

THE HILLS OF NESKOWIN

**DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS**

Table of Contents

ARTICLE 1: DEFINITIONS	Page 2
"Association"	
"Common Area"	
"Declarant"	
"Improvement"	
"Lot"	
"Mortgage"	
"Owner"	
"The Property"	
"Sold"	
"This Declaration"	
ARTICLE 2: PROPERTY SUBJECT TO THIS DECLARATION	Page 3
2.1 Initial Development	
2.2 Annexations of Subsequent Developments	
ARTICLE 3: COMMON AREA	Pages 4 -5
3.1 Owners' Easements of Enjoyment	
3.2 Extent of Owners' Rights	
ARTICLE 4: MAINTENANCE AND ASSESSMENTS	Pages 5-6
4.1 Maintenance	
4.2 Creation of Lien and Personal Obligation of Assessments	
4.3 Purpose of Assessments	
4.4. Duty of the Board of Directors	
4.5 Amount of Assessments	
4.6 Special Assessments for Capital Improvements	
4.7 Increase of Maximum Annual Assessments	
ARTICLE 5: USE RESTRICTIONS	Pages 7-10
5.1 Structures Permitted	
5.2 Residential Use	
5.3 Offensive or Unlawful Activities	
5.4 Maintenance of Structures and Grounds	
5.5 Parking	
5.6 Signs	
5.7 Rubbish and Trash	
5.8 Completion of Construction	
5.9 Landscape Completion	
5.10 Temporary Structures	
5.11 Manufactured Dwellings Excluded	
5.12 Fences	

- 5.13 Newspaper Boxes
- 5.14 Service Facilities
- 5.15 Antennas and Satellite Disks
- 5.16 Plan and Exterior Color Approval
- 5.17 Roofing Materials
- 5.18 Outdoor Lighting
- 5.19 Animals
- 5.20 Height
- 5.21 Vegetation
- 5.22 Riparian Zone
- 5.23 Big Game Habitat
- 5.24 Neskowin Regional Water District

ARTICLE 6: DESIGN REVIEW

Pages 10-13

- 6.1 Approval of building Construction
- 6.2 Approval of Additions or Remodeling
- 6.3 Effective Period of Consent
- 6.4 Procedure
- 6.5 Membership: Appointment and Removal
- 6.6 Design Review Discretion
- 6.7 Completion of Authorized Work
- 6.8 Notices upon Completion
- 6.9 Liability
- 6.10 Action
- 6.11 Duties and Rules
- 6.12 Nonwaiver
- 6.13 Estoppel Certificate

ARTICLE 7: ASSOCIATION

Pages 14-15

- 7.1 Organization
- 7.2 Membership
- 7.3 Powers and Obligations
- 7.4 Liability
- 7.5 Powers and Responsibilities of the Board of Directors

ARTICLE 8: ENFORCEMENT

Pages 16-18

- 8.1 Use of Common Area and Private Ways
- 8.2 Non-qualifying Improvements and violation of Use Restrictions
- 8.3 Default in Payment of Assessments; Enforcement of Lien
- 8.4 Notification and Rights of First Mortgagees
- 8.5 Subordination of Lien to Mortgages
- 8.6 Interest; Expenses and Attorneys' Fees
- 8.7 Non-exclusiveness and Accumulation of Remedies

ARTICLE 9: MISCELLANEOUS PROVISIONS

Pages 18-20

9.1 Amendment and Repeal

9.2 Duration

9.3 Joint Owners

9.4 Lessees and Other Invitees

9.5 Non-waiver

9.6 Construction; Severability; Number; Captions

9.7 Notices and Other Documents

DECLARATION OF ANNEXATION

Pages 20-22

**DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR LOTS 1 THROUGH 17, THE HILLS OF NESKOWIN
IN TILLAMOOK COUNTY, OREGON**

THIS DECLARATION is made this _____ day of _____, 1997, by BUTTERFIELD HOMES, INC. ("Declarant").

Declarant intends that THE HILLS OF NESKOWIN shall provide for all who acquire property therein an opportunity to obtain unique satisfaction of their ownership in a manner which will insure preservation and full enjoyment of the natural advantages of the area and yet encourage diverse, individual expression appropriate to the environment. Declarant believes that this concept of development serves both public and private interests by fostering a beneficial land use which will perpetuate the unique beauty of the Central Oregon Coast and enrich the lives of its inhabitants and guests.

It is assumed that all owners of property within THE HILLS OF NESKOWIN will be inspired by its natural environment to accept the principle that the development and use of THE HILLS OF NESKOWIN must preserve that environment for themselves and future owners.

This Declaration is made for the purposes described above, and it is in recognition of those purposes that the limitations, restrictions, covenants and conditions of this Declaration shall be construed and applied.

Declarant has recorded the plat of THE HILLS OF NESKOWIN in the plat records of Tillamook County, Oregon. Declarant desires to subject Lots 1 through 17 as shown in such plat to the covenants, conditions restrictions and easements set forth herein for the benefit of such property and its present and subsequent owners.

NOW, THEREFORE, Declarant hereby declares that Lots 1 through 17 as shown in the plat of THE HILLS OF NESKOWIN shall be held, sold and conveyed subject to the following covenants, conditions and restrictions, which shall run with such property and shall be binding upon all parties having or acquiring any right, title or interest in such property or any part thereof and shall inure to the benefit of each owner thereof.

