

The Board of Directors (BoD) completed a two-year process in July 1974 to modify the CC&Rs and to transfer certain language from the CC&Rs – in modified form – into the completely rewritten By-Laws of the KRCEOA. The BoD used ONLY the CC&Rs for Unit #1. It appears that the Declarations of CC&Rs for Units 2, 3, 4, and 5 were ignored and NOT modified, despite their unique legal descriptions of lots in each unit, the in-common properties held by the KRCEOA and the Duration of each unit. **The 1974 modified Declaration for Unit #1 was apparently NOT recorded in the Siskiyou County Recorder's Office.** This unfiled modified Declaration of CC&Rs for Unit #1 became the 'de facto' basis for the marketing of lots in all units from the autumn of 1974 through 1979.

A brochure titled "Klamath River Country Estates Owners Manual" was distributed to KRCE Owners of record from 1974 through 2003 that contained the CC&Rs for Unit #1 only. An updated version of the "Klamath River Country Estates Owners Manual" was given to Susan Wallace when she purchased her lot in 1980. The changes made to the CC&Rs for Unit #1 after 1974 are:

1. Adding a preamble at the beginning of the document,
2. Deleting the last sentence from Article III, Section 2,
3. Adding back the complete text of Article VI from the 1967 filed CC&Rs for Unit #1.
4. Deleting Article IX, Section 3.

It is NOT clear that these changes were ever voted upon or approved by Members, or filed with the Siskiyou County Recorder's Office.

**The Unit #1 CC&Rs that follow are the ORIGINAL from 1980 with the changes noted in colors: Deletions are shown in RED. Changes and Additions are shown in BLUE.**

**Abstract**  
**Declaration of Covenants, Conditions, and Restrictions**  
**Klamath River Country Estates Owners' Association, Inc.**

\*\*\*\*\*  
\* THE FOLLOWING COVENANTS, CONDITIONS AND RESTRICTIONS (CC&R'S)\*  
\* WERE LEGALLY RECORDED BY THE DEVELOPER AT THE TIME OF SUB- \*  
\* DIVISION AND ARE LEGALLY BINDING ON THE ORIGINAL AND \*  
\* SUBSEQUENT PROPERTY OWNERS. SUBSTANTIALLY THE SAME CC&R'S \*  
\* WERE FILED FOR EACH UNIT AS THEY WERE ADDED TO THE \*  
\* SUBDIVISION AND ARE EQUALLY BINDING. \*  
\*\*\*\*\*

WHEREAS, Pacific Cascade Land Company, Inc., hereinafter called  
“Declarant”, is the owner of that certain real property located in the County of  
Siskiyou, State of California, described as:

Lots 1 through 756, inclusive, as said lots are shown on the map  
of Klamath River Country Estates, filed September 26, 1967, in  
Town Map Book 4 on page 71 to 86 inclusive, Official  
Records of Siskiyou County.

and

WHEREAS, it is the desire and intention of the Declarant to subdivide said  
real property described above in such manner that the owner of each of Lots 1  
through 755 inclusive shall also own an undivided interest in Lot 756, Klamath River  
Country Estates, and to impose on said real property mutually beneficial restrictions  
under a general plan or scheme of improvement for the benefit of all of said lots, the  
structures thereon and the future Owners thereof.

NOW THEREFORE, the Declarant hereby declares that all of the real property described above is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, covenants and conditions, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement and sale of said real property and are established and agreed upon for the purpose of enhancing and perfecting the value, desirability and attractiveness of the real property and every part thereof. All of the limitations, covenants, restrictions and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described real property or any part thereof, and shall be for the benefit of each owner of any portion of said real property, or any interest therein, and shall inure to the benefit of and be binding upon each successor in interest of the owners thereof.

## **Article I**

### **Definitions**

As used in this Declaration, the following definitions shall apply, unless the context otherwise requires:

- (a) Articles of Incorporation and By-Laws: Articles of Incorporation or By-Laws, or both, as the case may be, of the Association as the same may be amended from time to time.
- (b) Association: Klamath River Country Estates Owners' Association, Inc., a non-profit California corporation.
- (c) Common Area: The property delineated and identified as Lot 756 as shown on the Map.
- (d) Owner: Each person shown by a duly acknowledged instrument recorded in the Office of the County Recorder of Siskiyou County, California, to be the owner of a fee interest in a unit ownership.

