

892275

TO THE PUBLIC

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
BY WESTERN SKYLINE DEVELOPMENT LLC
OF LANDS TO BE KNOWN AS
WESTERN SKY SUBDIVISION PHASE II

This DECLARATION is made on the date hereinafter set forth by ^{WESTERN} Skyline Development LLC herein referred to as "Declarant".

Witnesseth:

WHEREAS, Declarant is the owner of certain real property situated in Campbell County, State of Wyoming, more particularly described as follows:

Lots 1 through 5, Block 3, Western Sky Subdivision, ^{Phase II} City of Gillette, Wyoming, Campbell County.

WHEREAS, all of the lands described above are embraced in the Subdivision known as Western Sky Subdivision; (the "Subdivision").

The Subdivision is platted and shall be recorded in the office of the County Clerk Ex Officio Registrar of Deeds Of Campbell County, Wyoming. The Plat is incorporated by reference in this Declaration as if set forth in full herein, with an executed copy attached hereto and incorporated herein as Exhibit "A" for reference purposes; and

WHEREAS, it is the intention of the Declarant that the lands located in this Subdivision shall be developed and maintained as a highly desirable residential area; and

WHEREAS, Declarant shall convey the said real property, subject to certain protective covenants, conditions, restrictions, liens, and charges as hereinafter set forth.

NOW, THEREFORE, Declarant hereby pronounces that all of the real property described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described real property or any part thereof, their heirs and assigns, and shall inure to the benefit and burden of each owner thereof, and

All the Lots of the Subdivision shall be held, transferred, sold, conveyed, or contracted to be conveyed by Declarant subject to the conditions, restrictions, reservations and covenants now on record and upon the following express conditions, provisions, reservations, restrictions, servitude's and covenants (collectively, the "Covenants"). Each and every covenant is for the benefit and burden of the entire Subdivision and for the benefit and burden of every landowner therein. These Covenants shall be binding on all owners of land in the Subdivision and their successors in interest regardless of how that interest is acquired. This includes, among others, adverse possessors, lessees, and purchasers at mortgage foreclosure sales. These Covenants are imposed pursuant to a general plan for the improvement and benefit of the Subdivision; and

All owners, each and every one, shall have the right to enforce these Covenants as they are imposed upon each Lot and owner. These Covenants are imposed upon the Subdivision as a whole.

**ARTICLE I.
DEFINITIONS**

- PHASE II**
- A. Western Sky Subdivision and "Subdivision" shall mean and refer to the certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of these Covenants, conditions, and restrictions.
- B. "Property" or "properties" or "premises" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of these Covenants, conditions, and restrictions.
- C. "Covenants" shall mean and refer collectively to the covenants, conditions, restrictions, reservations, easements, liens and charges imposed by or expressed in this Declaration.
- D. "Declarant" shall mean and refer to **WESTERN** Skyline Development LLC directors, successors, and assigns.
- E. "Owner" or "Lot Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is part of the Subdivision, including contract sellers, but excluding those having such interest merely as security for the performance of obligation.
- F. "Lot" or "Lots" shall mean and refer to any tract, **PHASE II** tracts, plot, or plots of land shown upon any recorded subdivision plat of Western Sky Subdivision with the exception of common areas, if any, and streets therein.
- G. "Vehicle" shall be defined as any device designed to operate on wheels or runners for transporting persons or objects.
- H. "Committee shall refer to the Architectural Control Committee.
- I. "Permanent Storage" shall mean parking, placing, or locating an object in a location, or approximately the same location, for greater than 60 days.

**ARTICLE II.
NATURE AND PURPOSE OF COVENANTS**

PHASE II

A. Western Sky Subdivision shall be made up of approximately forty two (42) Lots ranging in size of approximately (0.40) acre to (1.64) acres per Lot. The covenants set forth in this declaration constitute a general scheme for the protection and maintenance of the Property to enhance the value, desirability and attractiveness of the Lots for the benefit of all owners of Lots therein. These Covenants are imposed upon Declarants and upon the owners of all Lots, homeowners, landowner's association, and/or the equivalent. Said Covenants are for the benefit and burden of all Lots, and shall bind the owners of all such Lots. Such Covenants shall be a burden upon and a benefit not only to the original owner of each Lot, but also their heirs, trustees, successors and assigns. All such Covenants are intended as and hereby declared to be Covenants running with the land or equitable servitude upon the land, as the case may be.

