

# **Proposed Declaration of Protective Covenants and Restrictions of (The Proposed) Canyon Rim Estates Phase I Subdivision**

**WHEREAS**, (the to be organized LLC), **Canyon Rim Estates, LLC**, of Box 600, Lehighton, Pennsylvania 18235 (hereinafter “Declarant”), is the record owner of a tract of land located in the Borough of Jim Thorpe, County of Carbon, Commonwealth of Pennsylvania, known as **(the proposed)** Canyon Rim Estates I Subdivision, more fully illustrated and described in a **proposed** Subdivision Plan **(To Be Approved)** which plan **(if Approved will be)** duly recorded in Deed Book Volume \_\_\_\_ and Page\_\_\_\_\_ in the office of the Recorder of Deeds, Carbon County, Pennsylvania (the “Subdivision”); and

**WHEREAS**, the said Declarant is desirous of subjecting a portion of the land in the Subdivision to certain restrictions to insure its character as a rural residential subdivision. Specifically, the portion of the Subdivision which shall be subject to the hereinafter restrictions is known as Lots Two (2) through and including Thirty Nine (39) of the Subdivision.

**IT IS SPECIFICALLY NOTED AND AGREED TO** that all of Lot One (1), the balance of the To Be Developed Property is excluded from any and all of this Declaration of Protective Covenants and Restrictions of Canyon Rim Estates Phase I Subdivision.

**NOW, THEREFORE**, the undersigned Declarant does hereby covenant, declare and agree that Lots Two (2) through and including Thirty Nine (39) of the Subdivision shall be subject to the following conditions, restrictions and covenants, which shall be binding on owners thereof, their heirs, executors, administrators, successors and assigns and which shall run with and bind the land.

**1. SUBJECT PLAN** - The land to be benefited and encumbered by the covenants and restrictions herein established will comprise Lots Two (2) through and including Thirty Nine (39) (the “Lots”) of the Subdivision, a plan for which **(will be)** recorded in Deed Book Volume\_\_\_\_\_ and Page\_\_\_\_\_ in the Office of the Recorder of Deeds of Carbon County, Pennsylvania.

**2. RESIDENTIAL USE** – The Lots, and each of them, shall be solely used for single family residential purposes and for purposes ancillary thereto, but only to the extent authorized by this Declaration. No building or structure intended for or adapted to business purposes and no apartment house, double house, lodging house, rooming house, or other multiple-family dwelling shall be erected, placed, permitted, or maintained on the Lots. No improvement or structure whatever, other than a first class private dwelling house, patio walls, swimming pool and garage, may be erected, placed or maintained on any of the Lots.

**3. APPROVALS** - No person or entity shall commence the construction of any building or structure on any of the Lots, nor shall any buildings or structures be erected, installed or maintained, nor shall any addition, change or alteration thereto be made unless and until plans and specifications showing the nature, kind, shape, height, materials, floor plans, exterior color schemes, location, elevation, and approximate cost of such building or structure, as well as a grading plan for the lot to be built upon have been submitted by owner to Declarant and approved in writing by Declarant, its successors or assigns. Declarant, its successors or assigns, shall have the sole option and right to refuse to approve any such plans or specifications. In making its determination, Declarant may consider inter alia, the compatibility of the proposed building or structure, and of the materials of which it is to be built to other residences in the Subdivision, the harmony thereof with the natural surroundings, the location and elevation of the proposed construction on the lot, and the effect of the proposed building or structure on the site lines and natural views from the adjacent or neighboring property or properties. In determining whether approval will be given, consideration shall be given to, but shall not be limited to, the following:

(a) Design and location of the principal residence, garage, and any other structures proposed for the lot;

(b) Design and location of all swimming pools and other recreational areas or structures;

(c) Design of landscaping, which shall be completed within twelve (12) months of the completion of the primary residential structure on the Lot;

(d) Design and location of all fences or other structures on the Lot;

(e) Design of materials for, and location of all driveways on the Lot.

**4. GUIDELINE** - Plans and specifications shall be reviewed by Declarant, its successors or assigns, to assure quality and a proper balance of various designs which are compatible into the rural character of the setting. Exteriors of wood, brick, stone and combinations thereof are encouraged. Use of vinyl and aluminum sidings may be permitted, but are discouraged. Exterior finishes of wood tones, colored stains or Williamsburg type colors are appropriate.

**5. PRESERVATION** - To insure the maintenance of the views for residences to be constructed on Lots, no person may construct any outbuilding, garage, or satellite antennae which, in the sole discretion of Declarant, materially obstructs the view of the residents of an adjacent Lot. Also specifically prohibited is the planting of tree lines, hedge rows or erection of fences which materially obstruct the view of the residents of an adjacent Lot (see also paragraph 19 (f)).

**6. TANKS** - No elevated tanks of any kind shall be erected, placed, or permitted on any Lot. Any tanks to be used in connection with any residence constructed on any of the Lots, including tanks for the storage of fuels, must be vaulted or walled inside the residence to conceal them from view from neighboring lots, roads or streets. Nothing set forth in this paragraph shall authorize any activity or storage which is not permitted by applicable building, fire and safety codes.

