

DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
BAILEY RIDGE SUBDIVISION

This Declaration is made by CLEAR VIEW II, LLC, an Oregon limited liability company (“**Declarant**”).

RECITALS

Declarant is the owner of approximately 40 acres of real property located in the City of Salem, County of Marion and State of Oregon, more particularly described in Exhibit “A,” attached hereto and incorporated herein for all purposes (the “**Property**”). The Property is to be subdivided into one hundred fifty-nine (159) residential subdivision lots, numbered 1 through 159, by plat to be recorded in the Plat Records of Marion County, Oregon. Declarant desires to provide for the preservation and enhance the value of the Property by imposing covenants and restrictions controlling use and development of the Property, for the benefit of the Property and each owner of any lot.

DECLARATION

Therefore, Declarant declares that (a) the Property and improvements constructed and to be constructed thereon are hereby subjected to the provisions of this Declaration (the “**Declaration**”) and shall be held, sold, transferred, conveyed, used, occupied and mortgaged subject to this Declaration, (b) all covenants, conditions, and restrictions stated herein are declared to be in furtherance of the plan for the subdivision, development and management of the Property as a planned community, and (c) such covenants, conditions and restrictions shall run with title to the Property and shall be binding on all persons having any right, title or interest in the Property or any part thereof.

ARTICLE 1
DEFINITIONS

“**Articles**” shall mean and refer to the Articles of Incorporation of the Bailey Ridge Homeowners Association which are or shall be filed with the Oregon Secretary of State.

“**Assessments**” shall mean those assessments levied pursuant to Article 5 of this Declaration.

“**Association**” shall mean the Bailey Ridge Homeowners Association, a nonprofit corporation to be incorporated under the laws of the State of Oregon, its successors and assigns.

“**Board of Directors**” shall mean the Board of Directors of the Association.

“**Bylaws**” shall mean the initial Bylaws of the Association, attached hereto as Exhibit “B” and incorporated herein for all purposes, and any amendments thereto.

“**Common Areas**” shall mean those portions of the Property reserved for landscaping purposes and the monument walls to be constructed by Declarant along the perimeter of Bailey Ridge Subdivision, as will be shown on the Plat and more particularly depicted on Exhibit “C” attached hereto and incorporated herein for all intents and purposes.

“**County**” shall mean the County of Marion, State of Oregon.

“**Declarant**” shall mean Clear View II, LLC, an Oregon limited liability company, its successors or assigns.

“**Declarant Control Termination Date**” shall mean the date upon which a Residence has been constructed on each Lot and Declarant has conveyed all of the Lots to third parties, excluding (i) rescinded, terminated or forfeited sales or conveyances and (ii) a bulk sale of Lots to a successor developer to whom Declarant has transferred all of its rights as Declarant under the Declaration.

“**Declaration**” shall mean this Declaration of Covenants and Restrictions for Bailey Ridge Subdivision and including subsequently recorded amendments.

“**Improvement**” shall mean any building, garage, storage building, driveway, parking area, fence, retaining wall, stairs, deck, gazebo, hot tub, swimming pool, sign, or any other man-made above ground or below ground structure, including a drainage control system.

“**Lot**” shall mean each of Lots 1 through 159 of Bailey Ridge Subdivision as will be shown on the Plat.

“**Member**” shall mean an Owner.

“**Occupant**” shall mean the occupant of a Residence who may be the Owner, lessee or any other person authorized by the Owner to occupy the premises.

“**Owner**” shall mean the record owner, whether one or more persons or entities, of the fee simple title to a Lot or a purchaser in possession under a land sale contract. “Owner” does not include a person or entity who holds an interest in a Lot merely as security for the performance of an obligation.

“**Plat**” shall mean the plat of Bailey Ridge Subdivision.

“**Property**” shall mean the Lots.

“**Residence**” shall mean a structure situated upon a Lot designed and intended for use and occupancy as a residence by a single family.

Other defined terms set forth elsewhere in this Declaration shall have the designated meanings.

ARTICLE 2 USE AND OTHER RESTRICTIONS

2.1 **General.**

2.1.1 **Planned Community.** Declarant hereby declares that the Property will henceforth be known as Bailey Ridge Subdivision, a Class II planned community to be developed in several phases under the Oregon Planned Community Act. The Property shall be owned, conveyed, hypothecated, encumbered, used, occupied and improved subject to this Declaration. Assessments are payable under this Declaration by the Owners and commonly owned property is created by this Declaration; consequently, this Declaration is subject to ORS 94.550 to 94.783. Declarant intends for each of the 159 Lots contained in the Bailey Ridge Subdivision to be subject to the terms hereof, whether or not the phase of construction containing each Lot is completed prior to the date of recordation of this Declaration.

2.1.2 **Governmental Restrictions.** All uses, occupancy, construction and other activities conducted on any Lot shall conform with and be subject to valid and applicable zoning, use restrictions, setback requirements, construction and building codes of all local, state and Federal public authorities. In the event any of the terms or conditions of this Declaration conflict with a more restrictive standard or requirement set by a valid and applicable statute, rule, regulation, ordinance or code of a local, state or Federal public authority, the more restrictive standard or requirement shall apply.

2.1.3 **Combination; Division.** No Owner shall divide or subdivide any Lot. Upon compliance with the requirements of all valid and applicable zoning, building and land use laws, regulations and ordinances, and the architectural requirements of the Declaration, an Owner may construct, reconstruct or replace one Residence on one or more Lots. An Owner also shall be entitled to construct a duplex on a Lot.

2.2 **Residential Use.** No Lot shall be used for any purpose other than single family residential purposes. No more than one single family residence or duplex shall be erected or placed on a Lot. No commercial, retail or industrial use shall be allowed on a Lot or in any Residence; provided, however, that an Owner may rent his or her Residence as permitted by Section 2.3, even though such rental activity is considered a commercial use, and further provided that an Occupant may use a Residence as an office for the conduct of business so long as customers or business invitees do not visit the Residence on a regular basis.

2.3 **Leases/Rentals.** Each Owner may lease or rent his or her Residence for a period of time equal to or greater than thirty (30) consecutive days, subject to applicable laws and this Declaration, any rentals for a shorter duration being expressly prohibited. All such leases or rental agreements shall be in writing and shall be deemed to provide that their terms shall be subject in all respects to the provisions of this Declaration, and that any failure by the lessee or renter to comply with the Declaration shall constitute a default under the lease or rental agreement.

2.4 Specific Restrictions.

2.4.1 **Tree Cutting and Landscape Maintenance.** All trees, hedges, flowers and grasses growing on a Lot shall be maintained reasonably free of diseases and pests so that they will not be a menace to, or detrimental to the values and aesthetics of, surrounding Lots.

2.4.2 **Utilities.** No above-ground utilities, pipes or wires shall be used to connect Improvements with supplying facilities.

2.4.3 **Signs.** No sign of any kind shall be displayed to public view on or from any Lot; provided, however, that an Owner may display not more than one (1) for sale sign per Lot which has a maximum area not to exceed 750 square inches, placed not closer than five feet (5') from the front property line. During construction, any general contractor or developer constructing forty (40) or more Residences on the Property may erect and display at a reasonable location approved in writing by Declarant up to two (2) development signs upon the Property, each such sign to be no more than four feet (4') by eight feet (8') in dimension, and to be removed from the Property by the applicable general contractor or developer no later than three (3) days after the day that all Residences constructed by the general contractor or developer are initially sold.

2.4.4 **Exterior Lighting or Noise Making Device.** No noise-making device shall be placed on a Lot or any portion thereof. All exterior lighting located upon any Lot shall be selected and oriented in such a manner that the light bulbs are (a) less than sixty (60) watts each and concealed behind opaque, clear or opalescent material, and (b) directed downward and concealed from view of the occupants of other Lots or any street located within the Property.

