

Return to:  
CK3, LLC  
368 SW 5th Ave  
Ontario, OR 97914

INSTRUMENT NO. 2008 - 621  
Page 1 of 14 Pages

Inst. No. 2008-621  
I certify that the within Instrument of  
writing was received for record on  
the 29 day of January, 2008  
at 3:14 O'clock P.M. FEE 86-  
STATE OF OREGON, County of Malheur  
DEBORAH R. DeLONG  
County Clerk

By: Sherril Childs Deputy

DECLARATIONS ESTABLISHING COVENANTS,  
CONDITIONS AND RESTRICTIONS  
OF  
BAR-O-RANCH ESTATES SUBDIVISION

ARTICLE I - RECITALS

THIS DECLARATION is made on the date hereinafter set forth by *Kenneth E. and Turza L. Thayer*, hereafter referred to as "Declarant."

WHEREAS, Declarant is the owner of certain real property in Malheur County, State of Oregon, hereinafter referred to as "the Properties," more particularly described as follows:

*Land in Malheur County, Oregon, in Section 29, Township 17 South, Range 47 East, Willamette Meridian, being Bar-O-Ranch Estates Subdivision as per the official plat thereof filed under Instrument No. 2008-620, Slide 42, Cabinet A, on 1-29-2008, and the remaining lands shown as Future Stage Two as shown on above said Plat and the Master Plan of this Subdivision in the Records of the Malheur County Planning Department.*

WHEREAS, the Declarant desires to subject the Property to the covenants, conditions restriction, easements, reservations, limitations and equitable servitude herein set forth to insure the proper design, development, improvement and use of the property by the Grantor and all other persons or entitles who may subsequently acquire an interest in the Property.

ARTICLE II - DEFINITIONS

As used in this Declaration, unless the context otherwise specifies or requires following words and phrases shall be defined as follows:

Architectural Committee: An organization, which shall be responsible for the approval of plans and specifications for the development of each Lot and for the modification, promulgation, and enforcement of its rules governing the use and

maintenance of Lots within Bar-O-Ranch Estates Subdivision and the improvements thereon.

Building: A structure constructed on a Lot, on a temporary or permanent basis, and unless specified to the contrary, shall include all other appurtenances and Improvements thereto or used in connection therewith.

Common Area: Lands shown on the recorded plat labeled Common Area which is reserved for uses as stated herein for the benefit of all Property Owners of Lots within Bar-O-Ranch Estates Subdivision and are owned equally among all persons belonging to the Property Owners Association.

Declaration: This instrument as it may be amended from time to time.

Development: The Project to be undertaken by the Grantor resulting in the improvement of Bar-O-Ranch Estates Subdivision, including landscaping, amenities, construction of roadways, utility services and other improvements, as elected by the Declarant.

Property Owner Association: All person(s) that holds Title into any Platted Lot within Bar-O-Ranch Estates Subdivision Stage one and two. For voting purposes Joint owners of any one Lot shall have only one vote for said lot within the Association.

### ARTICLE III - ARCHITECTURAL CONTROL

#### 3.1 Architectural Committee

The Architectural Committee shall consist of three (3) members, two (2) of which will be the Declarant, and one (1) of which will be appointed by the Declarant. At such time that the Declarants are no longer the majority owners of the lots, then three (3) members shall be elected from the owners of the lots.

#### 3.2 Prohibition of Alteration and Improvement

Subject to the exemption of Declarant hereunder, no structure, improvement, or alteration of any kind (which will be visible from other Dwellings or any public right-of-way) shall be commenced, erected, or maintained upon the Property, until the Architectural Committee has approved the same in

writing.

### 3.3 Plans and Approval

The Architectural Committee shall make available to all Owners within the Project a set of rules and guidelines to assist Owners in preparing plans under this Article 3. The rules and guidelines shall not be binding upon the Committee, but shall set forth general criteria to be considered by the Committee in evaluating a particular application for architectural approval.

Plans and specifications showing the nature, kind, shape, color, size, materials and location of any such structure, improvement or alteration shall be submitted to the Committee for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. No permission or approval shall be required to rebuild in accordance with Declarant's original plans and specifications previously approved by the Committee. The Committee shall consider and act upon any and all plans and specifications submitted for its approval under this Article and perform the inspection of construction in progress to assure its conformance with plans approved by the Committee. Any application submitted to the Committee pursuant to this Article shall be deemed approved, unless written disapproval or a request for additional information or material by the Committee shall have been transmitted to the applicant within thirty (30) days after the date of receipt by the Committee and of all required materials.

