

DESCHUTES COUNTY OFFICIAL RECORDS
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2003-80346



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DESCHUTES COUNTY CLERK

CERTIFICATE PAGE



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Planned Community Subdivision Declaration

FOR

TRI PEAKS II

THIS DECLARATION is made this 20th day of November, 2003 by Ray R. Rosecrans and Laurie A. Rosecrans, husband and wife, hereafter collectively referred to as "Declarant" as developers and Owners of the real property located in the City of Bend, County of Deschutes, platted as Lots 1-42 and recorded in the plat records of Deschutes County in Plat Cabinet G, page 89, commonly known as Tri Peaks II.

Declarant desires to declare of public record certain covenants, conditions and restrictions upon all parties having or acquiring any right, title or interest in the property or any part thereof, and shall insure to the benefit of the Declarant or any successor of Declarant in the ownership of the desired property.

**ARTICLE 1
Use Restrictions**

- 1.1 Residential Use. All lots shall be used only as residential lots. No structures of any kind shall be erected or permitted to remain on any Lot other than single-family residences and structures normally accessory to such residences.
- 1.2 Temporary Structures. No structure of a temporary character, trailer, mobile home, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently. All such structures must comply with the applicable building codes.
- 1.3 Rubbish and Trash. No lot shall be used as a dump for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate sanitary containers for proper disposal and out of public view.
- 1.4 Maintenance of Structures and Grounds. Each owner shall maintain his Lot and improvements thereon in a clean and attractive condition, in good repair and in such fashion as not to create a fire hazard. Such maintenance shall include, without limitation, painting, repair, replacement and care for roofs, gutters, downspouts, exterior building services, walks and other exterior improvements and glass surfaces. In addition, each owner shall deep all shrubs, grass and plantings of every kind on his Lot and on that area between his Lot and paved area of the dedicated road system neatly trimmed, properly cultivated and free of trash, weeds and other unsightly material. Damage caused by fire, flood, storm, earthquake, riot vandalism, or other causes shall likewise be the responsibility of each owner.
- 1.5 Vehicles in Disrepair. No owner shall permit any vehicle which is an extreme state of disrepair to be abandoned or to remain parked upon any Lot or on any street for a

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[Handwritten signature]

period in excess of 48 hours. A vehicle shall be deemed to be in an "extreme state of disrepair" when its presence offends the occupants of the neighborhood.

ARTICLE 2

- 2.1 Offensive Activities. No noxious or offensive activity shall be carried on within any Lot nor shall anything be done or placed upon any Lot which interferes with or jeopardizes any Owners use and enjoyment of his lot.
- 2.2 Signs. Unless written approval is first obtained from the Declarant, no sign of any kind shall be displayed to the public view on any Lot or structure, except one professional sign of not more than five feet square advertising the property for sale or rent, or project signs used by Declarant to advertise the property during the construction and sales period.
- 2.3 Design approval. Before construction can commence, the plans and design (including but not limited to: exterior colors, finish and roofing) for any proposed building, garage, or other structure and the location of the same on a Lot shall be submitted and approved in writing by Declarant. In the event Declarant fails to render his approval or disapproval within 30 days after plans and design have been submitted to him, this covenant will be deemed to have been fully complied with.
- 2.4 Completion of Construction. The construction of any building on any Lot, including painting and all exterior finish, shall be completed within 12 months of the beginning of construction so as to present a finished appearance when viewed from any angle. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval from the Declarant. The building area shall be kept reasonably clean and in workmanlike order during the construction period.

ARTICLE 3

- 3.1 Landscape Completion. All front yard landscaping, including lawn strip between the curb and sidewalk, must be completed within 3 months from date of recording of the homes completion notice. In the event of undue hardship due to weather conditions, the Declarant, at their sole discretion, may extend installation of landscaping.
- 3.2 Diseases, Insects and Sprays. No owner shall permit any condition to exist upon his Lot which shall induce, breed or harbor infectious plant diseases or noxious insects.
- 3.3 Maintenance and Repairs. Each Lot owner shall be individually responsible for any particular damage caused to the road system by the offending Lot owner, the Lot owner's agents or Lot owner's contractors.

- 3.4 Parking. Parking of boats, trailers, motorcycles, truck-campers, RV's and like equipment shall not be allowed in front of the front setback line of the garage. Said parking will not be allowed on the R.C. east side of the existing home on lot 8.
- 3.5 Antennas. No antennas or satellite receiving dishes (over 18" in diameter) shall be placed as to be seen from the street.
- 3.6 Animals. No animals, including poultry, shall be raised or kept on any Lot, except that dogs, cats or other household pets may be kept, provided that they are not raised or kept for commercial purposes and do not cause damage or discomfort to neighbors.
- 3.7 Modular Homes. No modular, mobile or preexisting home may be moved onto any lot in the subdivision.
- 3.8 Fences. All fences to be kept behind the front corners of the house. All fences are to be made of cedar wood or other material as approved by the design review committee.
- 3.9 Garage. All houses must have a minimum of a two-car garage. No garage can be converted or used for living space.
- 3.10 Roof. All structures shall be required to have a minimum of a 25-year roofing material and a roof with minimum 6/12 pitch.