2.4.5 **Antennas and Service Facilities.** No exterior antennas or aerials of any kind shall be permitted unless required for reception and then only as approved by the Architectural Review Committee (defined below). Clotheslines and other service equipment shall be screened so as not to be viewed from any street. A satellite dish may be allowed, if it can be screened from public view to the extent reasonably practicable or situated on the Lot so as not to be visible from any other Lot or roadway in or around the subject Lot. Approval for a satellite dish and any associated screening must be obtained from the Architectural Review Committee. No exterior antennas which function as transmitting devices shall be permitted on any Lot. No satellite dish installed on any Lot shall exceed thirty-nine inches (39") in diameter.

2.4.6 **Open Burning.** No open burning of any type shall be conducted on the Property.

2.4.7 **Mobile Homes.** No house trailer, mobile home, tent, shack, barn, or other similar outbuilding or structure, whether permanent or temporary, shall be erected or placed on any Lot.

2.4.8 **Animals.** No animals of any kind shall be raised, kept or permitted on any Lot other than a reasonable number of fully domesticated household pets which are not kept, bred or raised for commercial purposes and which are reasonably controlled so as not to be a nuisance.

No permitted pets shall be allowed to run loose or unattended and shall be kept on a leash or under voice control when not confined to the Lot of its Owner. Any pets, which create a nuisance, shall be removed from the Property.

2.4.9 Recreational Vehicles; Parking Restrictions. Storage of boats, watercraft, trailers, recreational vehicles, motorcycles, trucks, truck campers and like equipment shall not be allowed on any part of the Property, except within the confines of an enclosed garage or an area screened such that the vehicle or equipment is not visible at any time from the street or any Lot. Nonoperable motor vehicles or vehicles in an extreme state of disrepair may not be stored or allowed to remain parked upon any Lot or any street for a period in excess of forty-eight (48) hours.

2.4.10 Waste and Garbage Maintenance. No part of any Lot may be used or maintained as a dumping ground for rubbish, trash, garbage or any other waste. No garbage, trash or other waste may be kept on any part of a Lot except in a sanitary container located within a building or within a trash enclosure hidden from view. All such waste and garbage must be promptly and periodically removed.

2.4.11 Nuisances. No obnoxious, offensive or unsightly conditions or activities shall be permitted or conducted upon any of the Property, nor may anything be done thereon which may be or may become an annoyance or nuisance.

2.4.12 Basketball Hoops and Other Athletic Equipment and Toys. All portable basketball hoops and other athletic equipment and toys of Owners shall be stored upon the applicable Lot or Lots shielded from view from any other Lot or any street located upon the Property when not in use.

ARTICLE 3 THE ASSOCIATION

3.1 The Organization. The Association shall be organized as a nonprofit corporation. Its affairs shall be governed by and it shall have the powers set forth in the Declaration and the Bylaws.

3.2 Members. Owners (including Declarant, so long as Declarant is an Owner of any Lot) shall be Members of the Association. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot. Transfer of ownership of a Lot automatically transfers membership in the Association. Ownership of a Lot shall be the sole qualification for membership.

3.3 Bylaws. Declarant shall adopt, on behalf of the Association, the Bylaws as required under ORS 94.635 to govern the administration of Bailey Ridge Subdivision. Declarant shall record the Bylaws in the official records of the County.

3.4 Voting. Each Member shall be entitled to one vote for each Lot owned by such Member. If more than one person holds an ownership interest in a Lot, all such persons shall be entitled to membership, but the vote for such Lot shall be exercised as the persons holding such

interest shall determine between themselves; provided, (i) in the event such persons are unable to determine who shall be entitled to cast its vote, that vote shall be suspended, (ii) in no event shall more than one vote be cast with respect to any Lot, and (iii) no vote may be divided.

3.5 **Management.** To the extent required by applicable law, Declarant shall form a transitional advisory committee to provide for the transition from administrative control by the Declarant of the Bailey Ridge Subdivision to administrative control by the Association. Not later than ninety (90) days after the Declarant Control Termination Date, Declarant shall call a meeting for the purpose of turning over administrative responsibility for the management of the Association to the Owners (the “**Turnover Meeting**”). The Declarant shall give notice of the meeting to each Owner as provided in the Bylaws. At the meeting, the Owners shall elect a Board of Directors in accordance with the Bylaws and the Declarant shall deliver to the Association a deed to the Common Areas and all other documents, records, and funds as required under ORS 94.616.

3.6 **Operation: Rules, Regulations, and Policies.** The Association shall be operated and governed by the Articles and Bylaws of the Association. The Association may adopt rules, regulations and policies applicable to the Property and Common Areas provided that so long as Declarant owns any Lot, the Association may not adopt, modify or delete any use or construction rule, regulation, or policy without the written consent of Declarant.

3.7 **Insurance.** The Board of Directors shall make every reasonable effort to obtain and maintain the insurance policies as provided in this Section 3.7. The insurance policies shall be subject to and, where applicable, shall contain the following provisions and limitations:

3.7.1 **Underwriter:** All policies shall be written with a reputable company legally qualified to do business in the State of Oregon.

3.7.2 **Named Insured:** The named insured shall be the Association or its authorized representative, as a trustee for the Members. However, all policies shall be for the benefit of the Owners, as their interests may appear.

3.7.3 **Authority to Negotiate:** Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board of Directors.

3.7.4 **Contribution:** In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by the Owners.

3.7.5 **Term:** The period of each policy shall not exceed three (3) years. Any policy for a term greater than one (1) year must permit short rate cancellation by the insureds.

3.7.6 **Deductible:** The policy may contain a reasonable deductible and the amount of the deductible shall be added to the face amount of the policy in determining whether the insurance equals replacement cost.

3.8 **Types of Coverage.** The Board shall obtain at least the following insurance policies in the amounts specified:

3.8.1 **Property Insurance:** A policy or policies of all risk property insurance for all insurable Common Areas against loss or damage by fire or other casualty, in an amount equal to the current full replacement cost (without respect to depreciation) of the Common Areas if such coverage is available at a reasonable cost, and exclusive of land, foundations, excavation and other items normally excluded from coverage. A replacement cost endorsement shall be a part of the policy.

3.8.2 **Liability Insurance:** A combined single limit policy of public liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) covering the Common Areas and all damage or injury caused by the negligence of the Association, the Board, or any of its agents or the Members against any liability to the public or to any Member incident to the use of or resulting from any accident or intentional or unintentional act of an Owner or a third party occurring in or about any Common Area.

ARTICLE 4 COMMON AREAS

4.1 **Obligations of the Association.** The Common Areas shall be conveyed to the Association by Declarant pursuant to Section 3.5. Except as stated herein, the Association shall be responsible for the exclusive management and control of the Common Areas, and all Improvements thereon, if any, and shall keep the same in good, clean, attractive and sanitary condition, order, and repair.

4.2 **Rights of the Association.** The Association shall have the right to establish reasonable rules and to charge reasonable assessments and fees for capital expenditures on the Common Areas and the maintenance and upkeep of the Common Areas and payment of all Association expenses. The Association also shall conduct a reserve study regarding the establishment of reserve account requirements (if any) and may establish a reserve account in accordance with applicable law. The Association shall not mortgage the Common Areas.

4.3 **Damage or Destruction of Common Areas by Member.** In the event the Common Areas or any portion thereof are damaged or destroyed by an Owner, such Owner hereby authorizes the Association to repair the damage. The Association shall repair the damaged area in a good and workmanlike manner. The reasonable cost necessary for such repairs shall become a special assessment upon the Lot of the Owner who caused the damage.

4.4 **Easement.** Every Owner has an easement to enjoy the Common Areas for their intended purpose, which easement is appurtenant to title to the Lot of such Owner.

ARTICLE 5 ASSESSMENTS

5.1 **Assessments.** Each Owner hereby covenants and agrees to pay the Association assessments for common expenses as set forth herein. All such assessments, together with

interest thereon and together with attorney fees and costs of collection thereof as hereinafter provided, shall be a continuing lien upon the Lot against which such assessment is made. Such lien may be reduced to writing, executed by the president or secretary of the Association and filed as provided in ORS 94.709. Such lien may be foreclosed; the amount represented thereby also shall be the personal obligation of the Owner of the Lot at the time when the assessment first becomes due and payable.

