

**DECLARATION OF PROTECTIVE AND RESTRICTIVE
COVENANTS
FOR
DARBY ESTATES SUBDIVISION**

This Declaration is made this ____ day of _____, 202____, by Darby Venture LLC, a Montana Limited Liability Company, hereinafter “Declarant”, is the owner of real property described as follows and desires to place restrictions and protections upon the said property for the use and benefit of the future owners.

The said real property subject to these restrictive covenants is described as:

A tract of land in the S $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, Township 3 North, Range 21 West, P.M.M., situated in Ravalli County, Montana, and being described as follows:

Beginning at a point 660 feet west of the northeast corner of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10; running thence south 1320 feet; thence west 20 feet; thence north 816 feet and 9 inches; thence south 85 degrees west 1985.1 feet; thence north 646 feet 8 inches; thence east 1980 east to the place of beginning.

Except the north 230 feet of the west 150 feet of the said tract.

Further excepting Bitter Root Heights of Darby, Phase II Subdivision.

The above-said property was annexed into the Town of Darby via Resolution 720 approved on February 28, 2023, and recorded as Document No. 785241 in the Ravalli County Clerk and Recorder’s Office on March 31, 2023. The above-said property has been preliminarily approved for subdivision by the Town of Darby and upon final approval and recording of the final plat, will be known as Darby Estates Subdivision.

Where upon final approval, the lands included within Darby Estates Subdivision shall be subject to the following Declaration of Protective and Restrictive Covenants for Darby Estates Subdivision.

NOW THEREFORE, the Declarant hereby declares that all the property described above shall be held, sold, and conveyed subject to the following, covenants, conditions, and restrictions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property as a described residential development. These, covenants, conditions, and restrictions shall run with the real property and shall be binding upon all parties having or acquiring any right, title, or interest in the described property or any part hereof and shall inure to the benefit of each interest to the owner thereof.

SECTION I **DEFINITIONS**

- 1. Definitions.** Unless the context expressly provides otherwise, the following definitions shall pertain throughout this Declaration and in its interpretation:
 - 1.1 “Declaration”** means this Declaration of Protective and Restrictive Covenants for Darby Estates Subdivision and any amendments hereinafter adopted.
 - 1.2 “Governing Documents”** means this Declaration and any other documents which govern the use of the Property.
 - 1.3 “Lot”** shall refer to an individual parcel of property within Darby Estates Subdivision as shown on the final plat thereof.
 - 1.4 “Property”** shall refer to all lands in the above-described real property.
 - 1.5 “Subdivision”** shall refer to Darby Estates Subdivision upon final plat approval.

SECTION II **PROPERTY**

- 2. Property subject to Declaration.** The entire property described above and known

as Darby Estates Subdivision shall be subject to the provisions of this Declaration, excepting and reserving therefrom any lands that are or become public lands properly dedicated and transferred to either the public and/or the Town of Darby.

SECTION III USE RESTRICTIONS AND COVENANTS

3. Subdivision, Limitations, and Use.

- 3.1** No Lot shall be divided or subdivided.
- 3.2** All Lots shall be used for single family residential purposes only.
- 3.3** No multiple family dwellings are allowed.
- 3.4** No Lot may be rented or leased for either commercial or income-generating purposes including timeshare or interval ownership.
- 3.5** No short-term or vacation rentals are allowed.
- 3.6** Leasing of any dwelling after construction is limited to long-term leases not less than twelve (12) months in length for residential purposes only and any lessee(s) must abide by all terms and conditions contained within this document.
- 3.7** No commercial use is allowed except for home businesses that are consistent with residential use. Any commercial use shall not increase traffic, noise, create any nuisance, be of any hazardous nature, and must be fully contained within the dwelling. No outside sales or commerce is allowed.
- 3.8** All lot owners must comply with the Laws and Regulations of the State of Montana and Ravalli County as to fire protection, building construction, sanitation, public health, and safety of these types of residential developments.
- 3.9** Each lot owner shall obtain all required County and State permits prior to initiation of construction.

