

21610

WHEN RECORDED RETURN TO:  
ODIN FALLS RANCH  
538 West Highland  
Redmond, Oregon 97756

DECLARATION OF RESTRICTIONS

FOR

ODIN FALLS RANCH, P. U. D. PHASE I

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 15-17, inclusive 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 "Phase I", Exhibit "A", attached.

THIS DECLARATION is made as of January 18, 1980 by ODIN FALLS RANCH, a partnership composed of WILLIAM R. MAYFIELD, ROBERT H. MAYFIELD, WILLIAM A. ANDERSON and CHERYL L. ANDERSON, husband and wife, as joint tenants, and ANDERSON LAND AND CATTLE COMPANY, a partnership, hereinafter referred to collectively as Declarant.

Declarant is the party having record title interest in the property commonly known as, and referred to herein as, ODIN FALLS RANCH, Exhibit "B", attached. Declarant intends to improve Phase I and, subsequently, the additional adjoining acreage in ODIN FALLS RANCH by (1) providing roads, utilities and common facilities, and (2) by dividing the land into residential lots.

Declarant intends to develop the acreage in two (2) construction phases. Phase I shall be subject to the jurisdiction of the Association

described herein, and to the scheme of this Declaration. Subsequent development of the project area, Exhibit "B", attached, may, at the discretion of Declarant, be made subject to this Declaration, in which case Declarant shall file of record a Supplementary Declaration of Covenants and Restrictions which shall extend the jurisdiction of the Association described herein and the scheme of the Covenants and Restrictions of this Declaration to such property. In no event shall such Supplementary Declaration revoke, modify, or add to the Covenants established by this Declaration as they pertain to Phase I.

Declarant hereby establishes a plan for the individual ownership of each residential lot, and ownership by the Association, described herein, of certain land, improvements and easements, hereinafter referred to as the "common area".

Declarant has deemed it desirable, for the efficient preservation of the values and amenities of (1) the residential lots within Phase I, hereinafter referred to as the "Lots" and (2) the common areas, to create an agency known as ODIN FALLS RANCH PROPERTY OWNERS' ASSOCIATION, hereinafter referred to as the "Association".

The Association will be delegated and assigned the power to (1) own, maintain, and administer the common area, (2) administer and enforce the Covenants and Restrictions, and (3) collect and disburse assessments and charges all as outlined in the Articles of Incorporation of the Association, Exhibit "C", attached.

Declarant will cause the Association to be 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 shall be the owners of Lots within Phase I.

Declarant hereby declares that all of the Lots within Phase I shall 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.

It is assumed by the Declarant that the 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 Declarant that the Covenants, Conditions and Restrictions contained herein shall be understood to be for the purpose of enhancing and protecting the value, desirability and attractiveness of ODIN FALLS RANCH.

ARTICLE I  
ASSOCIATION

1.1 Association. All of the owners of Lots within the Phase I shall be members of the Association and shall be subject to the provisions of the Articles of Incorporation of the Association; this Declaration 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.

2.2 Conveyance. In accordance with Section 10.4 of Article X, Declarant shall convey to the Association title to the roadways and common areas, subject to any reservation of an easement or easements for utilities, including but not limited to, electricity, gas, sewage, telephone and television and water which may be determined solely by Declarant to be necessary.

2.3 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, Exhibit "C", attached.

2.4 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 of the Association.

(b) Common Areas. All common areas shall be maintained in their natural state except that 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.

(c) Water Wells. All water wells owned by the Association, as described in Article IV, shall be maintained in adequate repair and in fully operational condition at all times.

2.5 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 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 fifty-one percent (51%) of the members entitled to cast votes have voted approval of the dedication and/or transfer.

(b) Association Rules and Regulations. The right 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 invitied and guests.

