

**DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS
OF
KOOSKOOSKEE HOMEOWNERS' ASSOCIATION
MARION COUNTY, OREGON**

(As amended pursuant to the conditions set forth in Article XI)

THIS DECLARATION, made on this 26th day of May, 1981, between GARY KAUFMAN, DEAN KAUFMAN and DUANE KAUFMAN, dba KAUFMAN HOMES, sometimes called "The Declarant,"

WITNESSES:

WHEREAS, the Declarant is the owner of the Real Estate described in Article II hereof and desires to create thereon a residential community with permanent Common Areas and Common facilities (if any) for the benefit of said community; and

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said Common Areas, Common Facilities (if any), Lots and Dwelling Units; and to this end, desires to subject the real property described in Article II hereof to the Covenants, Restrictions, Easements, Charges and Liens hereinafter set forth, each and all of which is and are for the benefit of said real property, Lots and Dwelling Units and the subsequent owners thereof; and

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an Association to which should be delegated and assigned the powers and duties of maintaining and administering the Common Areas and Common Facilities (if any), administering and enforcing the within Covenants and Restrictions and disbursing the charges and assessments hereinafter created; and

WHEREAS, the Declarant has formed (or intends to form) the Kooskooskee Homeowners' Association, as a nonprofit corporation without capital stock under the General Laws of the State of Oregon for the purpose of carrying out the powers and duties aforesaid;

NOW, THEREFORE, the Declarant hereby declares that the real property known as "Kooskooskee" and described in Article II hereof is and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to the covenants, restrictions, easements, charges and liens (hereinafter sometimes referred to as "covenants and restrictions") hereinafter set forth which are for the purpose of protecting the value and desirability of, and which shall run with the Real Property, and be binding on all properties having any right, title or interest in the described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I. Definitions

Section 1. The following words when used in this Declaration shall have the following meanings:

- a. "Association" shall mean and refer to the Kooskooskee Homeowners' Association Inc. and its successors and assigns.
- b. "Property" or "Association Property" shall mean and refer to all real property described in Article II hereof and such additions thereto as may hereafter be made pursuant to the provisions of said Article II.
- c. "Lot" shall mean and refer to any subdivided parcel of property shown on the plat of the property with the exception of the Common Areas.
- d. "Common Areas" or "Common Facilities" shall mean and refer to all real property owned by the Association for the benefit, use and enjoyment of its members. The Common Area to be owned by the Association at the time of conveyance of the first Lot is described as all of that property shown on Exhibit "E."
- e. "Dwelling" or "Dwelling Unit" or "Unit" shall mean and refer to any building or portion of a building situated upon the real property and designed and intended for use and occupancy as a residence by a single family.
- f. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated on the Property including contract sellers, but excluding those having such interest solely as security for the performance of an obligation.
- g. "Member" shall mean and refer to every person, group of persons or entity who holds membership in the Association. An owner is a member.
- h. "Developer" shall mean and refer to the Declarant, GARY KAUFMAN, DEAN KAUFMAN AND DUANE KAUFMAN, dba KAUFMAN HOMES, and its successors and assigns.

ARTICLE II. Property Subject to Declaration

Section 1. The real properties which are and shall be held, conveyed, leased, rented, used, occupied and improved subject to this Declaration are located in the County of Marion, State of Oregon, and are more particularly described in Exhibit "A" (which describes the property containing the initial phase of lots in the development) and in Exhibit "E" (which describes the property constituting the Common Areas).

Section 2. Additions

- a. So long as there are Class B memberships of the Association, additional property, described in Exhibits "B", "C" and "D", may be annexed to the above-described property without the assent of the Class A members of the Association, provided that FHA/VA determine that the annexation is in accord with the general plan theretofore approved by them. Thereafter, such additional property may be annexed only with the consent of two-thirds of the Class A members of the Association. The scheme of the within Covenants and Restrictions shall not, however, be extended to include any such additional property unless and until the same is annexed to the real property described on Exhibit "A", as hereinafter provided. The maximum number of Lots which can be included in the Association is 102.
- b. Any annexations made pursuant to this Article, or otherwise, shall be made by recording a Supplementary Declaration of Covenants and Restrictions among the Land Records for Marion County, Oregon, which Supplementary Declaration shall extend the scheme of the within Covenants and Restrictions to such annexed property. Such Supplementary Declaration may contain such complementary additions and modifications to the covenants and restrictions set forth in the within Declaration as may be necessary to reflect the different character or use, if any, of such annexed property.

ARTICLE III. Membership

Section 1. Every Owner of a Lot which is subject to the assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership.

