

#6143

**AMENDED COVENANTS AND CONDITIONS  
OF WARNER RANCH ESTATES MINOR SUBDIVISION**

Whereas, the Declarant is the owner of all of the land described in the following land description and desires to place covenants, conditions and restrictions on said land for the use and benefit of themselves, as its present owners, and for the future owners thereof.

Land owned by the Declarant in Section 13, Township 20 North, Range 27 West. Being C.O.S. 2866MS.

Now, therefore, the Declarant does hereby declare that the property above –described shall be sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. The easements, covenants, restrictions and conditions shall run with the real property, and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof.

1. Lot Use: Lots shall be for single family residential use. There shall not be more than one primary dwelling.
2. Compliance with Health Regulations: No activity shall be conducted in violation of any Montana State law, Montana State regulation, or local ordinance or regulation with respect to water supply, sewage disposal, sanitation and air pollution.
3. Waste Materials: No building site shall be used or maintained as a dumping or storage area for rubbish, trash, garbage, brush, or other waste. All trash, junk, garbage and other waste shall be kept in sanitary and rodent-proof containers. No automobiles, automobile bodies, motor vehicles or parts thereof may be left exposed to view from other parcels in an inoperative condition except during a period not to exceed three (3) months while repairs are being made of such vehicle.
4. Animals: All animals shall be contained within the boundary of the owner's property. Vicious or barking dogs shall not be kept or maintained on any parcel at any time.
5. Offensive Activity: No noxious or offensive activity shall be carried on or permitted upon any parcel, nor shall anything be done which may be or may become an annoyance or nuisance to the neighborhood; nor shall the premises be used in any way for any purpose which shall endanger the health, safety, welfare or unreasonable disturb the residents of any other parcel. No materials or mechanical equipment shall be used in a manner detrimental to the residential use of the surrounding tracts due to vibration, noise, dust, smoke or odor.

6. Building Standards: The following construction standards shall be followed for all residences placed on the premises:
- a. Metal roofs shall be permitted only if they shall have been painted during the course of their manufacture. Bare aluminum, steel, galvanized surfaces or other metallic unpainted at factory surfaces, roofing or siding shall not be permitted.
  - b. No residential building nor any appurtenance or outbuilding shall be less than ten (10) feet from any east/west property line, nor closer than fifty (50) feet from north/south property boundaries.
  - c. Each residence must be constructed according to the Unified Building Code with snow load rating no less than 52 lbs per square foot.
  - d. Each residence once constructed on a parcel shall be kept in the same condition as at the time of its initial construction, excepting normal wear and tear. If all or any portion of a residence is damaged or destroyed by fire or other casualty, the owner thereof shall with due diligence rebuild, repair or reconstruct such residence in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken within three (3) months after the damage occurs and shall be completed within twelve (12) months after the damage occurs unless prevented by causes beyond the control of the owner. If the owner desires not to rebuild upon destruction of the residence, he shall remove all debris and maintain the parcel in a presentable and orderly manner until rebuilding occurs.
7. Resubdivision: No property may be redivided.
8. Road Maintenance: To keep and maintain the private road system that accesses Warner Ranch Estates Minor Subdivision and Parcel B-1 of C.O.S. 2705RB, a yearly maintenance fee will be levied against any Lots in Warner Ranch Estates that use Warner Ranch Lane as their primary access and against Parcel B-1 of C.O.S. 2705RB or any lots of any future subdivision that is accessed by Warner Ranch Lane.

If the costs of maintenance, taxes and improvements to the road system exceed amount of revenue generated by the minimum charge, then the excess expense shall be distributed prorata among all lots using Warner Ranch Lane as their primary access. Road maintenance will be performed to keep the roads passable by automobile 12 months of the year. Snow will be plowed in the winter, and the roads will be graded. There will be a speed limit to promote safety and reduce dust.

Delinquent maintenance and improvement fees shall constitute a lien against the real property. The lien shall be perfected by filing a Statement of Lien with the Sanders County Clerk and Recorder. The filing shall recite the name of the account, amount of the delinquency, the dates incurred and the real property affected. Any costs or attorney fees incurred in foreclosing the lien

or collecting the delinquent maintenance and improvement fees shall be an additional charge against the user and the real property and collectable in the same manner as the delinquent maintenance and improvement charge.

The fees and assessments provided for herein are under the control of the Declarant. The Declarant has the right to transfer all rights and obligations incident to private road maintenance, without the consent of the lot owners.

### **TERM OF DECLARATION**

The provisions of this Declaration shall run with the land and be binding for a term of twenty (20) years from the date of this Declaration after which time the Declaration shall be automatically extended for successive periods to ten (10) years each there shall be recorded an instrument signed the owners of 75% of the lots who agree to terminate these covenants.

### **AMENDMENT**

This Declaration may be amended by an instrument signed by the owners of 75% of the parcels affected agreeing to such amendment.

### **ENFORCEMENT**

The Declarant or any owner shall have the right to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, easements, reservations, liens and charges now or hereinafter imposed pursuant to the provisions of this Declaration. The failure by the Declarant or any owner to enforce any covenant or restriction herein contained shall not be deemed a waiver of the right to do so thereafter. The Declarant shall have no duty to take any affirmative action to enforce any restrictive covenants nor shall it be subject to any liability for its failure to so act.

If any person entitled to do so shall bring formal legal action to enforce any provision of this Agreement, the prevailing party to such action shall be entitled to recover from the other party reasonable attorney's fees and costs of the action.


It is hereby declared that the Sanders County Justice Court shall have original jurisdiction and be a proper forum for any enforcement action initiated hereunder.

It is understood that the Sanders County Board of Commissioners is a party to these covenants, and has no obligation to enforce them.

### **SEVERABILITY**

Invalidation of any one of these covenants or restrictions by court order, judgment or decree shall in no way affect the remaining provisions, which shall remain in full force and effect.

DATED this 2<sup>ND</sup> day of June, 2008.

  
Declarant

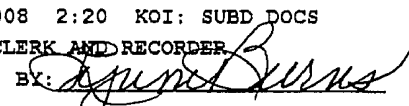
State of Montana     )  
                              : Ss  
County of Sanders    )

On this 2<sup>ND</sup> day of June, 2008, before me, a Notary Public for the above state personally appeared Dave McClenahan, the Declarant, known to me to be the person whose name is subscribed to the written instrument, acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by Notarial Seal on the date and year above written.



Kathleen R. Logan  
Notary Public - State of Montana  
KATHLEEN R. LOGAN  
Printed Name - Notary Public  
Residing at PLAINS  
My commission expires: 6/19/2011

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STATE OF MONTANA SANDERS COUNTY  
RECORDED: 06/03/2008 2:20 KOI: SUBD DOCS  
JENNINE ROBBINS CLERK AND RECORDER  
FEE: \$5.00     BY:   
TO: DAVE MCCLENNAHAN