

91-10123

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DECLARATION OF PROTECTIVE
COVENANTS, CONDITIONS
AND RESTRICTIONS OF
VALLEYVIEW

STATE OF OREGON)
COUNTY OF DESCHUTES) SS.

I, MARY SUE PENHOLLOW, COUNTY CLERK AND
RECORDER OF CONVEYANCES, IN AND FOR SAID
COUNTY, DO HEREBY CERTIFY THAT THE WITHIN
INSTRUMENT WAS RECORDED THIS DAY:

91 APR 17 AM 11:43
MARY SUE PENHOLLOW
COUNTY CLERK

BY.  DEPUTY

NO. 91-10123 FEE 100

DESCHUTES COUNTY OFFICIAL RECORDS

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DECLARATION OF PROTECTIVE COVENANTS
CONDITIONS AND RESTRICTIONS
FOR
VALLEYVIEW

THIS DECLARATION is made this 12th day of April 1991
by STEVEN TRONO, SUCCESSOR to REDMOND LAND CO., an Oregon corporation, hereinafter
called "Declarant".

WITNESSETH:

Declarant owns eighty-five percent of that real property which is platted as "VALLEYVIEW", in the City of Redmond, Deschutes County, Oregon. This plat was filed on September 26, 1986, in Book C-210 of the Plat of Records of Deschutes County, Oregon.

Declarant desires to subject the property described in such plat to the conditions, restrictions and charges set forth herein for the benefit of such property and its present and subsequent owners, and to establish such property as a planned development to be known as "VALLEYVIEW".

NOW, THEREFORE, Declarant hereby declares that the property described in the plat of VALLEYVIEW shall be held, sold and conveyed subject to the following easements, covenants, restrictions and charges, 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.

ARTICLE I

DEFINITIONS

As used in this Declaration, the terms set forth below shall have the following meanings:

1.1 "Association" means the nonprofit corporation to be formed to serve as an Owners' association as provided in Article VI hereof, and its successors and assigns.

1.2 "COMMON AREAS" means those lots or tracts designated as common or open space on the Plat of the property including any improvements thereon; but excluding those areas designated as public streets and right-of-ways. Common areas will also include easement areas as defined herein and lots converted to common areas as provided in Section 3.3 below.

1.3 "Common Easement Areas" Green Belt being that portion serviced by the Association Irrigation System and to include all off street parking pads.

1.4 "Declarant" means VALLEYVIEW, INC., an Oregon Corporation, and its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from Declarant for the purpose of development.

1.5 "Eligible Mortgage Insurer or Guarantor" means an insurer or governmental guarantor of a first mortgage on a Lot who has requested notice of certain matters from the Association in accordance with Article X below.

1.6 "Eligible Mortgage Holder" means the holder of a first mortgage on a Lot who has requested notice of certain matters from the Association in accordance with Article X below, but shall not include a contract vendor.

1.7 "Lot" means numerically designated and platted lot within the Property, with the exception of any tract or lot marked on the plat as being common or open space.

1.8 "Mortgage" means a mortgage or a deed of trust; "mortgagee" means a mortgagee or a beneficiary of a deed of trust; "mortgagor" means a mortgagor or a grantor of a deed of trust.

1.9 "Owner" means the person or persons, including Declarant, owning any Lot in the Property, but does not include a tenant or holder of a leasehold interest or a person holding only a security interest in a Lot. 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 not discharge an Owner from obligations incurred prior to termination.

1.10 "The Property" means the property described in Article II below.

1.11 "Sold" means that legal title has been conveyed or that a contract of sale has been executed under which the purchaser has obtained the right to possession.

1.12 "This Declaration" means all of the easements, covenants, restrictions and charges set forth herein, together with any rules or regulations promulgated hereunder, as the same may be amended or supplemented from time to time in accordance with the provisions hereof.

1.13 "Unit" means a building or a portion of a building located upon a Lot within the Property and designated for separate occupancy as a dwelling, together with any entry or rear court yard enclosed by a fence constructed by Declarant or with the approval of the Board of Directors or the Architectural Committee.

ARTICLE II

PROPERTY SUBJECT TO THESE COVENANTS

Declarant hereby declares that all the real property described below is owned and shall be owned, conveyed, hypothecated, encumbered, used, occupied and improved subject to this Declaration:

All that certain real property located in the City of Redmond, Deschutes County, Oregon, in that certain plat entitled "VALLEYVIEW" filed in the Plat Records of Deschutes County, Oregon, on the 26th day of September, 1986, in Book C-210 of Plats.

ARTICLE III

DESCRIPTION OF PROPERTY; CONVERSION AND CONSOLIDATION OF LOTS

3.1 Number of Lots and Units. The Property contains 122 Lots and not more than 122 Units.

3.2 Common Facilities. Declarant does not agree to build any improvements on the Common Areas other than as required by the City of Redmond or shown on any landscape plan approved by the City of Redmond, but may elect, at Declarant's option, to build additional improvements.

3.3 Conversion of Lots to Common Areas. Declarant may elect to build common facilities on one or more Lots and designate such Lots as Common Areas by a declaration recorded in the Deed Records of Deschutes County, Oregon. Such declaration shall be executed by Declarant, as Owner of the Lots, and bear a certificate of the President or Secretary of the Association reciting that the holders of a majority of the voting rights in the Association have approved such conversion to Common Areas.

