

**VOL: 1999    PAGE: 60203**  
**RECORDED DOCUMENT**

**STATE OF OREGON**  
**COUNTY OF DESCHUTES**



\*1999-60203    \* Vol-Page

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**DO NOT REMOVE THIS CERTIFICATE**

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received  
and duly recorded in Deschutes County records:

**DATE AND TIME:**        Dec. 22, 1999; 8:04 a.m.

**RECEIPT NO:**            15197

**DOCUMENT TYPE:**      Covenants, Conditions &  
                                 Restrictions

**FEE PAID:**                \$95.00

**NUMBER OF PAGES:**    18

A handwritten signature in cursive script, reading "Mary Sue Penhollow".

**MARY SUE PENHOLLOW**  
**DESCHUTES COUNTY CLERK**

AFTER RECORDING RETURN TO:  
BRYANT EMERSON & FITCH  
PO BOX 457  
REDMOND, OR 97756

**SECOND ADDENDUM TO THE  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
ODIN FALLS RANCH PHASE I,  
a Planned Unit Development**

**THIS SECOND ADDENDUM** amends the Declaration of Covenants, Conditions and Restrictions for Odin Falls Ranch Phase I, dated January 18, 1980, and recorded in the Deschutes County Official Records in Volume 346, Page 648, on February 12, 1980, and amended and recorded in the Deschutes County Official Records in Volume 353, page 78, on January 20, 1982. The Odin Falls Ranch Phase I Property Owners' Association hereby adopt the amendments attached hereto.

**ADOPTED** this \_\_\_\_\_ day of December 1999, by the Odin Falls Ranch Phase I Property Owners' Association.

  
KEN MARTIN, President

**ATTEST:**

  
MERRILL HADDON, Secretary

STATE OF OREGON           )  
  : ss.  
County of Deschutes       )

Personally appeared before me KEN MARTIN and MERRILL HADDON, who, each being first duly sworn, did say that the former is the president and that the latter is the secretary of Odin Falls Ranch Phase I Property Owners' Association, and that the instrument was signed and sealed in behalf of said association by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.



  
Notary Public for Oregon

When recorded, return to:  
Odin Falls Ranch  
P.O. Box 2213  
Redmond, OR 97756

**DECLARATION OF RESTRICTIONS  
ODIN FALLS RANCH  
A Planned Unit Development  
November 8, 1999**

County of Deschutes  
State of Oregon

DECLARATION OF RESERVATIONS, RESTRICTIONS, CONDITIONS AND COVENANTS COVERING LOTS 1-33, inclusive, of Block I; and Lots 1-7, inclusive, and Lots 15 and 17 of Block II; in accordance with the Map recorded in Vol. 19, Pages 9, 9A, 9B, & 9C Plat Map file of the County Clerk, Deschutes County, Oregon, hereinafter referred to as Odin Falls Ranch. The legal description, Exhibit "A", is attached.

This DECLARATION is made as of January 1, 2000, by the Board of Directors of the Odin Falls Ranch Property Owners' Association, acting on behalf of all property owners of record, to preserve and protect the values, amenities, and natural beauty of the area known as Odin Falls Ranch.

The Odin Falls Ranch Property Owners' Association, hereafter referred to as the "Association", is responsible for and authorized by the property owners to (1) own, maintain, and administer the common areas, (2) administer and enforce the Covenants, Conditions and Restrictions, and (3) collect and disburse assessments and charges, all as outlined in the Articles of Incorporation of the Association.

The Association is incorporated under the laws of the State of Oregon as a non-profit corporation for the purpose of exercising the above functions. The members of the Association are the owners of the Lots of Odin Falls Ranch. All Lots are to be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and shall be binding on all parties having or acquiring any right, title, or interest in the described properties, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

The Association assumes that owners of the Lots will be motivated to preserve the great natural beauty of the real property through community cooperation and by enforcing not only the letter but also the spirit and intent of this Declaration; it being the intention of the Association that the Covenants, Conditions and Restrictions contained herein are for the purpose of enhancing and protecting the value, desirability and attractiveness of ODIN FALLS RANCH.

This Declaration amends and replaces the earlier "Declaration of Restrictions for Odin Falls Ranch, P. U. D. Phase I" dated January 18, 1980 and recorded in the County of Deschutes Records in Vol. 346, Pp.648-683.