ARTICLE 1 **DEFINITIONS**

As used in this Declaration, the terms set forth below shall have the following meanings:

"Association" means the nonprofit corporation to be formed to serve as an owners' association, and its successors and assigns.

"Common Area" means those portions of The Hills of Neskowin designated as such in these covenants or in any declaration annexing property to these covenants, and any improvements and facilities constructed or placed thereon which are intended to be devoted to the common use and enjoyment of the owners of The Hills of Neskowin.

"Declarant" means Butterfield Homes, Inc., and its successors and assigns.

"Improvement" means every structure or improvement of any kind, including but not limited to, a fence, wall, driveway, swimming pool, storage shelter or other product of construction efforts on or in respect to the Property.

"Lot" means one of the 17 platted lots within the Property.

"Mortgage" means a mortgage or a trust deed; "mortgagee" means a mortgagee or a beneficiary of a trust deed; and "mortgagor" means a mortgagor or a grantor of a trust deed.

"Owner" means the person or persons, including Declarant, owning any Lot in the Property, but does not include a tenant or holder of a leasehold interest or a person holding only a security interest in a Lot. The rights, obligations and other status of being an Owner commence upon acquisition of the ownership shall not discharge an Owner from obligations incurred prior to termination.

"The Property" means the property described in Article 2 of this Declaration.

"Sold" means that legal title has been conveyed or that a contract of sale has been executed and recorded under which the purchaser has obtained the right to possession.

"This Declaration" means all of the easements, covenants and restrictions set forth herein, together with any rules or regulations promulgated hereunder, as the same may be amended or supplemented from time to time in accordance with the provisions hereof.

ARTICLE 2
PROPERTY SUBJECT TO THIS DECLARATION

2.1 Initial Development. Declarant hereby declares that all of the real property described below is owned and shall be owned, conveyed, hypothecated, encumbered, used, occupied and improved subject to this Declaration:

Lots 1 through 17, as shown in that certain plat entitled "The Hills of Neskowin" file in the plat records of Tillamook County, Oregon, on the 4th day of February, 1997, instrument #97356936 in Plat Cabinet B 510-0 Plat Records

The above-described real property, together with other real property from time to time annexed thereto and made subject to these covenants pursuant to Section 2.2, shall constitute The Hills of Neskowin.

2.2 Annexation of Subsequent Developments. Declarant may from time to time in its sole discretion annex to The Hills of Neskowin, any adjacent real property now or hereafter acquired by it, and may also from time to time and in its sole discretion, permit other holders of adjacent real property in the vicinity of the initial development, to annex any portion of such real property owned by them to these covenants. The annexation of any such real property shall be accomplished as follows:

(a) The holder or holders of such real property shall record a declaration which will be executed by or bear the approval of Declarant and shall, among other things, describe the real property to be annexed, establish any additional or different limitations, restrictions, covenants and conditions, which were intended to be applicable to such property, and declare that such property is held and shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to these covenants.

(b) The property included by any such annexation shall thereby become a part of The Hills of Neskowin, the declaration with respect thereto shall become a part of these Covenants, and Declarant and the Association shall have and shall accept and exercise administration of these Covenants with respect to such property.

(c) The declaration with respect to any annexed area will protect the existing land classifications in the initial development and may place

different, or more stringent classifications or more restrictive limitations or covenants on the development of such annexed property.

ARTICLE 3
COMMON AREA

3.1 Owners' Easements of Enjoyment. Subject to the provisions of these declarations, every Owner and every Owner's family, tenants, guests and invitees, shall have a right and easement of enjoyment in and to the Common Area and Private Ways. Declarant has submitted a plat known as The Hills of Neskowin, which dedicates a common area within the plat. Declarant has conveyed as an appurtenance to Lots 1 through 17, an undivided 1/17 interest in Pacific Overlook Drive and Whale Watch Drive. Declarant has reserved a non-exclusive access and utilities easement unto itself, heirs, and assigns, over Pacific Overlook Drive, Whale Watch Drive and easements as set forth on the plat and Declarations of The Hills of Neskowin.

3.2 Extent of Owners' Rights. The rights and easements of enjoyment in the Common Area and Private Ways created by these Covenants shall be subject to the following and all other provisions of these Covenants:

(a) Easements. Declarant reserves to itself and grants to the Association for the benefit of Declarant, the Association and all Owners of Lots within The Hills of Neskowin, the following easements:

(i) An easement for the Common Area and Private Ways for installation and maintenance of power, water, storm drainage, and other utility services;

(ii) An easement on all Private Ways for access within The Hills of Neskowin and to adjacent areas;

(iii) An easement for construction, maintenance, repair and use of the Common Area and Private Ways; and

(iv) An easement for the purpose of making repairs to existing structures and carrying out sales activities necessary or convenient for the sale of Lots.

Declarant or the Association may grant or assign such easements to municipalities or other utilities performing utility services, and Declarant and the Association intend to grant free access thereon to police, fire and other public officials and to employees of utility companies serving The Hills of Neskowin.

(b) Use of the Common Area. The use of the Common Area shall be strictly limited to recreational activities and the Common Area shall not be platted or otherwise divided into parcels for residential or commercial use.

(c) Use of Private Ways. Private Ways shall be used for walking or traveling thereon by appropriate means. Declarant does not intend to dedicate Private Ways to the public, but rather intends to preserve the private character of such ways.