## ARTICLE III

## COVENANT FOR MAINTENANCE AND IMPROVEMENT ASSESSMENT

3.1 Assessments. Declarant, for each Lot owned by it within Phase I and each purchaser of any Lot within Phase I, by acceptance of a deed therefor or by execution of a contract of purchase therefor, 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 VIII of this Declaration and in the Articles of Incorporation of the Association, Exhibit "C", attached.

## ARTICLE IV

## COVENANT FOR THE OPERATION AND MAINTENANCE OF WATER WELLS

4.1 Applicable Lots. The Covenant for operation and maintenance of water wells provided for in Section 4.2, below, shall pertain solely to Lots 8-33, inclusive, of Block I and Lots 1-7, inclusive, and Lot 15 of Block II of Phase I, hereinafter collectively referred to as "Water System Lots".

4.2 Assessments. Declarant, for each Water System Lot owned by it within Phase I and each purchaser of any Water System Lot within Phase I, by acceptance of a deed thereof or by execution of a contract of purchase therefor, 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 IX of this Declaration and in the Articles of Incorporation of the Association, Exhibit "C", attached.

## ARTICLE V

## USES PROHIBITED AND PERMITTED

5.1 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 for herein.

5.2 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 vegetation, shrubs, or trees, install utility, outside antennae or other outside wire on a Lot unless such person, association or owner shall have first obtained consent thereto of the Architectural Control Committee, provided for in Article VI, hereof.

5.3 Maintenance of Lots. Each Lot and the improvements thereon shall be maintained by the owner thereof in a clean and attractive condition, in good repair, and in such fashion as not to create a fire hazard.

5.4 Type of Residence. No residence other than a single family dwelling for private use shall be constructed on any Lot, except as otherwise consented to by the Architectural Control Committee, in accordance with Subsection (d) of Section 5.12 of this Article V.

5.5 Temporary Structures. Temporary structures which have been approved by the Architectural Control Committee shall 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 thirty (30) days after the completion of the dwelling house or one (1) year after the date upon which said temporary structure was placed upon said Lot, whichever is earlier. Persons may reside on a Lot during the construction of a dwelling only in approved temporary structures.

5.6 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 Architectural Control Committee.

5.7 Signs. No signs shall be placed or kept on a Lot other than a sign ten (10) inches by twenty-four (24) inches of a natural wood material with black lettering stating the name of the occupant and/or the Lot, if any, and the address. Only signs approved by the Architectural Control Committee shall be used to advertise a Lot for sale.

5.8 Utilities. No above ground utilities, open ditches, or visible pipes or wires shall be used to connect improvements with supplying facilities; except that this provision shall not be applicable to Declarant for utilities installed in the development of Phase I.

5.9 Offensive or Commercial Activities. No offensive or commercial activity shall be carried on in Phase I or on any Lot thereon 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, common areas, or roadways within Phase I.

5.10 View. The height of improvements or vegetation and trees on a Lot shall not materially restrict the view of other Lot owners. The Architectural Control Committee shall be the sole judge of suitability of such heights. If the Architectural Control Committee determines there is such restriction in the view of other Lot owners, written notice shall be delivered to the offending owner. If after thirty (30) days, the improvement, vegetation or trees are not removed or reduced in height as directed by the Architectural Control Committee, 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.

5.11 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 within Phase I. All exterior lighting shall require written consent by the Architectural Control Committee prior to the installation thereof.

5.12 General Restrictions. Unless the Architectural Control Committee 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 on a permanent basis for commercial trucks or vehicles, trailers, truck campers, boats, boat trailers, snow mobiles or other off-road vehicles.

Notwithstanding the foregoing, recreational vehicle equipment may be stored in outbuildings, garages or carports approved by the Architectural Control Committee. In addition, the Lot owner or his guests may park a boat trailer, pickup camper, travel trailer or recreational vehicle on any street for a period not to exceed five (5) consecutive days or a total of thirty (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 in Phase I. This shall be construed to prohibit the use of motorcycles, snow mobiles and all non-registered and/or off-road vehicles within Phase I. 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 exceptions of barbecue fires.

