

# Application for a Permit to Use Ground Water



Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1266  
(503) 986-0900  
www.wrd.state.or.us

## SECTION 1: APPLICANT INFORMATION AND SIGNATURE

### Applicant Information

NAME		PHONE (HM)	
PHONE (WK)	CELL	FAX	
ADDRESS			
CITY	STATE	ZIP	E-MAIL

### Organization Information

NAME THE DIAMOND PEAKS AT LEISURE WOODS I & II HOMEOWNERS' ASSOCIATION, INC.		PHONE 503-691-2124	FAX
ADDRESS P.O. BOX 1021		CELL	
CITY CRESCENT	STATE OR	ZIP 97733	E-MAIL

### Agent Information -- The agent is authorized to represent the applicant in all matters relating to this application.

AGENT / BUSINESS NAME JOHN A. SHORT / WATER RIGHT SERVICES, LLC		PHONE 541-408-7415	FAX
ADDRESS P.O. BOX 1830		CELL	
CITY BEND	STATE OR	ZIP 97709	E-MAIL JOHNSHORT@USA.COM

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Note: Attach multiple copies as needed

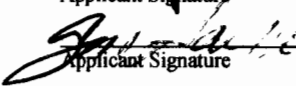
### By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
- Evaluation of this application will be based on information provided in the application.
- I cannot use water legally until the Water Resources Department issues a permit.
- Oregon law requires that a permit be issued before beginning construction of any proposed well, unless the use is exempt. Acceptance of this application does not guarantee a permit will be issued.
- If I get a permit, I must not waste water.
- If development of the water use is not according to the terms of the permit, the permit can be cancelled.
- The water use must be compatible with local comprehensive land-use plans.
- Even if the Department issues a permit, I may have to stop using water to allow senior water-right holders to get water to which they are entitled.

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SALEM, OREGON

I (we) affirm that the information contained in this application is true and accurate.

  
Applicant Signature

  
Applicant Signature

STEVEN J. WINEGAR  
Print Name and title if applicable

GEORGE M. SAVKO  
Print Name and title if applicable  
TREASURER

12-14-2010  
Date

12-14-10  
Date

For Department Use		
App. No. G-17445	Permit No. _____	Date _____

**SECTION 2: PROPERTY OWNERSHIP**

Please indicate if you own all the lands associated with the project from which the water is to be diverted, conveyed, and used.

- Yes
  - There are no encumbrances.
  - This land is encumbered by easements, rights of way, roads or other encumbrances.
- No
  - I have a recorded easement or written authorization permitting access.
  - I do not currently have written authorization or easement permitting access.
  - Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigation and/or domestic use only (ORS 274.040).
  - Water is to be diverted, conveyed, and/or used only on federal lands.

List the names and mailing addresses of all affected landowners (*attach additional sheets if necessary*).

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**SECTION 3: WELL DEVELOPMENT**

WELL NO.	NAME OF NEAREST SURFACE WATER	IF LESS THAN 1 MILE:	
		DISTANCE TO NEAREST SURFACE WATER	ELEVATION CHANGE BETWEEN NEAREST SURFACE WATER AND WELL HEAD
1	Crescent Creek	230'	0'

Please provide any information for your existing or proposed well(s) that you believe may be helpful in evaluating your application. For existing wells, describe any previous alteration(s) or repair(s) not documented in the attached well log or other materials (*attach additional sheets if necessary*).

KLAM 340 Engineering documentation shows a 6" liner below the 25' sealed portion of well.

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**SECTION 3: WELL DEVELOPMENT, CONTINUED**

Source (aquifer), if known: \_\_\_\_\_

Total maximum rate requested: 85 gpm (each well will be evaluated at the maximum rate unless you indicate well-specific rates and annual volumes in the table below).

Complete the table below. If this is an existing well, the following information may be found on the applicable well log. *(If a well log is available, please submit it in addition to completing the table.)* If this is a proposed well, or well-modification, consider consulting with a licensed well driller, geologist, or certified water right examiner.

OWNER'S WELL NAME OR NO.	PROPOSED	EXISTING	WELL ID (WELL TAG) NO. OR WELL LOG ID**	FLOWING ARTESIAN	CASING DIAMETER	CASING INTERVALS (IN FEET)	PERFORATED OR SCREENED INTERVALS (IN FEET)	SEAL INTERVALS (IN FEET)	MOST RECENT STATIC WATER LEVEL & DATE (IN FEET)	PROPOSED USE				
										SOURCE AQUIFER***	TOTAL WELL DEPTH	WELL-SPECIFIC RATE (GPM)	ANNUAL VOLUME (ACRE-FEET)	
Middle Well	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KLAM340	<input type="checkbox"/>	24"							60'	85 gpm	50.0 AF
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>										
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>										
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>										
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>										
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>										
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	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>										

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\* Licensed drillers are required to attach a Department-supplied Well Tag, with a unique Well ID or Well Tag Number to all new or newly altered wells. Landowners can request a Well ID for existing wells that do not have one. The Well ID is intended to serve as a unique identification number for each well.  
 \*\* A well log ID (e.g. MARI 1234) is assigned by the Department to each log in the agency's well log database. A separate well log is required for each subsequent alteration of the well.  
 \*\*\* Source aquifer examples: Troutdale Formation, gravel and sand, alluvium, basalt, bedrock, etc.