- (e) Residence Lot: The portion of a unit ownership as to which an owner is entitled to exclusive occupancy, and including all structures and improvements thereon.
- (f) Unit Ownership: The entire interest conveyed by deed to an owner, including the residence lot and the related interest in the common area. There shall be one unit ownership for each residence lot. Until any residence lot is deeded out to a successor owner by the Declarant or the subdivider, the Declarant or subdivider as owner of record shall be recognized as its owner and until so deeded out, assessments on the unit ownership comprising such residence lot shall be the debt of the Declarant or subdivider who is record owner.

## **Article II**

### **Additions to Existing Property**

Additional properties will be brought within the scheme of this Declaration in future stages of the development, consisting of additional single family lots and common recreational areas as shown on the tentative map approved by Siskiyou County and on file with the California Division of Real Estate, provided as follows:

1. That such additions are in accord with a General Plan of Development prepared prior to the sale of any lot and made known to every purchaser (which may be done by brochure delivered to each purchaser) prior to such sale; and
2. That the annexation of such properties must take place within three years from date of issuance of the last Final Subdivision Public Report.

Such General Plan of Development shall show the proposed additions to the Existing Property and contain:

1. a general indication of size and location of additional development stages and proposed land used in each;
2. the approximate size and location of common properties proposed for each stage;
3. the general nature of proposed common facilities and improvements; and
4. a statement that the proposed additions, if made, will become subject to assessment for their just share of Association expenses.

The additions authorized under this and the succeeding subsection, shall be made by filing of record a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the covenants and restrictions of this Declaration to such property.

Such Supplementary Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplementary Declaration revoke, modify or add to the covenants established by this Declaration within the Existing property.

### **Article III**

#### **Occupancy and Use of Residence Lots and Common Area**

Section 1: Residence Lots: Each residence lot shall be used as a residence for a single family and for no other purposes; "Single Family" as used herein shall or may include the casual guests of such family and the domestic employees or servants of such family.

Section 2: Architectural Control - The following requirements shall be followed on all residence lots:

- a. That no building to be occupied as a residence with a floor area of less than 600 square feet shall be placed or maintained on said property.
- b. That no building shall be erected nearer to any side line than 10 feet, nor shall be located closer than 25 feet from the front or street and shall be no closer than 20 feet to the rear line.
- c. That no basement, shack, garage, barn or other out-buildings erected in the Tract shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence, except as hereinafter provided.
- d. That a house trailer or mobile home may be used as a dwelling; provided, however, that said house trailer or mobile home must contain a minimum floor area of 400 square feet; must be approved in writing by the Architectural Control Board; and must comply with all applicable sections of the Siskiyou County Code.
- e. Individual sewage disposal system shall be designed in accordance with all applicable sections of the Siskiyou County Code and shall be subject to the inspection of and approval by the Siskiyou County Health Department.
- f. No house, garage, outbuildings, fence or other structure shall be built, erected, placed or altered on any residential lot on said subdivision unless and until the building plans, specifications and plot plan have been reviewed in advance by the Architectural Control Board, and the same has been approved conditionally or otherwise. Said review and approval shall include without being restricted to, topography, finish ground elevations, landscaping, drainage, color, material, design, artistic conformity to the terrain and other residences in the area, and architectural symmetry. Said requirements as to the approval of the architectural design shall apply only to the exterior appearances of said improvements. It not being the intent of these restrictions to control the interior layout or design of said structures.

Said Architectural Control Board will be appointed by the Declarant. At any time after 75% or more of the said lots have been sold, or within three years after issuance of the public report, whichever occurs first, the Association shall have the power to change the membership of the committee and appoint members to the committee thereafter.

Section 3: Common Area - The common area shall be preserved as open space and used for recreational purposes and other purposes incidental and ancillary to the prescribed use of the residence lots. There shall be no obstruction of the common area, nor shall anything be altered or constructed in or removed from or stored in the common area without the written consent of the Association. The common area shall be continuously maintained pursuant to the terms of this Declaration for the exclusive use and benefit of the residence lots and the occupants thereof subject to this Declaration.

Section 4: Nuisances - No noxious or offensive activity shall be carried on in or on any residence lot or in the common area, nor shall anything be done therein which may be or become annoyance or nuisance to the other owners.

#### **Article IV**

#### **Association**

Section 1: Powers and Duties - The Association shall perform each and every duty required of it by this Declaration.

Section 2: Enforcement - The Association shall have the duty to enforce the provisions of this Declaration, including the duty to seek to enjoin any breach or threatened breach of any of the provisions hereof, and to pay all costs of any such action or other enforcement procedure.

