the intent of this Declaration that landscaping be installed to enhance such Lot, the adjoining Lots and the Subdivision; to provide drainage and erosion control and to achieve a harmonious and integrated appearance on such Lot with the adjoining Lots and the Subdivision as a whole.

All surface areas within the boundaries of all Lots not otherwise occupied by structures or roads shall be covered with native ground cover or other grass of the owner's choice, trees, shrubs or other landscaping elements such as rock, wood chips, bark and/or mulched or graveled material. An irrigation system meeting the requirements of the City of Cheyenne shall be installed.

Each Lot owner shall plant and maintain no less than three (3) trees of any variety which shall have the following minimum height requirements; any coniferous tree shall be no less than four (4) feet tall when planted and any deciduous tree shall be no less than eight (8) feet tall when planted. Nothing herein shall be construed to prohibit a Lot owner from planting any number of trees less than such minimum height requirements in addition to the required three (3) trees which meet these minimum height requirements. No unsightly shelter or wind protection for trees such as used tires shall be permitted. Any of the minimum required trees which die shall be replaced with tree(s) of a height at least equal to the size of that required when originally planted. All trees shall conform to requirements of the Forestry Division of the City of Cheyenne including recommended restrictions on undesirable varieties such as Cottonwoods.

No trees and or shrubs shall be planted in such a manner as to create a hedge which defines the boundaries of any Lot. This restriction shall not prevent the planting and maintenance of trees and/or shrubs as windbreaks or for privacy screening as long as such landscaping does not form a perimeter border of the Lot. In addition, landscaping and other improvements in general shall not be allowed in locations on Lots where their presence may interfere with necessary safe distance visual requirements at road intersections or driveways.

No buildings, landscaping, or other site improvements shall be allowed which may interfere with the natural or designed drainage patterns which exist through the Subdivision as a whole. Any proposed changes to the Subdivisions' natural or designed drainage patterns must be shown on any Lot owner's application for approval of construction and must include a complete written definition of all proposed drainage changes.

12. SET-BACKS. No building shall be located on any Lot nearer than: front yard - 25 feet; rear yard - 25 feet; side yard - 7.5 feet except 10 feet from street line. A variance may be granted at the discretion of the Architectural Control Committee.

13. Reserved.

14. SIGNS. Except for signs advertising the initial offering of Phase II and the permanent identification, signage or landmarks installed by the Grantor which identify the Subdivision, no sign of any kind shall be displayed to the public view on any Lot except one sign of not more than three (3) square feet advertising the property for sale or rent, or except signs of no more than thirty-two (32) square feet used by a builder to advertise the property during the construction period. Upon completion of construction any such large construction sign shall be removed.

15. PETS AND ANIMALS. Commonly accepted domestic pets may be kept provided they are not maintained or kept for commercial purposes. Pets must be under the control of the owner at all times and will not be allowed to run free off the owner's Lot. No livestock or fowl of any kind shall be permitted on any Lot. Operation of commercial riding stables and/or commercial boarding stables for horses or other livestock shall not be allowed. A maximum of four (4) domestic pets of which not more than two (2) may be dogs will be allowed to reside at each Lot. All Lot owners shall insure that any pets kept by such owner shall not be a nuisance to any other Lot owner or resident. Owners shall prevent their pets from creating excessive noise and shall not allow pet waste to accumulate or be deposited on the property of others. Pet kennels or dog runs may be permitted by the Architectural Control Committee through application, but all such structures shall be properly screened from the view of other Lot owners and/or public roads which serve the Subdivision.

16. VEHICLES. No vehicles, except private passenger automobiles, light-duty trucks and/or vans and recreational-type vehicles shall be parked or stored on any Lot or roadway of Phase II. No parking shall be permitted on any designated bike path of the Subdivision. Vehicles which are not in running condition or are in a state of disrepair shall not be parked on a Lot or on the road in front of a residence or on the front driveway or anywhere within Phase II more than 72 hours at any one time or as a repeated practice. No vehicles, trailers or vehicular equipment shall be habitually parked along any of the public roadways within Phase II. Owners of camp trailers, horse trailers, boats and boat trailers and any recreational vehicles larger than light-duty pickups and vans shall park such vehicles away from the general view of adjacent Lot owners and away from the roadway side of any residence.



17. **MINERALS.** No oil drilling, oil development operations, refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall 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.

18. **EASEMENTS.** Easements and rights of way as shown on the recorded plat are hereby reserved in this Phase II for underground wires, pipes, conduits, street lighting, electricity, gas, telephones, sewer, water or any other public or quasi-public utility service purposes, together with the right of ingress and egress at any time for the purpose of further construction and repair. Easement areas on a Lot shall be maintained by the owner of that Lot.