(d) No Lot shall contain more than one (1) dwelling house. However, when under the same ownership and occupied by either employees or relatives of the Lot owner, a second dwelling may be approved by the Architectural Control Committee.

(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 fencing of any kind shall be placed on any Lot in Phase I.

(g) No sale of partitioned or subdivided sections of Phase I, except as platted, shall be permitted, unless also approved by Deschutes County.

(h) No more than twelve (12) months construction time shall elapse for the completion of a permanent dwelling after commencement of said construction.

(i) All driveways shall be composed of concrete or asphalt. Only one driveway shall be permitted per Lot, except that circular driveways shall be permitted where determined by the Architectural Control Committee to be reasonably appropriate.

(j) 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.

(k) All landscaping must be approved by the Architectural Control Committee prior to the installation thereof.

(l) No trees shall be removed from any Lot without prior approval of the Architectural Control Committee.

(m) Septic tanks and drain fields must meet Deschutes County Health Department standards.

(n) No firearms of any kind shall be discharged upon any Lot, roadway or common area.

(o) All land owners must comply with the laws and regulations of the State of Oregon, County of Deschutes, and any municipality, applicable to fire protection, building constructions, water sanitation, if applicable, and public health.

5.13 Exclusion of Field Lot. Lot 1, Block 2 hereby expressly excluded from all of the provisions of this Article V so long as the Declarant retains ownership. Upon the sale of said Lot, all of the provisions of this Article V shall thereupon become immediately applicable to said Lot.

## ARTICLE VI

### ARCHITECTURAL CONTROL COMMITTEE

6.1 Architectural Control Committee. An Architectural Control Committee is hereby established. It shall consist of four (4) members, and shall initially be composed of WILLIAM R. MAYFIELD, ROBERT H. MAYFIELD, WILLIAM A. ANDERSON, and PAUL THOMAS ANDERSON. The majority of the Committee may designate a representative to act for it. In case of the death or resignation of any members of the Committee, the remaining members shall have full authority to designate successors. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for

services performed by such member. In the event that the deaths or resignations of all members of the Committee shall occur without successors having been appointed, the Association shall have full power to designate successors by appropriate vote of the Lot owners. Upon the occurrence of the earlier of the date which is seven (7) years after the date of the first sale of a Lot or the date upon which fifty percent (50%) of the Lots have been sold, the terms of the initial members of the Architectural Control Committee shall cease and thereafter selection of their successors shall be made by the Board of Directors of the Association for a term to be determined by said Board. The Declarant, as developer, shall be entitled to participate as the sole Lot owner so long as it owns one or more Lots.

6.2 Rules and Regulations. The Committee may make such rules and regulations of general applicability governing the extent to which any of the restrictions provided for herein may be waived or permitted. Notwithstanding the foregoing, said rules and regulations shall not become effective if fifty percent (50%) or more of the owners of Lots disagree in writing with the proposed rules and regulations within thirty (30) days of receiving written notice thereof.

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

(a) Application for Approval of Improvements. Any owner, except the Declarant and its designated agents, proposing to perform any work of any kind whatever which requires the prior approval of the Architectural Control Committee in accordance herewith, shall apply to such Committee for approval by notifying the Architectural Control Committee of the nature of the proposed work, said notification to be delivered with the following

information, in duplicate, or as directed by the Architectural Control Committee:

(i) A plot plan of the Lot showing the location of all existing and proposed improvements;

(ii) Floor plans;

(iii) Drawings showing all elevations;

(iv) A description of the exterior materials and color, with color samples if required by the Architectural Control Committee; and

(v) The owner's proposed construction schedule.

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

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

(ii) The Architectural Control Committee finds that the plans and specifications conform to the ODIN FALLS RANCH restrictions, particularly to the requirements and restrictions of this Section, and to the Architectural Control Committee rules in effect at the time such plans were submitted to it; and

(iii) Members of the Architectural Control Committee, 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 as to location with respect to topography and finished grade elevation.

