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RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES



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DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received
and duly recorded in Deschutes County records:

DATE AND TIME: May. 23, 2001; 3:31 p.m.

RECEIPT NO: 36043

DOCUMENT TYPE: Planned Community
 Subdivision Declaration

FEE PAID: \$431.00

NUMBER OF PAGES: 81

A handwritten signature in cursive script, reading "Mary Sue Penhollow".

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

After Recording Return to:
Tia M. Lewis
Merrill O'Sullivan LLP
Suite 302
1070 NW Bond Street
Bend OR 97701

2001-24413-1

PLANNED COMMUNITY SUBDIVISION

(DECLARATION OF
COVENANTS, CONDITIONS AND
RESTRICTIONS FOR
MOUNTAIN PINES P.U.D.)

These Covenants, Conditions, and Restrictions are made this 23 day of May, 2001, by Heritage West, LLC, an Oregon corporation, hereinafter referred to as "Declarant", as owner of the real property in the City of Bend, Deschutes County, State of Oregon, described in Exhibit "A", attached hereto, and incorporated by reference herein.

The property described in Exhibit "A" is hereby subject to these Covenants, Conditions, and Restrictions and will be known as the Mountain Pines P.U.D. Phase I, hereinafter referred to as the Mountain Pines P.U.D. Declarant has recorded the plat of Mountain Pines P.U.D., Phase I, in the plat records of the City of Bend, Deschutes County, Oregon. Additional areas may be annexed to Mountain Pines P.U.D. in accordance with the provisions set forth in this Declaration.

Mountain Pines P.U.D. is being developed as a planned residential community (P.U.D.). Except where this Declaration conflicts with any applicable government municipal regulations, this Declaration shall be binding upon all subject to this Declaration and their successors in interest as set forth herein. In the event any of the development standards or use restrictions of this Declaration should conflict with a more restrictive standard or requirement set by an applicable zoning ordinance of the City of Bend, the more restrictive standard or requirement of the applicable City of Bend ordinance shall apply.

NOW, THEREFORE, Declarant hereby declares that the property covered in the plat of Mountain Pines P.U.D., Phase I, more particularly described in Exhibit A attached hereto shall be held, sold, and conveyed subject to the following easements, covenants, conditions, restrictions, and changes, which shall run with such property and shall be binding upon all parties having or acquiring any right, title or interest in such property or any part thereof and shall inure to the benefit of each owner thereof.

SECTION 1 DEFINITIONS.

- 1.1 Architectural Guidelines: The term shall mean the design standards established pursuant to Section 6 herein.
- 1.2 Architecture Review Committee (ARC): The term shall mean the Architectural Review Committee appointed pursuant to Section 6 herein.
- 1.3 Assessment: The term shall mean a regular or special assessment, as the case may be, imposed in accordance with the provisions on Section 8 herein.

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- 1.4 Association: The term shall mean the nonprofit corporation to be formed to serve as the Mountain Pines Homeowner's Association and its successors and assigns as provided in Section 7 herein.
- 1.5 Block: The term shall mean those areas designated as blocks on the recorded plat for Mountain Pines P.U.D.
- 1.6 Board: The term shall mean the Board of Directors of the Mountain Pines Homeowner's Association.
- 1.7 Capital Improvement Assessments: The term shall mean assessments to cover the cost of capital improvements made pursuant to Section 8 herein.
- 1.8 Common Areas: The term shall mean the property referred to in Section 3 herein.
- 1.9 Declarant: The term shall mean Heritage West, LLC, an Oregon Limited Liability Company, or its assigns or successors in interest.
- 1.10 Declaration: The term shall mean this Declaration of Covenants, Conditions, and Restrictions for Mountain Pines P.U.D., and any duly adopted amendments thereto.
- 1.11 Homesite: The term shall mean a Lot as defined herein.
- 1.12 Improvements: The term shall mean every temporary or permanent structure or improvement of any kind, including but not limited to buildings, outbuildings, private roads, driveways, parking areas, fences, and barriers, retaining walls and stairs, decks, signs, storage areas, hedges, windbreaks, planted trees and shrubs, and all exterior landscaping, vegetation or ground cover of every type and every kind above the land surface, including every alteration, painting or reconstruction thereof.
- 1.13 Lot: The term shall mean a platted, legally partitioned or lot line adjusted lot within Mountain Pines P.U.D. or any property so designated in any Supplemental Declaration annexing property to Mountain Pines P.U.D., but not including any Common Area.
- 1.14 Mortgage: The term shall mean a mortgage, trust deed, or land sales contract.
- 1.15 Mortgagee: The term shall mean a mortgagee, beneficiary of a trust deed, or vendor under a land sales contract.
- 1.16 Mortgagor: The term shall mean a mortgagor, grantor of a trust deed, or vendee under a land sales contract.

- 1.17 Mountain Pines P.U.D.: The term shall mean all of the real property now or hereafter made subject to this Declaration.
- 1.18 Operating Assessments: The term shall mean the assessments to cover operating expenses referred to in Section 8 herein.
- 1.19 Owner: The term shall mean the person or persons, including Declarant, owning any Lot, including any vendee under a recorded land sales contract to whom possession has passed, but does not include a tenant or holder of a leasehold interest or a person holding only a security interest in a Lot, including any vendor under a recorded land sales contract who has given up possession. The rights, obligations, and other status of being an Owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of such ownership, but termination of ownership shall discharge an Owner from obligations incurred prior to termination.
- 1.20 Reserve Account Assessments: The term shall mean assessments to cover the reserve fund for replacements pursuant to Section 8 herein.
- 1.21 Rules and Regulations: The term shall mean the rules and regulations adopted as provided in Section 7 herein.
- 1.22 Private Way: The term shall mean any street internal to the Mountain Pines P.U.D. and designated as such on the recorded plat for Mountain Pines P.U.D., or in any supplemental Declaration or on the plat of any land annexed by Supplemental Declaration, whether designated thereon as street, boulevard, place, drive, road, terrace, way, lane, circle or otherwise.
- 1.23 Public Street: The term shall mean any public street, highway or other thoroughfare, other than those Private Streets as defined herein, adjacent to the Mountain Pines P.U.D. and shown on any recorded subdivision or partition map, or survey map of record, whether designated thereon as street, boulevard, place, drive, road, terrace, way, lane, circle, or otherwise.
- 1.24 Supplemental Declaration: The term shall mean an instrument annexing additional real property to Mountain Pines P.U.D.

SECTION 2 PROPERTY SUBJECT TO THE COVENANTS, CONDITIONS, AND RESTRICTIONS FOR MOUNTAIN PINES P.U.D.

- 2.1 General Declaration Creating Mountain Pines P.U.D.: Declarant hereby declares that all of the real property located in Deschutes County, Oregon described in Exhibit "A" is and shall be known as Mountain Pines P.U.D., Phase I and shall be hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part subject to this Declaration. All of said Restrictions are declared and agreed to be established with the purpose of

protecting the desirability and attractiveness of said real property and every part thereof. All of the Covenants, Conditions, and Restrictions of Mountain Pines P.U.D. run with all of said real property for all purposes and shall be binding upon and inure to the benefit of Declarant and all owners, and their successors in interest as set forth in this Declaration.

2.2 Annexation Additional Property:

- (a) Supplemental Declaration. Declarant may, at any time during the term of this Declaration, add all or a portion of any land now or hereafter owned by Declarant to the property which is covered by this Declaration, and upon recording of a Supplemental Declaration, as set forth below, the provision of this Declaration specified in said Supplemental Declaration shall apply to such added land in the same manner as if it were originally covered by this Declaration. Thereafter, to the extent this Declaration is made applicable thereto, the rights, powers, and responsibilities of Declarant and owners of parcels within such added land shall be the same as in the case of the land described in Exhibit "A".

The Supplemental Declaration shall contain at least the following provisions:

- (1) A reference to this Declaration stating the date of recording and the recording information where the Declaration is recorded.
 - (2) A statement that the provisions of this Declaration or some specified part thereof shall apply to such added real property.
 - (3) A legal description of such added real property.
 - (4) Such other or different covenants, conditions, and restrictions as Declarant shall, in its discretion, specify to regulate and control the use, occupancy, and improvement of such added real property.
- (b) Effect of Annexation. The property included in any such annexation shall thereby become a part of Mountain Pines P.U.D. and this Declaration, and the Declarant and the Association shall have and shall accept and exercise administration of this Declaration with respect to such property.
- (c) No Limitation on Annexation. There is no limitation on the number of Lots which Declarant may create or annex to Mountain Pines P.U.D. There is no limitation on the right of Declarant to annex Common Areas.
- (d) Voting Rights. Upon annexation, additional Lots so annexed shall be entitled to voting rights as set forth in Section 7 herein.

- (e) Adjustment of Association Expenses. The formula to be used for reallocating the common expenses if additional Lots are annexed and the manner of reapportioning the common expenses if additional Lots are annexed during a fiscal year are set forth in Section 8 herein.

- 2.3 Amendment of P.U.D. Each Owner, by acceptance of legal or equitable interest to such Owner's Lot, appoints Declarant as such Owner's attorney in fact to execute all documents and take all action to obtain approval of such amendments to Mountain Pines P.U.D. land use approval as Declarant deems reasonable; provided that no such amendment has a material adverse affect on the value of such Owner's Lot.
- 2.4 Declarant Improvements. Declarant agrees to build improvements necessary for public and private streets, utilities, common areas, including parks, open space and lighting in accordance with the P.U.D. plat approval. Declarant does not agree to build any additional improvements but does not choose to limit Declarant's rights to add improvements not described in this Declaration.

SECTION 3 LAND CLASSIFICATIONS AND PROPERTY RIGHTS.

- 3.1 Common Areas. Common areas shall consist of all areas designated as such or as open space, park, bike paths, sidewalks or walking paths on the recorded plat of Mountain Pines P.U.D. or in any Supplemental Declaration or on the plat of any land annexed by Supplemental Declaration. Common areas shall be subject to easements as shown on any plat and as set forth herein.
- 3.2 Private Way. Private Way shall mean any street internal to the Mountain Pines P.U.D. and designated as such on the recorded plat of Mountain Pines P.U.D. or in any Supplemental Declaration or on the plat of any land annexed by Supplemental Declaration, whether designated thereon as street, boulevard, place, drive, road, terrace, way, lane, circle or otherwise. Private Ways shall be subject to easements as shown on any plat and as set forth herein.
- 3.3 Owners' Easements of Enjoyment. Subject to the provisions of this Declaration, every Owner and such Owner's invitees and tenants shall have a right and easement of enjoyment in and to the Common Areas and Private Ways within Mountain Pines P.U.D.
- 3.4 Title to Common Areas and Private Ways. Fee title to the Common Areas and Private Ways shall be conveyed by Declarant to, and must be accepted by, the Association free and clear of liens and encumbrances other than those created pursuant to this Declaration.
- 3.5 Extent of Owners' Rights. The rights and easements of enjoyment in the Common Areas and Private Ways created hereby shall be subject to the following and all other provisions of this Declaration:

- (a) Association's and Owners' Easements. Declarant grants to the Association for the benefit of the Association and all Owners of Lots within Mountain Pines P.U.D the following easements over, under, and upon the Common Areas and Private Ways:
- (i) An easement for installation and maintenance of power, gas, electric, water and other utility and communication lines and services installed by Declarant or with the approval of the Board of Directors of the Association and any such easement shown on any recorded plat of property within Mountain Pines P.U.D.
 - (ii) An easement for construction, maintenance, repair, and use of the Common Areas and Private Ways and common facilities thereon, including, but not limited to, walkways, bike paths, fences, landscaping, irrigation systems, entry way structures, decorative ornamentation, and signs, and for any purposes and uses adopted by the Association and the Owners.
 - (iii) An easement for the purpose of making repairs to any existing structure or improvement on the Common Areas and Private Ways.
- (b) Declarant's Easements. So long as Declarant owns any Lot, and in addition to any other easements to which Declarant may be entitled, Declarant reserves an easement over, under, and across the Common Areas and Private Ways in order to carry out development, construction, and sales activities necessary or convenient for the development of Mountain Pines P.U.D. and the sale of Lots and for such other purposes as may be necessary or convenient for the development of Mountain Pines P.U.D. and the sale of Lots and for such other purposes as may be necessary or convenient for discharging Declarant's obligations or for exercising any of Declarant's rights hereunder. As long as Declarant has any maintenance obligations with respect to Mountain Pines P.U.D., Declarant shall have an easement across the Common Areas and Private Ways as required to carry out its maintenance responsibilities with respect to Mountain Pines P.U.D.
- (c) Utility Easements. Declarant or the Association may (and, to the extent required by law, shall) grant or assign easements to municipalities, communications companies, or other utilities over Common Areas or Private Ways performing utility services, and the Association may grant free access thereon to police, fire, and other public officials and to employees of utility companies and communications companies serving Mountain Pines P.U.D.

- (d) Use of the Common Areas and Private Ways. Except as otherwise provided in this Declaration, the Common Areas and Private Ways shall be reserved for the use and enjoyment of all Owners, and no private use may be made of the Common Areas and Private Ways. Nothing herein shall prevent the placing of a sign or signs upon the Common Areas for the purpose of identifying Mountain Pines P.U.D., indicating path directions, or identifying trails or other items of interest, provided such signs are approved by the ARC. The Board of Directors of the Association shall have authority to abate any trespass or encroachment upon the Common Area or Private Way at the time, by any reasonable means and with or without having to bring legal proceedings.
- (e) Alienation of the Common Areas and Private Ways. Except as otherwise provided herein, the Association may not by act or omission seek to abandon, partition, subdivide, encumber, cause the Common Area or Private Way to be subject to any security interest, sell or transfer the Common Areas or Private Ways unless the holders of at least 80 percent of the Class A voting rights (as described in Section 7.5(b)(i) herein) and the Class B member (as described in Section 7.5(b)(ii) herein), if any have given their prior written approval. This provision shall not apply to the easements described in Section 3.5(a) above. A sale, transfer, or encumbrance of the Common Area or Private Way or any portion of the Common Area or Private Way in accordance with this Section may provide that the Common Area or Private Way so conveyed shall be released from any restriction imposed on such Common Area or Private Way by this Declaration. No sale, transfer, or encumbrance may, however, deprive any Owner of such Owner's right of access or support without the written consent of the Owner.
- (f) Restrictions on Use of Common Areas. Use of the Common Areas by the Owners shall be subject to the provisions of this Declaration and to the following:
- (i) The right of the Association to suspend such use rights of an Owner to the extent provided in Section 9 herein.
 - (ii) The right of the Association to adopt, amend, and repeal rules and regulations in accordance with this Declaration and the Bylaws of the Association, including, without limitation, the right to require reservations for use of the Common Area or Common Area facilities and the right to impose reasonable fees in connection with such use.
- (g) Private Ways. Notwithstanding the above, the Board of Directors, in its discretion, may dedicate any or all of the Private Ways to the public. The Board of Directors shall grant free access on the Private Ways to police,

fire, and other public officials, to employees of utility companies serving Mountain Pines P.U.D., and to such others to whom the Board believes access should be given for the benefit of Owners. Declarant may use the Private Ways for its own purposes.

- 3.6 Delegation of Use. Any Owner may delegate, in accordance with the Bylaws of the Association, such Owner's right of enjoyment of the Common Areas and Private Ways to the members of such Owner's family or tenants who reside on the Lot.

SECTION 4 EASEMENTS.