- a. With the exception of the Declarant, every person, group of persons or entity who is a record owner of a fee interest in any Lot which is or becomes subject by covenants of record to assessment by the Association shall be a Class A member of the Association, provided, however, that any such person, group of persons, or entity who holds such interest solely as security for the performance of an obligation shall not be a member. Class A members shall be entitled to one vote for each Lot in which they hold the interest for membership. In the event that more than one person, group of persons or entity is the record owner of a fee interest in any Lot, then the vote for membership appurtenant to such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.
- b. The Class B member shall be the Declarant, its successors and assigns, and shall be entitled to three votes for each Lot in which it holds the interest otherwise required for Class A membership, provided, however, that each Class B

membership shall lapse and be converted to Class A membership on the first to happen of the following events:

- i. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
 - ii. On January 1, 1991.
- c. Prior to the issuance of any Class A memberships the Declarant reserves the right to alter, modify, remove or add to any of the Covenants, Conditions, Restrictions and/or Agreements set forth herein with the provision that any alterations, modifications, removals or additions shall not be in violation of applicable laws.

ARTICLE IV. Members' Rights of Enjoyment

Section 1. Every member shall have a right and easement of enjoyment in and to the Common Areas and Common Facilities (if any), and such easement shall be appurtenant to and shall pass with the title to every Lot subject to the following:

- a. The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Areas and Common Facilities (if any), and in aid thereof to mortgage said Common Areas and Common Facilities (if any) with the consent of two-thirds of each class of members; and
- b. The right of the Association to levy reasonable admission and other fees for the use of any recreational facility (if any) situated upon the Common Areas or that may be constructed upon the Common Areas or any other land which may be purchased by the Association; and
- c. The right of the Association to take such steps as are reasonably necessary to protect the above-described property against mortgage default and/or foreclosures; and
- d. The right of the Association to suspend the voting rights and the right to use the Common Facilities (if any), for a period during which any assessment remains unpaid for any period not to exceed sixty days for any infraction of its published rules and regulations; and
- e. The right of the Association to dedicate or transfer all or any part of the Common Areas or Common Facilities (if any), to any public or municipal agency, authority or utility for such purposes consistent with the purposes of this Declaration and subject to such conditions as may be agreed to by the members, provided, however, that no such dedication or transfer shall be effective unless an instrument signed by two-thirds of each class of the then members of the Association has been recorded, agreeing to such dedication, transfer, purpose or

conditions, and unless written notice of the proposed agreement and action thereunder is sent to each member at least ninety days prior to the taking of any action; and

- f. The rights of the fee owners of Lots to a perpetual easement over any Lot or Common Area or Common Facility (if any), for such portions of their Dwelling Units as may overhang said Lot and Common Areas or Common Facilities (if any) and for necessary pedestrian and vehicular ingress and egress to and from any such Dwelling Unit or Lot over said Lot(s) and Common Areas and Common Facilities (if any), for maintenance, repair and for utility services; and easements are reserved through each of the Lots and Dwelling Units for the benefit of any adjoining Lot and Dwelling Unit as may be required for structural, painting, roofing and siding repair, and for electrical lines and conduits, heating, air conditioning and ventilating ducts, water lines, drain pipes and other appurtenances to such utility systems in order to adequately serve each of such; and
- g. To the extent permitted by law, the Association may participate in mergers and consolidations with other nonprofit corporations organized for the same purpose, provided that any such merger or consolidation shall require the assent votes cast at a duly held meeting of two-thirds of the entire Class A membership and two-thirds of the entire Class B membership, if any; and
- h. The right of the Association to limit the number of guests and members; and
- i. The Declarant hereby dedicates the Lots for use by all utilities and Cable TV for the construction and maintenance of their respective facilities servicing the lands described in Exhibits "A", "B", "C" and "D", attached hereto and here incorporated by reference; and Declarant hereby grants to such utilities and Cable TV, jointly and severally, easements for such purpose. The location and extent of such easements shall be as shown on any recorded subdivision plat of the properties; and, in the absence of such designation by plat, such easements shall be located and extend thirty feet on either side of the centerline of all facilities, respectively, installed by each utility within the Common Areas or Lots as part of the development or phase prior to the conveyance of the Common Areas or Lots, or any portion thereof, by Declarant to the Association, provided, however, no portion of the Common Area occupied by any building installed by the Declarant as part of the development or phase shall be included within any easement area. Subsequent to such conveyance, additional easements may be granted by the Association for utility purposes. Easements are reserved to the Declarant, successors or assigns through any additional phases or stages designated in exhibits "B", "C" and "D", and made a part of this Declaration.

Section 2. Rights Not Subject to Suspension. Notwithstanding anything herein contained to the contrary, the rights and easements created in Paragraph (f) of Section 1 of this Article IV or Section 1 through and including Section 5 of Article XI hereof shall not be suspended by the Association for any reason.