Section 3: Taxes - Except to the extent separately assessed and charged to the owners or the unit ownerships of the owners, the Association shall have the authority and duty to pay all taxes and assessments, if any, levied against the common area or the subject property generally.

Section 4: Utilities - To the extent possible all utilities such as electricity, gas, water, telephone, television, trash pickup, and like services shall be separately metered and/or charged to the owners, but the Association shall have the authority and duty to pay for the utilities and utility services required for the common area.

Section 5: Contracts with Adjoining Associations or Land Owners – The Association shall have the authority and power to enter into contracts with owners of lands adjoining or near the subject property and with associations having powers with reference to said land similar to the powers held by the Association. Any contracts so entered into may provide, among other things, a joint installation, maintenance and repair of facilities benefiting subject property and other lands for the joint retainer of and use of maintenance, professional and management services for the joint discharge of any of the duties of each party to such contract to the extent that the duties so defined shall not be inconsistent with the duties, powers, and rights of the Association as herein defined. The right conferred upon the Association to contract with landowners of adjacent lands shall include the right to merge with and into such management bodies or associations.

Section 6: Improvements – The Association shall have the authority and power to construct, improve, repair and reconstruct any and all improvements on or over or under the common area not inconsistent with this Declaration, and appropriate for the use and benefit of the members of the Association, and to charge for the use thereof. Provided, however, that no capital improvements to be funded or paid for by any assessments levied pursuant to the provisions of Article V hereof, in excess of \$2,000, shall be made unless such capital improvements shall have first

been authorized by a vote of a majority of the voting power of the Association excluding the vote of the Declarant and the subdivider.

## **Article V**

### **Assessments**

Section 1: Annual Assessments - Not less than thirty days prior to the beginning of each calendar year, the Association shall estimate the net cash requirements for the ensuing year necessary for the Association to operate and to maintain the property subject to the jurisdiction in accordance with the duties, and each unit ownership shall be assessed for an equal pro rata share of the amount so estimated.

Section 2: Special Assessments – In addition, if the annual assessment is inadequate or anticipated to be inadequate the Association may from time to time establish a special assessment to remedy any such inadequacy, and each unit ownership shall be assessed for an equal pro rata share of any such special assessment.

**[EDITOR'S NOTE: The entire text of Article VI was deleted from the 1974 version. It was added back in 1980.]**

## **Article VI**

### **Liens**

Section 1: General – The amount of any assessment, plus any other charges thereon, such as interest and costs, as may be provided for in this Declaration, shall be and become a lien upon the unit ownership assessed when the Association causes to be recorded with the County Recorder of Siskiyou County, California, a notice of assessment, which shall state the amount of such assessment and such other charges as may be authorized by this Declaration, a description of

the unit ownership against which the same have been assessed, and the name of the record owner thereof. Such notice shall be signed by an authorized representative of the Association. Upon payment of said assessment and charges in connection with which such notice has been so recorded, or other satisfaction thereof, the Association shall cause to be recorded a further notice stating the satisfaction and release of the lien thereof.

Such lien shall be prior to all other liens recorded subsequent to the recordation of said notice of assessment, except that such liens shall be subordinate to any valid bona fide first mortgage or first trust deed which has been or may hereafter be given in good faith and for value on any unit ownership covered by this Declaration. Any lien imposed upon any unit ownership pursuant to these Restrictions shall remain and continue in full force and effect until satisfied and released.

Such lien may be enforced by sale by the Association, its attorney or other person authorized to make the sale, after failure of the owner to pay such an assessment in accordance with its terms, such sale to be conducted in accordance with the provisions of Sections 2924, 2924b and 2924c of the California Civil Code, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law. The Association shall have power to bid in the unit ownership at foreclosure sale and to hold, lease, mortgage and convey the same.

## **Article VII**

### **Repair and Restoration**

Section 1: Owners - The owner of each residence lot shall at his expense maintain, and in the case of damage or destruction, shall repair or restore his residence lot and all improvements thereon. All such repair or restoration shall be done substantially in accordance with the original plans and specifications, or in

accordance with any modification thereof as approved by the Association. If the owner shall fail to perform his obligations under this Section 1 of this Article VII, the Association shall be authorized to effect such repairs or restoration and charge such owner all costs thereof.

Section 2: The Association – The Association shall have the obligation to maintain at its expense, and in case of damage or destruction shall promptly repair or restore at its expense, the common area and all improvements thereon.

Section 3: Apportionment of Expenses – If two or more owners cannot agree on the apportionment of expenses of maintenance and repair or restoration, they shall be conclusively apportioned by the Association. If the Association is involved in a dispute over the apportionment of such expenses, then the dispute shall be settled by arbitration as provided in article IX.

