

DECLARATIONS, RESTRICTIONS,  
PROTECTIVE COVENANTS AND CONDITIONS

for

OVERTURE BUTTE  
City of Bend  
Deschutes County, Oregon

THIS DECLARATION made on the date hereinafter set forth by the undersigned, hereinafter referred to as "Declarant":

WHEREAS, Declarant is the owner of certain real property in the City of Bend, county of Deschutes, state of Oregon, hereinafter referred to as "Said Property," more particularly described in the attached EXHIBIT "A": and

WHEREAS, Declarant desires to subject said property to certain protective covenants and restrictions for the benefit of said property, and its present and subsequent owners as hereinafter specified, and will convey said property subject thereto;

NOW, THEREFORE, Declarant hereby declares that all of said property is and shall be held and conveyed upon and subject to the conditions, covenants and restrictions hereinafter set forth. These covenants, restrictions and conditions shall constitute covenants to run with the land and shall be binding upon all persons claiming under them and also that these conditions, covenants and restrictions shall inure to the benefit of and be limitations upon all future owners of said property, or any interest therein.

## ARTICLE I

DEFINITIONS

Whenever used in this Declaration, the following terms shall have the following meanings:

1.1 "Said Property" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may be hereafter brought within the scheme of this Declaration in the manner hereinafter set forth.

1.2 "Lot" shall mean any numbered plot of land shown upon any recorded subdivision plat of said property, or subdivided parcels of any such plat.

1.3 "Owner" shall mean the record owner, whether one or more persons or entities, of fee simple title to any lot situated upon said property, or a contract purchaser if his record owner retains title merely to secure an obligation.

1.4 "Roadway" shall mean any street, highway, or other thoroughfare as shown on the recorded plat of said property.

1.5 "Architecture Review Committee" shall mean the committee appointed pursuant to the provisions of Article IV herein.

#### ARTICLE II

##### SUBJECTING ADDITIONAL PROPERTY TO THIS DECLARATION

2.1 At any time before January 31, 1999, Declarant, its successors and assigns, shall have the right to bring within the scheme of this Declaration additional property in future stages of development if such additions are in accord with the general plan of the development of Overturf Butte.

2.2 Method of making additions: Additions authorized under this article shall be made by filing of record a supplemental declaration of covenants and restrictions with respect to additional property. Such additional declarations may contain such additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added property. In no event, however, shall such supplemental declaration revoke, modify, or add to the covenants established by this Declaration with respect to said property.

#### ARTICLE III

##### RESTRICTIONS ON USE OF PROPERTY

3.1 Each owner shall be entitled to the exclusive use and benefit of each lot owned by him, except as otherwise expressly provided herein.

3.2 No building or other improvements shall be erected, placed or altered on any lot until the construction plans and specifications and plans showing the location of the structure have been approved by the Architecture Review Committee as to design, materials, and location with respect to topography and finished grade location. Approval shall be as provided in Article IV herein.

3.3 All driveways must be composed of asphalt or concrete.

3.4 Setback lines shall be not less than five (5) feet from all lot lines to any structure upon the lot with the exception of a fence the height, location and materials to be approved by the Architecture Review Committee.

3.5 All owners 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 and public health.

3.6 The cutting and removal of living trees will only be permitted where necessary for the construction of buildings or thinning for the beautification of the property. Such cutting or removal must be approved by the Architecture Review Committee.

3.7 No swine, horses, cows, turkeys, geese, chickens, ducks, pigeons, goats, rabbits, hares, or other animals usually termed "farm animals" or "poultry" shall be kept or allowed to be kept on any lot. No commercial dog raising or cat raising, whether or not such constitutes the operation of a kennel within the meaning of any county or municipal ordinance, shall be conducted on said property.

3.8 All garbage, trash, cuttings, refuse, garbage and refuse containers, fuel tanks, clotheslines and other service facilities shall be screened from view from neighboring lots.

3.9 Each lot and its improvements, including all landscaping, shall be maintained in a clean and attractive condition and in good repair.

