

DECLARATION OF PROTECTIVE COVENANTS

THIS DECLARATION is made this 26th day of July, 1974, by O. W. McPHERSON and ELDORA N. McPHERSON of Polson, Montana, hereinafter called "Declarants".

RECITALS:

Declarants make this Declaration upon the basis of the following facts and intentions:

A. Declarants are the owners of the following described real property located in Sanders County, Montana:

See Exhibit "A" incorporated herein by reference.

The above described property is hereinafter referred to as "Property".

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

NOW, THEREFORE, Declarants hereby declare that the Property shall be held, sold, conveyed, encumbered, used, occupied and improved subject to the following 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 thereof. 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.

ARTICLE I.

DEFINITIONS

Section 1. "Association" shall mean Cabinet Gorge Lake Estates Association, its successors and assigns.

Section 2. "Common Area" shall mean all real property in which the Association owns an interest for the common use and enjoyment of all of the members. Said interest or interests may include, without limitation, estates in fee, estates for a term of years or easements. The common area to be owned by the Association at the time of the conveyance of the first lot is described as Cabinet Gorge Lake Estates and adjoining area described as follows:

See Exhibit "B" incorporated herein by reference, Washington Water Power Lease.

Section 3. "Lot" shall mean any lot shown on a recorded subdivision plat of a portion of the properties, except common area.

Section 4. "Member" shall mean any person or entity holding membership in the Association pursuant to its articles of incorporation and its by-laws.

Section 5. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any lot, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Immediate Family" shall mean husband, wife, son, daughter, father or mother.

ARTICLE II.

PROPERTY RIGHTS

Section 1. Owners Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area and shall have use of all common facilities, which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- a. The right of the Association to charge reasonable admission and other fees for the use of any facility situated upon the Common Area;
- b. The right of the Association to establish rules and regulations for use of any and all common facilities and open space;
- c. The right of the Association to suspend the voting rights and right to the use of common facilities by an owner for any period during which any assessment against this lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;
- d. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members; no such dedication or transfer shall be effective unless an instrument signed by 90% of all owners agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the by-laws, his right of enjoyment to the Common Area and facilities to the members of his immediate family, his tenants, or contract purchasers who reside on the property, or bona fide house guests of any of the above.

ARTICLE III.

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association.

Section 2. Members shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

ARTICLE IV.

MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarants, for each lot owned within the Properties, hereby covenants, and each Owner of any lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments, together with interests, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property 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 who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents on the Properties and for the payment of five year lease to Washington Water Power for property described in Exhibit "B".

Section 3. The Association shall make no annual assessments until after January 1, 1976. The maximum assessment per lot which may be made by the Association in the calendar year 1976 shall not exceed \$_____ per lot; thereafter the maximum annual assessment may be increased each year by not more than 10% above the maximum assessment for the previous year without a vote of the membership. The amount of the annual assessments shall be fixed by the Board of Directors.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all lots on January 1, 1976. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty days in advance of each annual assessment for the year 1976 may be fixed at any time during that year. Written notice of the annual assessment shall be sent to every owner or member subject thereto. The due dates shall be established by the Board of directors. The association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within Thirty (30) days after the due date shall bear interest from the due date at the rate of 10 percent per annum. The Association may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the property. No owner may waive or otherwise escapt liability for the assessments provided for herein by non-use of the Common area or abandonment of his lot.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or trust indenture. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

MINIMUM BUILDING AND USE RESTRICTIONS

No structure which fails to meet the following minimum standards shall be erected, placed or allowed to remain in any lot, and the Design Review committee shall have no power to approve any structure failing to at least meet these minimum standards:

1. With the exception of the Common Area, none of the lots in the subdivision may be used or improved for other than private residential purposes, and no more than one one-family dwelling shall be erected, placed or maintained on any lots.

2. No lot in the subdivision or any building or improvement erected thereon shall at any time be used for the purpose of any trade, profession, manufacturing or business of any description, nor for hospitals, duplexes, apartment houses, nor any other multiple dwelling house except that nothing herein shall preclude an owner from maintaining a business or professional office within his residence.