**ARTICLE III.
USE OF RESIDENTIAL LOTS**

PHASE II

A. Each Lot within Western Sky Subdivision shall be constructed upon, improved, used and occupied only for private residential purposes consistent with the zoning regulations of the City of Gillette, Campbell County, Wyoming, in effect on the date that said construction, improvements, use or occupation begins. No Owner shall seek to modify the current zoning of the Lots comprising Western Sky Subdivision, which Lots are zoned R-S. No lot shall be further subdivided.

**ARTICLE IV
CONSTRUCTION**

A. Dwelling Size. The principal dwelling shall have a minimum fully enclosed finished living area devoted to living purpose, exclusive of porches, terraces and garage, of 1,750 square feet above ground. All construction, including utilities, shall meet the building codes for the City of Gillette, Campbell County, Wyoming, on the date of commencements of the said construction. All utilities serving the dwelling or any other improvements shall be buried.

B. Construction. All dwellings shall be completed and ready for occupancy within twelve (12) months after construction begins. All dwellings shall be "stick built" and constructed on site. No mobile homes or modular or prefabricated dwellings or garages may be placed on the Lots. All exterior materials shall be wood, brick, stone, stucco, drivit, steel, hardy plank, Canoxel or any combination thereof. No vinyl siding will be allowed. All siding materials shall be of an earth tone hue and all to be approved by the Architectural Control Committee. All houses must have a minimum of 100 square feet of either brick, rock or cultured stone on the curb side of the house. All roofs shall consist of earth tone (including black) asphalt shingles, wood shingles, shake singles, concrete tile, or pre-finished steel raised seam, to the extent permitted by the City of Gillette for any contractor constructing a dwelling with the City limits. All buildings and structures shall be constructed and maintained in such a fashion and of such materials so as not detract from living conditions in the area.

C. Flues and Vents. Unless otherwise approved by the Committee, all flues and vents shall exit the roof of a dwelling on the rear side of the roof rather than on the street side of the roof.

D. Land Use and Building Type. All lots shall be used only for single family residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one single family dwelling not to exceed two stories in height, and a private garage for not less than two cars. No Lot shall be split or subdivided and shall remain whole for the duration of these Covenants. Detached buildings shall be constructed in a like manner to the residence with the same architectural design, and the same color, roof, window, and door design as the residence. Detached buildings shall not exceed fifty percent (50%) of the "foot print" square footage of the principal dwelling.

E. Dwelling Valuation/Size. All dwellings constructed on the Lots in the Subdivision shall be constructed so that they have a minimum finished square footage of at least 1,750 square feet above ground. At the time that the plans and specifications for the dwelling are submitted to the Committee, the party seeking approval shall submit to the Committee the copy of an appraisal or plans in a form acceptable to the Committee showing compliance with the minimum square footage requirement. All dwellings constructed on any Lot shall be constructed so that they shall have a minimum appraised value (including the value of the Lot) upon completion of at least \$300,000.

F. Architectural Control. No buildings, fence, wall or other structure may be constructed, erected or placed on any Lot until the plans, specifications, and design for the building or structure; and a plan showing the location of the building or structure have been approved by the Committee as to quality of workmanship and materials, harmony of exterior design with existing structures and buildings, location with respect to topography and finished grade elevation, and compliance with these Covenants. No fences or walls shall be erected, placed or altered on any Lot nearer to any street than the minimum building setback line established herein.

G. Building Locations. All structures shall have a minimum of a 30' setback from Lot line parallel and closest to the street in the front. The front of all dwelling structures shall face the street. No structure shall be constructed within 40' of the rear Lot line. No building or appurtenance to a building (including but not limited to decks) shall be located nearer than fifteen (15') feet to an interior Lot line.

H. Waste Storage and Disposal. No Lot shall be used or maintained as a dumping ground or gathering place for rubbish, trash, or garbage. Waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of waste shall be kept in a clean and sanitary condition and shall be stored out of view. All rubbish, trash, or garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon.

I. Sewer Service. The purchaser of each Lot is responsible for determining the location

and elevation of the sewer service and determining how the location and the elevation of the sewer service will affect the type and location of the dwelling to be constructed upon the Lot. (Location of the sanitary sewer is identified on Exhibit "A".)

