

DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS  
OF ASHLEY CREEK ADDITION NO. 1

THIS DECLARATION, made this 21 day of April, 1981,  
by BENNETT HOMES & REALTY, a Montana for-profit corporation, Star  
Route 2, Box 1, Thompson Falls, Montana 59873, hereinafter referred  
to as DECLARANT:

W I T N E S S E T H:

WHEREAS, DECLARANT is the owner of certain property located in  
Sanders County, Montana, which is more particularly described as  
"ASHLEY CREEK ADDITION NO. 1" and which is referred to herein as the  
"Property"; and

WHEREAS the DECLARANT is the owner, or purchaser under  
a contract of additional property adjacent to ASHLEY CREEK ADDITION  
NO. 1 which property, together with ASHLEY CREEK ADDITION NO. 1, is  
hereinafter referred to as the "ASHLEY CREEK DEVELOPMENT AREA" and is  
more particularly described by Exhibit A attached hereto and by this  
reference made part hereof; and

WHEREAS DECLARANT seeks to place reasonable restrictions and  
covenants and conditions on the use of ASHLEY CREEK ADDITION NO. 1;

NOW, THEREFORE, DECLARANT hereby makes, declares and imposes  
the following limitations, restrictions, regulations and uses upon and  
of ASHLEY CREEK ADDITION NO. 1 as restrictive and protective covenants  
running with the land and binding upon all present and future owners  
of any part of such real property, and further declares that each  
lot within the premises is, and shall be, held, transferred, sold,  
conveyed and occupied subject to the restrictive and protective  
covenants, easements, charges and liens hereinafter set forth, all of  
which are for the purpose of enhancing and protecting the value,  
desirability and attractiveness of the premises.

Furthermore, the limitations, restrictions and uses as are here-  
after set forth, are established to maintain the architectural design  
of the residential structures built on each lot, the landscaping of  
each lot, and the quality of construction by uniform uses and main-  
tenance for the mutual benefit of the future owners of each lot.

The references to the "ASHLEY CREEK DEVELOPMENT AREA" which  
follow are intended by the DECLARANT to be explanatory only and such  
references are not intended to and shall not impose any limitation,  
restriction, regulation, use, lien or encumbrance on any portion of  
the ASHLEY CREEK DEVELOPMENT AREA except ASHLEY CREEK ADDITION NO. 1.

mailed by certified mail to each owner at the owner's address according to records of the Sanders County Assessor's Office. At the initial election meeting the majority of owners attending in person or by proxy shall determine the number of committee members, their term of office, and they shall be elected. The members attending the meeting by person or by proxy may also adopt by-laws governing the future selection and operation of the committee.

"Owner" shall mean and refer to the record owner, whether one or more persons or entities holding a fee simple title to any lot which is part of the property, including Contract Purchasers, but excluding those having such interest merely as security for the performance of an obligation. When more than one person holds such interest in a lot, the vote for each lot for any purpose relating to the Committee shall be exercised as such persons among them shall determine but in no event shall more than one (1) vote be cast with respect to any lot.

Section 2. RELATIONSHIP OF ASHLEY CREEK ADDITION NO. 1 TO ASHLEY CREEK DEVELOPMENT AREA. If the developer shall cause to property adjoining ASHLEY CREEK ADDITION NO. 1 and within the ASHLEY CREEK DEVELOPMENT AREA, to be subdivided, platted or otherwise developed within a period of \_\_\_\_\_ years from the date of recording of this Declaration and if the Developer shall impose on such property any conditions, covenants and restrictions then the developer may but shall not be required to elect that the covenants so imposed and the covenants hereby imposed on ASHLEY CREEK ADDITION NO. 1 shall be reciprocally enforceable.

Section 3. WAIVER OF BUILDING RESTRICTIONS. The building restrictions contained in Article I of this Declaration may be waived for good cause on written application from any lot owner if the Committee on a reasonable basis determines that the Waiver will not reduce the value or interfere with the use of other property within ASHLEY CREEK ADDITION NO. 1. The application for and granting of such waivers shall be kept as a permanent record of the Committee available on inspection to any owner or prospective purchaser of properties within ASHLEY CREEK ADDITION NO. 1.

Section 4. REMODELING. All remodeling, additional construction, reconstruction, or other changes from the original plans and specifications submitted to and approved by the Committee must be submitted in complete written form and approved by the Committee in the same manner as was the original plans. No such change may be made or commenced without Committee approval.