- 4.1 Easements Reserved. In addition to any easements shown on any recorded plat for Mountain Pines P.U.D., Declarant hereby reserves the following easements for the benefit of Declarant and the Association:

- (a) Adjacent Common Area. The Owner of any Lot which blends together visually with any Common Area shall permit the Association or Declarant, as the case may be, to enter upon such Lot to perform the construction, maintenance or such alterations as might be needed of such Common Area.
- (b) Right of Entry. Declarant, the ARC, and any representative of the Association authorized by it may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of determining whether or not the use of and/or Improvements on such Lot are then in compliance with this Declaration. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot.
- (c) Utility Easements. Easements for installation and maintenance of utilities are reserved over portions of certain Lots as shown on the recorded plat. Within the easements, no structure or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities. The easement area of each Lot and all Improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

SECTION 5 RESTRICTIONS ON USE OF PROPERTY.

- 5.1 Occupancy. No Owner shall occupy, use, or permit his Lot or any part thereof to be used for any purpose other than a private residence for the Owner, his family, or his guests, except that each Owner shall be permitted to rent the unit when he is not in occupancy.

- 5.2 Improvements. Each Lot within the Mountain Pines P.U.D. shall be maintained in a clean and attractive condition, in good repair and in such a fashion as not to create a fire hazard. Each Lot shall be seeded and irrigated continuously within 18 months of the first conveyance from Declarant to any Owner.
- 5.3 Appearance. All garbage, trash, cuttings, refuse, garbage and refuse containers, clothes drying apparatus, and other service facilities located on any Lot shall be screened from view in a manner approved by Declarant.
- 5.4 Construction and Alteration. Nothing shall be altered or constructed in or removed from or placed on a Lot except with the prior written consent of Declarant.
- 5.5 Offensive or Commercial Activity. No offensive or commercial activity shall be carried on nor shall anything be done within Mountain Pines P.U.D. which may be or become an annoyance or nuisance to the other Owners.
- 5.6 Signs. No sign of any kind shall be displayed to public view on or from any Lot without the Declarant's prior written consent, 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 300 square inches, the longest dimension being not greater than 20 inches.
- 5.7 Fencing Standards. The following fencing standards apply to all property subject to this Declaration:
- (a) Fencing of the boundary (property line) between the Bend Golf and Country club and the rear property line of the Lots with golf course frontage must be fenced within six (6) months of Lot purchase by and at the expense of the builder or property Owner. The fence shall be of a common type of three (3) rail lodge pole pine. Side yard fencing for the same Lots with golf course frontage is not required but if desired by the property Owner shall be of the same lodge pole design. No solid fencing will be allowed in the rear yards of golf course frontage Lots. See fencing diagram attached as Exhibit "B".
 - (b) Solid board fencing of interior Lot rear yards, although strongly discouraged, will be allowed only on a case by case basis and only after plans for such fencing have been reviewed and approved by the Declarant or the ARC. Any plans for this application must be of a solid cedar style not exceeding five (5) feet in height. See fencing diagram attached as Exhibit "B".
 - (c) Front yard fencing on all Lots in Mountain Pines, although strongly discouraged, will be allowed on a case by case basis only and after review by the Declarant or the ARC. The only allowed fencing style for this

application will be three (3) rail lodge pole type. See fencing diagram attached as Exhibit "B".

- 5.8 Sidewalks. Concrete sidewalks five (5) feet in width shall, at the property Owner's or Builder's expense, be installed curb tight along each Lot's street frontage. Sidewalk must be completed within six (6) months of Lot purchase and in no case any later than May 1, 2002.
- 5.9 Tree Preservation. Removal of any tree or vegetation must first receive written approval of Declarant or the ARC pursuant to the procedures set forth herein. All trees over eight (8) inches in diameter, as measured two (2) feet above ground lever, shall be maintained whenever practical. Home designs must compensate for tree preservation whenever practical. A tree survey has been conducted and is available to Owners for a copying fee.
- 5.10 Exterior Lighting or Noise Making Device. No exterior lighting or noise making device shall be placed on a Lot or any portion thereof without the Declarant's prior written consent. Exterior lighting which faces the exterior boundaries of Mountain Pines P.U.D. must be shielded and directed downward.
- 5.11 Antennas. No television antenna, radio antenna, satellite antenna, or other receiving device shall be placed on any Lot without the Declarant's prior written consent, except as otherwise required by law.
- 5.12 Limitation on Transfer. No Owner shall transfer either by conveyance, contract of sale or lease any interest in his Lot which would result in ownership of such Lot being held by more than ten persons.
- 5.13 Prohibited Structures. No house trailer, mobile home, manufactured home, tent, shack, barn, carport, or other similar outbuilding or structure, whether permanent or temporary, shall be erected or placed on any Lot.
- 5.14 Single family residences. No more than one single family residence shall be erected or placed on any Lot.
- 5.15 Utilities. No aboveground utilities, pipes, or wires shall be used to connect improvements with supplying facilities.
- 5.16 View. The height of improvements or vegetation and trees on a Lot shall not materially restrict the view of other Lot owners. The Declarant shall be the sole judge of the suitability of such heights. If the Declarant determines there is such restriction in the view of the other Lot owners, written notice shall be delivered to the offending Lot owner. If after 30 days the improvement, vegetation, or trees are not removed or reduced in height as directed by the Declarant, the Declarant shall enter the offending Lot, complete the removal or reduction, charging the Owner

of the Lot the reasonable costs for the work done. This section is not to be read as justification to create views not present when the Lot was originally purchased.

- 5.17 Parking. A minimum of two parking places must be provided for each Lot and must meet the standards set by the Declarant. No extended parking on any street shall be allowed by any house trailer, travel trailer, boat trailer, camper or incapacitated motor vehicle.
- 5.18 Control of Pets. No pets or domestic animals shall be permitted to run loose or unattended. Owners of pets shall be responsible for compliance with all leash laws and other laws related to the control of pets within the City of Bend as well as the Rules and Regulations of the Association. Behavior of pets that, in the sole discretion of the Board, deprives any Owner of the Owner's privacy or constitutes a nuisance, shall be in violation of this Declaration and the Board may require removal of the offending pet from Mountain Pines P.U.D. No animals shall be kept or raised on any Lot except household pets and domestic animals not used for commercial purposes.
- 5.19 Firearms or Other Weapons. No firearms, air pistols, archery, sling shots, fireworks, or any other weapons or projectiles shall be used or discharged within Mountain Pines P.U.D. except in such areas as may be designated in writing by the Board.
- 5.20 Motor Vehicles. No motorized vehicle shall be operated anywhere within Mountain Pines P.U.D. except upon a surfaced roadway, nor shall any motor vehicle be parked in other than a designated parking area. Except for construction equipment not required to be licensed, no unlicensed motor vehicles shall be operated within Mountain Pines P.U.D.

SECTION 6 ARCHITECTURAL CONTROLS.

- 6.1 Approval Required. No improvement, as defined in Section 1.12 herein, shall be erected, placed, altered, maintained, or permitted to remain on any land subject to this Declaration until final plans and specifications have been submitted to and approved in writing by Declarant or the ARC as provided herein. All approvals shall be in conformance with the building site established on each lot by the Declarant or the ARC as provided herein.
- 6.2 Architectural Review Committee. After turnover as provided herein, the Association shall establish an Architectural Review Committee (ARC) to implement architectural rules and guidelines for Mountain Pines P.U.D. as they are specified in the P.U.D. land use approval and this Declaration. The ARC will be responsible for the approval of plans and specifications for the Improvements in Mountain Pines P.U.D., and for the modification, promulgation and enforcement of its rules governing the improvement and maintenance of Lots and Improvements thereon. Prior to turnover, Declarant shall exercise sole and

exclusive responsibility for the approval of Improvements, enforcement of rules governing the improvement and maintenance of Lots as set forth herein.

The ARC shall consist of five persons who shall be appointed by the Board. Members of the ARC may be removed and replaced at any time by the Board. The Association shall keep on file at its principal office a list of the names and addresses of the members of the ARC. The Declarant or its designated representative shall be a member of the ARC so long as the Declarant owns a Lot subject to this Declaration. The ARC may render its decisions only by written instrument setting forth the ARC's actions taken and the reasons therefor.

- 6.3 Procedure. Any owner proposing to construct any improvements within the Mountain Pines P.U.D. (including any exterior alteration, addition, destruction, or modification to any such improvements) shall follow the procedures and shall be subject to the approvals set forth herein and in any Architectural Guidelines as authorized herein. Failure to follow such procedures or obtain such approvals shall be deemed a breach of this Declaration.
- 6.4 Required Documents. Any owner proposing to utilize, improve, or develop real property within the Mountain Pines P.U.D., shall submit the following items for review:
- (a) A site plan showing the location, size, configuration and layout of any building, structure, or improvement (or, where applicable, any alteration, addition, modification, or destruction thereto) including appurtenant facilities for parking, storage, fences, and vehicular and pedestrian traffic and circulation.
 - (b) Architectural plans and drawings showing the nature, style, and dimensions of any building, structure, fence, wall, barrier, or deck (or, where applicable, any alteration, addition, modification, or destruction thereof), including the exterior material types, colors, and appearance. The scale of plans shall be 1 inch = 20 feet or larger.
 - (c) A landscape plan showing the nature, type, size, location, and layout of all landscaping, vegetation ground cover, irrigation systems proposed to be planted or installed (or, where applicable, removed or destroyed).
- 6.5 Review. All plans and drawings identified herein, shall be submitted to Declarant or the ARC for review prior to the performance of any proposed work. Such plans and drawings shall be accompanied with a check payable to Declarant or the ARC in an amount to be determined by Declarant or the ARC from time to time. No plans shall be reviewed until the architectural review fee is paid in full and all items specified in this section are submitted. Within 30 days following receipt of such plans and drawings, and the full amount of the architectural review fee, Declarant or the ARC shall review the plans and shall inform the owner in writing

whether the plans conform to the development concept for Mountain Pines P.U.D. In the event the owner is not notified as to the conformity of the plans within the 30 day review period, the plans are conclusively presumed to be approved as submitted. In the event any of the plans do not conform to the Mountain Pines P.U.D. development concept, the owner shall resubmit those non-conforming portions of the plans for review in accordance with the procedures outlined herein. No work may be performed relating to any improvement unless and until all aspects of all plans have been approved by Declarant or the ARC. Any site plans, construction plans, or similar plans and drawings submitted to the City of Bend in connection with the construction of any improvement in the Mountain Pines P.U.D. must bear the prior written approval of Declarant or the ARC.

- 6.6 Architectural Guidelines. The development concept for the Mountain Pines P.U.D. shall be determined by Declarant and/or the ARC in accordance with applicable statutes, ordinances, regulations, zoning and other governmental land use controls. Architectural guidelines setting forth various aspects of the development concept, in addition to this Declaration, may be published from time to time by Declarant or the ARC. All such guidelines shall be in general conformity with this Declaration.
- 6.7 Inspection. All work related to any building, structure, or improvement, or any landscaping, vegetation, ground cover, or other improvements within the Mountain Pines P.U.D. shall be performed in strict conformity with the plans and drawings approved under the procedures outlined herein. Declarant or the ARC shall have the right to inspect any such work to determine its conformity with the approved plans and drawings, and reserves the right to order a stop to all work, if, in good faith, it believes that any such work is non-conforming. In the event that it is determined in good faith by Declarant or the ARC that certain work is non-conforming, a stop work notice may be issued, without necessity of court order, which shall require the owner to correct all non-conforming work specified in the notice before the remainder of the proposed work may be completed. Continued work without correction of any such non-conforming items shall be deemed a breach of this Declaration. The Declarant, members of the ARC or officer, director, employee, agent, or servant of Declarant or the ARC shall not be responsible for any damages, loss, delay, cost, or legal expense occasioned through a stop work notice given in good faith even if it is ultimately determined that such work was in conformity with the approved plans and drawings.
- 6.8 Waiver. At any time prior to turnover as provided herein, any condition or provision of Sections 6.3 through 6.7 above may be waived by Declarant in its exclusive discretion. Any waiver shall be in general conformity with the development concept and development standards for the Mountain Pines P.U.D. Any such waiver shall not be deemed a general waiver of any aspect of the development concept or the required procedures and approvals specified under sections 6.3 through 6.7. The granting of a waiver as to one owner shall not automatically entitle any other owner to the waiver of the same or similar

conditions or provisions. No waiver shall be valid unless it is in writing, signed by an authorized representative of Declarant, and developed by certified mail to the party claiming the benefit of such waiver.

- 6.9 Nonwaiver. Consent by the ARC to any matter proposed to it or within its jurisdiction, or failure by the ARC to enforce any violation of this Declaration or the Architectural Guidelines, shall not be deemed to constitute a precedent or waiver impairing the ARC's right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent or to enforce any subsequent or similar violation.
- 6.10 Fee Structure. The Declarant or the ARC shall establish a reasonable schedule of fees to cover costs related to review of submissions, inspection of work and appeals of decisions of the Declarant or the ARC. The fees are subject to change without notice. All fees shall be accounted for and invoiced to Owners through the Association.
- 6.11 Right of Appeal. All Declarant decisions are final and binding. After turnover as provided herein, all ARC decisions are subject to appeal to the Board utilizing the appeal procedure contained in the Bylaws of the Association. The appeal procedure insures that ultimate responsibility for and authority over all ARC decisions rests with the Board, which, by majority vote, may confirm, modify, or reverse any such decision thus appealed. The decision of the Board on any appeal will be final and binding on the parties absent fraud, bad faith or failure to exercise honest judgment.
- 6.12 Liability. The scope of the Declarant's or the ARC's review is not intended to include any review or analysis of structural, geotechnical, or other engineering, building or zoning code compliance, or other similar considerations. Neither the Declarant, the Arc nor any member thereof shall be liable to any Owner, occupant, builder, or developer for any damage, loss or prejudice suffered or claimed on account of any actions or failure to act on the Declarant or the ARC or a member thereof, provided only that the Declarant or the ARC has, or the member has, in accordance with the actual knowledge possessed by the Declarant or the ARC or by such member, acted in good faith.
- 6.13 Severability. If any provision of this Declaration or the Architectural Guidelines is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Declaration or the Architectural Guidelines.

SECTION 7 ASSOCIATION.

- 7.1 Organization. Declarant shall, before the first Lot is conveyed to an Owner other than the Declarant, organize the Association as a nonprofit mutual benefit

corporation under the Oregon Nonprofit Corporation Act. Such Association, its successors and assigns, shall be organized under the name "Mountain Pines Homeowner's Association, Inc." or such other similar name as Declarant shall designate and shall hold title to Common Areas, Private Streets and have the powers and obligations set forth in this Declaration for the benefit of Mountain Pines P.U.D. and all Owners or property located herein.

- 7.2 Membership. Every Owner of one or more Lots shall, immediately upon creation of the Association and thereafter during the entire period of such Owner's 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.
- 7.3 Board of Directors. A board of directors shall be elected by the membership to administer the affairs of the Association by such procedure as specified in the Association's Bylaws. The powers and duties of the Board are also delineated in the Bylaws of the Association.
- 7.4 Rules and Regulations. In the exercise of the powers and in the performance of its obligations, the Board may adopt, amend or repeal rules and regulations to provide for the manner in which all areas and classifications of property within Mountain Pines P.U.D. are to be used. 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.
- (a) Approval. A petition signed by 15 percent of the Owners proposing adoption of a rule or amendment or repeal of an existing rule applying to the above areas must be considered by the Board. The Board, at its discretion, may approve, reject or abstain from acting on the proposals contained in such petition. In the event that the Board does not approve a petition duly and properly submitted, the petitioners may demand a vote of the Owners in accordance with the following: upon and pursuant to a second submission of the petition in original form but bearing the signatures of 50% of the Owners, the Board shall submit the proposals contained in such petition to a vote of all Owners. The proposals contained in such petition shall be adopted upon their approval in writing by a majority of the Owners who vote with respect to such petition. Such approval shall be valid only where votes shall have been cast by at least one-half of those Owners eligible to vote or their duly authorized proxies.
- (b) Authority. The Mountain Pines P.U.D. Rules and Regulations may, among other things, but without limitation on the Board's authority as provided for above, provide for any of the following:

- (i) For the times and manner in which owners, their lessees and guests may use the space within Common Areas.
- (ii) For charges for services to be supplied by the Association.
- (iii) For the control of noise, control of litter, and disposal of trash and for the personal conduct of Owners, their lessees and guests, and their pets, while in Mountain Pines P.U.D.
- (iv) For the conditions upon which the guests of Owners and lessees in Mountain Pines P.U.D. will be entitled to access to Common Areas.
- (v) For enforcement procedures, including a schedule of fines and appeal rights, to enforce any of the provisions of this Declaration, the Bylaws, the Rules and Regulations and the Architectural Guidelines.
- (vi) For any other rule or regulation that the Board determines to be appropriate for regulating the use and enjoyment of Mountain Pines P.U.D.