### 3.4 Non-Liability of Committee Members

Neither the Architectural Committee nor any member thereof shall be liable to any Owner for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties hereunder unless due to the willful misconduct or bad faith of the Committee member. The Committee shall review and approve or disapprove all plans submitted to it for any purpose structure, improvement or alteration, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and the Project generally, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural or conformance with building or other codes.

3.5 Objective and Authority of Architectural Review Committee

A. Development Objectives; to preserve the site integrity and life styles of Bar-O-Ranch Estates Subdivision.

B. Applicable Provisions of Declaration of Covenants of Bar-O-Ranch Estates Subdivision:

1. Architectural Review Committee

- b. Function: Be responsible for the approval of plans and specifications for the development of each Lot and for the modification, promulgation, and enforcement of its rules governing the use and maintenance of Lots within Bar-O-Ranch Estates Subdivision and the improvements thereon.
- c. Members: Three persons as provided for in the Declaration of Covenants.
- d. Action: Except as otherwise provided therein, any two members of the Architectural Committee shall have the power to act on behalf of the Committee.
- e. Duties and Rules: No person shall construct or reconstruct any improvement on any unit, make any change to any unit, whether by excavation, fill, alteration of existing drainage, fence, outside antenna (other than a normal TV antenna), or outside wire on a unit unless such person has first obtained the approval of the Architectural Committee.
- f. Non-waiver: Consent by the Architectural Committee to any matter proposed to it or within its jurisdiction shall not be deemed to constitute a precedent of waiver impairing its right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.
- g. Estoppels Certificate: Within 30 days after written demand therefore by a Lot owner, the Architectural Review Committee shall execute and deliver to the Lot Owner requesting the same an estoppels certificate certifying with respect to the property of such Lot Owner that, as of the date of the certificate, either (1) all

improvements and other work within such Lot comply with the provisions of the Declaration and any applicable Supplemental Declaration and with all restrictions, rules, and regulations adopted in or pursuant thereto, or (2) that such improvements and work do not so comply for reasons specified in the certificate. Any purchaser or mortgagee of a Lot may rely on such certificate with respect to the matters set forth therein such matters being conclusive against the Board and all lot Owners.

- h. Liabilities: Neither the Architectural Committee nor any member thereof shall be liable to any Lot Owner or the Board (or any other party as a result of any certificate furnished pursuant to 3.5.B.1.b. above) for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the Committee or a member thereof, provided only that the member has acted in good faith.

#### ARTICLE IV - PURPOSE

Bar-O-Ranch Estates Subdivision is hereby made subject to the covenants and restrictions contained in this Declaration, all of which shall be deemed to be imposed upon and run with the land and each and every Lot and parcel thereof, and shall apply to each and every owner and Occupant thereof and their respective successors in interest, to Insure proper design, development, Improvement, use and maintenance of Bar-O-Ranch Estates Subdivision for the purpose of:

- (a) Insuring Owners and Occupants of building of quality of design, development, Improvement, use and maintenance as shall protect and enhance the Investment and use of all Lots and Improvements.
- (b) Prevention of the erection in Bar-O-Ranch Estates Subdivision of Improvements of Improper design or construction with Improper or Unsuitable materials or with Improper Quality and Method construction.
- (c) Encouraging and assuring the erection of high quality and attractive Improvements appropriately located with Bar-O-Ranch Estates Subdivision.
- (d) Securing and maintaining proper setbacks from streets and adequate free spaces between Improvements.

(e) Establishment of the Property Owners Association to govern and enforce this Declaration.

## ARTICLE V - PERMITTED USES

### 5.01 Use:

The Lots with Bar-O-Ranch Estates Subdivision shall be used for the following purposes:

(a.) Residential Lots: All lots shall be used exclusively for single-family residential purposes

### 5.02 Approval of Use and Plans:

No Improvement shall be built, constructed, erected, placed or materially altered with in Bar-O-Ranch Estates Subdivision after the date of this Declaration, unless and until the plans, specification, and site plan have been reviewed and approved by the Architectural Committee.

### 5.03 Prohibited Buildings:

No trailer or other vehicle, tent, shack, garage, accessory building or out building on a Lot shall be used as a temporary or permanent residence. No manufactured homes will be allowed. No out building of any size other than attached to the main house shall be allowed on any lots within the skyline view of any home sites on or adjacent to the Subdivision.

