



AFTER RECORDING RETURN TO:

FIRST AMERICAN TITLE

31

DECLARATION OF
PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR BEAR CREEK ESTATES
Declarant: Venture Properties, Inc.

TABLE OF CONTENTS

RECITALS.....	1
ARTICLE 1	
DEFINITIONS.....	2
ARTICLE 2	
PROPERTY SUBJECT TO THIS DECLARATION.....	3
2.1 Development.....	3
2.2 No Right to Annex Additional Property or to Withdraw Property.....	4
ARTICLE 3	
OWNERSHIP AND EASEMENTS.....	4
3.1 Non-Severability.....	4
3.2 Ownership of Lots.....	4
3.3 Ownership of Common Area.....	4
3.4 Easements.....	4
3.4.1 Easements on Plat.....	4
3.4.2 Easements for Common Area.....	4
3.4.3 Easements Reserved by Declarant.....	4
3.4.4 Additional Utility and Drainage Easements.....	5
3.4.5 Association's Easements.....	5
3.4.6 Easement to Governmental Entities.....	5
3.4.7 Perimeter Easement Benefiting Association.....	5
3.4.8 Perimeter Easement Benefiting Owners.....	5
3.5 Declarant's Right to Dedicate Common Area and Grant Easements; Board's Authority After Title Transferred to Association.....	5

ARTICLE 4

LOTS AND HOMES.....	6
4.1 Residential Use.....	6
4.2 Landscaping.....	6
4.3 Maintenance of Lots and Homes.....	6
4.4 Rental of Homes.....	7
4.4.1 Written Rental Agreements Required.....	7
4.4.2 Minimum Rental Period.....	7
4.4.3 Tenant Must be Given Documents.....	7
4.5 Animals.....	7
4.6 Nuisance.....	7
4.7 Parking.....	7
4.8 Vehicles in Disrepair.....	8
4.9 Signs.....	8
4.10 Rubbish and Trash.....	8
4.11 Fences and Hedges.....	8
4.12 Service Facilities.....	8
4.13 Antennas and Satellite Dishes.....	8
4.14 Exterior Lighting or Noise-making Devices.....	9
4.15 Grades, Slopes and Drainage.....	9
4.16 Damage or Destruction to Home and/or Lot.....	9
4.17 Right of Maintenance and Entry by Association.....	9
4.18 Association Rules and Regulations.....	9
4.19 Ordinances and Regulations.....	10
4.20 Temporary Structures.....	10
4.21 Declarant Exemptions.....	10

ARTICLE 5

COMMON AREA.....	10
5.1 Use of Common Areas.....	10
5.2 Maintenance of Common Area.....	10
5.3 Alterations to Common Area.....	10
5.4 Funding.....	10
5.5 Landscaping.....	11
5.6 Condemnation of Common Area.....	11
5.7 Damage or Destruction of Common Area.....	11
5.8 Power of Association to Sell, Dedicate or Transfer Common Area.....	11

ARTICLE 6

ARCHITECTURAL REVIEW COMMITTEE.....	11
6.1 Architectural Review.....	12
6.2 Architectural Review Committee, Appointment and Removal.....	12
6.3 Majority Action.....	12
6.4 Duties.....	12
6.5 ARC Decision.....	12
6.6 ARC Discretion.....	12
6.7 Nonwaiver.....	13
6.8 Appeal.....	13
6.9 Effective Period of Consent.....	13
6.10 Determination of Compliance.....	13
6.11 Noncompliance.....	13
6.12 Liability.....	13
6.13 Estoppel Certificate.....	14
6.14 Fees.....	14
6.15 Declarant and Successor Exempt From ARC.....	14

ARTICLE 7

MEMBERSHIP IN THE ASSOCIATION.....	14
7.1 Members.....	14
7.2 Proxy.....	14
7.3 Voting Rights.....	14
7.3.1 Class A.....	15
7.3.2 Class B.....	15
7.4 Procedure.....	15

ARTICLE 8

DECLARANT CONTROL.....	15
8.1 Interim Board and Officers.....	15
8.2 Turnover Meeting.....	15
8.2.1 Latest Date.....	16
8.2.2 Optional Turnover.....	16

ARTICLE 9

DECLARANT'S SPECIAL RIGHTS.....	16
9.1 General.....	16
9.2 Marketing Rights.....	16
9.3 Declarant Easements.....	16
9.4 Additional Improvements.....	16
9.5 Control of the ARC.....	16

ARTICLE 10

FUNDS AND ASSESSMENTS.....	16
10.1 Purpose of Assessments; Expenses.....	16
10.2 Covenants to Pay.....	17
10.2.1 Funds Held in Trust.....	17
10.2.2 Offsets.....	17
10.2.3 Right to Profits.....	17
10.3 Basis of Assessment; Commencement of Assessments.....	17
10.3.1 Commencement of Operating Assessments.....	17
10.3.2 Commencement of Reserves.....	17
10.4 Annual Assessments.....	17
10.4.1 Budgeting.....	18
10.4.2 Allocation of Assessments.....	18
10.4.3 Nonwaiver of Assessments.....	18
10.5 Special Assessments.....	18
10.5.1 Correct Deficit.....	18
10.5.2 Special Obligations of an Owner.....	18
10.5.3 Repairs.....	18
10.5.4 Capital Improvements.....	18
10.5.5 Reimbursement Assessments.....	18
10.6 Accounts.....	19
10.6.1 Types of Accounts.....	19
10.6.2 Reserve Account.....	19
10.6.2.1 Calculation of Reserve Assessment.....	19
10.6.2.2 Loan From Reserve Account.....	20
10.6.2.3 Increase or Reduction of Reserve Account Assessment.....	20
10.6.2.4 Investment of Reserve Account.....	20
10.6.2.5 Refunds of Assessments.....	20
10.6.3 Current Operating Account.....	20

10.7	Default in Payment of Assessments; Enforcement of Liens.....	20
10.7.1	Personal Obligation.....	20
10.7.2	Association Lien.....	20
10.7.3	Interest; Fines; Late Fees; Penalties.....	21
10.7.4	Acceleration of Assessments.....	21
10.7.5	Association's Right to Rents; Receiver.....	21

ARTICLE 11

GENERAL PROVISIONS.....	21
11.1 Records.....	22
11.2 Indemnification of Directors, Officers, Employees and Agents.....	22
11.3 Enforcement; Attorneys' Fees.....	22
11.4 Association Litigation.....	23
11.5 Severability.....	23
11.6 Duration.....	23
11.7 Amendment.....	23
11.8 Release of Right of Control.....	23
11.9 Unilateral Amendment by Declarant.....	23
11.10 Resolution of Document Conflicts.....	24

**DECLARATION OF
PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR BEAR CREEK ESTATES P.U.D
("BEAR CREEK ESTATES")**

THIS DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR BEAR CREEK ESTATES ("Declaration") is made by ROBINSON-AUDIA DEVELOPMENT, LLC, an Oregon Limited Liability Company ("Declarant").

Recitals

Declarant is the owner of all the real property and improvements thereon located in the County of Deschutes, State of Oregon, described as follows:

Lots 1-17, inclusive, and the Common Area Tract and the Private Road (N.E. Telima Lane) as shown on the plat map of Bear Creek Estates P.U.D. filed for record on _____, Book _____, Pages _____, in the plat records of the County of Deschutes, State of Oregon (the "Property").

Declarant intends to develop Bear Creek Estates P.U.D. ("Bear Creek Estates") as a Class II planned community. To establish Bear Creek Estates as a planned community, Declarant desires to impose these mutually beneficial covenants, conditions, restrictions, easements, assessments and liens on the Property, under a comprehensive general plan of improvement and development for the benefit of all Lots and Common Area in Bear Creek Estates.