**7. SETBACK LINES** - No building, structure, fence, hedge, or appurtenance of any kind or nature shall be located in violation of any municipal zoning requirement. Houses, garages and other structures shall be located a minimum of 40 feet from Canyon Rim Drive or Pinnacle Hill Drive.

**8. ANIMALS, BIRDS AND PETS** - No animal, livestock, poultry (except domesticated household pets) shall be kept or stabled on any of said Lots. No more than three domesticated household pets (including ornamental birds) may be kept on any lot, except upon express written permission of Declarant, its successors or assigns. In no event shall any person maintain

domestic fowl within the Subdivision. Pets are to be kept within a residential structure between the hours of 9 p.m. and 7 a.m. and be contained on the owner's property at all times.

**9. UTILITY LINES, RADIO AND TELEVISION ANTENNAS** - All electrical, telephone and other utility lines shall be placed underground, except for existing utility lines. No exposed or exterior radio or television antennas shall be erected, placed or maintained on any Lot. The restrictions in this Paragraph 9 may be waived by Declarant, its successors or assigns, on a per lot basis only in exigent circumstances, and any waiver of these restrictions shall not constitute a waiver as to other Lots.

**10. SIGNS** - No billboards or advertising signs of any character shall be erected, placed, permitted, or maintained on any of the Lots or on any building or structure thereon except as herein expressly permitted. The provisions of this paragraph may be waived by Declarant, its successors or assigns, on a per lot basis, only when in its opinion the same is necessary to promote the sale of Lots in and for the development of the Subdivision. Nothing herein shall be construed to prevent Declarant, its successors or assigns, from erecting, placing or maintaining sign structures as may be deemed desirable by it for the operation and development of the Subdivision, and for Lots therein.

**11. SUBDIVIDING** - No Lot owner(s), their heirs, executors, administrators, successors or assigns, shall further sub-divide any Lot in the Subdivision. Declarant reserves the right to modify any unsold Lot for whatever reason, provided that any such change does not violate any provision of a then existing Zoning Ordinances.

**12. GARAGE AND OUTBUILDINGS** - No garage or other appurtenance shall be placed, erected or maintained upon any of said Lots except as approved as provided herein. The primary residence shall be constructed or under construction at the time that such garage or other appurtenant structure is placed or erected upon any Lot. Nothing herein shall be construed to prevent the construction of a garage as a part of a primary residential structure.

**13. OCCUPANCY** - No dwelling house erected upon any of the Lots shall be occupied in any manner while in the course of construction, nor at any time prior to its being fully certified as complete by Declarant and by the Borough of Jim Thorpe ("Borough"). Nor shall any

residence when completed be in any manner occupied until it fully complies with the plans approved by the Borough, the requirements herein, and all other covenants, conditions, reservations and restrictions of record, or as agreed between Declarant and the Lot owner(s). All construction shall be completed within twelve (12) months from the commencement thereof, provided that Declarant, its successors or assigns, may extend such time when in its sole opinion, exigent circumstances warrant such extension. No temporary outbuilding, trailer home, or other temporary structure shall be placed or erected upon any of the Lots unless approved in advance, in writing, by Declarant, its successors or assigns.

**14. WATER AND SEWER** - No water supply system or sewage disposal system shall be permitted on any of the Lots unless such system is located, constructed and equipped in accordance with the requirements, standards and recommendations of the governmental body or bodies having jurisdiction over such systems.

**15. RESPONSIBILITIES** - The owner or owners of record of each Lot in the Subdivision shall be responsible to properly maintain the surface condition of the area contiguous to any such Lot, between the Lot line and the edge of the roadway, running for the length of the property line road frontage along Canyon Rim Drive, Pinnacle Hill Drive and Kokopelli Drive , all as shown on the aforesaid recorded Plan, as well as any storm drainage swale or detention area on a Lot, or to be placed on a Lot in accordance with the approved Subdivision Plans. Such maintenance shall commence after the issuance of an occupancy permit by the Borough and shall consist of keeping the area free from any debris which would inhibit or divert the normal flow of storm water runoff through the roadside swale or detention area; where applicable, the maintaining of the surface cover in substantially the same condition as the immediately contiguous area of any such Lot and, in any event, to not less than the aesthetic standard and quality established at the time of the original construction and maintenance of the area and of maintaining all storm water infiltration facilities depicted to be created on the lot of the owner or owners of record on any plan approved by Jim Thorpe Borough, to a condition which assures that it properly functions as designed. This provision shall not be deemed to create in any such owner or owners any right in or to the area to be maintained within Borough and State rights of way, and the use and maintenance of such areas shall be subject to the rights and requirements of the Borough. Driveways shall be paved within eight (8) months of the date

a residence is certified complete. Lawn seeding shall be completed within ten (10) months of the date a residence is certified complete. Grass and weeds shall not be permitted to grow higher than four inches tall regardless of when a residence is constructed. Whoever constructs or contracts to construct any improvements to a Lot, together with the Lot owner(s), shall be liable for any damage to any of the roads in the Subdivision or to the drainage swales in the Subdivision. In the event of such damage, the person or persons responsible, in accordance with this paragraph shall repair this damage to the satisfaction of the Borough of Jim Thorpe at his/her/their own expense, within thirty (30) days of written notice thereof. If damage is not timely repaired, Declarant, its successors or assigns, may at its sole option contract with a third party to repair said damage and invoice the Lot owner(s) for the repairs. If such sums are not paid within thirty (30) days of the invoice date, judgment may be entered upon the Lot owner(s) in the full amount of the invoice, together with an administrative charge of ten (10) percent of the invoice amount.

