

# DECLARATION OF PROTECTIVE COVENANTS OF EAGLE POINTE

This declaration of Protective Covenants is applicable to Lots 1 through 60, EAGLE POINTE.

WHEREAS, Eagle Pointe Home Owners Association hereinafter referred to as Declarant, is Owner in fee simple of certain real property located in the City of Tigard, County of Washington and State of Oregon, known as EAGLE POINTE a duly recorded subdivision.

NOW THEREFORE, the undersigned hereby declares that the following protective covenants, conditions, restrictions, reservations and easements shall run with the land, shall become and are hereby made a part of all conveyances of Lots 1 through 60 within the plan of EAGLE POINTE recorded plat Book 103 Pages 46- 50 Washington County, Oregon, and shall b e reference apply thereto as fully and with the same effect as if set forth at large therein.

## ARTICLE I DEFINITIONS

As used herein, the following capitalized terms shall have the following meanings unless the context of their usage clearly indicates otherwise:

**Declarant:** Eagle Pointe Home Owners Association, its members, its successors and assigns.

**Property:** The duly recorded plat of EAGLE POINTE.

**Tract:** Any lettered parcel of land shown upon any recorded plat of the property.

**Lot:** Any numbered parcel of land shown upon any recorded plat of the Property.

**Owner:** The owner of record, whether one (1) or more persons of fee simple title to any lot, whether or not subject to any mortgage or trust deed, but excluding those having such interest merely as security for the performance of an obligation. A contract purchases under a recorded agreement for sale of contract for the sale of real property wherein legal title remains in the vendor thereunder shall be deemed to be the Owner. If title to a Lot is vested of record in a mortgagee, or beneficiary under a deed of trust by foreclosure the mortgagee or beneficiary shall be deemed to be the Owner of record.

**Dwelling:** Any structure constructed on a Lot intended to be occupied by one family as a dwelling under applicable zoning and building laws and restrictions.

**Easements:** Those portions of the Property designated as such on the plat and in this Declaration of Protective Covenants which are reserved for a specific limited use or enjoyment.

## **ARTICLE II**

### **ANNEXATION OF ADDITIONAL PROPERTY**

Declarant may, from time to time, and at its sole discretion, annex to EAGLE POINTE any adjacent property and/or future phases of the development now or thereafter acquired by it, and may also from time to time, and in its sole discretion, permit other holders of adjacent property to annex adjacent land owned by them to EAGLE POINTE. The annexation of such property shall be accomplished by recording a declaration which shall be executed by or bear the approval of Declarant, and shall describe the property to be annexed, shall establish any additional or different limitations, restrictions, Covenants and conditions, and shall declare that such Property is held and shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to these Covenants. The Property included by any such annexation shall thereby become a part of the Property bound by these protective Covenants.

## **ARTICLE III**

### **RESIDENTIAL COVENANTS**

1. **Use:** All lots in EAGLE POINTE shall be for single-family residential use only. Any permanent multi-family, or communal use or temporary structure or vehicle for residential use is prohibited. No business venture shall be conducted in or about any Lot in EAGLE POINTE, which is designated by exterior signs and create additional vehicle traffic, except that builders', Declarant's or real estate agents' temporary sales are permitted.
2. **Dwelling Size:** The ground floor of the main level, exclusive of open porches and garages shall not be less than 1,600 square feet for a one-story Dwelling. The total living levels of a multi-level Dwelling shall not be less than 2,000 square feet.
3. **Exterior Building Materials and Finish:** Exterior materials and colors must be approved for use by the Architectural Control Committee in accordance with the provisions of Article IV. All dwellings must be double wall construction with a garage for not less than two automobiles. Plywood panel siding will not be permitted. Exposed crawl space areas on Dwellings must be sided to not less than 18" above grade.

