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Vol. <sup>W</sup> 72 Page 5995  
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## DECLARATION OF CONDITIONS AND RESTRICTIONS

28-4766

Gatewood Subdivision Tract 1035

WHEREAS, the Declarants have filed for record in the office of the County Clerk of the County of Klamath and State of Oregon, a plat designated as Gatewood, located in the W<sup>1</sup>/<sub>2</sub> NE<sup>1</sup>/<sub>4</sub>, Section 14, Township 39 South, Range 9 East of the W. M. Klamath County, Oregon.

WHEREAS, McPacific Company, an Oregon corporation, are the owners of all the real property included therein,

NOW, THEREFORE, these parties, the above described declarants, do hereby adopt the following general scheme and plan for the improvements, use and restrictions in the use of the land herein described and represented by said plat for the enjoyment and several benefits of themselves, as owners of said land, and also for the owners of any part of said land claiming through them, their successors or assigns; and they do hereby declare that having adopted all of the said land and each part and parcel thereof and that all their successors, representatives and assigns who shall derive title from the said declarants, shall take title subject to such general scheme and plan, even though no reference to such plan shall be made in the deed of conveyance as to any such successor, representative or assign; and the passing of title to any part of parcel of said land to any successor, representative or assign shall carry with it as an appurtenance the obligation and burden of such general scheme and plan. The said general plan shall consist of the above described property being and remaining subject to the following conditions, restrictions, covenants and agreements, to-wit:

1. LAND USE AND BUILDING TYPE: No lot shall be used except as designated, R5 or R5A, the purpose as outlined in the Klamath Falls zoning ordinance. Buildings erected are to be approved by the Architectural Control Committee.
2. DWELLING COST: Quality and Size: The ground floor area of the main structure, exclusive of one-story open porches and garages, shall not be less than 1200 square feet for a one-story dwelling, not less than 950 square feet for a dwelling of more than one story. A basement or partial basement structure shall be considered a two-story structure. No dwelling with a construction cost of less than \$22,000 shall be permitted on any lot. Multiple residence floor area will be controlled by the Architectural Control Committee.
3. BUILDING LOCATION: All buildings shall be located to comply with Klamath Falls Zoning Ordinances and variances granted therefrom. No building shall be located on any lot nearer to the front lot line than 20 feet. No building shall be located nearer than 5 feet to an interior lot line, except that 3 feet side yard shall be required for a garage or other permitted accessory building located 45 feet or more from the minimum building setback line. No dwelling shall be located on any interior lot nearer than 20 feet to the rear lot line. On corner lots, the direction towards which the dwelling faces shall be the front property line.



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A side yard of 10 feet or more on the side street will be maintained. On corner lots, a rear yard of 20 feet will be maintained and may be measured from either the rear or side building line to either the shorter or the longer property line. For the purpose of this covenant, eaves, steps, and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon not more than 6 feet into a required yard or not closer than 2 feet to a side setback.

4. LOT AREA AND WIDTH: No dwelling or group of dwellings shall be erected or placed on any lot having a width of less than 50 feet at the minimum building setback line nor shall any dwelling be erected or placed on any lot having an area of less than 7000 square feet.

5. UTILITY CONNECTIONS: On each of the lots in the tract, all telephone service wire connections to the main telephone system and all power connections to the main power system must be placed underground.

6. NUISANCES: No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Parking of vehicles of a commercial use is prohibited except for pickup size vehicles.

7. TEMPORARY STRUCTURES: No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently. Campers, trailers, boats, etc. may not be parked for storage purposes in the front setback of the lot.

8. SIGNS: No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than 5 square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

9. SIGHT DISTANCE AT INTERSECTIONS: No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

10. OIL AND MINING OPERATIONS: No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavation or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

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11. LIVESTOCK AND POULTRY: No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes.

12. GARBAGE AND REFUSE DISPOSAL: No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and not allowed in front set back.

13. WATER SUPPLY: No individual water-supply system shall be permitted on any lot unless such system is located, constructed and equipped in accordance with the requirements, standards and recommendations of the State Public Health Authority.

14. SEWAGE DISPOSAL: No individual sewage-disposal system shall be permitted on any lot.

15. EASEMENTS: Declarant hereby reserves to itself its successors and assigns, perpetual easements under, over and across strips of land five (5) feet in width running along and interior to the side lines and rear lines of each building site owned by it for the purpose of erecting, constructing, maintaining and operating sewers and drainage systems, and poles, pipes, wires, cables, guys, anchors and conduits for lighting, heating, power, telephone and any other method of conducting and performing any public or quasi-public utility service or function beneath, upon or above the surface of the ground within said five-foot strips of land, and declarant reserves the right to cut and/or trim any trees or other growth on such five-foot strips which may interfere with or menace the construction, maintenance or operation of said utilities.

16. ARCHITECTURAL CONTROL: No building shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line unless similarly approved. Approval shall be as provided in this section. No fence shall exceed 6 feet high on any portion of the lot.

MEMBERSHIP: The initial Architectural Control Committee of three to five members is composed of persons designated by MuPacific Company, Inc. by a recorded document. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of a majority of the lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties.

**PROCEDURE:** The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within 5 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

**17. GENERAL PROVISIONS:** (a) **TERM:** These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of 30 years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

(b) **ENFORCEMENT:** Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants either to restrain violation or to recover damages; if upon the erection of the first improvement upon any of the residential lots which are subject to these restrictions, it is disclosed by survey that a minor violation or infringement of the setback lines has occurred, such violation or infringement may be waived by the written consent and waiver of the owners of the residential lots immediately adjoining on either side of the residential lot upon which the violation or infringement occurs and such waiver shall be binding upon all other owners of residential lots which are subject to these restrictions and shall nullify the provisions of paragraph "b" herein insofar as any right of suit or action occurs by reason of such violation so waived. Nothing herein contained shall prevent the prosecution of a suit for any other violations of these restrictions. For the purpose of defining a "minor" violation as herein contained, such violation shall be not more than two feet beyond the setback lines as herein set forth. This provision shall apply only to the original structure and shall not be applicable to any alterations or repairs to such structure.

(c) **SEVERABILITY:** Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

NUPACIFIC COMPANY

*James D. Mulvehill*  
President  
*Robert L. Foote*  
Secretary

FORM No. 24—ACKNOWLEDGMENT—CORPORATION.

STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

STATE OF OREGON,

ss.

County of Multnomah  
before me appeared James D. Mulvehill  
Robert L. Foote

On this 23rd day of April, 1973,

and both to me personally known, who being

duly sworn, did say that he, the said

is the President, and he, the said

is the Secretary of NuPacific Company

the within named Corporation, and that the seal affixed to said instrument is the corporate seal of said Corporation, and that the said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Directors, and President and Secretary

acknowledged said instrument to be the free act and deed of said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

*[Signature]*  
Notary Public for Oregon.  
My Commission expires April 3, 1976.

STATE OF OREGON; COUNTY OF CLATSOP, ss. TRANSAMERICA TITLE INS. CO

Filed for record at request of  
this 17th day of May A.D. 1973 at 3:41 o'clock P.M., and duly recorded in  
Vol. M 73 of DEEDS on Page 5995  
FEE \$ 1.00  
WM. D. MILNE, County Clerk  
By *Handwritten Signature*