7.5 Voting Rights. Voting rights within the Association shall be allocated as follows:

- (a) Lots. Lots shall be allocated on vote per Lot, except as provided in Section 7.5(b) with respect to the Class B member.
- (b) Classes of Voting Membership. The Association shall have two classes of voting membership:
 - (i) Class A. Class A members shall be all Owners with the exception of the Declarant. Class A members shall be entitled to voting rights for each Lot owned, computed in accordance with Section 7.5(a) above. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.
 - (ii) Class B. The Class B member shall be Declarant and shall be entitled to nine times the voting rights computed under Section 7.5(a) for each Lot owned by Declarant. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- a. When seventy-five percent (75%) of the Lots in the final phase of development of Mountain Pines P.U.D. have been sold and conveyed to Owners other than Declarant; or
- b. At such earlier time as Declarant may elect in writing to terminate Class B membership.

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

- (a) The powers, duties, and obligations granted to the Association by this Declaration.
- (b) The powers, duties, and obligations of a mutual benefit nonprofit corporation pursuant to the Oregon Nonprofit Corporation Act and of a homeowners association of a planned community pursuant to the Oregon Planned Community Act, as either or both may be amended from time to time.
- (c) Construction and subsequent maintenance of such improvements on the private streets, common areas and any other Association-owned areas as it deems will be of benefit to the Owners, their guests and tenants.
- (d) Enforcement of all covenants and restrictions contained in this Declaration, the Bylaws of the Association, the Rules and Regulations and the Architectural Guidelines.
- (e) Promulgation and enforcement of the Mountain Pines P.U.D. Rules and Regulations and the enforcement of both the Architectural Guidelines and the decisions rendered by the ARC.
- (f) Payment of all ad valorem taxes and assessments imposed on any of the private streets, Common Areas or Association-owned areas within Mountain Pines P.U.D.
- (g) Provision of such services to the Owners as the Association shall deem to be appropriate and of benefit to the Owners.
- (h) Procurement and maintenance of property and liability insurance reasonable and necessary to protect the Association's interest in its assets. Such insurance shall also provide appropriate coverage for the directors and officers of the Association while in the performance of their duties on behalf of the Owners.
- (i) Collection of assessments, fees, and penalties.

- (j) Any additional or different powers, duties, and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners within Mountain Pines P.U.D.
- (k) The powers and obligations of the Association may from time to time be amended, repealed, enlarged or restricted by changes in this Declaration made in accordance with the provisions herein, accompanied by changes in the Articles of Incorporation or Bylaws of the Association made in accordance with such instruments and with the Oregon Nonprofit Corporation Act. All decisions made by the Board pursuant to the grant of powers in these covenants, conditions and restrictions shall be final. All such decisions shall be binding on Lot Owners absent fraud, bad faith or failure to exercise honest judgment.

- 7.7 Liability. Neither the Association nor any officer or member of its Board of Directors shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any action or failure to act by the Association, any of its officers or any member of its Board of Directors, provided only that the officer or Board member has acted in good faith in accordance with the actual knowledge possessed by him.
- 7.8 Interim Board; Turnover Meeting. Declarant shall have the right to appoint an interim board of three directors or more, who shall serve as the Board of Directors of the Association until replaced by Declarant or their successors have been elected by the Owners at the turnover meeting described in this Section. Declarant shall call a meeting by giving notice of purpose to turn over administrative responsibility for Mountain Pines P.U.D. to the Association no later than one hundred twenty (120) days after Lots representing seventy-five percent (75%) of all the votes in all phases of Mountain Pines P.U.D. computed in accordance with Section 7.5 above have been sold and conveyed to Owners other than Declarant. If Declarant does not call a meeting as required by this Section within the required time, the Transitional Advisory Committee described herein or any Owner may call a meeting and give notice as required in this Section. At the turnover meeting, the interim directors shall resign and their successors shall be nominated and elected by the Owners and Declarant as provided in the Bylaws of the Association.
- 7.9 Transitional Advisory Committee. Declarant or Owners shall form a transitional advisory committee (the "Transitional Advisory Committee") to provide for the transition from administrative responsibility by Declarant of Mountain Pines P.U.D. to administrative responsibility by the Association. No later than the sixtieth (60) day after the Declarant has conveyed to Owners other than Declarant Lots representing fifty percent (50%) of the votes of all phases in Mountain Pines P.U.D. computed in accordance with Section 7.5 above, Declarant shall call a meeting of Owners for the purpose of selecting the Transitional Advisory

Committee. The Transitional Advisory Committee shall consist of three or more members. The Owners, other than Declarant, shall select two or more members. Declarant may select no more than one member. The Transitional Advisory Committee shall have reasonable access to all information and documents which Declarant is required to turn over to the Association under ORS 94.616.

- (a) Declarant Failure to Call Meeting. An Owner may call a meeting of Owners to select the Transitional Advisory committee if the Declarant fails to do so as provided above.
- (b) Owners' Failure to Select Members. Notwithstanding the foregoing, if the Owners do not select members for the Transitional Advisory Committee as described above, Declarant shall have no further obligation to form the Transitional Advisory Committee.
- (c) Turnover meeting. The requirement for formation of a Transitional Advisory Committee shall not apply once the turnover meeting specified in Section 7.8 above has been held.

- 7.10 Declarant Control After Turnover. After the turnover meeting described above, Declarant shall continue to have the voting rights described in Section 7.5(b) above. In addition, a majority of the Board of Directors of the Association shall be elected by Declarant, as a Class B member, with the balance of the Board of Directors elected by the Class A members. After termination of Class B membership, all directors shall be elected by the Class A members.

SECTION 8 ASSESSMENTS.

- 8.1 Annual Operating Budgets. The Association Board of Directors shall from time to time and at least annually prepare an operating budget for the Association, taking into account the current costs of maintenance and services and future needs of the Association, any previous over assessment and any common profits of the Association. The budget shall provide for such reserve or contingency funds as the Board deems necessary or desirable or as may be required by law. The method of adoption of the budget shall be as provided in the Bylaws.
- 8.2 Operating Assessments. All Lots shall be assessed equally for operating costs. The amount of the Assessment per Lot subject to assessment shall be determined by dividing the annual budget by the total number of Lots.
- 8.3 Capital Improvement Assessments. The Association may purchase, construct or otherwise acquire additional equipment, facilities or other capital improvements for the general use and benefit of all the members of the Association, and for that purpose may impose a special assessment to be called a "Capital Improvement Assessment." Any such assessment shall be assessed to the Lots within Mountain Pines P.U.D. on the same formula as set forth in Section 8.2. No new Capital

Improvement Assessment may be imposed under this section which, for any one purchase, construction or other acquisition, or group of related purchases, constructions or other acquisitions, in the aggregate exceeds \$300 per Lot, unless approved by the vote or written consent of the Class B member, if any, and by not less than sixty percent (60%) of the votes of the Class A members who are voting in person, by absentee ballot or by proxy at a meeting duly called for the purpose of approving the Capital Improvement Assessment.

- 8.4 Reserve Account for Replacing Common Property. Declarant shall establish a reserve account which shall be called the "Common Property Reserve Account," and which will be kept separate and apart from all other funds of the Association. Except as provided in Section 8.4(b) below, the Common Property Reserve Account shall be used exclusively for replacement of items of common property which will normally require replacement, in whole or in part, in more than three and less than thirty years and not for regular or periodic maintenance expenses.
- (a) Reserve Account Assessments. Not less often than annually, the Association shall inventory all items of common property which will normally require replacement, in whole or in part, in more than three and less than thirty years, and shall estimate the remaining life of each item of common property and the current replacement cost of each of such items. The Association may identify items for which reserve account assessment is required as those items which are insurable by a common carrier of all-purpose risk insurance. For the purpose of funding the Common Property Reserve Account, the Association shall impose an assessment to be called the "Common Property Reserve Account Assessment" against each Lot based on the total number of Lots. The total Common Property Reserve Account Assessment shall take into account the current replacement cost of each item of common property which has an estimated life of greater than three but less than thirty years and the estimated remaining life for such items of common property. Declarant shall not be required to pay any assessment under this Section assessed to a Lot owned by Declarant until such date as the Lot is conveyed by the Declarant to an unaffiliated party in an arms-length transaction.
 - (b) Loan From Common Property Reserve Account. After the turnover meeting described above, the Association may borrow funds from the Common Property Reserve Account to meet high seasonal demands on the Association's regular operating fund or to meet other temporary expenses. Funds borrowed to meet high seasonal demands or temporary expenses under this paragraph must be repaid from special or operating assessment within six month of the date such funds are borrowed.
 - (c) Increase, Reduction, or Elimination of Common Property Reserve Account Assessments. At any time after the second year after the turnover meeting described above, future assessments for the Common Property

Reserve Account may be increased, reduced or eliminated by the vote of Owners of Lots representing seventy-five percent (75%) of those entitled to vote.

- 8.5 Special Assessments for Enforcement Expenditures. The Homeowner's Association is authorized to obtain a Letter of Credit and impose a Special Assessment to collateralize thereof in the event the Association should need to expend significant funds for legal expenses to enforce any provision of the Declaration, Bylaws, Rules and Regulations, or Architectural Guidelines.
- 8.6 Reallocation Upon Annexation or Withdrawal of Property. When additional property or phases are annexed to Mountain Pines P.U.D. the Association shall, within 60 days of the annexation, recompute the budget in accordance with Section 8.1 based upon the additional Common Areas and recompute assessments for each assessable Lot based upon the formula set forth in Section 8.2. Assessments shall be due and payable on or before a date set forth in the notice which shall not be less than 30 days from the date that notice is mailed or at such other time or times set in accordance with this Declaration or the Bylaws as the Association may specify in the notice. To the extent that any adjustment results in a credit for an Owner, such credit shall be applied towards the next occurring payment or payments on the annual assessment.
- 8.7 Payment of Assessments. The Association shall, not less than bi-annually, provide notice to the Owner of each Lot of the amount of the assessments for such Lot. Assessments shall be due and payable on or before a date set forth in the notice which shall be not less than 30 days from the date the notice is mailed or at such other time or times set in accordance with this Declaration or the Bylaws as the Association may specify in the notice. The Board shall have the right to give discounts for advance payment of assessments.
- 8.8 General Fund. The Association shall keep all monies that it may collect from assessments other than special assessments in a separate fund to be called the "general fund" and shall administer and account for the fund as provided in the Bylaws.
- 8.9 Annual Accounting. Within a reasonable period of time following the close of each calendar year, the Association shall render to each Owner an accounting which shall set forth the amount and nature of all income and all disbursements during such year together with a statement of the assets and liabilities of the Association at the close of such year. The Association shall maintain records of all income and disbursements, which records shall be open to inspection by any Owner at any reasonable time during normal business hours.
- 8.10 Creation of Lien; Personal Obligation of Assessments. Declarant, for each Lot owned by it within Mountain Pines P.U.D. does hereby covenant, and each Owner of any Lot by acceptance of a conveyance thereof, whether or not so expressed in

any such conveyance, shall be deemed to covenant to pay to the Association all assessments or other charges as may be fixed, established, and collected from time to time in the manner provided in this Declaration or the Bylaws. Such assessments and charges, together with any interest, expenses or attorney fees imposed pursuant to the provisions herein, the Bylaws, the Rules and Regulations and the Architectural Guidelines shall be a charge on the land and a continuing lien upon the Lot against which each such assessment or charge is made. Such assessments, charges and other costs shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth herein.

SECTION 9 ENFORCEMENT.

- 9.1 Remedies. This Declaration shall be specifically enforceable by Declarant, the Association or by any Owner of any Lot in the Mountain Pines P.U.D. Any breach of this Declaration shall subject the breaching party to any and all legal remedies, including damages, fines established by the Declarant or the Board, liens, and/or the destruction, removal or the enjoining of any offending improvement or condition at the expense of the Owner.
- 9.2 Default in Payment of Assessments; Liens. Failure by an Owner to pay any assessment, fine or other charge levied by the Association shall be a default by such Owner of his or her obligations pursuant to this Declaration, the Bylaws and the Oregon Planned Community Act. In addition to interest which may be charged on delinquent assessments, the Declarant or the Board of Directors, at its option, may impose a late charge penalty in respect to any assessment, fine or other charge not paid within ten (10) days from its due date. Such penalty may not exceed 10% of the assessment, fine or other charge. In addition, the Declarant or the Association may exercise any or all of the following remedies:
 - (a) Suspension of Rights, Acceleration. The Declarant or the Association may suspend such Owner's voting rights and right to use the Common Areas until such amount, plus other charges under this Declaration, are paid in full and may declare all remaining periodic installments of any annual assessment or any other amounts owed by such Owner to the Declarant or the Association immediately due and payable. In no event, however, shall the Association deprive any owner of access to and from such Owner's Lot.
 - (b) Lien. The Declarant or the Association shall have a lien against each Lot for any assessment levied against the Lot and any fines or other charges imposed under this Declaration or the Bylaws against the Owner of the Lot from the date on which the assessment, fine or charge is due. The provisions regarding the attachment, notice, recordation, and duration or liens established on real property under ORS 87.352 to 87.382 shall apply

to the Association's lien. The lien shall be foreclosed in accordance with the provisions regarding the foreclosure of liens under ORS Chapter 88. The Declarant or the Association, through its duly authorized agents, may bid on the Lot at such foreclosure sale, and may acquire and hold, lease, mortgage, and convey the Lot. If any assessment is payable in installments, the full amount of the assessment is a lien from the date the first installment of the assessment becomes due.

- (c) Suit or Action. The Declarant or the Association may bring an action to recover a money judgment for unpaid assessments and chares under this Declaration without foreclosing or waving the lien described herein. Recovery on any such action, however, shall be operated to satisfy the lien, or the portion thereof, for which recovery is made.
- (d) Other Remedies. The Declarant or the Association shall have any other remedy available to it by law or in equity.

9.3 Fines. The Declarant or the Association may establish a schedule of fines applicable to violations of this Declaration, the ARC Guidelines, and the Rules and Regulations established pursuant to this Declaration. Fines may be imposed by the Board after giving the alleged violator notice of the proposed fine and an opportunity to be heard. Fines shall be payable within ten (10) days after receipt of written notice of the imposition of the fine. All fines shall be deposited in the Association's operating account. All unpaid fines shall be collected as assessments in the manner set forth herein.

9.4 Interest, Expenses and Attorney Fees. Any amount not paid to the Declarant or the Association when due in accordance with this Declaration shall bear interest from the due date until paid at the rate of twelve (12) percent per annum. A late charge may be charged for each delinquent assessment in an amount established from time to time by resolution of the Board not to exceed ten (10) percent of such assessment. In the event the Declarant or the Association shall file a notice of lien, the lien amount shall also include the recording fees associated with filing the notice, and a fee for preparing the notice of lien established from time to time by resolution of the Board. In the event the Declarant or the Association shall retain legal counsel to collect an assessment or shall bring any suit or action to enforce this Declaration, or to collect any money due hereunder or to foreclose a lien, the Owner-defendant shall pay to the Declarant or the Association all costs and expenses incurred by it in connection with retaining legal counsel and with such suit or action, including a foreclosure title report, and the prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable as attorney fees at trial and upon any appeal or petition for review thereof or in any bankruptcy proceeding.