ARTICLE V. Maintenance Assessments

Section 1. The Declarant for each Lot owned by it (and as hereinafter limited by the provisions of this Declaration) and each person, group of persons or entity who becomes an Owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay the Association:

- a. Annual assessments or charges; and
- b. Special assessments for capital improvements, or maintenance provided by the Association, such assessments to be fixed, established and collected from time to time as hereinafter provided.

The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the property and Lot against which such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person, group of persons or entity who was the Owner of such property and Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them.

Section 2. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Three Hundred Sixty Dollars (\$360.00) per Lot.

- a. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 15% above the maximum assessment for the previous year without a vote of the membership.
- b. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 15% by a vote of two-thirds of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- c. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.
- d. In addition to the above assessment each initial Owner will be required to pay one additional month's assessment to be used by the Association as they see fit. The one month's fee will be a contribution to a start-up operating fund.

Within ninety days after the end of each fiscal year, the Board of Directors shall supply to all Owners an accounting of the Common Expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collected

pursuant to the budget adopted by the Board of directors for such fiscal year, and showing the net amount collected pursuant to the actual expenditures plus reserves.

In the event any legal action is required to collect assessments hereunder, then and at the discretion of the Board of Directors, the entire balance of assessments due on account of said unit for the remainder of the fiscal year shall be due in full.

Section 3. Payment of Common Expenses. All Owners shall be obligated to pay the assessments assessed by the Board of Directors pursuant to the provisions of Section 1 of this Article V and such expenses not paid by the 30th day after the due date shall be in default. No Owner shall be liable for the payment of any part of the Common Expenses assessed against the Owner's Lot when said assessment is made subsequent to a sale, transfer or other conveyance by the Owner of such Lot. Any Owner may be entitled to a statement from the Board of directors setting forth the amount of the unpaid assessments against the Owner. Provided, further, that if a mortgagee of a first mortgage of record obtains title to a Lot as a result of foreclosure of a first mortgage, such purchaser, its successor and assigns, shall not be liable for, and such Lot shall not be subject to a lien for the payment of Common Expenses assessed prior to the acquisition of title of such Lot by such purchaser pursuant to the foreclosure sale. The Board of Directors has the responsibility and authority to re-assess unpaid shares of common expenses against all Lot Owners but not including the purchaser at the foreclosure sale and such reassessment against all other Lot Owners shall be equal.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized 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 construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 of this Article of the Declaration shall be sent to all members not less than seven days nor more than fifty days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to thirty percent of all votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement.

Section 6. Commencement of Annual Assessments. The annual assessment provided for herein shall commence as to each Lot on the first day of the month following the conveyance of the Common Area. The first annual assessment for any such Lot shall be made for the balance of the calendar year and shall become due and

payable and a lien on the date aforesaid. Except as hereinafter provided, the assessment for any Lot for any year after the first year, shall become due and payable and a lien on the first day of said year.

It shall be the duty of the Board of Directors of the Association to periodically fix the amount of the annual assessment against each Lot for each assessment period and the Board of Directors shall make reasonable efforts to fix the amount of the assessment against each Lot for each assessment period at least thirty days in advance of such date or period and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be opened to inspection by any Owner upon reasonable notice to the Board.

Written notice of annual assessment shall be sent to every owner subject thereto.

Section 7. Assessment of Declarant. Both annual and special assessments must be fixed at a uniform rate for all Lots except that the assessment payable by the Declarant on Lots where there is no occupied dwelling may be less than the assessments payable by Class A members but not less than 25% of the assessments payable by Class A members, and Declarant, while there is Class B membership shall pay to the Association any deficit incurred by the Association over assessments collected.

Section 8. Assessment Certificates. The Association shall, upon demand, at any reasonable time, furnish to any Owner liable for assessment a certificate in writing signed by an officer or other authorized agent of the Association, setting forth the status of said assessment; i.e., whether the same is paid or unpaid. Such certificate shall be conclusive evidence of the payment of any assessment therein stated to have been paid. A charge not to exceed Ten Dollars (\$10,00) may be levied in advance by the Association for each certificate so delivered.

Section 9. Effect of Non-Payment of Assessments - Remedies of the Association. Any assessment not paid within thirty days after the due date shall bear interest from the due date at the rate of ten percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of the Owner's Lot.

Section 10. Subordination of the Lien to the Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage given to secure payment of the purchase price. Sale or transfer of any Lot pursuant to the foreclosure of any first mortgage given to secure the payment of the purchase price, or pursuant to any proceeding in lieu of such foreclosure, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. The lien of the assessments provided for herein shall also be subordinate to tax liens.