Declarant has deemed it desirable for the efficient preservation of the values and amenities in Bear Creek Estates to create a nonprofit corporation, to which will be delegated and assigned the powers and authority to own, maintain and administer the Common Area and facilities, maintain, repair and replace certain portions of the Property, to administer and enforce the covenants, conditions, and restrictions of this Declaration, and to collect and disburse the assessments and charges hereinafter created.

The Declarant shall convey the Common Area Tract and the Private Road (N.E. Telima Lane) as shown on the plat map of Bear Creek Estates P.U.D. to the Bear Creek Estates Homeowners' Association ("Association"). As provided herein, the Association shall assume the maintenance obligation of Common Area Tract and the Private Road (N.E. Telima Lane) for the benefit of all the Owners and assess the Owners of Lots 1-17 equally for the expenses.

Upon Properties, Inc. closing on the Property, all rights of Casa Terra, LLC, as Declarant, under this Declaration (including without limitation the right to amend this Declaration pursuant to Article 11.7 and 11.9 below), and rights under Oregon Revised

Statutes Chapter 94 (if any), shall automatically be transferred to and vest with in Venture Properties, Inc.

NOW THEREFORE, Declarant declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the Oregon Planned Community Act as may be amended from time to time (ORS 94.550 to 94.783) and subject to the following covenants, conditions, restrictions, easements, charges and liens, which shall run with the land, which shall be binding upon all parties having or acquiring any right, title or interest in the Property or any part thereof, and which shall inure to the benefit of the Association and of each Owner.

ARTICLE 1

DEFINITIONS

1.1 “Architectural Review Committee” or “ARC” shall refer to that committee constituted and acting pursuant to Article 6 of this Declaration.

1.2 “Articles” shall mean the Articles of Incorporation for the nonprofit corporation, Bear Creek Estates Homeowners' Association, as filed with the Oregon Secretary of State.

1.3 “Association” shall mean and refer to Bear Creek Estates Homeowners' Association, its successors and assigns.

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

1.5 “Bylaws” shall mean and refer to the Bylaws of the Association which shall be recorded in the Deschutes County, Oregon, deed records.

1.6 “Common Area” shall mean and refer to the Common Area Tract and the Private Road (N.E. Telima Lane) shown on the recorded Plat of the Property, including any improvements located thereon, which areas and improvements are intended to be devoted to the common use and enjoyment of the members and which land has been conveyed to the Association.

1.7 “Declaration” shall mean the covenants, conditions, restrictions, and all other provisions set forth in this Declaration.

1.8 “Declarant” shall mean and refer to Venture Properties, Inc., an Oregon corporation, and its successors or assigns, or any successor or assign to all or the remainder of its interest in the Property.

1.9 “General Plan of Development” shall mean Declarant's general plan of development of the Property, as approved by appropriate governmental agencies, as may be amended from time to time.

1.10 “Home” shall mean and refer to any portion of a structure situated on a Lot and designed and intended for use and occupancy as a residence by a single family or household.

1.11 “Lot” shall mean and refer to each and any of Lots 1-17; provided, however, that “Lot” shall not include the Common Area Tract and the Private Road (N.E. Telima Lane).

1.12 “Members” shall mean and refer to the Owners of Lots in Bear Creek Estates.

1.13 “Mortgage” means a recorded first mortgage, first trust deed, a first contract of sale that creates a first lien against a Lot, and “mortgagee” means the holder, beneficiary or lender of such mortgage, trust deed or contract of sale, but only when such holder, beneficiary or vendor notifies the Association in writing of the existence of such mortgage and gives the Association a current name and mailing address.

1.14 “Occupant” shall mean and refer to the occupant of a Home, whether such person is an Owner, a lessee or any other person authorized by the Owner to occupy the Home.

1.15 “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or a purchaser in possession of a Lot under a land sale contract. The foregoing does not include persons or entities who hold an interest in any Lot merely as security for the performance of an obligation.

1.16 “Plat” shall mean and refer to the Plat of Bear Creek Estates recorded in the Plat Records of Deschutes County, Oregon.

1.17 “Property” shall have the meaning attributed to such term in the Recitals of this Declaration.

1.18 “Reserve Account(s)” shall mean and refer to an account set up by the Board to hold funds for construction, improvements or maintenance of the Common Area.

1.19 “Rules and Regulations” shall mean and refer to the documents containing rules and regulations and policies adopted by the Board or the Architectural Review Committee, as may be from time to time amended.

1.20 “Tracts” shall mean and refer to Common Area Tract and the Private Road (N.E. Telima Lane).

1.21 "Bear Creek Estates" shall mean Lots 1-17 of the Property and the Common Area Tract and the Private Road (N.E. Telima Lane) as designated on the Plat of Bear Creek Estates.

ARTICLE 2

PROPERTY SUBJECT TO THIS DECLARATION

2.1 Development. The development of Bear Creek Estates shall consist of the Property, which shall be held, transferred, sold, conveyed and occupied subject to this Declaration. Declarant does not intend to build any Common Area improvements in Bear Creek Estates.

2.2 No Right to Annex Additional Property or to Withdraw Property. The Declarant reserves no right to annex additional property to or to withdraw property from Bear Creek Estates.

ARTICLE 3

OWNERSHIP AND EASEMENTS

3.1 Non-Severability. The interest of each Owner in the use and benefit of the Common Area shall be appurtenant to the Lot owned by the Owner. No Lot shall be conveyed by the Owner separately from the interest in the Common Area. Any conveyance of any Lot shall automatically transfer the right to use the Common Area without the necessity of express reference in the instrument of conveyance. There shall be no judicial partition of the Common Area. Each Owner, whether by deed, gift, devise or operation of law, for such Owner's benefit and for the benefit of all other Owners, specifically waives and abandons all rights, interests and causes of action for judicial partition of any interest in the Common Area and agrees that no action for judicial partition shall be instituted, prosecuted or reduced to judgment. Ownership interests in the Common Area and Lots are subject to the easements granted and reserved in this Declaration. Each of the easements granted or reserved herein shall be deemed to be established upon the recordation of this Declaration and shall thenceforth be deemed to be covenants running with the land for the use and benefit of the Owners and their Lots and shall be superior to all other encumbrances applied against or in favor of any portion of Bear Creek Estates.

3.2 Ownership of Lots. Title to each Lot in Bear Creek Estates shall be conveyed in fee to an Owner. If more than one person and/or entity owns an undivided interest in the same Lot, such persons and/or entities shall constitute one Owner.

3.3 Ownership of Common Area. Subject to subsection 3.5, title to any Common Area shall be conveyed to the Association not later than the date of the Turnover Meeting.

3.4 Easements. Individual deeds to Lots may, but shall not be required to, set forth the easements specified in this Article.

3.4.1 Easements on Plat. The Common Area and Lots are subject to the easements and rights-of-way shown on the Plat.

3.4.2 Easements for Common Area. Subject to the restrictions contained herein, every Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot. Such easement is subject to ORS 94.665, as may be amended from time to time and Section 3.5 herein.

3.4.3 Easements Reserved by Declarant. So long as Declarant owns any Lot, Declarant reserves an easement over, under and across the Common Area in order to carry out sales activities necessary or convenient for the sale of Lots. Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress to, from, over, in, upon, under and across the Common Area and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the improvements on the Property in such a way as not to interfere unreasonably with the occupancy, use, enjoyment or access to an Owner's Lot by such Owner or such Owner's family, tenants, employees, guests or invitees.

3.4.4 Additional Utility and Drainage Easements. Notwithstanding anything expressed or implied to the contrary, this Declaration shall be subject to all easements granted or acquired by Declarant for the installation and maintenance of utilities and drainage facilities necessary for the development of Bear Creek Estates. No structure, planting or other material that may damage or interfere with the installation or maintenance of utilities, that may change the direction of flow of drainage channels in the easements, or that may obstruct or retard the flow of water through drainage channels in the easement areas shall be placed or permitted to remain within any easement area.

