



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

July 31, 2007



TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Klamath Falls Plan Amendment
DLCD File Number 002-07

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: August 9, 2007

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Mark Radabaugh, DLCD Regional Representative
Erik Nobel, City of Klamath Falls

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FORM 2

DLCD NOTICE OF ADOPTION

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

DEPT OF

JUL 24 2007

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: City of Klamath Falls Local File No.: 2-7-07
(If no number, use none)

Date of Adoption: July 17, 2007 Date Mailed: July 19, 2007
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: April 9, 2007

☐ Comprehensive Plan Text Amendment ☒ Comprehensive Plan Map Amendment
☒ Land Use Regulation Amendment ☒ Zoning Map Amendment
☐ New Land Use Regulation ☐ Other: _____
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

The applicant proposes to amend the Sommerlands PUD
to include the development of Townhouses and to enlarge
the commercial zone in the PUD by 1.2 acres

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

Same

Plan Map Changed from: Open Space to Commercial
Zone Map Changed from: OS to RC

Location: Tax Lot R-3809-12C-100 Acres Involved: 1.2

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: 1, 2, 7

Was an Exception Adopted? Yes: _____ No: X

DLCD File No.: 002-07 (16021)

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: ☒ No: ☐

If no, do the Statewide Planning Goals apply. Yes: ☐ No: ☐

If no, did The Emergency Circumstances Require immediate adoption. Yes: ☐ No: ☐

Affected State or Federal Agencies, Local Governments or Special Districts: _____

City of Klamath Falls

Local Contact: Erik Nobel Area Code + Phone Number: 541-883-5361

Address: PO Box 237

City: Klamath Falls Zip Code+4: 97601

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.
6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Larry.French@state.or.us - **ATTENTION: PLAN AMENDMENT SPECIALIST.**

Planning

A SPECIAL ORDINANCE GRANTING A ZONE CHANGE FOR THE SOMERLANDE PUD, LOCATED NORTH OF COLLEGE WAY, AMENDING THE DEVELOPMENT STANDARDS AND THE DEVELOPMENT PLAN.

WHEREAS, the applicant, The City of Klamath Falls, has submitted a written proposal for a zone change of certain real property which is hereinafter described; and

WHEREAS, a public hearing was held on May 29, 2007, pursuant to applicable laws, at which time all evidence and objection with reference to said proposed zone change were considered by the Planning Commission; and

WHEREAS, the City Council hearing notices having been duly given, did hold a public hearing on July 2, 2007, on the recommendation of and including the record of the Planning Commission concerning the zone change; and

WHEREAS, pursuant to such record and hearing the City Council has determined the zone change to be in compliance with the Community Development Ordinance and the Comprehensive Plan; and

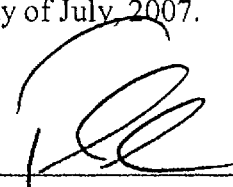
WHEREAS, the City Council adopted the findings of the Planning Commission attached hereto and incorporated by this reference as Exhibit "A"; NOW THEREFORE,

THE CITY OF KLAMATH FALLS ORDAINS AS FOLLOWS:

The Development Standards and the Development Plan for the Somerlande PUD, north of College Way, and which is identified with the Klamath County Assessor Maps as map and tax lots 3909-017C-0100, and as shown on the map attached hereto as Exhibit "C" is hereby amended as shown in Exhibit "B" (Development Standards) and Exhibit "C" (Development Plan).


Passed by the Council of the City of Klamath Falls, Oregon, the 16th day of July, 2007.

Presented to the Mayor, approved and signed this 17th day of July, 2007.



Mayor

ATTEST:



Deputy Recorder

STATE OF OREGON }
COUNTY OF KLAMATH }
CITY OF KLAMATH FALLS } SS

I, _____, Recorder (Deputy Recorder) for the City of Klamath Falls, Oregon, do hereby certify that the foregoing is a true and correct copy of an Ordinance duly adopted by the Council of the City of Klamath Falls, Oregon at the meeting on the 16th day of July, 2007 and therefore approved and signed by the Mayor and attested by the Deputy Recorder.

City Recorder (Deputy Recorder)

**Exhibit A
FINDINGS**

***RELEVANT REVIEW CRITERIA, FACTS AND ANALYSIS, AND
FINDINGS***

This proposal is being reviewed according to the provisions of the Klamath Falls Community Development Ordinance (Chapters 10-14), specifically Sections 11.400-11.440, regarding Change of Zones.

11.415 Required Findings/Criteria for Approval

1. **Criterion** The change of zone is in conformance with the Comprehensive Plan and all other provisions of Chapters 10 to 14 and any applicable street plans.

The following Comprehensive Plan policies apply:

Policy 3: Natural vegetation along streams, drainage ways, and other shorelines will be maintained and conserved.

Staff Response: The applicant has proposed a subdivision layout to maintain and conserve natural drainage ways and the vegetation associated with them. There are no streams or shorelines on the subject property.

This policy is met.

Policy 7: Areas of dense standing trees and shrubbery will not be considered for extensive development; tree cutting should be minimized except where mandated for fire protection or wildlife enhancement.

Staff Response: There are few tree stands within these parcels.

This policy is met.

Policy 47: Harmonious relationships between natural topographic features, parks, homes, businesses, streets, and open spaces will be promoted.

Staff Response: The applicant has submitted development standards that outline the relationships between natural topographic features, parks, homes, businesses, streets, and open spaces. The Collector Street does not meet the City Standards and will be a condition of approval.

This policy is met.

Policy 49: Efforts will be made to preserve the open spaces and scenic values of hilltops and other similar promontories, including public access to them.

Staff Response: The applicant has submitted development standards, which outline height restrictions and building setbacks. The Somerlande PUD will develop natural trail and multi-use path throughout the PUD.

This policy is met.

Policy 86: Pedestrian and bicycle use will be promoted as alternative modes of transportation.

Staff Response: The Somerlande PUD includes to development of a 10 foot wide multi-use path along Lochlainn Boulevard and Carrick Crossing East. This path will help promote the alternative modes of transportation.

This policy is met.

Policy 87: Urban sprawl will be curtailed and in-filling of vacant land promoted to reduce energy costs.

Staff Response: The proposed density does not constitute urban sprawl as the property is on the north edge of the urban growth boundary. The mixed lot sizes create a transition to the lands outside of the UGB.

This policy is met.

Policy 97: The interrelationship of transportation, job sites, shopping sites, recreation, open space and scenery, education and similar activities will be emphasized to provide maximum and efficient use of public facilities and services.

Staff Response: The applicant proposes, in Phase V of the development, a retail/commercial site on 1.89 acres. The neighboring Campus PUD houses OIT, which will be expanding their campus to allow for additional educational services. The proposed Somerlande PUD will be required to have public access trails to the Campus PUD to facilitate access to the adjacent college, hospital and other employment and retail service areas within the Campus PUD and Industrial Park areas.

This policy is met.

Policy 98: Housing projects will serve a variety of ages, incomes, occupations and interests while maintaining individuality in design and aesthetic concern. Housing types for single adults and childless couples will be supported.

Staff Response: The applicant has a target market which requests residential structures with a wide variety of square footage. Phase I consists of 49 lots identified as lots 1 - 33 in Medium Density Residential, lots 34 - 49 in High Density Residential. Phase II consists of 19 lots identified as lots 50 - 71 and Phase III consists of 37 lots identified as lots 72 - 105 and three common areas. The lots in both Phases II and III are designed for Single-Family residences and range in size from 9,833 square feet to 78,137 square feet. Phase IV consists of 71 lots identified as lots (106 - 176) and are designed for High Density Residences. There are also 15.8 acres of open space proposed. Therefore, this PUD promotes a variety of housing types serving a variety of ages, incomes, occupations and interests within the Klamath Falls community.

This policy is met.

Policy 102: The City will encourage the use of innovative site development techniques and the mix of dwelling types in all undeveloped residential areas.

