

*key for trailer*

*Blacktail Ranches*

DECLARATION OF PROTECTIVE COVENANTS

THIS DECLARATION is made this \_\_\_\_ day of \_\_\_\_\_ 2006, by RONALD E. TOWERY, Trustee of the Ronald E. Towery and Zora R. Towery Marital Property Trust hereinafter called "Declarant".

RECITALS:

Declarant makes this Declaration upon the basis of the following facts and intentions:

A. Declarant is the owner of the following described real property located in Beaverhead County, Montana, a tract of land in Section 6 in Township 8 South, Range 8 West, P.M.M., Beaverhead County, State of Montana, more completely described as follows: commencing at the NW corner of this subdivision which is the true point of beginning of Blacktail Ranch Subdivision; thence N.89°42'02"E., 1959.87 feet; thence S.19°14'23"E., 300.34 feet; thence S.19°11'59"E. 539.98 feet; thence S.16°51'26"E., 1368.60 feet; thence S.51°02'14"W. 129.72 feet; thence S.17°47'04"W.115.83 feet; thence S.18°15'36"E. 165.59 feet; thence S.29°34'39"E., 247.51 feet; thence S.08°42'23"E., 238.15 feet; thence N.76°23'17"E., 187.04 feet; thence S.10°34'57"E., 854.20 feet; thence S.80°57'08"W., 785.86 feet; thence S.06°36'24"E., 420.38 feet; thence S.80°57'08"W., 484.63 feet; thence S72°50'43"W., 98.66 feet; thence S.19°21'10"E., 125.42 feet; thence S83°31'54"W., 770.00 feet; thence N.08°53'17"W., 383.28 feet; thence N.84°25'37"E., 244.12 feet; thence N.14°31'00"W., 850.43 feet; thence S.67°09'00"W., 353.85 feet; thence N.22°51'00"W., 88.1 feet; thence S.89°56'00"W., 84.00 feet; thence S.66°16'00"W., 594.00 feet; thence N.00°06'00"W., 3609.84 feet to the point of beginning containing 227.90 acres of land.

B. Declarant plans to subdivide and develop the above described property and impose thereon beneficial protective covenants under a general plan of improvement for the benefit of all of such real property, every part thereof and interest therein.

NOW THEREFORE, Declarant hereby declares that the above described real property be held, sold, conveyed, encumbered, used,

*marked  
next  
Wed  
2-22-06*

*draft  
during point*

occupied and improved subject to the easements, restrictions, covenants and conditions, all of which are in furtherance of a plan for subdivision, improvement and sale of said real property and are established for the purpose of enhancing the value, desirability and attractiveness of the real property and every part hereof. All of the easements, restrictions, covenants 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 be for the benefit of each owner of any portion thereof and inure to the benefit of and be binding upon each successor in interest of such owners.

PROVISIONS:

1. Only one single family dwelling may be constructed on each parcel, which shall be a minimum of 1500 square feet on the ground level exclusive of garage, carports, porches, or other additions thereto except for parcel 4, homestead parcel, which has an existing home and is "Grand Fathered" as to it's present home size, outbuildings, an intended use.

*to meet # 16*

Except for Parcel 4, Homestead Parcel, which is exempted from this provision, a minimum 3 car garage as an integral part of the residence or attached thereto by an arbor or breezeway is required and shall conform to the architecture and exterior materials of the dwelling. An attached garage, as prescribed above, shall not be considered another building. A concrete, masonry, or asphalt apron in front of and the width of the garage suitable for length of an auto together with a walk way to the front door or porch shall be constructed prior to the owner residing on the property or 12 months which ever comes first. A maximum of four (4) buildings may be constructed on subject premises though individual buildings may serve a dual purpose; i.e. guest quarters/shop building; barn/stable building; barn/shop building; etc. Out buildings shall be of similar construction, materials, color, style, and roof pitch as to the primary residence unless a variance is granted by Declarant.

No single family dwelling or other building shall exceed a maximum height of 34 feet except where a variance is granted by Declarant. The

*Mitchell  
dited crossing  
sufficient*

primary roof pitch of all buildings shall be 6/12 (6" height for every 12" of rafter length) or higher. Conventional "Three tab" or "Tee lock" asphalt shingles are not permitted. First story floor shall be no higher than 24" from soil level or sidewalks except where a variance is granted by Declarant.

2. Modular homes must be of conventional home construction technique supported by wood floor joist and girders with a permanent concrete foundation. They must conform to the 1500 sq. ft. minimum and have a minimum three car attached garage as prescribed in Provision #1 above and comply with all other requirements in Provision #1.