ARTICLE VI. Exterior Maintenance

Section 1. Maintenance of Common Area. The Association will be responsible for the repair, maintenance and replacement of all Common Areas and Common Facilities (if any).

Section 2. Exterior Maintenance of Dwellings. In addition to maintenance upon the Common Areas and Common Facilities (if any), as aforesaid, the Association may, in the interest of the general welfare of all the Owners of the property, provide periodic exterior maintenance upon either Lots or Dwelling Units subject to annual assessment as provided herein, as follows (but in no way limited to the following): periodic painting of exterior building surfaces and trim, repair and maintenance of gutters, downspouts, roofs, shrubs, lawns, walks, driveways and other exterior improvements, all as and when it deems necessary for the purposes aforesaid but not without resolution by the Board of directors of the Association and not without reasonable notice to the owner of any Lot or Dwelling Unit.

Section 3. Maintenance of Lots. Subject to rules and regulations to be adopted by the Association, the Lot Owners shall have primary responsibility for the maintenance of their Lots. In the event an Owner of any Lot in the properties shall fail to maintain the premises and improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds of the vote of the Directors shall have the right, through its agents and employees, to enter upon said parcel and repair, maintain and restore the Lot and the exterior of the building and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessments to which such Lot is subject.

ARTICLE VII. Architectural Control.

Section 1. Architectural Control Committee. Except for the original construction and except for purposes of proper maintenance and repair or as otherwise in this Declaration provided, it shall be prohibited to install, erect, attach, apply, paste, hinge, screw, nail, build, alter, plant, remove or construct any lighting, shades, railings, screens, awnings, patio covers, decorations, fences, features, walls, aerials, antennas, radio or television broadcasting or receiving devices, slabs, sidewalks, curbs, gutters, patios, balconies and decks, porches, driveways, greenhouses, gutters and downspouts, garage walls, fireplaces, or to make any change or otherwise alter (including any alteration in color), in any manner whatsoever the exterior of any Lot, Dwelling Unit, or upon any of the Common Areas or Common Facilities (if any), within the project or to remove or alter any windows or exterior doors of any Dwelling Unit, materially increase the cost of operating or insuring the Association property or impair any easement, until the complete plans and specifications, showing the location, nature, shape, height, form of change (including, without limitation, any other information specified by the Board of Directors or its designated committee) shall have been submitted to and approved in writing as to safety, the effect of any such alterations on

the cost of maintaining and insuring the Association property and harmony of design, color and location in relation to surrounding structures and topography, by the Board of Directors of the Association, or by an architectural control committee designated by it.

Section 2. Architectural Control Committee - Operation. The Architectural Control Committee shall be composed of three or more natural persons designated from time to time by the Board of Directors of the Association and such persons shall serve at the pleasure of the Board of Directors. In the event the Board of Directors fails to appoint an Architectural Control Committee, then the Board of Directors shall constitute the Committee. The affirmative vote of a majority of the members of the Architectural Control Committee shall be required in order to adopt or promulgate any rule or regulation, or to make any finding, determination, ruling or order, or to issue any permit, consent, authorization, approval or the like pursuant to the authority contained in this Article. In no event shall the powers and duties herein provided in any way alter or affect the ultimate control or powers of the Board as provided in this Declaration.

Section 3. Approvals, etc. Upon approval by the Architectural Control Committee of any plans and specifications submitted pursuant to the provisions of the Article, a copy of such plans and specifications, as approved, shall be deposited among the permanent records of such Committee and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. In the event the Architectural Control Committee fails to approve or disapprove any plans and specifications which may be submitted to it pursuant to the provisions of this Article within ninety days after such plans and specifications (and all materials and information required by the Architectural Control Committee) have been submitted to it in writing, then approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VIII. Use Restrictions.

Section 1. Residential Use. Except for the areas of the Association property designated for recreational use, all Lots shall be used for private residential purposes exclusively except such temporary non-residential uses as may be permitted by the Board of Directors from time to time. Nothing in this Section, or hereinelsewhere, shall be construed to prohibit the Declarant from the use of any Lot which Declarant owns for promotion, marketing, management, construction or display purposes as "model units" or for leasing or selling any unit or units which Declarant owns.

Section 2. Prohibited Uses and Nuisances. Except for the activities of the Declarant and its agents in connection with the original construction and sale of Lots or Dwelling Units, and except as may be reasonable and necessary in connection with the repair or reconstruction of any portion of Lots, Dwelling Units or the Association property by the Association:

- a. No noxious or offensive trade or activity shall be carried on within the Association property or within any Lot situated thereon, nor shall anything be done therein or

thereon which may be or become an annoyance to the neighborhood or the other owners. No nuisances shall be permitted within or upon any Lots, nor shall any use or practice be permitted which is or becomes a source of annoyance to the members or which interferes with the peaceful use and possession thereof by the members.

