

**281645**

**TRACTS 1, 2, 3, 4, 5 AND 6 AT REMINGTON RANCH**

**DECLARATION OF RESTRICTIONS  
COVENANTS AND CONDITIONS**

WHEREAS, Red Lodge West LLP is the owner of the Tracts 1, 2, 3, 4, 5, & 6 of C/S 1620 AM, recorded in Carbon County, Montana, and they desire to impose upon the property owned by them the restrictions and covenants hereinafter set forth for the benefit of themselves and any other subsequent owners of all or a portion of said Tracts.

NOW THEREFORE, said Tracts hereby declare to and agrees with each and every person (his, hers, theirs, or its heirs, executors, administrators, personal representatives, successors and assigns, and all persons who shall become owner of any of the said Tracts), in addition to the ordinances of the County of Carbon, Montana, shall be and are hereby bound to the covenants and restrictions set forth in this Declaration of Restrictions and that each Tract shall be held and enjoyed subject to and with the benefit and advantages of the following restrictions, limitations, conditions, covenants, and agreements, as follows:

**ARCHITECTURAL COMMITTEE:**

(a) Purpose:

To assure through architectural control of building design, placement, and construction, that said Tracts and any future subdivision of said Tracts shall become and remain an attractive residential and commercial area.

(b) Membership:

The Architectural Committee shall be composed of five (5) persons. The original committee shall consist of Ronald M. Henry, Dixie Lee McCampbell, Ronald Wolfe, and John Clark, as members of Red Lodge West LLP and a representative of Red Lodge Beverages, Inc. and/or assigns. They will serve until such time as six (6) buildings have been constructed on said Tracts after which time two (2) additional members will be elected by the owners of these six (6) Tracts. After six (6) additional buildings have been constructed, for a total of twelve (12) buildings, the owners of these buildings will elect two (2) more owners as members, increasing the total Architectural Committee to a full number of nine (9) members. Membership will be limited to developers and building owners only. (Buildings mean residences or commercial building on a single lot or tract).

(c) Authority:

No structure, including walls, fences, and utility lines, shall be erected, converted, placed, or added to or altered on any lot until the construction plans and specifications, materials to be used, color, and location have been approved by the Architectural Committee. The Committee

shall not approve the project unless the materials, colors, location, plans and specifications result in a structure that harmonizes with the existing structures in area and/or blends with the surroundings and the structure is located in such a manner as to suit the topography of the lot as well as being located in an aesthetically pleasing place. In no event shall any construction, planting or other obstruction be allowed to be placed on any tract or lot that might interfere in any way with the maintenance or operation of any irrigation facility within the area. Variances may be granted by an approval vote of 75% of the membership of the Architectural Committee.

(d) Procedure:

All applications for approval shall be in writing and either hand delivered to a member of the Architectural Committee or mailed to the Architectural Committee, P. O. Box 450, Red Lodge, Montana, 59068, or to such other address as may be established from time to time as the membership of the committee may change in the future. The Architectural Committee shall act upon all such applications within thirty days after delivery to them of the application. The Architectural Committee may express approval passively by not giving written notice of approval within the thirty day period. The Architectural Committee shall only disapprove an application by a vote against the application by a majority of the members. Such disapproval shall always be in writing stating the reason for disapproval. All applications, written approvals, and disapprovals shall either be hand delivered and a written receipt obtained from the recipient or be mailed in such a way that a receipt of delivery is obtained from the recipient.

**BUILDING CONSTRUCTION, LOCATION AND SIZE FOR RESIDENTIAL:**

No building shall be constructed without having first been approved for that location by the Architectural Committee. The Committee shall consider such things as nearness to property lines, visual relationship with other lot owners buildings, and aesthetic values. The object is to retain privacy between lots by either distance or by visual screening. Any building under construction shall be completed within a twelve (12) month period. Any building or structure erected in said Subdivision shall be of new construction. Modular or other prebuilt homes shall not be allowed. All new buildings shall be of construction to fit the natural area, i.e., logs, planks, rock, glass, etc., and will have a first floor area greater than twelve hundred (1200) square feet. No building or other structure shall be located nearer than twenty (20) feet to a boundary line of the tract of which it is situated. Disapproval of a structure may be based on purely aesthetic values as seen by the Architectural Committee.

