

# Lake Creek Ranch

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND ROAD USER AGREEMENT

This Declaration is made this 30th day of October 2013, by the Douglas Jensen and DeAnn Thomas Joint Living Trust, hereinafter referred to as "Declarant"

WHEREAS, Declarant is the Owner of certain real property located in Lincoln County, Montana, as hereinafter described and commonly known as Lake Creek Ranch, a subdivision, the plat or map of which is on file and of record in the office of the County Clerk and Recorder of Lincoln County, Montana; and

WHEREAS, Declarant is desirous of subjecting said real property to covenants, conditions and restrictions hereinafter set forth, each of which is and are for the benefit of said property and for each owner thereof, and shall inure to the benefit of and pass with the said property, and each and every parcel thereof, and any owner thereof;

NOW THEREFORE, the Declarant hereby declares that the real property hereinafter described is and shall be held, transferred, sold and conveyed subject to the covenants, conditions and restrictions hereinafter set forth.

### ARTICLE I PROPERTY

The real property which is and shall be held, transferred, sold and conveyed subject to the covenants, conditions, and restrictions hereinafter set forth, is located in Lincoln County, Montana, and is more particularly described as follows to wit:

Lake Creek Ranch Subdivision, being a Resubdivision of Lot 1 Lake Creek View, located in S ½ Sections 17, Township 30 North, Range 33 West, Lincoln County, Montana, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Lincoln County, Montana.

### DEFINITIONS

**1. "Common Area" means the property which is subject to this Declaration, but excluding the individual Lots within the Property. The Common Area specifically includes the areas granted to the Homeowner's Association and as shown on the Plat as parks, the road and utility easements shown on the plat as Shoshone Trail, Cheyenne Court, and Lakota Loop. The Common Area shall also include any other property acquired in the future by the Homeowners Association for the benefit of the Owners of the property in Lake Creek Ranch. Also included in the definition of "Common Area" for purposes of maintenance obligations is the maintenance and payment for repair and/or operation expenses for entry private lighting system, if any, entry monuments, mailboxes, school bus shelters, mailbox shelters, if any, and maintaining all landscaping, common area irrigation systems, common utility easements, and fencing in the public right of ways in the interior portions and frontage of the Property or within any private easement upon a lot tract or**

adjoining property which may be granted to the Homeowners Association on the face of the recorded final plat or in the future via a recorded easement document

**2. "Declaration"** shall mean this Declaration of Covenants, Conditions and Restrictions of Lake Creek Ranch, as it may be amended from time to time.

**3. "Homeowners Association"** shall mean Lake Creek Ranch Homeowners Association, and its successors and assigns.

**4. "Lot"** shall mean any plot of land designated as a lot upon any recorded subdivision plat map of the Property, including any such land owned by Declarant. The Common Areas are not considered to be Lots. Any parcel of property owned, held or used by the Homeowners Association or owned, held or used in common by the Owners shall not be considered a Lot

**5. "Stream Protection Corridors"** shall mean the area of the 100 year flood plain of Lake Creek plus a setback as defined under plum creek attachment. The purposes of the Stream Protection Corridors are to maintain functioning wildlife habitat and movement areas, protect streamside and in-stream vegetation in order to maintain water quality and provide visual buffers in order to maintain a high level of visual quality.

**6. "Owner"** shall mean the record owner of fee simple title to any Lot and shall include a person purchasing a Lot under a contract for deed which is recorded (or an abstract of which is recorded) in the records of Lincoln County, Montana. The term "Owner\*\*" shall include Declarant to the extent it is the owner of fee simple title to a Lot

**7. "Period of Declarant Control"** shall mean the period beginning on the date this Declaration is first recorded in the office of the Clerk and Recorder of Lincoln County, Montana, and ending on the earlier of: (a) the date which is (10) years later or (b) the date on which Declarant notifies the Homeowners Association in writing that Declarant has elected to terminate the Period of Declarant Control. After the termination of the Period of Declarant Control, Declarant if still an Owner, will continue to have all the rights and duties ordinarily given to Owners under this Declaration.