Staff Response: The applicant has submitted development standards that address the development techniques. The applicant is proposing approximately three different dwelling types. Though it is a large tract, as noted above, it will meet a variety of housing needs in the community.

This policy is met.

Policy 104: The construction of multi-family, low-income housing throughout the city will be supported.

Staff Response: This proposal calls for a variety of densities within the PUD. Multi-family housing is proposed for approximately 27 acres. The remaining acreage is allocated to open space, clubhouse, commercial/retail space and public streets.

This policy is met.

Policy 108: Housing for the elderly, including low maintenance smaller units, will be promoted.

Staff Response: In Phase I, the applicant proposes 49 lots identified as lots 1 - 49. These lots will be developed with row houses or low maintenance smaller units. In Phase IV, the applicant proposes 71 lots. These lots may (?) also be developed with rowhouses.

This policy is met.

Policy 128: A system of trails for pedestrian and non-motorized vehicle use will be established to lead out of the City into surrounding open spaces and scenic areas.

Staff Response: The Somerlande PUD includes to development of a 10 foot wide multi- use path along Lochlainn Boulevard and Carrick Crossing East. This path will help promote the alternative modes of transportation.

This policy is met.

Policy 135: The community will create and maintain a diversified system of recreation lands and facilities that meets the recreation needs of all people, conserves energy, and enhances the environmental quality of the community.

Staff Response: The applicant is proposing open space land within the development and a private recreation center.

This policy is met.

Policy 160: Development plans will reflect reasonable needs of motorists but not subvert other needs to the demands of the automobile.

Staff Response: A public trail system via the sidewalks is proposed within and through the development. BTS has the ability to service the development. By allowing other means of transportation will likely create less motor vehicle access in the development thereby reducing traffic and promoting alternative use of the rights-of-way.

This policy is met.

Policy 161: The transportation system will be designed to recognize and respect the characteristics of natural environmental features.

Staff Response: The applicant designed the road layout to follow topography and attempts to meet the 10% grade requirement.

This policy is met.

Policy 172: Adequate water service, either existing or immediately attainable, will be a precondition to any development project.

Staff Response: The applicant is proposing a dedicated water system, which is available at College Way.

This policy is met.

Policy 186: Adequate sewer service, either existing or immediately attainable, will be precondition to the development project.

Staff Response: The applicant is proposing a dedicated sewer system, which is available at College Way.

This policy is met.

Policy 192: Storm water flows within and to natural drainage courses will not, through development, exceed natural capacities within in the City.

Staff Response: The applicant is proposing a detention pond on site. Runoff will be to County, State and private districts. The City is currently reviewing the preliminary storm drainage plan. A response from the City's consultant should be ready approximately at the same time to the applicant receives their response on the Conditional Use Permit or Subdivision application.

This policy is met.

Policy 223: Standards for urbanization will encourage flexibility and innovation in development, permitting mixtures of land uses and intensities which contribute to the quality of the community.

Staff Response: The PUD encourages flexibility and innovation in development. The proposed density does not constitute urban sprawl as the property is on the edge of the urban growth. The mixed lot sizes create a transition to the lands within the vicinity of the UGB and serve to protect the occasional stands of trees and habitat, as well as drainage ways.

This policy is met.

Policy 229: Residential densities will be based on:
Low – up to five units per net acre;
Medium – up to 14 units per net acre;
High – up to and including 35 units per net acre.

Staff Response: Within the 60-acre PUD the following densities are offered:

- 19 acres of low density residential will provide 56 units at approximately 2.1 units per acre;
- 4 acres of medium density residential will provide 33 units at approximately 7.4 units per acre;
- 4 acres of high density residential will provide 87 units at approximately 15.3 units per acre.

This policy is met.

Policy 231: Residential densities adjacent to major arterials will be increased.

Staff Response: Dan O'Brien Way and Campus Drive are the only two collectors in this area, which intersect with Industrial Park Drive.

This policy is met.

Policy 233: Core commercial and residential densities will be as high as practical for energy and transportation advantages.

Staff Response: The applicant is proposing a 15,000 square foot commercial center on a 1.60 acres site in Phase V of the development; this area is located at the main entrance of the site. Residential densities are mixed as stated in Policy 229. The proposed density does not constitute urban sprawl as the properties abut the urban growth boundary. The mixed lot sizes create a transition to the lands outside of the UGB and allow for increased protection of the sparse trees and natural drainage ways.

This policy is met.

Policy 248: The existing imbalance of predominate southern and eastern urbanization, with its adverse effects on facilities and services, transportation, and energy consumption, will be corrected by promotion of urbanization to the north and west, thereby establishing geographically a 'balanced' urban form.

Staff Response: This proposal is located in the northern most section of the UGB.

This policy is met.

Policy 254: Allow growth to occur as naturally as possible without undue restrictions, or conversely, aggressive promotion.

Staff Response: The community is growing at a rapid pace and the City supports development that is thought out and will have a positive effect on the community for generations to come. This development offers a housing option not currently available in the City.

This policy is met.

Finding for Criterion 1: The change of zone is in conformance with the Comprehensive Plan and all other provisions of Chapters 10 to 14 and any applicable street plans. **This criterion is met.**

2. Criterion The property affected by the change of zone is adequate in size and shape to facilitate those uses that are normally allowed in conjunction with such zoning.

Staff Response: The proposed rezone will modify the Somerlande PUD. The 60 acre size of the PUD is adequate to handle the proposed changes. The proposed changes will allow the creation of rowhouses in addition to multifamily dwellings. The other change is the creation of another commercial area. The applicant proposed to change 1.2 acre of open space to commercial. The original Somerlande PUD open space permitted development of a Club House / Recreation Building. The applicant still proposed to develop this area with a Club House / Recreation Center, but desires the flexibility to develop with associated uses around the Club Center.

Finding for Criterion 2: The property affected by the change of zone is adequate in size and shape to facilitate the uses normally allowed in conjunction with the proposed zoning. **This criterion is met.**

3. **Criterion** The property affected by the proposed change of zone is properly related to streets to adequately serve the type of traffic generated by such uses that may be permitted therein.

Staff Response: The proposed change will increase the PM Peak Hour by 10 trips or a 6% increase. This is an insignificant change.

Finding for Criterion 3: This criterion is met.

4. **Criterion** The proposed change of zone will have no adverse effect on abutting property or the permitted uses thereof.

Applicant Response: The proposed development will have no adverse effect on the abutting property or the permitted uses. Land to the west consists of mixture of Industrial and Light Industrial and land to the east consists of public land.

Staff Analysis: The adjacent properties are zoned as follows:
To the **north** is Low Density Residential (RL) in the County, and is outside of the Urban Growth Boundary.
To the **south** is Campus PUD in the City.
To the **east** is Campus PUD in the City and High Density Residential (RH) in the County.
To the **west** is Light Industrial in the City.
It does not appear that the zone change would have an adverse effect on abutting property.

Finding for Criterion 4: This criterion is met

PLANNED UNIT DEVELOPMENT CRITERIA FOR APPROVAL

1. **Criterion** Development of remaining contiguous property under the same ownership can be accomplished as provided in Chapters 10 to 14.

Staff Analysis: Contiguous properties are not under the same ownership.

Finding: This criterion is not applicable.

2. **Criterion** Adjoining land under separate ownership can either be developed or be provided access that will allow its development in accordance with the Comprehensive Plan and Chapters 10 to 14.

Staff Analysis: The proposal is for mixed residential use and retail/commercial use. All streets within the development are proposed for dedication to the public. The applicant has provided one point of access for the residents of Somerland to the neighboring Campus PUD, which is through access onto College Way and Industrial Park Drive. The applicant has provided other options for future access to the north and east during Phases II and III of the development.

Finding: This criterion is met.

3. **Criterion** The proposed street plan affords the most economic, safe, efficient and least environmentally damaging circulation of traffic possible under existing circumstances.

Staff Analysis: The proposed street plan does not offer an adequate alternative (secondary access) to the proposed entrance at the intersection of Industrial Park Drive and College Way. The proposed street plan appears to afford the most economic, safe, efficient and least environmentally damaging circulation of traffic possible under existing circumstances as the dedicated system is for use by the public and open for through traffic.