## ARTICLE I ASSOCIATION

1.1 Association. All of the owners of Lots within Odin Falls Ranch shall be members of the Odin Falls Ranch Property Owners' Association and shall be subject to the provisions of the Articles of Incorporation of the Association, this Declaration (hereinafter referred to as the Covenants, Conditions and Restrictions, or the "CC&Rs") and all laws of the State of Oregon pertaining to said Association.

## ARTICLE II COMMON AREAS

2.1 Common Areas. Common areas shall mean and refer to the land, easements, improvements, personal property and buildings, if any, and any and all other properties owned and maintained by the Association for the benefit and enjoyment of the members of the Association. The Association is responsible for and holds title to the common areas and roadways.

2.2 Maintenance and Improvement. The cost of maintaining and further improving the roadways and common areas shall be shared equally by the Association members as outlined in this Declaration and in the Articles of Incorporation of the Association.

2.3 Maintenance. The Association shall maintain the roadways and common areas in a safe and sound manner as specified herein.

(a) Roads. All roads shall be maintained in good condition and snow shall be removed as authorized by the Board of Directors.

(b) Common Areas. All common areas shall be maintained in their natural state except where pedestrian traffic shall be provided for. Any improvements, pathways or other facilities providing for pedestrian traffic shall be kept free and accessible at all times.

2.4 Association Property Rights. Every member of the Association shall have a right and easement of enjoyment in and to the roadways and common areas as defined herein, and such easements shall be appurtenant to and shall pass with the title to every Lot, subject, however, to the following provisions:

(a) Dedication. The right of the Association to dedicate or transfer all or any part of the roadways to any public agency, authority, or utility for such purposes and subject to such considerations as may be agreed to by a majority of the members.

No such dedication shall be effective unless an instrument has been recorded in the appropriate records of Deschutes County, Oregon, signed by the Secretary of the Association evidencing the fact that at least 51% of the members entitled to cast votes have voted approval of the dedication and/or transfer.

(b) Association Rules and Regulations. It is the responsibility of the Board of Directors of the Association to promulgate reasonable rules and regulations, from time to time, governing the use of such easements and the exercise of the rights therein by the owners of the Lots, in the interest of securing maximum safe and equitable usage of the roadways and common areas by the members of the Association, their invitees and guests.

### ARTICLE III COVENANT FOR MAINTENANCE AND IMPROVEMENT ASSESSMENTS

3.1 Assessments. The owner of any Lot, by acceptance of a deed therefore or by execution of a contract of purchase therefore, whether or not it shall be so expressed in any such deed or contract, shall be deemed to covenant and agree to pay the Association assessments as specified in Article VII of this Declaration.

### ARTICLE IV USES PROHIBITED AND PERMITTED

4.1 Use and Occupancy of Private Areas. Each Lot owner shall be entitled to the exclusive use and benefit of such owned Lot, except as otherwise expressly provided for herein.

4.2 Construction and Alterations of Improvements. No person, association, or owner shall construct or reconstruct any improvement on any Lot or alter or refinish the exterior of any improvement on any Lot; make any change in any Lot, whether by excavation, fill, alteration of existing drainage, or the cutting or removal of native vegetation, shrubs, or trees (except to the extent necessary to create a reasonable fire safety buffer zone consistent with the guidelines recommended by the Redmond Fire Department); install a water well; or install utility, outside antennae or other outside wires on a Lot unless such person, association or owner shall have first obtained consent thereto of the Architectural Control Committee (hereinafter referred to as "ACC"), provided for in Article V..

4.3 Maintenance of Lots. The owner shall maintain each Lot and the improvements thereof in a clean and attractive condition, in good repair, and in such fashion as not to create a fire hazard.

**4.4 Temporary Structures.** Temporary structures, which have been approved by the ACC, shall only be permitted to be placed on a Lot during the period of construction of a dwelling house thereon. However, any such temporary structure shall be removed within 30 days after the completion of the house.

**4.5 Appearance.** All garbage, refuse, trash, cuttings, garbage and refuse containers, fuel tanks, clothes drying apparatus or lines, and other service facilities shall be screened from view from neighboring Lots and common areas in a manner approved by the ACC.