**8. "Plat"** shall mean the final plat map of Lake Creek Ranch recorded with the office of the Clerk and Recorder of Lincoln County, Montana.

**9. "Property, Subdivision and "Lake Creek Ranch"** shall mean the real property described in Article I above.

**10. "Roads"** shall mean the sixty (60') rights of way for ingress, egress and utilities designated on the Plat as Shoshone Trail, Cheyenne Court and Lakota Loop, all of which are or may be subject to an easement.

#### **PURPOSE**

The Property is subjected to the covenants, conditions and restrictions hereby declared to insure the best use and the most appropriate development and improvement of each building site thereof, to protect the Owners of building sites and the value of their property; to preserve so far as is practicable the natural beauty, wildlife habitat and environment of the Property, to guard against the erection thereon of structures built of improper or unsuitable material; to encourage and secure the erection of attractive homes thereon; and to adequately provide for a high quality of improvements made by purchasers of Lots thereon.

## ARTICLE II

### COVENANTS AND RESTRICTIONS

1. **Land Use and Building Type:** A Lot may only be used for single-family residences, limited home businesses and recreational purposes. Home based businesses not requiring more than three (3) trips or visitors daily shall be allowed. No lot less than 2.5 acres shall be subdivided.

2. **Dwelling Size:** No dwelling shall be permitted on any Lot of less than one thousand one hundred (1,100) square feet of living area on the ground floor exclusive of garages, basements or porches. No dwelling or other structure shall exceed 1-1/2 stories in height above the ground level, not including the ground level. No structure of a temporary character, trailer, basement, tent, garage, barn, or other outbuilding shall be used on any Lot, at any time as a residence. Lot owners will maintain a 60 foot separation between residential structures if possible.

3. **Dwelling Construction:** All dwellings shall be constructed within the boundaries of the Lot and shall be permanent in nature. All dwellings shall be placed on a permanent foundation. No prefabricated structure of any kind, and particularly those commonly known as "mobile home,\*\* "modular home,\*\* or prefabricated structure designed to be moved or hauled on wheels or of "boxed" steel metal shall be built or moved onto any lot. Only new materials may be used, except for used brick, beams and the like for any integral part of the architecture of the building. Structures should have a natural wood tone exterior finish, encouraging designs with exposed log features. Roofs of structures shall be constructed of Class A and Class B fire resistant roofing materials, and kept free of debris such as pine needles, leaves, moss, etc. All Roofs shall have a pitch of 6:12 or greater. Roof colors shall be required to be in subdued, "earth tones". Dwellings must include a 2 car attached or detached garage. Neither the height nor the square footage of a garage or outbuilding may exceed the height or the square footage of the primary dwelling. All proposed construction shall first be reviewed and approved by the Architectural Review Committee in accordance with Article IV hereof.

4. **All Buildings:** All buildings located upon any Lot including, without limitation, barns, stables, garages, and tool sheds shall be in keeping with the architecture of the other buildings located on the Lot, be kept in good repair and appearance, and maintained in a sanitary condition with strict fly and pest control measures.

5. **Exterior Maintenance:** Each Owner of a Lot on which there is a structure shall provide exterior maintenance upon such Lot and structure to include painting and repairing the structures; maintaining the lawn and grounds to preclude noxious weeds and other noxious growths; and not permitting refuse piles or other unsightly objects to accumulate or remain on the grounds. Paint on buildings, fences and other structure shall be required to be in subdued, "earth tones". All outdoor lighting shall be downward pointed and side shielded.

6. **Building Locations:**

- a. **Front Setback:** The Front Lot line is the Lot line facing the primary access road to the Lot. No building shall be located on any Lot nearer than one hundred (100) feet to the front Lot line.

- b. **Side and Rear Set Backs:** No building shall be located on any Lot nearer than fifty (50) feet to the Rear Lot line or nearer than fifty (50) feet to any side Lot line.
- c. **Exceptions:** Written exception to the restrictions in paragraphs "a" and "b" above may be granted by the Architectural Review Committee.

7. **Animals:** All animals shall be kept under full control of the Lot Owner, and shall not be permitted to run at large.