3. Except for Parcel 1, Mobile homes including double-wide trailer homes are not permitted or allowed on said premises except during construction of the permanent residence and only then for a period not to exceed (12) twelve months. Parcel 1, as a mobile home exist thereon, is grandfathered as to retaining the present mobile home or the replacement with one new double wide mobile home for a maximum period of three (3) years from the date of purchase escrow close of Parcel 1. In no event shall there be more than one mobile home nor a replacement that is not "factory" new and must have never been lived in. Retention of the existing or replacement mobile home beyond the three (3) years specified is a violation of these covenants and the Declarant, the Owner of any parcel in Blacktail Ranch Subdivision, or Beaverhead County may invoke provisions #24 and #25 of these covenants in the enforcement of this provision.

4. The exterior of any permanent dwelling constructed shall be completed within 12 months after the start of construction.

5. All buildings must be set back a minimum of 100 feet from the rear and side boundaries and 125 feet from the front boundary of the property or any road except where a variance is granted by Declarant.

6. Easements and Utilities - Each parcel shall be subject to such rights of way and easements as shown on final plat, COS, and as Grantor

designates in deed for installation and maintenance of roads, driveways, drainage, fences, water lines, irrigation lines, power lines, telephone lines and other utilities. Installations of power and telephone lines may be installed overhead on "telephone" type poles installed by the local utility from existing power lines to the last pole close to the residence. Utilities shall be under ground from the last pole to the residence and/or other out buildings at the expense of the parcel owner, except for the existing home and outbuildings on Grandfathered Parcel 4.

7. No outside toilets or privies except for that existing on parcel 4 shall be permitted on said lands. All toilet facilities must be a part of the residence and/or other building and shall be of modern flush type and connected to a County approved septic system.

8. Beaverhead County septic permit must be obtained prior to any new residential construction on a lot. Sewage shall be disposed of only by and through an individual sewage system that will consist of a septic tank with effluent filter and subsurface drain field of such size and description as will comply with Title 17, Chapter 36, Sub-Chapters 1, 3, and 6 ARM. No septic tank or field system shall be nearer than 10 feet to any boundary except with the consent of the appropriate health officials of the County, and no sewage, waste water, trash, garbage or debris shall be permitted to drain into any body of water in or adjacent to said lands. Septic trenches shall be 100' distance from 100 year flood plain, stream, irrigation ditch, water course or impoundment unless a waiver has been provided by the reviewing authority.

9. No permanent dwelling under construction can be used as a residence or dwelling until completely enclosed with roof installed and the sewer system installed in an operating condition.

10. No inoperable or junk cars, junk machinery, inoperable recreation vehicles shall be permitted to remain on the premises unless stored in an enclosed garage or out building.

11. No pets or livestock shall be permitted on the premises which constitute a nuisance to others and shall be kept under control at all times and confined to the property owned or occupied by the owners of said animals. Overgrazing of lots is prohibited and each lot owner shall prevent overgrazing of land which would cause dust, erosion, and visual impacts to other lot owners. In no case shall any part of the property be so maintained that the natural or planted vegetative cover is destroyed, except as necessary for the location of utility lines, buildings or for lawns, gardens, and cultivation, or replanting purposes. Only six large adult animals (horse and/or cows) shall be permitted per full twenty (20) acre lot increments and no stallion over two years shall be allowed on the property. Large animals/livestock cannot be placed, housed, pastured, etc. on any parcel until such parcel is fully fenced adequately to retain such livestock onto subject parcel.

12. No activity may be carried on nor allowed to exist upon the property which may be noxious, detrimental, offensive, illegal, or constitute a nuisance to any other parcel owner.

13. Any exterior lighting installed on any parcel shall be indirect or of such controlled focus and intensity as not to disturb the residents of adjacent properties. There shall be no twenty-four hour **or all night** yard lights. No exterior lighting may be activated by motion sensors. All exterior lighting shall be low intensity and shall be controlled by full cut-off deflectors.

14. No building or structure upon any parcel may be permitted to fall into disrepair. Buildings or structures must be kept in good condition, adequately painted or otherwise finished.