### 5.04 Easements:

There is hereby reserved for the use and benefit of the Grantor and granted for the use and benefit of each Lot, and benefit of each Owner and Occupant and their successors and assigns, for the purposed incident to such use, development, and maintenance of Bar-O-Ranch Estates Subdivision, an easement(s) for the installation and maintenance of public utilities of all kinds, including radio, television and transmission cables, the easements designed on the recorded Plat. The lots adjoining and/or benefiting from the use of the said easements shall maintain the ingress and egress and usage rights of said easements shown on the plat or granted hereafter.

5.05 Signs:

No commercial billboard or advertising shall be displayed to the public view on or from any Lot including signs for day care or residential care. Owners may advertise a dwelling unit and Lot for sale by displaying a single, neat and reasonable sized sign on a Lot. Other temporary signs advertising the name of the builder or the name of the Institution providing financing may be displayed on a Lot during the construction of Improvements. All lighted, moving or flashing signs for any purpose, other than temporary safety signs during construction or maintenance operations, are prohibited.

5.06 Subdividing:

Except as specifically provided in the Declaration to the contrary, no Lot may be further subdivided, nor any easement, except easements for public utilities, or other interest therein less than the whole be conveyed by the Owners thereof. With the exception that a lot may be split and apportioned to two other lots and a portion of a lot may be added to another lot, but in no case may a lot be smaller than two (2) acres and no new parcel created.

5.07 Fences:

No fence or hedge located on a Lot shall have a height greater than six (6) feet above the surface of the ground upon which it is located. The construction or maintenance of spite fences or spite trees or shrubs shall be prohibited on all Lots. All fences shall be constructed in a substantial manner and shall be maintained at all times in good repair. All new fences constructed, as boundary fences shall be grade cedar or redwood if wood or chain link fence or quality vinyl unless approved by the Architectural Committee.

5.08 Maintenance:

- (a) Each Owner of a Lot shall maintain all Improvements located thereon in good and sufficient repair and shall keep the Improvements thereon painted or stained, lawns cut, shrubbery trimmed, rubbish and debris removed, weeds cut and other wise maintain the same in a neat and aesthetically pleasing condition. Pending the construction of Improvements, each owner shall keep the Lot in a neat condition and shall not permit an unreasonable accumulation of rubbish and debris and shall keep all weeds and

other growths maintained in an orderly manner.

- (b) In the event all or any portion of the improvements on a Lot are damaged or destroyed by fire or other casualty, including any damage occurring as a result of the exercise of the power of eminent domain, or any transfer in lieu thereof, the same must be restored to an architectural whole in accordance with the requirements of this Declaration.
- (c) A building, which is vacant for any reason, shall be kept locked and the window glazed in order to prevent entrance by vandals. The building and yard shall be kept up and maintained.

5.09 Nuisances:

No rubbish or debris of any kind shall be placed or permitted to accumulate upon any Lot within Bar-O-Ranch Estates Subdivision and no odor shall be permitted to arise there from so as to render a Lot unsanitary, unsightly, offensive or detrimental to any other Lot therein or in the vicinity thereof or to its occupants. No noise or other nuisance shall be permitted to exist or operate upon or from any Lot so as to be offensive or detrimental to any other Lot within Bar-O-Ranch Estates Subdivision, or in the vicinity thereof, or to its occupants. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used, or placed on any Lot within Bar-O-Ranch Estates Subdivision. No party noises or loud music shall extend beyond 11:00 P.M.

5.10 Boats, Campers, and other Vehicles:

Any trailer, mobile home, truck larger than a standard pickup, motor home, boat tractor, vehicle (other than automobiles), campers and garden or maintenance equipment, when not in actual use, shall be stored in such a manner as not to be an eye sore or nuisance. No vehicles of any type not in running order shall be allowed on any lot except concealed within an enclosed building. No unlicensed vehicles will remain on the property, other than inside a garage or shop, for more than 48 hours.

5.11 Livestock and Poultry:

No lot shall be used for raising hogs, goats or other animals or as a place for keeping horses, cattle or animals of any kind, providing that the occupant of each residence may keep domestic animals for his own use and pleasure, not exceeding two head of cattle, two sheep, two horses, or any combination of two animals, no more than two dogs and/or two cats may be kept as pets. All pets must be kept maintained on the owner's premises in such a manner as not to be a nuisance to the remaining owners within Bar-O-Ranch Estates Subdivision or surrounding area. No hogs, swine or commercial dog kennels of any kind or kennels holding more than two dogs will be permitted on any lot in the subdivision.

