

DECLARATION OF COVENANTS AND RESTRICTIONS  
BAYSHORE DIVISION NO. 5

Dated January 18, 1965      Recorded April 16, 1965

Book 254, Page 137, Deed Records

Amended February 4, 1980    Recorded February 11, 1980

Book 110, Page 244, Deed Records

KNOW ALL MEN BY THESE PRESENTS that KENNETH M. RENZ, a single man, and BAYSHORE, a co-partnership of A. J. McMILLAN, MOKSHA W. SMITH, A. J. HUTTON, JR., GLEN CORNING, LAWRENCE C. ANGELL, J. D. HONE and J. J. MAGNUS, who are hereinafter collectively referred to as "declarants" do hereby declare as follows:

WHEREAS declarants are the fee owners or contract purchasers, respectively, of certain real property located in Lincoln County, State of Oregon, all lots and tracts within the plat of Bayshore Division No. 5, according to the plat thereof on record in the office of the County Clerk of Lincoln County, Oregon, hereinafter referred to as "said property"; and

WHEREAS declarants desire to subject said property to the restrictions, covenants, conditions, reservations, easements, liens and charges hereinafter set forth, each and all of which is and are for the benefit of said property and for each owner thereof, and shall inure to the benefit of and pass with said property as covenants running with the land, and each and every parcel thereof, and shall apply to and bind the successors in interest, and any future owners thereof, this Declaration of Covenants and Restrictions being for the purpose of keeping said property desirable, uniform and suitable in architectural design and use as hereinafter specified; and

WHEREAS the power to enforce said restrictions, covenants, conditions, reservations, easements, liens and charges is to reside in Bayshore Beach Club, Inc., its successors and assigns, a nonprofit corporation to be organized under the laws of the State of Oregon; now, therefore,

DECLARANTS HEREBY DECLARE that the above described property is and shall be held and conveyed upon and subject to the restrictions, covenants, conditions, reservations, easements, liens and charges hereinafter set forth. No property other than that described above shall be deemed subject to this Declaration unless and until specifically made subject thereto. Declarants, or their successors or assigns, may from time to time subject additional real property owned by them, contiguous to any of the said property above described to the restrictions set forth by appropriate reference thereto. This Declaration is intended to replace any and all covenants and conditions to which the said property has heretofore been subjected, and to that end all covenants and conditions heretofore made affecting the said property are hereby declared null and void.

ARTICLE I.  
General Purpose of Conditions

The said property is being subjected by this Declaration to the restrictions, covenants, conditions, reservations, easements, liens and charges hereby declared to insure the best use and the most appropriate development of each building site thereof; to protect the owners of building sites against such improper use of surrounding building sites as will depreciate the value of their property; to preserve, so far as practicable, the natural beauty of said property; to guard against the erection thereon of poorly designed or proportioned structures and structures built of improper or unsuitable materials; to obtain harmonious color schemes; to insure the highest and best development of said property; to encourage and secure the erection of attractive homes thereon with appropriate locations thereof on building sites; to prevent haphazard and inharmonious improvements of building sites; to secure and maintain proper setbacks from streets; and adequate free spaces between structures; and in general to provide for a high type and quality of improvement of said property, and thereby to enhance the values of investments made by purchasers of lots thereon.