Finding: This criterion is met.

4. **Criterion** The master plan complies with applicable portions of the Comprehensive Plan, Chapters 10 to 14 and State and Federal laws.

Staff Analysis: The relevant comprehensive policies have been outlined above. The proposed changes will create a superior PUD in the opinion of staff.

The following are required for submittal per Section 12.375 (Master Plan Submittal Requirements) of the CDO:

- (1) A general land use map setting forth the proposed uses of all sectors within the subject property and the approximate acreage of each. **This requirement is met.**
- (2) A topographic map of the property. **This requirement is met.**
- (3) The type and character of structures and the number of dwelling units per net acre proposed for each residential area. **This requirement is met.**
- (4) A statement of the standards of population density for the various proposed residential land uses. **This requirement is met.**
- (5) The general location of all proposed public facility sites and the approximate area of each. **This requirement is met.**
- (6) The general location of major thoroughfares. **This requirement is met.**
- (7) A preliminary report and overall plan describing proposed provisions for storm and other drainage, sewage disposal, water supply and such other public improvements and utilities as the Public Works Director may require. **This requirement is met.**
- (8) A written statement of development standards as they relate to the allocation of land within the development plan to all proposed types of land use. **This requirement is met.**
- (9) Delineation of subareas if development is to be in phases and a schedule of the order of development of each phase. If only one phase is anticipated, the developer may elect to combine the Master Plan requirements with those of the Development Plan under the Conditional Use Permit procedure. **This requirement is met.**
- (10) The Master Plan shall be submitted in a form approved by the Director. The Council shall review the Master Plan and approve, conditionally approve, disapprove or refer the same back to the Commission for further study and recommendation. Any such plan is subject to the final approval of the Council. Any conditions placed upon such approval shall be clear and objective. **This requirement is met.**

Finding: The master plan complies with the applicable portions of the Comprehensive Plan, Chapters 10 to 14 and State and Federal laws. **This criterion is met.**

5. **Criterion** The project results in an equal or superior product than would have resulted from following the base development standards of the applicable zoning district, as provided in Chapter 12.

Staff Analysis: The implementation of the proposed site plan (master plan) results in a superior project relative to the original Somerlande PUD. The proposed PUD zoning allows for flexibility necessary to facilitate the desired mixing of residential (low, medium and high density) and commercial uses that will help meet the residential needs of Klamath Falls.

Finding: This criterion is met.

6. **Criterion** The proposal results in a balanced exchange; for the developer, flexible development standards, maximum land utilization and alternate ownership options. For the community, greater preservation of natural features and natural resources, greater proportions of useable open space and recreation facilities. For both, a greater opportunity for housing at all income levels.

Staff Analysis: The area is conducive to passive recreation, such as open space, and trails open to the general public. The proposed density does not constitute urban sprawl as the property is on the edge of the urban growth. The mixed lot sizes create a transition to the lands outside of the UGB and serve to protect the sparse trees, habitat, and natural drainage ways. The applicant has provided a public trail easement from the mid-section to the northwest property line. PUD zoning allows for flexibility necessary to facilitate the varied residential uses that can result from large scale community planning.

Finding: This criterion is met

7. **Criterion** Potential impacts to adjoining properties have been adequately mitigated through site design and attached development conditions.

Staff Analysis: The potential impacts to adjoining properties would be minimal. The planned unit development has been designed to reduce the likelihood of any adverse impacts through the use of varying lot sizes and placement of open space along the perimeter of property lines.

Finding: This criterion is met.

8. **Criterion** All utilities, access ways, open space and recreation areas not dedicated to the public use are owned and maintained by a homeowner's association or other acceptable private legal entity with the responsibility for and capability of adequate maintenance and care of such facilities, to the satisfaction of the City Attorney and City Engineer.

Staff Analysis: All utilities, access ways, open space and recreation areas not dedicated to the public use are proposed to be owned and maintained by a homeowner's association or other acceptable private legal entity with the responsibility for and capability of adequate maintenance and care of such facilities, to the satisfaction of the City Attorney and City Engineer.

Finding: This criterion is met.

9. **Criterion** The applicant has demonstrated the ability to finance the project through final completion.

Applicant Response: The applicants have various options for financing the project to ensure that the project will be completed. This may include private, bank, and/or developer financing or a combination thereof.

Finding: This criterion is met.

Exhibit "B"
Somerlande Development Standards

SOMERLANDE RESIDENTIAL DEVELOPMENT STANDARDS

Definitions:

(Note that a * indicates that the definition is taken from the Oregon Residential Specialty Code or the International Building Code.)

"Appointed Builder" shall mean any approved builder, or any entity which has purchased a buildable lot.

"Association" shall mean the SOMERLANDE HOMEOWNERS' ASSOCIATION formed pursuant to this Declaration.

"Board" shall mean the Board of Directors of the Association.

"Builder" shall mean the same as Appointed Builder.

"Building" Building shall mean any low-rise residential dwelling or portion thereof, including townhouses and row-houses, that is used, or designed or intended to be used for human habitation, for living, sleeping, cooking or eating purposes, or any combination thereof.*

"Commercial Building" shall mean any structure intended for use in the zones approved for retail, office or other associated commercial enterprises, including community gatherings and functions.

"Common Area(s)" shall mean those parcels included within the Property that are duly designated as common areas, including but not limited to Tracts C, D, E, F, G, H, I, K, L, M, N, O (open space), entry monuments and structures and Tract B (the clubhouse). The Common Area property shall be conveyed to the Association by Declarant after recording the Plat and the Declaration.

"Declarant" shall mean the entity first designated as such above, together with its successors and assigns.

"Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for SOMERLANDE and any annexations and/or amendments thereto.

"Dwelling" Any building that contains one or two dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.*

"Dwelling Unit" A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

"Improvements" shall mean all improvements now or hereafter placed or constructed in, under or upon the Property, including, without limitation, a dwelling, wall, painting (other than existing colors), building, outbuilding, road, driveway, parking area, fence, screening wall and barrier, retaining wall, stair deck, awning, solar panel, dog run, statue, pole, utility distribution facility and any other improvement.

"Lot" A portion or parcel of land considered as a unit.*

"Models" shall refer to Homes used for marketing purposes by Builder.

"Occupant" shall mean the person or persons, entity or entities (including, but not limited to, trust, corporations or partnerships) in lawful possession of all or any portion of a Lot.

"Open Space" shall mean that area designated on the recorded Plat, to be preserved in a natural condition according to the local topography, vegetation and use.

"Owner" shall mean the Owner, whether one or more persons or entities (including but not limited to, trusts, corporations or partnerships), of the fee simple title in any Residential Lot or the contract vendee on any installment land sale contract. Those having an interest merely as security for the performance of an obligation such as mortgagees and lien holders shall not be considered the Owner. In the event of multiple Owners of a single Lot or an Owner that is an entity, an individual shall be designated as the Owner(s) representative to attend meetings of the association and to cast the vote for the Owner(s).

"Plat" shall mean the subdivision plat and any annexations to be recorded in the Klamath County Subdivision Plat Records.

"Public Property" shall refer to the public property contiguous with SOMERLANDE, if any, for which the responsibility of maintenance has been delegated by any governmental authority to Declarant, Builder or the Association. "Public Property" shall include all facilities, improvements, or personal property located or constructed on the real property designated as "Public Property".

"Rowhouse" Single-Family Dwelling unit that meets the definition of a townhouse and two-family dwellings where the dwelling units are separated from each other by a property line. Commonly referred to as a "zero-lot line dwelling."*

"Streetscaping" shall mean landscape (groundcovers, plants, and irrigation systems), hardscaping (sidewalks, walkways, decorative rocks and gravel), and structures (retaining walls, decorative walls, fencing and similar improvements) placed within the public street right-of-way between the curb and adjacent Lot or Tract.

"Storm Drainage" shall mean the overland storm drainage facilities on the Property located within and including the Storm Drainage Easements identified on the Plat.