19. **CITY WATER AND SEWER SYSTEM.** All Lots shall be served by the water and sewer system of the City of Cheyenne. No water wells of any sort shall be permitted so long as water service is being furnished by the City of Cheyenne Board of Public Utilities or its successor.

20. **UNDERGROUND UTILITIES.** All utility lines from the easement to the structure(s) on any Lot shall be underground and the responsibility of the Lot owner, builder and/or the utility company. Lot owners shall not dig or excavate without first having contacted the appropriate utility representative to secure location of underground lines.

21. **FENCING.** It is the intent of this Declaration to afford, create and maintain an open appearance to the Subdivision's overall landscape. No fencing of any sort shall be permitted on any Lot within Phase II except upon the prior written approval of the Architectural Control Committee and no perimeter fencing of the Lots, with the exception of fencing or screening of the Subdivision's outer boundary by the Developer shall be permitted. Any fencing or screening of the Subdivision's outer boundary by a Lot owner shall require prior approval of the Architectural Control Committee. Fencing utilized for screening, privacy, wind protection, or other general purposes, all of which are required to be located close to the primary dwelling, may be allowed with approval by the Architectural Control Committee. The Architectural Control Committee shall evaluate any request for fencing upon a Lot to insure that any such fencing is compatible with the structure, the adjoining Lots and the Subdivision and may deny any such request if the proposed fencing does not meet the Committee's requirement for fencing materials, height, location and aesthetics.

22. **HOMEOWNERS' ASSOCIATION.** The ownership of any Lot subject to this Declaration shall impose and confer upon any such owner the obligations and benefits of membership in The Pointe Homeowners' Association, Inc., a Wyoming non-profit corporation, (the "Association"). The Association shall hold title to, maintain and manage certain real and personal property assets in, on and appurtenant to the Subdivision ("Common Areas"), including rights of way, bike paths, utilities and other assets; enforce this Declaration; assess its members for the costs of management and maintenance of the Common Areas and for other projects for the benefit of the Subdivision as determined by the Association; provide an organizational entity for other activities of the Lot owners; and promote the common interests of its members.

Owners of Lots within the Subdivision are bound for the payment of assessments duly made according to rules and regulations promulgated by the Association. Non-payment of assessment may result in imposition of a lien against the Lot.

23. **BINDING EFFECT; EXTENSION; AMENDMENT.** This Declaration and all restrictions set forth herein runs with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date this Declaration is recorded, after which time said Declaration shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended, except for Sections 3 and 4 hereof, at any time, by an instrument signed by at least a majority of the then owners of the Lots agreeing to amend this Declaration in whole or in part and recorded upon the deed records of the Clerk of Laramie County, Wyoming. This Declaration may be amended by Grantor, as to any Lots not already conveyed to Grantees not related in any way to Grantor, at any time prior to the sale of all Lots in Phase II.

24. **ENFORCEMENT.** This Declaration and any covenants, conditions and restrictions set forth herein, may be enforced by the owner of any Lot subject to this Declaration or the Homeowners Association by appropriate proceedings at law or in equity against those persons violating or attempting to violate any covenant or covenants. Such judicial proceedings shall be for the purpose of removing a violation, restraining a future violation, for recovery of damages for any violation or for such other and further relief as may be available. The party found to have violated this Declaration shall be responsible for the reasonable attorney's fees incurred by the Committee, the Homeowner's Association or Lot owner in such proceedings. The failure to enforce or cause the abatement of any violation of this Declaration and these covenants shall not preclude or prevent the enforcement thereof of a further or continued violation, whether said violation shall be of the same or of a different provision within this Declaration.

The Architectural Control Committee is in no way responsible for enforcement of the restrictions in this Declaration.

25. **SEVERABILITY.** Invalidation of any one of these restrictions by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

DATED this 18 day of April, 2006.

THE POINTE, A Wyoming Limited Liability Company, GRANTOR

By: \_\_\_\_\_

Ross Malinski

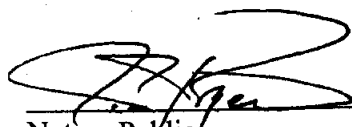
Its: \_\_\_\_\_

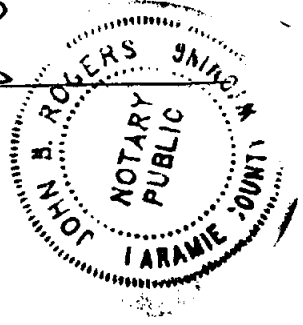
President

STATE OF Wyoming )  
 ) SS  
COUNTY OF LARAMIE )

The foregoing instrument was acknowledged before me by Ross Malinski on behalf of The Pointe, Limited Liability Company this 18<sup>th</sup> day of April, 2006.

Witness my hand and official seal.

  
Notary Public



My Commission Expires: January 7, 2008