3.4 Consolidation of Lots. Declarant, as owner of two or more lots may elect to consolidate such lots into a lesser number of lots for the creation of more suitable building sites. The consolidation shall be effected by Declarant recording in the Deed Records of Deschutes County, Oregon a declaration stating that the lots are consolidated. Such consolidation shall have the following effects: (a) each lot so created shall be considered an individual lot for all purposes of this declaration, including voting rights, and (b) the newly created lot, or lots, may be used for the construction of only one Unit on each lot so created.

ARTICLE IV

PROPERTY RIGHTS IN COMMON AREAS

4.1 Owner's Easements of Enjoyment. Subject to the provisions of this Article, every Owner and his invitees shall have a right and easement of enjoyment in and to the Common Areas, which easement shall be appurtenant to and shall pass with the title to every lot.

4.2 Parking. All parking areas in the Common Easement Areas, other than driveways, shall be used only by temporary guests of Owners, and not by the Owners themselves and under such conditions as may be established by the Board of Directors of the Association from time to time. No vehicle shall be permitted to park on a street right-of-way within the Property for a period of 48 hours without prior written permission from the Association. Driveways within Common Easement Areas shall be for the exclusive use of Owners and occupants of Units served by each respective driveway.

4.3 Title to the Common Areas. Title to the Common Areas, except Common Easement Areas, shall be conveyed to the Association by Declarant free and clear of liens and encumbrances prior to the date on which Class B membership in the Association ceases and is converted to Class A membership. Title to Common Easement Areas, subject to the easements set forth in this Declaration, shall pass to the owners of the respective Lots within which such areas are located.

4.4 Extent of Owners' Rights. The right and easements of enjoyment in the Common Areas created hereby shall be subject to the following and all other provisions of this Declaration:

(a) **Easements.** Declarant grants to the Association for the benefit of the Association and all Owners of Lots within the Property the following easements over, under and upon the Common Areas, including the Common Easement Areas:

i. An easement on all Common Areas for underground installation and maintenance of power, gas, electric, water and other utility and communication lines and services installed by Declarant and any such easement shown on any plat of the Property.

ii. An easement for construction, maintenance, repair and use of Common Areas, including common facilities thereon.

iii. An easement for the purpose of making repairs to existing structures.

So long as Declarant owns any Lot, Declarant reserves an easement under, over and across the Common Areas in order to carry out sales and rental activities necessary or convenient for the sale and rental of Units, including, without limitation, the right to use the Units owned by Declarant as model units, and the right to use one Unit as a sales office.

Declarant or the Association may grant or assign such easements to municipalities or other utilities performing utility services and to communications companies, 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 the Property.

(c) Trailers, Campers, Boats, etc. Except with the consent of the Architectural Review Board, no trailer, truck camper, boat or boat trailer, or other recreational vehicle, or motorcycle shall be left outside unless sight screening is provided as approved by the Architectural Review Board. Vehicles in excess of three-quarter (3/4) ton in weight or motor vehicles not operated in daily family use shall not be parked on the property except in a garage, no such trailer or truck camper shall be used as a residence temporarily or permanently on any portion of the Property.

(d) Vehicles in Disrepair. No owner shall permit any vehicle which is in an extreme state of disrepair to be abandoned or to remain parked upon any Unit or on the Common Area or on any street for a period in excess of forty-eight (48) hours. A vehicle shall be deemed to be in an "extreme state of disrepair" when in the opinion of the Association, its presence offends the occupants of the neighborhood. Should any Owner fail to remove such vehicle within five (5) days following the date on which notice is mailed to him by the Association, the Association may have the vehicle removed from the Property and charge the expense of such removal to the Owner in addition to the assessments made upon him in accordance with this Declaration.

(e) Signs. No signs shall be placed or kept on any Unit or Common Areas, other than signs identifying the Unit or stating the name of the occupant or the address of the Unit, except that in the event an Owner wishes to advertise his Lot for sale or lease he may do so, provided that he shall use for that purpose a single sign provided by or approved by the Association Board of Directors, or its representative.

(f) Animals. No animals or fowls shall be raised, kept or permitted within the Property or any part thereof, except domestic dogs, cats, or other household pets kept within a Unit. No such dogs, cats or pets shall be permitted to run at large nor shall be kept, bred or raised for commercial purposes or in unreasonable numbers. Any inconvenience, damage or unpleasantness caused by such pets shall be the responsibility of the respective owners thereof. All dogs shall be kept on a leash while outside a Unit. An Owner may be required to remove a pet upon receipt of the third notice in writing from the Association Board of Directors of violations of any rule, regulation or restriction governing pets within the Property.

(g) Appearance. No Unit shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other wastes shall not be kept except in sanitary containers awaiting pickup. All incinerators or other equipment for the storage or disposal of such material shall be in a clean and sanitary condition. The landscape of each Unit shall be maintained in first-class condition. All garbage, trash, cuttings, refuse, and garbage containers shall be screened from view from the Common Areas in a manner approved by the Board of Directors of the Association or its representative. Should any Owner fail to remove any trash, rubbish, garbage, yard takings or other such materials from any Unit or any street or Common Area where deposited by him within ten (10) days following the date on which notice is mailed to him by the Association, it may have such materials removed and charge the expense of such removal to the Owner in addition to the assessments made upon him in accordance with this Declaration.