(d) Alienation of Common Area. The Association shall not by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area owned directly or indirectly by the Association for the benefit of the lots unless the holders of at least seventy-five percent (75%) of the voting power have given their prior written approval. This provision shall not apply to the easements retained by Declarant.

ARTICLE 4 **MAINTENANCE AND ASSESSMENTS**

4.1 Maintenance. The Association, through its board of directors, shall maintain or provide for the maintenance of the Common Area, Private Ways, storm drainage system and all improvements thereon.

4.2 Creation of Lien and Personal Obligation of Assessments. Declarant for each Lot owned by it within The Hills of Neskowin does hereby covenant, and each Owner of any Lot by acceptance of a conveyance thereof, whether or not so expressed in any such conveyance, shall be deemed to covenant to pay to the Association all assessments or other charges as may be fixed, established, and collected from time to time in the manner provided in these Covenants. Such assessments and charges, together with any interest, expenses or attorneys' fees imposed pursuant to the provisions hereof, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment or charge is made. Such assessment, charges and other costs shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth in these covenants.

4.3 Purpose of Assessments. The assessments levied by the Association pursuant to these Covenants shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in The Hills of Neskowin and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, storm drainage system and Private Ways and of the Lots situated within The Hills of Neskowin, including, but not limited to, the expenses of the Design Review Committee, the payment of taxes

and insurance on the Common Area, storm drainage system and Private Ways, and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

4.4 Duty of the Board of Directors. The board of directors shall fix the amount of the assessments against each Lot for the purposes set forth above, taking into account the need for reasonable reserves for such purposes. The board of directors shall give each Owner written notice of such assessment at least thirty (30) days in advance of the due date of the assessment and shall cause to be prepared a roster of the Lots showing assessments applicable to each Lot. The roster shall be kept in the Association office and shall be subject to inspection by any Owner during regular business hours. Upon demand, the board of directors shall furnish to any Owner a certificate in writing setting forth whether the assessments on such Owners' Lot have been paid.

4.5 Amount of Assessments. The maximum monthly assessment for purposes of this Article, unless increased as provided below, shall be FIFTEEN DOLLARS (\$15.00) per month for each Lot owned by each Owner, except no assessment shall be levied against any Lot until such time as it is first sold or occupied. No maintenance fee shall be due prior to January 1, 1998, and at the discretion of Declarant may be waived for an additional period of time.

4.6 Special Assessments for Capital Improvements. In addition to the assessments authorized above, the Association may levy a special assessment for the purpose of defraying all or part of the cost of any construction or reconstruction, unexpected repair, or replacement of a described capital improvement or roadway. No such assessment may be levied without the vote or written consent of sixty percent (60%) of the votes of the members. The special assessment shall be made against each Lot in The Hills of Neskowin equally.

4.7 Increase of Maximum Annual Assessments. Any increase of the annual assessment described above beyond the maximum set forth in such Section must have the assent of sixty percent (60%) of the votes of the members who are voting in person or by proxy at a meeting duly called for that purpose. At the election of the board of directors and without a vote of the Owners, the maximum annual assessment set forth above may be increased by five percent (5%) annually.

ARTICLE 5
USE RESTRICTIONS

5.1 Structures Permitted. No structures shall be erected or permitted to remain on any Lot except one single-family structure containing a dwelling unit and structures normally accessory thereto. These shall not exist at any time more than one residence, excepting Lots 6 and 7, which may submit plans for a small guest house only. The foregoing provision shall not exclude construction of a private greenhouse, garden house, cabana, pool equipment house, retaining walls, private swimming pool, tennis court, sport court, provided the location of such structure is compatible in design and decoration with the dwelling structure constructed on such Lot, and has been approved by Design Review. Each dwelling shall have a garage.

5.2 Residential Use. Lots shall only be used for single-family residential purposes. No trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any Lot, nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service or business be kept or stored on any Lot which would affect the use and enjoyment of the Property for residential purposes. Nothing in this paragraph shall be deemed to prohibit (a) activities relating to the rental or sale of dwelling units, (b) the right of Declarant or any contractor or homebuilder to construct dwelling units on any Lot, to store construction materials and equipment on such Lots in the normal course of construction and to use any dwelling unit as a sales office or model home for purposes of sale of the Property, and (c) the right of the Owner of a Lot to use his dwelling unit as a home office by maintaining his professional personal library, keeping his personal business or professional records or accounts, handling his personal business or professional telephone calls or conferring with business or professional associates, clients or customers, in his dwelling unit. Only normal residential activities shall be observable outside of the dwelling unit and such activities may not be in violation of applicable governmental ordinances.

5.3 Offensive or Unlawful Activities. No noxious or offensive activities shall be carried on upon any Lot, nor shall anything be done or placed on any Lot which interferes with or jeopardizes the enjoyment of other Lots, or which is a source of annoyance to residents. No unlawful use shall be made of a Lot nor any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

5.4 Maintenance of Structures and Grounds. Each Owner shall maintain his Lot and Improvements thereon in a clean and attractive condition, in good repair and in such fashion as not to create a fire hazard. Such maintenance shall include, without limitation, painting, repair, replacement and care for roofs, gutters, downspouts,

exterior building surfaces, walks and other exterior improvements and glass surfaces. In addition, each Owner shall maintain the lawns, trees, plants and other ornamental growth on the Lot in a neat and husbandlike manner.