J. Soil Analysis. The purchaser and owner of any Lot in the Subdivision shall be responsible for obtaining and reviewing soil reports relating to the Lot, and engaging a Professional Engineer with geotechnical expertise to evaluate the soil conditions. Soil reports and hydrology reports have been completed as required by the City of Gillette and copies may be obtained from the said City of Gillette, City Engineer. Lot Owners should not rely upon the soils or hydrology reports on file with the City of Gillette as their sole source of geotechnical information for determining appropriate design or improvements.

K. Driveway. All driveways shall be composed of concrete or asphalt. Driveways shall be paved from the street to the garage with material such as asphalt, concrete, or paving stone. Driveways shall be a minimum of 12 feet in width from the street to the property line. Driveways shall be maintained by the Lot Owner.

L. Fences. All fences must be approved in writing by the Architectural Control Committee and shall be constructed of post and rail, wood, or vinyl. There shall be no chain link, barb wire, or fort type fences on any lot. There shall be no front yard fencing, other than a split or doveled landscape fence allowed.

**ARTICLE V.
COMMERCIAL USE
~~PARSE II~~**

A. No part of Western Sky Subdivision shall be used or caused to be used for any business, commercial, manufacturing, mercantile storing, vending or other nonresidential purposes including, but not limited to, stores, shops, repair shops, storage or restaurant, dance hall, pipe yard, oil field business, construction yard, livestock or agricultural enterprise, or public place of amusement. Businesses utilizing telecommunications or electronic storage/retrieval shall be permitted as approved by the Committee, provided such business does not require physical customer, vendor, client, or patient traffic.

**ARTICLE VI.
SUB-SURFACE USE**

A. Surface Utilization. Mineral rights have been severed from the surface within the Subdivision.

B. ~~PARSE II~~ Mineral Exploration, Development, or Production. Each Lot Owner in Western Sky Subdivision, hereby assigns, grants, and conveys his right to negotiate and collect surface damages for mineral exploration, development, and productions to the Committee subject to the following:

1. Proposals for Exploration. The Committee shall receive all proposals for surface access or damage agreements from the Operator(s) seeking surface access for mineral exploration, development, or production on Western Sky Subdivision properties. Any such proposal shall set forth all damages attributed to the entire Subdivision; and the proposed terms and condition for the right fo access to the surface lands; and such proposal shall set forth the amount of damages to the nature and extent of access to be attributed to each individual Lot Owner.
2. Circulation of Proposals. The Committee shall circulate the proposal(s) among the Lot owners within the Subdivision within ten (10) business days of receipt and may also negotiate to receive clarifications or additional proposals.
3. Approval of Proposals. The Committee shall approve, on behalf of all Lot owners, only those surface damage agreements which are unanimously approved in writing by all of the Lot

owners in the Subdivision.

4. *Distribution of Proceeds.* Upon the unanimous approval of the Lot owners within the Subdivision, the Committee shall direct the Operator or other person making the approved proposal to pay the damages as provided under the proposal to the individual Lot owners or to the Committee.
5. *Failure of Proposal.* If unanimous approval of the Lot owners is not obtained, the Committee shall make no agreement for the surface access or damages.
6. *Condemnation* In the event all of the Lot owners of the Subdivision cannot reach unanimous approval of a given proposal, no individual Lot Owner may agree to grant surface access or receive surface damages, provided, however, than if an Operator posts a bond for entry in accordance with Wyoming law, the Committee may in its usual course of business decide to pursue the claims on behalf of the Lot owners collectively, the individual Lot owners may pursue the rights of the Lot owners collectively, the individual Lot owners may pursue their individual claims for damages at their own expense after an assignment of that right is granted to them from the Committee. Such an assignment shall not be unreasonably withheld. Neither the Committee nor any Lot Owner acting in an individual capacity shall be required to make or pursue any claim for damages.

ARTICLE VII WATER SUPPLY

- A. Each Lot owner shall utilize as their potable water source water supplied by the City of Gillette, Campbell County, Wyoming. Water shall be individually metered.

ARTICLE VIII VEHICLES

A On Street Parking. On street parking is restricted to emergencies, deliveries, and guests. No overnight parking on streets is permitted. No boat, truck, trailer, or camper shall be parked on the street longer than 24 hours. No camper, boat, or RV shall be stored outside the lot set backs specified herein. No automobile shall be parked or left on any portion of a lot other than inside a garage and shall not be visible unless it is in operating condition with current license plates.