**4.6 Signs.** No permanent signs shall be placed or kept on a Lot, except for: (1) the address numbers placed by the Fire Department, and (2) if desired, individualized name and/or address signs no larger than 10" x 24", on natural wood, and finished in earth tones. Any other signage, such as temporary "For Sale" signs, must be approved by the ACC.

**4.7 Utilities.** No above-ground utilities, open ditches, or visible pipes or wires shall be used to connect improvements with supplying facilities.

**4.8 Offensive or Commercial Activities.** No offensive or commercial activity shall be conducted on any Lot, or common area, nor shall anything be placed or constructed on any Lot or anything done on a Lot which shall interfere with or jeopardize the enjoyment of the other Lots and common areas, or generate commercial traffic on roadways.

**4.9 View.** The height of improvements or vegetation and trees on a Lot shall not materially restrict the view of other Lot owners. The ACC shall be the sole judge of suitability of such heights. If the ACC determines there is such restriction in the view of other Lot owners, written notice shall be delivered to the offending owner. If after 30 days, the improvement, vegetation or trees are not removed or reduced in height as directed by the ACC, the Committee shall have the right to authorize its duly appointed agent to enter the offending Lot and complete the removal or reduction and to charge the owner of said Lot the reasonable cost for the work done. This Section is not to be read as justification to create views not present when the Lot was originally purchased or to reduce natural growth of trees which shall have been present when the Lot was originally purchased.

**4.10 Lighting.** No exterior lighting or noise-making devices shall be installed or maintained on any Lot so as to interfere with the enjoyment of other Lots. All exterior lighting shall require written consent by the ACC prior to the installation thereof.

**4.11 General Restrictions.** Unless the ACC has consented in writing to a variation, the following general restrictions shall apply:

(a) No Lot, roadway or part of any common area shall be used as a parking or storage place for commercial trucks or vehicles. Trailers, boats, boat trailers, snowmobiles or other off-road vehicles may be allowed, provided they are not in the public view, they are not obtrusive to neighbors, and conform to the following:

Notwithstanding the foregoing, recreational vehicle equipment may be stored in outbuildings, garages or carports approved by the ACC. In addition, the Lot owner or his guests may park a boat trailer, pickup camper, travel trailer or recreational vehicle on his Lot or driveway for a period not to exceed five consecutive days or a total of 30 days per year.

(b) No motorized vehicles other than automobiles, pickup trucks, registered recreational vehicles and farm equipment may be operated on the Lots and roadways. This shall be construed to prohibit the use of off-road vehicles. Any farm equipment operated in accordance with this Subsection shall be stored as specified in Subsection (a) above.

(c) No Lot, roadway or part of any common area shall be used as a place to burn trash, cuttings or other items with the exception of barbecue fires.

(d) No Lot shall contain more than one dwelling house. However, when under the same ownership a second building, other than a dwelling, may be approved by the ACC.

(e) No Lot shall be used as a place to raise domestic animals of any kind except a reasonable number of household pets, which shall not be kept, bred or raised for commercial purposes and shall not be permitted to become a nuisance to other Lot owners.

(f) No permanent fencing of any kind may be placed on any Lot except that pet, garden, or landscaping fencing may be allowed subject to approval by the ACC. The ACC shall determine impact on neighbors and the community at large when deciding to allow any fencing.

(g) No sale of partitioned or subdivided sections shall be permitted, unless also approved by Deschutes County and by the Board of Directors of the Association.

(h) All driveways shall be composed of concrete or asphalt. Only one driveway shall be permitted per Lot, except circular driveways may be permitted where determined by the ACC to be reasonably appropriate.

(i) Exposed metal or metal trim on any dwelling or on any other improvement placed on any Lot must be anodized or painted to blend with the exterior colors of each residence and be non-reflective.

- (j) All landscaping must be approved by the ACC prior to installation.
- (k) No trees shall be killed or removed from any Lot without prior approval of the ACC.
- (l) Septic tanks and drain fields must meet Deschutes County Health Department standards.
- (m) No firearms of any kind shall be discharged upon any Lot, roadway or common area.
- (n) All landowners must comply with the laws and regulations of the State of Oregon, County of Deschutes, and any municipality, applicable to fire protection, building construction, water sanitation, (if applicable) and public health.