3.4.5 Association's Easements. Declarant grants to the Association and its duly authorized agents and representatives such easements over the Lots and Common Area as are necessary to perform the duties and obligations of the Association, as set forth in this Declaration, the Bylaws, and the Articles, as the same may be amended.

3.4.6 Easement to Governmental Entities. Declarant grants a non-exclusive easement over the Common Area to all governmental and quasi-government entities, agencies, utilities, and their agents for the purposes of performing their duties as utility and service providers.

3.4.7 Perimeter Easement Benefiting Association. Declarant grants to the Association and its duly authorized agents and representatives an easement over that perimeter portion of each Lot that is included within the building setbacks set by applicable ordinances for the purposes of installation, maintenance, repair, and replacement of utilities, communication lines, and drainage. The Board may grant or

convey the easements reserved herein to any governmental body or agency and/or any public or private utility company or provider, upon a two-thirds (2/3) vote of the Board members at a duly called and held Board meeting.

3.4.8 Perimeter Easement Benefiting Owners. Every Owner shall have an easement over that perimeter portion of other Lots that is included within the building setbacks set by applicable ordinances as may be reasonably necessary to reach such Owner's Lot for purposes of exterior maintenance and repair of the Owner's Home and for maintaining the landscaping on the Owner's Lot.

3.5 Declarant's Right to Dedicate Common Area and Grant Easements; Board's Authority After Title Transferred to Association. Declarant reserves the right and power to dedicate and/or convey any portion or all of the Common Area Tract and the Private Road (N.E. Telima Lane) to any governmental body or agency without the approval of any other Owner or the Association. Declarant further reserves the right and power to grant an easement over the Common Area Tract and the Private Road (N.E. Telima Lane) to any governmental body or agency or any public or private utility or communication company or provider without the approval of any other Owner or the Association. The Board shall have the same powers reserved to Declarant to grant easements for utility or communications purposes and may exercise such power upon a two-thirds (2/3rds) or greater vote of the Board members at any duly called and held Board meeting. The provisions of this Section 3.5 shall control over any provisions to the contrary contained in any other Section of the Declaration.

ARTICLE 4 **LOTS AND HOMES**

4.1 Residential Use. Lots shall only be used for residential purposes. Except with the Board's consent no trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any Lot or in any Home, and no goods, equipment, vehicles, materials or supplies used in connection with any trade, service or business shall be kept or stored on any Lot or in any Home. Nothing in this Section 4.1 shall be deemed to prohibit (a) activities relating to the sale of residences, (b) the right of Declarant or any contractor or homebuilder to construct residences on any Lot, to store construction materials and equipment on such Lots in the normal course of construction, and to use any residence as a sales office or model home for purposes of sales in Bear Creek Estates, and (c) the right of the Owner of a Lot to maintain such Owner's personal business or professional library, keep such Owner's personal business or professional records or accounts, handle such Owner's personal business or professional telephone calls or confer with business or professional associates, clients or customers in such Owner's residence. The Board shall not approve commercial activities otherwise prohibited by this Section 4.1 unless the Board determines that only normal residential activities would be observable outside of the residence and that the activities would not be in violation of applicable local government ordinances.

4.2 Landscaping. Landscaping for all portions of the Lot shall commence within one hundred twenty (120) days after sale of a Home from the developer to a third party, and shall be completed within six (6) months after such sale. Owners shall irrigate their entire yard to keep lawns green and other landscaping fresh. Street trees in front of an Owner's Home shall be irrigated and maintained by such Owner as required by the Deschutes County or any other governing jurisdiction. Owners shall not remove or move street trees. The Association may irrigate from hose bibs connected to individual Homes of Owners who fail to properly irrigate their yards. If plantings on any Lot have died or are dying because the Owner of the Lot neglected to properly care for and irrigate the plants, or because of other harm to the plants caused by such Owner, the Association may replace the plantings and may assess the Owner for the cost as an Assessment, which may be collected and enforced as any other assessments imposed pursuant to the Declaration and Bylaws.

4.3 Maintenance of Lots and Homes. Each Owner shall maintain such Owner's Lot and all improvements thereon in a clean and attractive condition, in good repair and in such fashion as not to create a fire hazard. Such maintenance shall include, without limitation, maintenance of windows, doors, garage doors, walks, patios, chimneys, landscaping, street trees and other exterior improvements and glass surfaces. All repainting or restaining and exterior remodeling shall be subject to prior review and approval by the ARC. Each Owner shall repair damage caused to such Owner's Lot or improvements located thereon by fire, flood, storm, earthquake, riot, vandalism, or other causes within a reasonable period.

4.4 Rental of Homes. An Owner may rent or lease such Owner's Home or a portion thereof, provided that the following conditions are met:

4.4.1 Written Rental Agreements Required. The Owner and the tenant enter into a written rental or lease agreement specifying that (i) the tenant shall be subject to all provisions of the Declaration, Bylaws and Rules and Regulations, and (ii) a failure to comply with any provision of the Declaration, Bylaws and Rules and Regulations shall constitute a default under the rental or lease agreement;

4.4.2 Minimum Rental Period. The period of the rental or lease is not less than thirty (30) days;

4.4.3 Tenant Must be Given Documents. The Owner gives each tenant a copy of the Declaration, Bylaws and Rules and Regulations.

4.5 Animals. No animals, livestock or poultry of any kind, other than a reasonable number of household pets that are not kept, bred or raised for commercial purposes and that are reasonably controlled so as not to be a nuisance, shall be raised, bred, kept or permitted within any Lot. Any Lot Owner who maintains any pet upon any portion of Bear Creek Estates shall be deemed to have agreed to indemnify and hold the Association, each of its members and the Declarant free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or

maintaining such pet. Such Owner shall further abide by all governmental sanitary laws and regulations, leash and other local and state laws relating to pets and rules or regulations of the Association created by the Board of Directors. The Board of Directors shall have the right to order any person whose pet is a nuisance to remove such pet from the premises upon the delivery of the third notice in writing of a violation of any rule, regulation or restriction governing pets within Bear Creek Estates. All pets shall be registered with the Board of Directors and shall otherwise be registered and inoculated as required by law.

4.6 Nuisance. No noxious, harmful or offensive activities shall be carried on upon any Lot or Common Area. Nor shall anything be done or placed on any Lot or Common Area that interferes with or jeopardizes the enjoyment of, or that is a source of annoyance to, the Owner or other Occupants.

4.7 Parking. Boats, trailers, commercial vehicles, mobile homes, campers, and other recreational vehicles or equipment, regardless of weight, shall not be parked on any part of the Common Area, or on any streets on or adjacent to the Property at any time or for any reason, including loading or unloading, and may not be parked on any Lot, including the driveway, for more than seven (7) days unless they are fully enclosed in the garage or parked along side the Home behind a six foot fully enclosed fence which may not extend beyond the front of the Home or garage. Owners must obtain prior approval to install such screening fence from the ARC.

4.8 Vehicles in Disrepair. No Owner shall permit any vehicle that is in a state of disrepair (e.g. including, but not limited to, fails to run, cannot be moved under its own power in current condition, flat tires, unpainted or body parts missing) or that is not currently licensed to be abandoned or to remain parked upon the Common Area or on any street on or adjacent to the Property at any time and may not permit them on a Lot for a period in excess of seven (7) days. A vehicle shall be deemed in a "state of disrepair" when the Board reasonably determines that its presence offends the occupants of the neighborhood. If an Owner fails to remove such vehicle within five (5) days following the date on which the Association mails or delivers to such Owner a notice directing such removal, the Association may have the vehicle removed from the Property and charge the expense of such removal to the Owner as an Assessment, which may be collected and enforced as any other assessments imposed pursuant to the Declaration and Bylaws.