- a. The outdoor repair of automobiles is prohibited upon any portion of the property as well as any other activities which may be or becomes an annoyance or nuisance to the neighborhood.

ARTICLE IX WATER DRAINAGE

A Each Lot Owner shall be responsible for insuring that water drainage is continuous and adequate, and to insure that individual Lot landscaping and topography does not adversely impact other Lots or roadways within the Subdivision, or adjoining lands dedicated to the public.

ARTICLE X UTILITY ACCESS

A Lot Owners shall allow utility access for the reading of meters or other measuring devices, and for installation access or maintenance access of any and all utilities installed in the Western Sky Addition. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structures, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities, or which may change the flow of water through the drainage channels in the easement. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible

ARTICLE XI OFFENSIVE ACTIVITY

A. Barking dogs shall be considered an annoyance and a nuisance and shall be considered a violation of these Covenants. No animals may be kept except dogs, cats, and other household pets. They shall be kept in an area which is adequately fenced to the side and rear of the dwelling. All pet areas shall be maintained in a clean and sanitary condition so as to not be offensive to other Lot owners. Commercial breeding, commercial boarding or raising of animals for sale is prohibited. No obnoxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which is or may become a nuisance in the neighborhood. Any condition determined by the Committee to be a nuisance shall be corrected upon notification to the offending Owner within thirty (30) days.

ARTICLE XII ESTHETIC MAINTENANCE

A. Signs. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five square feet advertising the property for sale or rent.

B. Landscaping. Within one year of the completion of the residence each front yard and side yard visible from a public street must be sodded or hydro seeded and landscaped to the rear of the structure. Each lot shall plant and maintain a minimum of five (5) trees at least five feet in height. All rear yards not visible from a public street shall at a minimum be seeded by broadcast seeding.

C. Appearance and Improvements. All improvements on each Lot must be maintained by Lot Owner so as to remain in a state of good repair, neat and well kept in appearance.

D. Telephone, Electrical and Utility Wires. All Telephone, electrical and other utility wires and / or cables shall be placed underground from the main trunk lines to each principal residence and / or improvement.

ARTICLE XIII ARCHITECTURAL CONTROL

A. Initial Committee. Western Skyline Development LLC, the Declarant shall appoint three members to serve as the Architectural Control Committee under this Declaration of Covenants. One Member shall serve a one year term, one Member a two year term, and the third Member shall serve a three year term. The original members of the Architectural Control Committee are Ryan Conklin for the one year term, Jerry Winter for the two year term and Gery Dillinger for the three year term. This shall become official upon the recording of these covenants.

B. Election of Members. The Committee shall always consist of three (3) persons. The members of the elected Committee shall be owners of the Lots in the Subdivision. Each Lot shall be entitled to one vote in the election for members of the Committee. Joint owners of a Lot shall have one vote. If a person or entity owns more than one Lot, they shall have one vote for each Lot.

C. Frequency of Elections. Elections for the Committee shall be held annually on the first day of March of each year at a meeting called for the purpose or on such other date as the Committee may determine. At least twenty-four hours notice of the meeting shall be given by telephone or by mail to all Lot owners by the Committee. Upon the death or resignation of any member of the Committee, the remaining members shall have authority to designate a successor who shall remain on the Committee until the next annual election.

D. Meetings of the Committee. Members of the Committee shall elect a chairman who shall keep a written record of all proceedings and actions taken by the Committee and who shall be responsible for all correspondence. Meetings of the Committee may be called at any time by the chairman as required to transact business, and the Committee shall formulate its own rules and regulations for the calling of such meetings and the conduct of its business. The decisions of the Committee shall be made by majority vote.

E. Time Limits. Within thirty days after receiving a written request for approval of the plans or other approval as provided herein, the Committee shall either approve or disapprove the request in writing. In the event the Committee fails to approve or disapprove in such period of time, approval shall not be required, and the related covenants shall be deemed to have been fully complied with. If the request for approval is rejected because of noncompliance with the Covenants, the reasons therefor shall be stated. Committee decisions shall not be the arbitrary or capricious.

G. Immunity of Committee. To the maximum extent permitted by law, Declarant and the Committee shall be immune from liability for its acts or omissions including, but not limited to, negligent acts of omissions.

