

90-23852

AMENDMENT TO GEMSTONE ESTATES BUILDING & USE RESTRICTIONS
 DESCHUTES COUNTY, OREGON

We, the undersigned, being the owners of a majority of a total number of lots within Gemstone Estates, Deschutes County, Oregon, hereby declare as follows:

R E C I T A L S:

A. The Gemstone Estates is a subdivision located in Deschutes County, Oregon.

B. Gemstone Estates Building and Use Restrictions were recorded in Volume 299, Page 879, Deed Records, Deschutes County, Oregon.

C. Paragraph 13 of the Gemstone Estates Building and Use Restrictions provides that the amendment of any or all of the Building and Use Restrictions will be by the majority of the vote of the then owners of the total number of lots.

NOW, THEREFORE, the Gemstone Estates Building and Use Restrictions are hereby amended by a majority of the owners of the lots within Gemstone Estates as follows:

1. Paragraph 2 of the Gemstone Estates Building and Use Restrictions is hereby deleted and in its place and stead is hereby inserted the following:

"2. Residences constructed after the date of this amended declaration shall have a minimum of 1,300 square feet of living area. Garages shall be at least two-car garages, be constructed of quality materials with an appearance conforming to the residence and must be attached to the residence except when attachment is prevented by unusual topographical features."

2. Paragraph 3 of the Gemstone Estates Building and Use Restrictions is hereby deleted and in its place and stead is hereby inserted the following:

"3. No structure of a temporary character, basement, tent, shack, garage, barn, trailer, RV or other outbuilding shall be used on any parcel at any time as a residence either temporarily or permanently."

3. Paragraph 4 of the Gemstone Estates Building and Use Restrictions is hereby deleted and in its place and stead is hereby inserted the following:

"4. Roofing material for construction commencing after the date of this amended declaration shall have a

Class-A fire retardancy rating by the National Fire Protection Agency."

4. Paragraph 5 of the Gemstone Estates Building and Use Restrictions is hereby deleted and in its place and stead is hereby inserted the following:

"5. No animals of any kind shall be raised, bred or kept in or upon any homesite, except dogs, cats or other such pets as approved by a majority of the then owners of the total number of lots taken by poll or vote and then only provided that the pets are not kept, bred or maintained for any commercial purposes or in unreasonable numbers. Household pets shall be leashed, caged or under other positive control of the owner at all times and shall be confined within the boundaries of the owner's homesite. Notwithstanding the foregoing, no pets or other animals may be kept in or upon any lot which result in annoyance or are obnoxious to residents in the vicinity. Each owner of an animal shall be liable to each and all other owners, their families, guests and invitees for any and all damage to person or property caused by such animal."

5. Paragraph 12 of the Gemstone Estates Building and Use Restrictions is hereby deleted and in its place and stead is hereby inserted the following:

"12. Residences constructed after the date of this amended declaration should have exterior siding material of a quality greater than that known as T-111 or its equivalent."

6. Paragraph 15 of the Gemstone Estates Building and Use Restrictions is hereby deleted and in its place and stead is hereby inserted the following:

"15. No lot within Gemstone Estates may be partitioned, divided or split to a smaller size than exists subsequent to the following allowed replat: Deschutes County File Numbers A-90-14, A-90-9, TP-90-716."

7. A new Paragraph 16 is inserted in the Gemstone Estates Building and Use Restrictions to read as follows:

"16. Woodpiles, storage areas, machinery and equipment shall be prohibited upon any homesite, unless obscured from view of the neighboring property and streets by a fence or appropriate screen."

8. A new Paragraph 17 is inserted in the Gemstone Estates Building and Use Restrictions to read as follows:

"17. Exterior lighting which can be seen from roads or neighboring homesites must be indirect. The light source, i.e. the bulb, may not be visible."

9. A new Paragraph 18 is inserted in the Gemstone Estates Building and Use Restrictions to read as follows:

"18. All naturally existing trees (i.e., those existing prior to any construction) must be preserved to the extent possible. Except in the event of a verifiable emergency, an owner must obtain the approval of two-thirds (2/3) of the owners of property within 1,000 feet of the owner's property in order to remove or substantially prune a naturally existing tree on the owner's property."

10. A new Paragraph 19 is inserted in the Gemstone Estates Building and Use Restrictions to read as follows:

"19. Each owner is required to maintain a neat and attractive appearance of the owner's land and all improvements and to keep the land and improvements in good condition and repair. This rule includes conditions of the site during any construction process."

11. A new Paragraph 20 is inserted in the Gemstone Estates Building and Use Restrictions to read as follows:

"20. Property within Gemstone Estates may be withdrawn from the Gemstone Estates Building and Use Restrictions upon the vote of a majority of the then land owners of Gemstone Estates."

12. A New Paragraph 21 is inserted in the Gemstone Estates Building and Use Restrictions to read as follows:

"21. These Building and Use Restrictions may be enforced to the fullest extent of the law against any person or persons violating or attempting to violate any covenant. Such proceedings may attempt to restrain the person or persons violating the covenant or may attempt to recover damages for violation. The defendant in such suit or action shall pay all costs and expenses incurred in connection with such suit or action, including a foreclosure title report and such amount as the court may determine to be reasonable as attorney fees therein, including attorney fees incurred in connection with any appeal from a decision of the trial court or an intermediate appellate court."