NOTICE TO WATER WELL CONTRACTOR  
The original and first copy of this report  
are to be filed with the

WATER RESOURCES DEPARTMENT,  
SALEM, OREGON, 97310  
within 30 days from the date  
of well completion.

KLAM  
340  
4

WATER WELL REPORT  
STATE OF OREGON  
(Please type or print)  
(Do not write above this line)

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State Well No. 245/76-7ca

AUG 21 1978

State Permit No.

WATER RESOURCES DEPT.

(1) OWNER:

Name Emery Owens  
Address 13431 Flower St.  
Garden Grove, Ca. 92743

(2) TYPE OF WORK (check):

New Well  Deepening  Reconditioning  Abandon   
If abandonment, describe material and procedure in Item 12.

(3) TYPE OF WELL:

Rotary  Driven   
Cable  Jetted   
Dug  Bored

(4) PROPOSED USE (check):

Domestic  Industrial  Municipal   
Irrigation  Test Well  Other

(5) CASING INSTALLED:

Threaded  Welded   
" Diam. from 0 ft. to 25 ft. Gage .250  
6" Diam. from 0 ft. to 60 ft. Gage .250  
" Diam. from ft. to ft. Gage

(6) PERFORATIONS:

Perforated?  Yes  No.  
Type of perforator used torch  
Size of perforations 1/8 in. by 8 in.  
180 perforations from 50 ft. to 65 ft.  
perforations from ft. to ft.  
perforations from ft. to ft.

(7) SCREENS:

Well screen installed?  Yes  No  
Manufacturer's Name  
Type Model No.  
Diam. Slot size Set from ft. to ft.  
Diam. Slot size Set from ft. to ft.

(8) WELL TESTS:

Drawdown is amount water level is lowered below static level G.L. Mayer  
Was a pump test made?  Yes  No If yes, by whom?  
Yield: 85 gal./min. with 1 ft. drawdown after 24 hrs.  
Bailer test gal./min. with ft. drawdown after hrs.  
Artesian flow g.p.m.  
Temperature of water 52, Depth artesian flow encountered ft.

CONSTRUCTION:

Well seal—Material used cement  
Well sealed from land surface to 25' ft.  
Diameter of well bore to bottom of seal 24 in.  
Diameter of well bore below seal 24 in.  
Number of sacks of cement used in well seal 65 sacks  
How was cement grout placed? Pressure Grout

Was a drive shoe used?  Yes  No Plugs Size: location ft.  
Did any strata contain unusable water?  Yes  No  
Type of water? depth of strata  
Method of sealing strata off  
Was well gravel packed?  Yes  No Size of gravel: minus  
Gravel placed from 25 ft. to 60 ft.

(10) LOCATION OF WELL:

County Klamath Driller's well number #1  
NE 1/4 SW 1/4 Section 7 T. 24S R. 7E W.M.  
Bearing and distance from section or subdivision corner

(11) WATER LEVEL: Completed well.

Depth at which water was first found 43 ft.  
Static level 8 ft. below land surface. Date 7-24-78  
Artesian pressure lbs. per square inch. Date

(12) WELL LOG:

Diameter of well below casing 24  
Depth drilled 60 ft. Depth of completed well 60 ft.

Formation: Describe color, texture, grain size and structure of materials; and show thickness and nature of each stratum and aquifer penetrated, with at least one entry for each change of formation. Report each change in position of Static Water Level and indicate principal water-bearing strata.

MATERIAL	From	To	SWL
Over Burden	0	15	
Broken Basalt	15	19	
Basalt	19	38	
Boulders & Conglomerate	38	43	8
Water Bearing Sand & Gravel	43	60	

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Work started 7-22-78 19 Completed 7-26-78 19  
Date well drilling machine moved off of well 7-26-78 19

Drilling Machine Operator's Certification:

This well was constructed under my direct supervision. Materials used and information reported above are true to my best knowledge and belief.

[Signed] *R.M. Kuehl* Date 8-14-78  
(Drilling Machine Operator)

Drilling Machine Operator's License No. 487

Water Well Contractor's Certification:

This well was drilled under my jurisdiction and this report is true to the best of my knowledge and belief.

Name G.L. Mayer Well Drilling  
(Person, firm or corporation) (Type or print)

Address 3344 Cannon Rd., Roseburg, Or. 97470

[Signed] *G.L. Mayer*  
(Water Well Contractor)

Contractor's License No. 709 Date 8-14-78, 19

(USE ADDITIONAL SHEETS IF NECESSARY)

SP-2066-119

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**SECTION 4: WATER USE**

USE	PERIOD OF USE	ANNUAL VOLUME (ACRE-FEET)
Quasi-Municipal	January 1 – December 31	50.0

**Exempt Uses:** Please note that 15,000 gallons per day for single or group **domestic** purposes and 5,000 gallons per day for a single **industrial or commercial** purpose are exempt from permitting requirements.