Section 5. ENERGY CONSERVATION IN BUILDINGS. All buildings shall have a ceiling insulation value of at least R-30. All walls and floors, except where over basements or first stories, shall have at least an R-19 insulation value. Dwellings shall have double-glazed

"junk vehicle" as defined by Section 75-10-501 MCA 1978 or successors to said statute shall be stored or kept on any lot unless wholly enclosed in a building, nor shall any inoperable motor vehicle, boat or similar equipment or vehicle which is in an extreme state of disrepair be stored or kept on the premises unless wholly enclosed in a building.

Vehicles such as recreational vehicles, boats and camper trailers in good repair may be stored on the property but in no case shall such storage be made in the driveways or front yard of the dwelling. Such recreational vehicles, boats or camper trailers may be placed on the driveways for a maximum of seventy-two (72) hours while being readied for travel.

Automobiles or pickup trucks in an operable condition and for residential use may be placed and kept in the driveways or in a designated area of the lot. Building materials for the construction of the principal dwelling unit may be stored, unenclosed on the property provided such storage is in a neat and orderly manner.

No commercial or industrial logging or construction equipment, (including but not limited to crawler tractors, front end loaders, skidders and farm tractors) nor any trucks of greater than one ton capacity may be stored or kept on any lot or roadway within the subdivision except during the period that such equipment is actively used in the improvement of lots or roads.

Section 11. NOISE LEVELS. No activity shall be conducted upon the property which shall produce a noise level over seventy-eight (78) decibels.

Section 12. COMMERCIAL ACTIVITY. No trade, craft, business, profession, commercial or manufacturing activity of any kind other than home occupations shall be carried on or conducted on any lot or in any building located on a lot. "Home occupation" shall mean only an occupation, profession or craft carried on within a dwelling by the owner, which activity does not change the residential character of the dwelling, is conducted in a manner as to not create any outward appearance of a business in the ordinary meaning of the term, and does not infringe upon the right of other owners to enjoy peaceful occupancy of their dwellings. No equipment or process shall be used which creates any visual or audible interference with any radio or telephone receivers or which causes fluctuations in electrical line voltage off the premises.

No drilling, excavation (other than for residential purposes) or mining may be conducted on the premises.

Section 13. BUILDING DIMENSIONS AND MATERIALS. No building shall be erected, altered, placed or permitted to remain on any lot other than a single-family dwelling not to exceed two (2) stories, twenty-four

debris and shall restore the condition of the lot to the condition existing prior to the improvement being placed thereon.

Section 15. CHANGES, REMODELING OR ADDITIONS. All changes, remodelings or additions shall be completed as to exterior appearance within three (3) months.

Section 16. SEEDING AND PLANTING. Whenever any structure shall be erected on any lot, the owner of such lot shall within a two (2) year period of time thereafter seed and plant a lawn or other vegetative ground cover.

Section 17. ON-STREET PARKING. No occupant of any dwelling erected upon the property shall use the street or barrow pits for on-street parking. Such occupant and members of the occupant's family shall create and design sufficient off-street parking for the number of vehicles generated by the occupants.

Section 18. OFF-STREET PARKING. Design and placement of structures on each lot shall leave placement for off-street parking for at least three (3) vehicles.

Section 19. SIGNS. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five (5) square feet may be placed upon the property which shall advertise it for sale or rent by the owner or builder.

Section 20. OFFENSIVE ACTIVITY. No noxious or offensive activity shall be carried on or permitted upon any lot, 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 may endanger the health, safety or welfare or unreasonably disturb residents of any lot. This prohibition shall specifically include the operation of motor vehicles within the property by any owner or the owner's household members, guests and invitees at speeds excessive for traffic conditions or in violation of traffic laws. No materials or mechanical equipment shall be used in a manner detrimental to the residential use of the surrounding lots because of vibration, noise, dust, smoke or odor.

No owner shall cause to be placed any firewood or logs upon the premises which must be re-sawed for use. No log decks shall be dumped on a lot. All firewood shall be piled in a neat and orderly manner.

The discharging of firearms or hunting on any lot is strictly forbidden.

Section 21. ANIMALS. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that a reasonable number of dogs, cats and other animals commonly considered household

upon the owner's request and shall be used by such owner as the sole source of water for domestic and irrigating purposes. No individual or private wells or water systems shall be permitted or allowed upon any lots other than the water provided by Declarant.

The term "furnishing of water" shall mean that Declarant shall provide a water tap to the main at the member's property line which abuts such main. In the event that the water system located on the ASHLEY CREEK ADDITION NO. 1 shall be annexed to the City of Thompson Falls, all owners shall be required to pay such assessments, hook-up fees and water meter charges as are required by the City of Thompson Falls.

Section 26. RE-SUBDIVISION. No lot may be re-subdivided.