**BUILDING CONSTRUCTION AND LOCATION FOR COMMERCIAL:**

No building shall be constructed without having first been approved for that location by the Architectural Committee. The Committee shall consider such things as nearness to property lines, visual relationship with other lot owner's buildings, and aesthetic values. The

object is to retain privacy between lots by either distance or by visual screening. Any building under construction shall be completed within a twelve (12) month period. Any building or structure erected in said Subdivision shall be of new construction. Buildings shall be constructed of wood, stone or metal and exterior colors shall be natural earth tones. Total building height shall not exceed thirty-five (35) feet. No building or other structure shall be located nearer than thirty-five (35) feet to a boundary line of the site on which it is situated. All outdoor storage areas shall have Architectural Committee-approved privacy fencing or screening to screen said storage area from public view. Disapproval of a structure may be based on purely aesthetic values as seen by the Architectural Committee.

#### **TEMPORARY STRUCTURES AND TEMPORARY HOUSING:**

No structure of a temporary or a mobile nature, trailer, tent, mobile home or motorhome shall be placed on a lot for longer than seven consecutive days and nights except that the Architectural Committee may grant a permit for any of the above on a tract or lot for longer periods during the construction phase of a permanent structure or for vacation camping. An application for such a permit shall be handled in the same manner as other applications under the (d) procedure clause of the Architectural Committee as previously set forth herein. In no event shall such a permit be granted for a period in excess of one year.

#### **FENCES:**

The design of all fences and the method of construction is subject to mandatory approval of the Architectural Committee as previously set forth under the (c & d) procedure clause of the Architectural Committee.

#### **AMENDMENTS TO DECLARATION OF RESTRICTIONS, COVENANTS, AND CONDITIONS:**

Amendments to this Declaration of Restrictions, Covenants, and Conditions will require 75% approval vote of all lot owners with additional approval and acceptance by appropriate governmental agencies. All lot owners shall be duly notified in writing by registered mail thirty (30) days in advance of any necessary vote. A lack of response within the thirty (30) day period shall be considered an affirmative vote.

#### **SIGNS:**

##### Residential Lots

No signs, billboards, posters or advertising devices of any kind or character shall be erected or displayed upon any of the Lots or on any buildings or vehicles thereon excepting modest house signs or driveway entrance signs identifying the address or occupants of a

dwelling, normal door signs on business vehicles and one Realtor's sign when a Lot is for sale or lease not to exceed four (4) square feet in size.

### Commercial Lots

Each commercial tract developer may erect a subdivision entrance sign not to exceed thirty-two (32) square feet. Each commercial lot owner may erect an individual business sign on their lot not to exceed twelve (12) square feet for a drive entrance sign or twenty-five (25) square feet for a sign attached to a building.

### **UTILITIES:**

Installation for all new utility lines including but not limited to water, sewer, power, cable TV, telephone, and other transmission poles or lines shall be underground.

### **VEHICLE PARKING:**

All vehicles, boats, trailers of any kind, whether self-propelled or not, shall be parked in such a manner that they are not a nuisance, aesthetically or otherwise, to the other lot owners. No inoperative vehicles or other vehicles (trailers, campers, boats, trucks, motorhomes) shall be kept on any tract or lot unless such vehicle is kept inside an enclosed garage or an Architectural Committee approved fenced area.

### **SALE OF SURFACE AND SUBSURFACE MATERIAL:**

Owners are prohibited from selling or removing any material from the surface or subsurface of tracts or lots that would result in a change of the appearance and or level of said lot other than as a normal incident to residential construction without the prior approval of the Architectural Committee.

### **ANIMALS:**

No animals or fowl of any kind, whether domestic or customarily wild, shall be kept unless maintained in a yard or pen and not allowed to run loose except when accompanied by someone capable of keeping the animal or fowl under control. This paragraph shall in no way refer to the indigenous wild animals or fowl. Supplemental feeding of such wild fowl and animals shall not constitute keeping an animal or fowl. The keeping or maintaining of cattle, horses, swine, goats, sheep, fowl or other barnyard animals, livestock or poultry is prohibited.

Tracts larger than 7 acres may keep horses. Overgrazing will not be allowed and will require removal of the horses.

