

98-16155

**AMENDED DECLARATION  
OF  
PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS  
FOREST GROVE ESTATES - PHASES III and IV,  
A Subdivision of Deschutes County, Oregon**

THIS AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FOREST GROVE ("DECLARATION") is made this 17 day of APRIL, 1998 by Bryan F. Smith Owner and developer ("Declarant").

**RECITALS:**

A). Declarant owns or has owned in fee simple certain real property located in the City of Bend, County of Deschutes, State of Oregon, known as Forest Grove Estates Phases III and IV, a duly recorded plat. Declarant owns a majority of the lots of Forest Grove Estates Phases III and IV, Deschutes Country Or, ("Property")

B). A Declaration of Covenants, Conditions and Restrictions for the subject property in the portion of Section 5, Township 18 South, Range 12 East of the Willamette Meridian, platted and files of record as FOREST GROVE ESTATES, Deschutes County, Oregon, was recorded on November 18, 1993 in Book 319 page 1679, Deschutes Country Records. Pursuant to Article III Section 2 of said declaration, Declarant herewith amends the Declaration of Covenants, Conditions and Restrictions for Forest Grove Estates phases III and IV as set forth herein.

**ARTICLE I  
ARCHITECTURAL CONTROL COMMITTEE**

SECTION 1. **ARCHITECTURAL CONTROL.** No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural control committee as to quality of workmanship and materials, harmony of external design with existing structures, as to location with respect to topography and finish Grade elevation. The approval signatures of the A.C.C. (architectural control committee) will be required before applying for a building permit from the governing agency.

SECTION 2. **ARCHITECTURAL GUIDELINES.** The purpose of these guidelines is to protect and preserve the value of the property and quality of life in the subdivision. The following minimum architectural guidelines will be observed by each builder and/or owner.

- a. **Roofs** shall have not less than a 4 in 12 pitch and be covered with composition shingles, or earth tone concrete or clay tiles.

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- c. Exterior Walls and trim shall be of stucco, wood (manufactured wood products such as fiberboard, masonite, etc., are considered acceptable). Color samples will be submitted with plans for approval. Paint or heavy body stain is acceptable. Plywood (T-1-11) is acceptable. Paint and stain colors shall not be changed without approval of the A.C.C.
- d. Exposed Masonry will normally be limited to local stone, brick, Concrete, concrete block and stucco. Imitation stone and brick may be used with specific approval of the A.C.C.
- e. Exterior lighting will be of a type and so placed as to limit glare and annoyance to adjacent property owners and passersby. Any front yard and front of house and front of garage exterior lighting that is connected by the builder to a permanently operating on off device to switch the lighting on at night, shall be maintained by the owner, It being the intent of the lighting to be operating at night to provide front yard and street lighting as a feature for the enjoyment of all the residents of the development.
- f. Driveways will be of concrete, concrete pavers, or asphalt.
- g. The A.C.C. may make specific exceptions to the Architectural Guidelines on an individual basis.

SECTION 3. USES PROHIBITED WITHOUT THE CONSENT OF THE A.C.C.  
Unless the A.C.C. has consented in writing, no parts of said property shall be used in any of the following ways:

- a. As a parking or storage place for trailers, truck campers, boats, boat trailers, snowmobiles, or other off-road vehicles; however, such may be stored provided they are garaged .
- b. As a place to burn trash, cuttings, or other items with the exception of barbecue fires.

- c. As a place to raise domestic animals of any kind except a reasonable number of household pets, which are not kept, bred, or raised for commercial purposes and are not a nuisance to other owners.

Permanently stationed outside dogs are prohibited. Dogs as pets that are primarily inside pets are approved subject to the condition that a dog that may be considered a nuisance if the dog barks on a regular basis. A dog may be determined to be a nuisance under these regulations if a 25% or more of the owners in the phase deem it to be so, based upon the criteria contained in this section. The Owner of a dog which has been determined a nuisance shall take steps to remedy the barking nuisance within 30 days. If after 30 days the majority of the owners deem that the nuisance is still in effect, then the dog shall be removed from the property.

- d. No structure of temporary character, basement, tent, shack, garage, barn, or any other outbuilding shall be used on any parcel at any time as a residence either temporarily or permanently. However, builders may have a temporary job shack during construction of a home or homes in FOREST GROVE ESTATES.
- e. There shall be no swine, horses, cattle, poultry or goats on said premises.
- f. No building, whether intended for use in whole or in part as a main residential structure, or for use as garage or other outbuilding, shall be moved upon the premises unless it is (structurally) aesthetically compatible (to) with the existing buildings in the subdivision.
- g. No used materials ( except for used brick, see section 2d) will be permitted on exterior surfaces.

SECTION 4. A vote of 66% of the Owners of lots in the subdivision can adopt, amend or repeal any or all of the above CC&Rs, after the subdivision is 100% built. For the purposes of this section if there is more than one Owner of any Lot, such Owners shall together be considered a single Owner with respect to such Lot.

