

218285

BOOK 275 19

STATE OF MONTANA - COUNTY OF BEAVERHEAD

Recorded on the 21 day of April

19 94 at 12:45

Book 275 Page 19-24

County Recorder

Deputy Recorder

J. Lee Hedrick

#360 Schulz, Davis + Watson

RESTRICTIVE COVENANTS

INDEXED

MARTIN C. COOKSEY and ELLEN I. COOKSEY (hereinafter "Cookseys"), fee owners of the following real property (hereinafter the "Property") situated in the County of Beaverhead, State of Montana, to-wit:

Lots 1 and 2 of the Final Plat of Cooksey Minor Subdivision II, filed for record on March 17, 1994, at 8:35 o'clock a.m. under Recorder's Reception No. 217903; and Lots 3 and 4, of the Final Plat of Cooksey Minor Subdivision, filed for record on December 10, 1993, at 9:30 o'clock a.m. under Recorder's Reception No. 216935, all in the Office of the Clerk & Recorder of Beaverhead County, Montana, being portions of a tract situated in the N $\frac{1}{2}$ SE $\frac{1}{4}$ Quarter of Section 19, Township 7 South, Range 8 West, Montana Principal Meridian,

make the following declarations as to limitations, restrictions, and uses to which the Property may be put and specify that such declarations shall constitute covenants running with the land, as provided by law, and shall be binding on all parties and all persons claiming under them, and for the benefit of and restriction on all future owners of the Property, this declaration of restrictions being designed for the purpose of keeping the subdivision desirable, uniform, and suitable in design and use as specified herein:

1. Restrictions on Use: (a) No buildings or structures of any kind whatsoever other than one dwelling house with an attached garage and one separate garage suitable for storage of a motor home, recreational vehicle or boat shall be erected on the Property. All buildings or structures shall be used exclusively

for single family residential purposes only; provided, however, that a single family residential building or structure may include a use as an apartment for occupancy by not more than two individuals.

(b) No trailer, basement, tent, shack, garage, barn, or other outbuilding erected, located, or installed on the Property shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

(c) No mobile home, trailer home, or other movable structure used, or designed for use, as a residence, sleeping quarters, or as an out building shall be located, established, kept, or maintained on the Property unless stored as a recreational vehicle.

(d) No animals, livestock, or poultry of any kind shall be raised, bred, or kept on the Property except that one house dog and one cat per lot may be kept, provided they are not kept, bred, or maintained for any commercial purpose. No animal shelter, dog house, kennel, or run shall be permitted on the Property.

(e) No lot within the Property shall be used as a dumping ground for rubbish, junk, or trash. All garbage or other solid wastes shall be temporarily stored in appropriate sanitary containers and regularly removed. Garbage and other solid wastes, except for grass, shrub, and tree trimmings, shall not be incinerated.

2. Limitations on Construction: (a) No portion of any building or structure shall be less than fifteen (15) feet from the boundary of any lot within the Property. Nothing within the provisions of this paragraph shall be construed or interpreted to authorize or justify variance from any applicable zoning ordinance.

(b) The lowest ground level story of any residential building or structure shall be not less than one thousand four hundred (1,400) square feet in the case of a one-story residential building or structure, nor less than one thousand eight hundred (1,800) square feet in the case of a one and one-half (1½) story residential building or structure.

3. Required Development and Maintenance: (a) Cookseys shall construct and grade at their expense the private road easement depicted on the plat of the Property. Thereafter maintenance of the private road easement shall be shared equally by owners of the Property.

(b) The existing buried sewer collection pipe buried under and across portions of Lots 3 and 4 of the Property at Cookseys' expense, as depicted on the plat of the Property, shall be for the benefit of each lot of the Property. To that end an easement not to exceed ten (10) feet in width under and across Lot 3 of the Property for the installation, service, and maintenance of a buried sewer service pipe shall exist, and is hereby granted, as an appurtenance of Lot 2 of the Property; provided that such buried sewer service pipe shall be located initially so as to avoid or

minimize conflict with developments on Lots 3 or 4. The expenses of flushing, cleaning, thawing, servicing, maintaining, repairing, or replacing the buried sewer collection pipe shall be shared equally by the owners of the Property.

(c) For purposes of allocating the expenses of maintenance of the private road easement and the buried sewer collection pipe mentioned above, the owner or owners of one lot shall be deemed one owner, and, if more than one lot is owned by the same person or persons, then such person or persons shall be deemed one owner.

(d) Unless the owners of each of the lots within the Property consent in writing, no owner of any lot within the Property shall petition or request any governmental authority or agency to provide water service to all of the lots within the Property. No well shall be installed or developed such that the water produced therefrom benefits or is used upon any lot other than the lot where the well is located.

4. Nonconforming Uses: Any lawful use of the property subject to the provisions of these *Restrictive Covenants* existing at the time of recording this instrument may continue although such use does not conform to the provisions of paragraph 1, Restrictions on Use. However, no such non-conforming use may be increased, expanded, or enlarged unless such increase, expansion, or enlargement converts a non-conforming use to a conforming use. The voluntary discontinuation of a non-conforming use for more than one

(1) year, or the destruction of a non-conforming use by hazards which is not restored within one (1) year of the destruction, shall constitute an abandonment of the non-conforming use, and future use shall conform to the provisions hereof.

5. Changes: (a) No lot within the Property shall be subdivided, nor shall the boundaries of any lots be adjusted or relocated, without the prior written consent of all of the owners of lots within the Property.

(b) The covenants, restrictions, and conditions established by this instrument may be waived, terminated, or modified as to all or any portion of the Property upon the consent of all of the owners of lots within the Property; provided no such waiver, termination, or modification shall be effective unless in writing, signed by all of the owners of lots within the Property, and recorded in the Office of the Clerk & Recorder of Beaverhead County, Montana.

5. Enforcement: The restrictions, covenants, and conditions set forth within this instrument shall operate as covenants running with the land for the benefit of any and all persons who now may own, or who may hereafter own, lots within the Property, and such persons are specifically granted the right to enforce these restrictions, covenants, and conditions through any proceedings, at law or in equity, against any person or persons violating or threatening to violate such restrictions, covenants, and conditions, and to recover any damages suffered by them from any

violation thereof.

IN WITNESS WHEREOF Cookseys have executed the within and foregoing Restrictive Covenants this 19th day of April, 1994.

Martin C. Cooksey
Martin C. Cooksey

Ellen I. Cooksey
Ellen I. Cooksey

THE STATE OF MONTANA)
) ss.
County of Beaverhead)

On this 19th day of April, 1994, before me, the undersigned, a Notary Public, personally appeared MARTIN C. COOKSEY and ELLEN I. COOKSEY, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.



John Warren
Notary Public for State of Montana
Residing at Dillon, Montana
My commission expires 7/15/94