5.5 Parking. Parking of commercial vehicles, boats, trailers, motorcycles, trucks, truck campers or other recreational vehicle or equipment shall not be allowed on any part of the Property nor Common Area, except only if or within the confines of an enclosed garage or screened area, the plans of which shall have been reviewed and approved by Design Review prior to construction, and no portion of the same may project beyond the screened area. No vehicle owned, rented, borrowed or under the control of the occupant of the dwelling located on the Lot shall be allowed to be parked on the street/roadway area. Vehicles owned by others who are guests of the occupants of the dwelling may be parked on the driveway servicing the dwelling not to exceed fourteen (14) days or street adjacent thereto not to exceed forty-eight (48) hours. In no event shall any Owner park or store wrecked or partially demolished vehicles on his Lot for any period of more than two (2) days.

5.6 Signs. No signs shall be erected or maintained on any Lot except a project sign and except that not more than one (1) "For Sale" or "For Rent" sign placed by the Owner, Declarant or by a licensed real estate agent, not exceeding three (3) square feet in size, may be temporarily displayed on any Lot. The restriction contained in this paragraph does not apply to signs used by a builder during the construction and sales period and shall not prohibit the temporary placement of "political" signs on any Lot by the Owner.

5.7 Rubbish and Trash. No Lot, roadway, or part of the Common Area shall be used as a dumping ground for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate sanitary containers for proper disposal and out of public view. Yard rakings, dirt and other material resulting from landscaping work shall not be dumped onto the Common Area or roadways. A reasonably sized compost area shall be permitted as long as it is not offensive to other Owners.

5.8 Completion of Construction. The construction of any building on any Lot, including painting and all exterior finish, shall be completed within twelve (12) months from the beginning of construction as evidenced by a Certificate of Occupancy issued by the applicable governmental entity. In the event of undue hardship due to weather conditions, this provision may be extended for a renewable length of time upon written approval from Design Review. The building area shall be kept reasonably clean and in workmanlike order during the construction period.

5.9 Landscape Completion. All landscaping must be completed within six (6) months from the date a Certificate of Occupancy is issued by the governing authority for the dwelling unit constructed thereon. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval of Design Review.

5.10 Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used on any Lot at any time as a residence either temporarily or permanently.

5.11 Manufactured Dwellings Excluded. No manufactured dwellings, as that term is defined in ORS Chapter 446 as of the date of this declaration, shall be used on any lot at any time as a residence either temporary or permanently.

5.12 Fences. Except for privacy fences, fences are discouraged. All fences, screens and similar structures shall be constructed of wood, stone or other approved materials, shall not obstruct any Lot's view, and are subject to the Design Review approval process.

5.13 Newspaper Boxes. No newspaper box or receptacle shall be placed on or adjacent to any Lot without the prior approval of Design Review.

5.14 Service Facilities. All telephone, power, natural gas, cable television and other communication lines shall be placed underground.

5.15 Antennas and Satellite Disks. Exterior antennas and satellite receivers shall not be permitted to be placed upon any Lot or Improvement except as approved by Design Review. Exterior satellite receiver and transmission disks over twenty-four (24) inches are prohibited.

5.16 Plan and Exterior Color Approval. All exteriors of residences shall be constructed of natural cedar shingles, board and batten in cedar, cedar beveled lap siding or stucco either left natural or painted or stained shades of grey or brown or shades of grey-greens or brown-greens. Complete plans, including landscape plans, grade elevations and exterior color, trim color, and exterior lighting selection must be submitted to Design Review for approval prior to the start of construction. It is suggested that preliminary plans be submitted to Design Review for preliminary approval prior to commencing working drawings.

5.17 Roofing Materials. Roofs are to be constructed of cedar shakes, tile or architectural-style asphalt shingles, or similar or better construction materials approved by Design Review.

5.18 Outdoor Lighting. The number, type, design and candle power of outdoor lighting shall be subject to the review of Design Review. Outdoor lighting that is offensive to a neighbor may require change at the direction of Design Review.

5.19 Animals. No animals of any kind shall be raised, kept or permitted other than a reasonable number of domestic household pets which are not kept, bred or raised for commercial purposes and which are reasonably controlled so as not to be a nuisance to other Lots.

5.20 Height. Ridge heights shall be limited so as not to restrict the primary view of the surf enjoyed by other dwellings, whether constructed or not.

5.21 Vegetation. Vegetation shall be limited so as to not restrict the primary view of the surf enjoyed by other dwellings. This restriction shall not apply to trees existing prior to the time of initial construction on each lot.

5.22 Riparian Zone. Building construction shall occur outside the riparian zone of creeks, as per the standards of the Tillamook County Land Use Ordinance, Section 4.080. Vegetation removal or other activities within the riparian zone shall comply with that ordinance.

5.23 Big Game Habitat. The Property is in an area of known big game and furbearer animal use. The Oregon Department of Fish and Wildlife expects any and all present and future owners of this property to indemnify and hold harmless the Department for any damage and/or inconvenience caused by these animals to persons, real property, and/or personal property. This agreement shall inure in perpetuity to all successors, assignors, and heirs. This agreement cannot be deleted or altered without prior contact and agreement by the Oregon Department of Fish and Wildlife.

5.24 Neskowin Regional Water District. On Lots 14 and 15, which have portions of this lot area outside the boundaries of the Neskowin Regional Water District, any structures built shall be located completely within the boundaries of that district.