\*15. Except for parcel 4, a "grandfathered homestead" parcel, No commercial business of any nature shall be conducted on any parcel, building, or in any residence in Blacktail Ranch Subdivision. A professional engineer, draftsman, consultant, computer programmer or similar profession or occupation or hobby business

are not excluded so long as the business does not generate an inordinate number (more than an average of one per day) of clients visiting or traffic created. Businesses that involve sales or on-site service to the public are prohibited. Except for parcel 4 which, historically, has served as a large working ranch headquarters and repair facility, Commercial or large agriculture vehicles, equipment, parts, and/or supplies are prohibited and may not be parked, stored, or maintained on subject premises. Declarant may grant a variance for such vehicles/equipment provided they are stored inside buildings as described in Provisions paragraph 1. Small tractors and cultivation equipment suitable for pastures and "mini" farming are not excluded under this provision. No room or rooms in any single residence may be rented or leased to any person provided, however, that nothing contained herein shall be construed as preventing the renting or leasing of the entire parcel with its improvements as a single family unit to a single family. Declarant intends to retain parcel 4 as a "grandfathered homestead" parcel and will continue to rent the original ranch home and utilize the shop and equipment storage building for equipment storage and repair facilities and reserves the right to do so.

16. No further subdivision of subject premises shall be permitted except for parcel 1 which may be split once to a bonified family member during a ten year period from the date of purchase closing. The minimum size parcel shall be fifteen (15) acres.

17. Noxious Weeds - A Noxious Weed Control Weed Management Plan for subject lands has been submitted to the Beaverhead County Weed Board as required by Beaverhead County. Under Montana State Law, Landowners have a legal responsibility to control noxious weeds on their property. The Noxious Weed Control Management Plan specifies that the developer will control noxious weeds until a lot is sold. Upon purchase, it shall be the Buyer's responsibility to continue the weed management program on his/her/their lands. In addition, lot owners shall control all weeds within the road right of

ways and drainage ditches on their property to insure that such noxious weeds, including foxtails, do not reach seed maturity, pose a fire hazard, impair drainage, or impact any adjoining property. In the event of default of the Weed Management Plan or failure to control all weeds within the road "right of way" or drainage ditches on an owner's lot, the Declarant or County Weed Board may initiate control procedures as required and subject lot owners will be responsible for the reasonable or standard cost thereof. Provisions 24 and/or 25 of these covenants will apply in the event of non-payment of remedial cost beyond ninety days.

18. Blacktail Ranch Subdivision is situated in a rural area and may be subjected to conditions resulting from agricultural operations on subject premises and adjacent lands. Such operations include the cultivation, harvesting, and storage of crops, the raising of livestock, the application of chemicals, the operation of heavy equipment, machinery, and trucks; the application of irrigation water; and other customary agricultural activities. These activities ordinarily and necessarily produce odors, noise, dust, smoke, low flying planes and other conditions that may conflict with the residential property in this development. Normal and necessary resource management activities legally conducted on adjacent lands are an expected aspect of residing in a rural area and shall not be considered as public nuisances.

19. Address signs with four inch high minimum numbers shall be placed by the owners at the driveway entrance to each parcel to assist emergency responders.

20. Access to parcels shall be by Blacktail Ranch Road and no additional access from Blacktail Road or adjacent properties shall be constructed without approval of the Governing Body of Beaverhead County. An additional access to Parcel 1 from Blacktail Ranch Road must be approved as to location by the Declarant and/or Beaverhead County.

21. Road maintenance is the responsibility of the parcel owners. A DECLARATION OF ROAD MAINTENANCE has been recorded by Declarant.

22. Hunting and Discharge of Firearms. Hunting for Big Game; i.e., deer, antelope, elk, etc., shall not be permitted within or from Blacktail Ranch Subdivision due to the relative close proximity of neighboring individuals, domestic animals, and homes. The discharge of firearms larger than 22 long rifle caliber is not permitted in order to protect the safety of other parcel owners, property, all animals, and to maintain a quality of life free of noxious, detrimental, and offensive activities.

23. Irrigation ditch restrictions. Placement of temporary or permanent obstructions, structures, or plantings other than grass on the Mitchell ditch easement located on Parcel 1 without the written consent of the ditch owner is prohibited and as cited in Montana Law, MCA 76-3-504(1)(j). This provision does not prohibit the installation and use of a culvert of the same size or larger as culverts installed crossing under roads in Blacktail Deer Creek Estates subdivision.

24. These covenants and restrictions are to run with the land and be perpetual. Cost associated with enforcing these covenants and restrictions shall be a lien against the property and bear interest at one (1%) percent per month until paid.

25. If the owner of a parcel, or any part thereof, or any person, shall violate any of the covenants or restrictions herein set forth, it shall be lawful for the Declarant or any owner of subject parcels to prosecute proceedings at law or in equity against subject parcel owner or persons either to prevent the violation and/or to recover legal fees, court cost, and damages for such violations. The Governing Body of Beaverhead County is a party to these covenants and may enforce the provisions hereof. Failure by Declarant, Governing Body, or other owners to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of the right to so thereafter.