- a. Animals shall not be raised, bred, kept or maintained for any commercial purpose.
- b. Dogs shall be confined to the immediate residential area in such a manner as to insure the safety of wildlife and neighboring livestock. Dogs and cats shall be fed exclusively indoors.
- c. Swine, sheep, rabbits and goats are expressly prohibited.
- d. No more than one (1) horse, cow or similar large animal shall be allowed per acre. Up to ten horses may be kept for up to a maximum of fifteen (15) days during fall hunting season.
- e. All animals, birds and pets maintained on any Lot under the foregoing provisions must further not create or cause a violation of any of the other covenants contained herein, such as an annoyance, nuisance, or disturbance to the neighborhood or the residents of any of the other Lots, and must be confined to the Owners Lot in an enclosure which is not unsightly and which has been constructed in conformity to the provisions hereof relating to outbuildings. All Owners shall comply with any and all other ordinance, rule or regulation of Lincoln County or the State of Montana regarding domestic animals.

8. **Garbage:** No Lot or any part thereof shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in bear proof containers. Such containers must be kept in a garage or other enclosed area. Disposal of household garbage shall be the responsibility of the individual lot owners. A central garbage collection area may be provided by Lincoln County on Highway 56. Compost piles and the burying and burning of solid waste must conform to State of Montana and Lincoln County ordinances and regulations. All construction waste must be disposed of legally at an approved facility.

9. **Sewage Disposal:** Septic systems must be approved and inspected by the County Sanitarian. Prior to the initial residential construction or site preparation, the Lot Owner shall secure a septic permit from the Lincoln County Environmental Health Department.

10. **Landscaping and Fences:**

- a. **Landscaping.**
  - i. **Fire Prevention.** Defensible space vegetation reduction shall be provided around all primary structures as recommended by the Montana Department of Natural Resources and Conservation, Volunteer Fire

District or similar agency.

**ii. Removal of Native Vegetation.** In order to promote a managed forest and a natural setting, removal of native vegetation shall be limited within 20 feet of side and rear property lines to the following:

**A. Removal of dead, damaged or diseased trees and branches.**

**B. No trees, shrubs, or other vegetation shall be removed from the riparian corridor as set out in Book 287 Page 700, microfilm records of Lincoln County, Montana as per State Law and Plum Creek restrictions.**

**C. A thirty (30) foot perimeter will be kept around structures in which weeds, brush and other debris capable of rapidly transmitting fire are removed.**

**D. No portion of a tree or any other vegetation will extend to within 25 feet of the outlet of a stovepipe or chimney.**

**b. Fences**

**i. Interior Yard Fencing.** Chain link or other fencing not to exceed 10 feet in height may be permitted in the back yard of a structure to permit the construction and care of a yard and other landscape elements and enclosure of household pets. The fenced yard shall not exceed 10,000 square feet nor encroach into any of the required building setback areas. Perimeter and interior fencing shall be permitted within the Park area of the Property subject to approval by the Architectural Review Committee.

**ii. Perimeter Lot Fencing.** The perimeter of any Lot or park area may be fenced using a rail or pole design that does not exceed a height of 48 inches and incorporates no more than 3 horizontal rails/poles. The color of the perimeter fencing shall be natural brown tones. All perimeter fence designs and locations shall be approved by the Architectural Review Committee.

**11. Noxious Weeds.** The Property shall be kept free of noxious weeds as defined by the State of Montana or Lincoln County. If noxious weeds are found on any Lot, the Lot Owner shall eradicate or commence eradication efforts upon receipt of thirty (30) days advance written notice to do so from the Lincoln County Weed District or the ARC. If the Lot Owner fails to commence eradication efforts within thirty (30) days after receipt of written notice to do so, the ARC may commence eradication efforts, and the expense of such eradication efforts shall be the obligation of the Owner of the Lot upon which the noxious weeds are growing. The Association shall bear the expense of noxious weed control in any of the Common Areas.