3.10 No commercial, professional, noxious or offensive activities shall be carried on upon any lot, nor shall anything be done which may be or may become an annoyance or nuisance to the owners of said property.

3.11 Any work in constructing or erecting any building or other structure or improvement shall be prosecuted diligently from the commencement thereof and the same shall be completed within a reasonable time in accordance with the requirements contained herein.

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

3.13 No travel trailer, truck camper, boat, boat trailer, snowmobile, or other recreational vehicle shall be parked or stored on any lot unless it is parked or stored in a garage or screened from the view of all roadways and adjoining lots. All such screening shall be subject to approval by the Architecture Review Committee.

3.14 All exterior lighting shall be subject to approval of the Architecture Review Committee.

3.15 No lot shall be subdivided or partitioned without prior written approval of the Architecture Review Committee and approval by the appropriate governmental unit with authority over such matters.

3.16 Only one detached single family dwelling, not to exceed two stories in height and not more than one triple car garage or carport shall be constructed or placed on any lot on said property.

3.17 The floor area of all constructed residences shall be not less than 900 square feet exclusive of one story porches and garages.

#### ARTICLE IV

##### ARCHITECTURE REVIEW COMMITTEE

4.1 Responsibility. The ARchitecture 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.

4.2 Membership. The Architecture Review Committee shall consist of three members, and shall initially be composed of JAN M. WICK, CHARLES E. LANDIS and GARY UPHAM. A majority of the committee may designate a representative to act for it. In case of death or resignation 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 or 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.

4.3 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.

4.4 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 any 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.

4.5 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.

4.6 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 only the members, in accordance with actual knowledge possessed by them or him, have acted in good faith.

#### ARTICLE V

##### GENERAL PROVISIONS

5.1 Enforcement. Any owner or the owner of any recorded mortgage upon any of said property shall have the right to enforce by any proceeding at law or in equity all restrictions, conditions, and covenants now or hereafter imposed by the provisions of this Declaration. Failure by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

5.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise effect any other provisions which shall remain in full force and effect.

5.3 Amendment. 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 owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns for a term of 25 years from the date this Declaration is recorded, after which such covenants shall be automatically extended for successive periods of 10 years. Any of the covenants and restrictions of this Declaration, except the easements herein granted, may be amended during the first 25 years by a vote of at least 75 percent of the owners. All such amendments must be recorded in the appropriate Deed Records of Deschutes County, Oregon to be effective.

5.4 Benefit of Provisions; Waiver. The provisions contained in this Declaration shall bind and inure to the benefit of and be enforceable by the Declarant and the owner or owners of any portion of said property, and their heirs and assigns, and

each of their legal representatives. Failure by Declarant or by any of the property owners or their legal representatives, heirs, successors or assigns, to enforce any of such conditions, restrictions or covenants herein contained shall in no event be deemed a waiver of the right to do so.

IN WITNESS WHEREOF, the undersigned, the owner of all of said property has hereto caused these presents to be executed this \_\_\_ day of November, 1978.

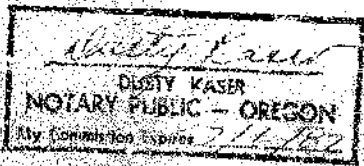
WICKLAND DEVELOPMENT CORPORATION

BY [Signature]  
JAN M. WICK

BY [Signature]  
CHARLES E. LANDIS

STATE OF OREGON, County of Deschutes, ss:

The foregoing instrument was acknowledged before me this \_\_\_ day of November, 1978, by JAN M. WICK and CHARLES E. LANDIS of WICKLAND DEVELOPMENT CORPORATION, an Oregon corporation, on behalf of the corporation.



[Signature]  
NOTARY PUBLIC FOR OREGON  
My commission expires: 7/6/82

16500

STATE OF OREGON  
County of Deschutes  
I hereby certify that the within instrument of writing was received for Record the 16 day of Dec A.D. 1978 at 2:21 o'clock P.M., and recorded in Book 289 on Page 156 Records

[Signature]  
ROSEMARY PATTERSON  
County Clerk  
[Signature]

Wickland Development Corp  
49 Oregon Street  
Land, OR 97701