Permitted roofing materials are wood shake, wood shingle, wood fiber products and tiles. Asphalt fiberglass roofing must be staggered shake shingle of a high density to create a dimensional appearance, be gray, black or brown and be approved by the Architectural Control Committee. Exterior brick veneer shall have a wrap around return of a minimum of "12 on all adjacent corners.

Exterior trim, fences, doors, railings, decks, eaves, gutters and the exterior finish of garages and other accessory buildings shall be designed, built and maintained to be compatible with the exterior of the Dwelling they adjoin. Requirements for fences are specified in Section 14. all deck support posts to be no less than 5-1/2" x 5-1/2" in size.

The architectural Control Committee reserves the right to grant any variance to the minimum requirements to provide for any solar materials, new product or specific design requirements.

**ARTICLE III continued...**

4. **Easements:** Easements for installation and maintenance of utilities and drainage facilities are reserved on Lots as shown on the recorded plat. Within these Easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the flow of water through drainage channels in the easements. The Easements area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot except for those improvements for which a public authority utility company or maintenance committee or other party is responsible. Each Lot Owner shall be responsible for removal of any fencing or vegetation in the event a utility company makes such a request.
5. **Maintenance of Dwelling and Grounds:** Each Owner shall maintain their Lot and improvements in a clean and attractive condition in good repair and in such a fashion as not to create a hazard of any kind. Such maintenance shall include, without limitation, painting or staining, repair, replacement and care of roofs, gutters, downspouts, surface water drainage, walks and other exterior improvements and glass surfaces. In addition, each owner shall keep shrubs, trees, grass and plantings of every kind neatly trimmed, properly cultivated and free of trash, weeds and other unsightly materials. The provisions of the section include the areas between the property line of any Lot and the nearest curb, including sidewalks and street trees.
6. **Animals:** No animals shall be raised or kept on any Lot except that dogs, cats, or other household pets may be kept provided that they are not raised or kept for commercial purposes and are not permitted to cause damage to discomfort to neighbors and neighboring lots. As stipulated in paragraph 14 below all dogs shall be fenced on all sides visible to other properties with wood fencing materials per paragraph 14.  
  
Poultry is allowed to be raised in residential areas of The City of Tigard. Any Owner who chooses to raise poultry within Eagle Pointe must follow the restrictions per The City of Tigard's Residential Zoning Codes; when an agricultural use is adjacent to a residential use, no poultry or livestock, other than normal household pets, may be housed or provided use of a fenced run within 100 feet of any nearby residence except a dwelling on the same lot.
7. **Garbage and Refuse Disposal:** No Lot shall be used as a dumping ground for garbage, rubbish or other waste. All garbage and trash shall be kept in sanitary containers and out of public view.
8. **Signs:** No Signs shall be erected or maintained on any Lot, except that "For Sale," "For Lease" or "For Rent" signs may be placed by the Owner, Declarant, Builder or Real Estate Agent provided such signs are uniform in design and approved by the Architectural Control Committee and the temporary placement of "political" signs is permissible. "Block Home" signs are also permissible.
9. **Parking and Storage of Equipment:** Boats, trailers, truck-campers, motor homes, commercial vehicles and like equipment shall be parked inside a garage and shall not be parked or stored on any public ways. Exception is such equipment when not owned by a resident owner, and shall be allowed to be parked in the driveway servicing a Dwelling or on public streets adjacent thereto for a period not to exceed forty-eight (48) hours in any thirty (30) day period.

10. **Offensive Activities:** No noxious or offensive activity or condition shall be permitted upon any part of the property nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

11. **Antennas and Service Facilities:** All exterior antennas, aerials or satellite dishes installed on any Eagle Pointe property shall be installed in the best possible location to limit it's visibility from the street and neighboring Lots understanding that position does effect reception.