12. **Signs:** House numbers shall be visible from the Road, at the driveway entrance or on the house. Except for the Declarant or its agents with respect to the initial sale of Lots within the subdivision, no signs shall be placed on any Lot except name plates and one (1) unlighted sign not exceeding five (5) square feet in surface area advertising the sale or lease of the Lot or improvements thereon. No home business signage shall be permitted. Subdivision entrance signs, road signs, and park signs shall be maintained by the Homeowner's Association.

13. **Burning:** Open fires are prohibited on the Property, except that open burning may be permitted with the prior approval of the Rural Fire District or other appropriate governmental entity. Even if an Owner is given permission to conduct open burning, the responsibility for controlling any such burning and for all safety measures during the open burning shall remain entirely with the Owner, and the Owner shall be responsible for any and all damages caused by the open burning. Outdoor barbecues are not open fires within the meaning hereof. This section is not intended to prevent camp fires within a controlled fire pit location, such as may be located within a Common Area or an individual Lot.

14. **Ingress and Egress:** Rights of ingress and egress to, upon and from the Property for purposes of locating, installing, erecting, construction, maintaining or using drains, sewers, electric lines, telephone lines and other utilities are retained by the Declarant.

15. **Parking:** Owners, guests, visitors and other parties may park only on Lots. No parking is permitted within the Common Areas and Roads, except where designated by the Association for parking purposes. No junked or inoperable vehicles may be parked or kept on Lots. Camp trailers or motor homes may be parked on Lots during the construction of a residence. Permanent parking/storage of recreational vehicles and camp trailers is prohibited, unless screened from view of other Lots and the Roads. A recreational vehicle shall not be used as a second residence or occupied by the primary Lot Owner after completion of the residential dwelling. Use of guest recreational vehicles is permitted on a temporary basis, not to exceed three (3) months aggregate per year. No more than three (3) cars or trucks may be maintained or kept on any Lot in plain view without shelter, carports or garages.

16. **Guest Homes:** Guest homes are permitted but shall not exceed 1,200 square feet or be used as a primary residence. Guest homes must comply with the sanitary requirements of Lincoln County and shall be built after or during the construction of the main residence. Guest homes shall be constructed of materials substantially similar to the main residence.

17. **Construction Completion:** Each building erected, placed or permitted to remain on any Lot must be completed within one (1) year from the date of commencement of construction. No building shall be lived in until the electric, plumbing, sanitation system, exterior, and individual domestic well are installed and completed. Existing topsoil will be stripped and stockpiled wherever soil is to be disturbed for roads, excavations, grading, etc. Topsoil will be replaced on all disturbed areas. Upon completion of the grading, it will be fertilized and seeded with native or commercial grass.

18. **Utilities:** All electrical and telephone service lines shall be placed underground to any structure within the individual Lot and shall comply with all state and local codes. Propane fuel tanks shall be placed underground or otherwise screened from view of adjoining lots and streets.

19. **Subdivision:** No Lot smaller than 2.5 acres shall be further subdivided. A change in boundary lines between adjacent owners shall not be considered subdivision. Two or more contiguous Lots may be combined to form a smaller number of Lots.

20. **Driveways:** Once construction or site work on any Lot is started, the Owner shall take measures to ensure that no gravel, soil or other debris is washed or carried onto the Common Areas. The driveway location must be approved by the Architectural Review Committee prior to construction. Except under unusual circumstances, no driveway shall be located within 50 feet of a side lot line. Shared driveways along a common lot line may be permitted with approval by the Architectural Review Committee. Prior to completion of construction, the Owner shall install on the Lot's driveway an apron, constructed of similar material and quality to match the connecting roadway, extending into the Lot at least 35 feet from roadway. The length of the apron may be increased (or decreased) in the discretion of the Architectural Review Committee as required to protect the Onsite Roadways. Driveway access shall be from the interior Roads of Cheyenne Court and or Lakota Loop. The lot owner agrees to construct and maintain a loop road or turn-around area that would allow emergency services vehicles to approach structures and exit the property without backing out.