- b. There shall be no obstruction of any Lot. Nothing shall be stored upon any Lot or within or upon any parking spaces, parking areas, driveways or driveway aprons except for motor vehicles, without the approval of the Board of Directors. Vehicular parking may be further regulated by the Board of Directors.
- c. Nothing shall be done or maintained on any Association property or Lot which will increase the rate of insurance on the Dwelling Units or Association property or Lots, or result in the cancellation thereof, without the prior written approval of the Board of Directors. Nothing shall be done or maintained on any Association property or Lot which would be in violation of any law. No waste or dumping shall be committed upon any Association property or Lot.
- d. No structural alteration, construction, addition or removal or any improvement on any Lot or Common Area shall be commenced or conducted except in strict adherence with the provisions of this Declaration.
- e. The maintenance, keeping, breeding, boarding and/or raising of animals, livestock or poultry of any kind, regardless of number, shall be and is hereby prohibited within any Lot or upon any Common Area unless approved in writing by the Board of Directors. Pets shall not be permitted upon any Common Area unless accompanied by an adult and unless they are carried or leashed. Any member who keeps or maintains any pet upon any portion of a Lot or Common Area shall be deemed to have indemnified and agreed to hold the Association, each of its members and the Declarant free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet. The Board of Directors shall have the right to order any person whose pet is a nuisance to remove such pet from the premises, or to charge such person for any extraordinary cost of maintaining the Lot, Dwelling Unit, Common Area or Common Facility (if any), caused by the presence of the pet.
- f. Except for such signs as may be posted by the Declarant or the Association for promotional or marketing purposes, no signs of any character shall be erected, posted or displayed upon, in, from or about any Association property or Lot or the Common Areas without the prior consent in writing of the Board of Directors and/or under such conditions as they may establish. One "For Sale" sign may be placed on the lot as long as it does not exceed 3' x 3'; overall height cannot be more than 3½ feet. Under no circumstances will signs offering the Lots for rent or sale be posted upon the Common Areas.

- g. Except as hereinelsewhere provided, no junk vehicle, other vehicle, trailer, truck, camper, camp truck, house trailer, boat or the like be kept upon any of the Lots or Common Areas, nor shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out within or upon any Association property.
- h. No part of the Lots or Common Areas shall be used for commercial activities of any character. This subsection shall not apply to the use of the Common Areas, and Lots owned by the Declarant for reasonable display, marketing, promotional, sales, construction or management purposes.
- i. No burning of any trash and no unreasonable or unsightly accumulation or storage of litter, new or used building materials, or trash of any other kind shall be permitted within any Lot or upon any Common Area. Trash or garbage shall be deposited with care in containers designated for such purpose.
- j. No structure of a temporary character, trailer, tent, shack, barn or other outbuilding shall be maintained upon any Common Areas or Lot at any time. Outside clothes dryers or clotheslines shall not be maintained upon any Lots or Common Areas at any time. No clothing, laundry or the like shall be hung from any part of any Lot or upon any of the Common Areas or from or upon any patio.
- k. No outside television or radio aerial or antenna, or other aerial or antenna, for reception or transmission, shall be maintained upon any Common Areas or Lots or Dwelling Units without the prior written consent of the Board of Directors, except as may be originally installed by the Declarant prior to January 1987. After February 23, 1988, buyers of units containing outside antennas shall remove those antennas upon purchase of the unit.
- l. No member shall engage or direct any employee of the Association on any private business of the member during the hours such employee is employed by the Association or the Management Agent (if any), nor shall any member direct, supervise or in any manner attempt to assert control over any such employee.
- m. No Dwelling Unit or portion thereof shall be leased/rented for more than twelve (12) months in any five (5) year period. Any owner of any Dwelling Unit who shall lease such Dwelling Unit shall, promptly following the execution of any such lease, forward a conformed copy thereof to the Board of Directors. All leases shall be in writing. Any such lease shall contain a provision to the effect that the rights of the tenant to use and occupy the Dwelling Unit shall be subject and subordinate in all respects to the provisions of this Declaration and the By-Laws and to such other reasonable rules and regulations relating to the use of the Common Areas, or other "house rules," as the Board of directors may from time to time promulgate and shall provide, further, that any failure by the tenant to comply with the provisions of such documents shall be a default under the lease. The provisions of this subsection shall not apply to any institutional first mortgagee of any Dwelling Unit who comes into possession of the Dwelling Unit

by reason of any remedies provided by law or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, assignment or deed in lieu of foreclosure. No Dwelling Unit within the Association shall be rented for transient or hotel purposes or, without the prior written approval of the Board of directors, for any period less than month to month.