5.2 Budget and Common Expenses. The Board of Directors shall, from time to time and at least annually, prepare a budget for the Association, estimate the common expenses expected to be incurred, less any previous over-assessment, and assess the common expenses to each Owner. Within thirty (30) days after adopting the annual budget, the Board of Directors shall provide a written summary of the budget to all the Owners. Common expenses shall include: (a) expenses of administration, (b) expenses of maintenance, repair or replacement of the Common Areas, (c) any deficit in common expenses for any prior period, (d) utilities for the Common Areas including but not limited to utilities for lighting the monument walls, (e) the cost of insurance obtained by the Association, and (f) reserves for replacements and maintenance as set forth in Section 5.8. All Owners shall pay common expenses assessed to them by the Board of Directors on behalf of the Association pursuant to this Declaration. Assessments may not be waived due to limited or nonuse of the Common Areas. Special assessments for items not listed above may be made from time to time by the Board of Directors as in their reasonable discretion shall be deemed necessary.

5.3 Due Date and Payment of Assessments. The Board of Directors shall set the dates upon which all assessments shall become due. The Board of Directors may provide for collection of assessments and dues annually or in monthly, quarterly or semiannual installments; provided, however, upon the default in the payment of any one or more installments, the entire balance of said assessments or dues may be accelerated at the option of the Board of Directors and be declared due and payable in full. The Board of Directors may adopt a policy requiring the payment of interest and/or late charges on delinquent payments.

5.4 Allocation of Assessments. Each Lot shall be assessed equally for the expenses of the Association. Each Lot shall share equally in any income or credit.

5.5 Maximum Annual Assessments. Unless changed by vote of the Owners, the maximum annual assessment for any Lot shall be \$5.00 per month. The Board of Directors may, after consideration of the current maintenance costs and the financial requirements of the Association, fix the actual annual assessment at an amount equal to or less than the maximum.

5.6 List. The Board of Directors shall prepare a list of all Lots and the assessments applicable to each such Lot. The Association shall upon request furnish to any Owner a certificate setting forth the amount of any assessments against the Lot owned by such Owner.

5.7 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale of any Lot which is subject to any mortgage, pursuant to a foreclosure of such mortgage, shall extinguish any lien of any assessment which

became a lien prior to such sale; and such liens shall attach to the net proceeds of the sale, if any, remaining after such mortgage and other prior liens and charges have been satisfied. Such sale shall not release such Lot from liability from any assessments thereafter becoming due or from the lien thereof.

5.8 **Reserves.** The Board of Directors may levy assessments, subject to the limit set forth in Section 5.5 above, to create reasonable reserves related to the Common Areas. The reserve account may be invested by the Board of Directors subject to normal prudent investment standards. Assessments paid into the reserve account, as well as all other assessments, shall be the property of the Association and are not refundable to sellers of Lots.

5.9 **Effect of Nonpayment of Assessments; Remedies of the Association.** The Association may bring an action at law against an Owner obligated to pay an assessment or may foreclose the lien upon the Lot of such Owner pursuant to ORS 94.709. No such action at law or a judgment entered therein shall be a waiver of the lien of the Association. No Owner may waive or otherwise escape liability for the assessments provided herein by nonuse of the Common Areas or abandonment of the Lot.

5.10 **Costs.** All costs of foreclosure of any lien, including attorneys' fees, shall be repaid to the Association by the Owner of the Lot being foreclosed; such costs also shall be a lien on such Lot. In the event of arbitration or litigation to collect any assessment, to foreclose any lien, or otherwise related to any assessment, the prevailing party shall be entitled to recover its reasonable costs and attorneys' fees incurred at and in preparation for arbitration, trial, appeal and review, as well as in any bankruptcy proceeding.

ARTICLE 6 ARCHITECTURAL CONTROLS

6.1 **Permitted Structures.** No building may be erected or allowed to remain on any Lot except a Residence designed for occupancy by not more than one family, together with a private garage for not less than two or more than four cars per Residence, which garage shall conform generally in architectural design and exterior materials and finish to the Residence to which it is appurtenant. No Residence may exceed the applicable height limits established from time to time by applicable building codes. The architectural review committee established under Section 6.4.2 below (the "**Architectural Review Committee**") may allow, in addition to a Residence and garage on a Lot, a gazebo, deck, porch, hot tub or other accessory structure. No structure of a temporary character, such as a trailer, tent, shack, barn or other outbuilding, shall be erected. Notwithstanding the foregoing, Declarant and purchasers of multiple Lots may erect such structures as Declarant deems appropriate (such as an office) for the purpose of marketing unsold Lots or overseeing construction activities. All structures must comply with all applicable laws, codes and approvals.

6.2 **Restrictions.** The following restrictions apply to the construction and maintenance of all Improvements:

6.2.1 All buildings must be of single wall construction or better, have a tile, concrete tile, slate, non-reflective metal (approved by the Architectural Review Committee) or architectural composition roof (any composition roof to be a high quality, "Architectural Style", with a 30-year life or better), unless prior written approval of different materials or construction is obtained from the Architectural Review Committee. The building exterior shall be of stone, brick, stucco, natural wood siding, cement board lap siding, or vertical panel siding, unless otherwise approved in writing by the Architectural Review Committee.

6.2.2 The construction of any building on any Lot, including painting and all exterior finish, shall be completed within 365 days of the beginning of construction so as to present a finished appearance when viewed from any angle. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval from the Architectural Review Committee. The building area and surrounding streets and sidewalks shall be kept reasonably clean and in good order during the construction period. All unimproved Lots shall be kept in a neat and orderly condition, free of debris, and shall be mowed at sufficient intervals to prevent creation of a nuisance.

6.2.3 Each Lot shall be fully landscaped within sixty (60) days from the completion of the Residence constructed on such Lot. In the event of undue hardship due to weather conditions, this period may be extended for a reasonable length of time upon written approval by the Architectural Review Committee.

6.2.4 Fences or other sight-obscuring screens shall not exceed eight feet (8') in height. The maximum height of sight-obscuring hedges or other planted vegetation shall not exceed twelve feet (12') in height.

6.2.5 Driveways shall be constructed of concrete, unless otherwise approved in writing by the Architectural Review Committee.

6.2.6 The location, color, size, design, lettering and other particulars of mail or paper delivery boxes shall be approved by the Architectural Review Committee.

6.2.7 No outdoor overhead wire or service drop for the distribution of power, telecommunication purposes or any other purpose, nor any pole, tower or other structure supporting such outdoor overhead wires, shall be erected, placed or maintained.

6.3 **Approval Required.** No Improvement shall be constructed, placed or permitted to remain upon the Property, and no exterior addition to, change in, painting or staining of, or alteration to any Improvement on the Property of any type shall be made, until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing by the Architectural Review Committee as to compliance with the Declaration and as to the harmony of external design, materials, color and location in relation to surrounding structures, topography and vegetation.

6.4 **Architectural Review Committee.**

6.4.1 **Authority.** The Architectural Review Committee shall have the authority to regulate the external design, appearance and location of Improvements on the Property, subject to this Declaration, and subject to valid and applicable statutes, rules, regulations, ordinances and codes of local, state and Federal authorities.

6.4.2 **Composition.** Until the Declarant Control Termination Date, the Declarant shall exercise the authority of the Architectural Review Committee and shall designate, from time to time, the members of the Architectural Review Committee. After the Declarant Control Termination Date, the then existing Architectural Review Committee shall continue to operate in its existing form until otherwise restructured or reconstituted according to the Bylaws, but in any event shall remain a perpetual body with the powers granted hereunder and under the Bylaws (as applicable). Any construction or reconstruction of Improvements on the Lots after the Declarant Control Termination Date shall comply with applicable laws. The use restrictions set forth in Article 2 shall be perpetual and shall remain in force after the Declarant Control Termination Date.