ARTICLE II.  
Covenants and Restrictions

1. Land Use. All lots, tracts and parcels of the said property shall be used only as herein set forth and zoned, and such designated usage can be changed only by the approval of Bayshore Beach Club, Inc., through its Architectural, Planning and Zoning Committee, hereinafter called the "Planning Committee", as provided in the Articles of Incorporation and By-Laws of said corporation. All lots and blocks of the plat of Bayshore Division No. 5 shall be used only for single family residences, except for such lots, tracts or parcels as are specifically designated upon the said plat for park or recreational purposes.
2. Architectural Control. No permanent structure or building shall be placed or erected upon any lot or tract or parcel of the said property which does not conform to Lincoln County building regulations and the requirements of the Planning Committee. No building shall be erected, placed or altered upon any lot, tract or parcel of the said property until the construction plans and specifications have been submitted to and approved in writing by the said Planning Committee prior to the commencement of any construction. The work of construction of all buildings and structures shall be prosecuted diligently and continuously from commencement of construction until exteriors of such buildings and structures are completed and painted or otherwise suitably finished and within six months of commencement. All buildings and structures shall be new construction and no imitations of any material shall be used for exterior finish, which shall be of wood, stone, brick, glass, steel, concrete or a like material, except as otherwise expressly authorized by the Planning Committee. The Planning Committee may, in addition to such other regulations and requirements, impose regulations and requirements requiring an attractive and aesthetically pleasing design for any

building to be erected and requiring the placement thereof upon the subject property in such a manner as to minimize the impact upon the environment and upon other lands within the subdivision, and particularly adjacent property.

3. Building Size Limitations. No dwelling unit shall be permitted on any lot wherein the total usable living area of the structure shall be less than 850 square feet. The term “primary living area” shall exclude attics, basements, garages and similar areas not generally construed as part of the primary living area. No dwelling shall exceed a maximum height of 15 feet from the original grade without written approval from the Planning Committee.
4. Trees, Shrubbery and Planting. No trees, hedges, shrubbery or plantings of any kind whatsoever in excess of six feet in height shall be placed, planted or maintained on any of the said property, nor shall any such tree, hedge, shrub or planting be allowed to grow in excess of such height, without written permission of the Planning Committee: Provided that nothing in this covenant shall be deemed to apply to the original natural trees, shrubbery and growth in their original location upon the said property.
5. Setbacks. No building shall be located on any lot nearer than 20 feet to the front lot line, nor nearer than 5 feet to any such street line or interior property line, without written approval of the Planning Committee. For the purpose of this covenant, eaves, steps and open porches shall not be considered as part of a building; provided, however, that this shall not be construed to prevent any portion of any structure or building upon one lot to encroach upon or over another lot not held in the same ownership.
6. Minimum Lot Size. No dwelling shall be erected or placed on any lot having an area of less than 5,000 square feet, without express written approval from the Planning Committee.
7. Cuts and Fills and Utility, Sewerage and Drainage Easements. The right is reserved to construct and maintain public utilities on the streets and roads of the plat either above or below ground and to make all necessary slopes for cuts or fills upon the lots shown on the plat in the original grading of said streets or roads, together with the right to drain the streets or roads over or across any lot or lots where water may take a natural course and a perpetual easement is additionally reserved under, over and across the rear five (5) feet of each lot for the purpose of placing, laying, erecting, constructing, maintaining and operating or of authorizing the placement, laying, erection, construction, maintenance and operation of utilities, and sewerage and drainage systems. All such easements so reserved may be utilized for public purposes as authorized by the Planning Committee, with the approval of the Board of Directors of the Bayshore Beach Club, Inc. No change in the natural drainage shall be made by any lot owner without prior approval from the Planning Committee.