4.9 Signs. No signs shall be erected or maintained on any Lot except that not more than one (1) "For Sale" or "For Rent" sign placed by the Owner or by a licensed real estate agent, not exceeding twenty-four (24) inches high and thirty-six (36) inches long, may be temporarily displayed on any Lot. The restrictions contained in this Section 4.9 shall not prohibit the temporary placement of "political" signs on any Lot by the Owner or Occupant. Provided, however, political signs shall be removed within three (3) days after the election day pertaining to the subject of the sign. Real estate signs shall be removed within three (3) days after the sale closing date.

4.10 Rubbish and Trash. No Lot or part of the Common Area shall be used as a dumping ground for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate containers for proper disposal and out of public view. Yard rakings, dirt and other material resulting from landscaping work shall not be dumped onto streets, the Common Area or any other Lots. If an Owner fails to remove any trash, rubbish, garbage, yard rakings or any similar materials from any Lot, any streets or the Common Area where deposited by such Owner or the Occupants of such Owner's Lot after notice has been given by the Board to the Owner, the Association may have such materials removed and charge the expense of such removal to the Owner. Such charge shall constitute an Assessment, which may be collected and enforced as any other assessments imposed pursuant to the Declaration and Bylaws.

4.11 Fences and Hedges. No fences or boundary hedges shall be installed or replaced without prior written approval of the ARC.

4.12 Service Facilities. Service facilities (garbage containers, fuel tanks, clotheslines, etc.) shall be screened such that such facilities are not visible at any time from the street. All telephone, electrical, cable television and other utility installations shall be placed underground in conformance with applicable law and subject to approval by the ARC.

4.13 Antennas and Satellite Dishes. Except as otherwise provided by law or this section, no exterior antennas, satellite dishes, microwave, aerial, tower or other devices for the transmission or reception of television, radio or other forms of sound or electromagnetic radiation shall be erected, constructed or placed on any Lot. Without prior written consent from the ARC, exterior satellite dishes or antennas with a surface diameter of one (1) meter or less and antennas designed to receive television broadcast signals only may be placed on any Lot if they are not visible from the street and are screened from neighboring Lots. The Board or ARC may adopt reasonable rules and regulations governing the installation, safety, placement and screening of antennas, satellite dishes and other transmission devices. Such rules shall not unreasonably delay or increase the cost of installation, maintenance or use or preclude reception of a signal of acceptable quality.

4.14 Exterior Lighting or Noise-making Devices. Except with the consent of the ARC, no exterior lighting or noise-making devices, other than security and fire alarms, shall be installed or maintained on any Lot.

4.15 Grades, Slopes and Drainage. There shall be no interference with the established drainage patterns or systems over or through any Lot within Bear Creek Estates so as to affect any other Lot or Common Area or any real property outside Bear Creek Estates unless adequate alternative provision is made for proper drainage and is approved by the ARC. The term "established drainage" shall mean the drainage swales, conduits, inlets and outlets designed and constructed for Bear Creek Estates.

4.16 Damage or Destruction to Home and/or Lot. If all or any portion of a Lot or Home is damaged by fire or other casualty, the Owner shall either (i) restore the damaged improvements or (ii) remove all damaged improvements, including foundations, and leave the Lot in a clean and safe condition. Any restoration proceeding under (i) above must be performed so that the improvements are in substantially the same condition in which they existed prior to the damage, unless the provisions of Article 6 are complied with by the Owner. The Owner must commence such work within sixty (60) days after the damage occurs and must complete the work within six (6) months thereafter.

4.17 Right of Maintenance and Entry by Association. If an Owner fails to perform maintenance and/or repair that such Owner is obligated to perform pursuant to this Declaration, and if the Board determines, after notice, that such maintenance and/or repair is necessary to preserve the attractiveness, quality, nature and/or value of Bear Creek Estates, the Board may cause such maintenance and/or repair to be performed and may enter any such Lot whenever entry is necessary in connection with the performance thereof. An Owner may request, and the Board shall conduct, a hearing on the matter. The Owner's request shall be in writing delivered within five (5) days after receipt of the notice, and the hearing shall be conducted within not less than five (5) days nor more than twenty (20) days after the request for a hearing is received. Entry shall be made with as little inconvenience to an Owner as practicable and only after advance written notice of not less than forty-eight (48) hours, except in emergency situations. The costs of such maintenance and/or repair shall be chargeable to the Owner of the Lot as an Assessment, which may be collected and enforced as any other assessments authorized hereunder.

4.18 Association Rules and Regulations. The Board from time to time may adopt, modify or revoke such Rules and Regulations governing the conduct of persons and the operation and use of Lots and the Common Area as it may deem necessary or appropriate to assure the peaceful and orderly use and enjoyment of the Property and the administration and operation of the Association. A copy of the Rules and Regulations, upon adoption, and a copy of each amendment, modification or revocation thereof, shall be delivered by the Board promptly to each Owner and shall be binding upon all Owners and occupants of all Lots upon the date of delivery or actual notice thereof. The method of adoption of such Rules and Regulations shall be provided in the Bylaws of the Association. Subject to approval or consent by the Board, the ARC may adopt rules and regulations pertinent to its functions.

4.19 Ordinances and Regulations. The standards and restrictions set forth in this Article 4 shall be the minimum required. To the extent that local governmental ordinances and regulations are more restrictive or provide for a higher or different standard, such local governmental ordinances and regulations shall prevail.

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

4.21 Declarant Exemptions. The Declarant shall be exempt from the application of Section 4.9.

ARTICLE 5

COMMON AREA

5.1 Use of Common Areas. Use of the Common Area is subject to the provisions of the Declaration, Bylaws, Articles and the Rules and Regulations adopted by the Board. There shall be no obstruction of any part of the Common Area. Nothing shall be stored or kept in the Common Area without the prior written consent of the Board. No alterations or additions to the Common Area shall be permitted without the prior written consent of the Board. The Common Area shall be owned by the Association.

5.2 Maintenance of Common Area. The Association shall be responsible for maintenance, repair, replacement, and upkeep of the Common Area, the cost shall be at the equal expense of the Owners of Lots 1-17. The Association shall keep the Common Area in good condition and repair, provide for all necessary services and cause all acts to be done which may be necessary or proper to assure the maintenance of the Common Area.

5.3 Alterations to Common Area. Only the Association shall construct, reconstruct, or alter any improvement located on the Common Area. A proposal for any construction of or alteration, maintenance or repair to any such improvement may be made at any Board meeting. A proposal may be adopted by the Board, subject to the limitations contained in the Bylaws, this Declaration; provided, however, no improvements may be made to the Common Area except the construction, repair and reconstruction of utility installations, landscaping, fencing, street lights, curbs and sidewalks.

5.4 Funding. Expenditures for alterations, maintenance or repairs to an existing improvement for which a reserve has been collected shall be made from the Reserve Account. As provided in Section 10.5, the Board may levy a special assessment to fund any construction, alteration, repair or maintenance of an improvement (or any other portions of the Common Area) for which no reserve has been collected or for which the Reserve Account is insufficient to cover the cost of the proposed improvement.

5.5 Landscaping. All landscaping on any Lot and the Common Area shall be maintained and cared for in a manner that is consistent with Declarant's or the ARC's original approval of such landscaping. Weeds and diseased or dead lawn, trees, ground cover or shrubs shall be removed and replaced. Lawns shall be neatly mowed and trees and shrubs shall be neatly trimmed. All landscaping shall be irrigated in a horticulturally proper manner, subject to water use restrictions or moratoria by government bodies or agencies.