(c) Form of Approval. All approvals under Subsection (b) shall be in writing; provided, however, that any request for approval which has not been rejected within thirty (30) days from the date of submission thereof to the Architectural Control Committee shall be deemed approved. One set of plans as finally approved shall be retained by the Architectural Control Committee as a permanent record.

(d) Proceeding With Work. Upon receipt of approval from the Architectural Control Committee pursuant to Subsection (d), above, 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, said commencement to be, in all cases, within one (1) year from the date of such approval. If the owner shall fail to comply with this Subsection, any approval given pursuant to Subsection (c), above, shall be deemed revoked unless the Architectural Control Committee, upon written request of the owner made prior to the expiration of said one (1) year period, extends the time for such commencement. No such extension shall be granted except upon a finding by the Architectural Control Committee that there has been no change in the circumstances upon which the original approval was granted.

(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 Architectural Control Committee.

(ii) Within sixty (60) days thereafter the Architectural Control Committee 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 Architectural Control Committee 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 sixty (60) day period, specifying the particulars of noncompliance and shall require the owner to remedy such noncompliance.

(iii) If for any reason the Architectural Control Committee fails to notify the owner of any noncompliance within sixty (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.

6.4 Nonwaiver. Consent by the Architectural Control 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.

6.5 Liabilities. Neither the Architectural Control Committee 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 Architectural Control Committee or any member thereof, provided only that the members, in accordance with actual knowledge possessed by them, have acted in good faith.

## ARTICLE VII

## PROPERTY OWNERS ASSOCIATION

7.1 Establishment of Association. The Declarant shall establish the ODIN FALLS RANCH PROPERTY OWNERS' ASSOCIATION, a non-profit Oregon corporation, in order to provide a means for carrying 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.

7.2 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.

7.3 Voting Rights. The Association shall have two classes of voting membership:

(a) Class A. Class A members shall be those members defined in Section 7.2 of this Article VII with the exception of the Declarant. Class A members shall be entitled to one (1) vote for each Lot in which they hold the interests required for membership by Section 7.2. 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 (1) vote be cast with respect to any one (1) Lot.

(b) Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to two votes for each Lot in which it

holds the interest required for membership by Section 7.2, provided that Class B membership shall cease and become converted to Class A membership on January 1, 2000.

From and after January 1, 2000, the Class B member shall be deemed to be a Class A member entitled to one (1) vote in each Lot in which it holds the interest required for membership under Subsection (a).

7.4 Duties of the Association. The Association shall have the obligations and duties, subject to and in accordance with the ODIN FALLS RANCH Covenants, Conditions and Restrictions, to do and perform the following for the benefit of the owners and for the maintenance and improvement of ODIN FALLS RANCH.

(a) Annexed Property. To accept as part of ODIN FALLS RANCH all property annexed to ODIN FALLS RANCH by the Declarant and to accept all owners of said annexed property as members of the Association.

(b) Roadways and Common Areas. To accept all roadways and common areas conveyed, leased or otherwise transferred to it by Declarant or by any other person or organization pursuant to the terms of the ODIN FALLS RANCH Covenants, Conditions and Restrictions, whether or not such areas are within ODIN FALLS RANCH.

(c) Operation of Roadways, Water Wells and Common Areas. To operate and maintain, or provide for the operation of maintenance of the roadways, water wells, 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.

(d) 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 therefor in accordance with the requirements of the ODIN FALLS RANCH Covenants, Conditions and Restrictions.

(d) Payment of Taxes. To pay all real property taxes and assessments levied upon any property conveyed, leased or otherwise transferred to the Association, to the extent not assessed to the owners. Such taxes and assessments may be contested or compromised by the Association; provided, however, that they are paid, or a bond insuring the payment is posted, prior to the sale or other disposition of any property to satisfy the payment of such taxes.