**16. SQUARE FOOTAGE** - Each residential dwelling shall contain no less than 2,000 square feet of finished living area on the main floor (if a one story dwelling); 2,400 square feet of finished living area for a dwelling containing two stories; and, 2,000 square feet of finished first floor living area for Cape Cod style dwellings. In computing the amount of finished living area, basements, attics, breezeways and garages shall not be included.

**17. VEHICLES** - No commercial vehicles, construction or like equipment, mobile or stationary trailers, recreational vehicles/trailer, or unlicensed vehicles of any kind shall be permitted on any of the Lots or on Pinnacle Hill Drive, Canyon Rim Drive or Kokopelli Drive unless first approved by Declarant, its successors or assigns, and kept in a garage completely enclosed.

**18. LETTER, DELIVERY BOXES, AND POST LIGHTS** - Declarant, its successors and assigns, shall approve the location, color, size, design, lettering and all other particulars of all mail or paper delivery boxes in order that the area be strictly uniform in appearance with respect thereto. Plastic boxes are expressly prohibited. The owner of each lot shall, at such time as a dwelling shall be constructed thereon, erect and thereafter maintain and operate a post light in the front yard, illuminated in a manner to be approved by Declarant, its successors or assigns,

equipped with an automatic switching device (namely, a timer to go on during evening hours) or an electric eye. No other lighting facilities which shall shine on the street(s) or adjoining properties (specifically meaning mercury vapor lights and the like, nor any other dusk to dawn type lights) shall be installed within the development except as specifically approved in writing by Declarant, its successors or assigns, prior to the installation.

**19. ADDITIONAL SPECIFIC PROHIBITIONS** - Specifically prohibited on each of the Lots are the following: (a) above ground swimming pools or partially in ground swimming pools (this provision shall not preclude waterfalls or other ornamentation of a permanent nature; (b) any and all trailers, mobile homes, prefab homes, or bi-level homes; (c) any burning or burying of garbage, paper, trash, rubbish, trees, shrubs, construction materials or other debris; (d) any placement or storage of junk, scrap, or refuse other than household municipal waste, which may only be allowed until the next waste hauler pick up; and (e) any raising or cultivating of farm crops for commercial purposes (home gardens are permitted); and (f) planting of perimeter tree lines, hedgerows or construction of fences which would materially obstruct the view of the residents of an adjacent Lot (unless approved by Declarant and all property owners of lots abutting or overlooking the lot on which perimeter plantings or fence construction are proposed).

**20. TRANSFER OF RIGHTS** - Declarant, its successors or assigns, shall have the right to grant and convey all rights to enforce these covenants, conditions, reservations and restrictions at such time and to any person or entity, as in the sole judgment of Declarant, its successors or assigns, is appropriate.

**21. ENFORCEMENT** - The provisions herein contained shall run with and bind the land in the Subdivision, including each and every of Lots Two (2) through and including Thirty Nine (39) and shall inure to the benefit of and be enforceable by Declarant, its successors and assigns, and any owner or owners of said Lots, their heirs, executors, administrators, successors and assigns, and failure to enforce any provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter as to the same breach or as to a breach occurring prior or subsequent thereto. Enforcement may be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain or correct a violation

or to recover damages, fines, costs, expenses and professional fees. In the event of the breach of any provisions contained herein, and, upon failure of the Lot owner(s) to correct such violation or breach within a period of time set forth in a certified mail notice directed to such owner(s), which period of time shall not be less than ten (10) days nor more than sixty (60) days from the date of such notice and, in the event the Declarant, its successors or assigns, or any Lot owner(s), proceeds with any appropriate action at law or in equity to enforce any of the covenants or restrictions imposed herein then, upon a finding adverse to the violating Lot owner(s), such Lot owner(s) shall, in addition to any other remedy imposed or levied by the court, be responsible for all court costs and reasonable attorneys' fees incurred by Declarant, its successors or assigns, and any Lot owner(s) seeking to enforce compliance with the provisions of this Declaration.

**22. INVALIDATION** - Invalidation of any one of these covenants or restrictions by judgment of court of competent jurisdiction shall in no way affect any of the other provisions hereof which shall remain in full force and effect.

Attest: \_\_\_\_\_

Declarant  
Canyon Rim Estates, LLC

\_\_\_\_\_  
Jacob B. Arner, Organizer/ Member

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

Lot #\_\_ Owner Canyon Rim Estates

\_\_\_\_\_  
Printed: \_\_\_\_\_

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

Lot #\_\_ Owner Canyon Rim Estates

\_\_\_\_\_



Printed: \_\_\_\_\_

Date: \_\_\_\_\_