Section 4: Liens – If the Association undertakes any work which Section 1 hereof requires an owner to undertake, the Association shall assess the unit ownership of the owner for such work and shall so inform the owner thereof in writing. Such assessment shall be a lien upon the unit ownership of the owner and may be foreclosed, as set forth in Articles V and VI hereof.

## **Article VIII**

### **Easements**

Section 1: Ingress, Egress and Support – An easement for ingress, egress and support through the common area is appurtenant to each residence lot and the common area is subject to such easements.

Section 2: Rights of Association – There is reserved to the Association an easement, to which the entire project shall be subject, of entry and of access for the performance generally of its rights and duties as provided in the Declaration. Entry

into the residence of an owner pursuant to this easement shall be restricted to reasonable times and must be preceded by reasonable notice to the occupant, unless entry is required by an emergency.

Section 3: Private Roads – There is reserved for the benefit of each residence lot an easement for ingress and egress over and upon any and all private roads delineated on the map of Klamath River Country Estates filed September 26, 1967, in Town Map Book 4 on page 71 to 86 inclusive, official records of Siskiyou County.

## **Article IX**

### **Miscellaneous**

Section 1: Acceptance of Provisions by Grantees: The Association and each Grantee hereafter of any part or portion or interest in the project, and any purchaser under any grant or contract of sale, or any lessee under any lease covering any part or portion of or interest in the project, accepts the same subject to all of the restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers of the Association and Declarant provided for in this Declaration.

Section 2: Conclusiveness of Records: A certificate of the Secretary of the Association, or in his absence, of any two members of the Association, shall be conclusive proof of all matters contained in the certificate when the certificate shall relate to acts or non-acts of the Association, its Board of Directors, or any committee or agent of the Association, and when the certificate shall be prepared for or delivered to any title insurer or land abstractor for use in a search, in preparing an abstract or in insuring title or in any unit ownership or other interest therein, or lien thereupon. For the same purposes a certificate of any officer of Declarant shall be conclusive proof of its contents.

**Section 3: Construction and Validity of Restrictions:** All of said restrictions, conditions, covenants, reservations, liens and charges contained in this Declaration shall be construed together; but if it shall at any time be held that any one or more of such restrictions, conditions, covenants, reservations, liens or charges, or any part thereof, is invalid, or for any reason becomes unenforceable, no other restriction, condition, covenants, reservation, lien or charge, or any part thereof, shall be thereby affected or impaired.

**Section 4: Assignment of Powers:** Any and all rights, and powers of Declarant provided for in this Declaration, and any modification or amendment hereof, may be delegated, transferred, assigned, conveyed, or released by Declarant to the Association, and the Association shall accept the same upon the recording of a notice thereof, and the same shall be effective for the period and to the extent stated therein.

**Section 5: Waiver and Exemptions:** The failure by the Association or of Declarant or of any owner of any unit ownership included in the project, or any other person, to enforce any of the restrictions, conditions, covenants, reservations, liens or charges to which said unit ownership or any part thereof is subject, shall in no event be deemed a waiver of the right to do so thereafter or to enforce any other restriction, condition, covenant, reservation, lien or charge.

**Section 6: Titles:** All titles used in this Declaration, including those of articles, sections and subsections, are intended solely for convenience of reference, and the same shall not, nor shall any of them affect that which is set forth in such article, section or subsection nor any of the terms or provisions of this Declaration nor the meaning thereof.

**Section 7: Arbitration:** If the Association and one or more owners are unable to agree on the meaning or effect of any part of this Declaration, the dispute shall be conclusively settled by arbitration. The Association shall name one arbitrator; the

owner or owners shall name one arbitrator. The two arbitrators so named shall name a third, and these three shall resolve the dispute.

Section 8: Amendment: This Declaration may be amended upon vote or consent of not less than a 75% majority in interest of the owners in the project given after reasonable notice.

Any amendment shall be binding upon every owner and every unit ownership whether the burdens thereon are increased or decreased thereby, and whether the owner of each and every unit ownership consents thereto or not.

Section 9: Duration - The restrictions of this Declaration shall continue in full force and effect for a period of sixty years from the date of recordation of this Declaration, unless otherwise extended by a majority of the then property owners.

IN WITNESS WHEREOF the undersigned has caused this Declaration to be executed this 28<sup>th</sup> day of September, 1967.

Declarant: Pacific-Cascade Land Company, Inc.

By: (Original signed)

John Sparrowk, Vice President