6.4.3 **Procedure.** An Owner wishing to take an action requiring approval of the Architectural Control Committee under this Article shall give notice of the proposed action to the Architectural Review Committee, together with complete plans and specifications therefor, including, as applicable:

(a) A professionally prepared site plan showing the location, size, configuration and layout of the proposed Improvement, including all proposed vehicular and pedestrian circulation;

(b) Professionally prepared plans and drawings showing the nature, style, and dimensions of the proposed Improvement, including the exterior material types, colors, and appearance (the scale of plans shall be one inch (1") = twenty feet (20') or larger); and

(c) If the proposed Improvement is the first Residence to be constructed on a Lot, a professionally prepared landscape plan showing the nature, type, size, location and layout of all landscaping, vegetation, ground cover, landscape and site lighting, walks, major existing vegetation and irrigation and drainage systems proposed to be planted or installed (or, where applicable, removed or destroyed).

The Architectural Review Committee shall review the Owner's request within thirty (30) days of receipt and shall render a decision within forty-five (45) days of receipt. If the Architectural Review Committee fails to render a written decision within the time allowed, the request shall be deemed to be approved.

6.4.4 **Inspection.** Construction of Improvements shall conform to the plans and specifications approved pursuant to the Declaration. The Architectural Review Committee shall have the right to inspect the Lot and the construction to determine whether the Improvements are being constructed in conformity with approved plans and specifications. In the event it is determined in good faith by the Architectural Review Committee that the work is

nonconforming, the Committee may issue a stop work notice without necessity of a court order, which shall require the Owner to correct the nonconforming work specified in the notice before the remainder of the Improvement may be completed. Continued work without correction of the nonconforming item shall be deemed a breach of the Declaration.

6.4.5 Exculpation. The Architectural Review Committee (including the Declarant exercising the powers of the Architectural Review Committee) and its members, officers, directors, employees or agents, shall have no liability for damage, loss, delay, cost or legal expense arising from the good faith exercise of authority conferred in this Declaration. The Architectural Review Committee (including the Declarant exercising the power of the Architectural Review Committee) and its members, officers, directors and agents shall have no liability to the Owners for having approved requests or plans and specifications pursuant to this Declaration, regardless of whether the Improvement conforms to this Declaration, so long as the Architectural Review Committee acted in good faith.

ARTICLE 7 DECLARANT'S SPECIAL RIGHTS

Until the Residences on all Lots on the Property have been constructed, fully completed and sold, the Declarant shall have the following special rights:

7.1 Sales Office and Model. The Declarant and its designees shall have the right to maintain sales offices and models on one or more of the Lots, including (without limitation) a first class, commercially reasonable trailer used for such purpose. The Declarant and prospective purchasers and their agents shall have the right to use and occupy the sales office and models during reasonable hours any day of the week.

7.2 "For Sale" Signs. The Declarant and its designees may maintain a reasonable number of "For Sale" signs at reasonable locations on the Property.

ARTICLE 8 GENERAL PROVISIONS

8.1 Enforcement. Each Owner and Declarant shall have the right to enforce all of the covenants, conditions and restrictions, now or hereafter imposed by any of the provisions of this Declaration as may pertain specifically to such parties or Owners by any proceeding at law or in equity. Failure by an Owner or Declarant to enforce any covenant or restriction herein contained shall not be deemed a waiver of the right to do so thereafter. In the event suit or action is commenced to enforce the terms and provisions of this Declaration, the prevailing party shall be entitled to recover from the other party its attorneys' fees and costs in such suit or action to be fixed by the trial court, and in the event of an appeal, the cost of the appeal, together with reasonable attorney fees, to be set by the appellate court.

8.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect the other provisions hereof and the same shall remain in full force and effect.

8.3 **Duration.** The covenants and restrictions of this Declaration shall run with and bind the land for a term of fifty (50) years from the date of the recording of this Declaration and thereafter shall be deemed to have been perpetually renewed for consecutive, additional periods of ten (10) years each, unless rescinded by an affirmative vote of the Owners representing at least seventy-five percent (75%) of the total votes in Bailey Ridge Subdivision. Amendments which do not constitute rescission or termination of the Declaration may be adopted as provided in Section 8.4.

8.4 **Amendment.** This Declaration may be amended at any time by vote or agreement of the Owners representing at least seventy-five percent (75%) of the total votes in Bailey Ridge Subdivision. Any amendment must be executed and recorded as provided by law; however, until the Declarant Control Termination Date, the provisions of this Declaration may not be amended without the express written consent of Declarant. An amendment under this Section 8.4 may not create, limit or diminish any special Declarant rights, increase the number of Lots or change the boundaries of any Lot or any uses to which any Lot is restricted unless the Owners of the affected Lots unanimously consent to the amendment.

8.5 **Unilateral Amendment by Declarant.** The Declarant may amend this Declaration in order to comply with the requirements of the Federal Housing Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Mortgage Loan Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon, or any other state in which the Lots are marketed and sold, or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon, or such other state, the approval of which entity is required in order for it to insure, guarantee or provide financing in connection with development of the Property and sale of Lots.

Executed on the _____ day of January, 2006.

DECLARANT:

CLEAR VIEW II, LLC, an Oregon limited liability company

By: _____

Name: Kenneth A. Coe

Title: Member

Exhibits

“A” – Property Description

“B” – Bylaws of Bailey Ridge Homeowners’ Association

“C” – Common Areas

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 2006, by
_____ as _____ of Clear View II, LLC, an Oregon limited
liability company, on behalf of such limited liability company

Notary Public for Oregon
My commission expires: _____

EXHIBIT “A”

Property Description

(Attached)

EXHIBIT “B”

BYLAWS OF BAILEY RIDGE HOMEOWNERS’ ASSOCIATION

ARTICLE 1 DEFINITIONS

1.1 “**Association**” shall mean BAILEY RIDGE HOMEOWNERS’ ASSOCIATION, a nonprofit corporation organized and existing under the laws of the State of Oregon.

1.2 “**Articles**” shall mean the Articles of Incorporation of the Association.

1.3 “**Declaration**” shall mean the Declaration of Covenants and Restrictions for Bailey Ridge Subdivision to be recorded in the Official Records of Marion County, Oregon, as the same may be subsequently amended or supplemented pursuant to the terms thereof.

1.4 **Incorporation by Reference.** Except as otherwise provided herein, the terms which are defined in Article 1 of the Declaration are used in these Bylaws as therein defined.

ARTICLE 2 MEMBERSHIP

2.1 **Membership.** Every Owner of one or more Lots within the Property shall, during the entire period of such ownership, 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,

2.2 **Membership List.** The Secretary of the Association (the “Secretary”) shall maintain at the principal office of the Association a membership list showing the name and address of the Owner of each Lot. The Secretary may accept as satisfactory proof of such ownership a duly executed and acknowledged conveyance, a title insurance policy, or other evidence reasonably acceptable to the Board of Directors.

ARTICLE 3 MEETINGS AND VOTING

3.1 **Place of Meetings.** Meetings of the Members of the Association shall be held at such reasonable place convenient to the Members as may be designated in the notice of the meeting.

3.2 **Initial Meeting.** Declarant shall call the initial meeting of the Owners (the “Initial Meeting”) to organize the Association no later than ninety (90) days after the Declarant Control Termination Date. Notice of such meeting shall be given to all Owners as provided in

Section 3.6 herein. If the Declarant fails to call the meeting, the meeting may be called and notice given by any Owner or mortgagee of a Lot. The expense of giving notice shall be paid or reimbursed by the Association. In the event a quorum is not present at such Initial Meeting, the meeting may be adjourned to the time of the first annual meeting of the Association. Nothing in this Section 3.2 shall be construed as preventing the Declarant from calling the Initial Meeting prior to such date, or from calling informal, informational meetings of the Owners at any time, from time to time.