4.12 Exclusion of Field Lot. Lot 1, Block II, is expressly excluded from all of the provisions of this Declaration and said Lot shall continue to be so excluded irrespective of the ownership of said Lot. {Amendment Number One, executed 1981, attached}

## ARTICLE V ARCHITECTURAL CONTROL COMMITTEE

5.1 Architectural Control Committee. An Architectural Control Committee ("ACC"), of four property owners, reporting to the Board of Directors, will be appointed by the Board of Directors to serve for four-year terms. When a committee member has served his four-year term, he will be replaced by action of the Board of Directors. In the event of a committee vacancy, the Board of Directors will appoint another property owner to complete the four-year term.

5.2 Rules and Regulations. The ACC shall interpret applicable rules and regulations contained in these CC&Rs. The property owner may appeal, in writing, any decision to the Board of Directors.

5.3 Architectural Control Committee Consent. In all cases in which ACC consent is required, the following provisions shall apply:

(a) Application for Approval of Improvements. Any owner must notify the ACC, in writing, the nature of the proposed improvement. Such notice should be in duplicate, and include the following:

- (i) A plot plan of the Lot showing the location of all existing and proposed improvements, including water well, if applicable;
- (ii) Dimensional footprint;

- (iii) Drawings showing all elevations;
- (iv) A description of the exterior materials and color, with color samples if required by the ACC;
- (v) The owner's proposed construction schedule; and
- (vi) Planned access routes to construction site designed to minimize impact on site and surrounding environment.

(b) Basis for Approval of Improvement. The ACC shall grant the requested approval only if:

(i) The owner shall have strictly complied with the provisions of Subsection (a), above;

(ii) The ACC finds that the plans and specifications conform to these CC&Rs, particularly to the requirements and restrictions of this Section, and to the ACC rules in effect at the time such plans were submitted to it; and

(iii) Members of the ACC, in their sole discretion, find that the proposed improvement would be compatible with the standards of ODIN FALLS RANCH and the purposes of the ODIN FALLS RANCH restrictions as to quality of workmanship and materials, as to harmony of external design with existing structures and the environment, and as to location with respect to topography and finished grade elevation.

(c) Form of Approval. All approvals and rejections under Subsection (b) shall be in writing. Responses from the ACC will occur within 45 days from the date of submission. One set of plans as finally approved shall be retained by the ACC as a permanent record.

(d) Proceeding with Work. Upon receipt of the approval letter from the ACC, the owner will have one year to commence construction. The owner shall, as soon as practicable, satisfy all conditions thereof and diligently proceed with commencement and completion of all construction, reconstruction, refinishing, alterations and excavations pursuant to said approval. If the owner fails to comply with this Subsection, any approval given pursuant to Subsection (c) above, may be revoked unless the ACC, upon written request of the owner made prior to the expiration of said one-year period, extends the time for such commencement. Once construction commences, no more than one year shall elapse before completion of a permanent dwelling. Driveways are to be completed within the same one-year construction period as the permanent dwelling.

The property owner is responsible for any damage done to paved roadways by construction, repair or maintenance vehicles, or any other vehicles or equipment operating on the Lot. Damage will be assessed by the ACC.

(e) Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

(i) Upon the completion of any construction or reconstruction or alteration or refinishing of the exterior of any improvement, or upon the completion of any other work for which approved plans are required under this Article, the owner shall give written notice thereof to the ACC.

(ii) Within 60 days thereafter, the ACC or its duly authorized representative, may inspect such improvement to determine whether it was constructed, reconstructed, altered or refinished in substantial compliance with the approved plans. If the ACC finds that such construction, reconstruction, alteration or refinishing was not done in substantial compliance with the approved plans, it shall notify the owner in writing of such noncompliance within such 60 day period, specifying the particulars of noncompliance and shall require the owner to remedy such noncompliance.

(iii) If the ACC fails to notify the owner of any noncompliance within 60 days after receipt of said notice of completion from the owner, the improvement shall be deemed to be in accordance with said approved plans. In the absence of action by the ACC, the property owner shall have the right of review by the Board of Directors in the matter.

5.4 Nonwaiver. Consent by the ACC 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.

5.5 Liabilities. Neither the ACC nor any member thereof shall be liable to any owner for any damages, loss, prejudice suffered or claimed, on account of any act, or failure to act, by the ACC or any member thereof, provided only that the members, in accordance with actual knowledge possessed by them, have acted in good faith.