ARTICLE 6 **DESIGN REVIEW**

6.1 Approval of Building Construction. In the case of new construction or substantial reconstruction of a dwelling, the Owner shall prepare and submit to Design Review such plans and specifications for the proposed work as the committee may

require. Material required by the committee must include, but not necessarily be limited to two complete sets of the following:

- (a) A plot plan of the lot showing:
 - (i) contour lines;
 - (ii) the proposed drainage plan;
 - (iii) proposed sanitary disposal facilities;
 - (iv) height restrictions;
 - (v) utilities locations;
- (b) Floor plans;
- (c) Drawings showing all elevations;
- (d) Description of exterior materials and colors, with samples;
- (e) Working drawings and construction specifications; and
- (f) Landscaping plan using indigenous species and/or natural plantings, not to obstruct any lot's view at maturity.

Design Review shall render its decision in writing to the applicant with respect to the proposed construction within thirty (30) days after it has received all material required by it with respect to the application.

6.2 Approval of Additions or Remodeling. In the case of minor additions or remodeling, changes in existing color scheme or exterior material, fence construction or any other work not referred to in Section 7.1 above, the Owner shall submit to Design Review such plans and specifications for the proposed work as the committee determines to be necessary to enable it to evaluate the proposal. A written decision on the proposed construction shall be rendered to the applicant as quickly as is reasonably possible, but in no event later than thirty (30) days after receipt by the committee of all material required by the committee.

6.3 Effective Period of Consent. Design Review's consent to any proposed work shall be automatically revoked one year after issuance unless construction of the work has been commenced or the Owner has applied for and received written extension of time from the committee.

6.4 Procedure. In the event the committee fails to render its approval or disapproval within the time limits set forth above, the committee shall conclusively be deemed to have consented to the proposal.

6.5 Membership: Appointment and Removal. The Design Review Committee shall consist of three (3) persons. All members of the committee shall be appointed by and serve at the pleasure of Declarant until the earlier of (a) when all Lots within The Hills of Neskowin have had building design approval for them, or (b) January 1, 2003. Thereafter, all members of the committee shall be members of the Association and appointed by and serve at the pleasure of the board of directors of the Association. The Association shall keep on file at its principal office a list of names and addresses of the members of the committee. A member of the committee shall not be entitled to any compensation or honorarium for services performed pursuant to these covenants, but may be reimbursed for actual out-of-pocket expenses incurred in the performance of his or her duties. Design Review, in conjunction with the Association, shall exist perpetually.

6.6 Design Review Discretion. Design Review may in its sole discretion withhold consent to any proposed work if the committee finds that the proposed work would be inappropriate for the particular Lot or incompatible with the high design standards that Declarant intends for The Hills of Neskowin. Considerations such as siting, shape, size, color, design, height, impairment of the view from other parcels within The Hills at Neskowin or other effect on the enjoyment of other parcels or Common Area, disturbance of existing terrain and vegetation, and any other factors which Design Review reasonably believes to be relevant, may be taken into account by the committee in determining whether or not to consent to any proposed work.

6.7 Completion of Authorized Work. Unless the consent of Design Review has first been obtained, the residential building constructed on a Lot must be completed within a period of one (1) year from the date upon which construction of the same was commenced. All landscaping as submitted to and approved by Design Review must be completed within the same time period.

6.8 Notices upon Completion. Promptly after completion of any work covered by Section 7.1 above, the Owner shall give written notice of completion to Design Review. Within thirty (30) days after receipt of such notice the committee shall inspect the completed work and give written notice to the Owner of any respects in which the completed work fails to conform to the plans and specifications therefor as consented to by Design Review and is found objectionable by Design Review. Design Review shall specify in such notice a reasonable period, not less than thirty (30) days, in which the Owner may remedy the nonconformance. In the event a notice of nonconformance and

requirement of cure is not given within such thirty (30) day period, the committee shall conclusively be deemed to have consented to the work as completed.

6.9 Liability. Neither Design Review nor any member thereof shall be liable to any Owner, occupant, builder or developer 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, in accordance with the actual knowledge possessed by him, acted in good faith.

6.10 Action. Except as otherwise provided in these covenants, a majority of the members of Design Review shall have power to act on behalf of the committee, without the necessity of a meeting. The committee may render its decisions only by written instrument setting forth the action taken by the members.

6.11 Duties and Rules. Design Review shall consider and act upon all matters properly submitted to it pursuant to these covenants. In furtherance of this function, the committee may by unanimous vote, from time to time and by its sole discretion, adopt, amend and repeal rules and regulations to be known as the "Design Review Rules" to establish its operating procedures and interpret, detail and implement these covenants and applicable governmental ordinances. Design Review may establish a reasonable fee to be paid to the Association to cover its costs incurred in considering and acting upon matter submitted to it. A current copy of such rule shall be kept on file at the principal office of the Association at all times. Such rules shall have the same force and effect as if set forth in these covenants.

6.12 Nonwaiver. Consent by Design Review to any matter proposed to it and within its jurisdiction under these covenants shall not be deemed to constitute a precedent or waiver impairing its rights to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.

6.13 Estoppel Certificate. Within thirty (30) days after written demand by an Owner, Design Review shall execute and deliver to the Owner requesting the same an estoppel certificate certifying with respect to the Lot of such Owner that as of the date of the certificate either (a) all improvements and other work within the Lot comply with these covenants, or (b) 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 Association and all Owners.