(h) Antennas and Service Facilities. Exterior antennas which rise more than five feet over the roof ridge of a Unit shall not be permitted to be placed upon the roof of any structure except as permitted by the Board of Directors. Satellite receiver discs for television transmissions are prohibited. Clotheslines and other service facilities shall be screened so as not to be viewed from any street or Common Area.

(i) Exterior Lighting or Noisemaking Devices. Except with the consent of the Association Board of Directors, or its representative, and except for exterior lighting originally installed by the Declarant, no exterior lighting or noisemaking devices shall be installed or maintained on any Unit. Owners shall not tamper with exterior lighting installed by Declarant.

(j) Curtains, Drapes and Blinds. Any window dressings, including but not limited to curtains, drapes and blinds, shall show a surface to the exterior which is consistent with the exterior color of the Unit.

(k) Architectural Review by Committee. No building, addition, other structure, solar device or fence shall be commenced, erected or maintained upon the property, nor shall any exterior addition to or change or alteration therein be made until the plans, specifications showing the nature, kind, shape, materials and location of the same shall have been submitted to and been approved in writing as to the harmony of external design and location in relation to the surrounding structures and topography by an Architectural Committee composed of three or more representatives appointed by the Board. No building, addition or other structure shall be more than one story in height unless it can be determined that such structure will not encumber the view of another unit within VALLEYVIEW. In the event the Architectural Review Committee fails to approve such design and location within 60 days after said plans and specifications have been submitted to it, or in any event, if no suit or action to enjoin the addition, alteration or change has been commenced prior to the completion thereof approval of the committee will not be required and this provision will be deemed to have been fully complied with. Such approval shall not be required for improvements installed by Declarant.

(l) Insurance. Nothing shall be done or kept in any Unit or Common Area which will increase the cost of insurance on the Units or Common Areas. No Owner shall permit anything to be done or kept in his Unit or in the Common Areas which will result in cancellation of insurance on any Unit or any part of the Common Areas.

(m) Leases. All leases of 30 days or more shall be by written lease agreement, which shall provide that the terms of the lease shall be subject in all respects to the provisions of this declaration and the Articles of Incorporation and the Bylaws of the Association, and that any failure by the lessee or tenant to comply with the terms of such document shall be default under the lease. If the Board of Directors finds that a tenant has violated any provision of said documents or the rules and regulations, the Board may require the owner to terminate such lease or rental agreement. Other than the foregoing, there shall be no restrictions on the right of any Owner to lease or rent his Unit.

(n) Association Rules and Regulations. In addition, the Association from time to time may adopt, modify, or revoke such rules and regulations governing the conduct of persons and the operation and use of the Units and the Common Areas as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. A copy of the rules and regulations, upon adoption, and a copy of each amendment, modification or revocation thereof, shall be delivered by the Association Board of Directors promptly to each Owner and shall be binding upon all Owners and occupants of all Units from the date of delivery. The method of adoption of such rules shall be as provided in the Bylaws of the Association.

5.2. Encroachments. Each Unit and all Common Areas shall have an easement over all adjoining Units and Common Areas for the purpose of accommodating any present or future encroachment as a result of engineering errors, construction, reconstruction, repairs, settlement, shifting, or movement of any portion of the Property, or any other similar cause, and any encroachment due to building overhand or projection. There shall be valid easements for the maintenance of the encroaching Units and Common Areas so long as the encroachments shall exist, and the rights and obligations of Owners shall not be altered in any way by the encroachment. The encroachments described in this paragraph shall not be construed to be encumbrances affecting the marketability of title to any Unit. Nothing in this section shall relieve an Owner of liability in the case of the Owner's willful misconduct or shall relieve Declarant or any other person of liability for failure to adhere to the plat of the Property.

5.3 Party Walls. Each wall which is built as a part of the original construction of the dwellings within the Property and placed upon the dividing line between Units shall constitute "party wall", and the following provisions shall apply:

(a) General Rules of Law to Apply. The general rules of law of the State of Oregon regarding party walls and of liability for property damage due to negligence or willful acts or omissions shall apply to all such party walls, to the extent such rules are not inconsistent with the provisions of this section.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use. The word "use" as referred to in this section means ownership of a dwelling unit or other structure which incorporates such wall or any part thereof. Either Owner sharing a party wall may cause such repairs and maintenance and seek contribution of the portion of the cost attributable to other owners using the party wall.

(c) Destruction by Fire or Other Casualty. If the party wall is destroyed or damaged, then the Association shall restore it to the extent of the Association's insurance proceeds. In the event such damage is not covered by the Association's insurance policy, any Owner who has used the wall may restore it and if the other Owners thereafter make use of the wall, they shall contribute to the cost of such restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rules of law regarding liability for negligent or willful acts or omissions.

(d) Weatherproofing. Notwithstanding any other provision of this Section 5.3, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements, shall bear the cost of furnishing the necessary protection against such elements to the extent such cost is not covered by the Association's insurance policy.

(e) Right to Contribute Runs with Land. The right of any Owner to contribution from any other Owner hereunder shall be appurtenant to the land; shall pass to such Owner's successors in title; and shall also be the personal obligation of the Owner owning a Unit at the time such costs are incurred.