## **REFUSE, RUBBISH, TRASH AND JUNK:**

All waste, refuse, rubbish, trash, and junk shall be kept and disposed of in a sanitary manner. All household waste refuse, rubbish, and trash shall be kept in closed containers inside a residence, basement, garage or an auxiliary building. Commercial lots may use large exterior dumpsters with lids. Also no automobiles, trucks, tractors, or other vehicles, whether self propelled or not, shall be permitted to remain on a lot in a non-operable condition unless stored in a garage or other suitable structure. All refuse and rubbish (trash) of every kind (except leaves and dead limbs to be burned) and junk shall be removed by the lot owner.

## **CLEARING OF TREES:**

Approval shall be obtained from the Architectural Committee to clear, cut down, or kill any trees on any lot other than those necessary as a normal incident to the main residential construction.

## **EASEMENTS AND RIGHTS-OF-WAY:**

Each tract shall be subject to all easements and rights-of-way of record, and those which the owner may grant for the installation and maintenance of water, sewage, power, telephone, irrigation ditches, and other utility lines. No shrubbery, trees, plantings or buildings shall be placed or built upon any such right-of-way or easement.

## **LANDSCAPING:**

Any area laid barren as a result of any construction or improvement shall be replanted by the owner of said lot within six weeks of construction completion unless weather conditions prohibit. Propane and any other bottled gas must be shielded by shrubbery or other means, previously approved, in writing, by the Architectural Committee. Any and all landscaping shall require approval of the Architectural Committee.

## **NUISANCES:**

Nothing shall be done or permitted which is or may become an annoyance or nuisance to the other tract or lot owners. Specifically labeled, but not all inclusive, as nuisances are the following.

- (a) Noxious Weeds - Noxious Weeds as defined by state statute and specifically including "knap weed", must be constantly controlled by the land owner in accordance with state and county laws and ordinances.

(b) Lights, Sounds and/or Odors - No lights shall be emitted from any property which is unreasonably bright or causes unreasonable glare. No outside lights more than eight (8) feet above ground level for residential properties and fourteen (14) feet above ground level for commercial properties will be allowed on any lot in said Subdivision; no sound shall be emitted on any property which is unreasonably loud or annoying; and no odor shall be emitted on any property which is noxious or offensive to others. Neither hunting nor the discharge of any rifle, shotgun, pistol or other firearm shall be permitted at any time on any lot.

(c) Operation of "off-road" vehicles such as trail bikes or snowmobiles will be prohibited during the hours of 9:00 p.m. to 9:00 a.m..

(d) Vehicles left unattended for an extended period of time (to be determined by Architectural Committee) may be deemed a nuisance.

### **BUSINESS OR COMMERCIAL ACTIVITY:**

#### Residential Areas

All business or commercial activity conducted in residential areas shall be contained within the resident family dwelling and is subject to the restrictions for single family residential purposes, i.e., horticulture, arts, and crafts, etc., which may be regarded essentially as home occupations only. Specifically allowed uses include home offices so long as use of a home office does not result in traffic flow to and from the office that may be considered offensive or excessive.

#### Commercial Areas

**Commercial Use:** Any use of land primarily for the sale, offering for sale, purchase, or any other transaction involving the handling or disposition of any article, merchandise, commodity, substance, or service; also the occupancy or management of office buildings, and the use of a structure and premises by professions and trades or persons rendering services.

### **SEPTIC TANKS OR SEWAGE OR WASTE DISPOSAL SYSTEMS:**

Any septic tank or sewage or waste disposal system and any private water supply system, including wells, shall be located, installed, and maintained at all times in compliance with standards established by the Montana State Board of Health and by any other governmental agency with jurisdiction.

## **NO MINING OR DRILLING:**

No property shall be used for the purpose of mining, quarrying, drilling, boring or exploring for oil, gas, coal, or other hydrocarbons, minerals, rocks, stones, gravel or earth.

## **ENFORCEMENT:**

These restrictions, covenants and conditions are to run with the land and are to be binding upon all parties and all persons claiming ownership under them. Enforcement shall be by proceeding at law or in equity against any person or persons violating or attempting to violate them either to restrain violation or to recover damages. The failure to enforce any right, reservation, restriction, covenant or condition contained herein, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to a breach occurring prior to or subsequent thereto and shall not bar or affect its enforcement. The invalidation by any court of any restriction, covenant or condition herein contained shall not in any way affect any of the other restrictions, covenants, and conditions, but they shall remain in full force and effect. If court proceedings are instituted in connection with the rights of enforcement and remedies provided in this declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith including reasonable attorney's fees. In addition to the costs, expenses and reasonable attorney's fees, the Architectural Committee may collect damages up to \$1,000 per day per violation. Violators shall be served written notice of violations and have five (5) days to correct said violations. If the violations are not corrected within the five (5) day period, the violator is thereafter subject to damages up to \$1,000 per day per violation. Collected damages shall, at the discretion of the Architectural Committee, be used for general subdivision improvements to the Tracts 1, 2, 3, 4, 5 and 6 at Remington Ranch.