SECTION 10 DURATION AND AMENDMENT OF THIS DECLARATION.

- 10.1 Duration. The Covenants, Conditions, and Restrictions of Mountain Pines P.U.D. shall run with the land and shall continue to remain in full force and effect at all times with respect to all property, and each part thereof, now or hereafter made subject thereto (subject however, to the right to amend and repeal as provided for herein) for a period of thirty years from the date this Declaration is recorded. Thereafter, this Declaration shall continue to run with the land and be and remain in full force and effect at all times with respect to all property in Mountain Pines P.U.D. and the Owners thereof for successive additional periods of ten (10) years each. The continuation from the initial or any additional period into the next subsequent period shall be automatic and without the necessity of any notice, consent or another action whatsoever; provided, however, that this Declaration may be terminated at the end of the initial or any additional period by resolution approved not less than six (6) months prior to the intended termination date by the vote or written consent of Owners owning not less than seventy-five percent (75%) of the Class A votes and the vote or written consent of the Class B member. Any such termination shall become effective only if prior to the intended termination date a certificate of the president or secretary of the Association, certifying that termination as of a specified termination date has been approved in the manner required herein, is duly acknowledged and recorded in the Deed Records of Deschutes County, Oregon. Such termination shall not have the effect of denying any Owner access to such Owner's Lot unless such Owner and any mortgagee of such Lot have consented in writing to the termination.
- 10.2 Amendment. This Declaration or any provision thereof, or any Covenant, Condition or Restriction contained herein, may be terminated, extended, modified or amended, as to the whole of said property or any part thereof by the vote or written consent of Owners holding not less than seventy-five percent (75%) of the Class A votes, together with the vote or written consent of the Class B member, if such membership has not been terminated as provided herein. Any such amendment or repeal shall become effective only upon recordation in the Deed Records of Deschutes County, Oregon, or a certificate of the president or secretary of the Association setting forth in full the amendment, amendments, or repeal so approved and certifying that said amendment, amendments, or repeal have been approved in the manner required by this Declaration. In no event shall an amendment under this section create, limit or diminish special Declarant rights without Declarant's written consent.
- 10.3 Regulatory Amendments. Notwithstanding the provisions of Section 10.2 above, until termination of the Class B membership, Declarant shall have the right to amend this Declaration, the Bylaws of the Association, the ARC Guidelines or the Rules and Regulations in order to comply with the requirements of any applicable statute, ordinance, or regulation of the Federal Housing Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage 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

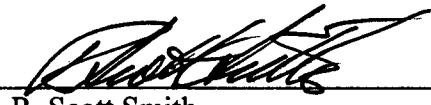
United State or the States of Oregon which insures, guarantees or provides financing for a planned community or lots in a planned community.

SECTION 11 MISCELLANEOUS PROVISIONS.

- 11.1 Lessees and Other Invitees. Lessees, invitees, contractors, family members, and other persons entering Mountain Pines P.U.D. under rights derived from an Owner shall comply with all of the provisions of this Declaration, the Bylaws, the ARC Guidelines and the Rules and Regulations restricting or regulating the Owner's use, improvement, or enjoyment of such Owner's Lot and other areas within Mountain Pines P.U.D. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.
- 11.2 Nonwaiver. Failure by the Association or by an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- 11.3 Construction; Severability. This Declaration and all declarations annexing property to Mountain Pines P.U.D. shall be liberally construed as one document to accomplish the purpose stated herein. Nevertheless, each provision of this Declaration and all declarations annexing property to Mountain Pines P.U.D. shall be deemed independent and severable, and the invalidity or partial invalidity of any provision shall not affect the validity or enforceability of the remaining part of that or any other provision.

Heritage West, LLC

By


R. Scott Smith
Member

State of Oregon, County of Deschutes: ss.

The foregoing instrument was acknowledged before me this 23rd day of May, 2001, by R. SCOTT SMITH, Member of Heritage West, LLC, an Oregon corporation, on behalf of the corporation.



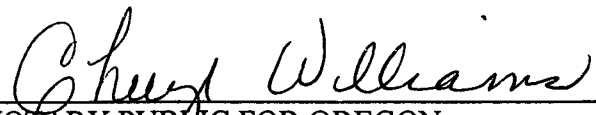

NOTARY PUBLIC FOR OREGON
My Commission Expires: 3-15-02

EXHIBIT "A"**Declaration of Mountain Pines P.U.D.**

A parcel of land located in a portion of the Northeast One-quarter of the Southwest One-quarter (NE 1/4 SW 1/4) of Section 17, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at a point on the easterly right-of-way line of Parrell Road which bears North 38°29'21" East a distance of 2211.28 feet from the Southwest corner of said Section 17; thence along said Easterly right-of-way line the following two (2) curves and (1) one course: 328.40 feet along a curve to the right with a radius of 542.96 feet, the chord of which bears North 46°58'40" East a distance of 323.41 feet; thence North 64°18'17" East a distance of 178.01 feet; thence 218.69 feet along the arc of a tangent curve to the left with a radius of 602.96 feet, the chord of which bears North 53°54'51" East for a distance of 217.50 feet;

thence leaving said Easterly right-of-way line South 25°42'54" East a distance of 274.38 feet; thence South 01°14'07" West a distance of 190.11 feet; thence South 66°13'11" West a distance of 182.25 feet; thence South 13°52'25" West a distance of 212.89 feet; thence North 76°08'16" West a distance of 90.53 feet; thence South 13°51'44" West a distance of 32.25 feet; thence North 76°08'16" West a distance of 324.70 feet; thence North 13°51'44" East a distance of 96.45 feet; thence North 64°24'45" East a distance of 40.75 feet; thence 48.33 feet along a non-tangent curve to the right with a radius of 75.00 feet, the chord of which bears North 07°07'38" West a distance of 47.50 feet; thence North 60°04'52" West a distance of 130.21 feet; to the point of beginning, the terminus of this description.

After Recording Return To:
Tia M. Lewis
Merrill O'Sullivan
Suite 303
1070 NW Bond Street
Bend OR 97701
(541)389-1770

2001-24413-27

**BYLAWS
OF
MOUNTAIN PINES HOMEOWNERS' ASSOCIATION**

ARTICLE 1 PLANNED COMMUNITY PLAN OF LOT OWNERSHIP

Definitions.

- 1.1 Lot Ownership. Phase I of Mountain Pines P.U.D and all Common Areas and Private Ways as shown on the recorded plat in the City of Bend, County of Deschutes, State of Oregon, and any property subsequently annexed by Supplemental Declaration, (hereinafter Mountain Pines P.U.D.) is submitted to the provisions of Oregon Revised Statutes, Section 94.550, *et seq.*, the Oregon Planned Community Act.
- 1.2 Bylaws Applicability. The provisions of these Bylaws are applicable to the Mountain Pines P.U.D., the Mountain Pines Homeowners' Association ("Association") and the entire management structure thereof.
- 1.3 Personal Application. All present or future Owners, tenants, occupants, future tenants or their employees, or any other person that might use the facilities of Mountain Pines P.U.D. in any manner, are subject to the regulations set forth in these Bylaws.
- 1.4 Definitions. The terms herein shall have the same meaning as set forth in Section 1 of the Declaration of Covenants, Conditions and Restrictions for Mountain Pines P.U.D.

The acquisition, occupancy or rental of any of the Lots of Mountain Pines P.U.D. or the mere act of occupancy of any said Lots will constitute acceptance and ratification of these Bylaws and agreement to comply with all the provisions hereof.

ARTICLE 2 ASSOCIATION MEMBERSHIP, VOTING, MAJORITY OF OWNERS, QUORUM, PROXIES.

- 2.1 Membership in the Association. Upon recordation of a conveyance or contract to convey a Lot, the grantee or purchaser named in such conveyance or contract shall automatically be a member of the Association, and shall remain a member of said Association until such time as such person's ownership ceases for any reason. For all purposes of the Declaration and the administration of the

property, Lot ownership shall be determined from the records maintained by the Association. The record shall be established by the Owner filing with the Association a copy of the deed to or land sale contract for his or her Lot, to which shall be affixed the certificate of the recording officer of the County of Deschutes, Oregon, showing the date and place of recording of such deed or contract. No person shall be recognized as an Owner unless a copy of the deed or contract has been filed with the Association as provided above showing him or her to be the current Owner or contract purchaser of a Lot. Notwithstanding the foregoing, the Declarant shall be the Owner of all previously unsold Lots, although no deed or land sale contract, with respect to such Lots, has been filed with the Association.

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

- a. Class A. Class A members shall be all Owners of Lots other than the 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.
- b. Class B. The Class B member shall be the Declarant, its successors and assigns. The Class B member shall have nine (9) votes for each Lot owned. Provided, however, that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:
 - i. When seventy-five percent (75%) of the Lots in the final phase of development of Mountain Pines P.U.D. have been sold and conveyed to Owners other than the Declarant; or
 - ii. At such earlier time as Declarant may elect in writing to terminate the Class B membership.

Thereafter, each Owner (including, without limitation, the 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 the Declaration and these Bylaws. 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 will fractional voting be allowed.

- 2.3 Majority of Owners. As used in these Bylaws, the term "Majority" shall mean those Owners holding over fifty percent (50%) of the voting rights allocated to the Owners in accordance with the Declaration and Section 2.2 above. "Majority of Owners present shall mean Owners holding over fifty percent (50%) of the votes present at any legal meeting.
- 2.4 Quorum. Except as otherwise provided in these Bylaws, the presence in person or by Proxy of Owners holding forty percent (40%) or more of the outstanding votes in the Association, as defined in Section 2.2, shall constitute a quorum. A legal meeting is one duly called pursuant to these Bylaws where a quorum is present in person or by proxy at a formal gathering, or if a vote is taken by written ballots, when ballots are returned representing more than forty percent (40%) of the vote.
- 2.5 Place of Meetings. Formal meetings of the Association shall be held at a suitable place convenient to the Owners as may be designated by the Board of Directors. Any vote taken by written ballot shall be determined by the Board of Directors within forty-eight (48) hours of the deadline for return of ballots. Each Owner shall be notified by mail or other delivery of written notice of the results of the ballot meeting or that a quorum of ballots was not returned, within ten (10) days after the ballots have been counted.
- 2.6 Interim Board; Turnover Meeting. Declarant shall have the right to appoint an interim board of three directors or more, who shall serve as the Board of Directors of the Association until replaced by Declarant or their successors have been elected by the Owners at the turnover meeting described in this Section. Declarant shall call a meeting by giving notice of purpose to turn over administrative responsibility for Mountain Pines P.U.D. to the Association no later than one hundred twenty (120) days after Lots representing seventy-five percent (75%) of all the votes in all phases of Mountain Pines P.U.D. have been sold and conveyed to Owners other than Declarant. If Declarant does not call a meeting as required by this Section within the required time, the Transitional Advisory Committee described herein or any Owner may call a meeting and give notice as required in this Section. At the turnover meeting, the interim directors shall resign and their successors shall be nominated and elected by the Owners and Declarant as provided in the Bylaws of the Association.
- 2.7 Transitional Advisory Committee. The Declarant shall form a Transitional Advisory Committee to provide for the transition of administrative control of the Association from the Declarant to the Class A members. Not later than the sixtieth (60th) day after the

Declarant has conveyed Lots representing fifty percent (50%) of the votes in all phases of Mountain Pines P.U.D., the Declarant shall call a meeting of Owners for the purpose of selecting a Transitional Advisory Committee. The committee shall consist of three (3) members. The Class A members shall, by majority vote, elect two (2) members, and the Declarant shall elect one (1) member. The committee shall have reasonable access to such information and documents as the Declarant is required by law to make available. If the Declarant fails to call the meeting required under this section, any Owner may do so.

The function of the transitional committee shall be to facilitate transition from control of the administration of the Association by the Declarant to control by the Owners. The committee shall have access to the information, documents and records which the Declarant must turn over to the Owners under the Oregon Planned Community Act.

The Declarant shall give notice of the meeting required under this Section 2.7 to each Owner at least seven (7), but not more than fifty (50) days prior to the meeting. The notice shall state the purpose of the meeting and the time and place where it is to be held. If such meeting is not called by the Declarant within the time specified, the meeting may be called and notice given by a Owner. If the Owners, other than the Declarant, do not select members for the committee under this Section 2.7, the Declarant shall have no further responsibility to form the committee.

- 2.8 Declarant Control After Turnover. After the turnover meeting described above, Declarant shall continue to have the voting rights described in Section 2.2. In addition, a majority of the Board of Directors of the Association shall be elected by Declarant, as a Class B member, with the balance of the Board elected by the Class A members. After termination of the Class B membership, all directors shall be elected by the Class A members.
- 2.9 Annual Meetings. The first annual meeting of the Association shall be held in the calendar year following the calendar year in which the turnover meeting is held and shall be set by action of the Board of Directors. The date for this meeting, at the discretion of the Board of Directors, may be changed from time to time, but must be held annually under the rules and regulations as set out in the Bylaws. At such meetings, new members of the Board of Directors shall be elected by the Owners in accordance with the requirements of Section 3.9 of these Bylaws, to replace those directors whose terms have expired. The Owners may also transact

such other business of the Association as may properly come before them.

- 2.10 Special Meetings. It shall be the duty of the President to call a special meeting of the Owners as directed by resolution of the Board of Directors or upon a petition signed by twenty-five percent (25%) or more of the Owners having been presented to the Secretary. All meetings called because of petition of Owners shall be held at a formal gathering and not by ballot, and shall be held within sixty (60) days after receipt of the petition. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of all the Owners of the Lots or as otherwise set out in these Bylaws.
- 2.11 Notice of Meetings. It shall be the duty of the Secretary to mail a notice of each annual, special or meeting by ballot, stating the purpose thereof and the time and place where it is to be held, to each Owner of record at least seven (7) but not more than fifty (50) days prior to such meeting or the date when ballots for a ballot meeting are required to be returned. The mailing shall be to the Owner's address last given the Secretary in writing by the Owner or his or her vendee. If Lot ownership is split or the Lot has been sold on a contract, notice shall be sent to a single address of which the Secretary has been notified in writing by such parties. If no address has been given the Secretary in writing, then mailing to the Project Lot address shall be sufficient. The mailing of a notice in the manner provided in this Section shall be considered notice legally served.
- 2.12 Adjourned Meetings. If any gathering of Owners is not a legal meeting because a quorum has not attended, the Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours nor more than ten (10) days from the time the original meeting was called. The adjournment provisions of this Section do not apply to meetings by ballot.
- 2.13 Order of Business. The order of business at all meetings shall be as follows:
- a. Roll call.
 - b. Proof of Notice of meeting or waiver of notice.
 - c. Reading of minutes of the preceding meeting.
 - d. Reports of officers.
 - e. Reports of committees.
 - f. Election of inspectors of election.

- g. Election of directors.
- h. Unfinished business.
- i. New business.

ARTICLE 3 BOARD OF DIRECTORS.