- n. There shall be no violation of any rules for the use of the Lots, Dwelling Units or Common Areas or other "house rules," which may from time to time be adopted by the Board of Directors and promulgated among the membership by them in writing, and the Board of Directors is hereby in this Declaration authorized to adopt such rules.
- o. No unlawful use shall be made of any Lot or any portion of the Common Areas; and all laws, zoning and other ordinances or regulations of governmental or other municipal bodies and the like shall be observed at all times.

ARTICLE IX. Party Walls.

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of a Dwelling Unit and placed on the dividing line between the Lots shall constitute a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

Section 6. Arbitration. In the event of dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE X. Parking.

Section 1. Temporary guest or recreational parking shall be permitted within the Association property only within spaces and areas clearly marked for this purpose. Spaces shall be shown by signs or marking on the paved area. The Association, through its officers, committees and agents is hereby empowered to establish "parking" and "no parking" areas within the Association property, as well as to enforce these parking limitations by all means lawful for such enforcement on county streets, Lots and Common Areas, including the removal of any violating vehicle by those so empowered (in any thirty-day period).

Section 2. No Owner shall park, store or keep on any street (public or private) within the Property for over 24 hours (in any thirty-day period), any large commercial type vehicle (including, but not limited to, any dump truck, cement mixer truck, oil or gas truck or delivery truck); any recreational vehicle (including, but not limited to, any camper unit, house, car or motor home); any bus, trailer, trailer coach, camp trailer, boat, aircraft, mobile home; or any inoperable vehicle or any other similar vehicle. In addition, no Owner shall park, store or keep anywhere within the Property any vehicle or vehicular equipment, mobile or otherwise, deemed to be a nuisance by the Board, upon any unenclosed parking space, so as to be visible from anywhere in the Property. All trailers, campers, motor homes and similar recreation vehicles shall be parked in enclosed garages or otherwise adequately screened from view by way of a structure approved by the Architectural Committee. The above excludes camper trucks or similar vehicles up to and including three-quarter ton when used for everyday-type transportation and subject to approval by the Board. No Owner of a Lot shall conduct major repairs or major restorations of any motor vehicle, boat, trailer, aircraft or other vehicle upon any portion of any Lot or elsewhere within the Property, except wholly within the Owner's garage; provided however, that such activity shall at no time be permitted if it is determined by the Board or its agent to be a nuisance. Notwithstanding the foregoing, these restrictions shall not be interpreted in such a manner as to interfere with the development and or construction of the Residences on the Property.

Section 3. Nothing shall be stored upon any parking apron, spaces or driveways, nor shall the same be permitted to accumulate trash or debris.

Section 4. Each Owner shall comply in all respects with such supplementary rules and regulations as are not inconsistent with the rules of this Declaration which the Board of Directors may from time to time adopt and promulgate with respect to parking and traffic control within the Association, and the Board of Directors is hereby and elsewhere in this Declaration authorized to adopt such rules and regulations.

**ARTICLE XI. Amendments and
Mortgage Protections, Notices and Miscellaneous.**

Section 1. The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty years from the date this Declaration is recorded, after which time such covenants, conditions, reservation of easements, equitable servitudes and restrictions shall be automatically extended for successive periods of ten years, unless a Declaration of Amendment or Termination meeting the requirements of an amendment to this Declaration as set forth in Section 2 of this Article has been recorded, agreeing to change or terminate such covenants and restrictions in whole or in part.

Section 2. Amendments.

- a. By Declarant. Prior to the sale of a Lot to a member of the public, the provisions of this Declaration may be amended or terminated by recordation of a written instrument signed by Declarant setting forth such amendment or termination. Subsequent to the sale of a Lot, Declarant hereby reserves and is hereby granted the right and power, until such time as all Lots within the Property are conveyed, to record a Special Amendment to this Declaration to:
- i. Comply with the requirements of the Federal National Mortgage Association, the Veterans' Administration, Federal Housing Administration of the U.S. Department of Housing and Urban Development and/or the Federal Home Loan Mortgage Corporation; and/or
 - ii. To induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages or deeds of trust encumbering units.

In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to make or consent to a Special Amendment on behalf of each owner.

