

DESCHUTES COUNTY OFFICIAL RECORDS  
NANCY BLANKENSHIP, COUNTY CLERK

2004-77634



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# DESCHUTES COUNTY CLERK

## CERTIFICATE PAGE



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Lot 81 7061-485909CS

**HOLLYGRAPE SUBDIVISION  
DECLARATION OF CODES, COVENANTS AND RESTRICTIONS** J.C.

7/8/04

THIS DECLARATION, Made this 22 day of December, 2004, by ~~GENERATION DEVELOPMENT, INC.~~ Wood Hill Homes LLC hereinafter referred to as the "Developer", and the Owners of Lots 25, 26, 28, and 29, located within the Hollygrape Subdivision.

**WITNESSETH :**

WHEREAS, Developer is the owner of the following described real property in Deschutes County, Oregon, to-wit:

That certain real property described on the Plat of THE HOLLYGRAPE SUBDIVISION 1, according to the Plat thereof as recorded on May 13, 2004, in Cabinet No. G, Page 275 of the Deschutes County Plat Records, Deschutes County, Oregon, excepting those lots described above; and

WHEREAS, the above-described real property together with the lots described above shall hereinafter be referred to as the "Property"; and

WHEREAS, it is contemplated that real property classified as the Property is to be developed into single family residential dwellings in a residential community with streets, street lights, for the benefit of the said community as may be specifically designated on the plat of the Property; and

The Developer therefore declares and agrees that this planned community is subject to the provisions of ORS 94.550 to 94.783.

NOW, THEREFORE, the Developer, for itself and its successors and assigns, declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

**THIS INSTRUMENT PREPARED BY:**

EDWARD P. FITCH  
BRYANT, EMERSON & FITCH  
P.O. BOX 457  
REDMOND, OR 97756

**ARTICLE I**

**DEFINITIONS**

SECTION 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- a. The "Property" shall mean and refer to that certain real property described on the plat of THE HOLLYGRAPE SUBDIVISION 1, according to the Plat thereof as recorded on May 13, 2004, in Cabinet No. G, Page 275 of the Deschutes County Plat Records, Deschutes County, Oregon.
- b. "Subject Property" shall mean and refer to the Property, as hereinabove defined.
- c. "Lot" shall mean and refer to any plot of land set aside for purposes of improvement as a residential homesite, intended to be subject to exclusive Ownership and possession, and shown upon any recorded subdivision plat of the Property.
- d. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is situated upon the Property including the Developer with respect to an unsold Lot; but, notwithstanding any applicable theory of the law of mortgages, Owner shall not mean or refer to any mortgagee of Lots unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. Every Owner shall be treated for all purposes as a single Owner for each Lot held, irrespective of whether such Ownership is joint, in common or tenancy by the entirety. Where such Ownership is joint in common or tenancy by the entirety, majority vote of such Owners shall be necessary to cast any vote to which such Owners are entitled.

e. "Developer" shall mean and refer to, Wood Hill Homes, LLC, and its successors and assigns.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS TO EXISTING PROPERTY

SECTION 1. Property Subject to Declaration. The Subject Property as heretofore defined, are and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration.

## ARTICLE III

### RESTRICTIVE COVENANTS

The Properties shall be subject to the following restrictions, reservations and conditions which shall be binding upon each and every Owner who shall acquire hereafter a Lot or any portion of the Properties and shall be binding upon their respective heirs, personal representatives, successors and assigns, as follows:

SECTION 1. LAND USE. Each Lot shall be used for residential purposes only. No commercial business shall be permitted or conducted on any of the Residential Lots. Owners may, however, without external evidence, (i) maintain their personal professional library, (ii) keep personal business or professional records, or (iii) handle his or her professional and personal business, calls or correspondence from said premises. The foregoing notwithstanding, Declarant may use any of the Lots owned or leased by Declarant as model homes and sales offices during the period of time commencing when the Residential Lots in the Project are first sold or offered for sale to the public, and ending when all such Lots are sold and conveyed by Declarant to separate Owners thereof without prior approval thereof by the ARB as hereinabove set forth.

SECTION 2. ANTENNAS, SATELLITE DISHES, ETC. NO "citizens Band" (C.B.), "ham" radio, microwave transmission antennas or other similar electronic receiving or broadcasting devices shall be installed or maintained on a Residential Lot unless the same are fully concealed from the view of any person on a neighboring Lot or public right of way. A single satellite dish (not to exceed 24" in diameter) shall be permitted on a Residential Lot.