8. Nuisances. No noxious or offensive activity shall be carried on upon any of the said property, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.
9. Habitation of Temporary Structures. No structure of a temporary character, basement, tent, shack, garage, or any other outbuilding shall be used on any lot at any time as a permanent or seasonal residence or dwelling, except under a temporary written permit which may be granted, upon specific time limitations of such use, in the discretion of the Planning Committee.
10. Boat and Trailer Storage. No boat, boat trailer, travel trailer, camp trailer, house trailer, or any similar property shall be stored on any of said property without prior written approval of the Planning Committee.
11. Laundry. All drying of wash must be done in an area provided for the purpose by the Planning Committee, except that a folding drying rack not more than four feet in height may be placed at the rear of any lot, and shall be stored when not in use.
12. Radio and Television Antennae. No television or radio antennae or towers may be erected or maintained anywhere upon said property without prior written consent of the Planning Committee.
13. Livestock. No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said property, except that dogs, cats and other household pets may be kept provided they are not kept, bred or maintained for any commercial purpose.
14. Refuse. No lot shall be used or maintained as a dumping ground for rubbish, refuse or garbage. Garbage or other waste shall not be kept excepting in sanitary containers. All incinerators or other equipment for the disposal or storage of such matter shall be kept in a clean and sanitary condition, and all incinerators shall be approved before installation or use by the Planning Committee.
15. Sewerage Systems. No individual sewage disposal system shall be permitted on any lot or upon any of the said property unless the system is designed, located and constructed in accordance with the requirements, standards and recommendations of the Lincoln County Public Health Authorities. Approval of such system as installed shall be obtained from such Authorities and the Planning Committee. All septic tank drainfields shall have a minimum capacity of 750 gallons.
16. Oil Drilling. Oil drilling, oil development operations, refining, mining operations of any kind, or quarrying shall not be permitted upon, in or under any of the lots. Notwithstanding the restrictions set forth in the preceding sentence, declarants may carry on such restricted activities, in their discretion.

17. Ground Cover. No person shall strip, remove or destroy ground cover, grass and the like, whether natural or otherwise, from or upon said property: Except as may be necessary in the construction of a dwelling and its appurtenances, and with the proviso that upon completion of construction such cover or landscaping approved by the Planning Committee and having at least equal soil stabilization qualities shall be replaced in areas not occupied by such dwelling and/or appurtenances by the owner at his own expense. This paragraph is in no way limited or qualified by the rights of the Club under paragraph 3 of Article III hereof.

ARTICLE III.  
Bayshore Beach Club, Inc.

1. Membership. The owner of each lot of the said property shall be a member of Bayshore Beach Club, Inc. Each member shall be entitled to one vote for each lot owned by or held under contract of sale to him, but no more than one vote per lot shall be cast regardless of the number of owners thereof.
2. Dues and Assessments. For the purpose of financing the activities of the Club, it is hereby declared that all the lots within the said property may be annually assessed or charged at an initial rate not to exceed four mills per square foot based upon the minimum sized lot of 5,000 square feet, which ordinary annual assessment may be referred to as "annual dues", and computed upon the aforesaid basis will amount to \$20 per lot initially. The annual millage rate may be increased in any one year in an amount not to exceed two mills over the rate in effect for the year immediately preceding. The annual assessment (or dues) and the rate thereof shall be imposed only by the affirmative vote of a majority of the Board of Directors of the Club, for each year after the initial year ending June 30, 1964, for which initial year the said assessment rate has been fixed hereby, and in the By-Laws of the Club. Such annual assessment, or dues, and the date thereof, shall be fixed by the Board of Directors at its meeting held in conjunction with the annual meeting of the members of the Club to be held each year in May, and shall be due and payable on or before the 30<sup>th</sup> day of June succeeding, and if not then paid shall thereafter be delinquent and bear interest at the rate of 10% per annum. Upon becoming delinquent such assessment of dues shall constitute a lien upon the property against which the same was levied, and the Club may file within 120 days after said delinquency a statement of charges or assessments due in the office of the County Clerk of Lincoln County. A release of said lien shall be filed by the Club upon payment in full of said dues or assessment. Said lien may be enforced by the Club as may any lien on real property under the law; and if said lien is foreclosed, the lot owner shall be liable for the costs and disbursements, including reasonable attorney fees, of the Club therein, all of which costs, disbursements and fees shall be secured by such lien. The purchasers of lots within the said property, by the acceptance of deeds therefor, whether from declarants or subsequent owners of any of said property, or by the signing of contracts to purchase the same,

shall become personally obligated to pay such dues or assessments, including interest, upon the lot or lots purchased or agreed to be purchased by them and shall be subject to the enforcement provisions outlined above.