## ARTICLE VI PROPERTY OWNERS' ASSOCIATION

6.1 Purpose of Association. The ODIN FALLS RANCH PROPERTY OWNERS' ASSOCIATION was established in 1980 as a non-profit Oregon corporation to carry out this Declaration. Said Association and the members thereof, shall be governed by the Articles of Incorporation of the Association, this Declaration and such other documents governing the operation of the Association as provided by the laws of the State of Oregon.

6.2 Membership. Every owner who is subject by the covenants of record to assessment by the Association as provided for herein, shall be a member of the Association. Membership shall terminate upon the transfer of a fee simple title to a Lot or of the contract purchaser's interest by a contract purchaser who qualifies as a member. If an owner sells the Lot by contract of sale, the owner's membership shall terminate and the contract purchaser's membership shall commence.

6.3 Voting Rights. Each Lot in Odin Falls Ranch Property Owners' Association shall have one vote. When more than one person or entity holds such interest or interests in any Lot, all such persons or entities shall be members, and the vote for such Lot shall be exercised as they among themselves shall determine, but in no event shall more than one vote be cast with respect to any one Lot.

6.4 Duties of the Association. The Association shall have the obligations and duties, subject to and in accordance with the ODIN FALLS RANCH CC&Rs, to do and perform the following for the benefit of the owners and for the maintenance and improvement of ODIN FALLS RANCH:

(a) Operation of Roadways and Common Areas. To operate and maintain, or provide for the operation or maintenance of the roadways and common areas, which are conveyed, leased or otherwise transferred to the Association and to keep all improvements of whatever kind and for whatever purpose, from time to time, located thereon in good order and repair.

(b) Entry for Maintenance Purposes. To enter upon and maintain, or provide for the maintenance of, any structure or improvement on any Lot which is not maintained by the owner responsible therefore in accordance with the requirements of the ODIN FALLS RANCH CC&Rs.

(c) Public Service. To contract for or provide (to the extent adequate services are not provided by a public authority) such services, facilities and maintenance of quasi-public nature as may be deemed necessary or desirable for the effectuation of the purposes of the ODIN FALLS RANCH CC&Rs. In connection with the provisions of such facilities and services, the Association may contract with or assign its duties to any public authority, governmental body or special district.

(d) Insurance. To obtain and maintain in force such policies of insurance to provide fire and extended coverage, bodily injury, liability, property damage, and indemnity or other bonds as the Association shall deem necessary or expedient to carry out its functions as set forth in this Declaration and the Articles of Incorporation of the Association.

(e) Rule Making. To make, establish, promulgate, amend and repeal the ODIN FALLS RANCH rules and regulations.

(f) Architectural Control Committee. To appoint and remove members of the ACC, subject to the limitation of Article V, and to insure that at all reasonable times there is available a duly constituted and appointed ACC.

(g) Enforcement of Restrictions and Rules. To take such other action, whether or not expressly authorized by the ODIN FALLS RANCH CC&Rs, as may be reasonably necessary to enforce the ODIN FALLS RANCH CC&Rs, the ODIN FALLS RANCH rules and regulations, and the ACC's rules and regulations.

(h) Other. To carry out the duties of the Association set forth in other sections of this Declaration and the Articles of Incorporation of the Association.

**6.5 Powers and Authority of the Association.** The Association shall have all of the powers of a non-profit corporation organized under the laws of the State of Oregon and operating for the benefit of its members, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles of Incorporation of the Association and in this Declaration. It shall have the power to do any and all lawful things which may be authorized, required, or permitted to be done by the Association under and by virtue of this Declaration, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association or for the peace, health, comfort, safety or general welfare of the owners. Without in any way limiting the generality of the foregoing, the Association shall have the power and authority at any time:

(a) Recreational Fees. To charge such fees for the use of recreational facilities as the Board of Directors may deem necessary or desirable.

(b) Right of Entry and Enforcement. To enter upon any Lot, without liability to any owner, for the purpose of enforcing any of the provisions of the Declaration, for the purpose of maintaining and repairing any such area, if for any reason whatsoever the owner thereof fails to maintain and repair such area as is required by this Declaration. The Association shall also have the power and authority, from time to time, in its own name, on its own behalf or on the behalf of any owner or owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the ODIN FALLS RANCH CC&Rs as set forth in this Declaration, and to enforce, by mandatory injunction or otherwise, all of the provisions of this Declaration.