- 3.1 Number and Qualification. The affairs of the Association shall be governed by a Board of Directors composed of three (3) persons, all of whom must be an Owner or the co-owner of a Lot. An officer or employee of a corporation, or the trustee of a trust, or personal representative of an estate, or an employee of the trust or estate may serve on the Board of Directors, if the corporation, trust or estate owns a Lot.
- 3.2 Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law or by these Bylaws directed to be exercised and done by the Owners.
- 3.3 Other Duties. In addition to duties imposed by these Bylaws or by resolutions of the Association, the Board of Directors shall have authority to carry out and be responsible for the following matters:
 - 3.3.1 Care, upkeep and supervision of the Common Property and Private Ways.
 - 3.3.2 Establishment and maintenance of replacement reserve accounts and other reserves which are required to be maintained by the Oregon Planned Community Act, the Declaration or these Bylaws and such other reserve accounts as are permitted by these Bylaws.
 - 3.3.3 Designation and collection of monthly assessments from the Owners, in accordance with these Bylaws, the Declaration and the Oregon Planned Community Act.
 - 3.3.4 Establishment of a budget and payment of all common expenses of the Association and institution and maintenance of a voucher system for such payment which shall require a sufficient number of signatories thereon as may be reasonably necessary to prevent any misuse of Association funds.
 - 3.3.5 Obtaining and maintaining insurance policies and payment of premiums therefor out of the common expense funds in

respect to both the Common Property and Private Ways as more specifically provided in Article 7 of these Bylaws.

- 3.3.6 Designation and dismissal of the personnel necessary for the maintenance and operation of Mountain Pines P.U.D.
- 3.3.7 Causing the preparation and distribution of annual financial statements of the Association to each of the Owners as more specifically provided in Section 3.6 of these Bylaws.
- 3.3.8 Adoption and amendment of administrative rules and regulations governing the details of operation and use of the property within Mountain Pines P.U.D. subject to the following:
 - a. Approval. A petition signed by 15 percent of the Owners proposing adoption of a rule or amendment or repeal of an existing rule applying to the above areas must be considered by the Board. The Board, at its discretion, may approve, reject or abstain from acting on the proposals contained in such petition. In the event that the Board does not approve a petition duly and properly submitted, the petitioners may demand a vote of the Owners in accordance with the following: upon and pursuant to a second submission of the petition in original form but bearing the signatures of fifty percent (50%) of the Owners, the Board shall submit the proposals contained in such petition to a vote of all Owners. The proposals contained in such petition shall be adopted upon their approval in writing by a majority of the Owners who vote with respect to such petition. Such approval shall be valid only where votes shall have been cast by at least one-half of those Owners eligible to vote or their duly authorized proxies.
 - b. Authority. The Mountain Pines P.U.D. Rules and Regulations may, among other things, but without limitation on the Board's authority as provided for above, provide for any of the following:
 - i. For the times and manner in which Owners, their lessees and guests may use the space within Common Areas.
 - ii. For charges for services to be supplied by the Association.

- iii. For the control of noise, control of litter, and disposal of trash and for the personal conduct of Owners, their lessees and guests, and their pets, while in Mountain Pines P.U.D.
- iv. For the conditions upon which the guests of Owners and lessees in Mountain Pines P.U.D. will be entitled to access to Common Areas.
- v. For enforcement procedures, including a schedule of fines and appeal rights, to enforce any of the provisions of this Declaration, the Bylaws, the ARC Guidelines and the Rules and Regulations.
- vi. For any other rule or regulation that the Board determines to be appropriate for regulating the use and enjoyment of Mountain Pines P.U.D.

3.3.9 Causing the Association to comply with the Oregon Planned Community Act relating to maintenance of documents delivered to the Association by the Declarant and maintenance and distribution of financial statements. Also to maintain copies suitable for duplication of the following: Declaration, Bylaws, ARC Guidelines and Rules and Regulations and any amendments thereto, the most recent annual financial statement and the current operating budget of the Association.

3.4 Limited Authority. The Board of Directors shall be prohibited from taking any of the following actions, except with the vote or written assent of a majority of the voting power of the owners other than the Declarant:

3.4.1 Entering into a contract with a third party wherein the third person will furnish goods or services for the Common Area or Private Ways of the Association for a term longer than one year with the following exceptions:

- a. Management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration.
- b. A contract with a public utility company if the rates charged for the materials or services are regulated by

the Public Utilities Commission provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

- c. Prepaid casualty and/or liability insurance policies of not to exceed three years duration provided that the policy permits short rate cancellation by the insured.
- d. Lease agreements for equipment and services of not to exceed five years duration provided that the lessor under the agreement is not an entity in which the Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

3.4.2 Incurring aggregate expenditures for capital improvements to the Common Areas or Private Ways of any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

3.4.3 Selling during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

3.4.4 Paying compensation to members of the Board of Directors or to officers of the Association for services performed in the conduct of the Association's business provided, however, that the Board of Directors may cause a member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

3.5 Income Tax Returns; Determination of Fiscal Year.

3.5.1 The fiscal year of the Association shall be the calendar year unless otherwise determined by the Board of Directors.

3.5.2 The Board of Directors, in its sole discretion, shall determine the manner in which all necessary income tax returns are filed and of selecting any and all persons to prepare such tax returns.

3.6 Budgets and Financial Statements.

3.6.1 After the turnover meeting described herein, the following financial and related information shall be regularly prepared and distributed by the Board of Directors to all members of the Association:

- a. A pro forma operating budget for the immediately ensuing fiscal year consisting of at least the following information shall be distributed not less than 45 days and not more than 60 days prior to the beginning of the fiscal year.
 - i. Estimated revenue and expense on an accrual basis.
 - ii. The amount of the total cash reserves of the Association currently available for replacement or major repair of common facilities and for contingencies.
 - iii. An estimate of the current replacement costs of, and the estimated remaining life of, and the methods of funding used to defray is the future repair, replacement or additions to, those major components of the Common Areas, Private Ways and facilities which the Association is obligated to maintain.
 - iv. A general statement setting forth the procedures used by the governing body in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the common areas and facilities for which the Association is responsible.
- b. A balance sheet as of an accounting date which is the last day of the month closest in time to six months from the date of closing of the first sale of an interest in Mountain Pines P.U.D. and an operating statement for the period from the date of the first closing to the said accounting date, shall be distributed within 60 days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the number of the subdivision interest and the name of the entity assessed.
- c. A report consisting of the following shall be distributed within 120 days after the close of the fiscal year.
 - i. A balance sheet as of the end of the fiscal year.
 - ii. An operating (income) statement for the fiscal year.
 - iii. A statement of changes in financial position for the fiscal year.
 - iv. For any fiscal year in which the gross income to the Association exceeds \$75,000, a copy of the review of the annual report prepared in

accordance with generally accepted accounting principals by a certified public accountant licensed by the State of Oregon.

- 3.6.2 If the report referred to in Section 3.6.1 above is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statement was prepared from the books and records of the Association without independent audit or review.
- 3.6.3 In lieu of the distribution of the pro forma operating budget required by Section 3.6.1, the Board of Directors may elect to distribute a summary of the items described in Section 3.6.1 to all members of the Association with a written notice that the budget is available at the business office of the Association or at another suitable location and that copies will be provided upon request and at the expense of the Association. If any member requests copies of the pro forma operating budget including the items described in Section 3.6.1 to be mailed to the member, the Association shall provide such copies to the member by first-class United States mail at the expense of the Association and mailed within five days. The written notice that is distributed to each of the Association members shall be in at least 10point bold type on the front page of the summary of the statements.
- 3.6.4 In addition to financial statements, the Board of Directors shall annually distribute within 60 days prior to the beginning of the fiscal year, a statement of the Association's policies and practices in enforcing its remedies against members for defaults in the payment of regular and special assessments including the recording and foreclosing of liens against members' subdivision interests.
- 3.6.5 After the turnover meeting described herein, the Board of Directors shall do the following not less frequently than quarterly:
- a. Cause a current reconciliation of the Association's operating accounts to be made and review the same.
 - b. Cause a current reconciliation of the Association's reserve accounts to be made and review the same.
 - c. Review the current year's actual reserve revenues and expenses compared to the current year's budget.

- d. Review the most current account statements prepared by the financial institution where the Association has its operating and reserve accounts.
- e. Review an income and expense statement for the Association's operating and reserve accounts.
- f. The failure of the Board of Directors to timely prepare and/or to present a budget to the Owners shall not be cause for any Owner to fail or refuse to pay assessments. Assessments shall continue, based upon the last adopted or accepted budget, until a new budget is created and announced. Retroactive increases and/or special assessments may be made by the Board of Directors to make up for any deficiency.
- g. In the event the Board of Directors fails to timely adopt a budget for a new fiscal year, Owners holding a majority of the votes of the entire Association, at any general or specially called meeting, may adopt such a budget, announce it to the Owners and immediately commence assessments based on the newly adopted budget. Additionally, at any general or specially called meeting, Owners holding a majority of the votes of the entire Association may amend any budget adopted by the Board of Directors. Thereafter, assessments to Owners shall be based on the budget as so amended until a new budget is adopted.

3.7 Management Agent. The Board of Directors may employ a management agent, to be compensated in an amount established by the Board, to perform such duties and services as the Board shall authorize, including, but not limited to, the duties listed in Section 3.3.

3.8 Interim Board and Officers. The Declarant hereby reserves administrative control of the Association for a period not to exceed that allowed by the Oregon Planned Community Act. The Declarant, in his or her sole discretion, shall have the right to appoint and remove members of an Interim Board of Directors and interim officers. Notwithstanding the provisions of this Section, at the turnover meeting at least one (1) Director shall be elected by Owners other than the Declarant, even if the Declarant otherwise has voting power to elect all Directors.

3.9 Election and Term of Office. At the turnover meeting of the Association, the term of office of two (2) Directors shall be fixed for two (2) years. The term of office of one (1) Director shall be fixed at one (1) year. Should more Directors be added, the same sequential

election terms shall apply as nearly as is practicable. At the expiration of the initial term of office of each respective Director, his or her successor shall be elected to serve a term of two (2) years. The Directors shall hold office until their successors have been elected and hold their first meeting. At the turnover meeting, upon agreement by vote of the Owners, the Board of Directors may be elected by a single ballot with each Owner permitted to vote for three (3) nominees. In such event, the two (2) nominees receiving the highest number of votes shall be the two (2) year Directors and the one (1) nominee receiving the next highest number of votes shall be the one (1) year Director. The Association may increase or decrease the number of Directors and length of terms for which each is elected upon amendment of this Section.

- 3.10 Vacancies. Vacancies on the Board of Directors caused by any reason other than the removal of a Director by a vote of the Association shall be filled for the balance of the term of each directorship by vote of a majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall be a Director until a successor is elected upon expiration of the term for which such person was elected by the other Directors to serve.
- 3.11 Removal of Directors. At any legal annual or special meeting, other than a meeting by ballot, any one or more of the Directors may be removed with or without cause, by a majority vote of the total voting power of the Owners and a successor may be then and there elected to fill the vacancy thus created. Provided however, the notice of meeting shall specifically indicate that the removal of one or more named directors is an agenda item for such meeting: Any Director whose removal has been proposed by the Owners shall be given an opportunity to be heard at the meeting.- Any Director or Directors who fail(s) to attend three (3) successive meetings of the Board of Directors which have been properly called, or who has failed to attend more than one third (1/3) of the Board of Directors meetings during a twelve (12) month period which have been properly called, may be removed by a majority of the remaining Directors.
- 3.12 Organizational Meeting. The first meeting of a newly elected Board of Directors shall be held within ten (10) days of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order to legally hold such meeting, providing a majority of the newly elected Directors are present.

- 3.13 Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings of the Board of Directors may be called by the President on three (3) days' notice to each Director, given personally or by mail, telephone or telegraph, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting,
- 3.14 Special Meetings. Special meetings of the Board of Directors may be called by the President or Secretary or on the written request of at least three (3) Directors. Special meetings of the Board of Directors may be called on three (3) days' notice to each Director, given personally or by mail, telephone or telegraph, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting.
- 3.15 Waiver of Notice to Directors. Before, at or after any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him or her of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice to Directors shall be required and any business may be transacted at such meeting.
- 3.16 Board of Directors' Quorum. At all meetings of the Board of Directors, a majority of the existing Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors shall be the acts of the Board of Directors. If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.
- 3.17 Board of Directors Meetings Open to All Association Members. All meetings of the Board of Directors shall be open to any and all members of the Association. Provided, however, no Association member shall have a right to participate in the Board of Directors meetings unless such member is also a member of the Board of Directors. The President shall have authority to exclude any Association member who disrupts the proceedings at a meeting of the Board of Directors.
- 3.18 Notice to Association Members of Board of Directors Meetings. For other than emergency meetings, notice of Board of Directors meetings shall be posted at a place on the Common Property at

least three (3) days prior to the meeting or notice shall otherwise be provided to each member of the Association reasonably calculated to inform each member of such meetings. The posting of such notices shall be at a reasonable location which has been generally publicized to the Owners.

- 3.19 Telephonic Meetings. In the event of an emergency, telephonic meetings may be held by the Board of Directors. Such telephonic meetings shall be carried on by means of a "conference call" in which each Director may speak with any of the other Directors. The Directors shall keep telephone numbers on file with the President to be used for telephonic meetings. No notice to either Directors or Association members shall be required for a telephonic meeting of the Board of Directors to be held for any emergency action. Provided, however, no such telephonic meeting shall occur unless at least seventy-five percent (75%) of the Board of Directors participate in the same, and after an attempt has been made to call each Director at the telephone number maintained on file with the Board of Directors for such purpose.
- 3.20 Compensation of Directors. No Director shall be compensated in any manner, except for out-of-pocket expenses, unless such compensation is approved by vote of the Owners.

ARTICLE 4 OFFICERS.

- 4.1 Designation. The principal officers of the Association shall be a President, a Secretary and a Treasurer, all of whom shall be elected by the Directors. The Directors may appoint an assistant treasurer and an assistant secretary and any such other officers as in their judgment may be necessary.
- 4.2 Election of Offices. The officers of the Association may be elected by the Board of Directors at the organizational meeting of each new board or any board meeting thereafter, and shall hold office at the pleasure of the board.
- 4.3 Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his or her successor elected at any regular or special meeting of the Board of Directors.
- 4.4 President. The President shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association and of the Board of Directors. The President shall have all of the general powers and duties which are usually vested in the

office of president of an association, including, but not limited to, the power to appoint committees from among the Owners from time to time as he or she may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Association.

- 4.5 Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association; he or she shall have charge of such books and papers as the Board of Directors may direct; and he or she shall, in general, perform all the duties incident of the office of Secretary.
- 4.6 Treasurer. The Treasurer shall have responsibility for Association funds and securities not otherwise held by the managing agent, and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He or she shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors.
- 4.7 Directors as Officers. Any Director may be an officer of the Association.

ARTICLE 5 OBLIGATIONS OF THE OWNERS.

- 5.1 Assessments. All Owners are obligated to pay assessments imposed by the Association to meet all the Association's general common expenses as more particularly set forth in these Bylaws and in the Declaration. Assessments shall be payable on a periodic basis, not more frequently than monthly, as determined by the Board of Directors.
- 5.2 Operating Assessments. All operating assessments shall be payable monthly and shall be allocated equally among the Lots. The amount of operating assessment per Lot shall be determined by dividing the annual budget by the total number of Lots within Mountain Pines P.U.D.
- 5.3 Capital Improvement Assessments. The Association may purchase, construct or otherwise acquire additional equipment, facilities or other capital improvements for the general use and benefit of all the members of the Association, and for that purpose may impose a special assessment to be called a "Capital Improvement Assessment." Any such assessment shall be assessed to the Lots within Mountain Pines P.U.D. on the same formula as set forth in Section 5.2. No new Capital Improvement Assessment may be imposed under this section which, for any one

purchase, construction or other acquisition, or group of related purchases, constructions or other acquisitions, in the aggregate exceeds \$300 per Lot, unless approved by the vote or written consent of the Class B member, if any, and by not less than sixty percent (60%) of the votes of the Class A members who are voting in person, by absentee ballot or by proxy at a meeting duly called for the purpose of approving the Capital Improvement Assessment.