3.3 Turnover Meeting. Declarant shall call a meeting of the Association (the “Turnover Meeting”) for the purpose of turning over administrative responsibility for the Property to the Association at the same time and place and in the same manner as the Initial Meeting. If the Declarant fails to call the meeting, the meeting may be called by and notice given by any Owner or mortgagee of a Lot. At the meeting, Declarant shall deliver to the Association the following documents:

(a) The original or a photocopy of the recorded Declaration and copies of the Bylaws and the Articles of the Association and any supplements and amendments to the Articles or Bylaws;

(b) A deed to the Common Area contained within the Property, unless otherwise provided in the Declaration;

(c) The minute books, including all minutes, and other books and records of the Association and the Board of Directors;

(d) All rules and regulations adopted by the Declarant (if any);

(e) Resignations of officers and members of the Board of Directors who are required to resign because of the expiration of any period of Declarant control;

(f) A report on the present financial position of the Association, consisting of a balance sheet and an income and expense statement for the twelve (12) month period or a period following the recording of the Declaration, whichever period is less;

(g) All funds of the Association and control of the funds, including all bank records;

(h) All tangible personal property that is property of the Association, and an inventory of the property;

(i) Records of all property tax payments for the Common Areas to be administered by the Association;

(j) Copies of any income tax returns filed by the Declarant in the name of the Association, and supporting records for the returns;

(k) All bank signature cards;

- (l) All accounts established in the name of the Association;
- (m) The reserve study, including all updates and other sources of information that serve as a basis for calculating reserves;
- (n) An operating budget for the Association and a budget for replacement and maintenance of the Common Areas;
- (o) Copies of the following, if available:
 - (i) The as-built architectural, structural, engineering, mechanical, electrical and plumbing plans;
 - (ii) The original specifications, indicating all subsequent material changes;
 - (iii) The plans for underground site service, site grading, drainage and landscaping together with cable television drawings;
 - (iv) Any other plans and information relevant to future repair or maintenance of the Property; and
 - (v) A list of the general contractor and the subcontractors responsible for construction or installation of Common Areas;
- (p) Insurance policies;
- (q) Copies of any occupancy permits issued for the Property;
- (r) Any other permits issued by governmental bodies applicable to the Property in force or issued within one year before the date on which the Owners assume administrative responsibility;
- (s) A list of any written warranties on the Common Areas that are in effect and the names of the contractor, subcontractor or supplier who made the installation for which the warranty is in effect;
- (t) A roster of Owners and their addresses and telephone numbers, if known, as shown on the records of the Declarant;
- (u) Leases related to the Common Areas (if any) and any other leases to which the Association is a party;
- (v) Employment or service contracts in which the Association is one of the contracting parties or service contracts in which the Association or the Owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person performing the service; and

- (w) Any other contracts to which the Association is a party.

In order to facilitate an orderly transition, the Declarant or his knowledgeable delegate shall be available to meet with the Board of Directors to review such documents on at least three (3) mutually agreeable dates during the three (3) month period following the Turnover Meeting.

3.4 Annual Meeting. The annual meeting of the Association for the election of directors and for the transaction of such other business as may properly come before the meeting shall be held at such reasonable hour and on such reasonable day as may be established by the Board of Directors, or if the Board should fail to designate a date by the first day of May, then at 7:30 p.m. on the third Saturday in May. The first annual meeting shall be held within one year from the date of the Turnover Meeting.

3.5 Special Meetings. A special meeting of the Association may be called at any time by the President of the Association (the "President") or by a majority of the Board of Directors. A special meeting shall be called upon receipt of a written request stating the purpose of the meeting from Members having one-third (1/3) of the votes entitled to be cast at such meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice of the meeting.

3.6 Notice of Meeting.

(a) Written or printed notice stating the place, day and hour of any meeting provided for in these Bylaws, the Declaration or the Articles, the items on the agenda, including the general nature of any proposed amendment to the Declaration, Articles, or these Bylaws, any budget changes, any proposal to remove a director or officer and, in case of a special meeting, the purpose or purposes for which the meeting is called shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting. Such notice shall be given either personally or by mail, by or at the direction of the President, the Secretary, or the persons calling the meeting, to each Member entitled to vote at such meeting, and to all mortgagees who have requested such notice. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, with postage fully prepaid thereon, addressed to the Member at his most recent address as it appears on the records of the Association or to the mailing address of his Lot.

(b) When a meeting is adjourned for thirty (30) days or more, or when a redetermination of the persons entitled to receive notice of the adjourned meeting is required by law, notice of the adjourned meeting shall be given as for an original meeting. In all other cases, no notice of the adjournment or of the business to be transacted at the adjourned meeting need be given other than by announcement at the meeting at which such adjournment is taken.

3.7 Quorum. At any meeting of the Association, Members having one-third (1/3) of the votes entitled to be cast at such meeting, present in person or by proxy, shall constitute a quorum, except when a larger quorum is required by the Declaration. When a quorum is once present to organize a meeting, it cannot be broken by the subsequent withdrawal of a Member or Members. If any meeting of Members cannot be organized because of a lack of quorum, the

Members who are present, either in person or by proxy, may adjourn the meeting from time to time not less than forty-eight (48) hours nor more than thirty (30) days from the time the original meeting was called until a quorum is present.

3.8 **Voting Rights.** Each Member shall be entitled to one vote for each Lot owned by such Member. If more than one person holds an ownership interest in a Lot, all such persons shall be entitled to membership, but the vote for such Lot shall be exercised as the persons holding such interest shall determine between themselves; provided, (i) in the event such persons are unable to determine who shall be entitled to cast its vote, that vote shall be suspended, (ii) in no event shall more than one vote be cast with respect to any Lot, and (iii) no vote may be divided.

3.9 **Fiduciaries and Joint Ownership.** An executor, administrator, guardian or trustee may vote, in person or by proxy, at any meeting of the Association with respect to any Lot owned or held in such capacity, whether or not the same shall have been transferred to his or her name; provided that such person shall satisfy the Secretary that he or she is the executor, administrator, guardian or trustee, holding such Lot in such capacity. Whenever any Lot is owned by two or more persons jointly, according to the records of the Association, the vote or proxy of such Lot may be exercised by any one of the Owners then present, in the absence of protest by a co-Owner. In the event of disagreement among the co-Owners, the vote of such Lot shall be disregarded completely in determining the proportion of votes given with respect to such matter, unless a valid court order establishes the authority of a co-Owner to vote.

3.10 **Tenants and Contract Vendors.** Unless otherwise expressly stated in a rental agreement or lease applicable to a Lot, all voting rights allocated to a Lot shall be exercised by the Owner thereof. Unless otherwise stated in the contract, all voting rights allocated to a Lot shall be exercised by the vendee of any recorded land sale contract pertaining to the Lot.

3.11 **Proxies.** Every Member entitled to vote or to execute any waiver or consent may do so either in person, by absentee ballot or by written proxy duly executed and filed with the Secretary of the Association. A proxy given pursuant to this Section 3.11 may not be revoked except by actual notice of revocation to the person presiding over the meeting. A proxy shall not be valid if it is undated or purports to be revocable without notice. A proxy shall terminate one (1) year after its date unless the proxy specifies a shorter term. Mortgagees may designate a representative to attend any meeting of the Association.

3.12 **Majority Vote.** The vote of a majority of the votes entitled to be cast by the Members present or represented by absentee ballot or proxy, at a meeting at which a quorum is present, shall be necessary for the adoption of any matter voted upon, unless a greater proportion is required by law, by the Declaration the Articles, or hereunder.

3.13 **Rules of Order.** Unless other rules of order are adopted by resolution of the Association or the Board of Directors, all meetings of the Association shall be conducted according to the latest edition of *Robert's Rules of Order*, published by Robert's Rules Association.

3.14 **Ballot Meetings.**

(a) At the discretion of the Board of Directors, any action that may be taken at any annual, regular or special meeting of the Association may be taken without a meeting if the Association delivers a written ballot to every Member who is entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each action.