**ARTICLE XIV.
GENERAL PROVISIONS**

A. Covenants Run with Land. These Covenants shall run with the land and shall be binding upon all Lot Owners, their heirs, trustee, successors and assigns. These Covenants shall be binding upon all persons under them for a period of twenty-five years from the date of this Declaration. These Covenants shall be automatically extended for successive periods of ten years unless an instrument signed by eighty percent (80%) of the then owners of the Lots has been recorded, agreeing to amend or repeal these Covenants.

B. Enforcement. These Covenants may be enforced by the Committee or any Owner. Enforcement of these Covenants shall be by any proceeding at law or in equity (i) against any person or persons violating or attempting to violate any Covenant, either to restrain or enjoin violation or to recover damages, (ii) against any Lot to enforce any lien or Covenant by this Declarant, or (iii) both.

1. Before the Committee may bring an action to enforce these Covenants, the Committee shall first afford the person or persons violating or attempting to violate any Covenant the following process:
 - a. Notice. The Committee shall provide written notice of the violation to the Owner(s) of the Lot at issue, and that the violation(s) must be corrected within thirty (30) days or a hearing demanded by the alleged violator before the Committee to contest the existence of the violation.
 - b. Hearing. If the alleged violator desires a hearing to contest the existence of the violation, they shall make a demand for the same, in writing, delivered to the Committee on or before ten (10) days from the date of the mailing of the notice of the violation. The hearing shall be informal in nature and shall be conducted by the Committee or its designee at a date and time chosen by the Committee, usually at its next regularly scheduled meeting. The Committee shall provide written notice within ten (10) days of the date and time set for such hearing to the person or persons requesting such hearing.
 - c. Decision. Within ten (10) days after the conclusion of a hearing, the Committee shall render a determination as to the existence or nonexistence of the violation. If the Committee determines there is a violation or an attempted violation of any Covenant, the Committee may proceed to enforce the Covenant in the manner as set forth herein.
2. In the event any proceeding at law or in equity is brought and successfully prosecuted by the Committee or any Owner to enforce these Covenants, the Committee shall be entitled to recover damages incurred in enforcement, including liquidated damages in the amount of \$25.00 per day from the date of (i) in the case of the Committee, the violator's receipt of the notice of violation, or (ii) in the case of any Owner, the filing of the action. The Committee or Owner shall also be entitled to recover their costs incurred in enforcement, including, but not limited to, reasonable attorney fees. Under no circumstances shall a party bringing an action to enforce these Covenants be liable for any costs, attorney fees, or expenses incurred by a defending party.
3. Any judgement in favor of the Committee for damages, costs of attorney fees, shall be in a lien in favor of the enforcer against the lot or lots which are the subject of the proceedings and shall be a continuing lien against the lot and an obligation of the Owner and may be enforced as provided by law.
4. The failure of forbearance by the Committee or any Owner to enforce any Covenant herein

4. The failure of forbearance by the Committee or any Owner to enforce any Covenant herein contained shall in no event be deemed a waiver of the right to do so thereafter. The remedies provided for in this Declaration shall be cumulative and not exclusive.

C. Amendment. These Covenants may be amended by Declarant at any time before Declarant has sold and conveyed six (6) of the Lots in the Subdivision. Once six (6) of the Lots in the Subdivision have been sold and conveyed by Declarant, these Covenants may be amended or altered upon the approval of the owners of at least six (6) Lots of the Subdivision.

D. City Ordinances. If the City of Gillette imposes any limitations on the use or development of these Lots which is more restrictive than the restrictions imposed by these Covenants, then the more restrictive limitations of the City of Gillette shall take precedence over these Covenants.

IN WITNESS WHEREOF, the undersigned, being the DECLARANT herein, has hereunto

set its hand and seal this 4th day of May 2007.

WESTERN SKYLINE DEVELOPMENT LLC

Craig G. Mader
CRAIG G. MADER, MANAGER Date: May 4, 2007

STATE OF WYOMING)
)
COUNTY OF CAMPBELL)

The above and foregoing instrument was acknowledged before me by Craig G. Mader, this 4 day of May 2007.

Witness my hand and official seal.

Jacquelyn A. Clough
Notary



my Commission expires 8/18/07

STATE OF WYOMING) ss.
Campbell County)
Filed for record this 17th day of May A.D. 2007 at 11:50 o'clock A M. and recorded in Book 2260
of Photos on page 117-124 Fees \$ 29.00
Christina Sanders RECORDED ABSTRACTED INDEXED CHECKED By Liane Hackett Deputy
County Clerk and Ex-Officio Register of Deeds 892275