- 5.4 Reserve Account for Replacing Common Property. Declarant shall establish a reserve account which shall be called the "Common Property Reserve Account," and which will be kept separate and apart from all other funds of the Association. Except as provided below, the Common Property Reserve Account shall be used exclusively for replacement of items of common property which will normally require replacement, in whole or in part, in more than three and less than thirty years and not for regular or periodic maintenance expenses.

- a. Reserve Account Assessments. Not less often than annually, the Association shall inventory all items of common property which will normally require replacement, in whole or in part, in more than three and less than thirty years, and shall estimate the remaining life of each item of common property and the current replacement cost of each of such items. The Association may identify items for which reserve account assessment is required as those items which are insurable by a common carrier of all-purpose risk insurance. For the purpose of funding the Common Property Reserve Account, the Association shall impose an assessment to be called the "Common Property Reserve Account Assessment" against each Lot based on the total number of Lots. The total Common Property Reserve Account Assessment shall take into account the current replacement cost of each item of common property which has an estimated life of greater than three but less than thirty years and the estimated remaining life for such items of common property. Declarant shall not be required to pay any assessment under this Section assessed to a Lot owned by Declarant until such date as the Lot is conveyed by the Declarant to an unaffiliated party in an arms-length transaction.
- b. Loan From Common Property Reserve Account. After the turnover meeting described herein, the Association may borrow funds from the Common Property Reserve Account to meet high seasonal demands on the Association's regular operating fund or to meet other temporary expenses. Funds borrowed to meet high seasonal demands or temporary

expenses under this paragraph must be repaid from special or operating assessment within six month of the date such funds are borrowed.

- c. Increase, Reduction, or Elimination of Common Property Reserve Account Assessments. At any time after the second year after the turnover meeting described herein, future assessments for the Common Property Reserve Account may be increased, reduced or eliminated by the vote of Owners of Lots representing seventy-five percent (75%) of those entitled to vote.
- 5.5 Reallocation Upon Annexation or Withdrawal of Property. When additional property or phases are annexed to Mountain Pines P.U.D. the Association shall, within 60 days of the annexation, recompute the budget based upon the additional Common Areas and recompute assessments for each assessable Lot based upon the formula set forth herein. Assessments shall be due and payable on or before a date set forth in the notice which shall not be less than 30 days from the date that notice is mailed or at such other time or times set in accordance with this Declaration or the Bylaws as the Association may specify in the notice. To the extent that any adjustment results in a credit for an Owner, such credit shall be applied towards the next occurring payment or payments on the annual assessment.
 - 5.6 General Fund. The Association shall keep all monies that it may collect from assessments other than special assessments in a separate fund to be called the "general fund" and shall administer and account for the fund as provided in the Bylaws.
 - 5.7 Annual Accounting. Within a reasonable period of time following the close of each calendar year, the Association shall render to each Owner an accounting which shall set forth the amount and nature of all income and all disbursements during such year together with a statement of the assets and liabilities of the Association at the close of such year. The Association shall maintain records of all income and disbursements, which records shall be open to inspection by any Owner at any reasonable time during normal business hours.
 - 5.8 Special Assessments. The Board of Directors shall have the power to levy special assessments against an Owner or all Owners in the following manner for the following purposes:
 - 5.8.1 To correct a deficit in the operating budget by vote of a majority of the Board;

- 5.8.2 To collect amounts due to the Association from an Owner for breach of the Owner's obligations under the Declaration, these Bylaws, the ARC Guidelines or the Association's Rules and Regulations, by vote of a majority of the Board;
- 5.8.3 Upon vote of a majority of the Board of Directors, to make repairs or renovations to the Common Area, Private Ways and the improvements or facilities thereon if sufficient funds are not available from the operating budget or replacement reserve accounts; or
- 5.8.4 To make capital acquisitions, additions or improvements, by vote of at least seventy-five percent (75%) of all votes allocated to Lots in the Mountain Pines P.U.D.
- 5.8.5 Upon vote of a majority of the Board of Directors, to incur legal expense in defense of any litigation and to enforce any provision of the Declaration, Bylaws, ARC Guidelines, or the Association's Rules and Regulations.
- 5.9 Payment of Assessments. Unless otherwise provided herein, from the date of the conveyance of the first Lot to a person other than the Declarant, the Declarant shall:
 - 5.9.1 Pay assessments due for operating expenses on all unsold Lots; and
 - 5.9.2 Pay assessments due for reserves on all unsold Lots, or, at the Declarant's option, pay or require the Owner to pay all accrued reserve assessments against the Lot at the time of the initial sale to the Owner.
- 5.10 Default. Failure by an Owner to pay any assessment of the Association shall be a default by such Owner of his or her obligations pursuant to these Bylaws and the Oregon Planned Community Act. In addition to the interest which may be charged on delinquent assessments, the Board of Directors, at its option, may impose a late charge penalty in respect to any monthly assessment not paid within ten (10) days from the due date. Such penalty may not exceed the sum of ten percent (10%) of the monthly assessment. The Association shall be entitled to a lien which may be enforced upon compliance with the provisions of the Oregon Planned Community Act. 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 his or her Lot or shall be entitled to the appointment of a receiver. Any default

by the Owner in any provisions of these Bylaws or of the Oregon Planned Community Act shall be deemed to be a default by the Owner of any mortgage to which the Owner is a party or to which the Lot is subject.

5.11 Maintenance and Repair.

5.11.1 Except as otherwise specifically provided in the Declaration and Bylaws, every Owner must perform promptly all maintenance and repair work within his or her own Lot, which if omitted would affect the Common Property or Private Ways, and shall be responsible for the damages and liabilities that his or her failure to do so may cause.

5.11.2 All repairs of internal installations of each Lot, such as water, lights, gas, power, sewage, telephones, air conditioners and sanitary installations, doors, windows, lamps and all other accessories belonging to the Lot area shall be at the sole expense of the Owner of such Lot.

5.11.3 An Owner shall reimburse the Association for any expenditures incurred in repairing or replacing any Common Area or Private Ways and/or improvement or facility thereon damaged through his or her fault, not otherwise covered by insurance policies carried by the Association for the Owner's and Association's benefit.

5.12 Right of Entry; Encroachments; Easements for Maintenance.

5.12.1 In case of an emergency originating in or threatening his or her Lot, an Owner shall grant the right of entry to the management agent or to any other person authorized by the Board of Directors or the Association, whether the Owner is present at the time or not.

5.12.2 An easement is reserved to the Association in and through any Lot, Private Way and Common Area providing access at reasonable times and with reasonable notice for purposes of maintenance, repair and replacement of the Common Area and Private Ways and any improvement or facility thereon. If, in the process of such repair and maintenance by the Association, it is necessary to alter or damage any Lot, Private Way or Common Area, such alterations or damages will be permitted without compensation, provided the Lot and/or Private Way and/or Common Area are promptly restored to substantially their prior condition by the Association.

ARTICLE 6 USE AND OCCUPANCY RESTRICTIONS: RULES OF CONDUCT.

Failure by an Owner (his family, invitees or lessees) to comply with the rules of conduct and restrictions set forth in the Declaration, these Bylaws or others promulgated by the Board of Directors shall be cause for which the Board of Directors may deny or restrict such Owner's right to use any common facility with respect to which such Owner otherwise had a right of use. In addition to the restrictions and rules of conduct set forth in the Declaration, the following shall apply:

- 6.1 Use of the Common Areas and Private Ways. No Owner shall place or cause to be placed on any portion of the Common Areas or Private Ways any trash, structure, equipment, improvement, furniture, package or object of any kind. Such areas shall be used for no purpose other than what is normal.
- 6.2 Additional Rules. Rules and Regulations concerning other use of the property subject to the Declaration for Mountain Pines P.U.D. may be made and amended from time to time by the Board of Directors. Copies of such rules and regulations will be furnished to all Owners and residents of the Mountain Pines P.U.D., upon request;

ARTICLE 7 INSURANCE

The Board of Directors shall obtain and maintain at all times insurance of the type and kind and in the amounts hereinafter provided, and including insurance for such other risks of a similar or dissimilar nature as are or shall hereafter customarily be covered with respect to other planned communities similar in construction, design and which insurance shall be governed by the provisions in this numbered section.

- 7.1 Types of Insurance Policies. For the benefit of the Association and the owners, the Board of Directors shall obtain and maintain at all times, and shall pay for out of the common expense funds, the following insurance to the extent available at reasonable cost:
 - 7.1.1 A policy or policies of property insurance including, but not limited to, fire, extended coverage, vandalism and malicious mischief, for the full insurable replacement value, if available, of Common Property and Private Ways, and such other liability and casualty insurance as the Board of Directors

shall determine to be necessary for the operation, maintenance and protection of Mountain Pines P.U.D.

- 7.1.2 A policy or policies insuring the Association, its Board of Directors, the owners individually, and the manager against any liability to the public or the owners and their invitees or tenants, incident to the ownership, supervision, control or use of Mountain Pines P.U.D. Limits of liability under such insurance shall be not less than \$1,000,000 per occurrence for bodily injuries and property damage liability. Such limit and coverage shall be reviewed at least annually by the Board of Directors which may increase the limit of and/or coverage, in its discretion. Said policy or policies shall be issued on a comprehensive liability basis and shall provide cross liability endorsements wherein the rights of the named insured under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured.
- 7.1.3 Workers' compensation insurance to the extent necessary to comply with any applicable laws.
- 7.1.4 A fidelity bond naming such persons as may be designated by the Board of Directors as principals and the Association and the owners as obligees, for the amount determined by the Board of Directors. Provided, however, the Board of Directors shall require that all officers and employees of the Association handling or responsible for Association funds obtain adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

The Association shall not be responsible for any loss or damage to personal property of any owner, whether stored on the common property or on the Owner's Lot, nor shall the Association maintain any insurance coverage for such loss.

- 7.2 Insurance Companies Authorized. All policies shall be written by a company licensed to do business in Oregon and holding a "Commissioner's rating" of "A+" and a size rating of "AAA," or better, by Best's Insurance Reports, or as may be otherwise acceptable to all mortgagees and directors.
- 7.3 Provisions in Insurance Policies. The Board of Directors shall make every effort to secure insurance policies that will provide for the following:
 - 7.3.1 A waiver of subrogation by the insurer as to any claims

against the Board of Directors, the manager, the owners and their respective servants, agents and guests.

- 7.3.2 A provision that the master policy on Mountain Pines P.U.D. cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual owners.
- 7.3.3 A provision that the master policy on the Mountain Pines P.U.D. cannot be canceled, invalidated or suspended on account of the conduct of any officer or employee of the Board of Directors or the manager without prior demand in writing that the Board of Directors or manager cure the defect.
- 7.3.4 A provision that any "no other insurance" clause in the master policy exclude individual owners' policies and not otherwise prevent such individual policies from providing coverage for damage to Lots, Private Ways or Common Areas.

ARTICLE 8 AMENDMENT

Except as otherwise provided in this Article, and the restrictions set forth elsewhere herein, these Bylaws may be amended at any time by an instrument approved by at least a majority 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, no amendment of the Bylaws may effect an amendment of the Declaration or the Articles of Incorporation without compliance with the provisions of such documents and the Oregon Nonprofit Corporation Act. Provided further no amendment deleting or affecting any right of the Declarant may be adopted without the prior written consent of the Declarant.

ARTICLE 9 RECORDS AND AUDITS

- 9.1 General Records. The Board of Directors and the managing agent or manager, if any, shall preserve and maintain minutes of the meetings of the Association, the Board and any committees. The Board of Directors shall maintain a list of Owners entitled to vote at meetings of the Association and a list of all mortgagees of Lots. The minutes of the Association, the Board and committees, and the Association's financial records shall be reasonably available for review and copying by the Owners. A reasonable charge may be imposed by the Association for providing copies.

- 9.2 Records of Receipts and Expenditures. The Board of Directors or its designee shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Areas and Private Ways, itemizing the maintenance and repair expenses of the Common Areas and Private Ways and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available for examination by the Owners and mortgagees at convenient hours of weekdays.
- 9.3 Assessment Roll. The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Lot. Such account shall designate the name and address of the Owner or Owners, the amount of each assessment against the Owners, the dates and amounts in which the assessment comes due, the amounts paid upon the account and the balance due on the assessments.
- 9.4 Payment of Vouchers. The Treasurer shall pay all vouchers up to \$1,000 signed by the President, managing agent, manager or other person authorized by the Board of Directors. Any voucher in excess of \$1,000 shall require the signature of the President. Provided, however, any withdrawal from reserve accounts shall require the signature of two board members or one board member and an officer of the Association who is not a board member.
- 9.5 Reports and Audits. The Board of Directors shall prepare or cause to be prepared an annual report of the receipts and expenditures of the Association and a balance sheet and income and expense statement setting forth the financial condition of the Association as of the end of each year. The report shall be prepared according to generally accepted accounting procedures and shall be distributed to all Owners and to all mortgagees of Lots within ninety (90) days after the end of each fiscal year. At any time any Owner or mortgagee may, at his or her own expense, cause an audit or inspection to be made of the books and records of the Association.
- 9.6 Notice of Sale, Mortgage, Rental or Lease. Immediately upon the sale, mortgage, rental or lease of any Lot, the Owner shall promptly inform the Secretary or manager of the name and address of said vendee, mortgagee, lessee, or tenant.

ARTICLE 10 COMPLIANCE

These Bylaws are intended to comply with the provisions of the Oregon Planned Community Act, which are incorporated herein and to supplement the provisions in the Declaration for the Mountain Pines P.U.D. In case any of the provisions hereof conflict with the provisions of said statutes,

the statutory provisions shall apply. In case of any conflict between the provisions hereof and the Declaration, the provisions in the Declaration shall apply.

ARTICLE 11 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 he or she 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 attorney fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by said person in connection with such suit, action or proceeding if he or she acted in good faith, and in a manner he or she 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 his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or with a plea of no contest or its equivalent, shall not of itself create a presumption that a person did not act in good faith and in a manner which he or she 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 his or her 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, should it be proven at a later time that said 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.

ARTICLE 12 ASSESSMENT COLLECTION COSTS; SUITS AND ACTIONS

Owners shall be obliged to pay reasonable fees and costs including, but not limited to, attorney fees incurred in connection with efforts to collect any delinquent unpaid assessments, charges, fines or fees. In addition to the monthly assessment for operating expenses and the funding of reserves, such assessments may include fees, late charges, fines and interest imposed pursuant to ORS 94.630(4)(j)-(L). In the event suitor action is commenced by the Directors for the collection of any amounts due pursuant to these Bylaws or for the enforcement of any provisions of

the Declaration, Bylaws, ARC Guidelines, Rules and Regulations or of the Oregon Planned Community Act, the Owner or Owners, jointly and severally, will in addition to all other obligations, pay the costs of such suit or action, including reasonable attorney fees to be fixed by the trial court and, in the event of an appeal, the cost of the appeal, together with reasonable attorney fees in the appellate court to be fixed by such court.

ARTICLE 13 MISCELLANEOUS

- 13.1 Notices. 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 any Owner shall be sent to such address as may have been designated by him or her from time to time, in writing, to the Board of Directors, or if no address has been designated, then to the Owner's Lot.
- 13.2 Waiver. No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.
- 13.3 Invalidity; Number; Captions. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws. Provided, however, that if any of the provisions of these Bylaws 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. As used herein, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

It is hereby certified that these Bylaws have been adopted by Heritage West, L.L.C., an Oregon Limited Liability Company, Declarant of Mountain Pines P.U.D., and will be recorded in the Deed Records of Deschutes County, together with the Declaration for said Planned Community, after said Declaration and Bylaws are approved by the Assessor of said County.