"Townhouse" A single-family dwelling unit constructed in a group of ^{two} ~~three~~ or more attached units in which each unit extends from foundation to roof and with open space on at least two sides.*

"Tract" shall refer to Tracts A through O as set forth on the Plat.

"Turnover Date" shall mean the date on which eighty percent (80%) of the Lots shall contain Residences completed and occupied.

"Turnover Meeting" shall mean the meeting of Declarant or Builder and the Board called for the purpose of passing control of the Association from Declarant and Builder to the Owners.

Property Subject to Development Standards

The real property that is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Klamath County, Oregon, in that certain plat map entitled "Somerlande" filed in the plat records of Klamath County, Oregon, more particularly described as Lots 1 through 176, of Somerlande. The City of Klamath Falls has the authority to enforce the development standards.

City of Klamath Falls Comprehensive Plan

Somerlande is a Planned Unit Development (PUD) approved by the City of Klamath Falls and as such will adhere to all applicable policies currently included within the Comprehensive Plan. The Master Plan as approved will include an improved surface multi-use 10 foot pedestrian and bike trail in the public ROW as well as low-impact natural surface trails extending through the development that will provide scenic views and trail access through the development. The phases are planned to provide an integrated layout that will preserve the natural topographic features of the landscape. Streets will be dedicated to the city and they will be arranged to provide access to scenic vistas and prominent features for vehicles, bicyclists and pedestrians.

Policies 7 (Minimize Tree Cutting), Policy 47 (Foster a harmonious relationship with the natural feeling of the land), Policy 49 (Preservation of public access), Policy 52 (Discourage Tree Removal) and 53 (Provide low-impact public access) have all been integrated into the site design and subdivision plans for all phases of the PUD.

Somerlande Homeowners' Association

Formation and Authority. The Association shall be formed by Declarant as an Oregon nonprofit corporation after the Declaration is recorded and shall be known as the SOMERLANDE HOMEOWNERS' ASSOCIATION. Declarant shall relinquish control of the Association to the Owners within one hundred twenty (120) days after the Turnover Date.

Membership. Each Owner, by virtue of being an Owner and so long as such Owner continues in that capacity, shall be a member of the Association. Each membership in the Association shall be appurtenant to the Lot and shall be transferable only upon transfer of title to such Lot.

Duties and Powers. The Association shall have all requisite power, duty and authority to perform its obligations under this Declaration, including, without limitation, the power, duty and authority to enforce the provisions of this Declaration and to acquire and pay for, out of the common fund provided by assessments pursuant to Article X, all goods and services necessary or appropriate for the proper functioning of the Association in accordance with the Declaration. Without limiting the generality of the foregoing and subject otherwise to the provisions of this Declaration, the Association shall have the following power, duty and authority to undertake the following actions:

- Determine the amounts necessary or appropriate for its performance of its powers and duties under this Declaration;
- Impose and collect Annual and Special Assessments from the Owners;

- Maintain bank accounts on behalf of the Association and designate the signatories for those accounts;
- File all required income tax returns;
- Enforce by the imposition of fines and/or by legal means the provisions of this Declaration;
- Maintain and repair the Open Space Reserve, Common Area, Storm Drainage areas, and the improvements thereon, if any, and establish one or more reserve funds for such purposes;
- Promulgate, modify and rescind rules and regulations governing the use of the Property, or any portion thereof;
- Obtain such policies of insurance as the Board may from time to time deem appropriate for the protection of the Association, Open Space Reserve, Common Areas, and the improvements thereon, in accordance with Article 10 of the Bylaws;
- Contract for such services as may be necessary or appropriate to manage the affairs of the Association and the Property; and
- Appoint such committees as the Board may determine from time to time to be appropriate to assist in the conduct of the affairs of the Association and delegate to any such committee such authority as the Board may deem appropriate.

Architectural Review and Control

Architectural and Design Review.

No Improvement of any kind shall be commenced, erected, placed or altered on any portion of the Property or of any Lot without the prior written approval of the Architectural Review Committee (ARC). Any such Improvements shall also comply with any applicable sections of the Klamath City and County Code regulating development and improvements.

The ARC shall have the authority to promulgate and issue, and thereafter amend from time to time, design guidelines supplementing and interpreting, and not inconsistent with, any of the design guidelines set forth in this Declaration. As long as Declarant and/or Builder own any Lots in Project, any changes to Design Guidelines must be approved by both Declarant and Builder prior to Board approval. If issued, a written copy of such guidelines shall be supplied to all Owners and shall be fully binding upon all Owners as if set forth fully in this Declaration. In reviewing and approving, conditionally approving, or disapproving proposed Improvements, the ARC shall uniformly apply the guidelines contained herein, and those supplemental or interpretive guidelines as the ARC may from time to time promulgate and issue. The Arc will inform the city of any changes under this section. Improvements shall be consistent with the Design Guidelines, if any, established by the ARC, as amended from time to time. It is the intent and purpose of this Declaration to achieve a high standard of quality of workmanship and materials and to assure harmony of external design with existing improvements and location with respect to topography and finished grade elevations. All construction by Declarant is presumed to have been approved by the ARC and to meet any Design Guidelines of the Association.

Declarant shall not be prevented from changing the exterior appearance of the Common Area, including the landscaping or any other matter directly or indirectly connected with project in any manner deemed desirable by Declarant, provided that the Declarant obtain governmental consents required by law. The construction and material standards of Article 4 notwithstanding, Declarant may change exterior and/or interior designs from initial plans and provisions in this document, without notice. This may include designs, colors, and type of materials provided Declarant obtains any necessary governmental consent.

Construction.

Any construction or alteration of Improvements shall not be scheduled to start before 7:00 a.m. and shall otherwise comply with the City of Klamath Municipal Code.

Landscape Construction. Front yard, side yard and street side yards, as applicable, landscape construction shall be completed prior to occupancy of any dwelling constructed on the Lot, unless seasonal constraints do not allow the installation, as documented by the Builder. Landscaping plans shall be approved by Architectural Review Committee prior to commencement of construction. Rear yard landscaping shall be completed within 180 days after occupancy. All buildings constructed for models shall have landscaping completed within 30 days after construction is completed. Upon written application to the ARC, an extension of the landscaping completion deadlines due to weather may be granted by the ARC.

Construction of Residences and Other Improvements. All dwelling construction shall be completed and approved for occupancy by Klamath County within a one-year period of time from the date of the building permit was issued. No person(s) shall occupy a dwelling during the construction period or prior to occupancy approval. Construction of any other approved Improvement shall be completed within 180 days after the date of commencement of construction. In the event construction is delayed due to causes beyond the reasonable control of the person constructing the Improvement, the construction period shall be extended by the number of days the construction is delayed.

Dwelling Construction Sites. Dwelling construction sites shall be maintained daily and kept in a neat and orderly condition. During construction of a dwelling on any Lot that abuts or has a portion of the Lot within the No Disturbance Zone as described in the Settlement Agreement, protective fencing or other suitable barriers will be used to protect the appurtenant No Disturbance Zone as described in the Settlement Agreement. Once construction is complete, such protective fencing or barriers may be removed. Builder may provide and maintain recycling bins, porta-potties and dumpsters as Builder determines are needed so long as all city ordinances and permits are received. The cost of providing and maintaining such recycling bins, porta-potties and dumpsters shall be paid by the Homeowners Association and shall be assessed against the Owner on a monthly basis pursuant to Article X below.

Construction of Fire Suppression Systems. Until such time a secondary emergency and fire access is provided per the approval of Klamath Falls Fire District No. One, fire sprinkler systems will be required. Sprinkler systems will be installed per the requirements of the Oregon Fire Code (OFC). The OFC references the International Fire Code (IFC) which requires National Fire Protection Association (NFPA) 13D systems for 1 and 2 unit residential units, NFPA 13R systems for 3 or more residential units and a standard NFPA 13 system for all non-residential uses. All fire suppression systems will require approval of Fire District No. One.

Construction Restrictions.