(f) Arbitration. In the event of any disputes arising concerning a party wall, or under the provisions of the Section 5.3, the Board of Directors of the Association shall act as arbitrators and their decisions shall be final.

ARTICLE VI

ASSOCIATION

Declarant shall organize an association of all of the Owners within the Property. Such Association, its successors and assigns, shall be organized under the name "Valley View Homeowners Association, Inc." or such similar name as Declarant shall designate, and shall have such property, powers and obligations as are set forth in this Declaration for the benefit of the Property and all Owners of property located therein.

6.1 Organization. Declarant shall, before the first Lot is conveyed to an Owner, organize the Association as a nonprofit corporation under the general nonprofit corporation laws of the State of Oregon. The Articles of Incorporation of the Association shall provide for its perpetual existence, but in the event the Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. In that event all of the property, powers and obligations of the incorporated Association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated association, and such vesting shall thereafter be confirmed as evidenced by appropriate conveyances and assignments by the incorporated Association. To the greatest extent possible, any successor unincorporated association shall be governed by the Articles of Incorporation and Bylaws of the Association as if they had been made to constitute the governing documents of the unincorporated association.

6.2 Membership. Every Owner of one or more Lots within the Property shall, immediately upon creation of the Association and thereafter during the entire period of such Owner's ownership of one or more Lots within the Property, 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.

6.3 Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for any Lot owned. 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.

Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. 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 have been sold and conveyed to Owners other than Declarant; or
- (b) The expiration of five (5) years after the closing of the sale of the first Lot to an Owner.

6.4 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 and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Oregon.
- (c) 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 the Property.

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 changed in the Articles of Incorporation or Bylaws of the Association made in accordance with instruments and with the nonprofit corporation laws of the State of Oregon.

6.5 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.

6.6 Interim Board; Turnover Meeting. Declarant shall have the right to appoint an interim board of three directors, 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 of the Association for the purpose of turning over administrative responsibility for the Property to the Association not later than one hundred twenty (120) days after termination of the Class B membership as provided in Section 6.3 above. At the turnover meeting the interim directors shall resign and their successors shall be elected by the Owners as provided in the Bylaws of the Association.

ARTICLE VII

MAINTENANCE, MANAGEMENT AGREEMENT, UTILITIES

7.1 Maintenance. The Association shall provide exterior lighting for and perform all maintenance upon the Common Areas and the improvements located thereon, including but not limited to grass, trees, walks, entrance gates, parking areas, trails and parcourse.

7.2 Street Lights. The Association shall be responsible for monthly payments to the CITY OF REDMOND for the cost of providing street lighting. Such cost shall be in accordance with the terms of the agreement between the CITY and the DECLARANT dated October 13, 1987.

7.3 Entrance. The Association shall be responsible for maintenance of the landscape divider, the entrance gate and the paving stones at the entrance from 37th Street.

7.4 Management Agreements and Service Contracts. The Association may enter into a management agreement with a professional management firm either alone or in a common management arrangement with other owners of associations in the area. Any such management agreement shall be terminable by the Association for cause upon thirty (30) days' written notice and the term of any such agreement may not exceed one year, renewable by agreement of the parties for successive one-year periods.

7.5 Contracts Entered into by Declarant or Prior to Turnover Meeting. Notwithstanding any other provision of this Declaration, any leases or contracts (including management contracts, service contracts and employment contracts) entered into by the Declarant or the Board of Directors on behalf of the Association prior to the turnover meeting described in Section 6.6 above shall have a term of not in excess of three years. In addition, any such lease or contract shall provide that it may be terminated without cause or penalty by the Association or Board of Directors upon not less than thirty (30) nor more than ninety (90) days' notice to the other party given at any time after the turnover meeting described in Section 6.6 above.

7.6 Condemnation. If any portion of the Common Areas is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, notice of the proceeding or proposed acquisition shall promptly be given to each Owner and to each mortgagee and any eligible mortgage insurer or guarantor. The Association shall represent the Owners in any condemnation proceeding or in negotiations, settlements, and agreements with the condemning authority for acquisition of any portion of the Common Areas and each Owner appoints the Association to act as his other attorney-in-fact for such purposes. All compensation, damages or other proceeds of the taking of Common Areas shall be payable to the Association. Proceeds shall first be applied to restore or repair any remaining Common Area, including a structure on Common Area, which may be required to permit the continued enjoyment of such Common Area. Thereafter, the Association shall deposit such sums in the Maintenance Fund or apply these sums to such capital improvements as shall be authorized pursuant to Sections 8.2 and 8.3 of this declaration.