3. Unkempt Lots. The Bayshore Beach Club, Inc., shall have the right at all times to enter upon any lot and after reasonable notice to the owner thereof to do whatever is reasonably necessary to return and maintain the appearance thereof to a condition that is clean, neat and otherwise consistent with the high standards expected of all lots within the sub-division and, in addition, to control erosion or any other form of soil stability by grading, planting or any other accepted practice therefor. The foregoing may be carried out at the expense of the Bayshore Beach Club, Inc., but said Bayshore Beach Club, Inc., shall have a lien upon the property, and the owner thereof shall be personally obligated to provide reimbursement to the Club for all expenses so incurred. Such lien may be enforced in the same manner as provided for in Subsection 2, Article III, relating to collection of dues and assessments. Nothing herein contained shall be construed to excuse the owner from any requirement of or under any other provision of this Declaration of Covenants and Restrictions.

#### ARTICLE IV. Definitions

Wherever used in this Declaration, the following terms shall have meaning given them in this Article IV.

1. "Said Property" shall mean all the land encompassed within the plat of Bayshore Division No. 5, Lincoln County, Oregon.
2. "Declarants" shall mean those declarants signatory to this Declaration and their heirs, assigns, and successors in interest so that it shall be clearly understood that such rights, privileges, and options as are herein reserved to or established for the declarants are subject to assignment and transfer by them to the extent of their individual interests therein, and are in no way to be deemed personal to them alone or terminable by their demise or by such transfer or assignment.
3. "Club" shall mean Bayshore Beach Club, Inc., an Oregon Nonprofit Corporation.

#### ARTICLE V. General Provisions

1. Term. These covenants and restrictions are to run with the land and shall be binding on all parties and persons claiming under them for a period of 25 years from the date this Declaration is recorded, after which time said covenants and restrictions shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the then

owners of all lots within the said property has been recorded, agreeing to extinguish or change said covenants and restrictions in whole or in part.

2. Enforcement. The Club is hereby charged with the authority and obligation for the enforcement of the terms of this Declaration. Enforcement may be by proceedings in equity or at law against any person or persons violating or attempting or threatening to violate any of the covenants or restrictions hereof, either to restrain such violation or to recover damages. In the event that the club fails to take appropriate action for the enforcement of the covenants and restrictions hereof within a reasonable time after a violation or threatened or attempted violation is brought to its attention in writing, any person or persons then owning lots within the said property may take such steps in law or in equity as may be necessary for such enforcement. Any damages recovered in such enforcement proceedings shall inure to the benefit of the person or persons damaged by the violation involved. The party prevailing in any such enforcement proceeding whether in law or in equity shall have from his opponent such attorney's fees as the court may deem reasonable.
3. Severability. Invalidation of any one of these covenants and restrictions or any part thereof by judgment or court order shall in no wise affect any of the other provisions hereof, which shall remain in full force and effect.
4. Transfer of Rights. All the declarants herein shall have the right to transfer at any time or from time to time all or any of the rights, privileges and options of declarants to the Club. Such transfer or transfers must be in writing, and may be made conditional or revocable by their terms.
5. Amendment of Declaration. This Declaration may be amended at any time by the affirmative vote of a two-thirds majority of the voting power of the Club at any annual meeting or at any special meeting specifically called for that purpose.
6. Insertion in Deeds. The declarants, their heirs, assigns and successors in interest hereby agree to inform any prospective purchaser or lessee of any of the said property of the existence of this Declaration and the covenants and restrictions herein contained; and further agree that in every deed or lease of said property or any portion thereof a clause reasonably identical to the following shall be inserted: "This real property is subject to the terms and conditions of a Declaration of Covenants and Restrictions dated January 18, 1965 and recorded upon the records of deeds of Lincoln County, Oregon."

IN WITNESS WHEREOF Declarants have hereunto set their hands and seals this 18<sup>th</sup> day of January, 1965.

SIGNED AND ACKNOWLEDGED