21. **Restrictions Shown on Plat:** Restrictions or covenants shown on the plat of Lake Creek Ranch recorded in the records of Lincoln County, Montana are hereby incorporated into this Declaration and shall be considered to be additional protective restrictions applicable to the Property in the same manner as the protective restrictions set forth above.

22. **Wildlife:** The following items have been incorporated into these Covenants for the purpose of lessening the potential for human/wildlife conflict.

- a. All outdoor garbage containers shall be bear proof and shall be stored in enclosed buildings. Garbage containers shall be emptied prior to long absences, such as vacations.
- b. There shall be no overnight outside food storage, such as refrigerators coolers, or food chests. All foods shall be put inside at any time that food is not being used.
- c. All barbecue grills shall be left clean. Left over cooking oils and grease shall be deposited in bear proof containers as soon as possible.
- d. Pet foods shall be treated the same as human foods and shall be stored indoors.
- e. No wildlife attractants such as salt blocks, or hay shall be stored unless in strong, fenced enclosures that ungulates and predators cannot penetrate. It can be assumed that if deer are being attracted to the area, so are their predators. All stock food shall be kept in bear proof containers or closed buildings and shall not be left overnight. Grains and other stock food shall be distributed from feeders.
- f. The planting of any type of fruit tree is prohibited unless surrounded by properly constructed and maintained fencing. All garden produce, fruit trees and berry producing shrubs shall be promptly and thoroughly harvested. Gardens shall be fenced with at least one foot of fencing material below ground

level and at least eight feet in height. The top rail shall be made of something other than barbed wire to prevent wildlife from entanglement

- g. All other feeding of wildlife is prohibited.

### ARTICLE III

#### COMMON AREAS

1. **Community Park:** The area designated as "Park" shall forever remain in common use by all Lot Owners of the Property and the owners of Lots in any Additional Lands annexed to the existing Subdivision. Outdoor recreational improvements may be constructed or altered in the Park following approval of the Architectural Review Committee.
2. **Use of Community Park:** Except as described in this Section 2, the Park shall be used only for recreational purposes. The Park is for use by all Owners, their tenants, and the Owners' and tenants' respective bona fide invitees and guests. The Park shall not be open to the public.
3. **Roads.** Each Owner and his/her tenants, and each Owner's and tenant's respective bona fide invitees and guests, shall have a perpetual, non-exclusive easement across all Roads as constructed and shown on the Plat. The Roads are open to public use but are privately owned and maintained by the Homeowner's Association. The sixty (60) foot road easements also are for construction and maintenance of utilities and drainage as shown on the Plat. Within these areas, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and or maintenance of such utilities, or which may change the direction of flow of water through a drainage channel in the easement, or which may obstruct or retard the flow of water through drainage channels in the easements. The Association shall have the right to excavate, construct, operate, maintain, repair and or rebuild any common improvements within the Road area, provided that each Owner shall have the explicit responsibility for maintaining the landscaping within the landscaped portions of the Road and that portion of the sewer-line system located on the Owner's Lot.
4. **Maintenance:** The Common Areas shall be maintained by the Homeowners Association. Except as to any damage attributable to any Lot Owner, or his or her guests or agents, which damage shall be repaired at the sole cost of such Lot Owner, or except for any additional assessments imposed as described in Article V, Section 5 below, the costs of such maintenance shall be paid equally by the Owners as provided in Article V hereof. If there is disagreement concerning the maintenance of the Community Park or Roads, such disagreement shall be resolved by majority vote at a meeting of the Owners, as provided below.

### ARTICLE IV

#### ARCHITECTURAL REVIEW

1. **Architectural Review Committee:** During the Period of Declarant Control,

Declarant shall appoint an Architectural Review Committee ("ARC") to review all construction plans. The members of the ARC need not be Owners, and may be affiliated with Declarant. Thereafter, the Home Owner's Association may appoint a committee from time to time to act as the ARC.