ARTICLE 7

ASSOCIATION

Declarant shall organize an association of all of the Owners of The Hills of Neskowin. Such Association, its successors and assigns, shall be organized under the name "The Hills of Neskowin Owners Association", or such similar name as Declarant shall designate, and shall have such property, powers and obligations as are set forth in these covenants for the benefit of The Hills of Neskowin and all Owners of Lots located therein.

7.1 Organization. Declarant shall, within six (6) months after the recording of this Declaration, organize the Association as a nonprofit corporation under the general nonprofit corporation laws of the State of Oregon. The Articles of Incorporation of the Association shall provide for its perpetual existence, but in the event the Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. In that event all of the property, powers and obligations of the incorporated Association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated association, and such vesting shall thereafter be confirmed as evidenced by appropriate conveyances and assignments by the incorporated association. To the greatest extent possible, any successor unincorporated association shall be governed by the Articles of Incorporation and Bylaws of the Association as if they had been made to constitute the governing documents of the unincorporated association.

7.2 Membership. Every Owner of one or more lots within The Hills of Neskowin shall, immediately upon creation of the Association and thereafter during the entire period of such Owner's ownership of one or more Lots with The Hills of Neskowin, be a member of the Association. Such membership shall commence, exist and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership. The membership and organization provisions of the association will be established in its by-laws, which will provide that there will be one vote for each lot owned by a member of the association.

7.3 Powers and Obligations. The association shall have, exercise and perform all of the following powers, duties and obligations:

(a) The powers, duties and obligations granted to the Association by these covenants.

(b) The powers and obligations of a non-profit corporation pursuant to the general non-profit corporation laws of the State of Oregon.

(c) Any additional or different powers, duties and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to these covenants or otherwise promoting the general benefit of the Owners within The Hills of Neskowin.

7.4 Liability. Neither the Association nor any officer or member of its board of directors shall be liable to any Owner for any damages, loss or prejudice suffered or claimed on account of any action or failure to act by the Association, any of its officers or any member of its board of directors, provided only that the officer or board member has acted in good faith in accordance with the actual knowledge possessed by him.

7.5 Powers and Responsibilities of the Board of Directors. In addition to such other powers and responsibilities as shall be given to or imposed upon it by these covenants, the Articles of Incorporation or the Bylaws, the board of directors of the Association shall have the following powers and responsibilities on behalf of the Association:

(a) The board shall be responsible for maintaining all Private Ways, the Storm Drainage system, the Common Area and the improvements thereon.

(b) The board shall be responsible for the construction of such improvements on the Private Ways and Common Area as it deems will be of benefit to the Owners and their guests.

(c) The board shall be responsible for the enforcement of all covenants and restrictions in these covenants and The Hills of Neskowin Rules and Regulations.

(d) The board shall be responsible for the promulgation and enforcement of The Hills of Neskowin Rules and Regulations and the enforcement of Design Review Rules and decisions of Design Review.

(e) The board shall be responsible for the payment of all ad valorem taxes and assessments imposed on the Common Area and Private Ways within The Hills of Neskowin.

(f) The board shall be responsible for the provision of such services to the Owners as it shall deem to be of benefit to the Owners of The Hills of Neskowin.

ARTICLE 8

ENFORCEMENT

8.1 Use of Common Area and Private Ways. In the event any Owner shall violate any provision of these covenants, the Bylaws of the Association or other rules adopted by the Association governing the use of Private Ways, Common Area and facilities thereon, then the Association, acting through its board of directors, shall notify the Owner in writing that the violations or nuisances exist and that he is responsible for them, and may (a) notify the Owner in writing that his voting rights and right to use the Common Area are suspended and that the duration of such suspension shall continue for the period that the violations or nuisances remain unabated, or for any period not to exceed one (1) year for any infraction of its rules and regulations; (b) after hearing and opportunity to be heard, impose reasonable fines upon the Owner, as such fines may be provided for in the bylaws and rules of the Association; or may do both. Such fines shall be paid to the Association. Nothing in this section, however, shall give the Association the right to deprive any Owner of access to and from his Lot.

8.2 Nonqualifying Improvements and Violation of Use Restrictions. In the event any Owner constructs or permits to be constructed on his Lot an improvement contrary to the provisions of these covenants or the Design Review Rules, or causes or permits any improvement, activity, condition or nuisance contrary to the provisions of these covenants or The Hills of Neskowin Rules and Regulations to remain uncorrected or unabated on his Lot, then the association acting through its board of directors or Design Review shall notify the Owner in writing of any such specific violations of these covenants and shall require the Owner to remedy or abate the same in order to bring his Lot, the improvements thereon and his use thereof, in conformance with these covenants. If the Owner is unable, unwilling or refuses to comply with the Association's or Design Review's specific directives for remedy or abatement, or the Owner and the association or committee cannot agree to a mutually acceptable solution within the framework and intent of these covenants, within fourteen (14) days of the written notice to the Owner, then the association acting through its board of directors or Design Review, shall have the right to:

(a) Impose reasonable fines against such Owner in the manner and amount it deems appropriate in relation to the violation;

(b) Enter the offending Lot and remove the cause of such violation or alter, repair or change the item which is in violation of these covenants in such a manner as to make

it conform thereto, in which case the association or Design Review may assess such Owner for the entire cost of the work done, which amount shall be payable to the Association; and

(c) Bring suit or action against the Owner on behalf of the association and other owners to enforce these covenants.