Per The City of Tigard's Residential Zoning Codes, the erection of television receiving dishes on the roof of a structure is not permitted in any residential zone. All freestanding and detached towers, antennas, wind-generating devices and TV receiving dishes, except as otherwise regulated by Wireless Communication Facilities (Chapter 18.798), shall have setbacks equal to or greater than the height of the proposed structure. Suitable protective anti-climb fencing and a landscaped planting screen, in accordance with Chapter 18.745, Landscaping and Screening, shall be provided and maintained around these structures and accessory attachments. (Ord. 09-13)

▪ **Completion of Construction:** The construction, remodel or addition to any Dwelling, including painting and all exterior finish, shall be completed within six (6) months from the beginning of construction so as to present a finished appearance when viewed from any angle. In the event of undue hardship due to extraordinary weather conditions, this provision may be extended for a reasonable length of time upon written approval from the Architectural Control committee. The building area and streets shall be kept reasonably clean and in workmanlike order during the construction period, and the Owner of each Lot shall be responsible for any and all damage to curbs, streets and utilities during construction

13. **Drainage:** Landscape completion and maintenance shall include provisions for adequate surface water drainage to prevent unnecessary discharge onto adjoining Lots. Water must be directed away from the structure, and must not be allowed to pond on site. Water will be allowed to flow from an uphill lot to a downhill lot provided that there is no diversion, or channeling, which results in the water flow being increased or concentrated in one area.

14. **Fencing:** As used herein, fencing shall mean any barrier or wall. Plantings or site obscuring fences shall not exceed four (4) feet in height in the front yard or side Lot line forward of the building lines. Maximum height of site obscuring fences located on the remainder of the Lot are generally six (6) feet in height, and shall comply with City of Tigard ordinance. Aesthetic restrictions are as follows:

- a) All fences shall be of wood, shall be constructed in 'picture frame' privacy panel style with cedar top cap. Fences shall be kept in good repair and in such a fashion as not to create a hazard of any kind. Each Owner shall maintain and keep their fence in a clean and attractive condition. Any maintenance, replacement and repair shall be the responsibility of the individual Lot Owner. Additionally, we recommend all fences to be sealed with a clear wood finish or stain. The entry monument and masonry walls are exceptions from the provisions of this section.

## **ARTICLE IV**

### **ARCHITECTURAL CONTROLS**

1. **Construction and Property Improvements** No structure, including storage shelters, swimming pools, greenhouses, basketball hoops, or remodeling including exterior painting shall be commenced on any Lot until the plans and specifications have been submitted to and approved in writing by the Eagle Pointe Home Owners Architectural Control committee. Forms for project approval are available on the EPHOA web site. The intent of this covenant is to insure quality of workmanship and material, harmony of exteriors and external design with the existing and planned structures as to location with respect to topography and finish grade elevations, and to avoid plan repetition.

Standards for solar access, as may be required by the City of Tigard, shall be the responsibility of Owner, and the Architectural control Committee shall assume no responsibility nor shall it, in its review, approval or disapproval of such plans and specifications, make any recommendation or judgment as to compliance with the City of Tigard's solar access requirements.

2. **Procedure:** Prior to application for a building permit or commencement of any work referenced in Article IV, Section 1, Owner shall prepare and submit one set of plans and specifications for the proposed work showing the location of all improvements, materials and colors, and be accompanied by a plot plan showing the location of the improvement on the Lot. The Architectural Control Committee shall render its decision, in writing, within ten (10) days after it has received said requested plans. In the event the Committee fails to render its approval or disapproval within twenty (20) working days after plans, specs and plot plan have been submitted to it, approval will be deemed to have been given.
3. **Membership - Appointment and removal:** The Architectural Control Committee shall consist of as many persons as the Declarant may from time to time appoint. The Declarant may remove any member of the Committee at any time and may appoint new or additional members at any time. The Declarant shall keep on file at its principal office a list of names and addresses of the members of the committee.
4. **Liability:** Neither the Declarant, the Architectural committee nor any of its members shall be liable to any Owner, occupant or tenant, for any loss, damage, cost expense, (including but not limited to attorney fees), liability or prejudice suffered, or claimed, on account of any act or failure to act by the Declarant or the committee or a member thereof so long as the Declarant or the Committee or member thereof was acting in the ordinary course of their duties as described in this Declaration.