(e) Public Service. To contract for or provide (to the extent adequate services are not provided by a public authority) such services, facilities and maintenance or quasi-public nature as may be deemed necessary or desirable for the effectuation of the purposes of the ODIN FALLS RANCH Covenants, Conditions and Restrictions. 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.

(g) 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.

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

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

(j) Enforcement of Restrictions and Rules. To take such other action, whether or not expressly authorized by the ODIN FALLS RANCH Covenants, Conditions and Restrictions, as may be reasonably necessary to enforce the ODIN FALLS RANCH, Covenants, Conditions and Restrictions, the ODIN FALLS RANCH rules and regulations and the Architectural Control Committee's rules and regulations.

(k) 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.

7.5 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 to consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the ODIN FALLS RANCH Covenants, Conditions and Restrictions 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, driveways, parkways and park areas, (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.

7.6 The ODIN FALLS RANCH Rules.

(a) Rule Making Power. The Association may, from time to time, and subject to the provisions of the Covenants, Conditions and Restrictions described in this Declaration, adopt, amend and repeal rules and regulations to be known as the "ODIN FALLS RANCH Rules", governing, among other things, use of roadways and common areas under the jurisdiction of the Association. Said rules may also include parking restrictions and limitations, limitations upon vehicular travel, 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 for 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 from time to time 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.

7.7 Liability of Members of Board. No member of the Board of Directors shall be personally liable to any owner or to any other person, including Declarant, 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.

7.8 Amendment. The provisions of this Article VII shall not be amended without the vote or written consent of a four-fifths (4/5) majority of all of the owners.

## ARTICLE VIII

## FUNDS AND ASSESSMENTS

8.1 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) water system assessments as provided for in Section 9.5 of Article IX; (4) miscellaneous fees; and (5) 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.

8.2 Operation and Maintenance Assessment.

(a) Regular Assessment. At least thirty (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 equal to 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 prior 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 in Phase I 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 reasons, 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) Initial Annual Assessment. The first annual assessment will be levied in 1980 and will not exceed FIVE DOLLARS (\$5.00) per Lot. Said first annual assessment shall be due upon the purchase of the Lot by the owner thereof. The first annual assessment shall remain in effect until December 31, 1980. Each year thereafter, 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 thirty (30) days prior to said due date.

8.3 Special Assessments for Capital Improvement. In addition to the annual assessments specified in Section 8.2, above, the Association may levy, in any assessment year, a special assessment applicable to that year only, the purpose of defraying in whole or in part the cost of any construction or reconstruction, repair or replacement of any improvements on the property owned by the Association. Any such special assessment which exceeds FIVE THOUSAND DOLLARS (\$5,000) in cost in the aggregate in any assessment year shall require the affirmative vote of the majority of the members who are entitled to vote, voting in person or by proxy, at a meeting duly called for this purpose after thirty (30) days advance, written notice. At the meeting, the presence of members or of proxies entitled to cast sixty percent (60%) of all of the votes of the membership of the Association shall constitute a quorum. If a quorum is not present in person or by proxy, a new meeting may be called by the Directors. If at least two (2) meetings have been called for the purpose of approval of a special assessment in which a quorum has not been present in person or by proxy, a quorum shall be deemed to be present at the third or any subsequent such meeting called by the Directors for such purpose if any member shall be present in person or by proxy.

8.4 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.

8.5 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 a suit at law to enforce each such assessment obligation. Any judgment rendered in any such action shall include a sum for reasonable attorney's fees and such amount as the court may adjudge against the defaulting owner.

(b) Enforcement by Lien. At any time within ninety (90) days 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 Covenants, Conditions, and Restrictions 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, but any number of defaults may be included within a single claim of 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 attorney's fees shall be allowed to the extent permitted by law.