3. Plans for improvement on each residential lot shall provide for off-street parking.

4. No residential lot shall be further subdivided in any manner.

5. No chickens, swine, poultry, goats, or other livestock shall be raised, kept or cared for on any lot or on the Common Area, except dogs, cats or other common household pets may be kept in accordance with rules of the Association, provided they are not bred or maintained for commercial purposes.

6. No signs, billboard, posters, or other advertising devices of any kind or character may be erected or displayed upon any of the residential lots except Cabinet Gorge Lake Estates promotion signs and signs displayed to identify the occupants of a dwelling or business office and such signs must have approval of the Design Review Committee.

7. The use and occupancy of the aforesaid real property may not be for any purpose designed for multiple or communal living or occupancy. The use and occupancy of said Tracts or Lots shall be free of any noxious or offensive activity, and free from any public or private nuisance.

8. No trash, debris, organic or inorganic wastes shall be permitted to accumulate on any lot or in any street adjacent thereto, but shall be promptly and efficiently disposed of, and no vacant or other lot shall be used as a dump ground or burial pit.

9. Except in an emergency situation when necessary for the preservation of life or property, the discharge of firearms shall be prohibited.

10. Mining, quarrying, excavation, oil drilling, or development of any kind shall not be allowed on any lot or common area except for such excavation as may be necessary in connection with the construction or placement of improvements thereon in accordance with this declaration.

11. All construction shall comply with provisions of the following standard codes or their amendments: The Uniform Building Code, the National Plumbing Code and the National Electrical Code.

12. No building, structure, alteration or improvement shall exceed 20 feet in height measured from the average level of finished grade without first securing unanimous approval of the Design Review Committee.

ARTICLE VI.

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to so thereafter do.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, being the Declarants herein, have executed this Declaration this 26th day of August, 1974.

Eldora N. McPherson

On this 26th day of August, 1974, before me, the undersigned, a Notary Public for the State of Montana, personally appeared O. W. McPHERSON and ELDORA N. McPHERSON, husband and wife, known to me to be the persons named in and who executed the foregoing instrument and acknowledged to me that they executed the same.

Notary Public for the State of Montana
Residing at Polson, Montana
Commission expires: JUNE 5, 1977

AMENDMENT OF PROTECTIVE COVENANTS

THIS AMENDMENT is made this 24th day of September, 1974, by O. W. McPHERSON and ELDORA N. McPHERSON, herein called the "Declarants".

WHEREAS, the Declarants have filed on July 26, 1974, a Declaration of Protective Covenants for property described by Exhibit "A" attached thereto, referred to as CABINET GORGE LAKE ESTATES, and

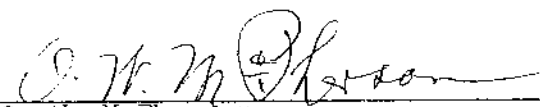
WHEREAS, they desire to Amend Article V, Section 5, of said covenants,

NOW THEREFORE, Declarants hereby declare that Article V, Section 5, be amended to read as follows:

5 (a) No chickens, swine, poultry, or goats shall be raised, kept or cared for on any lot or on the Common Area, except dogs, cats or other common household pets and horses may be kept in accordance with rules of the Association, provided they are not bred or maintained for commercial purposes.

5 (b) No more than two horses may be kept or cared for on any lot on any permanent basis and no lot may be overgrazed.

IN WITNESS WHEREOF, the undersigned, being the Declarants herein, and being the owners of more than seventy-five percent (75%) of the lots in CABINET GORGE LAKE ESTATES, have executed this Amendment this 24th day of September, 1974.

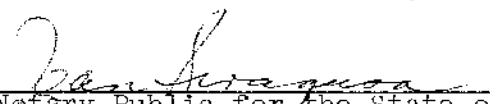

O. W. McPherson


Eldora N. McPherson

STATE OF MONTANA)
County of Lake) ss

On this 24th day of September, 1974, before me, the undersigned, a Notary Public for the State of Montana, personally appeared O. W. McPHERSON and ELDORA N. McPHERSON, husband and wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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


Notary Public for the State of Montana
Residing at Polson, Montana
My Commission Expires 8/9/77