5.6 Condemnation of Common Area. If all or any portion of the Common Area is taken for any public or quasi-public use under any statute, by right of eminent domain or by purchase in lieu of eminent domain, the entire award shall be received by and expended by the Board in a manner that, in the Board's discretion, is in the best interest of the Association and the Owners. The Association shall represent the interest of all Owners in any negotiations, suit, action or settlement in connection with such matters.

5.7 Damage or Destruction of Common Area. If all or any portion of the Common Area is damaged or destroyed by an Owner or any of Owner's guests, Occupants, tenants, licensees, agents or members of Owner's family in a manner that would subject such Owner to liability for such damage under Oregon law, such Owner hereby authorizes the Association to repair such damage. The Association shall repair the damage and restore the area in workmanlike manner as originally constituted or as may be modified or altered subsequently by the Association in the discretion of the Board. Reasonable costs incurred in connection with effecting such repairs shall become a special assessment upon the Lot and against the Owner who caused or is responsible for such damage.

5.8 Power of Association to Sell, Dedicate or Transfer Common Area. As provided in ORS 94.665, the Association may sell, dedicate, transfer, grant a security interest in, or grant an easement for installation and maintenance of utilities, communications or for similar purposes with respect to, any portion of the Common Area. Except for grants of easements for utility or communications related purposes, no such sale, dedication, transfer, or grant of a security interest shall be effective unless approved by eighty percent (80%) of the votes of both Class A and Class B members. Provided further except as provided in Section 3.5, if there is only one class of votes, such sale, dedication, transfer, or grant of a security interest (other than a grant of an easement for utility or communications related purposes) must be approved by eighty percent (80%) of the votes held by Owners other than Declarant.

ARTICLE 6

ARCHITECTURAL REVIEW COMMITTEE

6.1 Architectural Review. No improvement shall be commenced, erected, placed or altered on any Lot until the construction plans and specifications showing the nature, shape, heights, materials, colors, and proposed location of the improvement have been submitted to and approved in writing by the ARC. This Article's purpose is to assure quality of workmanship and materials and harmony between exterior design and the existing improvements and landscaping and as to location with respect to topography and finished grade elevations. The ARC shall not be responsible for determining compliance with structural and building codes, solar ordinances, zoning codes or other governmental regulations, all of which are the applicant's responsibility. The procedure and specific requirements for review and approval of construction shall be set forth in design guidelines and standards adopted from time to time by the ARC. The provisions

of this Article shall apply in all instances in which this Declaration requires the ARC's consent.

6.2 Architectural Review Committee, Appointment and Removal. Declarant reserves the right to appoint all members of the ARC and all replacements thereto until Bear Creek Estates is one hundred percent (100%) built out. Each ARC member shall serve for one (1) year. After build out, Declarant shall assign to the Board the right to appoint and remove members of the ARC. After the Declarant assigns the right to appoint the members of the ARC to the Board, the ARC shall consist of no fewer than three (3) members and no more than five (5) members. The Board may appoint itself as the ARC or any of its members to the ARC. If an ARC has not been appointed, the Board shall serve as the ARC.

6.3 Majority Action. Except as otherwise provided in this Declaration, a majority of the members of the ARC shall have the power to act on behalf of the ARC, without the necessity of a meeting and without the necessity of consulting the remaining member or members of the ARC. The ARC may render its decision only by written instrument setting forth the action taken by the members consenting thereto.

6.4 Duties. The ARC shall consider and act upon the proposals and/or plans submitted pursuant to this Article. The ARC, from time to time and at its sole discretion, may adopt architectural rules, regulations and guidelines ("Architectural Standards").

6.5 ARC Decision. The ARC shall render its written decision approving or denying each application submitted to it within fifteen (15) working days after its receipt of all materials required with respect to such application. If the ARC fails to render such written decision within fifteen (15) days of its receipt of all required materials or request an extension, the application shall be deemed approved. The ARC shall be entitled to request one or more extensions of time, not to exceed thirty (30) days. In the event of such extension requests, if the ARC does not render a written decision within the extension period, the application shall be deemed approved. Provided, however, the applicant may agree to further extensions to allow the applicant to complete or supplement the application.

6.6 ARC Discretion. The ARC, at its sole discretion, may withhold consent to any proposed work if the ARC finds the proposed work would be inappropriate for the particular Lot or incompatible with the design standards that the ARC intends for Bear Creek Estates. The ARC may consider siting, shape, size, color, design, height, solar access or other effect on the enjoyment of other Lots or the Common Area, and any other factors that it reasonably believes to be relevant in determining whether or not to consent to any proposed work.

6.7 Nonwaiver. Consent by the ARC to any matter proposed to it or within its jurisdiction shall not be deemed to constitute precedent or waiver impairing its right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.

6.8 Appeal. After Declarant has assigned the right to appoint ARC members to the Board, pursuant to Section 6.2, any Owner adversely impacted by action of the ARC may appeal such action to the Board. Such appealing Owner shall submit to the Board a written notice of appeal, setting forth specific objections or mitigating circumstances justifying the appeal, to the Board within ten (10) days after the ARC's action. The Board shall issue a final, conclusive decision within forty-five (45) days after receipt of such notice, and such decision shall be final and binding upon the appealing Owner and the ARC. Provided, however, the Board shall make reasonable efforts to reach a decision within twenty (20) days. If the Board is serving as the ARC, then such appeal shall be deemed a request for reconsideration.

6.9 Effective Period of Consent. The ARC's consent to any proposed work shall automatically expire three (3) months after issuance unless construction of the project has been commenced or the Owner has applied for and received an extension of time from the ARC.

6.10 Determination of Compliance. The ARC may inspect, from time to time, all work performed and determine whether it is in substantial compliance with the approval granted. If the ARC finds that the work was not performed in substantial conformance with the approval granted, or if the ARC finds that the approval required was not obtained, the ARC shall notify the Owner in writing of the noncompliance. The notice shall specify the particulars of noncompliance and shall require the Owner to remedy the noncompliance.

6.11 Noncompliance. If the ARC determines that an Owner has not constructed an improvement consistent with the specifications of an ARC approval or has constructed an improvement without obtaining ARC approval, sends a notice of noncompliance to such Owner, and such Owner fails to commence diligently remedying such noncompliance in accordance with such notice, then, effective at 5 p.m. on the third (3rd) day after issuance of such notice, the ARC shall provide notice of a hearing to consider the Owner's continuing noncompliance. The hearing shall be set not more than thirty (30) days from the date on which the notice of noncompliance was issued. At the hearing, if the ARC finds that there is no valid reason for the continuing noncompliance, the ARC shall determine the estimated costs of achieving compliance and may issue a fine against the noncomplying Owner for such amount. The ARC also shall require the Owner to remedy such noncompliance within ten (10) days after the date of the ARC's determination. If the Owner does not comply with the ARC's ruling within such period or any extension thereof granted by the ARC, at its sole discretion, the ARC may remove the noncomplying improvement, remedy the noncompliance, and/or record a notice of noncompliance in the county deed records. The costs of any such action shall be assessed against the Owner as a Reimbursement Assessment either before or after any remedial action is taken.

6.12 Liability. Neither the ARC nor any member thereof shall be liable to any person or entity for any damage, loss or prejudice suffered or claimed on account of any

action or failure to act of the ARC or a member thereof, provided only that the ARC or the member has, in accordance with its or his actual knowledge, acted in good faith.

6.13 Estoppel Certificate. Within fifteen (15) working days after the ARC's receipt of a written request from an Owner and the ARC's receipt of payment of a reasonable fee fixed by the ARC to cover costs, the ARC shall provide such Owner with a certificate executed by the Chairperson or other authorized member of the ARC certifying with respect to any Lot owned by the Owner, that, as of the date thereof either (a) all improvements made or done upon such Lot comply with this Declaration, or (b) such improvements do not so comply, in which event, the certificate shall also identify the noncomplying improvements and set forth with particularity the nature of such noncompliance. The Owner and such Owner's heirs, devisees, successors and assigns shall be entitled to rely on the certificate with respect to the matters set forth therein. The certificate shall be conclusive as among Declarant, the ARC, the Association, all Owners, and all persons deriving any interest through any of them.