SECTION 3. FENCING AND SCREENING. There shall be no galvanized chain link or metal fencing. Only vinyl or wood fencing shall be allowed between the lots on property lines. Fences shall not extend toward the front of any lot beyond the front of the house and shall be connected to the house structure. They shall be limited to six feet in height. All side and rear fences constructed on the property line by builder are the property of the adjoining property owners. It is the adjoining property owner's responsibility to jointly maintain, repair or replace side and rear fences when needed.

SECTION 4. NUISANCES. No nuisances shall be allowed within the community, nor shall any use or practice be allowed which is a source of annoyance to residents or which interferes with the peaceful possession and proper use of the community by its residents, nor shall any improper, offensive or unlawful use be made of any Lot or Common or Limited Common Properties, nor any part thereof, and all laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction shall be observed.

SECTION 5. RULES AND REGULATIONS. Regulations promulgated by the Board of Directors of the Association as to the use and enjoyment of the Common Property as to Limited Common Property shall be observed by the respective Members: provided, however, that copies of such rules and regulations are made available to each Member prior to the time same become effective.

SECTION 6. PETS; ANIMALS. An Owner may keep and maintain in his Dwelling domesticated pets such as dogs, cats, or other usual and ordinary household pet, provided that they are not kept, maintained or bred for any commercial purposes. The foregoing notwithstanding, no pets may be kept on the premises which result in an annoyance or are obnoxious to other Owner or occupants. Declarant or any Owner may cause any unleashed dog and or any other such animal found within the Project to be removed by Declarant (or any Owner) to an animal shelter under the jurisdiction of the City of Bend, or the County of Deschutes by calling the appropriate authorities, whereupon the Owner may upon payment of all expenses connected therewith, repossess the dog or other such animal. No dog whose barking disturbs other Owners or occupants shall be permitted to remain on the Property. Owners shall prevent their pets from soiling all portions of the City

street areas where other persons customarily walk and shall promptly clean up any mess left by their pets. Owners and occupants may keep and maintain such pets as may be permitted by City zoning ordinances.

**SECTION 7. GARBAGE AND REFUSE DISPOSAL.** All rubbish, trash and garbage shall be regularly removed from Property and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall be kept except in sanitary containers designed for such purpose. All equipment for storage or disposal of such materials shall be kept in a clean and sanitary condition. All equipment, trash bins or cans shall be kept screened and concealed from view of other Lots and from the streets. Owners are encouraged to contract with the local refuse removal company for routine garbage disposal.

**SECTION 8. WINDOWS.** No window shall ever be covered with paint or aluminum foil, provided, however, non-reflective solar films are permitted. No external cooling or other system shall be installed or in any window that may be viewed from the street.

**SECTION 9. VEHICLE RESTRICTIONS.** Owners and occupants may keep and maintain such vehicles on their Residential Lots as may be permitted in accordance with the codes, ordinances and statutes of the City of Bend. No vehicles shall be permitted to remain upon any front yard area of a Residential Lot, except for paved areas leading to a garage, or within a paved parking area other than a driveway that is located adjacent to the Dwelling for any period in excess of four days in any 30-day period. Extended parking of boats, campers, trailers or other recreational vehicles shall be permitted only behind the front fence and along the side of the home. No Owner may engage in any vehicle restoration or maintenance work beyond any continuous period of forty-eight (48) hours, unless such work is performed within an enclosed garage. The foregoing shall not be deemed to prevent the washing or polishing of motor vehicles together with those activities normally incident to such activity. Anything herein to the contrary notwithstanding, trailers or temporary structures for use incidental to the actual construction or reconstruction of a Dwelling on a Residential Lot may be erected, but no such temporary structure shall remain on any Residential Lot for a longer period of time than is customarily required to construct like or similar Dwellings. Declarant, however, may maintain trailers or temporary structures within the Project which are incidental to the completion of the Project.

**SECTION 10. SIGHT DISTANCE AT INTERSECTIONS.** No fence, wall, hedge or shrub planting which obstructs sight lines and elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines or, in case of a rounded property corner, from the intersection of the property lines extended. The same sight-line limitations shall apply on any Lot within ten feet from the intersection of a street property line with the edge of a driveway pavement. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sightlines.