ARTICLE 4

- 4.1 Remedies. In the event any owner constructs or permits to be constructed on his Lot an improvement contrary to the provisions of this Declaration, or causes or permits any improvement, activity, condition or nuisance contrary to the provisions of this Declaration to remain uncorrected or unabated on his Lot, or if any owner causes damage to the road system during construction or anytime thereafter, then Declarant shall notify the owner in writing of any specific violations of this Declaration, and may require the owner to remedy or abate the same in order to bring his Lot, the improvements on the Lot or on the road system and his use of the Lot in conformance with this Declaration. If the owner is unable, unwilling or refuses to comply with Declarant's specific directives for remedy or abatement, or the owner and the Declarant cannot agree to a mutually acceptable solution within 30 days of written notice to the owner, then Declarant shall have the right to do either or both of the following:
 - A. Enter the offending Lot, if necessary, and remove the cause of such violation, or alter, repair or change the item which is in violation of this Declaration, in such a manner to make it conform to this Declaration, in which case Declarant may assess the offending Lot owner for the entire cost of the work done, and

Declarant shall have a lien upon the offending Lot for the amount of this cost which shall be subordinate to any prior recorded mortgage or trust deed, and

B. Bring suit or action against the owner to enforce this Declaration.

4.2 Costs and Attorneys Fees. In the event Declarant brings any suit to action to enforce this Declaration, the prevailing party shall be entitled to recover all costs and expenses incurred by him in connection with such suit or action, including such amount as the court may determine to be reasonable as attorney's fees at trial and upon any appeal.

4.3 Nonexclusiveness of Remedies. The remedies provided in this Declaration are not exclusive but shall be in addition to the injunctions and all other remedies, including actions for damages and suits for specific performance, available under applicable laws.

ARTICLE 5

Termination

5.1 The covenants, conditions and restrictions contained in this Declaration shall terminate upon the expiration of 40 years from date of recording of this Declaration, provided, however, that such covenants, conditions and restrictions shall terminate upon such earlier date as Declarant may execute and cause to be recorded in the deed records of Deschutes County, a Declaration specifying such termination. However, Declarant shall notify in writing each owner 90 days before recording of such Declaration of termination. In addition, Declarant may elect to waive any of the covenants, conditions and restrictions as they apply to any specific Lot or Lots by the execution and recording by Declarant in the deed records of Deschutes County, Oregon, of a declaration of waiver.

Notwithstanding the following, at the time of recipient by owners of notice of termination, or before such declaration of termination is executed and recorded, the owners may at their discretion form an Association to enforce the provisions of this Declaration. Such Association shall be formed only by majority vote, and in determining a majority, each Lot in the subdivision shall be entitled to one vote. The Association's structure and powers shall have the same powers and duties that the Declarant has under this Declaration. All provisions in this Declaration shall apply equally to the Association including but not limited to provisions relating to Enforcement.

ARTICLE 6

Miscellaneous Provisions

6.1 Waiver. Failure by Declarant to enforce any covenants, conditions or restrictions contained in this declaration shall in no event be deemed a waiver of the right to do

so thereafter as to the same breach or as to one occurring prior or subsequently thereto.

6.2 Construction. Each provision of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provisions shall not affect the validity or enforceability of the remaining part of that or any other provision.

6.3 Notices. Any notice required by this declaration may be delivered either personally or by mail. Delivery by mail shall be deemed made 24 hours after having been deposited as certified or registered mail in the United States Mail, with postage prepaid, addressed to the owner at his Lot or if the Lot is unimproved, at such address then on file with the county assessor for delivery of tax statements.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed for recording as the Protective Covenants, Conditions, and Restrictions for Tri Peaks II this 20 day of November 2003.

Ray R. Rosecrans 11-20-03
RAY R. ROSECRANS

Laurie A. Rosecrans 11.20.03
LAURIE A. ROSECRANS

STATE OF OREGON, County of Deschutes) ss.

The foregoing instrument was acknowledged before me this 20th day of November, 2003, by RAY R. ROSECRANS and LAURIE A. ROSECRANS.

Rhonda L. Hickman
Notary Public for Oregon
My Commission Expires: 8-26-07