SECTION 5. ARCHITECTURAL CONTROL COMMITTEE CONSENT. In all cases in which A.C.C. consent is required, the following provisions shall apply:

- a. Material Required to be Submitted. Where consent must be acquired by lot owners or any association of owners from the A.C.C., plans, specifications, landscape maintenance Co. approval, and other materials the A.C.C. determines to be necessary to enable it to evaluate the proposal must be submitted at least thirty (30) days in advance of the occurrence which requires consent.
- b. Failure to Act. In the event the A.C.C. fails to render it's decision with respect to any proposed work within the thirty (30) days granted it in section 5a, the A.C.C. shall conclusively be deemed to have consented to the proposal.
- c. Effective Period of Consent. A.C.C. consent shall be revoked one (1) year after issuance unless the work has been commenced or the owner has applied for and received an extension of time from the A.C.C..

## ARTICLE II RESTRICTION ON USE OF PROPERTY FOR HOMEOWNERS

SECTION 1. USE AND OCCUPANCY OF PRIVATE AREAS. Each owner shall be entitled to the exclusive use and benefit of each lot owned by him, except as otherwise expressly provided herein.

SECTION 2. LANDSCAPING. The use of natural flora and bark, landscape stone, ground covers, grass, and trees native to the area is encouraged. All yards shall be landscaped within six (6) months after the residence is finished and occupied.

SECTION 3. MAINTENANCE OF LOTS AND LANDSCAPING. Each lot and its landscaping improvements shall be maintained in a clean and attractive condition, in good repair, and in such a fashion as not to create a fire hazard. Landscaping and Irrigation systems on the front yard and side yards on corner lots, shall be required to be maintained by a professional landscaping service, with a contract and terms based upon the Landscape and Irrigation Maintenance Standards, and approved by the A.C.C.

### Waivers of Professional Landscape Service Requirement

A waiver of the professional landscape service requirement may be requested from the A.C.C.

Waivers issued to owners that are renting the property to others or owner occupied shall be for a period of one year and shall automatically be extended unless the waiver is revoked by the A.C.C. for failure to maintain the landscape according to the Landscape and Irrigations Maintenance Standards.

### Landscape and Irrigation Maintenance Standards:

It is the intent of this section to require that the landscaping and irrigation systems installed by the Builder/Developer be maintained to a high quality standard including but not limited to; grass to be maintained to a healthy green color, without substantially visible weed content, that all growing landscape be watered on a regular basis as needed in the growing season, that all landscape vegetation be kept healthy, trimmed as necessary to keep a "high standard look", replaced if diseased or dead with the same or similar species and size. Landscape rock and barkdust must be maintained weed free, and replaced and maintained as necessary to keep a high standard look.

A "high standard look" is defined as equal or better than the original quality, size, species, design and look of the original landscaping as installed by the builder/developer.

### Revocation of a waiver

A waiver may be revoked by the A.C.C. with 10 days notice to the Owner of the property for failure to meet the standards for landscape maintenance. If the waiver is revoked the owner will have a period of 30 days to bring the landscape into compliance with the requirements of the Landscape and Irrigation Maintenance Standards, as judged by the A.C.C., and to submit for approval a landscape maintenance agreement with a professional landscape maintenance service to be approved by the A.C.C.

Application for a subsequent waiver A new waiver may be applied for 6 months after the Owner has brought the landscape up to the required standard and maintained the landscape in a fashion as described in the landscape standard.

SECTION 4. MOBILE HOMES, CAMPERS, TRAILERS. No mobile homes or trailers may be used as residences including manufactured housing. Motor homes trailers and campers shall not be allowed to be stored or parked for more than 7 days unless inside the garage.

SECTION 5. APPEARANCE. All garbage, trash, cuttings, refuse, or garbage containers, fuel tanks, clothes-drying apparatus or lines, and or other service facilities shall be screened from view from neighboring lots.

SECTION 6. UTILITIES. No above ground utilities, pipes, or wires shall be used to connect improvements with supply facilities.

SECTION 7. OFFENSIVE OR COMMERCIAL ACTIVITIES. No offensive or commercial activities shall be carried on in any lot nor shall anything be placed or constructed on any lot or anything done on a lot which interferes with or jeopardizes the enjoyment of other lots, or private recreational areas

SECTION 8. VEHICLE AND EQUIPMENT PARKING. Boats, trailers, bicycles, motorcycles, trucks, truck-campers, and similar vehicles and equipment in excess of three quarters of a ton in weight shall not be parked on any part of Forest Grove Estates III and IV nor on adjacent public way for longer than 24 hours (unless within a fully enclosed garage with the garage doors closed so as not to be visible from the street or with prior written approval of the A.C.C. ) No such equipment or vehicles on a lot shall be visible from the street. Vehicles or equipment shall not obstruct emergency vehicle or fire lanes with Forest Grove Estates III and IV.

No more than 2 vehicles per lot shall be parked outside the garage of any residence, nor on adjacent public way for longer than 24 hours. Vehicles shall be limited to those actively used by the owners of the property; and no major maintenance of vehicles is allowed upon the premises outside of the garage.