7.7 Damage or Destruction by Casualty. In the event of damage or destruction which affects a material portion of the project, timely written notice shall be given to the Owners and their mortgagees and any eligible mortgage insurer or guarantor, and the following provisions shall apply:

(a) In the event of damage or destruction by casualty of structures erected on the Common Areas, the damage or destruction shall be repaired, reconstructed, or rebuilt unless, within fourteen (14) days of such damage or destruction, the Board of Directors or more than ten percent (10%) of the Owners shall have requested a special meeting of the Association. Such special meeting must be held within sixty (60) days of the date of damage or destruction. At the time of such meeting, unless Owners holding eighty percent (80%) of the voting power, whether in person, by writing, or by proxy, with the approval of mortgagees if and as required by this Declaration, vote not to repair, reconstruct or rebuild the damaged property, the damage or destruction shall be repaired, reconstructed or rebuilt, with the work commencing as soon as reasonably possible. In the event any portion of the insurance proceeds paid to the Association are not used to repair, reconstruct or rebuild the damaged or destroyed Common Areas, the association shall deposit such sums in the Maintenance Fund or apply these sums to such capital improvements as shall be authorized pursuant to Sections 8.2 and 8.3 of this Declaration. If the insurance proceeds are not sufficient to pay the entire cost the Board of Directors, if necessary, may assess the Owner of each Unit such additional amounts as required to pay the cost of restoration.

(b) If, due to act or neglect of an Owner or a member of his or her family of his or her household pet or of a guest or other unauthorized occupant or visitor of such Owner, damage shall be caused to the Common Areas or maintenance, damage shall be caused to the Common Areas or maintenance, repairs, or replacements shall be required which would otherwise be a common expense, then such Owner shall pay for such damage and such maintenance, repairs or replacements as may be determined by the Association, to the extent not covered by the Association's insurance

ARTICLE VIII

ASSESSMENTS8.1 Regular Assessments

8.1.1 Amount of Assessment. 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 maintenance costs and future needs of the Association, any previous overassessment and any common profits of the Association. The budget shall provide for a reserve fund as described in Section 8.3 below, and such additional reserve or contingency funds as the Board deems necessary. The method of adoption of the budget shall be provided in the Bylaws. The Board shall assess each Unit equally, except that no assessment shall be levied upon any Unit until it is ready for occupancy.

8.1.2 Initial Contribution to Working Capital. At the time of closing of the initial sale of each Lot, the purchaser shall make an initial contribution to the working capital of the Association equal to two months of regular Association assessment for one Unit. Such initial contribution shall in addition to the regular monthly common expense assessment. Such sum shall be paid to the Association and placed in a segregated account for the purpose of insuring that the Association will have cash to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board of Directors. At any time following the turnover meeting described in Section 6.6 above, the Board of Directors may elect to pay the remaining balance of the working capital account, or any portion of that account, to any other account or accounts maintained by the Association free of any restrictions imposed by this paragraph.

8.1.3 Commencement of Regular Assessments. Regular monthly assessments for the common operation expenses and reserves for Units shall commence on the closing of the first sale of a lot in the project, except that Declarant may elect to defer the commencement of assessments as to all Units until the sale of fifty percent (50%) of the lots in the project has closed. If Declarant so elects to defer commencement of assessments, Declarant shall pay and be responsible for all common operating expenses as they occur, without cost or operating expense assessments to the other owners, until regular assessments commence. Declarant shall give 10 days written notice to owners prior to commencement of regular assessments. Any lot sold by Declarant on which a Unit is not immediately constructed shall be subject to monthly maintenance fees, said fees to include only those costs necessary for landscape, materials, utilities, management and Liability Insurance.

8.2 Capital Improvement Assessments. The Association may elect to 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 levied equally against all of the Units within the Property. Any action by the Association pursuant to this section shall be effective only if approved by the vote or written consent of the Class B member, if any, and not less than seventy-five percent (75%) 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 this purpose.

8.3 Maintenance Reserve Fund. The Declarant shall establish a reserve account for replacement of those items to be maintained by the Association all or a part of which will normally require replacement in more than three (3) and less than thirty (30) years. Such reserve account shall be funded by assessments against the individual Units assessed for maintenance of the items for which the reserve account is being established. The assessments under this section being accruing against each Unit from the date the first Unit in the Property is conveyed, or upon the date such Unit becomes ready for occupancy, whichever is later. The Declarant may defer payment of the accrued assessments for a Unit until the Unit is conveyed. The amount assessed shall take into account the estimated remaining life of the items for which the reserve is created and the current replacement cost of such items. The reserve account shall be established in the name of the Association and shall be adjusted at regular intervals to recognize changes in current replacement costs over time. The reserve account shall be used only for replacement of common property and shall be kept separate from assessments for maintenance. After the

turnover meeting described in Section 6.6, however, the Board of Directors may borrow funds from the reserve account to meet high seasonal demands on the regular operating funds or to meet other temporary expenses which will later be paid from special assessments or maintenance fees. Nothing in this section shall prohibit prudent investments of the reserve account. Following the second year after the turnover meeting, future assessments for the reserve account may be reduced, eliminated or decreased by an affirmative vote of not less than seventy-five percent (75%) of all voting rights in the Association. Assessments paid into the reserve account are the property of the Association and are not refundable to sellers or Owners of Units. Sellers of the Units, however, may treat their outstanding share of the reserve account as a separate item in any sales agreement.

8.4 Uniform Rate Assessment. Both regular and special assessments must be fixed at a uniform rate for all Units subject to assessment and may be collected on a monthly basis, except that any common expense benefiting fewer than all of the Units may be assessed exclusively against the Units benefitted, and any common expense which is clearly the fault of any Owner may be assessed exclusively against such Owner to the extent not covered by the Association's insurance.