In the event suit, action or arbitration is commenced against the Declarant, Architectural Committee or any of its members, to enforce or interpret this Declaration, the prevailing party shall be entitled to recovery of all reasonable attorney fees and costs upon trial or arbitration thereof, as well as upon appeal.

#### **ARTICLE IV...CONTINUED**

5. **Action:** Any two (2) members of the Architectural Control Committee shall have power to act on behalf of the Committee, without the necessity of a meeting and without the necessity of consulting the remaining members of the Committee. The Committee may render its decisions only by written instrument setting forth the action taken by the members consenting thereto.
6. **Non-waiver:** Consent by the Architectural Control Committee to any matter proposed to it and within its jurisdiction under these Protective 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.
7. **Effective Period of Consent:** The Architectural Control Committees' consent to any proposed work shall automatically be revoked one (1) year after issuance of consent unless construction of the work has been commenced or the owner has applied for and received an extension of time from the Architectural Control Committee.

#### **ARTICLE V** **EAGLE POINTE HOME OWNERS COMMITTEE**

1. **Landscape Easement:** A landscape Easement is reserved on Lot 1, Lot 5 and Lot 57 of EAGLE POINTE. Within these Easements, Declarant has constructed certain improvements for the benefit of all Owners of Lots in EAGLE POINTE. Maintenance and repair of the entry monument, flowers, shrubbery, irrigation or any other landscape improvements placed by Declarant shall be performed by EAGLE POINTE HOME OWNERS ASSOCIATION.
2. **EAGLE POINTE Home Owners Committee:** A declaration recorded in the records of Washington County states that the Eagle Pointe Home Owner Association shall exclusively exercise all control over entry monument landscaping, signage, architectural and other duties prescribed under this Declaration of Protective Covenants of the lots in Eagle Pointe. The board of supervisors of EPHOA shall enforce governing documents, including bylaws, guidelines, procedures, and establish the amount of annual dues and assessments to be levied to each Lot for the maintenance of the entry monument landscaping, and other neighborhood business/activities said amount not to exceed \$100.00 per Lot per year. Such failure of organization of the EPHOA board of supervisors shall not affect the existence of EPHOA or the effectiveness of the Declaration of Protective Covenants.

## **ARTICLE VI**

### **GENERAL PROVISIONS**

1. **Duration and Amendment:** These covenants shall run with the land with respect to all property within EAGLE POINTE, and shall be binding on all parties and persons claiming under them for a term of (20) years from the date herein, after which time, they shall be automatically be extended for successive periods of ten (10) years. The Declaration of Protective Covenants can be terminated or amended only by duly recording an instrument which contains an agreement providing for termination or amendment, and which has been signed by at least sixty percent (60%) of the Owners of the platted Lots.
2. **Enforcement:** Should any person violate or attempt to violate any of the provisions of these Protective Covenants, the Declarant or any other person or persons owning any Lots within EAGLE POINTE, at its or their option, but without obligation, shall have the full power and authority to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any of the Covenants, either to prevent the doing of such or to recover damages sustained by reason of such violation. Failure by any other to enforce any Covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
3. **Voting Rights:** Each member shall be entitled to one (1) vote for each lot owned. When more than one (1) person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any lot.
4. **Severability:** Invalidation of any one of these protective covenants shall in no way affect any of the other provisions which shall remain in full force and effect.
5. **Limitation of Liability of Declarant:** Neither Declarant nor any officer or director thereof shall be liable to any Owner or an account of any action or failure to act of declarant in performing its duties or rights hereunder, provided that Declarant has, in accordance with actual knowledge possessed by it, acted in good faith.
6. **Notice:** Any notice required to be sent to any Owner under the provisions of the Declaration of Protective Covenants shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as the Owner of record at the time of such mailing.