(b) The Board of Directors shall provide Owners with at least ten (10) days' notice before written ballots are mailed or otherwise delivered. If, at least three (3) days before the written ballots are scheduled to be mailed or otherwise distributed, at least ten percent (10%) of the Owners petition the Board of Directors requesting secrecy procedures, a written ballot must be accompanied by a secrecy envelope, a return identification envelope to be signed by the Owner, and instructions for marking and returning the ballot. Notwithstanding the applicable provisions of paragraph (c) of this Section 3.14, written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

(c) If approval of a proposed action would otherwise require a meeting at which a certain quorum must be present and at which a certain percentage of total votes cast is required to authorize the action, the proposal will be deemed to be approved when the date for return of ballots has passed, a quorum of Members entitled to vote has voted, and the required percentage of approving votes has been received. Otherwise, the proposal shall be deemed to be rejected. If approval of a proposed action otherwise would require a meeting at which a specified percentage of Members entitled to vote must authorize the action, the proposal shall be deemed to be approved when the percentage of total votes cast in favor of the proposal equals or exceeds such required percentage. The proposal shall be deemed to be rejected when the number of votes cast in opposition renders approval impossible or when both the date for return of ballots has passed and such required percentage has not been met. Except as otherwise provided in paragraph (b) of this Section 3.14, votes may be counted from time to time before the final return date to determine whether the proposal has passed or failed by the votes already cast on the date they are entered.

(d) All solicitations for votes by written ballot shall state the number of responses needed to meet any applicable quorum requirement and the total percentage of votes needed for approval. All such solicitations for votes shall specify the period during which the Association will accept written ballots for counting, which period shall end on the earliest of (i) the date on which the Association has received a sufficient number of approving ballots to pass the proposal, (ii) the date on which the Association has received a sufficient number of disapproving ballots to render, the proposal impossible of passage, or (iii) a date certain by which all ballots must be returned to be counted. A written ballot may not be revoked.

ARTICLE 4 DIRECTORS: MANAGEMENT

4.1 **Qualification.** The affairs of the association shall be governed by a Board of Directors consisting of three (3) persons. All directors, other than interim directors appointed by

Declarant, shall be Owners or co-Owners of Lots. For purposes of this Section 4.1, the officers of any corporate Owner and the partners of any partnership shall be considered co-Owners of any Lots owned by such corporation or partnership.

4.2 **Interim Directors.** Upon the recording of the Declaration, the Declarant shall appoint an interim board of three (3) directors, who shall serve until replaced by Declarant or their successors have been replaced by the Owners as provided below.

4.3 **Transitional Advisory Committee.** Unless the Turnover Meeting described in Section 3.3 above has already been held, Declarant shall call a meeting of the Members for the purpose of forming a Transitional Advisory Committee. The meeting shall be called within sixty (60) days of the date the Declarant conveys fifty percent (50%) or more of the Lots to owners other than Declarant or a successor declarant. Declarant shall give notice of the meeting as provided in Section 3.6, above. The committee shall consist of two (2) or more Members elected by the Members other than Declarant and not more than one representative of Declarant. The Members shall serve until the Turnover Meeting. The Transitional Advisory Committee shall be advisory only and its purpose shall be to enable ease of transition from control of the administration of the Association by Declarant to control by the Members. The Transitional Advisory Committee shall have access to any information, documents and records which Declarant must turn over to the Members at the time of the Turnover Meeting. If Declarant fails to call the meeting to elect a Transitional Advisory Committee within the time specified, the meeting may be called and notice given by any Member. If the Members fail to elect a Transitional Advisory Committee at the meeting called for such purpose, Declarant shall have no further obligation to form the committee.

4.4 **Election and Tenure of Office.** The first directors elected by the Members shall serve staggered terms of one year, two years and three years as they among themselves shall determine. Thereafter, all directors shall be elected for three year terms. All directors shall hold office until their respective successors have been elected. Election shall be by plurality.

4.5 **Removal of Directors.** Any director, other than interim directors, may be removed, with or without cause, at any meeting of the Members entitled to vote on the election of such director by vote of a majority of the number of votes entitled to be cast at the election of such director. No removal of a director shall be effective unless the matter of removal was an item on the agenda and stated in the notice of the meeting as provided in these Bylaws.

4.6 **Powers.** The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association, except such powers and duties as by law or by the Declaration or by these Bylaws may not be delegated to the Board of Directors by the Members. The Board of Directors may delegate responsibilities to committees or a managing agent, but shall retain ultimate control and supervision. The powers and duties to be exercised by the Board of Directors shall include, but not be limited to those set forth the Declaration and the following:

(a) Carry out the maintenance program described in the Declaration and these Bylaws.

- (b) Determine the amounts required for operation, maintenance and other affairs of the Association, and the making of such expenditures.
- (c) Prepare a budget for the Association, and assessment and collection of the Assessments.
- (d) Employ and dismiss such personnel as necessary for such maintenance, upkeep and repair.
- (e) Employ legal, accounting or other personnel for reasonable compensation to perform such services as may be required for the proper administration of the Association; provided, however, the Board of Directors may not incur or commit the Association to incur legal fees in excess of \$5,000 for any specific matter unless the Members have enacted a resolution authorizing the incurring of such fees by a vote of two-thirds (2/3) of the votes entitled to be cast present in person or by absentee ballot or proxy at a meeting at which a quorum is constituted. This limitation shall not be applicable to legal fees incurred in defending the Association or the Board of Directors from claims or litigation brought against them. The limitation set forth in this paragraph shall increase by \$1,000 on each fifth anniversary of the recording of these Bylaws. To the extent required by the Act, the Board of Directors shall notify the Members before instituting litigation or administrative proceedings. With regard to any pending litigation involving the Association, the Board of Directors shall periodically report to the Members as to the status (including settlement offers), progress, and method of funding such litigation. Nothing in this paragraph shall be construed as requiring the Board of Directors to disclose any privileged communication between the Association and its counsel.
- (f) Open bank accounts on behalf of the Association and designating the signatories required therefor.
- (g) Prepare or cause to be prepared and filed any required income tax returns or forms for the Association.
- (h) Purchase Lots at foreclosure or other judicial sales in the name of the Association, or its designee.
- (i) Sell, lease, mortgage, vote the votes appurtenant to (other than for the election of directors), or otherwise deal with Lots acquired by the Association or its designee.
- (j) Obtain insurance or bonds pursuant to the provisions of these Bylaws or the Declaration, and reviewing such insurance coverage at least annually.
- (k) Make additions and improvements to, or alterations of, the Common Areas.
- (l) From time to time, adopt, modify, or revoke such policies and procedures governing the conduct of persons and the operation and use of the Lots and the Common Areas as the Board of Directors may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. Such action may be modified by vote of not less than

two-thirds (2/3) of the votes entitled to be cast present, in person or by proxy, at any meeting, the notice of which shall have stated that such modification or revocation of policies and procedures will be under consideration.

(m) Enforce by legal means of the provisions of the Declaration, these Bylaws and any policies and procedures adopted thereunder.

(n) In the name of the Association, maintain a current mailing address of the Association.

4.7 Meetings.

(a) Meetings of the Board of Directors shall be held at such place as may be designated from time to time by the Board of Directors or other persons calling the meeting.

(b) Annual meetings of the Board of Directors shall be held within sixty (60) days following the adjournment of the annual meetings of the Members.

(c) Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the President or by any two directors.

(d) Unless other rules of order are adopted by resolution of the Association or the Board of Directors, all meetings of the Board of Directors shall be conducted according to the latest edition of *Robert's Rules of Order*, published by Robert's Rules Association.