8.5 Maintenance Fund. The Association shall keep all funds received by it as maintenance assessments, together with any other funds received by it pursuant to this Declaration which are by the terms of this Declaration to be deposited in the Maintenance Fund, separate and apart from its other funds, in an account to be known as the "Maintenance Fund". The Association shall use such fund exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Property and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and of the Units situated upon the Property, including but not limited to:

- (a) Payment of the cost of maintaining and repairing the Common Areas, lighting, the entrance and other signs and other facilities designed to serve the general benefit of the Owners.
- (b) Payment of the cost of insurance as described in the Bylaws of the Association.
- (c) Payment of taxes assessed against the Common Areas and any improvements thereon.
- (d) Payment of the cost of water service, sewer service, and garbage and trash disposal for the Common Areas or commonly billed.
- (e) Payment of the cost of other services which the Association deems to be of general benefit to the Owners, including but not limited to accounting, legal and secretarial services.
- (f) In the event any condemnation of a portion of the Common Areas should result in a surplus in the Maintenance Fund not needed for payment of the other items described in this section, such surplus shall be divided by the number of Units within the Property and such amounts paid equally to the holder of any first mortgage or deed of trust on each Unit, or if none, to the Owner of the Unit.

8.6 Creation of Lien and Personal Obligation of Assessments. Declarant, for each Lot owned by it within the Property, 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 by 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 Association Bylaws. Such assessments and charges, together with any interest, expenses or attorneys' fees imposed pursuant to Section 9.6, shall be a charge on the land and shall be a continuing lien upon the Lot and Unit against which each such assessment or charge is made. Such assessment, 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 in Article IX below.

ARTICLE IX

ENFORCEMENT

9.1 Use of Common Areas. In the event any Owner shall violate any provision of the Declaration, the Bylaws of the Association or other rules adopted by the Association governing the use of Common Areas, then the Association, acting through its Board of Directors, shall notify the Owner in writing that the violations or nuisances exist and that he is responsible for them, and may, after reasonable notice and opportunity to be heard do any or all of the following: (a) suspend his voting rights and right to use the Common Areas for the period that the violations or nuisances remain unabated, or for any period not to exceed sixty (60) days for any infraction of its rules and regulations, (b) impose reasonable fines upon the Owner, in the manner and amount the Board deems appropriate in relation to the violation, which fines shall be paid into the Maintenance Fund, or (c) bring suit or action against such Owner to enforce this Declaration. Nothing in this section, however, shall give the Association the right to deprive any Owner of access to and from his Unit.

9.2 Nonqualifying Improvements and Violation of General Protective Covenants. In the event any Owner constructs or permits to be constructed on his Unit an improvement contrary to the provisions of this Declaration, or causes or permits any provisions of this Declaration to remain uncorrected or unabated on his Unit, then the Association acting through its Board of Directors shall notify the Owner in writing of any such specific violations of this Declaration and shall require the Owner to remedy or abate the same in order to bring his Unit, the improvements thereon and his use thereof into conformance with this Declaration. If the Owner is unable, unwilling or refuses to comply with the Association's specific directives for remedy or abatement, or the Owner and the Association cannot agree to a mutually acceptable solution within the framework and intent of this Declaration, after notice and opportunity to be heard and within sixty (60) days of written notice to the Owner, then the Association acting through its Board of Directors, shall have the right to any or all of the following:

(a) Impose reasonable fines against such Owner in the manner and amount the Board deems appropriate in relation to the violation.

(b) Enter the offending Unit and remove the cause of such violation, or alter, repair or change the item which is in violation of this Declaration in such a manner as to make it conform thereto, in which case the Association may assess such Owner for the entire cost of the work done, which amount shall be payable to the Maintenance Fund, provided that no items of construction shall be altered or demolished in the absence of judicial proceedings or

(c) Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration.

9.3 Default in Payment of Assessments; Enforcement of Lien. If an assessment or other charge levied under this Declaration is not paid within thirty (30) days of its due date, such assessment or charge shall become delinquent and shall bear interest from the due date at the rate set forth below. In such event the Association may exercise any or all of the following remedies:

(a) The Association may suspend such Owner's voting rights and right to use the Common Areas until such amounts plus other charges under this Declaration, are paid in full and may declare all remaining periodic installments of any annual assessment immediately due and payable. In no event, however, shall the Association deprive any Owner of access to and from his Unit.

(b) The Association shall have a lien against each Lot for any assessment levied against the Unit located on such 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 of 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 sale, and may acquire and hold, lease, mortgage and convey the Lot.

(c) The Association may bring an action to recover a money judgement for unpaid assessments, fines and charges under this Declaration without foreclosing or waiving the lien described in paragraph (b) above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

(d) The Association shall have any other remedy available to it by law or in equity.

9.4 Notification of First Mortgagee. The Board of Directors shall notify any first mortgagee of any individual Lot of any default in performance of this Declaration by the Lot Owner which is not cured within sixty (60) days.

9.5 Subordination of Lien to Mortgagee. The lien of the assessments or charges provided for in this Declaration shall be subordinate to the lien of any mortgage or deed of trust on such Lot which was made in good faith and for value and which was recorded prior to the recordation of the notice of lien. Sale or transfer of any Lot shall not affect the assessment lien, but the sale or transfer of any Lot which is subject to any mortgage or deed of trust pursuant to a decree of foreclosure thereunder or any deed or proceeding, deed or assignment in lieu of foreclosure shall extinguish any lien of an assessment notice of which was recorded after the recording of the mortgage or trust deed. Such sale or transfer, however, shall not release the Lot from liability for any assessments or charges thereafter becoming due or from the lien of such assessments or charges.