8.3 Default in Payment of Assessments; Enforcement of Lien. If an assessment or other charge levied under these covenants is not paid within thirty (30) days of its due date, such assessment or charge shall become delinquent and shall bear interest at the rate set forth below. The president or secretary of the association shall file in the office of the Tillamook County Clerk or recorder a notice of lien stating the amount of the delinquent assessments, together with interest, expenses and attorneys' fees as provided in Section 10.6 below, and upon payment in full shall execute and file a proper release of such lien. Such sum shall constitute a lien upon such lot from the date of filing of notice of delinquency until the date the lien is released, and the association may enforce such lien in the manner provided bylaw with respect to a lien on real property. In addition, the Association may bring an action at law to enforce payment of a delinquent assessment or charge against the Owner personally obligated to pay the same, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation until a lien is filed and shall not pass to his successors in title unless expressly assumed by them. However, the obligation to pass any assessments accruing after the filing of a lien shall pass with the Lot and shall also become the personal obligation of the successors in title.

8.4 Notification and Rights of First Mortgagees. The board of directors shall notify any first mortgagee of any individual Lot of any default in performance of these covenants by the Lot Owner which is not cured within sixty (60) days. At any time that any improvement located in The Hills of Neskowin is not properly maintained and kept in good order and repair by an Owner or by the Association, to the extent reasonably necessary to protect and preserve its appearance and value and the appearance and value of the remainder of The Hills of Neskowin, the record holder of any first mortgage or deed of trust upon a Lot, upon giving written notice, shall be entitled to exercise the rights of the mortgagor-Owner of such property as a member of the Association to vote at all regular and special meetings of the members of the Association for a period of one (1) year following the date of such notice. During that period of time, the mortgagee shall be given notice of all regular and special meetings of the association. The mortgagor-Owner shall receive such notice also and may attend such meetings as an observer. The required notice shall quote this section and shall be sent by certified mail, return receipt requested, to the mortgagor-Owner, and a copy by regular mail to the association, at the last known address of each.

8.5 Subordination of Lien to Mortgages. The lien of the assessments or charges provided for in these covenants shall be subordinate to the line of any mortgage or deed of trust on such Lot which was made in good faith and for value and which was recorded prior to the recordation of the notice of lien. Sale or transfer of any Lot shall not affect the assessment lien, but the sale or transfer of any Lot which is subject any mortgage or deed of trust pursuant to a decree of foreclosure thereunder or any deed or proceeding in lieu of foreclosure shall extinguish any lien of an assessment which became a lien prior to such sale or transfer. Such sale or transfer, however, shall not release the Lot from liability for any assessments or charges thereafter becoming due or from the lien of such assessments or charges.

8.6 Interest; Expenses and Attorneys' Fees. Any amount not paid to the association when due in accordance with these covenants shall bear interest from the due date until paid at a rate three (3) percentage points per annum above the prevailing Portland, Oregon prime rate at the time, but not to exceed the lawful rate of interest under the laws of the State of Oregon. In the event the Association, Design Review or any Owner shall bring any suit or action to enforce these covenants, or to collect any money due hereunder, or to foreclose a lien, the Owner-defendant shall pay to the plaintiff all costs and expenses incurred by it in connection with such suit or action, including a foreclosure title report, and the prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable as attorneys' fees at trial and upon any appeal thereof.

8.7 Nonexclusiveness and Accumulation of Remedies. An election by the association or Design Review to pursue any remedy provided for violation of these covenants shall not prevent concurrent or subsequent exercise of any remedy permitted by these covenants. The remedies provided in these covenants are not exclusive but shall be in addition to all other remedies, including actions for damages and suits for injunctions and specific performance, available under applicable law to the Association, Design Review or the Owners. Each Owner, in his individual capacity, shall have the right to enforce these covenants.

ARTICLE 9

MISCELLANEOUS PROVISIONS

9.1 Amendment and Repeal. This Declaration, or any provision thereof, as from time to time in effect with respect to all or any part of the Property, may be amended or repealed as to all or any portion of the Property by a written instrument signed by Owners owning not less than seventy-five percent (75%) of the Lots within the Property,

effective when such instrument is recorded in the records of Tillamook County, Oregon, except that Declarant or Declarant's assigns may amend this Declaration in whole or in part at its sole discretion as long as it owns a majority of the Lots within the Property.

9.2 Duration. This Declaration shall run with the land and shall be and remain in full force and effect at all times with respect to all property included within the Property and the Owners thereof for an initial period of thirty (30) years commencing with the date on which this document is recorded. Thereafter, this Declaration shall continue to run with the land and be and remain in full force and effect at all times with respect to all property within the Property and the Owners thereof for successive additional periods of ten (10) years each. The continuation from the initial or any additional period into the next subsequent period shall be automatic and without the necessity of any notice, consent or other action whatsoever; provided, however, that this Declaration may be terminated at the end of the initial or any additional period by a written, recordable instrument signed by owners owning seventy-five percent (75%) of the Lots within the Property, and which instrument shall only be effective when recorded in the records of Tillamook County, Oregon.

9.3 Joint Owners. In any case in which two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest.

9.4 Lessees and Other Invitees. Lessees, invitees, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration restricting or regulating the Owner's use, improvement or enjoyment of his Lot and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner himself.