5.12 Exterior Energy Devices/Antennae:

No energy production device including, not limited to, generators of any kind and solar energy devices, or exterior antennae or dish for the reception of radio, television or other signal, shall be constructed or maintained on any Lot in an unsightly manner. Any device that can be seen shall have prior approval of the Architectural Committee.

5.13 Minimum Area:

No building intended for use as a single-family residence shall be erected, altered, placed or permitted to remain on any residential Lot, which building contains less than 1700 square feet of living area. In the event the building intended for use as a single-family residence contains more than one story, the minimum square footage of living areas of the first floor shall be 1,700 square feet. The square footage of living area shall be based on the interior living space at or above the grade of the Lot, exclusive of basements, porches, patios, and garage.

All homes shall have an attached double car garage, of a minimum of 24' x 26'. No garage area may be converted into any other use without an additional garage addition.

5.14 Construction Standards:

The following standards and requirements shall be applicable:

(a) Excavation: Any excavation shall be performed in a workmanlike manner and the Lot kept free from debris. Each Owner shall be responsible for the

repairing of any damage, which may occur during the construction period to any road, mailbox, utility facility, or other on-site or off-site improvement caused by the Owner or Contractors employed by the Owner. All such repairs required hereunder shall be made immediately following the occurrence of the damage.

(b) Utilities: The connection to all utility facilities shall be underground and utility meters shall be placed in an unobtrusive location and concealed behind fences or landscaping where possible.

(c) Driveways: All driveways must be either concrete or asphalt and shall extend from garage to the street.

(d) Maintenance: During construction, the following maintenance shall apply:

1. All debris shall be removed from the Lot prior to each weekend.

2. No materials shall be placed or kept on any adjoining Lot.

3. Vehicles belonging to workmen or used in the construction of improvements shall not be parked in front of occupied residential dwellings or interfere with traffic on public streets,

4. Utilities, including water, shall not be taken from any other Lot without the approval of the Owner thereof.

5. Time of Work: Any work or other activity in connection with the construction or installation of the improvements on a lot shall not be conducted on such days and at such times during the day as shall constitute or result in an unreasonable nuisance or annoyance to neighboring Lots.

(e) Roofs: The roof of each building on a Lot shall be covered with Architectural composition shingles, wood shakes or tile.

(f) Qualified Construction: No construction, alteration, modification, removal or destruction of any improvement of any nature whatsoever which materially alters the exterior appearance of the improvements on a Lot, shall be initiated or be permitted to continue or exist within Bar-O-Ranch Estates Subdivision without prior express written approval of the Architectural Committee. 20%

of the exterior finish of a home built within Bar-O-Ranch Estates Subdivision shall be block, stone, brick or stucco.

## ARTICLE VI - PROPERTY OWNERS ASSOCIATION

### 6.01 Membership:

All person(s) holding Title of ownership to any Lot within Bar-O-Ranch Estates Subdivision shown as Lots 1 through 11 of the Master Plan and Plats of Stage one and Stage two shall be members of the Property Owners Associations hereby established and shall abide by all the rules established within this declaration.

### 6.02 Authority:

- (a) Each Property Owner shall have the authority to enforce by legal means any and all rules and regulations established within this declaration.
- (b) The Property Owners Association shall have the Authority to amend, regulate, or govern this declaration by a majority vote of the members.

### 6.03 Voting:

The Owner of a Lot within Bar-O-Ranch Estates Subdivision Stage one and two, being Lots 1 through 11 shall have one vote on matters pertaining to the Property Owners Association. Joint owners of any one lot shall only have one vote on these matters,( Eleven Lots equals 11 votes).

### 6.04 Ownership:

The lands shown of the Plats of Bar-O-Ranch Estates Subdivision as "Common Area" are owned by the Property Owners Association and are governed by rules and regulations as stated on the plats and as follows:

- (a) As prescribed by State Statute the property taxes for the Common areas are equally disturbed and attached to Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11.

- (b) The Common Areas are reserved for Storm water runoff drainage areas, open space area, and development of improvements for recreation and enjoyment of the Property Owners as approved by the Property Owners Association.
- (c) The Property Owners Association shall be responsible for maintaining the Common Areas and any costs associated with the Common Areas for maintenance and improvements. These costs shall be equally distributed to each Lot and the owners of each lot will be responsible for these costs. The Association shall be responsible for establishing guide lines and fee structures for the purpose of maintaining and improving these areas.
- (d) The Property Owners Association shall have all legal rights to recover any costs not paid by a property owner for any costs associated with the Common areas along with court costs and or attorney fees.
- (e) Each year by January 6<sup>th</sup> of that year, the Property Owners Association shall elect (3) persons to be in charge of making sure the common areas are maintained to State and County regulations and regulations established by the Property Owners Association. These persons shall also be responsible for billing and collecting the costs or fees associated and established for the common areas by the Property Owners Association as per the guide lines established.