**SECTION 11. TEMPORARY STRUCTURES.** No structure of a temporary character, trailer, tent, shack, garage, barn, or other out building shall be used on any Lot at any time as a residence either temporarily or permanently in excess of four days in any 30-day period.

**SECTION 12. TREES; LANDSCAPING.** All trees or other landscaping material, shall be kept trimmed by the owner of the Lot upon which they are located.

**SECTION 13. LEASE OF DWELLING.** Each Owner shall have the right to lease his Dwelling, provided that such lease is in writing and provides that the tenant shall be bound by and obligated to the provisions of this Declaration, and the failure to comply with the provisions of this Declaration shall be a default under the lease.

**SECTION 14. EXTERIOR LIGHTING.** Any exterior lighting installed on any Lot shall either be indirect or of such controlled focus and intensity as not to unreasonably disturb other occupants or other Residential Lots.

**SECTION 15. SIGNS.** No signs, placards, decals or other similar objects visible from neighboring property or streets, shall be erected, or displayed on any Residential Lot; provided however, the following signs shall be permitted, all of which shall conform with applicable local governmental ordinances:

- a. Such signs as may be required by legal proceedings;
- b. One sign of customary and reasonable dimensions, not exceeding 4 square feet in area, advertising the dwelling or Residential Lot on which such sign is located "for sale" or "for rent"
- c. One sign, staked in the yard area, not to exceed twelve square inches in size, advertising or noticing the existence of a security system for the Lot on which such sign is located, and any number of security

system window signs not to exceed six square inches in size, each. No such security signs shall be attached to the outside of a Dwelling or fence;

d. Reasonable window dressings placed in observance of national or religious holidays;

e. During the time of construction of any Residence or other improvement, job identification signs having a maximum face area of six square feet per sign and of the type usually employed by the architects, contractors, subcontractors, tradesmen and lenders;

f. An exception to all sign prohibitions shall be the addresses which must be incorporated onto the entrance of each lot as per code.

**SECTION 16. GARAGES; PARKING.** Garages shall be used only for the purpose of parking automobiles and other vehicles and equipment and storing an Owner's household goods; provided, however, that all such uses shall be accomplished so that garage doors can be closed. Garages shall not be converted into any use (such as a recreational room or for living accommodations).

Anything contained in this Declaration to the contrary notwithstanding, until all of the Residential Lots for sale in the Project by Declarant have been sold, Declarant shall have the right to install and maintain such signs, poles and advertisements as it deems appropriate in connection with its sales, financing, or construction program for the sale to the public or Residential Lots, provided such signs shall comply with the local zoning ordinances, that all City, County or other governmental approvals therefore shall be obtained and that they do not usually interfere with the right of use and quiet enjoyment of the Owners or occupants.

#### ARTICLE IV

##### AMENDMENT

Except as to provisions relating to amendments as set forth herein or in any Supplemental Declaration regarding certain specific items and the method of amending or altering same, which is set forth in connection with such particular item, any other provisions, covenants, or restrictions set forth herein or in any Supplemental Declaration of Covenants and Restrictions may be amended in accordance with this provision. The Owners of at least two-thirds (2/3) of the Lots affected by this Declaration or any Supplemental Declaration may change or amend any provision hereof or of any Supplemental Declaration, except as above mentioned, in whole or in part, by executing a written instrument in recordable form setting forth such amendment and having the same duly recorded in the Public Records of Deschutes County, Oregon. A proposed amendment may be initiated by the Developer, or by petition signed by fifteen (15) percent of the then Owners of the Lots affected by the Declaration to be amended. A written copy of the proposed amendment shall be furnished to each Owner of a Lot affected by the Declaration to be amended at least ninety (90) days but not more than one hundred twenty (120) days prior to a designated meeting to discuss such particular amendment. Said notification shall contain the time and place of said meeting. The recorded amendment shall contain a recitation that sufficient notice was given as above set forth and said recitation shall be conclusive as to all parties and all parties of any nature whatsoever shall have full right to rely upon said recitation in such recorded amendment. The Amendment shall be effective upon recordation among the Public Records of Deschutes County, Oregon. Anything in this Article to the contrary notwithstanding, no Owner shall be entitled to vote as to an amendment to a Declaration which Declaration does not encumber the Lot owned by said Owner. No Supplemental Declaration may be amended in such a manner as to be inconsistent with the Declaration.