6.14 Fees. The ARC may charge applicants a reasonable application fee and additional costs incurred or expected to be incurred by the ARC to retain architects, attorneys, engineers and other consultants to advise the ARC concerning any aspect of the applications and/or compliance with any appropriate architectural criteria or standards. Such fees shall be collectible as assessments pursuant to Article 10.

6.15 Declarant and Successor Exempt From ARC. The Declarant or a successor to all of the unsold Lots shall be exempt from the requirement to submit and have plans approved by the ARC. However, the Declarant and its successor shall not be exempt from the provisions of Article 4 of the Declaration, except as set forth in Section 4.22.

ARTICLE 7

MEMBERSHIP IN THE ASSOCIATION

7.1 Members. Each Owner shall be a member 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 shall transfer automatically membership in the Association. Without any other act or acknowledgment, Occupants and Owners shall be governed and controlled by this Declaration, the Articles, Bylaws, and the Rules and Regulations of the Association and any amendments thereof.

7.2 Proxy. Each Owner may cast such Owner's vote in person, by written ballot or pursuant to a proxy executed by such Owner. An Owner may not revoke a proxy given pursuant to this Section 7.2 except by actual notice of revocation to the person presiding over a meeting of the Association. 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.

7.3 Voting Rights. The Association shall have two (2) classes of voting members:

7.3.1 Class A. Class A members shall be all Owners of Lots other than Declarant, and each Class A member shall be entitled to one (1) vote for each Lot owned with respect to all matters upon which Owners are entitled to vote.

7.3.2 Class B. The Class B member shall be Declarant, its successors and assigns. The Class B member shall have three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon the earlier of the following dates (the "Termination Date"):

(a) Twenty (20) years after the date this Declaration is recorded; and

(b) At such earlier time as Declarant elects in writing to terminate Class B membership.

After the Termination Date, each Owner, including Declarant, shall be entitled to one (1) vote for each Lot owned with respect to all matters upon which Owners are entitled to vote, and the total number of votes shall be equal to the total number of Lots subject to this Declaration, initially or through annexation.

When more than one (1) person or entity owns a Lot, the vote for such Lot may be cast as they shall determine, but in no event shall fractional voting be allowed. Fractional or split votes shall be disregarded, except for purposes of determining a quorum.

7.4 Procedure. All meetings of the Association, the Board, the ARC, and Association committees shall be conducted with such rules of order as may from time to time be adopted by the Board. Notwithstanding which rule of order is adopted, the President shall be entitled to vote on all matters, not merely to break a tie vote. A tie vote does not constitute a majority or approval of any motion or resolution.

ARTICLE 8

DECLARANT CONTROL

8.1 Interim Board and Officers. Declarant hereby reserves administrative control of the Association. Declarant, in its sole discretion, shall have the right to appoint and remove members of an interim board (the "Interim Board"), which shall manage the affairs of the Association and be invested with all powers and rights of the Board until the Turnover Meeting (as hereinafter defined). The Interim Board shall consist of from one (1) to three (3) members. Notwithstanding the provision of this Section 8.1, at the Turnover Meeting, at least one (1) Director shall be elected by Owners other than Declarant, even if Declarant otherwise has voting power to elect all three (3) Directors.

8.2 Turnover Meeting. Declarant shall call a meeting for the purposes of turning over administrative control of the Association from Declarant to the Class A members within sixty (60) days of the earlier of the following dates:

8.2.1 Latest Date. The date twenty (20) years from the date this Declaration is recorded;

8.2.2 Optional Turnover. At such time as Declarant has elected in writing to terminate Class B membership.

Declarant shall give notice of the Turnover Meeting to each Owner as provided in the Bylaws. If Declarant does not call the Turnover Meeting required under this Section, any Owner may do so.

ARTICLE 9

DECLARANT'S SPECIAL RIGHTS

9.1 General. Declarant is undertaking the work of developing Lots and other improvements within Bear Creek Estates. The completion of the development work and the marketing and sale of the Lots is essential to the establishment and welfare of the Property as a residential community. Until the Homes on all Lots on the Property have been constructed, fully completed and sold, with respect to the Common Area and each Lot on the Property, Declarant shall have the special rights set forth in this Article 9.

9.2 Marketing Rights. Declarant shall have the right to maintain a sales office and model on one or more of the Lots which Declarant owns. 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. Declarant may maintain a reasonable number of "For Sale" signs at reasonable locations on the Property, including, without limitation, on the Common Area.

9.3 Declarant Easements. Declarant reserves easements over the Property as more fully described in Sections 3.4 and 3.5 hereof.

9.4 Additional Improvements. Declarant does not agree to build any improvements not described in this Declaration.

9.5 Control of the ARC. Declarant shall have the right, but not the obligation, to control all aspects of the ARC, including the appointment of all ARC members and the approval, modification or adoption of the Architectural Standards as described in Article 6 herein.

ARTICLE 10

FUNDS AND ASSESSMENTS

10.1 Purpose of Assessments; Expenses. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, aesthetics and welfare of the Owners and Occupants of Bear Creek Estates, for the improvement, operation and maintenance of the Common Area, for the payment of obligations of the Association, for the administration and operation of the Association and for property and liability insurance.

10.2 Covenants to Pay. Declarant and each Owner covenant and agree to pay the Association the assessments and any additional charges levied pursuant to this Declaration or the Bylaws. All assessments for operating expenses, repairs and replacement and reserves shall be allocated among the Lots and their Owners as set forth in Section 10.4.2.

10.2.1 Funds Held in Trust. The assessments collected by the Association shall be held by the Association for and on behalf of each Owner and shall be used solely as set forth in Section 10.1. The assessments are the property of the Association and are not refundable to Owners or Lots. Upon the sale or transfer of any Lot, the Owner's interest in such funds shall be deemed automatically transferred to the successor in interest to such Owner.

10.2.2 Offsets. No offsets against any assessment shall be permitted for any reason, including, without limitation, any claim that the Association is not properly discharging its duties.

10.2.3 Right to Profits. Association profits, if any, shall be the property of the Association and shall be contributed to the Current Operating Account.

10.3 Basis of Assessment/Commencement of Assessments. The Declarant shall pay all common expenses of the Association until the Lots are assessed for common expenses. The amount of the initial annual assessment to Owners other than the Declarant shall be determined by the Declarant. Assessments are to be levied against all Lots whether or not such Lots have been improved with a completed Home; provided, however, the Declarant shall be exempt from paying the operation portion of the assessments on all Lots owned by it, as more specifically set forth in Section 10.3.1 below.

10.3.1 Commencement of Operating Assessments. The date of commencement of the operation portion of the assessment shall be determined by the Declarant; however, in no event shall they commence later than the turnover meeting; provided, however, the Declarant shall be exempt from paying the operation portion of the assessment on all Lots owned by it.

10.3.2 Commencement of Reserves. The reserve portion of the assessment shall commence from date of first conveyance of Lot from the Declarant to a

third party. The Declarant may defer payment of accrued reserve assessments for a Lot until the Lot is conveyed to a third person. However, the Declarant may not defer payment of the reserve assessment beyond the date of the turnover meeting.

10.4 Annual Assessments. Annual assessments for each fiscal year shall be established when the Board approves the budget for that fiscal year. The initial assessment and the implementation thereof shall be determined by the Declarant and shall be prorated on a monthly basis. For prospective purposes, any portion of a month shall count as a full month. Annual assessments shall be levied on a fiscal year basis. The fiscal year shall be the calendar year unless another year is adopted by vote of the Association members. Unless otherwise specified by the Board, annual assessments shall be due and payable on the first day of each calendar year during the term of this Declaration.