6.05 Ownership Not Transferable and Responsibility:

All owners of any of the Lots within Bar-O-Ranch Estates Subdivision upon acceptance of title to these lands fully understand that the Common Areas are lands attached to each lot or parcel and may not be transferred to any other ownership. Failure of the Property Owners Association to act or maintain these lands, amending or extinguishing this declaration will not relieve each individual owner of the lands within this Subdivision from maintaining these Common Areas to State and County regulations. These lands shall be attached and run forever with the Lots in Bar-O-Ranch Subdivision Stage One and Two.

## ARTICLE VII - MISCELLANEOUS

### 7.01 Term:

This Declaration and all covenants, conditions, restrictions, and easements contained herein shall run until January 1, 2018, unless amended hereafter provided. After January 1, 2018 said covenants, conditions, restrictions and easements shall automatically extend for successive periods of five (5) years each, unless extinguished by a written Instrument executed by a majority vote of the Property Owners in Bar-O-Ranch Estates Subdivision and such written instrument is recorded with the Malheur County Recorder.

### 7.02 Amendment:

This Declaration may be amended or terminated by the majority vote of the Owners.

### 7.03 Non-Waiver:

The failure of the Declarer or any Owner in any one or more instances to insist upon the strict performance of any of the covenants, conditions, restrictions, easements, or other provisions of this Declaration or to exercise any right or option contained herein, or to serve any notice or to Institute any action, shall not be construed as a waiver or relinquishment for the future of such covenant, condition, restrictions, easement or other provision, but the same shall remain in full force and effect.

### 7.04 Enforcement Costs:

This Declaration may be enforced by the Owners or by any Owner (including the Declarer) of a Lot. If suit or other action is filed to Interpret or enforce this Declaration, or any provision thereof, the prevailing party shall be awarded reasonable attorney's fee, in addition to the cost and disbursements allowed by law, including the same with respect to an appeal.

### 7.05 Acceptance:

Each Owner of a Lot, each purchase of a Lot under a contract of agreement of sale and each holder of an option to purchase a Lot, by accepting a deed, contract of sale or agreement or option, accepts the same subject to all the

covenants, conditions, restrictions, easements and other provision set forth in the Declarations and agrees to be bound by the same.

7.06 Severability:

Each of the provision hereof shall be deemed independent and severable and the invalidity or unenforceability of any provision or portion thereof, shall not affect the validity or enforceability of any other provision.

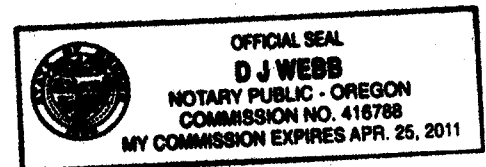
7.07 Interpretation:

The provision of this Declaration shall be liberally construed to affect the purposes hereof and shall be construed and governed in accordance with the laws of the State of Oregon. The singular shall include the plural and the plural the singular, and the masculine, feminine or neuter shall include the masculine, feminine or neuter. All captions and titles are intended solely for convenience of reference and shall not affect that which is set forth in any of the provision hereof.

Kenneth E. Thayer 01-08-08  
Kenneth E. Thayer Date

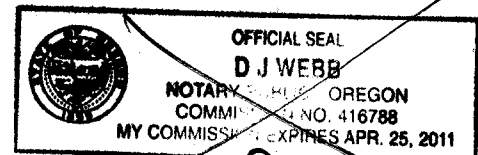
Turza L. Thayer 01-08-08  
Turza L. Thayer Date

State of Oregon )  
SS  
County of Malheur )



ON THIS 8<sup>th</sup> DAY OF January, IN THE YEAR OF 2008, BEFORE ME, DJ Webb, A NOTARY PUBLIC IN AND FOR COUNTY AND STATE, PERSONALLY APPEARED KENNETH E. THAYER AND TURZA L. THAYER, PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAMES ARE SUBSCRIBED TO THE WITHIN INSTRUMENT, AND ACKNOWLEDGED THAT THEY EXECUTED THE SAME

DJ Webb  
NOTARY PUBLIC - OREGON



**Create New Page**