(c) Assessment Certificate. A certificate executed under penalty of perjury by any two (2) members of the Board of Directors of the Association and acknowledged by one (1) 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 therefor and upon payment of a reasonable fee not to exceed TEN DOLLARS (\$10.00).

(d) Amendments. No amendment of this Section 8.5 shall be effective without the unanimous written consent of all of the owners and their respective mortgagees or beneficiaries.

8.6 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 shall not effect the assessment lien. However, the 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 IX

#### WATER SYSTEM

9.1 Establishment of System. The Declarant hereby establishes and agrees to convey to the Association a water system which shall provide for the water supply to the Lots described in Section 9.2 of this Article IX, hereinafter referred to as "Water System Lots". Such water system shall be composed of a number of wells and a distribution system as shall be determined by Declarant prior to the conveyance of said system to the Association.

9.2 Water System Lots. The water system which shall be conveyed to and operated by the Association shall be maintained for the benefit of Lots 8-33, inclusive of Block 1 and Lots 1-7, inclusive and Lot 15 of Block 2 of Phase I of ODIN FALLS RANCH.

9.3 Permitted Uses. Each Water System Lot shall be entitled to use the water from the water well system for domestic use and a modest area for lawn and garden irrigation, the maximum area to be utilized for this purpose shall be determined by the Board of Directors of the Association.

9.4 Rules and Regulations of the Water Well System. The Board of Directors of the Association shall, from time to time, promulgate such rules and regulations as may be necessary in connection with the operation of the water well system. Said rules and regulations shall go into effect thirty (30) days following the date of adoption by the Board of Directors provided that a majority of the owners of the Water System Lots have not notified the Board of Directors of their disagreement with the proposed rules prior to the expiration of said thirty (30) day period.

9.5 Water System Operation and Maintenance Assessment.

(a) Regular Assessment. In addition to the assessment for the operation and maintenance of the roadways and common areas as provided for in Section 8.2 of Article VIII, the Association shall determine the amount of the necessary assessment for the operation and maintenance of the water system each year and said assessment shall be levied upon the owners of the Water System Lots at the commencement of such year. The determination of the amount of the water system assessment each year shall be made in the same manner as the determination of the regular assessment for the operation and maintenance of the roadways and common areas as described in Article VIII, hereof.

(b) Additional Assessments. If at any time during any fiscal year, the water system assessment proves inadequate for any reason, including nonpayment of any Water System Lot owner's share thereof, the Board of Directors may levy a further assessment in the amount of the actual or estimated inadequacy, which amount shall be assessed to the owners of the Water System Lots individually in the same manner as the regular water system assessment.

(c) Special Assessment for Water System Capital Improvements.

The Board of Directors of the Association may, from time to time, determine that a special assessment,

shall be levied in order to defray the cost, in whole or in part, of any construction or reconstruction, repair or replacement of the water system. Said special assessment shall be levied on the owners of the Water System Lots only upon the affirmative vote of a majority of the owners of said Water System Lots, voting in person or by proxy, at a meeting duly called for this purpose by the Board of Directors of the Association after thirty (30) days written notice. At the meeting, the presence of members or of proxies entitled to cast sixty percent (60%) of all of the votes of the owners of the Water System Lots, shall constitute a quorum. If a quorum is not present in person or by proxy, a new meeting may be called by the Board of Directors. If at least two (2) meetings have been held for the purpose of approval of said special assessment at which a quorum has not been present in person or by proxy, a quorum shall be deemed to be present at the third (3rd) of any subsequent such meeting called by the Board of Directors if any owner of a Water System Lot shall be present in person or by proxy.

9.6 General Assessment Provisions Apply. Except as otherwise provided in this Article IX, all of the provisions of Article VIII pertaining to the levying, payment and enforcement of assessments shall apply to the water system assessments provided for herein.

9.7 Amendments. No amendment of this Article IX shall be effective without the unanimous written consent of all of the owners of Water System Lots and their respective mortgagees or beneficiaries.