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Residential Development Standards
March 20, 2007

Somerlands Development

Approved Material. Roofing and siding materials are to be of high quality and in harmony with the aesthetic design and style of the dwellings in SOMERLANDE. Siding materials such as Lap siding, Board and Batten, and Cedar/ Paint Grade shake are considered acceptable. Exterior walls and trim shall be wood. Manufactured wood products such as fiberboard, Masonite, etc. are considered acceptable. Roofing materials shall be 30 year minimum architectural composition roofing. All dwellings are to include double wall construction. All construction by Declarant is presumed to have been approved by the ARC and to meet any Design Guidelines of the Association.

Excluded Materials. Items specifically excluded from use are: aluminum windows and T-1-11 plywood siding and paneling as siding.

Minimum Material Standards. Roofing material on all Improvements shall be at least 30 year Dimensional/Architectural composition, cedar shake, tile or slate. Vinyl and aluminum siding is prohibited unless approved by the ARC, in writing, and is identical in appearance to cedar siding.

Building Colors. The colors of all Improvements and materials used thereon shall be aesthetically consistent with the color plan or scheme of SOMERLANDE and shall be approved by the ARC.

Dwelling Size.

SF-L lots (Lots 50 through 105, inclusive). The minimum size for a dwelling shall be 1800 square feet for a single-family dwelling, excluding exterior porch, decks, patios, or garage. All single family dwellings require a minimum of a 2-car garage. A minimum of 10% of the front elevation of each single family dwelling must be comprised of approved brick or rock. Windows must be trimmed on all 4 elevations of each single family dwelling.

SF-M (Lots 1 through 49 inclusive).

SF-H (Lots 106 through 176 inclusive).

2 Unit Rowhouses (Duplex) will have a minimum square footage of 1300 Sq Ft per unit

3 Unit Rowhouses (Tri-plex) will have a minimum square footage of 1300 Sq Ft per unit

4 unit Rowhouse (Four-plex) will have a minimum square footage of 1300 Sq Ft per unit

Building Envelopes.

Plans for single family dwellings will include the identification of building envelopes, which will ensure that every home is sited to maximize views and minimize the impact to the site. All structural improvements on a home site should take place within the building envelope area with the exception of utility connections, driveways or pedestrian access. Areas outside of the building envelope will be enhanced in accordance with the community master landscape plan using recommended plant materials OR the area is to remain in an essentially natural condition. Building envelope locations will be determined based on the specific characteristics of each lot and the relationship to neighboring lots or open space. Specific objectives of the building envelope identification include:

- Optimizing views from buildings, while maintaining privacy;
- Protecting view corridors from other properties and/or common use areas;
- Minimize site grading; and overall earthwork
- Blending man-made improvements into the topography.

Building Location. No dwelling, other structure or improvement (excluding fencing) shall be placed or located within any set back areas set forth on the Plat, as provided by applicable planning and zoning ordinances, or as established in the No Disturbance Zone in the Settlement Agreement. No dwelling, permanent or temporary structure, block or rock wall, or swimming pool (above or below ground) shall be placed or constructed within any private easement. Written approval from the City of Klamath Falls is required for any changes to a public easement.

Fences. Lot perimeter fencing is discouraged unless it is low profile (under 4 ft) rock, natural materials, or powder coated iron. All fencing must be approved by the ARC. Height of retaining walls will be determined by topographical necessities.

Exterior Lighting. All outdoor lighting should be shielded and directed downward.

Use Restrictions

Land Use. Lots shall be used only for residential purposes and only one Dwelling shall be erected on any Lot. Accessory buildings will be considered on a case-by-case basis by the ARC. Lots may be rented or leased for residential purposes; however, the Owner assumes responsibility and liability for ensuring that the renters and lessees comply with this Declaration and all applicable laws. Each Owner shall cause its renters and lessees to agree in writing to comply with this Declaration and all applicable laws. Nothing in this section shall be deemed to prohibit or limit the right of Declarant or any Owner to construct a Dwelling on a Lot or store construction materials and equipment on such Lot in the normal course of construction.

Signs. No signs shall be visible from the street except: One sign of not larger than 18" x 24" advertising the property for sale or rent. This section shall not apply to signs and/or flags used by Builder during the initial construction and sales period. A sign showing the name of the Owner may be displayed on the dwelling without prior written approval of the ARC. Political signs may also be displayed without the approval of the ARC provided, however, that such signs are placed no more than ninety (90) days before the vote or election date and removed within three (3) days after the vote or election. The ARC reserves the right to require removal of any sign that does not comply with reasonable standards adopted at any time or with standards of decorum and good taste as determined by the ARC.

Animals. Household pets shall not be kept, bred or maintained for any commercial purposes; shall not be a nuisance to neighbors; and are not permitted to cause damage, discomfort or unreasonable noise to neighbors and neighboring Lots. Pet Owners shall abide by local ordinances. Dog runs and housing shall be fully screened and/or fenced from view, and shall not be visible from the street. All animals shall be controlled so as not to be a nuisance to any Owner. An unrestrained or barking dog shall constitute a nuisance. Owners whose pets cause inconvenience to other Owners shall take all steps necessary to prevent recurrence thereof, and Owners whose pets damage other Owner's Lots or personal property shall reimburse such other Owners for reasonable costs actually incurred by them in repairing such damage. Owners shall ensure that their dogs are leashed when on the Property and outside of the Owner's Lot. An Owner may be required to remove a pet upon receipt of a third written notice from the Board of any violation of a rule, regulation or restriction governing pets within the Property.

Trash and Rubbish. No Lot, nor any part of a Lot, nor any part of the Common Area shall be used or maintained as a dumping ground for rubbish, trash, garbage, or any other waste. All

rubbish, trash, garbage, or any other waste shall be kept in appropriate sanitary containers and all incinerators, containers or other equipment for the storage or disposal of trash shall be kept in a clean and sanitary condition and out of public view.

Offensive or Noxious Activity or Conditions. No noxious or offensive activity or conditions, including but not limited to commercial activity, or anything that may be an annoyance or nuisance to the neighborhood shall be permitted, nor shall anything be done or placed upon any Lot or Tract which interferes with or jeopardizes the enjoyment of other Lots or Common Areas. No unlawful use shall be made of a Residence or Lot, or any part thereof, and all laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

Temporary Structures. No temporary structures, tent, shack, garage, barn, clothes drying apparatus, or other outbuilding, shall be permitted on the Property. Notwithstanding the foregoing, Declarant and/or Builder may erect such temporary structure as Declarant deems appropriate as an office for the purpose of marketing unsold Lots or for construction activity supervision.

Recreational Facilities. No basketball hoops, sport courts, tree houses, swimming pools or similar recreational facilities shall be constructed or installed on any Lot or Tract without the prior written approval of the ARC, and in accordance with City of Klamath Municipal Code.

Vehicles and Equipment Parking.

Prohibited Vehicles, Equipment and Devices. Unless otherwise approved by the ARC, in writing, boats or other aquatic equipment, trailers, bicycles, motorcycles, snowmobiles or other motorized snow equipment, off-road vehicles, trucks, truck-campers, and similar vehicles and equipment in excess of three-quarters of a ton in weight shall not be parked on any part of SOMERLANDE nor on adjacent public way for longer than 24 hours (unless within a fully enclosed garage with the garage doors closed, parked on an RV pad behind a fence enclosure which shall not extend past the front of the dwelling, or as otherwise authorized by prior written approval of the ARC). Vehicles or equipment shall not obstruct emergency vehicle or fire lanes within SOMERLANDE.

Vehicles in Disrepair. No Owner shall permit any vehicle which is in a state of disrepair (as reasonably determined by the ARC) or which is under repair to be abandoned or to remain parked on any Lot for a period in excess of 48 hours. A vehicle shall be deemed in a "state of disrepair" when the ARC reasonably determines that its present offends the occupants of the neighborhood. If an Owner fails to remove such a vehicle within five days after notice from the Association, the Association may have the vehicle removed from the property and charge the expense of such removal to the Owner of the Lot as provided in Article X.