DATED this 23 day of May, 2001.

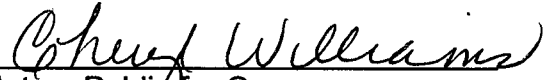
2001-24413-53



R. Scott Smith, President
Heritage West, L.L.C.

STATE OF OREGON)
) ss.
County of Deschutes)

The foregoing instrument was acknowledged before me this 23rd day of May, 2001, by R. Scott Smith, President, Heritage West, L.L.C.



Notary Public for Oregon



2001-24413-54

MOUNTAIN PINES P.U.D. HOMEOWNERS ASSOCIATION

ARCHITECTURAL GUIDELINES

**Architectural Rules and Guidelines,
Submittal Form, Construction Agreements, and Checklists**

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I. DEFINITIONS

Improvements. Improvements as used in this document means structures and alterations made to a residential lot and shall include but not be limited to buildings, outbuildings, private roads, driveways, parking areas, fences and barriers, retaining walls and stairs, decks, hedges, windbreaks, planting, planted trees and shrubs, signs, storage areas and all other structures or exterior landscaping, vegetation or ground cover of every type and every kind above the land surface.

Alteration. The term alteration shall include the exterior modification of any structures (including changes in color), changes in topographical surface of the lot, new planting, or the cutting and/or removal of existing shrubs, trees, and ground cover.

Homeowner. The term homeowner shall mean the person(s) who is/are the legal owner(s) of a lot located within Mountain Pines P.U.D. For the purpose of this document, the terms "Homeowner", "Property Owner", and "Applicant" are considered to be synonymous.

Other Terms. All other terms used herein shall have the same meaning as set forth in Section 1 of the Declaration of Covenants, Conditions and Restrictions for the Mountain Pines P.U.D.

II. DUTIES OF THE ARCHITECTURAL REVIEW COMMITTEE (ARC)

Responsibilities

The ARC is responsible for the review of plans for construction and modifications for the development of Mountain Pines P.U.D. and for the modifications and promulgation of its rules governing the use and maintenance of lots/home sites, the construction of improvements, and the alteration of such improvements, thereon. Furthermore, this responsibility will be discharged in a manner consistent with the direction and policies set by the Board of Directors of the Association.

Members

The ARC shall consist of five persons who shall be appointed by the Board of Directors of the Mountain Pines P.U.D. Homeowners' Association, which may remove or replace any or all of the ARC members at its discretion.

A list of the current ARC members may be obtained from

Cheryl Williams - First American Title - Bend

Action

Any three members of the ARC shall have the power to act on behalf of the committee.

Notification of Approval

Upon final Construction/Alteration approval, the ARC will issue a letter to the applicants notifying them of such approval and will return one set of the submitted plans with a signed approval. Per Article III, Section 1, the applicant shall then be responsible for submitted the approved plans to the appropriate agencies for plan review, permits, and other applicable local requirements.

Disputes and Enforcement

In the event that an unresolvable dispute arises between a Homeowner and the ARC regarding the ARC's interpretation of the Rules and Guidelines, the ARC will notify, in writing, both the Board of Directors as well as the affected Homeowner of its recommendation(s). The Board of Directors will then decide, on behalf of the Homeowners' Association, what course of action it desires to take, if any, with respect to enforcement or resolution of the dispute.

Liabilities

Neither the ARC nor the members thereof shall be liable to any property owner(s) for any damages, loss or prejudice suffered or claimed on account of any action or failure to act by the ARC or any members thereof, provided that the ARC or the members thereof, in accordance with actual knowledge possessed by them, have acted in good faith.

III. RESPONSIBILITIES OF THE HOMEOWNER(S)

Permits, Inspections, and Surveys

1. Permits and Inspections

The Applicant(s) is/are responsible for obtaining all required permits from the appropriate local jurisdictions prior to the start of any construction. Furthermore, the ARC will expect that all required inspections will be performed and that the completed construction and/or alteration meets all pertinent codes.

2. Surveys

The Applicant(s) is/are responsible for obtaining a survey of the lot prior to applying for the ARC approval for either new construction or alteration of existing improvement(s) and for locating the improvements on the lot in compliance with all applicable setbacks and restrictions. The ARC will accept no responsibility for encroachments occurring as a result of construction/alteration being improperly located.

Construction Supervision

The Applicant(s) is/are responsible for the supervision of all new construction and alteration projects taking place on their property. Specifically, the applicants are responsible for notifying the contractors and all sub-contractors of the following construction requirements.

1. The speed limit within Mountain Pines P.U.D. is 25 miles per hour. Speeding will not be tolerated.
2. Outside construction hours are 7:30 AM to 6:00 PM.
3. Noise levels are to be minimized before 8:00 AM and after 5:00 PM.
4. Construction site pets are to be restrained at all times.
5. Exterior site "pick-up" should occur daily.

Familiarity

The ARC expects that all applicants, architects, and contractors are familiar with and have thoroughly reviewed the Architectural Guidelines in their entirety prior to the submittal process.

Completion Time and Penalties

Time is of the essence with respect to all exterior construction and alterations. Please note that all approvals, except for landscaping, are valid for a period of one (1) year and it is expected that all exterior construction or alterations, including construction cleanup and site restoration, will be completed within the one (1) year period.

Owners will be assessed a penalty of \$50.00 for each working day which passes between the time the approval expires and project completion, as determined by the ARC. The ARC may extend or renew approvals when extenuating circumstances exist, provided that the request for extension is made prior to the expiration of the original approval.

Landscaping construction approval is valid for a period of one (1) year after the completion of all other exterior construction.

IV. ARCHITECTURAL RULES AND GUIDELINES

1. Fundamental Guidelines

a. Architectural Styles

The selected design shall compliment the topography of the lot and the overall theme of Mountain Pines P.U.D. in such a manner that the finished product will not visually or physically dominate nearby lots and their improvements. Acceptable designs will tend to blend in with their surroundings and include lodge style or rustic style elements in their exterior elevations. Lodge Accents shall be incorporated into the front elevations, including front porches, of all homes. Log, hewn timbers, timbers and exposed log or timber trusses are strongly encouraged as elements of front elevations.

Extreme styles, such as Colonial, Mediterranean, Victorian, Ultra-Modern, or others which are generally inconsistent with the prevailing style found throughout Mountain Pines P.U.D. are not likely to be approved.

b. Size of the Home

Minimum square footage of living space shall be 1800 square feet for two-story and 1400 square feet for single-level, exclusive of garages or porches, except for homes located within Phase 3 (at southern end of Mountain Pines, P.U.D.) which shall have a minimum square footage of living space of 1500 square feet for two-story and 1200 square feet for single-level, exclusive of garages and porches. Maximum size of the home shall be dictated by the size of the lot and/or the home's location on the lot. If, at the time of Preliminary Approval (Article V, Section 1), the size of the home appears to be inappropriate, the ARC is authorized to request a re-design of the project.

c. Garages

Unless specifically waived by the ARC due to mitigating circumstances, garages must connect with the house by a short roof or screen (30") or be a part of the house itself. The design and appearance of the garage shall match that of the house. Garage doors visible from the street shall receive additional attention to detail in finish façade color and trim so as to be an additional lodge accent and not a dominant white raised panel metal door. Carports are prohibited. Basketball backboards require ARC approval and must be painted to match the house color.

d. Buildable Area, Building Height, and Intrusion on Adjacent Property

d. Buildable Area, Building Height, and Intrusion on Adjacent Property

All structures must be designed and located in such a way as to minimize visual intrusion on adjacent property, wherever possible. No new structures or exterior alteration shall be designed in such a manner as to obstruct the view of a pre-existing home if design and location options exist to mitigate the obstructing conditions.

These three sub-sections shall not be misconstrued in any manner which would unreasonably restrict design and construction of any new or remodeled structure so long as it is designed and built in accordance with these guidelines.

2. Accessory Buildings

Only buildings to be used as temporary construction shelter may be erected on a lot prior to construction of the main residence building(s). Any such temporary structure shall be removed within thirty (30) days after completion of the residence and they may not be used as temporary residences during the construction period without the specific approval of the ARC. Structures such as dog houses, tool sheds, etc., which are not permanent require ARC approval.

3. Adjacent Private Property

Adjacent property may not be used for access to any construction site, unless specifically approved in writing by the adjacent property owner. Adjacent property may also not be used as a parking lot by any contractor or subcontractor working on the lot. Any damage to adjacent property is the responsibility of the applicant.

4. Vinyl, Wood, or Cladwood

Window, door frames, and skylights must be of such color as to blend in with the siding material. Other finishes or colors are not likely to be approved. Skylights shall be treated to eliminate reflective glare.

5. Chimneys

All exterior chimney(s) must be made of wood, stone, or metal. A metal chimney must be of such color as to blend aesthetically with the residence.

6. Drainage

The existing drainage on each lot should be carefully considered when locating an improvement/addition. The natural drainage pattern should be preserved, if at all possible.

7. Driveways

Driveway cuts onto Mountain Pines P.U.D. roads shall be limited to one per lot, unless otherwise approved by the ARC. Driveway widths shall be limited to one car width where possible and the amount of paved areas exposed to view from adjacent properties and roads shall be kept to a minimum. Driveways shall be of asphalt. Driveway edge trim of rock, brick or pavers is encouraged.

8. Duplication

Duplication of exterior designs is strongly discouraged and will be approved only under mitigating circumstances.

9. Excavation and Fill

All excavation and fill must be done so as to create a minimum disturbance to the site. All unused dirt and debris resulting from excavation must be removed from the site unless it is to be incorporated within the landscaping.

10. Exterior Colors

Exterior colors must harmonize with the surrounding landscape and all colors are subject to approval by the ARC. Earth-tone exterior colors are required on all structures. The use of natural wood colors and finishes is strongly encouraged. Colors which would tend to stand out from the prevailing background colors are not likely to be approved. Please refer to Section 1 of this Article for an overview of this issue.

All reflective metal such as chimney stacks, flashing, exhaust vents, and pipes must be painted to match or blend with surrounding materials. All such colors are also subject to approval by the ARC.

11. Exterior Colors and Material Treatment(s) - Consistency

Exterior color and material treatment used on the improvement's walls shall be continuous on all elevations of the improvement (minor trim detail excepted) in order to achieve a uniform and complete architectural design and to avoid a "veneer" or "busy" appearance. Natural looking exterior wood finish is strongly encouraged.

12. Exterior Lighting

All exterior lighting is to meet the City of Bend exterior lighting code. All exterior lighting plans are to be submitted with the appropriate application form, and are to be incorporated into Landscaping Plan. Exterior lighting which can be

seen from the roads and/or neighboring lots must be indirect (i.e., the actual light sources shall not be visible). Decorative and/or landscape lighting, if any, shall be minimal and require specific approval by the ARC. Colored light sources are discouraged.

13. Exterior Walls and Trim

Exterior siding shall be of double wall construction with the exception of simulated board and bat. T-1-11 siding is prohibited. Colors shall be earth-tone only. The following materials are approved for use in exterior walls and trims.

- a. Wood
 - (1) Natural or treated with earth-tone stains or paints.
 - (2) Plywood siding is prohibited, except in a board and batt simulation.
 - (3) In general, a mix of siding application (i.e., horizontal, vertical, and diagonal) is prohibited.
- b. Brick
- c. Local Stone and River Rock
- d. Stucco
- e. Other – as specifically approved by the ARC

14. Fencing

Fences are strongly discouraged, but may be considered under mitigating circumstances. A fence is defined as a structural barrier which separates one space from another to define property boundaries or which is constructed for ornamental purposes. Fences shall be made of wood or a combination of wood and river rock, not higher than five feet above grade, and shall be connected to the house structure. See fence diagram attached.

15. Grading

All grading shall conform to the natural contours of the lot, to the maximum extent possible, and shall be consistent with the approved landscape plan.

16. Gutters and Down-spouts

All gutters and downspouts shall be designed as a continuous architectural design feature. Exposed gutters and downspouts shall be colored to blend in with the surface to which they are attached.

17. Heating and Cooling Systems

All exterior elements of heating and/or cooling systems must be screened from the view of neighboring properties and roads. The preferred method of screening shall be simple landscaping. Also, they must be insulated to reduce noise transmission to acceptable levels at adjoining properties.

18. Hillside Lots

Exposed under-structures of improvements constructed on hillside lots are prohibited. Siding material must extend to within 8 inches of the finished grade. Skirt walls higher than 4 feet to the finish floor shall have landscaping to reduce the scale of the skirt wall(s).

19. Maintenance

Each property owner is required to keep his land and all improvements in good repair and attractive condition. If the ARC notifies a property owner that maintenance or repairs are necessary to bring a lot and its improvements into compliance with this section, the owner shall have one (1) year to effect such maintenance or repairs, subject to the provisions of Article IX.

a. Repainting and/or Re-staining

Repainting or re-staining must be approved by the ARC unless the existing color is to be re-applied; however, if the original paint is non earth-tone, the applicant must go through the approval process and it is unlikely that the ARC will approve the re-application of the original color.

b. Re-roofing

Re-roofing must be approved by the ARC unless the existing material and color is to be re-applied to less than one-third (1/3) of the original roof area, in which case no application submittal or fee are necessary. Please refer to Section 24 of this Article for details.

No fee is required for re-roofing and the only submittal required is a sample of the new material in the color to be used.

20. Manufactured/Prefabricated Housing

Manufactured/Prefabricated Housing is not appropriate for Mountain Pines P.U.D. and will not be allowed.

21. Parking

A minimum of two parking places shall be required for each residential lot. Parking must be in an enclosed carport, garage, or an area adequately screened from neighboring properties and roads. Additional parking for visitors, if any, shall be paved with the same material as the driveway, or graveled for adequate drainage and natural appearance.

Camping trailers, campers, boats, boat trailers, and utility trailers must be parked as to be largely, if not completely, concealed from view of neighboring properties and roads. Trucks and/or cars not used for regular transportation, or which are under repair for extended periods must be garaged or completely concealed from view from neighboring properties and roads.

22. Pets and Pet Structures

Due to the closed-in nature of Mountain Pines P.U.D. and the small lot sizes, outdoor pets other than dogs and cats are prohibited. Dogs must be leashed or restrained from unsupervised wandering from their homes at all times. Dogs that "nuisance bark" will be required to be kept indoors at night.

The ARC exhorts dog owners to use invisible "electronic fencing" in the place of traditional dog runs and no approval is necessary for the installation of such a system. Prior ARC approval is necessary, however, for fenced-in dog runs or other outdoor pet structures and "chain link" type fencing will not be allowed except where totally concealed from other home sites or roads.

23. Roof Material

All roof materials shall be, at a minimum, at a grade equal to 30 year Owens Corning Dimensional Composition, shall be fire resistant or "fire-proof" in accordance with the Oregon State fire code Class "B" rating. Untreated shake or shingle are not permitted. This rule applies for all new construction and for any alteration (including re-roofing) where more than one-third (1/3) of the original roof, of that improvement, is to be replaced. Therefore, in the even that a re-roofing of more than one-third (1/3) of the original roof is to be accomplished, the entire roof, of that improvement, must be brought up to the new fire standards.

Colors are to be earth-tone only. The following materials are approved for use:

- a. Treated shake and shingle *

- b. Slate
- c. Concrete tiles
- d. "Architectural 80" composition shingles or equivalent – as approved by the ARC
- e. Other – as approved by the ARC

* The ARC highly recommends that no roofing products be used that have less than a Class "A" fire rating. However, in the event that treated shake or shingle is selected, the ARC assumes no responsibility for the increased flammability of such products nor the failure, by the homeowner, to adequately maintain the fire resistant quality of such products.