9.8 Initial Water System Assessment. The first annual water system assessment will be levied in 1980 and will not exceed FIVE DOLLARS (\$5.00) per

Water System Lot. Said first assessment shall be due and payable on the date on which the lot is purchased by the owner thereof from the Declarant. Each year thereafter, the amount of the annual water system assessment will be determined by the Directors of the Association and promptly communicated to the owners of the Water System Lots in writing at least thirty (30) days prior to the due date of the assessment.

## ARTICLE X

### MISCELLANEOUS PROVISIONS

10.1 Duration of Restrictions. The Covenants, Conditions, and Restrictions contained in this Declaration shall continue and remain in full force and effect at all times with respect to all property included within Phase I of ODIN FALLS RANCH, the owners and the Association (subject, however, to the right to amend and repeal as provided for in Section 10.2, below), until January 1, 2000. However, unless within one (1) year prior to January 1, 2000, an instrument directing the termination of the Covenants, Conditions, and Restrictions contained in this Declaration is signed by the owners of not less than two-thirds (2/3) of the lots and is recorded, the Covenants, Conditions, and Restrictions contained in this Declaration, as in effect immediately prior to the expiration date, shall, subject to the provisions of Section 10.2, below, continue in effect automatically for an additional period of twenty (20) years and thereafter for successive periods of twenty (20) years unless within one (1) year prior to the expiration of such period, the Covenants, Conditions and Restrictions contained in this Declaration are terminated as set forth in this

Section 10.1 of Article X.

10.2 Amendment of Restrictions. Except as otherwise provided in this Declaration, the Covenants, Conditions and Restrictions contained herein may be amended or repealed at any time by complying with the foregoing requirements:

- (a) The vote or written consent of three-fifths (3/5) 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 three-fifths (3/5) majority of the Board;
- (c) Written consent of the owners evidenced by recordation of a written instrument setting forth in full said amendment or repeal and executed by owners owning not less than three-fourths (3/4) of the residential Lots within Phase I of ODIN FALLS RANCH; and
- (d) For a period of twenty (20) years from the date of this Declaration, the written consent of the Declarant which may be evidenced by Declarant's joining in the execution of the instrument required by Subsection (c), above.

10.3 Enforcement and Nonwaiver.

(a) Right of Enforcement. Except as otherwise provided herein, Declarant, the Association or any owner or owners shall have the right to enforce any and all of the Covenants, Conditions and Restrictions now or hereafter imposed by this Declaration, as amended, upon the owners or upon any property within Phase I of 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 Declarant, the Association or an owner or owners. However, any other provision to the contrary notwithstanding, only the Declarant, the Board of Directors or their duly authorized agents may enforce by self-help any Covenant, Condition or Restriction herein set forth.

(c) 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 Phase I of ODIN FALLS RANCH is hereby declared to be a violation of the Covenants, Conditions and Restrictions contained herein and subject to any and all of the enforcement procedures herein set forth.

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

(e) 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 provision or any other provisions of said Declaration.

#### 10.4 Transfer of Roadways, Water System and Common Areas.

(a) Transfer. At any time, Declarant may convey, lease or otherwise transfer to the Association, and the Association must accept, the roadways, water system and common areas, subject to the following:

- (i) The lien of property taxes and assessments not delinquent;
- (ii) Such easements and rights of way on, over or under all or any part thereof as may be reserved to Declarant or granted to any owner or other person;
- (iii) Such easements and rights of way on, over, or under all or any part thereof as may be reserved to Declarant for maintenance or improvement of any roadway, water system or common area contiguous to such areas;

(iv) Such easements and rights of way on, over, or under all or any part thereof as may be reserved to Declarant or granted to or for the benefit of any person, governmental entity, private or public corporation or other organization or any lot, for the purpose of constructing, erecting, operating and maintaining thereon, therein and thereunder, at that time or at any time in the future:

(a) roads, streets, walks, driveways, parkways, and park areas;

(b) underground wires, conduits, and other necessary attachments for the transmission of electricity for lighting, heating, power, telephone, television and other purposes;

(c) public sewers, sewer disposal systems, storm water drains, land drains and pipes, water systems, heating and gas lines or pipes and any and all equipment in connection therewith;

(d) any other public or quasi-public facility or improvement deemed by Declarant to be necessary or desirable for the comfort, convenience or safety of the resident of Phase I of ODIN FALLS RANCH.