No Owner shall permit any vehicle which is in an extreme state of disrepair ( as reasonably determined by the A.C.C.) or which is under repair to be abandoned or to remain parked on any lot for a period in excess of 48 hours. If an Owner fails to remove such a vehicle within 5 days after notice from the A.C.C., the A.C.C. may have the vehicle removed from the property and charge the expense of such removal to the Owner of the Lot.

SECTION 9. Aerials and Dishes. No outside television or radio aerials or satellite dishes shall be installed without the prior written approval of the A.C.C.

SECTION 10. Drainage Changes that alter the natural drainage of the Lot shall require A.C.C. approval. Retaining walls, fencing, and landscaping should be designed to maintain natural drainage patterns.

SECTION 11. FENCES. Fences are to be made of cedar with height not to exceed six (6) feet. All fences extending from the front of the house to the street shall not exceed three feet in height and shall have only two or three horizontal exposed bracing's. All side and rear fences constructed on the property lines by developer are the property of the adjoining property owners. It is the adjoining property owners responsibility to jointly maintain, repair or replace side fences when needed. The A.C.C. may accept other fence materials on an individual application basis.

### ARTICLE III ARCHITECTURAL CONTROL COMMITTEE MEMBERSHIP

SECTION 1. THE ARCHITECTURAL CONTROL COMMITTEE. The following are duly elected to serve on the A.C.C.:

Bryan F. Smith  
PO Box 2315  
Lake Oswego OR 97035

SECTION 2. GENERAL PROVISIONS. Term. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of ten (10) years from the date these covenants are recorded, after which time, said covenants shall be automatically extended for successive periods of five (5) years. However, at any time prior to the phase being 100% built on an instrument signed by a majority of the Owners of lots can be recorded, agreeing to change said covenants in whole or in part. After the phase is 100% built, an instrument signed by 66% of Owners of the lots can be recorded, agreeing to change said covenants in whole or in part.

SECTION 3. ENFORCEMENT. The A.C.C. shall have the right in the event any property within FOREST GROVE ESTATES III and IV subdivision is not adequately cared for to notify the negligent party of the condition in writing; if significant action is not commenced by the negligent party to correct the matter within ten (10) days of such written notification, then the A.C.C. may at its sole discretion, enter the property, hire the services of those persons necessary to rectify the condition and levy charges against the negligent property owner in sums adequate to pay for the corrective measures. Such sums shall become a lien against the subject property if not paid in full within fifteen (15) days of billing. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages.

SECTION 4. SEVERABILITY. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

SECTION 5. Remedies Cumulative. The remedies provided herein are cumulative, and the A.C.C. may pursue them separately or concurrently and may pursue any other remedies that may be available under the law or in equity although not expressed herein. Failure to exercise any such remedy shall not be deemed a waiver of such remedy or of any other remedy.

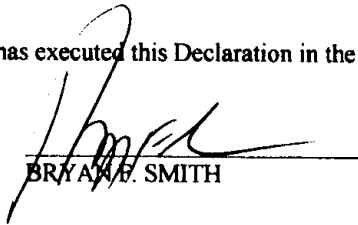
SECTION 6. Right of Entry. Declarant, the A.C.C. and any representative of the foregoing shall have the right to enter upon any Lot for any purpose related to the enforcement of this Declaration. The A.C.C. shall have the right to contract with such agents and independent contractors as the A.C.C. deems necessary and such parties shall have the same right of access as does the A.C.C.

SECTION 7. At the time each phase of FOREST GROVE ESTATES is completely built on, the A.C.C. will change from Declarant to three (3) owners (which will be decided by majority of owners) who will oversee and enhance all of the above CC&Rs. Phases 4 and 5 shall be considered, for the scope of this section, to be one phase.



SECTION 8. Attorneys Fees. In any legal proceeding involving the enforcement of any provision of this Declaration or an interpretation of the rights or liabilities of the A.C.C. or an Owner, or occupant, the losing party or parties shall pay the attorneys fees and other reasonable costs of litigation of the prevailing party or parties, both at trial, on appeal and on review, in such reasonable amount as shall be fixed by the court before which the matter is heard.

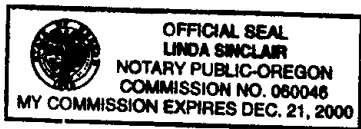
IN WITNESS WHEREOF, the Declarant has executed this Declaration in the 17 day of April 1998.


  
BRYAN F. SMITH

STATE OF OREGON )  
County of Deschutes ) Ss.

Personally appeared the above named BRYAN F. SMITH and acknowledged the foregoing instrument as his voluntary act.

Before me:



  
Notary Public for Oregon  
My commission expires: 12/21/2000

STATE OF OREGON )  
COUNTY OF DESCHUTES ) Ss.

I, MARY SUE PENHOLLOW, COUNTY CLERK AND RECORDER OF CONVEYANCES, IN AND FOR SAID COUNTY, DO HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS RECORDED THIS DAY:

98 APR 21 PM 2: 33

MARY SUE PENHOLLOW  
COUNTY CLERK

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BY:   
98-16155 DEPUTY  
NO. FEE 45-  
DESCHUTES COUNTY OFFICIAL RECORDS