(c) Easements and Rights of Way. To grant and convey to any third party, easements, rights of way, parcels or strips of land, in, on, over or under any roadway or common area conveyed, leased or otherwise transferred to the Association, for the purpose of constructing, erecting, operating or maintaining

thereon, therein, and thereunder (1) roads, streets, walks, and driveways, (2) underground wires and conduits or other devices for the transmission of electricity for lighting, heating, power, telephone and other purposes, (3) public sewers, storm water drain pipes, water systems, heating and gas lines or pipes, and (4) similar public or quasi-public improvements or facilities.

(d) Employment of Agents. To employ the services of a manager or other employees to manage and carry out the affairs of the Association, and, to the extent not inconsistent with the laws of the State of Oregon and upon such conditions as are otherwise deemed advisable by the Association, to delegate to the manager any of its powers.

#### 6.6 The ODIN FALLS RANCH Rules

(a) Rule-making Power. The Association may, subject to the provisions of the CC&Rs, adopt, amend and repeal rules and regulations to be known as the "ODIN FALLS RANCH Rules". These would govern, among other things, use of roadways and common areas, restrictions on the type or types of vehicles which may be permitted to use the roadways and common areas, and restrictions on the maintenance of landscaping or other improvements on any property which obstruct the vision of motorists or create a hazard for vehicular or pedestrian traffic.

(b) Recordation of Rules. A copy of the said rules, as they may be adopted, amended or repealed, shall be mailed or otherwise delivered to each owner, and may be recorded. Upon such recordation, said rules shall have the same force and effect as if they were set forth and were a part of this Declaration.

6.7 Liability of Members of Board. No member of the Board of Directors shall be personally liable to any owner or to any other person for any error or omission of the Association, its representatives and employees, provided that such member has, upon the basis of such information as may be possessed by him, acted in good faith.

6.8 Amendment. The provisions of this Article VI may be amended by the vote or written consent of a 60% majority of those owners *who vote*, provided at least 75% of all owners have cast their ballots.

### ARTICLE VII FUNDS AND ASSESSMENTS

7.1 Operating Fund. There shall be an operating fund into which the Association shall deposit all monies paid to it as (1) operation and maintenance assessments; (2) special assessments; (3) miscellaneous fees; and (4) income and profits attributable to the operating fund, and from which the Association

shall make disbursements in performing the functions for which the foregoing assessments are levied.

## **7.2 Operation and Maintenance Assessment.**

(a) **Regular Assessment.** At least 30 days prior to the commencement of each fiscal year the Board of Directors shall estimate the costs and expenses to be incurred by the Association during such fiscal year in performing its functions as described in this Declaration (including a reasonable provision for contingencies and replacements), and shall subtract from such estimated amount the estimated balance (exclusive of any reserves) in the operating fund at the start of such fiscal year which is attributable to operation and maintenance assessments for the proper fiscal year. The sum or net estimate so determined shall be assessed to the owners of Lots as an operation and maintenance assessment by dividing the total estimate by the total number of Lots and assessing the resulting amount to the owner of each Lot.

(b) **Additional Assessments.** If at any time during the fiscal year the maintenance assessment proves inadequate for any reason, including nonpayment by any owner's share thereof, the Board may levy a further assessment in the amount of such actual or estimated inadequacy, which amount shall be assessed to the owners individually in the manner set forth in Subsection (a), above.

(c) **Annual Assessment.** Each year, the amount and due date of the annual assessment will be determined by the Board of Directors of the Association and promptly communicated to the owners in writing at least 30 days prior to said due date. A late fee may be charged to encourage prompt payment of assessments.

**7.3 Special Assessments for Capital Improvement.** In addition to the annual assessments specified in Section 7.2 above, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any capital improvements. Any such special assessment which exceeds \$5,000.00 in cost in the aggregate in any assessment year shall require the affirmative vote of the membership. A meeting shall be duly called for this purpose after 30 days advance, written notice. At the meeting, the presence of members or proxies entitled to cast 75% of all votes of the membership of the Association shall constitute a quorum. The special assessment shall be approved if 60% of owners who vote, vote in favor of the special assessment, provided at least 75% of owners have cast their ballots. If a quorum is not present in person or by proxy, the Board shall conduct a mail ballot. For the special assessment to be approved by mail ballot, at least 60% of those who vote must approve the special assessment, provided that at least 75% of all owners have cast their ballots.