2. **Liability:** It is not the function of architectural review to determine the adequacy, completeness, or safety of plans, or whether plans submitted comply with any building codes or other regulations, or to assure that any construction is done properly or in full accordance with the plans. Neither the Declarant, the Homeowners Association, the ARC nor their respective members, officers, directors, employees or agents shall be responsible or liable for any defects or discrepancies in any plans or specifications submitted, revised or approved under this Article, nor for any defects or discrepancies in construction pursuant to such plans and specifications. Approval of plans and specifications under this Article shall not be deemed in lieu of compliance by owner with applicable building codes or other governmental laws or regulations. Neither the ARC nor any individual member of the ARC will be liable to any person for any official act of the ARC in connection with submitted plans and specifications, except to the extent the ARC or any individual member of the ARC acted with malice or harmful intent

3. **Plan Review Process:** In order to insure that the standards for Lake Creek Ranch contained in this Declaration are achieved, a submission and prior approval of plans for any construction or improvement on a Lot will be required not less than 30 days prior to any construction or site work. Plan submissions and prior approval will also be required for significant revisions, alterations or additions to approved or existing construction and improvements. Each plan submission will require two (2) sets of plans containing the specific information described below. The plan submission for each new improvement or development and each significant revision, alteration, addition, or change of use may be accompanied by a review fee as may be set from time to time by the ARC. All submitted plans will be reviewed by the ARC for acceptability of design and compliance with these Covenants. Upon completion of review by the ARC, one set of plans will be returned to the applicant along with a letter summarizing comments, recommendations, requirements, and findings. The returned plans will be marked "APPROVED", "APPROVED SUBJECT TO CONDITIONS", or "NOT APPROVED". Approvals are valid for two (2) years from the date of the written notice of approval. If construction is not commenced within such two (2) year period, plans must be resubmitted and a new approval secured.

4. **Required Plans:** At a minimum, the following plans must be submitted to the ARC:

- a. A site plan to an appropriate scale depicting the entire lot and the relative location of all proposed development within the lot, including roads, driveways, fences, pastures, ponds, structures, wells, septic tanks and drain fields, clearing, thinning and utilities.
- b. Site and landscape plans to a scale of 1" = 20' - 0" for all site disturbances with consideration given to vegetation, pedestrian and equestrian circulation, grading, drainage, exterior lighting, fences, driveways, parking and phasing.
- c. Construction plans (including floor plans and elevations) to a scale of 1/8 inch for all structures with consideration given to site utilization, engineering, architectural design and phasing.

The ARC may require additional information or documentation..

5. **Architectural Control:** No building, fence, wall or other structure shall be commenced, erected, or maintained upon the Property, nor shall any external addition to or change to the external appearance of any building, fence, wall, deck, or other structure be made, nor shall any of the native vegetation growth be destroyed or removed or any site work commenced until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall be submitted to and approved in writing by the ARC as to compliance with Articles II & III, above, and as to harmony of external design and location in relation to surrounding structures and topography and native vegetation. In the event said Committee fails to approve or disapprove such designs and location within thirty (30) days after adequate plans and specifications have been submitted to it, including any additional information or documentation requested by the ARC, approval will not be required, and this Article will be deemed to have been fulfilled.

## ARTICLE V

### **HOMEOWNERS ASSOCIATION**

1. **Homeowners Association:** The Lake Creek Ranch Homeowners Association, LLC shall act as a homeowners association for the Lake Creek Ranch subdivision. The Homeowners Association shall operate and be managed in accordance with the provisions of this Declaration and the Articles of Formation and Bylaws of the Homeowners Association, as the same may be amended from time to time.

2. **Function:** All Owners of all Lots, including those Owners of Lots in Additional Lands following annexation to the existing Subdivision, shall automatically be members of the Homeowners Association. Membership in the Homeowners Association shall be appurtenant to and shall not be separated from ownership of a Lot. The Homeowners Association shall have all of the powers and duties of a homeowners association, as provided in the Articles of Formation and Bylaws of The Lake Creek Ranch Homeowners Association, LLC, including but not limited to (a) administration, servicing, conservation, management, operation, maintenance, repair and restoration of the Common Areas; (b) maintenance, repair, restoration and replacement of the roads shown on the plat of Lake Creek Ranch, including snow removal; (c) operation, maintenance, repair, restoration and replacement of all storm-water appurtenances, such as barrow ditches and culverts; (d) appointment of members of the ARC; and (e) such other activities as may be determined by the Board of Directors from time to time for the benefit and general welfare of Owners in Lake Creek Ranch. The Homeowners Association may levy and collect assessments to be used in the operation of the Homeowners Association, maintenance of the Common Areas and similar functions typically undertaken by homeowners associations generally.