- b. By Member. The provisions of this Declaration, other than Articles II, III, IV, VII and IX, and Section 2 of this Article XI (which may not be amended without the written consent of Declarant until closing for the sale of the last Lot from Declarant to a purchaser), may be amended by recordation of a Certificate, signed and acknowledged by the President and Secretary of the Association,

setting forth the amendment and certifying that such amendment has been approved by the Lot Owners who represent at least 75% of the voting power of the Association, and such an amendment shall be effective upon recordation of such Certificate in the office of the Marion County Recorder. The prior written approval of 75% of all first Mortgagee or Deed of Trust-holders must be obtained also before Section 2 of this Article XI may be amended.

Section 3. Mortgage Protection. Notwithstanding any other provision of the Declaration, no amendment or violation of this declaration shall operate to defeat or render invalid the rights of the Beneficiary under any Deed of Trust or Mortgagee under any mortgage upon a Lot made in good faith and for value, and recorded prior to the recordation of such amendment, provided that after the foreclosure of any such Deed of Trust such Lot shall remain subject to this Declaration, as amended. Notwithstanding any and all provisions of this Declaration to the contrary, in order to induce The Mortgage Corporation ("FHLMC"), the Federal National Mortgage Association ("FNMA"), VA and FHA to participate in the financing of the sale of Lots within the Property, the following provisions are added hereto (and to the extent these added provisions, pertaining to the rights of Mortgagees, Beneficiaries and Grantors under a trust deed, FHLMC, FNMA, VA and FHA, conflict with any other provisions of this Declaration or any other of the Restrictions, these added restrictions shall control):

- a. Each first Mortgagee of a Mortgage or Deed of Trustholder encumbering any Lot, upon filing a written request for notification with the Board, is entitled to written notification from the Association of any default by the Mortgagor of such Lot in the performance of such Mortgagor's obligations under the Declaration, the Articles or the By-Laws (collectively referred to as the "Project Documents"), which default is not cured within 30 days after the Association learns of such default.
- b. Every Owner, including every first Mortgagee of a Mortgage or Deed of Trustholder encumbering any Lot, which obtains title to such Lot pursuant to the remedies provided in such Mortgage, or pursuant to foreclosure of the Mortgage, or by deed (or assignment) in lieu of foreclosure, shall be exempt from any "right of first refusal."
- c. Each first Mortgagee of a Mortgage or Beneficiary or Grantor under a Deed of Trust encumbering any Lot which obtains title to such Lot pursuant to judicial foreclosure of the powers provided in such Mortgage shall take title to such Lot free and clear of any claims for unpaid assessments or charges against such Lot which accrued prior to the acquisition of title to such Lot by the Mortgagee or holder of a Deed of Trust.
- d. Unless at least two-thirds of the first Mortgagees or holders of Deeds of Trust (based upon one vote for each Mortgage owned) or two-thirds of the Members other than Declarant have given their prior written approval, neither the Association nor the Owner shall:

- i. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Association Property and Common Facilities (if any), or the improvements thereon which are owned, directly or indirectly, by the Association (the granting of easements for public utilities or for other public purposes consistent with the intended use of such property by the Association shall not be deemed a transfer within the meaning of this clause);
 - ii. Change the method of determining obligations, assessments, dues or other charges which may be levied against any Owner, or the method of allocating distributions of hazard insurance proceeds or condemnation awards;
 - iii. By act or omission change, waive or abandon any scheme of regulations or enforcement thereof, pertaining to the architectural design of the exterior appearance of the Dwelling Units on the Lots, the exterior maintenance of the Dwelling Units on the Lots, or the upkeep of lawns and planting on the Association Property;
 - iv. Fail to maintain Fire and Extended Coverage insurance on insurable Association Property on a current replacement cost basis in an amount as near as possible to one hundred percent (100%) of the insurable value based on current replacement cost;
 - v. Use hazard insurance proceeds for losses to any Association Property for other than the repair, replacement or reconstruction of such improvements; or
 - vi. Amend this Declaration or the Articles of Incorporation or By-Laws of the Association in such a manner that the rights of any first Mortgagee will be adversely affected.
- e. First Mortgagees or holders of Deeds of Trust, upon written request, shall have the right to examine the books and records of the Association during normal business hours; require from the Association the submission of audited annual financial reports and other financial data; receive written notice of all meetings of the members; and designate in writing a representative to attend all such meetings.
- f. All first Mortgagees or Deed of Trustholders shall be given thirty days' written notice prior to the effective date of any proposed, material amendment to this Declaration or the Articles or By-Laws, and prior to the effective date of any termination of an agreement for professional management of the Property following a decision of the Owners to assume self-management of the Properties; and shall also be given immediate written notice as soon as the Board receives notice or otherwise learns of any damage to the Association Property whenever

the cost of reconstruction exceeds Ten Thousand Dollars (\$10,000), and as soon as the Board receives notice or otherwise learns of any condemnation or eminent domain proceedings or other proposed acquisition, with respect to any portion of the Property.