**7.4 Uniform Rate of Assessment.** Both annual and special assessments for operation and maintenance shall be assessed at a uniform rate per Lot or fraction thereof owned by any member and such assessments may be collected on an annual, quarterly or monthly basis at the discretion of the Board of Directors of the Association.

**7.5 Enforcement of Assessments.** Each assessment levied hereunder shall be a separate, distinct and personal debt and obligation of the owner or owners of the Lot or Lots against which the same is assessed. In the event of a default in payment of any such assessment and in addition to any other remedies herein or by law provided, the Association may enforce each such obligation by either or both of the following procedures:

(a) **Enforcement by Suit.** The Association may bring legal action to enforce each such assessment obligation. Any judgment rendered in any such action shall include a sum for reasonable attorneys' fees, filing fees, court costs, and such amount as the court may adjudge against the defaulting owner.

(b) **Enforcement by Lien.** At anytime after the occurrence of any such default, the Association may make a demand for payment to the defaulting owner. Said demand shall state the date and amount of the delinquency. If such delinquency is not paid within ten days after delivery of such notice, the Association may elect to file a claim of lien against the Lot of such delinquent owner. Such claim of lien shall state: (1) the name of the delinquent owner; (2) the legal description and street address of the Lot against which claim of lien is made; (3) the amount claimed to be due and owing (without any proper offset allowed); (4) that the claim of lien is made by the Association pursuant to the terms of the ODIN FALLS RANCH CC&Rs contained in this Declaration; and (5) that a lien is claimed against the Lot in an amount equal to the amount of the stated delinquency.

Upon recordation of a duly executed original or copy of such claim of lien by the recorder of the county in which the Lot is located, the lien claimed therein shall immediately attach and become effective subject only to the limitations hereinafter set forth. Each default shall constitute a separate basis for a claim of lien or a lien. Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for foreclosure under the laws of the State of Oregon as the same may be amended. In the event such foreclosure is by action in court, reasonable attorneys' fees, filing fees, court costs, etc., shall be allowed to the extent permitted by law.

(c) **Assessment Certificate.** A certificate executed under penalty of perjury by any two members of the Board of Directors of the Association and acknowledged by one of them shall be conclusive upon the Association and the owners in favor of any and all persons who rely thereon in good faith as to the matters therein contained, and any owner shall be entitled to such certificate

setting forth the amount of any due and unpaid assessment with respect to his Lot (or the fact that all assessments due are paid if such is the case) within ten days after demand and upon payment of a reasonable fee not to exceed \$10.00.

(d) Amendments. No amendment of this Section 7.5 shall be effective without the approval of a 60% majority of those owners *who vote*, provided at least 75% of all owners have cast their ballots.

7.6 Subordination of the Lien to Mortgages. The lien of assessments provided for herein shall be inferior, junior and subordinate to the lien of all mortgages and trust deeds now placed upon said property or any part thereof. Sale or transfer of any Lot which is subject to any mortgage or trust deed, pursuant to a decree of foreclosure under this mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the amounts thereof which became due prior to such sale or transfer; and such lien shall attach to the net proceeds of the sale, if any, remaining after such mortgages or other prior liens and charges have been satisfied. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

#### ARTICLE VIII MISCELLANEOUS PROVISIONS

8.1 Duration of Restrictions. The CC&Rs contained in this Declaration shall continue and remain in full force and effect at all times with respect to all property included in ODIN FALLS RANCH, the owners, and the Association (subject, however, to the right to amend as provided for in Section 8.2, below).

8.2 Amendment of Restrictions. Except as otherwise provided in this Declaration, the CC&Rs contained herein may be amended at any time by complying with the following requirements:

- (a) The vote or written consent of a majority of the Board of Directors approving the proposed amendment or repeal;
- (b) Recordation of a certificate of the Secretary or an Assistant Secretary of the Association setting forth in full the amendment or repeal and certifying that said amendment or repeal has been approved by a majority of the Board;
- (c) Said amendment or repeal must be approved by an affirmative vote of 60% of those owners *who vote*, provided at least 75% of all owners have voted.