3. **Owner's Address:** Upon acquiring a Lot, the Owners of the Lot shall immediately inform the Homeowners Association of their names and of one address to which notices from the Homeowners Association should be sent. The Owners shall be responsible for informing the Homeowners Association of any change of address. All notices sent to the last address on record for the Owner shall be deemed

adequately given.

4. **Management During Period of Declarant Control:** During the Period of Declarant Control, Declarant may appoint, remove and replace from time to time any or all of the directors and officers of the Homeowners Association. If Declarant so elects, Declarant may from time to time relinquish, either on a temporary or permanent basis, the right to appoint all or a portion of the directors and officers of the Homeowners Association; provided that any such relinquishment shall be expressed in writing to the Homeowners Association.

5. **Assessments:** The Declarant, for each Lot owned by the Declarant, hereby covenants and agrees, and each Owner of any Lot, by acceptance of the deed to a Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay to the Homeowners Association assessments as provided herein.

6. **Purpose:** The assessments levied by the Homeowners Association shall be used to administer this Declaration and the Homeowners Association, to maintain and improve the Common Areas, to purchase insurance carried by the Homeowners Association, and to generally promote the recreation, health, safety, comfort, convenience and welfare of the Owners of Lake Creek Ranch.

7. **Annual Assessment: Reserves:** The initial Annual Assessment shall be Two Hundred Dollars (\$200.00). It shall be pro-rated on an annual basis and paid at closing by the first owner taking title to the Lot from Declarant. Annually, the Board of Directors of the Homeowners Association shall establish an estimated budget for its purposes, and cause an assessment to be levied against each Lot for their share of such costs. The annual assessment may include, without limitation, the estimated cost of (a) administering, servicing, conserving, managing, maintaining, repairing or replacing the Common Areas and any improvements located thereon, including but not limited to snow removal, landscaping, care of grounds, weed removal, common lighting within the Common Areas; routine renovations within the Common Area, and common water and utility charges for the Common Area, (b) maintenance, repair, restoration and replacement of the roads as shown on the plat of Lake Creek Ranch, including snow removal; (c) operation, maintenance, repair, restoration and replacement of any common fire suppression facilities; (d) premiums for insurance coverage as deemed desirable or necessary for the Homeowners Association; (e) all expenses incurred by the Homeowners Association in administering and managing the Homeowners Association; and (f) all other expenses incurred by the Homeowners Association in any other activities undertaken for the common benefit of all or some of the Owners.

8. **Special Assessment:** From time to time, the Board of Directors may establish special assessments as needed for capital improvements, extraordinary repairs or other generally nonrecurring expenses. No special assessments shall be levied unless the Owners of two-thirds (2/3's) of all of the Lots shall vote for or consent to such special assessments. During the Period of Declarant Control, no special assessment shall be levied without the written consent of the Declarant.

9. **Payment of Assessments:** Except as to the initial annual assessment, which shall be due upon closing of the purchase of a Lot by the Owner, written notice of

each assessment shall be sent to each Owner at' least thirty (30) days prior to the assessment being due. Assessments may be set to be due annually, quarterly, monthly or otherwise, as fixed by the Board of Directors. All assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on each Owner's Lot, and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person or entity who was the Owner of such Lot at the time when the assessment was made.

10. **Statement of Assessments Due:** Any Owner may request, in writing, a statement from the Homeowners Association as to the status of the assessments due and owing with respect to such Owner's Lot. Upon receipt of such request, the Homeowners Association shall promptly furnish the statement to said Owner. Such statement shall be conclusive evidence of payment of any assessments therein stated to have been paid.