9.6 Interest, Expenses and Attorney's Fees. Any amount not paid to the Association when due in accordance with this Declaration shall bear interest from the due date until paid at a rate three percentage points per annum above the prevailing Portland, Oregon prime rate at the time, or such other rate as may be established by the Board of Directors, but not to exceed the lawful rate of interest under the laws of the State of Oregon. A late charge may be charged for each delinquent assessment in an amount established from time to time by resolution of the Board of Directors of the Association not to exceed thirty percent (30%) of such assessment. In the event 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 of Directors of the Association. In the event the Association shall bring any suit to action to enforce this Declaration, or to collect any money due hereunder or to foreclose a lien, the Owner-defendant shall pay to the Association all costs and expenses incurred by it in connection 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 attorneys' fees at trial and upon any appeal or petition for review thereof.

9.7 Nonexclusiveness of Accumulation of Remedies. An election by the Association to pursue any remedy provided for violation of this Declaration shall not prevent concurrent or subsequent exercise of another remedy permitted hereunder. The remedies provided in this Declaration are not exclusive but shall be in addition to all other remedies, including actions for damages and suits for injunctions and specific performance, available under applicable law to the Association. In addition, any aggrieved Owner may bring an action against another Owner or the Association to recover damages or to enjoin, abate, or remedy any violation of this Declaration, by appropriate legal proceedings.

ARTICLE X

APPROVAL BY MORTGAGEES

10.1 Notice of Action. Upon written request to the Association identifying the name and address of the holder, insurer or guarantor and the Lot number of address of the mortgaged Lot, any such eligible mortgage holder or eligible mortgage insurer or guarantor shall be entitled to timely written notice of the following:

(a) Any condemnation or casualty loss which affects a material portion of the Property or affects any Lot on which there is a first mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible mortgage insurer or guarantor, as applicable.

(b) Any default in the performance of any obligations under this Declaration or the Bylaws or any delinquency in the payment of assessments or charges owned by an Owner of a Lot subject to a first mortgage held, insured or guaranteed by such eligible mortgage holder or eligible mortgage insurer or guarantor, which remains uncured for a period of sixty (60) days.

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Any proposed action which would require consent of a specified percentage of eligible mortgage holders as required by this Article.

10.2 Other Provisions for Eligible Mortgage Holders. To the extent permitted by Oregon law, eligible mortgage holders shall be afforded the following rights:

(a) Any restoration or repair of the Common Areas and Units after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Declaration and the original plans and specifications, unless other action is approved by eligible holders holding mortgages on Lots which have at least fifty-one percent (51%) of the voting rights of the Lots subject to eligible holder mortgages.

(b) Any election to terminate the legal status of the Property after substantial destruction or a substantial taking in condemnation of the Property shall require the approval of eligible holders holding mortgages on Lots which have at least fifty-one percent (51%) of the voting rights of Units subject to eligible holder mortgages.

(c) When professional management has been previously required by any eligible mortgage holder or eligible mortgage insurer or guarantor, whether such entity became an eligible mortgage holder or eligible mortgage insurer or guarantor at that time or later, any decision to establish self-management by the Association shall require the prior consent of Owners of Lots to which at least sixty-seven percent (67%) of the voting rights in the Association are allocated and the approval of eligible holders holding mortgages on Lots which have at least fifty-one percent (51%) of the voting rights of Lots subject to eligible holder mortgages.

10.3 Termination and Amendment to Documents.

10.3.1 The consent of Owners holding at least sixty-seven percent (67%) of the voting rights and the approval of eligible holders holding mortgages on Lots which have at least sixty-seven percent (67%) of the voting rights of Lots subject to eligible holder mortgages, shall be required to terminate the legal status of the project as a planned unit development project.

10.3.2 Except when a greater percent is required by this Declaration, Articles of Incorporation or Bylaws, and except when a different percent is required by law, the consent of the Owners of Lots holding at least sixty-seven percent (67%) of the voting rights in the Association and the approval of eligible holders holding mortgages on Lots which have at least fifty-one percent (51%) of the voting rights of the Lots subject to eligible holder mortgages, shall be required to add or amend any material provisions of this Declaration, the Articles of Incorporation or Bylaws which establish, provide for, govern or regulate any of the following:

- (a) Voting;
- (b) Assessments, assessment liens or subordination of such liens;
- (c) Reserves for maintenance, repair and replacement of the Common Areas or Units;
- (d) Insurance or fidelity bonds;
- (e) Rights to use the Common Areas;

- (f) Responsibility for maintenance and repair of the several portions of the Property;
- (g) Expansion or contraction of the Property or the addition, annexation or withdrawal of property to or from the Property;
- (h) The boundaries of any Unit;
- (i) The interests in the Common Areas;
- (j) Convertibility of Units into Common Areas or of Common Areas into Units;
- (k) The leasing of Units;
- (l) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his or her Lot;
- (m) Any provisions which are for the express benefit of mortgage holders, eligible mortgage holders or eligible mortgage insurers or guarantors of first mortgages on Lots.