9.5 Nonwaiver. Failure by any Owner or mortgagee to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

9.6 Construction; Severability; Number; Captions. This Declaration shall be liberally construed as an entire document to accomplish the purposes thereof as stated in the introductory paragraphs hereof. Nevertheless, each provision of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of

any provision shall not affect the validity or enforceability of the remaining party of that or any other provision.

As used herein, the singular shall include the plural and the plural the singular, and the masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Declaration.

9.7 Notices and Other Documents. Any notice or other document permitted or required by this Declaration may be delivered either personally or by mail. Delivery by mail shall be deemed made twenty-four (24) hours after having been deposited in the United States mail as certified or registered mail, with postage prepaid, addressed as follows: If to Declarant, P.O. Box 961, Lincoln City, OR 97367; if to an Owner, at the address given by him at the time of his purchase of a Lot, or at his Lot. The address of a party may be changed by him at any time by notice in writing delivered as provided herein.

DECLARATION OF ANNEXATION TO THE HILLS OF NESKOWIN

November __, 1998

BUTTERFIELD HOMES, INC., an Oregon corporation, the Declarant of the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Lots 1 through 17 of The Hills of Neskowin, in Tillamook County, Oregon dated August 29, 1997, and recorded at Book 389, Page 516 of the Records of Tillamook County, Oregon, which declaration was amended by document recorded August 5, 1998, at Book 399, Page 34 of the Tillamook County Records, makes this declaration of annexation to annex additional property to The Hills of Neskowin.

Pursuant to Section 2.2 of The Hills of Neskowin Covenants, the following property is hereby annexed to The Hills of Neskowin:

Lots 18-62, as shown in that certain plat entitled "The Hills of Neskowin, Phase II" filed in the plat records of Tillamook County, Oregon, on the ____ day of _____, 1998, Instrument _____ in the Plat Cabinet _____ Plat Records.

The terms of the annexation are as follows:

1. APPLICATION OF THE HILLS OF NESKOWIN COVENANTS. The above-described property is held and shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to The Hills of Neskowin Covenants, as the same may be modified by any additional or different limitations, restrictions, covenants or conditions contained herein.

2.1 Owners' Easements of Enjoyment. Subject to the provisions of these declarations, every Owner and every Owner's family, tenants, guests and invitees, shall have a right and easement of enjoyment in and to the Common Area and Private Ways. Declarant has submitted a plat known as The Hills of Neskowin, which dedicates a common area within the plat. Phase II of The Hills of Neskowin is by this document annexed to The Hills of Neskowin, and references hereinafter to "The Hills of Neskowin" are intended to refer to both phases. Declarant has reserved a non-exclusive access and utilities easement unto itself, heirs, and assigns, over Pacific Overlook Drive, Whale Watch Drive and Surfside Drive, and easements as set forth on the plat and Declarations of The Hills of Neskowin.

2.2 Extent of Owners' Rights. The rights and easements of enjoyment in the Common Area and Private Ways created by these Covenants shall be subject to the following and all other provisions of these Covenants:

(a) Easements. Declarant reserves to itself and grants to the Association for the benefit of Declarant, the Association and all Owners of Lots within The Hills of Neskowin, the following easements:

(i) An easement for the Common Area and Private Ways for installation and maintenance of power, water, storm drainage, and other utility services;

(ii) An easement on all Private Ways for access within The Hills of Neskowin and to adjacent areas;

(iii) An easement for construction, maintenance, repair and use of the Common Area and Private Ways; and

(iv) An easement for the purpose of making repairs to existing structures and carrying out sales activities necessary or convenient for the sale of Lots.

Declarant or the Association may grant or assign such easements to municipalities or other utilities performing utility services, and Declarant

and the Association intend to grant free access thereon to police, fire and other public officials and to employees of utility companies serving The Hills of Neskowin.

(b) Use of the Common Area. The use of the Common Area shall be strictly limited to recreational activities and the Common Area shall not be platted or otherwise divided into parcels for residential or commercial use.

(c) Use of Private Ways. Private Ways shall be used for walking or traveling thereon by appropriate means. Declarant does not intend to dedicate Private Ways to the public, but rather intends to preserve the private character of such ways.

(d) Alienation of Common Area. The Association shall not by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area owned directly or indirectly by the Association for the benefit of the lots unless the holders of at least seventy-five percent (75%) of the voting power have given their prior written approval. This provision shall not apply to the easements retained by Declarant.

3. USE RESTRICTION. Lots 18-62, "The Hills of Neskowin Phase II", shall be subject to the following use restriction:

This property is in an area of known big game and furbearing animal use. Any and all present and future owners of this property agree to indemnify and hold harmless the Oregon Department of Fish and Wildlife for any damages and/or inconvenience caused by these animals to persons, real property, and/or personal property.

This agreement shall inure in perpetuity to all successors, assignors, and heirs. This agreement can not be deleted or altered without prior contact and agreement by the Oregon Department of Fish and Wildlife.

4. AMENDMENT AND APPEAL. This Declaration, or any provision thereof, as from time to time in effect with respect to all or any part of the Property, may be amended or repealed as to all or any portion of the Property by a written instrument signed by Owners owning not less than seventy-five percent (75%) of the Lots within the Property, effective when such instrument is recorded in the records of Tillamook County, Oregon, except that Declarant or Declarant's assigns may amend this Declaration in whole or in part at its sole discretion as long as it owns a majority of the Lots within the Property.