Enforcement. The ARC shall have the power and authority to enforce these parking-restrictions, including, without limitation, the power and authority to impose fines, remove the offending vehicle, equipment or device, and pursue legal action. The ARC shall enforce these restrictions in a uniform manner. Removal of the offending vehicle, equipment or device shall be preceded by prior written notice to the Owner and, in addition to assessing a fine(s), the ARC shall specially assess the Owner for the cost of the removal pursuant to Article IX.

Aerials and Dishes. No outside television or radio antenna or aerials, solar collector panels or similar equipment shall be installed without the prior written approval of the ARC. Except as otherwise allowed by federal law, no outside satellite dishes, similar equipment or apparatus shall be installed without the prior written approval of the ARC. Installation of the aforementioned approved equipment or apparatus shall not be in the No Disturbance Zone or in the Building Setback Area.

Maintenance of Right of Way. The Owner of any Lot shall maintain in proper condition (e.g., cut grass and underbrush) areas within sixty (60) feet from the curb, except those designated as Association Common Area. The ARC may authorize and undertake the completion of such work if the Owner fails to do so within thirty (30) days after receiving notice from the ARC requesting such work. If such work is authorized by the ARC in accordance with this section, the Owner shall be specially assessed for the fees and costs of such work pursuant to Article X.

Maintenance of Streetscaping. Streetscaping designated as "Public Property" or Common Area shall be maintained in proper condition by the Owner of any Lot adjacent to said Streetscaping.

Maintenance of Street Lights. Street Lights installed by Declarant shall be maintained by the Association.

Maintenance of Landscaping. Each Owner shall maintain the landscaping on the Owner's Lot in a neat and attractive condition, including all necessary gardening to properly maintain, and periodically replace when necessary, all trees, plants, grass and other vegetation on said Lot. Trees within the No Disturbance Zone as described in the Settlement Agreement may be "limbed up" to a height of ten (10) feet above ground. Notwithstanding the foregoing, Owners shall not remove non-hazardous trees, plants, grass, other vegetation or natural features within the No Disturbance Zone as described in the Settlement Agreement. In the event an Owner removes a non-hazardous tree within the No Disturbance Zone as described in the Settlement Agreement, the Owner shall replace such removed tree with two (2) trees that are of a substantially similar type and that have equivalent caliper as the removed tree. Maintenance, including tree replacement and revegetation required by the City of Klamath Falls, of any planter strip located between the curb and sidewalk fronting a Lot shall be the responsibility of the Lot Owner.

Drainage. The Owner of any Lot or Tract that contains any storm drainage easement shall provide unhindered flow of engineered storm drainage, and shall allow maintenance access for the same. Changes that alter the natural drainage of any Lot shall require ARC and applicable agency approval. Lot Owners and the Association will design storm water drainage that does not cause a measurable increase, beyond historical amounts, in discharge of storm water runoff from the Property onto adjacent properties. Retaining walls, fencing and landscaping should be designed to maintain natural or designed drainage patterns.

Trees. No street trees shall be planted on any lot line. All tree plantings shall be located not less than ten (10) feet horizontally from the centerline of any water main, sanitary sewer main, or storm sewer main; and not less than five (5) feet from the centerline of any such laterals or curbside water mains. No shrubs, other vegetation or trees outside the building envelope of the dwelling or structure with an eight (8) inch or greater caliper, D.B.H. shall be planted or removed from a Lot without prior written approval of the ARC.

Maintenance of Common Improvements of Commonwall Buildings. In the event repair or replacement of the common foundations of a Building Structure or common firewall (which

terms shall have the same meaning as party walls) of a Building Structure should become necessary or appropriate, then the Owners of the dwellings within the Building Structure that required such repair or replacement shall be jointly responsible for such repair and/or replacement, and the Owners of such affected dwellings shall share equally in the expense of such repair and replacement. In the event an Owner of a dwelling determines repair or replacement of the common foundations or common firewalls of a Building Structure is necessary or appropriate, that Owner shall notify the other Owners of the affected dwellings within the Building Structure of the need to perform such repair or replacement. If a majority of the Owners of the affected dwellings within the Building Structure agree that such repair or replacement is necessary, they shall jointly cause such work to be performed, and each Owner of an affected dwelling shall pay an equal portion of the expense of such work. If an Owner of an affected dwelling determines repair or replacement of the common foundations or common firewalls of a building Structure is necessary or appropriate and a majority of the Owners of the other dwelling affected or claim to be affected do not concur with such determination, then the Owners of the Dwellings affected (or claimed to be affected) shall mutually agree upon and retain a professional engineer licensed in the State of Oregon having at least five (5) years experience in such matters to inspect the common foundations or common firewalls, and such engineer shall make a determination as to whether such repair or replacement is required. The determination of such engineer shall be binding to the affected Owners, and all expenses and fees of the engineer and of the repair or replacement work required to be performed, if any, shall be borne as provided in the Section. In the event the Owners of dwellings so affected or, claimed to be so affected, cannot agree upon a professional engineer having the required qualifications within a 30-day period, then any of the affected Owners may make applications to the ARC, which shall select such engineer having the requisite qualifications. The fees and expenses of the engineer shall be shared equally by the Owners of the dwellings affected or claimed to be affected. In the event the Owner of an affected dwelling fails to contribute to the expense of the repair or replacement of the common foundation or common foundation or common firewalls by thirty (30) days after written demand therefore, then the amount not paid or reimbursed, as well as interest thereon at the rate of twelve percent (12%) per annum from the date of such written demand shall become a charge and lien against the Owner of a dwelling failing to make such payment or reimbursement. Each Owner of Residences shall be deemed to have agreed by acceptance of a deed conveying the dwelling, that any such lien shall be effective without the necessity of obtaining the joinder of such Owner in the execution of any instrument, upon the filing by another Owner of an affected dwelling of a claim of lien in the Official Records of Klamath County, Oregon.

Public Property

The Association shall comply with all maintenance and repair requirements imposed by a governmental entity upon Declarant or the Association with respect to any Public Property, and shall undertake such additional responsibility as it deems appropriate (consistent with applicable law and the consent of the applicable governing entity) for the maintenance and improvement of the Public Property, and shall keep the same in good, clean, attractive and sanitary condition, order and repair. In the event any Public Property is damaged or destroyed by an Owner (or occupant of the dwelling of such Owner, or the guest or agent of such Owner or Occupant), such Owner hereby authorizes the Association to repair said damage. The Association shall repair the damaged area in a good and workmanlike manner. The reasonable cost necessary to repair the damage to original condition shall become a special assessment upon the Lot of such Owner.

Common Area

The common Area property shall be conveyed to the Association by Declarant after recording the Plat and the Declaration. Except as stated herein, the Association shall be responsible for the exclusive management and control of the Common Area and all improvements thereon, if any, and shall keep the same in good, clean, attractive and sanitary condition, order and repair. The Common Area owned in fee or by an interest in an easement by the Association includes those areas so indicated on the Plat. In the event any Common Area is damaged or destroyed by an Owner (occupant of the dwelling of such Owner, or the guest or agent of such Owner or Occupant), such Owner hereby authorizes the Association to repair said damage. The Association shall repair the damaged area in a good and workmanlike manner. The reasonable cost necessary to repair the damage to original condition shall become a special assessment upon the Lot of such Owner.

Use of the Common Area. Except as otherwise provided in this Declaration, the Common Area shall be reserved for the use and enjoyment of all owners and no private use may be made of the Common Area. The Board shall have authority to abate any trespass or encroachment upon the Common Area at any time, by any reasonable means and with or without having to bring legal proceedings.

Limitations on Use. Use of the Common Area by the Owners shall be subject to the provisions of this Declaration

Easements

Utility and Drainage Easements.