Section 27. SET-BACKS. No dwelling house nor any part thereof shall be erected on any lot within thirty (30) feet of the front line of each lot and no building shall be located on any lot nearer than fifteen (15) feet to any sideline or rear line.

Section 28. CONTROL OF FIRE HAZARD. All residents shall take necessary precautions to control the danger and hazard of wildfire. Such precautions shall include, but shall not be limited to:

- a) No lot owner may store any fuel, oil or gas or any other flammable or volatile substance except for the storage of residential heating fuel, propane for residential purposes and motor vehicle fuel contained in tanks which are a permanent part of such motor vehicles.
- b) All wood-burning stoves and fireplaces must have a spark arrester on the chimney or wire mesh no larger than one-quarter (1/4) inch.
- c) Proper permits must be obtained prior to burning of debris, slash or other material out of doors.
- d) Pine needles shall not be allowed to accumulate on the roofs of the buildings.

Section 29. USED BUILDINGS. No old buildings, railroad section houses, shacks, or houses of any type may be moved onto the lot.

Section 30. TIMBER REMOVAL. No trees or other natural growth shall be cut or removed from any lot except as it necessary for the placement of structures, roadways or gardens. A lot owner may for landscaping purposes, remove natural growth but shall promptly replace such growth with appropriate and harmonious vegetation.

Section 31. PERMANENT LIVING QUARTERS. No tent, shack, basement, motor or mobile home, or other temporary or transient dwelling shall be used as a permanent or temporary living quarter upon the lot.

Section 31. FENCES, HEDGES AND ACCESSORY BUILDINGS. No fence or

ARTICLE V.  
SEVERABILITY

Invalidation of any one or more of these covenants and restrictions by a Court of law shall not affect the remaining provisions which shall remain in force and effect.

ARTICLE VI.

DECLARATION OF RECIPROCAL EASEMENT

ROADWAY MAINTENANCE

Declarant does hereby grant and convey unto the present and future owners of the lots within the subdivision an easement for ingress, egress, utility and roadway purposes over and across the roadway described more particularly on the recorded plat of the ASHLEY CREEK ADDITION NO. 1 to the Town of Thompson Falls. This grant of easement shall run with the lands benefited forever, but shall not be exclusive to the grantees. The Declarant reserves the right to grant a comparable easement for the benefit of other lands now owned or hereafter acquired by the Declarant or his successors in interest which may be benefited from said easement.

After a roadway is constructed upon said easement to the specifications required as a condition of the approval of the subdivision plat by the Board of County Commissioners of Sanders County, then the maintenance and expense thereafter shall be prorated among the owners of lots in equal shares regardless of whether a residence shall have been constructed on such lots.

The ASHLEY CREEK ADDITION NO. 1 Community Water Users' Association, an entity created by instrument, recorded in the Office of the Clerk and Recorder of Sanders County, Montana, at Book \_\_\_\_\_ of Miscellaneous Real Estate, Page \_\_\_\_\_, shall be empowered to levy periodic assessments for road maintenance and to enforce the collection of such payments in the same manner as said Association is authorized to collect charges and assessments for water service.

In the event that the Town of Thompson Falls, Sanders County, Montana, shall endeavor and shall zone or create a zoning district upon and for the property, the covenants and restrictions placed hereon shall remain in full force and effect. In the event that the City zoning ordinances are more stringent, such zoning ordinances shall take priority.

February 11, 1993

AMENDMENT TO DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS  
OF ASHLEY CREEK NO. 3(three).

Irving V. Bauman and Margaret M. Bauman, owners of Lot 1; G. Doug Duffield and Renae D. Duffield, owners of Lots 4 & 5; James L. Wiegele and Dagmar R. Moore, owners of Lot 6; Buddy J. Leufkens and Judy A. Leufkens, and George D. Elliott and Linda J. Elliott, owners of lots 2, 3, 7, 8, and 9; being owners of all the lots in Ashley Creek No. 3, hereby make the following additions to the Declaration of Conditions, Covenants and Restrictions of Ashley Creek No. 3 recorded January 6, 1984 in Volume 12 Misc., page 246 and file number 2882.

1. Double wide Mobile homes will be permitted on all lots of Ashley Creek addition No. 3 (a double wide is defined as a home being of any one of the following: metal frame; brought in over its own wheels; has a towing tongue).
2. That said Double Wide Mobile homes must have wood or house type siding and a pitched roof at least 2/12 pitch.
3. That said Double Wide Mobile homes be skirted with like material of the siding and painted or stained the same as the siding or have a continuous concrete foundation within 90 days after placement.
4. Porches for the Double Wide are to be concrete or wood and if wood to be painted or stained to match or mesh with the home color.
5. The Double Wide is allowed to be eaved and gabled with less of an overhang than is required of a home.
6. The Double Wide may have less energy efficient standards than homes in Ashley Creek Additions 1, 2 & 3.