10.3.3 An addition or amendment to this Declaration, the Articles of Incorporation or Bylaws shall not be considered material for purposes of Section 10.3.2 if it is for the purpose of correcting technical errors, or for clarification only. Any eligible mortgage holder who receives a written request to approve additions or amendments and who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

10.4 Additional Approvals. In addition to any other approvals required by this Declaration, the Articles of Incorporation or the Bylaws, the prior written approval of two-thirds of the holders of first mortgages on Lots in the project (based upon one vote for each first mortgage owned), or Lot Owners (other than Declarant) must be obtained for the following:

10.4.1 Abandonment or termination of the planned unit development.

10.4.2 Except as provided in Section 3.4, any change in the pro rate interest or obligations of any individual Unit for the purpose of levying assessments or charges or allocating distribution of hazard insurance proceeds or condemnation awards.

10.4.3 The partition or subdivision of any Lot.

10.4.4 Abandonment, partition, subdivision, encumbrance, sale or transfer of the Common Areas, other than the Common Easement Areas. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas by the project shall not be deemed a transfer within the meaning of this clause.

10.4.5 Use of hazard insurance proceeds for losses to any property, whether to Units (if a blanket insurance policy covering Units is obtained by the Association) or to Common Areas, for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in cases of substantial loss to the Units and/or Common Areas of the planned unit development.

10.5 Reimbursement of First Mortgagees. First mortgagees of Units may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy, for such Common Areas or any Unit. First mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

10.6 FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration, if this Declaration was previously approved by such agencies: annexation of additional properties, dedication of Common Areas, and amendment of this Declaration.

ARTICLE XI

MISCELLANEOUS PROVISIONS

11.1 Amendment and Repeal. This Declaration, or any provision thereof, as from time to time in effect with respect to all or part of the Property, may be amended or repealed by the vote or written consent of Owners owning not less than seventy-five percent (75%) of the Lots within the Property, together with the written consent of the Class B member if such membership has not been terminated as provided herein. To the extent required by Article X, such amendment shall also require the prior written approval of certain percentages of holders of mortgages on Lots on the Property and the FHA and VA. Any such amendment or repeal shall become effective only upon recordation in the Deed Records of Deschutes County, Oregon, of a certificate of the president or secretary of the Association setting forth in full the 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, increase the number of Lots or Units or change the boundaries of any Lot or any uses to which any Lot or Unit is restricted unless the Owners of the affected Lots unanimously consent to the amendment.

11.2 Regulatory Amendments. Notwithstanding the provisions of Section 11.1 above, until termination of the Class B membership Declarant shall have the right to amend this Declaration or the Bylaws of the Association in order to comply with the requirements of the Department of Real Estate of the State of Oregon, the Federal Housing Administration, the Veterans Administration, the Farmers Home 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 States or the State of Oregon which insures, guarantees or provides financing for a planned community or lots in a planned community.

11.3 Duration. The Declaration shall run with the land and shall be and remain in full force and effect at all times with respect to all property included within the Property and the Owners thereof for an initial period of thirty (30) years commencing with the date on which this document 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 within the Property 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 other 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 Lots within the Property and the written approval of the holders of mortgages on Lots in the project to the extent required by Article X. Any such termination shall become effective only if 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, not less than one year prior to the intended termination date.

11.4 Joint Owners. In any case in which two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Association, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter.

11.5 Lessees and Other Invitees. Lessees, invitees, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration restricting or regulating the Owner's use, improvement or enjoyment of his unit and other areas within the Property. 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 himself.

11.6 Enforcement. The Association, or any Owner, or the owner of any recorded mortgage on any part of said property shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

11.7 Construction; Servability; Number; Caption. This Declaration shall be liberally constructed as an entire document to accomplish the purposes thereof as stated in the introductory paragraphs hereof. Nevertheless, each provision of this Declaration shall be deemed independent and servable, 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.

As used herein, the singular shall include the plural and the plural the singular, and 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 this Declaration.

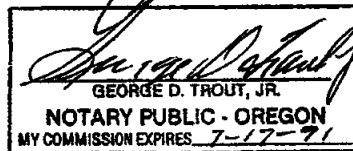
11.8 Notices and Other Documents. Any notice or other document permitted or required by these covenants may be delivered either personally or by mail. Delivery by mail shall be deemed made twenty-four (24) hours after having been deposited in the United States mail, with postage prepaid, addressed as follows: If to Declarant or the Association, 3559 SW Valleyview Dr., Redmond, Oregon 97756; if to an Owner, at the address given by him at the time of his purchase of a Lot, or at his Unit. The address of a party may be changed by him at any time by notice in writing delivered as provided herein.

IN WITNESS WHEREOF, Declarant has executed this Declaration this 12 of April, 1991

VALLEYVIEW, INC. an Oregon Corporation by Steven Trono

Steven Trono, President

The foregoing instrument was acknowledged before me this 12 day of April, 1991 by STEVEN TRONO, President of Valleyview, Inc., an Oregon corporation, on behalf of the corporation.



Notary Public for Oregon
My commission expires:

✓ Valley View Inc
3559 S.W. Valleyview Dr
Redmond OR 97756