- Easements for installation and maintenance of utilities and drainage facilities are set forth on the Plat. No structures (temporary or permanent) shall be constructed or placed, nor any tree planted, within any public utility or storm easement without prior approval from the City of Klamath Falls. No structure, planting, or material shall be constructed, placed, or allowed to remain within any storm drainage easement or swale that hinders engineered drainage or changes the natural drainage pattern in the easement. The easement area of each Lot and all improvements on it shall be maintained continuously by the Owner except for improvements for which a public authority or utility company is responsible.
- In the event any of said easements or improvements thereon are damaged or destroyed by an Owner (or occupant of the dwelling of such Owner, or the guest or agent of such Owner or Occupant), such Owner hereby authorizes the Association to repair said damage. The Association shall repair the damaged area in a good and workmanlike manner. The reasonable cost necessary to repair the damage to original condition shall become a special assessment upon the Lot of such Owner.

Owners' Use and Occupancy. Except as otherwise expressly provided in this Declaration, or in the Plat the Owner of a Lot shall be entitled to the exclusive use and benefit of such Lot. Declarant, the Architectural Review Committee, and any representative of the Association authorized by the Association, may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of determining whether or not the use of and/or improvements on such Lot are then in compliance with this Declaration. No such entry shall be deemed to constitute a trespass, conversion, or otherwise create any right of action in the Owner of such Lot. Declarant or the Association may grant or assign easements over or with

respect to any Lot to municipalities or other utilities performing utility services and to communications companies.

Extent of Owners' Rights. The rights and easements of enjoyment in the Common Areas created hereby shall be subject to the following and all other provisions of this Declaration:

Association's and Owner's Easements. Declarant grants to the Association for the benefit of the Association and all Owners of Lots within the Property the following easements over, under and upon the Property.

- An easement for installation and maintenance of power, gas, electric, water and other utility and communication lines and services installed by Declarant or with the approval of the Board and any such easement shown on any plat of the Property.
- An easement for construction, maintenance, repair and use of the Common Area and any common facilities thereon, including, without limitation, the Common Property.
- An easement for landscape and/or building maintenance on Lots where Association has designated maintenance responsibilities.

Declarant's and Builder's Easements. In addition to any other easements to which Declarant and Builder may be entitled, Declarant and Builder reserves for the benefit of Declarant and Builder, an easement over, under and across the Common Area in order to carry out development, construction, sales and rental activities necessary or convenient for the development of the Property or the sale or rental of Lots (or dwellings on the Lots) and for such other purposes as may be necessary or convenient for discharging Declarant's and Builder's obligations or for exercising any of Declarant's and Builder's rights hereunder. There is hereby reserved by Declarant and Builder for the benefit of Declarant and Builder, its employees, agents, representatives and assigns, as easement for access, construction, placement, maintenance and improvement of utilities and drainage over, under and across any portion of the Property, together with easements in roadways and utility lines specified or established within the Property, along with the right to connect thereto.

Maintenance Easement. An easement is hereby reserved in favor of the Association and its successors, assigns, contractors, agents and employees over, across, and under each Lot, the exterior portions of the Building Structures on each Lot, the Common Areas, and another area of the Property necessary or appropriate for purposes of accomplishing the maintenance, repair and replacement of improvements.

Table A. Permitted and Prohibited Uses

USE	SF-L	SF-M	SF-H	RC	OS
Commercial Uses:					
Retail Business ≤ 5,000 sq. ft. floor area (23.b.)	N	N	N	P	N
Retail Business > 5,000 sq. ft. floor area	N	N	N	C	N
Food Market (5)	N	N	N	P	N
Bulk Product Sales	N	N	N	N	N
Hotels	N	N	N	⁽¹⁾ C	N
Motels	N	N	N	⁽¹⁾ C	N
Service Stations (7)	N	N	N	N	N
Car Washes	N	N	N	N	N
Storage Facilities (e.g., mini-warehouses, vehicle storage)	N	N	N	N	N
Short-Term Commercial Parking Facility	N	N	N	N	N
Kennels	N	N	N	C	N
Commercial Schools (e.g., vocational, music, dance)	N	N	N	P	N
Vehicle Rental Without Storage Facilities	N	N	N	N	N
Theaters (not including drive-in theaters)	N	N	N	C	N
Expansion of an existing use	N	N	N	C	N
Change of use	N	N	N	C	N
Storage of materials and display of merchandise outdoors	N	N	N	C	N

⁽¹⁾ Maximum of 20 Units

N = Prohibited

C = Permitted with Under Special Conditions or Restrictions

P = Permitted

Table A. Permitted and Prohibited Uses (Continued)

USE	SF-L	SF-M	SF-H	RC	OS
Office Uses:					
Professional Offices	N	N	N	P	N
Financial, Insurance, Real Estate Office	N	N	N	P	N
Medical Offices and Clinics	N	N	N	P	N
Veterinary Offices Without Outdoor Kennels	N	N	N	P	N
Service Businesses (e.g., collection agencies, business management services)	N	N	N	P	N
Administrative Offices	N	N	N	P	N
Expansion of an Existing Use	N	N	N	C	N
Change of Use	N	N	N	C	N
Residential Uses					
Detached Dwellings	P	P	P	N	N
Duplexes and Tri-Plexes	N	P	P	N	N
Four Plexes	N	N	P	N	N
Rowhouses ⁽¹²⁾	N	P	P	N	N
Manufactured Homes	N	N	N	N	N
Low-Rise Apartments (1-2 stories)	N	N	N	N	N
Mid-Rise Apartments (3-5 stories)	N	N	N	N	N
Day Care Facility	⁽²⁾ P	⁽²⁾ P	⁽²⁾ P	N	N
Assisted Living Care	C	N	N	N	N
Expansion of an Existing Use	⁽³⁾ P	⁽³⁾ P	N	N	N
Change of Use	N	N	N	N	N
Accessory Dwelling Units	N	N	N	N	N

⁽²⁾ Limited to 6 or fewer children; no pre-school⁽³⁾ Based on ARC Approval⁽¹²⁾ See Definition

N = Prohibited

C = Permitted with Under Special Conditions or Restrictions

P = Permitted

Table A. Permitted and Prohibited Uses (Continued)

USE	SF-L	SF-M	SF-H	RC	OS
Industrial Uses:					
Manufacturing	N	N	N	N	N
Research and Development	N	N	N	N	N
Warehouses	N	N	N	N	N
Equipment Storage	N	N	N	N	N
Institutional Uses:					
Hospitals	N	N	N	N	N
Churches	N	N	N	N	N
Elementary Schools	N	N	N	N	N
Schools (middle, high, colleges)	N	N	N	N	N
Public Buildings	N	N	N	N	N
Parks:					
Regional	N	N	N	N	P
Community	N	N	N	N	P
Neighborhood	N	N	N	N	P
Special Recreation Uses	N	N	N	⁽⁴⁾ P	P
Accessory Recreation Uses	N	N	N	N	N
Accessory, Secondary and Temporary Uses and Structures:					
Accessory Uses and Structures	N	N	N	⁽⁴⁾ P	P ⁽¹³⁾
Temporary Uses and Structures	⁽⁴⁾ P	⁽⁴⁾ P	⁽⁴⁾ P	⁽⁴⁾ P	⁽⁴⁾ P
Home Occupations	⁽⁴⁾ P	⁽⁴⁾ P	⁽⁴⁾ P	N	N
Vehicular Circulation	P	P	P	P	P ⁽¹⁵⁾

⁽⁴⁾ Based on ARC Approval⁽¹³⁾ Utility services (including housing of services) and open space amenities⁽¹⁵⁾ Parking not allowed