## **PERSONS BOUND BY THESE COVENANTS, CONDITIONS AND RESTRICTIONS:**

The undersigned and all individuals or entities who shall hereafter acquire any interest in and to any part or portion of said tracts shall be taken and held to agree and covenant each with the other and with their heirs, devisees, trustees, and assigns to conform to and observe the above restrictions, covenants and conditions as to the use thereof and as to the construction of dwellings and improvements thereon.

## **ROAD MAINTENANCE:**

All lot owners served by the roads will participate in the maintenance of the roads serving them as follows:

1. General Maintenance:
  - a) Improved Commercial Lots shall bear five (5) shares of total maintenance costs.

- b) Improved Residential Lots shall bear two (2) shares of total maintenance costs.
- c) Unimproved Lots shall bear one (1) share of total maintenance costs.

2. Snow Removal:

- a) Improved Commercial Lots shall bear five (5) shares of total snow removal costs
- b) Improved Residential Lots shall bear two (2) shares of total snow removal costs.
- c) Unimproved Lots shall bear one (1) share of total snow removal costs.

3. This agreement may be amended as to maintenance in the event that the roads become extended to other roads in Remington Ranch.

4. Roadway maintenance and snow removal for the unpaved, rural roadways which may be constructed within the common access easements shall be performed promptly as needed for the benefit of all Owners and shall be arranged by mutual cooperation by contracting for such services with a lot owner, outside person or professional service and with the cost thereof to be shared as noted above.

5. In the event of a dispute between the owners over the provision or cost of such services, or in the event one or more of the Owners should refuse or fail to promptly pay their fair share, then an owner's association may be formed by at least seventy-five percent (75%) of the Tract Owners as set forth and provided in Paragraph 6 following, which association shall have the full authority to make assessments on all Tracts within the Subject Property in order to obtain the requisite funds to pay for such necessary common services.

6. These Covenants may be revoked, amended or changed in whole or in part, or an owner's association may be formed with power to levy assessments for the maintenance of common ways pursuant to Paragraph 5 preceding herein, by an instrument in writing signed by the Owners of at least seventy-five percent of the Lots in the Tracts constituting the Subject Property and at least thirty (30) days advance written notice of, intended vote shall first be given to all Tract Owners. All signatures shall be notarized and such amendment or change once properly enacted shall be recorded in the official public records of the office of the Carbon County Clerk and Recorder and shall thereafter be binding on all owners.

7. All Owners are hereby deemed by their purchase of their tract and by their acceptance of these Covenants to have pre-approved the creation of such an Association under such circumstances and for such purposes together with the vesting in such Association of the power to levy assessments on all tracts. Such assessments if not paid shall become a lien against the title to the Tract of the delinquent Owner and the Association shall be vested with the power of foreclosure and sale of the Tract as the ultimate means of collecting such assessments if necessary.



8. Each Owner of a Tract or a subdivided portion thereof shall have one vote in the policies, affairs and business provisions of such an association for each Tract or subdivided portion that he or she owns. Multiple owners of a single Tract or subdivided portion thereof shall have one vote collectively as if the Tract or subdivided portion were owned by a single Owner.

IN WITNESS WHEREOF, Red Lodge West L.L.P., has executed this declaration the day and year as written below.

Signed: Ronald M. Henry, Partner Dated: 6-5-97

STATE OF MONTANA )  
County of Carbon ) ss.

On this 6<sup>th</sup> day of JUNE 1997, before me, a Notary Public for the State of Montana, personally appeared RONALD M. HENRY, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.



Dennis R. Meeker  
Notary Public for the State of Montana  
Residing at Red Lodge  
My commission expires 1-11-2000

State of Montana, } ss.  
County of Carbon, }

This instrument file # 281645 was filed in my office this 17<sup>th</sup> day of June 1997 at 9:34 o'clock A M.

Roger D. Newman  
County Clerk & Recorder

By Roger D. Newman  
Fee \$ 154.00