10.4.1 Budgeting. Regardless of the number of Members or the amount of assets of the Association, each year the Board shall prepare, approve and make available to each Member a pro forma operating statement (budget) containing: (i) estimated revenue and expenses; (ii) the amount of the total cash reserves of the Association currently available for replacement or major repair of the Common Area and for contingencies; (iii) an itemized estimate for the remaining life of, and the methods of funding to defray repair, replacement or additions to major components of the Common Area as provided in Section 10.6.2; and (iv) a general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Common Area. For the first fiscal year, the budget shall be approved by the Board no later than the date on which annual assessments are scheduled to commence. Thereafter, the Board shall annually prepare and approve the budget and distribute a copy thereof to each Member, together with written notice of the amount of the annual assessments to be levied against the Owner's Lot, not less than thirty (30) days and not more than ninety (90) days prior to the beginning of the fiscal year.

10.4.2 Allocation of Assessments. The total amount in the budget shall be charged equally against all Lots.

10.4.3 Nonwaiver of Assessments. If before the expiration of any fiscal year the Association fails to fix annual assessments for the next fiscal year, the annual assessments established for the preceding year shall continue until a new annual assessment is fixed.

10.5 Special Assessments. The Board and/or the Owners shall have the power to levy special assessments against an Owner or all Owners in the following manner for the following purposes:

10.5.1 Correct Deficit. To correct a deficit in the operating budget, by vote of a majority of the Board;

10.5.2 Special Obligations of an Owner. To collect amounts due to the Association from an Owner for breach of the Owner's obligations under this Declaration, the Bylaws, or the Rules and Regulations, by vote of a majority of the Board;

10.5.3 Repairs. To collect additional amounts necessary to make repairs or renovations to the Common Area if sufficient funds are not available from the operating budget or replacement reserve accounts, by vote of a majority of the Board;

10.5.4 Capital Improvements. To make capital acquisitions, additions or improvements, by vote of at least eighty percent (80%) of all votes allocated to the Lots; or

10.5.5 Reimbursement Assessments. The Association shall levy a Reimbursement Assessment against any Owner and such Owner's Lot if a failure to comply with this Declaration, Bylaws, Architectural Standards or any Rules and Regulations has (i) necessitated an expenditure of monies by the Association to effect compliance or (ii) resulted in the imposition of a fine or penalty against such Owner or such Owner's Lot (a "Reimbursement Assessment"). A Reimbursement Assessment shall be due and payable to the Association when levied. A Reimbursement Assessment shall not be levied by the Association except upon at least ten (10) days' written notice to the Owner being assessed. If, within said ten (10) day period, the Owner makes a written request to the Board for a hearing, a hearing shall be held. Upon request for a hearing, the Board shall conduct it not less than ten (10) nor more than thirty (30) days after the request by the Owner, and shall make its decision within not more than thirty (30) days after the hearing is held. If a notice has been previously given, and the hearing has already been held or waived (in writing or by the Owner's failure to appear) for the violation resulting in the Reimbursement Assessment, no additional notice and hearing is required prior to levying the Reimbursement Assessment.

10.6 Accounts.

10.6.1 Types of Accounts. Assessments collected by the Association shall be deposited into at least two (2) separate accounts with a bank, which accounts shall be clearly designated as (i) the Current Operating Account and (ii) the Reserve Account. The Board shall deposit those portions of the assessments collected for current maintenance and operation into the Current Operating Account and shall deposit those portions of the assessments collected as reserves for replacement and deferred maintenance of capital improvements into the Reserve Account. Withdrawal of funds for the Association's Reserve Account shall require the signatures of either two (2) Directors or one (1) Director and an officer of the Association who is not a Director. In its books and records, the Association shall account separately for operating expenses relating to the Common Area and operating expenses relating to all other matters, as well as for necessary reserves relating to the Common Area and necessary reserves relating to all other matters.

10.6.2 Reserve Account. Declarant shall establish a Reserve Account, in the name of the Association, which shall be kept separate from all other funds held by the Association. The Association shall pay out of the Reserve Account only those costs that are attributable to the maintenance, repair or replacement of Common Area property that normally requires replacement, in whole or in part, within three (3) to thirty (30) years and not for regular or periodic maintenance and expenses. No funds collected for the Reserve Account may be used for ordinary current maintenance and operation purposes.

10.6.2.1 Calculation of Reserve Assessment. Notwithstanding, Bear Creek Estates is exempt from conducting reserve studies and maintaining reserve accounts, Declarant has deemed it in the best interest of the Association to create a reserve assessment for Common Area property that normally requires repair or replacement in whole or in part, within three (3) to thirty (30) years. The Declarant is not required to undertake a reserve study nor has the Declarant done so. The reserve assessment is based on the estimated remaining life and current replacement cost of Common Area property, which normally requires replacement, in whole or in part, within three (3) to thirty (30) years. Not less often than annually, the Board of Directors shall inventory all items of Common Area property and shall estimate the remaining life of each item and the current replacement cost of each of such items. The total Reserve Account assessment shall be equal to the sum of the estimated replacement cost of each item which has an estimated life of greater than three (3) but less than thirty (30) years, divided by the estimated number of years of life for such item. The Board of Directors shall establish a thirty-year plan with regular and adequate contributions, adjusted by estimated inflation and interest earned on reserves, to meet the maintenance, repair, and replacement schedule. The reserve account assessment shall be allocated pursuant to Section 10.4.2.

10.6.2.2 Loan From Reserve Account. After the Turnover Meeting described in Section 8.2, the Board may borrow funds from the Reserve Account to meet high seasonal demands on the Association's regular operating fund or to meet unexpected increases in expenses. Funds borrowed must be repaid later from assessments if the Board has adopted a resolution, which may be an annual continuing resolution, authorizing the borrowing of funds. Not later than the adoption of the budget for the following year, the Board shall adopt by resolution a written payment plan providing for repayment within a reasonable period.

10.6.2.3 Increase or Reduction of Reserve Account Assessment. At any time after the second year after the Turnover Meeting, future assessment for the Reserve Account may be increased or reduced by the vote of Owners of Lots representing seventy-five percent (75%) of the votes computed in accordance with Section 7.3.

10.6.2.4 Investment of Reserve Account. Nothing in this Section 10.6 prohibits the prudent investment of Reserve Account funds, subject to any constraints imposed by the Board, the Bylaws or the Rules and Regulations.

10.6.2.5 Refunds of Assessments. Assessments paid into the Reserve Account are the property of the Association and are not refundable to sellers or Owners of Lots. Sellers or Owners of Lots may treat their outstanding share of the Reserve Account's balance as a separate item in the sales contract providing for the conveyance of their Lot.

10.6.3 Current Operating Account. All costs other than those to be paid from the Reserve Account pursuant to Section 10.6.2 may be paid from the Current Operating Account.

10.7 Default in Payment of Assessments; Enforcement of Liens.

10.7.1 Personal Obligation. All assessments properly imposed under this Declaration or the Bylaws shall be the joint and several personal obligation of all Owners of the Lot to which such assessment pertains. In a voluntary conveyance (that is, one other than through foreclosure or a deed in lieu of foreclosure), the grantees shall be jointly and severally liable with the grantors for all Association assessments imposed through the recording date of the instrument effecting the conveyance. A suit for a money judgment may be initiated by the Association to recover such assessments without either waiving or foreclosing the Association's lien.