Irving V. Bauman

Margaret M. Bauman

State of Minnesota

: ss.

County of Harrison

On this 19th day of February 1993 before me, a Notary Public for the State of Minnesota personally appeared Irving V. Bauman and Margaret M. Bauman, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

12 246

  
**BOISE HOMES**  
Authorized Dealer  
New energy efficient homes

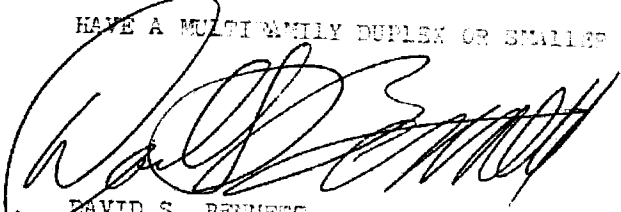
# BENNETT HOMES & REALTY

Office 827-4663 P.O. Box 1027  
THOMPSON FALLS, MONTANA 59873

  
**REAL ESTATE**  
Homes to Ranches

JANUARY 6, 1984

THE DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS  
OF ASHLEY CREEK ADDITION NO. 3 ARE EXACTLY THE SAME AS THE  
DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS OF ASHLEY  
CREEK ADDITION NO. 1 OR ASHLEY CREEK ADDITION RECORDED IN MISCELLANEOUS  
VOLUME 11 PAGE 318 AND FILED IN MISS. #2663. SACRED THAT  
LOTS IN ASHLEY CREEK ADDITION NO. 3 OF NUMBERS 1 & 7 MAY HAVE A  
MULTIFAMILY SIXPLEX OR LESS ON THEM AND LOT NUMBERS 8 & 9 MAY  
HAVE A MULTIFAMILY DUPLEX OR SMALLER ON THEM.

  
DAVID S. BENNETT  
PRESIDENT OF BENNETT HOMES & REALTY



*Daniel E Poff*  
*Notary for State of Montana*  
*Commission Expires 1-27-87*  
*Thos Falls, Mt*  
*County of Sanders*

  
**INVESTMENTS**  
Tax Shelters  
Real Estate Contracts

DAN POFF (Home: 827-3768)  
DAVID BENNETT (Home: 827-4588)

  
**RENTALS**  
1, 2 & 3 Bdrm. Apts  
Senior Cit. & Families

170186

Filed for Record *6th* day of *January* 1984  
at *2* o'clock  
by *David Taught*  
Fee *\$2.50*  
84 10:50  
246



THIS IS TO CERTIFY THAT the plans and supplemental information relating to the subdivision known as Ashley Creek Addition #3 consisting of 9 lots have been reviewed by personnel of the Water Quality Bureau, and,

THAT the documents and data required by Section 76-4-101 through 76-4-131, MCA 1979 and the rules of the Department of Health and Environmental Sciences made and promulgated pursuant thereto have been submitted and found to be in compliance therewith, and,

THAT approval of the Plat is made with the understanding that the following conditions shall be met:

THAT the lot sizes as indicated on the Plat to be filed with the county clerk and recorder will not be further altered without approval, and,

THAT each lot shall be used for one single-family dwelling, with the exception of lots 8 & 9 which will have duplexes and lots 1 & 7 which will have six-plexes, and,

THAT the public water supply system will be provided by the City of Thompson Falls, and,

THAT each individual sewage treatment system will consist of a septic tank and subsurface drainfield of such size and description as will comply with Sanders County Septic System Regulations and Title 16, Chapter 16, Sub-Chapters 1, 3 & 5 ARM, and,

THAT the subsurface drainfield shall have an absorption area of sufficient size to provide 190 square feet per bedroom for lots 4 & 5; 250 square feet per bedroom for lot 2; 280 square feet per bedroom for lot 3; 300 square feet per bedroom for lot 6, and the square footage as specified on detailed drawings for each of the multiple family lots, and,

THAT the bottom of the drainfield shall be at least four feet above the water table, and,

THAT no sewage treatment system shall be constructed within 100 feet of the maximum highwater level of a 100 year flood of any stream, lake, watercourse, or irrigation ditch, nor within 100 feet of any domestic water supply source, and,

THAT water supply and sewage treatment systems will be located as shown on the approved plans, and,

THAT plans for the proposed water and individual sewage treatment systems will be reviewed and approved by the Sanders County Health Department before construction is started, and,

THAT the developer shall provide each purchaser of property with a copy of the Plat, approved location of water supply and sewage treatment system and a copy of this document, and,