- g. First Mortgagees or Deed of Trust holders may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Association Property and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such property, and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.
- h. The Reserve Fund described in Article VI of the By-Laws must be funded by regular scheduled monthly, quarterly, semi-annual or annual payments rather than by large special assessments.
- i. Any agreement between the Association and its professional manager (if any), or any agreement providing for services by Declarant to the Association, shall provide that the contract may be terminated for cause on not more than thirty days' written notice, and without cause (and without penalty or the payment of a termination fee) at any time upon not more than ninety days' written notice, and the term of any such contract shall not exceed one year.
- j. The Board shall secure and cause to be maintained in force at all times a fidelity bond for any person or entity handling funds of the Association, including, but not limited to, employees of any professional manager.
- k. Any agreement for the leasing or rental of a Lot shall provide that the terms of such agreement shall be subject in all respects to the provisions of this Declaration, the Articles and the By-Laws. All such agreements shall be in writing and shall provide that any failure by the lessee to comply with the terms of this Declaration, the Articles and the By-Laws shall be a default under the agreement.
- l. In addition to the foregoing, the Board may enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of the VA, the FHA, the FHLMC or the FNMA, or any similar entity, so as to allow for the purchase, guaranty or insurance, as the case may be, by such entities of first Mortgages encumbering Lots with residences thereon. Each Owner hereby agrees that it will benefit the Association and the membership of the Association, as a class of potential Mortgage borrowers and potential sellers of their respective Lots if such agencies approve the Properties as a qualifying community under their respective policies, rules and regulations, as adopted from time to time. Mortgagees are hereby authorized to furnish information to the Board concerning the status of any Mortgage encumbering a Lot.

Section 4. Notice. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered 48 hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

Section 5. Relief. Each Owner shall be governed by, and shall comply with all the terms of the Declaration, the By-Laws, and the rules and any amendments of the same. A default by an Owner shall entitle the Association, acting through the Board of Directors or through the Management Agent (if any), to the following relief:

- a. Legal Proceedings. Failure to comply with any of the terms of the Declaration, the By-Laws, and the Rules shall be grounds for relief which may include, without limiting the same, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for in the By-Laws or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association, the Board of Directors, the Management Agent, or, if appropriate, by an aggrieved Owner.
- b. Additional Liability. Each Owner shall be liable for the expense of all maintenance, repair or replacement rendered necessary by the Owner's act, neglect or carelessness or the act, neglect or carelessness of any member of the Owner's family or employees, agents, tenants or licensees, but only to the extent that liability is imposed by Oregon law and to the extent that such expense is not covered by the proceeds of insurance carried by the Board of Directors, including any increase in insurance rates occasioned by such act. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation.
- c. Costs and Attorneys' Fees. In any proceeding arising out of any alleged default by an Owner, the prevailing party shall be entitled to recover the costs of the proceeding, and such reasonable attorneys' fees, not exceeding $33\frac{1}{3}$ percent, as may be determined by the Court.
- d. No Waiver of Rights. The failure of the Association, the Board of Directors, or an Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration, the By-Laws or the Rules shall not constitute a waiver of the right of the Association, the Board of Directors or the Owner to enforce such right, provision, covenant, or condition in the future. All rights, remedies and privileges granted to the Association, the Board of Directors or any Owner pursuant to any term, provision, covenant or condition of the Declaration, the By-Laws or the Rules shall be deemed to be cumulative, and the exercise of any one or more thereof shall not be deemed to constitute an election of

remedies, nor shall it preclude the party exercising the same from exercising such privileges as may be granted to such party by the Declaration, the By-Laws or the Rules, or at law or in equity.

Section 5. Severability. Invalidation of any one of these covenants or restrictions by judgment, decree or order shall in no way affect any other provision hereof, each of which shall remain in full force and effect.

ARTICLE XII. FHA/VA Approval.

As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties other than that described in Exhibits "B," "C" and "D," dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarants herein, have hereunto set their hands and seals this 26th day of May, 1981.

KAUFMAN HOMES

/s/ Gary Kaufman

/s/ Dean Kaufman

/s/ Duane Kaufman

STATE OF OREGON)
) ss.
COUNTY OF MARION)

On this 26th day of May, 1981, personally appeared the within-named GARY KAUFMAN, DEAN KAUFMAN AND DUANE KAUFMAN, who executed the foregoing instrument and acknowledged the same to be their voluntary act and deed.

Before me:

/s/ M. Carole White
Notary Public for State of Oregon
My Commission expires 10/12/84

(Seal)

(Article VIII, Section 2.m. revised by vote of members on January 31, 2005.)