SECTION IV

DWELLINGS AND BUILDING RESTRICTIONS

4. Dwellings, Buildings, Setbacks

- 4.1** The residential dwelling shall not be less than thirteen hundred (1300) square feet in total livable area. Livable areas do not include garages, exterior storage, decks, or patios.
- 4.2** Single- and two-story dwellings are allowed but shall not exceed twenty-six (26) feet in height from ground level.
- 4.3** Any second story level shall not be less than four hundred (400) square feet of livable area.
- 4.4** No dwelling or any building shall be constructed within twenty-five (25) feet of the front lot boundary line. The front lot boundary line is that which is adjacent to the roadway. No dwelling or any building shall be constructed within twenty-five (25) feet of the rear lot boundary line. No dwelling or building shall be constructed within five (5) feet of any side lot boundary line or fifteen (15) feet in the case of a corner lot. The approximate building envelope are shown on the plat.
- 4.5** All building materials must be new, and either completely constructed on site, or modular frame construction.
- 4.6** No single wide mobile homes, double wide mobile homes, log or partial log homes, travel trailers are allowed.
- 4.7** No bare metal roofing or siding is allowed. Decorative standing seam metal roofing is allowed.
- 4.8** Only one (1) dwelling and one (1) detached enclosed garage are allowed on each lot. Notwithstanding, accessory dwelling units (ADUs) will be allowed provided they meet the Town of Darby requirements.
- 4.9** No sheds, carports, or other detached storage is allowed, with the

exception of decorative garden type sheds constructed with new materials.

- 4.10** No solar panels are allowed unless architecturally integrated into the dwelling structure.
- 4.11** All utilities must be buried except for temporary use during construction.
- 4.12** All outdoor lighting shall be confined to the lot and shall not spill onto any neighboring lot.
- 4.13** No outside antennas are allowed. Any satellite dish or other communication devices shall be incorporated and affixed to the dwelling and shall not extend to more than five (5) feet above the roof line.
- 4.14** No dwelling or any structure shall be attached to any boundary fence.
- 4.15** Prior to any construction upon any lot, the owner/developer shall provide three (3) copies of drawings or plans for construction to Declarant. The plans must be at a minimum, what would be classified as “working drawings” and should include building design, construction materials, driveway design, colors, and other such details. This includes any structural addition or alteration. The plans must be submitted either in person or by certified mail.
- 4.16** Upon receipt of plans by Declarant, Declarant shall act upon the plans within thirty (30) days and provide in writing the determination of either approval or denial. If Declarant does not provide a determination within thirty (30) days, the plans shall be deemed approved.
- 4.17** Anytime after Declarant has sold or conveyed 50% of the approved lots, Declarant may appoint three of the owner(s) of those lots to a committee to act as a successor to Declarant to approve construction plans as outlined in this document. Declarant must inform all other lot owners of the appointments. Any time after the initial appointment of the successor committee, if one or more members ceases to be a member, a majority of the remaining lot owners may appoint a replacement member.
- 4.18** Dwelling construction must be completed within eighteen (18) months

from issuance of building permit(s).

- 4.19** No temporary buildings or trailers shall be allowed on the property except during construction and only for the purposes directly related to construction.
- 4.20** No dwelling may be occupied until a Notice of Completion or other occupancy permit or requirement from the Town of Darby has been obtained.
- 4.21** Driveways must be at least the full width of the garage and surfaced from the garage to the front roadway with either asphalt or concrete.
- 4.22** Only one doghouse is allowed and shall not exceed twenty (20) square feet in floor size and not to exceed six (6) feet in height.
- 4.23** Any lot that borders or has any portion of the Mill Ditch must comply with all Mill Ditch requirements.
- 4.24** Fences along the side and rear boundary lot lines are allowed and must be no more than six (6) feet in height. Fencing along the front boundary lot line shall not exceed three (3) feet in height and must be decorative in materials and construction and must be set back at least twenty-five (25) feet from the front boundary lot line. All fences must be of new quality materials and any natural materials must be stained or finished. No wire or barbed wire fencing is allowed.