N = Prohibited

C = Permitted with Under Special Conditions or Restrictions

P = Permitted

Table B. Dimensional Requirements

DEVELOPMENT DIMENSION	SF-L	SF-M	SF-H	RC	OS
Minimum Lot Area	10,000 SF	2000 SF	2,000 SF	N/A	N/A
Maximum Lot Area	80,000 SF	10,000 SF	5,000 SF	NA	NA
Minimum Lot Width	⁽¹⁴⁾ 50'	25'	20'	⁽¹⁵⁾ 0'	N/A
Minimum Lot Depth	70'	80'	80'	0'	N/A
Minimum Building Height	14'	14'	14'	14'	0'
Maximum Building Height	⁽⁵⁾ 35'	⁽⁵⁾ 35'	⁽⁵⁾ 40'	45'	15'
Setback Requirements					
- Front	⁽⁶⁾ 20'	⁽⁸⁾ 10'	⁽⁸⁾ 10'	10'	10'
- Rear	5'	5'	5'	5'	5'
- Side	5'	⁽¹¹⁾ 0'	⁽¹¹⁾ 0'	5'	5'
- Side (Corner Lot)	10'	10'	10'	10'	10'
Fence Heights ⁽⁷⁾					
- Front	3.5'	3.5'	3.5'	3.5'	3.5'
- Rear ⁽⁹⁾	6'	6'	6'	6'	6'
- Side ⁽⁹⁾	6'	6'	6'	6'	6'
- Side (Corner Lot)	3.5'	3.5'	3.5'	3.5'	3.5'
Vision Clearance					
- Street Leg ⁽¹⁰⁾	25'	25'	25'	15'	15'

⁽⁵⁾ ARC Approval required for deviation up to 10%⁽⁶⁾ Excludes alley loaded units. Alley loaded has minimum 15' setback.⁽⁷⁾ All fencing requires approval of ARC⁽⁸⁾ 18' from edge of walk or edge of alley to garage; garage setback is 18' where front setback is 10'.⁽⁹⁾ Perimeter fencing regulated by ARC⁽¹⁰⁾ Measure from property line/right-of-way⁽¹¹⁾ Must meet all applicable County Building and U.F.C. requirements (does not apply to detached dwellings)⁽¹⁴⁾ Except flag lots⁽¹⁵⁾ All Commercial buildings must have access to a common driveway or easement for parking and access.

Table C. Density Requirements

Required minimum and maximum development densities are shown below. Densities are in terms of dwelling units per acre (units/ac.) for residential development, or floor area ratio (FAR) for mixed use or nonresidential development.

Within the 60 acre PUD the following densities are offered:

- 25.47 acres of low density residential will provide 56 units at approximately 2.1 units per acre or 152 units at 6 units/acre;
- 4.46 acres of medium density residential will provide 33 units at approximately 7.4 units per acre or 53 units at 12 units/acre;
- 5.69 acres of high density residential will provide 87 units at approximately 15.3 units per acre or 102 units at 18 units/acre.

Minimum density requirements may be satisfied through build-out of an approved phased Master Plan.

DENSITY REQUIREMENTS	SF-L	SF-M	SF-H	RC	OS
Minimum:	2 Units/Ac.	6 Units/Ac.	12 Units/Ac.	0.20 FAR	—
Maximum:	6 Units/Ac.	12 Units/Ac.	18 Units/Ac.	0.30 FAR	—
Number of Units or SF	56	33	87	31,000 SF	—
Net Acres (Square Feet)	25.47 Acres (1,109,420 SF)	4.46 Acres (194,654 SF)	5.69 Acres (248,140 SF)	3.50 Acres (151,784 SF)	9.62 Acres (420,613 SF)
Net Density or Floor Area Ratio	2.2 Units/Ac.	7.4 Units/Ac.	15.3 units/Ac.	0.20 FAR	—

Table D. Permitted Signs By Type⁽¹²⁾ and Zoning District

SIGNAGE TYPE	SF-L	SF-M	SF-H	RC	OS
Freestanding					
Residential	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾	N	N
Other	N	S ⁽¹⁾	S ⁽¹⁾	S	S
Incidental ⁽²⁾	N	N	P ⁽³⁾	P ⁽³⁾	P ⁽³⁾
Building					
Banner	N	N	N	S	S
Building Marker	P	P	P	P	P
Canopy	N	N	N	S	S
Identification ⁴	P	P	P	P	P
Incidental ⁽²⁾	N	N	P ⁽⁴⁾	P ⁽⁴⁾	P ⁽⁴⁾
Marquee ⁽⁵⁾	N	N	N	N	N
Projecting ⁽⁶⁾	N	N	N	S	S
Residential ⁽¹⁾	P	P	P	N	N
Roof	N	N	N	N	N
Roof, Integral	N	N	N	N	N
Suspended ⁽⁵⁾	N	N	N	N	N
Temporary ⁽⁶⁾	N	N	N	S	S
Wall	S ⁽⁷⁾	S ⁽⁷⁾	S ⁽⁷⁾	S	S

⁽¹²⁾ Refer to Klamath Falls Community Development Ordinance, Sections 14.300 – 14.352

P=allowed with ARC approval

S=allowed only with City Sign Permit and ARC approval

N=not allowed

⁽¹⁾ No commercial message allowed on sign.

⁽²⁾ No commercial message of any kind allowed on sign if such message is legible from any location off the lot on which the sign is located.

⁽³⁾ May include only building name, date of construction or historical data on historic site, must be cut or etched into masonry, bronze or similar material.

⁽⁴⁾ Only address and name of occupant allowed.

⁽⁵⁾ If such a sign is suspended or projects above the public right of way, the issuance and continuation of a sign permit shall be conditioned on the sign owner obtaining a right-of-way encroachment permit and maintain in force liability insurance for such sign in such form and such amount as the Director may reasonably from time to time determine, provided that the amount of such liability insurance shall be at least \$500,000 per occurrence per sign. Signs projecting over State Highway right-of-way are subject to the permitting requirements of Oregon Department of Transportation.

⁽⁶⁾ The conditions of Sections 14.344 and 14.352 apply.

⁽⁷⁾ Wall signs in residential zones shall be restricted to locations with licensed Home Occupations and these signs shall not exceed four (4) square feet.

Table E. Number, Dimensions and Location of Individual Signs by District*

SIGNAGE SPECIFICATIONS	SF-L	SF-M	SF-H	RC	OS
Freestanding???????					
Maximum area per sign face (sq. ft.)	6 ⁽⁵⁾	6 ⁽⁵⁾	6 ⁽⁵⁾	32	32
Maximum Height (feet)	5 ⁽⁵⁾	5 ⁽⁵⁾	5 ⁽⁵⁾	8	8
Setback for signs 8 feet or less in height	5	5	5	5	5
Setback for signs greater than 8 feet in height	n/a	n/a	n/a	n/a	n/a
Number Permitted per lot	1	1	1	n/a	n/a
1 per 175 feet of street frontage	n/a	n/a	n/a	1	1
Building					
Area	2	2	2	n/a ⁽¹⁾	n/a ⁽¹⁾
Wall Area (percent)	n/a	n/a	n/a	10%	10%
Projecting (sq. feet pr face)	n/a	n/a	n/a	12	12

*Entry Monuments in the Round-about and one PUD entry sign will be designed to meet city review standards and ARC approval. These are not considered signs for the purpose of the design standards.

- (1) Total building sign area permitted equals 1.25 square feet for each linear foot of total building frontage for the first 200 feet of frontage, plus ½ square foot for each additional linear foot of building frontage.
- (2) This total area percentage shall include temporary signs.
- (3) The percentage figure here shall mean the percentage of the area of the wall of which such sign is apart or to which each such sign is most nearly parallel.
- (4) Maximum projection of any projecting sign shall not exceed four feet.
- (5) Freestanding signs identifying the name of a neighborhood or subdivision in residential zones shall be permitted with a maximum of two signs: one per street frontage, 50 square feet per face and 7 feet in height.

Table F. Permitted Sign Characteristics By Zoning District

SIGN CHARACTERISTICS	SF-L	SF-M	SF-H	RC	OS
Changeable Copy	N	N	N	S	S
Illumination, Internal ⁽¹⁾	N	N	N	S	S
Illumination, External ⁽¹⁾⁽²⁾	N	N	N	S	S

P=allowed with ARC approval

S=allowed only with City Sign Permit and ARC approval

N=not allowed

⁽¹⁾ No direct or significant glare from the sign shall be cast onto any adjacent lot that is zoned and used for residential purposes.

⁽²⁾ Shall not have exposed bulbs.