10.7.2 Association Lien. The Association shall have a lien against each Lot for any assessment (of any type provided for by this Declaration or the Bylaws) or installment thereof that is delinquent. The Association's lien shall accumulate all future assessments or installments, reimbursement assessments, interest, late fees, penalties, fines, attorneys' fees (whether or not suit or action is instituted), actual administrative costs, and other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. Recording of the Declaration constitutes record notice and perfection of the lien. Said lien may be foreclosed at any time pursuant to the Planned Community Act. The Association shall record a notice of a claim for assessments and other charges in the deed records of Deschutes County, Oregon, before any suit to foreclose may be filed. The lien of the Association shall be superior to all other liens and encumbrances except property taxes and assessments, any first mortgage, deed of trust or land sale contract recorded before the Association's notice of lien.

10.7.3 Interest; Fines; Late Fees; Penalties. The Board, in its reasonable discretion, may from time to time adopt resolutions to set the rate of interest and to impose late fees, fines and penalties on delinquent assessments or for violations of the provisions of this Declaration, the Bylaws, Architectural Standards and the Rules and Regulations adopted by the Board or the ARC. The adoption of such impositions shall be communicated to all Owners in writing not less than thirty (30) days before the effective date by a notice mailed to the assessment billing address of such Owners. Such impositions shall be considered assessments that are lienable and collectible in the same manner as any other assessments; provided, however, that fines or penalties for violation of this Declaration, the Bylaws or any rule and regulation, other than late fees, fines or interest arising from an Owner's failure to pay regular, special or Reimbursement

Assessments may not be imposed against an Owner or such Owner's Lot until such Owner is given an opportunity for a hearing as elsewhere provided herein.

10.7.4 Acceleration of Assessments. If an Owner is delinquent in payment of any assessment or installment on any assessment, the Association, upon not less than ten (10) days' written notice to the Owner, may accelerate the due date of the full annual assessment for that fiscal year and all future installments of any special assessments.

10.7.5 Association's Right to Rents; Receiver. In any foreclosure suit by the Association with respect to such lien, the Association shall be entitled to collect reasonable rent from the defaulting Owner for the use of such Owner's Lot or shall be entitled to the appointment of a receiver.

ARTICLE 11

GENERAL PROVISIONS

11.1 Records. The Board shall preserve and maintain minutes of the meetings of the Association, the Board and any committees. The Board also shall keep detailed and accurate financial records, including individual assessment accounts of Owners, the balance sheet, and income and expense statements. Individual assessment accounts shall designate the name and address of the Owner or Owners of the Lot, the amount of each assessment as it becomes due, the amounts paid upon the account, and the balance due on the assessments. The minutes of the Association, the Board and Board committees, and the Association's financial records shall be maintained in the state of Oregon and reasonably available for review and copying by the Owners. A reasonable charge may be imposed by the Association for providing copies.

11.2 Indemnification of Directors, Officers, Employees and Agents. The Association shall indemnify any Director, officer, employee or agent who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by the Association) by reason of the fact that such person is or was a Director, officer, employee or agent of the Association or is or was serving at the request of the Association as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by said person in connection with such suit, action or proceeding if such person acted in good faith and in a manner that such person reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had no reasonable cause to believe that such person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or with a plea of nolo contendere or its equivalent, shall not of itself create a presumption that a person did not act in good faith and in a manner which such person reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect

to any criminal action or proceedings, had reasonable cause to believe that such person's conduct was unlawful. Payment under this clause may be made during the pendency of such claim, action, suit or proceeding as and when incurred, subject only to the right of the Association to reimbursement of such payment from such person, should it be proven at a later time that such person had no right to such payments. All persons who are ultimately held liable for their actions on behalf of the Association as a Director, officer, employee or agent shall have a right of contribution over and against all other Directors, officers, employees or agents and members of the Association who participated with or benefited from the acts which created said liability.

11.3 Enforcement; Attorneys' Fees. The Association and the Owners and any mortgagee holding an interest on a Lot shall have the right to enforce all of the covenants, conditions, restrictions, reservations, easements, liens and charges now or hereinafter imposed by any of the provisions of this Declaration as may appertain specifically to such parties or Owners by any proceeding at law or in equity. Failure by either the Association or by any Owner or mortgagee to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of their right to do so thereafter. In the event suit or action is commenced to enforce the terms and provisions of this Declaration (including without limitations, for the collection of assessments), the prevailing party shall be entitled to its actual administrative costs incurred because of a matter or event which is the subject of the suit or action, 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 attorneys' fees, to be set by the appellate court. In addition thereto, the Association shall be entitled to its reasonable attorneys' fees and costs incurred in any enforcement activity or to collect delinquent assessments, together with the Association's actual administrative costs, whether or not suit or action is filed.

11.4 Association Litigation. No litigation shall be commenced against the Declarant or any Owner of a Lot in respect to any alleged defect in a Home or on any Common Area except in compliance with the process set forth in ORS 701.560 to 701.595.

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

11.6 Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the land for a term of thirty-five (35) years from the date of this Declaration being recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless rescinded by a vote of at least ninety percent (90%) of the Owners and ninety percent (90%) of the first mortgagees; provided, however, that amendments that do not constitute rescission of the planned community may be adopted as provided in Section 11.6 and that if any of the provisions of this Declaration would violate the rule against perpetuities or any other limitation on the duration of the provisions herein contained imposed by law, then such provision shall be deemed to remain in effect only for the maximum period permitted by law or, in the

event the rule against perpetuities applies, until twenty-one (21) years after the death of the last survivor of the now living descendants of Ex-President George Bush.

11.7 Amendment. Except as otherwise provided in Section 11.6 or ORS 94.590, and the restrictions set forth elsewhere herein, this Declaration may be amended at any time by an instrument approved by not less than seventy-five percent (75%) of the total votes of each class of members that are eligible to vote. Any amendment must be executed, recorded and certified as provided by law; provided, however, that no amendment of this Declaration shall effect an amendment of the Bylaws or Articles without compliance with the provisions of such documents, and the Oregon Nonprofit Corporation Act and that no amendment affecting the general plan of development or any other right of Declarant herein contained may be effected without the express written consent of Declarant or its successors and assigns, including, without limitation, amendment of this Section 11.7.

11.8 Release of Right of Control. Declarant may give up its right of control in writing at any time by notice to the Association.

11.9 Unilateral Amendment by Declarant. In addition to all other special rights of Declarant provided in this Declaration, 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. Prior to the Turnover Meeting, no such amendment shall require notice to or approval by any Class A member.

11.10 Resolution of Document Conflicts. In the event of a conflict among any of the provisions in the documents governing Bear Creek Estates, such conflict shall be resolved by looking to the following documents in the order shown below:

1. Declaration;
2. Articles;
3. Bylaws;
4. Rules and Regulations.

IN WITNESS WHEREOF, Declarant has executed this instrument this 5th day of January, 2006.

Jay J. Audia
JAY J. AUDIA

STATE OF OREGON)

County of Deschutes) ss.
Oregon

This instrument was acknowledged before me on the 5th day of
January, 2006, by JAY J. AUDIA.



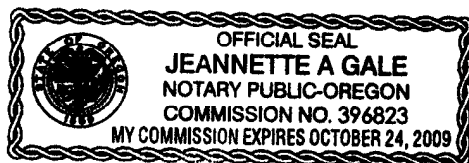
Cheryl Williams
Notary Public for Oregon

James S. Robinson
JAMES S. ROBINSON

STATE OF OREGON)

County of Clackamas) ss.

This instrument was acknowledged before me on the 6th day of
January, 2006, by JAMES S. ROBINSON.



Jeannette A. Gale
Notary Public for Oregon

David Howland

DAVID HOWLAND

Lori Howland

LORI HOWLAND

STATE OF OREGON)

County of Deschutes) ss.

This instrument was acknowledged before me on the 5th day of
January, 2006, by DAVID and LORI HOWLAND.



Cheryl Williams

Notary Public for Oregon