SECTION V **GENERAL RESTRICTIONS AND COVENANTS**

5. General Restrictions and Conditions

- 5.1** No on-street parking is allowed except for temporary guest or delivery parking. No overnight on-street parking is allowed.
- 5.2** No unlicensed vehicles, broken or wrecked vehicles, machinery, or commercial vehicles shall be stored on the property unless enclosed garage.

- 5.3** Only one recreational vehicle, camper, boat, snowmobile or the like may be parked on the property and must be in the back yard.
- 5.4** Garage doors must remain closed from 10 pm to 5 am.
- 5.5** All personal property must be kept inside or behind the dwelling. No personal property shall be stored within the front setback area of thirty (30) feet.
- 5.6** No livestock or poultry is allowed.
- 5.7** No more than two (2) domestic dogs and two (2) domestic cats are allowed.
- 5.8** All dogs must be confined to the owner(s) lot. No excessive barking or aggressive behaviors are allowed.
- 5.9** No activities shall occur on the property that create a nuisance, are offense or obnoxious, or are illegal.
- 5.10** No signs or banners are allowed to be displayed on the property.
- 5.11** All dwellings, garages, and driveway shall be maintained to same substantial condition as when originally constructed.
- 5.12** All pet food must be stored indoors and protected from wildlife.
- 5.13** All garbage must be in approved containers, secured from wildlife, and screened from view except during collection days and must be returned that same day from the collection location.
- 5.14** All lots shall be kept clean and maintained. All grass must be kept under twelve (12) inches in height and maintained to control weeds.
- 5.15** The discharge of firearms is prohibited, except in an emergency situation when necessary for the preservation of life or property.

SECTION VI GENERAL PROVISIONS.

6.1 Covenants to Run with Land. These covenants, grants, and restrictions are to run with the land unless modified or terminated by an agreement of 75% of the lot owners.

6.2 Enforcement. Any Owner or the Declarant shall have the option and right to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, and charges now or hereafter imposed by the provisions of this Declaration. The method of enforcement may include legal action seeking an injunction to prohibit any violation, to recover damages, or both. Failure by any owner or the Declarant to enforce any such provisions shall in no event be deemed a waiver of the right to do so thereafter. Should any lawsuit or other legal proceeding be instituted against an Owner who is alleged to have violated one or more of the provisions of this Declaration, the prevailing party in such proceeding shall be entitled to reimbursement for the costs of such proceeding, including reasonable attorney's fees.

6.3 Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Declaration, their respective legal representatives, heirs, successors, or assigns for a term of ten (10) years from the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically renewed for successive periods of ten (10) years thereafter; provided however, that these covenants may be modified, changed or eliminated by an instrument in writing filed with the Ravalli County Clerk and Recorder and signed by the owners of seventy-five percent (75%) of the owners of the parcels to which these covenants apply.

6.4 Amendments. The right to amend the covenants shall be by seventy-five percent (75%) of the owners of the parcels subject to this Declaration.

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

6.6 Liability of the Declarant. The Declarant shall have no liability for any of its actions or failures to act, or for any action or failure to act of any Owner of any Lot in Darbey Estates Subdivision.

6.7 Attorneys Fees and Costs. In the event a legal action is necessary to enforce or interpret any of the provisions of this Declaration, the prevailing party shall be entitled to a reasonable attorneys' fee and shall further be entitled to recover all costs expended.

6.8 Governing Law. The provisions of this Declaration shall be subject to, and governed by, the laws of the State of Montana.

IN WITNESS WHEREOF, the Declarant has executed the foregoing Declaration of Protective and Restrictive Covenants for Darby Estates Subdivision effective this _____ day of _____, 202____.

DARBY VENTURES LLC

By:

STATE OF MONTANA)
: ss
County of)

202 This instrument was acknowledged before me this ____ day of _____, by _____, as authorized member of Darby Ventures LLC.

Notary Public for the State of Montana