13. A new Paragraph 22 is inserted in the Gemstone Estates Building and Use Restrictions to read as follows:

"22. Architectural Review Committee.

a. Responsibility. The Architectural Review Committee will be responsible for the approval of plans and specifications for the development of any building, structure, or other improvements on any lot, including landscaping. Submission of tentative plans for approval is suggested before proceeding with final plans.

b. Membership. The Architecture Review Committee shall consist of three members who shall be owners within the Gemstone Estates and who shall be selected by the owners of Gemstone Estates from time to time. A majority of the committee may designate a representative of any member of the committee, the remaining member or members shall have full authority to designate a successor. Neither the members of the committee nor its designated representative shall be entitled to any compensation for services performed by said members. In the event that the deaths or resignations of all members of the committee shall occur without successors having been appointed, the majority of the owners shall have full power to designate successors.

c. Action. Except as otherwise provided herein, a majority of the Architecture Review Committee shall have power to act on behalf of the committee without the necessity of a meeting and without the necessity of consulting the remaining members of the committee. The committee may render its decisions only by written instrument setting forth the actions taken by the members consenting thereto.

d. Failure to Act. In the event the committee, or its designated representative, fails to approve or disapprove plans and specifications within 30 days after the same have been submitted to it, or in the event, if no suit to enjoin the construction has been commenced before completion, approval will not be required and these provisions shall be deemed to have been fully complied with.

e. Nonwaiver. Consent by the Architecture Review Committee to any matter proposed to it or within its jurisdiction shall not be deemed to constitute a precedent or waiver impairing its right to withhold approval as to any similar matter thereafter proposed

or submitted to it for consent.

f. Liability. Neither the Architecture Review Committee nor any member thereof shall be liable to any owner for any damage, loss, prejudice suffered or claimed on account of any action or failure to act of the committee or any member thereof, provided that the members acted in accordance with actual knowledge possessed by them, and that they acted in good faith."

DATED this 13th day of August, 1990.

Adriana Clark
OWNER
Lot two, Block two

Carol G. Swanson
OWNER
Lot 1, 2, 3, Block 1

Gary Sobala
OWNER
Lot 7, Block 2

William Martin
OWNER
Lot 8, Block 2

Booby Linn
OWNER
Lot 1, Block 2

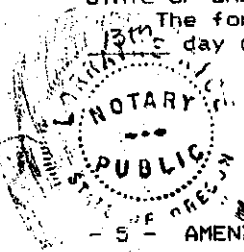
Philip Johnson
OWNER
Lot 3, Block 2

OWNER
Lot _____, Block _____



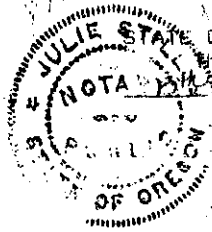
STATE OF OREGON, County of Deschutes, ss:
The foregoing instrument was acknowledged before me this 13th day of August, 1990, by Adriana Clark.

Lorraine Rice
Notary Public for Oregon
My Commission Expires 3-21-92



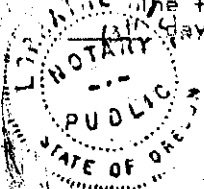
STATE OF OREGON, County of Deschutes, ss:
The foregoing instrument was acknowledged before me this 13th day of August, 1990, by Carol G. Swanson.

Lorraine Rice
Notary Public for Oregon
My Commission Expires 3-21-92



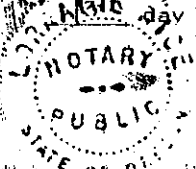
STATE OF OREGON, County of Deschutes, ss:
The foregoing instrument was acknowledged before me this
day of August, 1990, by Gary S. Sobala.

Julie Still
Notary Public for Oregon
My Commission Expires 9-27-91



STATE OF OREGON, County of Deschutes, ss:
The foregoing instrument was acknowledged before me this
day of August, 1990, by William J. Martin.

Louanne Rice
Notary Public for Oregon
My Commission Expires 3-21-92



STATE OF OREGON, County of Deschutes, ss:
The foregoing instrument was acknowledged before me this
day of August, 1990, by Kathy Trueson.

Louanne Rice
Notary Public for Oregon
My Commission Expires 3-21-92



STATE OF OREGON, County of Deschutes, ss:
The foregoing instrument was acknowledged before me this
day of August, 1990, by Christy McKinney.

Louanne Rice
Notary Public for Oregon
My Commission Expires 3-21-92

STATE OF OREGON, County of Deschutes, ss:
The foregoing instrument was acknowledged before me this
day of _____, 1990, by _____.

Notary Public for Oregon
My Commission Expires _____

STATE OF OREGON) ss.
COUNTY OF DESCHUTES)

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

90 AUG 14. PM 4:34
MARY SUE PENHOLLOW
COUNTY CLERK

BY: [Signature] DEPUTY
NO. 90-23852 REC-30
DECHUTES COUNTY OFFICIAL RECORDS

✓ Gary Swanson
WPA