11. **Nonpayment of Assessments:** Any assessment not paid within thirty (30) days after the due date shall accrue interest and/or late charges set by the Board of Directors (not to exceed the highest rate of interest allowed by law) from the due date, and the Homeowners Association is entitled to bring any action permitted by law to collect the assessment and/or to foreclose the lien created thereby against the Lot. No Owner subject to an assessment may waive or escape liability for the assessment by the nonuse of the Common Areas or abandonment of his or her Lot. The remedies provided herein shall be in addition to any other remedies provided by law.

## ARTICLE VI

### LEGAL EFFECT

1. **Term:** The covenants and restrictions of this Declaration shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless terminated by vote or consent of not less than the Owners of two-thirds (2/3's) of all of the Lots. This Declaration may be amended by the Declarant during the Period of Declarant Control or at any time by the Owners of two-thirds (2/3 \*s) of all of the Lots either at a meeting of the Owners or by written ballot mailed to all the Owners or by a combination of votes at a meeting and by written ballot. This Declaration may also be amended by the Declarant without the vote or consent of any of the Owners to effectuate and annexation. Amendments to be effective must be recorded in Lincoln County by a document showing the amendment made, together with a certification by two officers of the Homeowners Association attesting that the amendment received the required approval of the Owners or with a certification by the Declarant that (a) the Period of Declarant Control has not ended. During the Period of Declarant Control, any amendment shall also require the written consent of the Declarant. Any amendment that would cause the dissolution of the Homeowner's Association would require notification and permission by the Board of County Commissioners.

2. **Enforcement:** The Declarant, the ARC, any Owner, and the Homeowners Association shall have the right to enforce by any proceeding at law or in equity all covenants, conditions and restrictions now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant, the ARC, any Owners or the Homeowners Association to enforce any covenant or restriction herein contained shall in no event be

deemed a waiver of the right to do so thereafter.

3. **Severability:** Invalidation of any covenant, condition or restriction contained in this Declaration by judgment or court order shall in no way affect any of the remaining provisions, which shall remain in full force and effect.

4. **Arbitration:** In the event of a dispute under this Declaration, the parties agree that the dispute shall be determined and resolved by binding arbitration. The determination of the arbitrator shall be final and binding upon the parties and their respective successors and assigns. The determination may be filed in a court of competent jurisdiction as a final judgment. The arbitrator is authorized, but not required, in the arbitrator's discretion, to award attorney's fees and costs to the prevailing party. If no such award is made, the costs of the arbitration shall be paid equally by the parties.

5. **Construction/Successors:** This Declaration shall be construed pursuant to the laws of Montana. This Declaration runs with the land and is binding upon the heirs and successors in interest of the parties hereto. Declarant may assign its rights as Declarant to a third party purchaser of all or a portion of the Lake Creek Ranch Subdivision by a written instrument recorded in the records of Lincoln County, Montana specifying that Declarant's rights are assigned to the third party purchaser. Such instrument may specify the extent and portion of the rights or interests as a Declarant which are being assigned, in which case the initial Declarant shall retain all other rights as Declarant.

6. **Amendments Affecting Conditions of Plat Approval:** Attached hereto as Exhibit A are conditions of Lincoln County approval for the Plat of The Lake Creek Ranch Subdivision (the "Plat Conditions"). Any amendment to this Declaration which would have the effect of materially modifying a Plat Condition shall require the prior approval of the Lincoln County Board of Commissioners.

IN WITNESS HEREOF, the undersigned has signed this Declaration on the date first shown above.

The Douglas Jensen and DeAnn Thomas Joint  
Living Trust

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Douglas, Jensen, Trustee

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DeAnn Thomas, Trustee

STATE OF \_\_\_\_\_ )  
 )ss.  
County of \_\_\_\_\_ )

On this \_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public in and for said State, personally appeared DOUGLAS JENSEN and DEANN THOMAS, known to me to be the Trustees of the The Douglas Jenson and DeAnn Thomas Joint Living Trust, that they executed the within instrument on behalf of the Trust herein named, and acknowledged to me that said Trust executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

(SEAL)

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**Printed Name**  
**Notary Public for the State of Montana**  
**Residing at Libby**  
**My commission expires:**