### 8.3 Enforcement and Nonwaiver.

(a) Right of Enforcement. Except as otherwise provided herein, the Association or any owner or owners shall have the right to enforce any and all of the CC&Rs now or hereafter imposed by this Declaration, as amended, upon the owners or upon any property within ODIN FALLS RANCH.

(b) Violations and Nuisance. Every act or omission whereby a Covenant, Condition or Restriction contained in this Declaration is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by the Association, or an owner or owners. However, any other provision to the contrary notwithstanding, only the Board of Directors or its duly authorized agents may enforce by self-help any Covenant, Condition or Restriction herein set forth.

(c) Enforcement by Suit. The Association may bring legal action addressing the violation of a Covenant, Condition or Restriction contained in this Declaration. Any judgment rendered in any such action shall include a sum for reasonable attorneys' fees, filing fees, court costs, and such other amounts as the court may adjudge.

(d) Violation of Law. Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within ODIN FALLS RANCH is hereby declared to be a violation of the CC&Rs contained herein and subject to any and all of the enforcement procedures herein set forth.

(e) Remedies Cumulative. Each remedy provided by this Declaration, as amended, is cumulative and not exclusive.

(f) Nonwaiver. The failure to enforce the provisions of any Covenant, Condition or Restriction contained in this Declaration shall not constitute a waiver of any right to enforce any such provisions of said Declaration.

8.4 Condemnation of Common Areas. If at any time all or any portion of the common areas or any interest therein be taken for any public or quasi-public use, under the statute, by right of eminent domain or by private purchase in lieu of eminent domain, the entire award and condemnation shall be paid to the holder or holders of the fee title to such area as their interest may appear. Any such award to the Association shall be deposited into the operating fund. No owner shall be entitled to any portion of such award, and no owner shall be entitled to participate as a party, or otherwise, in any proceedings relating to such condemnation such right of condemnation being herein reserved

exclusively for the Association or other holder of the fee title which shall, in its name alone, represent the interests of all of the owners to the extent such owners shall have any interest at all.

**8.5 Obligations of Owners.** No owner may avoid the burdens or obligations imposed on him by the CC&Rs contained in this Declaration through non-use of any roadways or common areas, or by the abandonment of his Lot. Upon the conveyance, sale, assignment or other transfer of a Lot to a new owner, the transferring owner shall not be liable for an assessment levied with respect to such Lot after the date of such transfer and no person, after the termination of his status as owner and prior to his again becoming an owner, shall incur any of the obligations or enjoy any of the benefits of an owner under this Declaration.

**8.6 Delivery of Notices and Documents.** A notice or other document relating to or required by this Declaration may be delivered either personally or by mail. If by mail, it shall be deemed to be delivered 72 hours after a copy of it has been deposited in the United States mail, postage pre-paid. Mail from a property owner to either Odin Falls Ranch Property Owners' Association, or to the ACC, shall be addressed to P.O. Box 2213, Redmond, Oregon 97756. Mail to a property owner will be addressed to the address on file with the Odin Falls Ranch Property Owners' Association. It is the owner's responsibility to notify the Association of any change of mailing address or ownership.

**8.7 Construction and Severability; Singular and Plural; Titles.**

(a) **Restrictions Construed Together.** All of the CC&Rs contained in this Declaration shall be liberally construed together to promote and reflect the fundamental concepts of ODIN FALLS RANCH, set forth in the introduction of this Declaration.

(b) **Restrictions Severable.** Notwithstanding the provisions of Subsection (a) above, the CC&Rs contained in this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

(c) **Singular Includes Plural.** The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine or neuter gender shall each include the masculine, feminine and neuter gender, as the context requires.

(d) **Captions.** All captions or titles used in this Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the terms or provisions of this Declaration.

**EXHIBIT A**

**The West Half of the East Half: (W1/2 E1/2) and that portion of the West Half lying Easterly of the center line of the Deschutes River in Section Twenty-three (23), Township Fourteen (14) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon.**

**That portion of the Northwest Quarter lying Easterly of the center line of the Deschutes River, in Section Twenty-six (26), Township Fourteen (14) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon.**