Anything in this Article, or any other provision of this Declaration to the contrary notwithstanding, this Declaration may not be amended in any respect without the prior written consent of all institutional first mortgagees of any Lots affected by the Declaration, such written consent to be part of any recorded amendment.

#### ARTICLE V

##### DURATION AND TERMINATION

**SECTION 1. Duration.** The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Developer, the Association and any Sub-Association, or the Owner of any land subject to this or any Supplemental Declaration, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless and until an instrument signed by the then Owners of two-thirds (2/3) of the Lots within the phase for which the relevant Declaration to be terminated has been recorded, agreeing to terminate said

covenants and restrictions in whole or in part. Provided, however, that no such agreement to terminate shall be effective unless written notice of the proposed agreement is sent to every Owner in the affected phase at least ninety (90) days in advance of any action taken, and unless consented to in writing, said consent to be a part of said Agreement, by all institutional first mortgagees of Lots affected by the relevant Declaration.

ARTICLE VI

ENFORCEABILITY

SECTION 1. If any person or entity shall violate or attempt to violate any of these covenants or restrictions, it shall be lawful for the Developer or the Association (a) to prosecute proceedings for the recovery of damages against those so violating or attempting to violate any such covenants or restrictions, or (b) to maintain a proceeding in any court of competent jurisdiction against those so violating or attempting to violate any such covenants or restrictions, for the purpose of preventing or enjoining all or any such violations or attempted violations. The remedies contained in this provision shall be construed as cumulative of all other remedies now or hereafter provided by law. The failure of the Developer, its successors or assigns, or the Association, to enforce any covenant or restriction or any obligation, right, power, privilege, authority or reservation herein contained, however long continued, shall in no event be deemed a waiver of the right to enforce the same thereafter as to the same breach or violation, or as to any other breach or violation thereof occurring prior to or subsequent thereto.

SECTION 2. The invalidation of any provision or provisions of the covenants and restrictions set forth herein or in any Supplemental Declaration by judgment or court order shall not affect or modify any of the other provisions of said covenants and restrictions which shall remain in full force and effect.

SECTION 3. Any notice required to be sent to any Member or Owner under the provisions of this or any Supplemental Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or owner on the record of the Association at the time of such mailing.

Dated this 33 day of December, 2004.

OWNER: LOT 25

By: Melissa Kuchta  
MELISSA KUCHTA

By: Kristopher Kuchta  
KRISTOPHER KUCHTA

DEVELOPER: WOOD HILL HOMES, LLC

By: [Signature]  
Its: Member

OWNER: LOT 26

By: [Signature]  
JOEL M. COHEN

By: [Signature]  
JULIE A. COHEN

OWNER: LOT 28

By: [Signature]  
STEPHEN E. FILSON

By: [Signature]  
AIMME A. FILSON

OWNER: LOT 29

By: [Signature]  
MORGAN MATLOCK

STATE OF OREGON )  
 ) ss:  
County of Deschutes )

This instrument was acknowledged before me this 22 day of December, 2004, by Melissa Kuchta and Kristopher Kuchta who acknowledged said instrument to be their voluntary act and deed.



Cheryl J. Scott  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 8-7-2006

STATE OF OREGON )  
 ) ss:  
County of Deschutes )

This instrument was acknowledged before me this 22 day of December, 2004, by Joel M. Cohen and Julie A. Cohen who acknowledged said instrument to be their voluntary act and deed.



Cheryl J. Scott  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 8-7-2006

STATE OF OREGON )  
 ) ss:  
County of )

This instrument was acknowledged before me this 29 day of December, 2004, by Stephen B. Filson and Aimee A. Filson, who acknowledged said instrument to be their voluntary act and deed.



Cheryl J. Scott  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 8-7-2006

STATE OF OREGON )  
 ) ss:  
County of Deschutes )

This instrument was acknowledged before me this 28 day of December, 2004, by Morgan Matlock who acknowledged said instrument to be his/her voluntary act and deed.



Cheryl J. Scott  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 8-7-2006

STATE OF Oregon )  
 )ss.  
County of Deschutes )

This instrument was acknowledged before me on this 28 day of December, 2004  
by James D. Campbell as Member of Wood Hill Homes LLC, on behalf of the limited liability company.

*Cheryl J. Scott*



Notary Public for Oregon  
My commission expires: 8-7-2006