4.8 Open Meetings; Notice.

(a) All meetings of the Board of Directors shall be open to Members except that, in the discretion of the Board of Directors, the following matters may be considered in executive session: (a) consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation, or criminal matters; (b) personnel matters, including salary negotiations and employee discipline; and (c) the negotiation of contracts with third parties. Except in the case of an emergency, the Board of Directors shall vote in an open meeting on whether to meet in executive session. If the Board of Directors votes to meet in executive session, the presiding officer shall state the general nature of the action to be considered and, as precisely as possible, when and under what circumstances the deliberations can be disclosed to Members. Meetings of the Board of Directors may be conducted by telephonic communication, except that if a majority of the Lots are principal residences of the occupants, then: (a) for other than emergency meetings, notice of each Board of Directors' meeting shall be posted at a place or places on the property at least three (3) days prior to the meeting, or notice shall be provided by a method otherwise reasonably calculated to inform the Members of such meeting; (b) emergency meetings may be held without notice, if the reason of the emergency is stated in the minutes of the meeting; (c) only emergency meetings of the Board of Directors may be conducted by telephonic communication.

(b) Notice of the time and place of special meetings shall be given to each director orally or delivered in writing personally or by mail or telecopy at least twenty-four (24)

hours before the meeting. Notice shall be sufficient if actually received at the required time or if mailed or telecopied not less than seventy-two (72) hours before the meeting. Notice mailed or telecopied shall be directed to the address shown on the Association's records or to the director's actual address as ascertained by the person giving the notice. Such notice need not be given for an adjourned meeting if such time and place is fixed at the meeting adjourned.

(c) Attendance of a director at a meeting shall constitute a waiver of notice of such meeting except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

4.9 **Quorum and Vote.**

(a) A majority of the directors shall constitute a quorum for the transaction of business. A minority of the directors, in the absence of a quorum, may adjourn from time to time but may not transact any business.

(b) The action of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors unless a greater number is required by law, the Declaration, the Articles, or these Bylaws.

4.10 **Liability.** A member of the Board of Directors or an officer of the Association shall not be liable to the Association or any Member thereto for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of his or her duties, except for acts of gross negligence or intentional acts or omissions. In the event any member of the Board of Directors or any officer of the Association is made a party to any proceeding because the individual is or was a director or officer of the Association, the Association shall indemnify such individual against liability and expenses incurred to the maximum extent permitted by law. The managing agent of the Association, and its officers and employees, shall not be liable to the Members or any third parties on account of any action or failure to act in the performance of its duties as managing agent, except for acts of gross negligence or intentional acts or omissions, and the Association shall indemnify the managing agent and its officers and employee from any such claims, other than for gross negligence or intentional misconduct.

4.11 **Compensation.** No director shall receive any compensation from the Association for acting as such.

ARTICLE 5 OFFICERS

5.1 **Designation and Qualification.** The officers of the Association shall be the President, the Secretary, a Treasurer (the "Treasurer"), and such vice presidents (individually, a "Vice President," and collectively, the "Vice Presidents") and subordinate officers as the Board of Directors shall from time to time appoint. The President shall be a member of the Board of Directors, but the other officers need not be directors. Officers need not be Members of the

Association. Any two offices may be held by the same person except the offices of President and Secretary.

5.2 Election and Vacancies. The officers of the Association shall be elected annually by the Board of Directors at the annual meeting of the Board of Directors. Officers shall serve for one year and until their respective successors are elected. If any office shall become vacant by reason of death, resignation, removal, disqualification or any other cause, the Board of Directors shall elect a successor to fill the unexpired term at any meeting of the Board of Directors.

5.3 Removal and Resignation.

(a) Any officer may be removed upon the affirmative vote of a majority of the directors whenever in their judgment the best interests of the Association will be served thereby. The removal of an officer shall be without prejudice to the contract rights, if any, of the officer so removed.

(b) Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary of the Association. Any such resignation shall take effect upon receipt of such notice or at any later time specified therein. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective, provided that the Board of Directors may reject any post-dated resignation by notice in writing to the resigning officer. The effectiveness of such resignation shall not prejudice the contract rights, if any, of the Association against the officer so resigning.

5.4 President. The President shall be the chief executive officer of the Association and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business and affairs of the Association. The President shall preside at all meetings of the Members and of the Board of Directors. The President shall be an ex officio member of all the standing committees, including the executive committee, if any, shall have the general powers and duties of management usually vested in the office of president of a nonprofit corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

5.5 Vice Presidents. The Vice Presidents, if any, shall perform such duties as the Board of Directors shall prescribe. In the absence or disability of the President, the President's duties and powers shall be performed and exercised by the senior Vice President as designated by the Board of Directors.

5.6 Secretary.

(a) The Secretary shall keep or cause to be kept a book of minutes (the "Minutes") of all meetings of directors and Members showing the time and place of the meeting, whether it was regular or special, and if special, how authorized, the notice given, the names of those present at directors' meetings, the number of memberships present or represented at Members' meetings and the proceedings thereof.

(b) The Secretary shall give or cause to be given such notice of the meetings of the Association and of the Board of Directors as is required by these Bylaws or by law. The Secretary shall keep the seal of the Association, if any, and affix it to all documents requiring a seal, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these Bylaws.

(c) If there are no Vice Presidents, then in the absence or disability of the President, the President's duties and powers shall be performed and exercised by the Secretary.

5.7 **Treasurer.** The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Association, including accounts of its assets, liabilities, receipts and disbursements. The books of accounts shall at all reasonable times be open to inspection by any director. The Treasurer shall deposit all moneys and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board of Directors. The Treasurer shall disburse the funds of the Association as may be ordered by the Board of Directors, shall render to the President and directors, whenever they request it, an account of all of the Treasurer's transactions as Treasurer and of the financial condition of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these Bylaws.

5.8 **Compensation of Officers.** No officer who is a member of the Board of Directors shall receive any compensation from the Association for acting as an officer, unless such compensation is authorized by a resolution duly adopted by the Members. The Board of Directors may fix any compensation to be paid to other officers.

ARTICLE 6 EXECUTIVE AND OTHER COMMITTEES

Subject to law, the provisions of the Articles, the Declaration and these Bylaws, the Board of Directors, by a vote of a majority of the directors in office, may appoint an executive committee and such other standing or temporary committees as may be necessary from time to time, consisting of not less than one of the directors in office and having such powers as the Board of Directors may designate. Such committees shall hold office at the pleasure of the Board of Directors.

ARTICLE 7 ASSESSMENTS, PROGRAMS, RECORDS AND REPORTS

7.1 **Assessments.** As provided in the Declaration, the Association, through its Board of Directors, shall do the following:

(a) Assess and collect from the Owners the Assessments in the manner described in the Declaration.

(b) Keep all funds received by the Association as Assessments, other than reserves described in Section 5.8 of the Declaration, in an operation account, and keep all

reserves collected pursuant to Section 5.8 of the Declaration in a reserve account, and use such funds only for the purposes described in the Declaration.

(c) From time to time, and at least annually, prepare a budget for the Association, estimating the common expenses expected to be incurred with adequate allowance for reserves, and determine whether the Annual Assessment should be increased or decreased. Within thirty (30) days after adopting a proposed annual budget, the Board of Directors shall provide a summary of the budget to all Owners. If the Board of Directors fails to adopt a budget, the last annual budget shall continue in effect.

(d) Fix the amount of the annual Assessment against each Lot at least thirty (30) days in advance of each annual Assessment period. Written notice of any Assessment shall be sent to every Owner subject thereto and to any first mortgagee requesting such notice. The due dates shall be established by the Board of Directors, which may fix a regular flat Assessment payable on a monthly, quarterly or annual basis. The Board of Directors 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 or mortgagee during regular business hours. Within ten (10) business days after receiving a written request, and for a reasonable charge, the Association shall furnish to any Owner or mortgagee a recordable certificate setting forth the unpaid Assessments against such Owner's Lot. Such certificate shall be binding upon the Association, the Board of Directors, and every Owner as to the amounts of unpaid Assessments.

(e) Enforce the Assessments in the manner provided in the Declaration.

(f) Keep records of the receipts and expenditures affecting the operation and reserve accounts and make the same available for examination by Members and their mortgagees at convenient hours, maintain an Assessment roll showing the amount of each Assessment against each Owner, the amounts paid upon the account and the balance due on the Assessments, give each Member written notice of each Assessment at least thirty (30) days prior to the time when such Assessment shall become due and payable; and for a reasonable charge, promptly provide any Owner or mortgagee who makes a request in writing with a written certificate of such Owner's unpaid Assessment.