(v) The obligation imposed, directly or indirectly, by virtue of any statute, law, ordinance, resolution or regulation of the United States of America, State of Oregon, or any other political subdivision or public organization having jurisdiction over such property; and

(vi) Any other lien, encumbrance (including deeds of trust) or defective title of any kind whatsoever which would not materially prejudice the owners in their use and enjoyment of such property.

(b) Common Areas Prior To Transfer. Prior to the time that any real property constituting part of Phase I of ODIN FALLS RANCH which is owned by the Declarant and designated roadways, water system or common areas

is transferred to the Association by the Declarant, the Declarant shall be obligated to maintain such real property and owners shall have a license to use such property but only to the extent that such obligation would exist and such use would be permitted if such property had been transferred to the Association.

10.5 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.

10.6 Obligations of Owners. No owner may avoid the burdens or obligations imposed on him by the Covenants, Conditions and Restrictions contained in this Declaration through non-use of any roadways, water system 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 any 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.

10.7 Delivery of Notices and Documents. Any 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 have been delivered

twenty-four (24) hours after a copy of same has been deposited in the United States mail, postage pre-paid, addressed as follows: If to the Declarant, Association, or Architectural Committee, at 538 West Highland, Redmond, Oregon 97756; if to any owner to the address of any Lot within Phase I of ODIN FALLS RANCH owned, in whole or in part, by him; provided, however, that such address may be changed by the Association by recording a notice of change of address and by an owner, the Architectural Committee or Declarant by notice in writing delivered to the Association.

10.8 Construction and Severability; Singular and Plural; Titles.

(a) Restrictions Construed Together. All of the Covenants, Conditions and Restrictions contained in this Declaration shall be liberally construed together to promote and effectuate the fundamental concepts of ODIN FALLS RANCH, set forth in the preamble of this Declaration.

(b) Restrictions Severable. Notwithstanding the provisions of Subsection (a), above the Covenants, Conditions and Restrictions contained in this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not effect 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.

IN WITNESS WHEREOF, the Declarant has executed this Declaration  
the day and year first above written.

ODIN FALLS RANCH, a partnership

William R. Mayfield  
WILLIAM R. MAYFIELD

Robert H. Mayfield  
ROBERT H. MAYFIELD

William A. Anderson  
WILLIAM A. ANDERSON

Cheryl L. Anderson Attorney  
By: William A. Anderson in Fact  
CHERYL L. ANDERSON

P. Thomas Anderson  
P. THOMAS ANDERSON for ANDERSON LAND  
AND CATTLE COMPANY

STATE OF OREGON )  
County of Deschutes ) ss.

February 11, 1980

Personally appeared the above named, William R. Mayfield, Robert H. Mayfield,  
William A. Anderson, P. Thomas Anderson, and Cheryl L. Anderson, and acknowledged  
the foregoing instrument to be their voluntary act and deed.

Before me:

David H. Stearns  
Notary Public for Oregon  
My Commission Expires: 6/24/83



## EXHIBIT "B"

The West Half of the East Half; (W- $\frac{1}{2}$  E- $\frac{1}{2}$ ) 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.

21610

## STATE OF OREGON

County of Deschutes

I hereby certify that the within instrument of writing was received for Record

the 12 day of Feb A.D. 1980at 3:11 o'clock P. M. and recordedin Book 316 on Page 648 Recordsof 10000

ROSEMARY PATTERSON

County Clerk

By Dennis Paul Hall Deputy