24. Satellite Dishes

Satellite dishes are strongly discouraged. The ARC will, however, consider allowing a dish to be installed on a lot where the dish can be screened from any other property within Mountain Pines P.U.D., irrespective of vantage point. The ARC will not allow the installation of a satellite dish where significant structural screening (other than simple landscaping) is required to achieve concealment from other Mountain Pines P.U.D. properties or roads.

25. Service Yards

When not provided by other structures, each residence shall have a screened service yard enclosing garbage and trash containers, clothes drying apparatus, bicycles, outdoor maintenance equipment, burning cans, etc. None of these shall be placed where they can be seen from neighboring lots and/or roads unless they are adequately screened via decorative landscaping. Firewood must be stacked neatly or screened from view.

26. Solar Devices/Heating Systems

Solar devices/heating systems not visible from neighboring properties and/or Mountain Pines P.U.D. roads do not require ARC approval. However, devices/heating systems visible from neighboring properties and/or Mountain Pines P.U.D. roads must have specific ARC approval and, if allowed, shall be treated to eliminate reflective glare. Proposed solar heating systems are to be shown on the Building Elevations (see Article VIII, Checklists).

27. Solar Encroachment

Any planting that interferes with the existing use of solar energy on an adjacent property is prohibited.

28. Staging Area

Each Construction Approval submittal shall designate at least one staging area for a lot, subject to prior approval by the ARC.

29. Street Number Indicators

All residences shall have an approved street number indicator that is easily viewed from the road. Approved indicators are available from the Homeowners Association at no charge.

30. Utilities

All connections from trunk lines to individual structures must be underground. Exposed plumbing and electrical lines are not allowed. Electrical meters must be recessed and boxed in. All areas of excavation for site utility must be restored to their natural state unless they are to be incorporated within the landscaping design.

31. Wells

Wells and other independent water systems are prohibited without the consent of the ARC.

V. SUBMITTAL AND APPROVAL PROCEDURES

1. NEW CONSTRUCTION SUBMITTAL

A. Preliminary Approval

(1) Purpose:

The purpose will be to allow the ARC to comment on the overall design at the earliest stages and for the ARC to advise the applicant of changes that may be requested before any significant amounts of time and money have been expended.

If, however, the ARC is presented with completed, or essentially completed design and construction documents at the Preliminary Approval stage which are in conflict with any part of this Document, the ARC will assume no responsibility for the costs associated with a re-design of the project.

Additionally, Preliminary Approval shall not be deemed to be approval for the construction of the improvement.

B. Requirements

(1) Meeting:

The Applicant and the Designer/Architect are to meet with the ARC to discuss the conceptual design, the location of the improvements, and how to best mitigate their impact on adjoining properties and views.

(2) String Layout:

A string layout which depicts the property line and the footprint of all proposed improvements in their proposed location(s) is to be provided.

(3) Documents (3 sets):

(a) Site Plan:

Please refer to Article VIII, Checklists, for detail.

(b) Building Elevations:

Four simple elevations shall be submitted. They shall indicate the elevations of the proposed improvements, as depicted by the string layout. The purpose of this document is to ascertain the "view impact" on adjoining properties.

(c) Landscaping Plan:

A formal landscape plan is not required for preliminary approval, unless the design necessitates substantial terrain changes (e.g., terracing, extensive retaining walls, etc.).

(4) Review Period:

Once the meeting has occurred, the string layout performed and the preliminary documents have been received by the ARC, there will be a 30 calendar day period during which the ARC will seek comments by the other affected property owners.

(5) Preliminary Approval Notification:

At the end of the 30 day review period, the ARC will notify the applicant(s) of the approval of their preliminary design concept or

of the general changes that will be necessary to procure such approval.

C. Construction Approval

(1) Purpose

Before any improvement may be constructed on Mountain Pines P.U.D., the owner must obtain a construction approval letter from the ARC. The purpose of this section is to set forth the requirements for obtaining such an approval.

(2) Requirements

(a) Preliminary Approval:

The applicant has applied for and received preliminary approval and has submitted all required documents.

(b) Final Construction Documents (3 sets):

i. Site Plan.

A final site plan shall be submitted. Please refer to Article VIII, Checklists, for details.

ii. Floor Plan.

A floor plan shall be submitted. Please refer to Article VIII, Checklists, for details.

iii. Building Elevations.

Four final elevations shall be submitted. Please refer to Article VIII, Checklists, for detail. Additionally, an architectural rendering may be required in order to project final "views" from neighboring properties.

iv. Landscaping Plan.

A formal landscape plan is required for final construction approval. Please refer to Article VIII, Checklists, for details.

In deference to the extreme fire hazard in our area, the ARC recommends that the minimum landscaping consist of no less than:

- aa. Clearing the lot of all dead material within 60 feet of any improvement (including trees).
- bb. Clearing all undergrowth and brush within 30 feet of all structures.
- cc. Planting fire resistant plants and/or lawn within the cleared area(s).
- dd. Installing an automatic irrigation system.

(3) Fee:

A fee of \$200 shall be submitted, of which \$100 may be refunded after the final inspection and approval of the finished improvement(s) by the ARC.

(a) Samples:

Samples of all exterior colors and roofing material are required at this time.

(b) String Layout:

The applicant shall be responsible for providing a final string layout on the lot which depicts the property lines, the proposed building(s), the driveway and the onsite parking.

(c) Review Period:

Once the submittal has been made, there will be a 14 calendar day period during which the ARC will seek final comments by other affected property owners.

(d) Approval Notification:

At the end of the 14 day review period, the ARC will notify the applicant(s), in writing, of the approval of their construction application or of the specific changes that will be necessary to procure such approval.

(e) Inspection:

Submittal of the application is authority for the ARC, at its discretion, to make physical on-site inspections of the lot and the proposed improvements. In addition, the applicant shall be responsible for notifying the ARC of when construction of the proposed improvement is complete, at which time the ARC shall again make an inspection to verify compliance with the plan as submitted.

(f) Expiration of Date of Approval:

The construction approval shall be valid for a period of one year, with the exception of landscape work, at which time it shall expire. Please refer to Article IV, Section 31.

(4) Alteration Approval

(a) Purpose:

Before any alteration to a lot or its improvements may be undertaken in Mountain Pines P.U.D., the owner must obtain the prior approval of the ARC. The purpose of this section is to set forth the requirements for obtaining such an approval.

(b) Requirements:

i. Documents (3 sets of items a-d):

aa. Site Plan

A site plan shall be submitted with the same detail as for construction approval (Please refer to Article VIII, Checklists) and it shall include the proposed alteration(s) as shown on the applicable subdivision plat.

bb. Floor Plan

A floor plan shall be submitted with the same detail as for construction approval (Please refer to Article VIII, Checklists) and it shall indicate the total square footage of the proposed alteration(s) together with the existing improvements.

cc. Building Elevations

Four elevations shall be submitted with the same detail as for construction approval (Please refer to Article VIII, Checklists) and they shall indicate the elevations of the proposed alteration(s), together with the existing improvements, as situated on the owner's lot. Additionally, an architectural rendering may be required in order to project final "views" from neighboring properties.

dd. Landscaping Plan

If applicable, a formal landscape plan like that required for construction approval shall be submitted, indicating the alterations or modifications to be made.

(c) Fee:

A fee of \$100 shall be submitted, of which \$50 may be refunded after final inspection and approval of the finished improvement by the ARC.

(d) String Layout:

The same conditions apply as for construction approval.

(e) Review Period:

The same conditions apply as for construction approval.

(f) Approval Notification:

The same conditions apply as for construction approval.

(g) Expiration Date of Approval:

The same conditions apply as for construction approval.

(h) Inspection:

The same conditions apply as for construction approval.

VI. MOUNTAIN PINES P.U.D. ARCHITECTURAL REVIEW COMMITTEE (ARC)**SUBMITTAL FORM AND APPLICATION**

Type of Submittal New Construction () Alteration ()

Property Owner(s) _____

Address _____

_____ Telephone () _____

Architect/Designer _____ Telephone () _____

Contractor _____ Telephone () _____

Lot # and Address _____ / _____

Square Footage of Home _____

Square Footage of Addition _____

The ARC, as provided for in the Declarations, Restrictions, Protective Covenants and Conditions, exists at Mountain Pines P.U.D. to maintain high standards for design development and for the use of homes and property. When a property owner desired to construct or alter an improvement, application to the ARC is to be made using this form.

PROCEDURE FOR OBTAINING ARC CONSTRUCTION APPROVAL

1. Complete this form and the appropriate Construction Agreement.
2. Complete the required documents per the Submittal and Approval Procedures (See Article V). Please refer to the Checklists (Article VIII).
3. Deliver the completed package, along with the appropriate fee, to one of the ARC members or send it to the ARC,
_____, Bend, OR 977____.

VII. MOUNTAIN PINES P.U.D. ARCHITECTURAL REVIEW COMMITTEE (ARC)

1. CONSTRUCTION AGREEMENT – NEW CONSTRUCTION

As a prospective homebuilder, I/we have read the current ARC DOCUMENT, of which this agreement is an integral part, in its entirety, and fully understand the requirements of this construction submittal.

Enclosed is the construction deposit fee of \$200.00, \$100.00 of which will be refunded upon satisfactory final inspection by a representative of the ARC, provided that all terms and conditions of the Declaration, Bylaws, ARC Guidelines and Rules and Regulations have been complied with.

Any change in the exterior from an approved submittal must be resubmitted to the ARC for approval.

I/we assume responsibility for any and all damage done by the contractor and sub-contractor(s) to adjacent lots and common area(s) of my/our property.

SIGNATURES
(All Owners' signatures required)

DATE _____

LOT NUMBER _____

TAX NUMBER _____

VII. MOUNTAIN PINES P.U.D. ARCHITECTURAL REVIEW COMMITTEE (ARC)

2. CONSTRUCTION AGREEMENT - ALTERATION

As a Mountain Pines P.U.D. property owner(s) requesting an alteration to the improvement(s) on the Lot and Tax Lot #'s indicated below, I/we have read the current ARC Guidelines, of which this agreement is an integral part, in its entirety and fully understand the requirements of this construction submittal.

Enclosed is the construction deposit fee of \$100.00, \$50.00 of which will be refunded upon satisfactory final inspection by a representative of the ARC, provided that all terms and conditions of the Declaration, the Bylaws, the ARC Guidelines and the Rules and Regulations have been complied with.

Any change in the exterior from an approved submittal must be resubmitted to the ARC for approval.

I/we assume responsibility for any and all damage done by the contractor and sub-contractor(s) to adjacent lots and common area(s) of my/our property.

SIGNATURES
(All Owners' signatures required)

DATE _____

LOT NUMBER _____

TAX NUMBER _____

VIII. CHECKLISTS

The following is a list of items which must be included, where applicable, in the ARC submittals and will be considered by the ARC prior to the approval of any proposed new construction or alteration. These checklists do not need to be returned with the application.

A. SITE PLAN – 3 SETS

- Check _____ 1. Minimum Scale: 1" = 20' 0"
- _____ 2. North Arrow
- _____ 3. Property Lines
- _____ 4. Improvement locations (house, carport, garage, decks, pool/Jacuzzi, etc.)
- _____ 5. Topography
- _____ 6. Setbacks and Easements
- _____ 7. Driveway and Parking (indicate materials)
- _____ 8. Tree Locations – existing
- _____ 9. Privacy Screening and/or Service Yard
- _____ 10. Utility Line Connections (electric, water, telephone, and sewer)
- _____ 11. Construction Staging and Access Areas
- _____ 12. Temporary Structures

B. FLOOR PLAN(S) – 3 SETS

- Check _____ 1. Minimum Scale: 1/4" = 1' 0"
- _____ 2. North Arrow
- _____ 3. Walls and Partitions
- _____ 4. Door and Window openings
- _____ 5. Stairways

- _____ 6. Decks and Porches
- _____ 7. Electric Meter Locations (recessed base and approved enclosure required)
- _____ 8. Trash Receptacles (locations, access and how screened)
- _____ 9. Type and Location of Heating/Cooling Systems
- _____ 10. Exterior Lights (those attached to the improvement)

C. ELEVATIONS: ALL FOUR SIDES – 3 SETS

- Check _____ 1. Minimum Scale: $\frac{1}{4}'' = 1'0''$
- _____ 2. Door and Window Openings
- _____ 3. All Exterior Building Features (roof, siding, chimneys, railings, trims, foundations, etc.)
- _____ 4. Note All Materials and Finishes (include samples)
- _____ 5. Exterior Lights (those attached to the improvement)
- _____ 6. VERY IMPORTANT: Show the proposed improvement's floor line and finish grade of the site

D. LANDSCAPE PLANS – 3 SETS

- Check _____ 1. Minimum Scale: $1'' = 2'0''$
- _____ 2. North Arrow
- _____ 3. Property Lines
- _____ 4. Improvement locations (house, carport, garage, decks, pool/Jacuzzi, etc.)
- _____ 5. Existing Contours
- _____ 6. Proposed Changes in Contours
- _____ 7. Note Walk and Other Outdoor "Floor" Locations and Materials

- _____ 8. Location and Specifications of All Unattached Lighting Fixtures
- _____ 9. Location of all existing large trees (4"+ diameter), shrubbery, etc., that are to be removed. Please identify these trees and plants with surveyor tape.
- _____ 10. Location and Specification of All Proposed NEW Planting.

E. OUTLINE OF SPECIFICATIONS AND PROCEDURES TO BE USED IN CONSTRUCTION

1. Provisions for Construction Period

- a. Temporary structures (what and where)

- b. Temporary toilet facilities

- c. Location of staging and storage areas

- d. Measures to be taken to protect topography

2. Site Work

- a. Walks and roads (materials)

- b. Planting (materials)

3. Foundation

a. Type

b. Materials

4. Exterior masonry

a. Type

b. Location

5. Exterior metals

a. Type

b. Location

6. Exterior wood

a. Siding (species, grade, pattern)

b. Trim (species, grade)

c. Exposed framing (species, grade)

7. Roof construction

a. Material

b. Flashing (materials and type)

c. Skylights (type and location)

8. Provisions for Construction Period

a. Doors (materials and finish)

b. Windows (materials and finish)

9. Exterior painting and staining (include actual wood samples)

a. Siding

b. Trim

c. Metals

10. Exterior light fixture (include specifications)

11. Heating/Cooling system (include type, location and if specifying the use of solar or other exterior equipment, including heat pumps, please so indicate)

12. Estimated completion date (all exterior work including cleanup)

IX. SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of these Architectural Guidelines is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portion of these Guidelines.

X. NONWAIVER

Consent by the ARC to any matter proposed to it or within its jurisdiction, or failure by the ARC to bring to a homeowner's attention his violation of these Guidelines, shall not be deemed to constitute a precedent or waiver impairing the ARC's right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent or to bring to a homeowner's attention any subsequent or similar violation of these Guidelines.

XI. NONCONFORMING USES

If any owner shall have any improvement located on a home site which is not in compliance with these Guidelines as adopted or hereafter amended, even though said improvement existed prior to the adoption of these Guidelines, the owner shall have one (1) year from the date of notification by the ARC to comply with these Guidelines, provided, however, that each owner shall not be required to expend more than one-half of one percent (0.5%) of the true cash value of his property as determined by the Deschutes County Assessor per violation if said non-complying improvement existed prior to the adoption of these Guidelines or prior to the adoption of any applicable amendment to these Guidelines.

2001-24413-81

DATED THIS 23 DAY OF May, 2001.

Mountain Pines P.U.D.

By: [Signature]

STATE OF OREGON)
) ss.
County of Deschutes)

The foregoing instrument was acknowledged before me this 23rd day of
May, 2001, by R. Scott Smith, member of
Heritage West, LLC, an Oregon corporation on behalf of the corporation.



[Signature: Cheryl Williams]
Notary Public for Oregon
My Commission Expires: 3-15-02