7.2 **Records.** The Association shall keep correct and complete financial records sufficiently detailed for proper accounting purposes, shall keep minutes of the proceedings of its Members, Board of Directors and committees having any of the authority of the Board of Directors, and retain all documents, information and records turned over to the Association by Declarant. All documents, information and records delivered to the Association by Declarant pursuant to ORS 94.616 shall be kept within the State of Oregon.

7.3 **Statement of Assessments Due.** The Association shall provide, within ten (10) business days after receipt of a written request from an Owner, a written statement that provides: (a) the amount of Assessments due from the Owner and unpaid at the time the request was received, including regular and special Assessments, if any, fines and other charges, accrued interest, and late-payment charges; (b) the percentage rate at which interest accrues on

Assessments that are not paid when due; and (c) the percentage rate used to calculate the charges for late payment or the amount of a fixed-rate charge for late payment. The Association is not required to comply with this Section 7.3 if the Association has commenced litigation by filing a complaint against the Owner and the litigation is pending when the statement would otherwise be due.

7.4 Inspection of Books and Records. During normal business hours or under other reasonable circumstances, the Association shall make available to Owners, prospective purchasers and lenders, and to holders of any mortgage of a Lot, current copies of the Declaration, Articles, Bylaws, amendments or supplements to such documents and the books, records, financial statements and current operating budget of the Association. Upon written request, the Association shall make such documents, information and records available to such persons for duplication during reasonable hours. In addition, the Association shall make all other records of the Association available for examination by an Owner or any mortgagee. The Association may charge a reasonable fee for furnishing copies of such documents, information or records. The fee may include reasonable personnel costs for furnishing the documents, information or records.

7.5 Payment of Vouchers. The Treasurer or managing agent shall pay all vouchers for all budgeted items and for any nonbudgeted items up to \$500 signed by the President, managing agent, manager or other person authorized by the Board of Directors. Any voucher for nonbudgeted items in excess of \$500 shall require the authorization of the President or a resolution of the Board of Directors.

7.6 Execution of Documents. The Board of Directors may, except as otherwise provided in the Declaration, Articles, or these Bylaws, authorize any officer or agent to enter into any contract or execute any instrument in the name of and on behalf of the Association. Such authority may be general or confined to specific instances. Unless it is so authorized by the Board of Directors, no officer, agent or employee shall have any power or authority to bind the Association by any contract or engagement, or to pledge its credit, or to render it liable for any purpose or for any amount.

7.7 Reports and Audits. An annual financial statement consisting of a balance sheet and income and expense statement for the preceding year shall be rendered by the Board of Directors to all Owners and to all mortgagees who have requested the same within ninety (90) days after the end of each fiscal year. From time to time, the Board of Directors, at the expense of the Association, may obtain an audit of the books and records pertaining to the Association and furnish copies thereof to the Members. At any time any Owner or holder of a mortgage may, at their own expense, cause an audit or inspection to be made of the books and records of the Association.

7.8 Programs. Pursuant to the Declaration, the Articles and these Bylaws, the Board of Directors shall prepare a program for the maintenance, upkeep, repair and replacement of common property as provided in Article 4 of the Declaration and the method of payment for the expense of such program.

ARTICLE 8 INSURANCE

8.1 **Types of Insurance.** For the benefit of the Association and its Members, the Board of Directors shall obtain and maintain at all times, and shall pay for the following insurance:

(a) **Property Insurance:** A policy or policies of all risk property insurance for all insurable Common Areas against loss or damage by fire or other casualty, in an amount equal to the current full replacement cost (without respect to depreciation) of the Common Areas if such coverage is available at a reasonable cost, and exclusive of land, foundations, excavation and other items normally excluded from coverage. A replacement cost endorsement shall be a part of the policy.

(b) **Liability Insurance:** A combined single limit policy of public liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) covering the Common Areas and all damage or injury caused by the negligence of the Association, the Board of Directors, or any of its agents or the Members against any liability to the public or to any Member incident to the use of or resulting from any accident or intentional or unintentional act of an Owner or a third party occurring in or about any Common Area.

(c) **Workers' Compensation Insurance.** The Association shall maintain workers' compensation insurance to the extent necessary to comply with any applicable laws.

8.2 **Insurance by Lot Owners.** Each Owner shall be responsible for obtaining, at his or her own expense, homeowner's insurance covering the Improvements and personal property on the Owner's Lot to the extent not covered by the Association policy, and liability resulting from use or ownership of the Lot, unless the Association agrees otherwise. The insurance coverage maintained by the Association shall not be brought into contribution with the insurance obtained under this Section 8.2 by the Owners.

8.3 **Planned Community Act Requirements.** The insurance maintained by the Association shall comply with the requirements of the Act, ORS 94.550 to 94.783.

ARTICLE 9 GENERAL PROVISIONS

9.1 **Seal.** The Board of Directors may, by resolution, adopt a corporate seal.

9.2 **Notice.** All notices to the Association or to the Board of Directors shall be sent care of the managing agent, or if there is no managing agent, to the principal office of the Association or to such other address as the Board of Directors may hereafter designate from time to time. All notices to Members shall be sent to the Member's Lot address or to such other address as may have been designated by the Member from time to time in writing to the Board of Directors.

9.3 **Waiver of Notice.** Whenever any notice to any Member or director is required by law, the Declaration, the Articles, or these Bylaws, a waiver of notice in writing signed at any time by the person entitled to notice shall be equivalent to the giving of the notice.

9.4 **Action without Meeting.** Any action which the law, the Declaration, the Articles, or the Bylaws require or permit the Members or directors to take at any meeting may be taken without a meeting if a consent in writing setting forth the action so taken is signed by all of the Members or directors entitled to vote on the matter. The consent, which shall have the same effect as a unanimous vote of the Members or directors, shall be filed in the records of minutes of the Association.

9.5 **Conflicts.** These Bylaws are intended to comply with the Oregon Nonprofit Corporation Act, the Declaration, the Articles, and the Act. In case of any irreconcilable conflict, such statutes and documents shall control over these Bylaws.

ARTICLE 10 AMENDMENTS TO BYLAWS

10.1 **How Proposed.** Amendments to these Bylaws shall be proposed by either a majority of the Board of Directors or by Members holding at least one-third (1/3) of the voting rights entitled to be cast for such amendment. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or be attached to any request for consent to the amendment.

10.2 **Adoption.** A resolution adopting a proposed amendment may be proposed by either the Board of Directors or by the Members and may be approved by the membership at a meeting called for that purpose or by ballot vote. Members not present at the meeting considering such amendment may express their approval in writing or by proxy. Any resolution must be approved by Members holding a majority of the voting rights. Amendment or repeal of any provision of these Bylaws that is also contained in the Declaration or Articles must be approved by the same voting requirement for amendment of such provision of the Declaration or Articles.

10.3 **Regulatory Amendments.** Notwithstanding the provisions of Sections 10.1 and 10.2 above, until the Turnover Meeting has occurred, Declarant shall have the right to amend these Articles in order to comply with the requirements of any applicable statute, ordinance or regulation of the Federal Housing Administration; the United States Department of Veterans Affairs; the Farmers Home Administration of the United States; the Federal National Mortgage Association; the Government National Mortgage Association; the Federal Home Mortgage Loan Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon; or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon that insures, guarantees or provides financing for a planned community or lots in a planned community. After the Turnover Meeting, any such amendment shall require the approval of a majority of the voting rights of the Association voting in person, by proxy or by ballot at a meeting or ballot meeting of the Association at which a quorum is represented.

10.4 **Execution and Recording.** An amendment shall not be effective until certified by the President and Secretary of the Association as being adopted in accordance with these Bylaws and ORS 94.625 and recorded in the Official Records of Marion County, Oregon.

EXHIBIT “C”

Common Areas