**For irrigation use only:**

Please indicate the number of primary and supplemental acres to be irrigated (*must match map*).

Primary: \_\_\_\_\_ Acres                      Supplemental: \_\_\_\_\_ Acres

List the Permit or Certificate number of the underlying primary water right(s): \_\_\_\_\_

Indicate the maximum total number of acre-feet you expect to use in an irrigation season: \_\_\_\_\_

- If the use is **municipal or quasi-municipal**, attach **Form M**
- If the use is **domestic**, indicate the number of households: \_\_\_\_\_
- If the use is **mining**, describe what is being mined and the method(s) of extraction: \_\_\_\_\_

**SECTION 5: WATER MANAGEMENT**

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**A. Diversion and Conveyance**

What equipment will you use to pump water from your well(s)?

Pump (give horsepower and type): 5 hp submersible \_\_\_\_\_

Other means (describe): \_\_\_\_\_

Provide a description of the proposed means of diversion, construction, and operation of the diversion works and conveyance of water. Water is appropriated from well KLAM 340 and delivered to users through buried piping. A 43,000 gallon tank provides a bulge in the system to accommodate varying water needs such as fire flows and consistent pressure.

**B. Application Method**

What equipment and method of application will be used? (e.g., drip, wheel line, high-pressure sprinkler) Water is for domestic use with fire flows.

**C. Conservation**

Please describe why the amount of water requested is needed and measures you propose to: prevent waste; measure the amount of water diverted; prevent damage to aquatic life and riparian habitat; prevent the discharge of contaminated water to a surface stream; prevent adverse impact to public uses of affected surface waters.

No irrigated outdoor landscaping is allowed.

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**SECTION 6: STORAGE OF GROUND WATER IN A RESERVOIR**

If you would like to store ground water in a reservoir, complete this section (*if more than one reservoir, reproduce this section for each reservoir*).

Reservoir name: \_\_\_\_\_ N/A \_\_\_\_\_ Acreage inundated by reservoir: \_\_\_\_\_

Use(s): \_\_\_\_\_

Volume of Reservoir (acre-feet): \_\_\_\_\_ Dam height (feet, if excavated, write "zero"): \_\_\_\_\_

*Note: If the dam height is greater than or equal to 10.0' above land surface AND the reservoir will store 9.2 acre feet or more, engineered plans and specifications must be approved prior to storage of water.*

**SECTION 7: USE OF STORED GROUND WATER FROM THE RESERVOIR**

If you would like to use stored ground water from the reservoir, complete this section (*if more than one reservoir, reproduce this section for each reservoir*).

Annual volume (acre-feet): \_\_\_\_\_ N/A \_\_\_\_\_

USE OF STORED GROUND WATER	PERIOD OF USE

**SECTION 8: PROJECT SCHEDULE**

Date construction will begin: \_\_\_\_\_

Date construction will be completed: Complete except for some extensions to undeveloped lots.

Date beneficial water use will begin: Already occurred under 15,000 gallon exemption.

**SECTION 9: REMARKS**

Use this space to clarify any information you have provided in the application (*attach additional sheets if necessary*).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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# Oregon Water Resources Department

## FORM M

### FOR MUNICIPAL AND QUASI MUNICIPAL WATER SUPPLIES

Unless otherwise noted, water use information should be in acre-feet per year (AFY).  
1 acre-foot is equal to 325,851 gallons.

#### Background Information

Name of water supplier: The Diamond Peaks at Leisure Woods I&I Homeowner's Association, Inc.

Name and size of area to be served: Diamond Peaks System - 0.2 square miles  
*(in square miles)*

Present population of service area: 5 Full Time, 30 Transient (weekends)  
*(Contact county planning staff, if needed.)*

Projected population in 20 years: 93 Full Time (city-data.com gives 1.4 people / home, 66 homes)  
*(Cite source and year. For example: "20,595 Based upon 1995 Portland State University projections.")*

List present water rights and permits held:

Date of Issuance:	Natural Source of Water:	Amount Permitted:	Utilization:
<u>N/A</u>			

#### Water Use

Average **yearly** demand: 50.0 AFY Year: 2030

Per-capita daily consumption (in gallons): 480 gallons per day  
*(Divide average annual water sales by population to arrive at consumption, then divide by 365 to get daily values.)*

**Peak season** (by month/day): \_\_\_\_\_ to \_\_\_\_\_ **Total peak season demand:** \_\_\_\_\_ Acre-feet

**Peak season per-capita daily consumption:** \_\_\_\_\_  
*(Divide total peak season demand by population and the number of days during the peak.)*

Annual amount of water:

Produced: 50.0  
*(diverted or pumped)*

Delivered: 50.0

Is your system fully metered?  Yes  No

Describe your rate structure: Currently flat rate structure.  
*(e.g. flat rate, increasing or decreasing block rate or combination of different systems)*

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**Request for Water**

**A. Discuss the reason(s) for your request for additional water**  
*(e.g. loss of current supply, peak demand, growth, or other):*

Community is transient with high weekend use throughout the year. Community currently runs under 15,000 gallon per day exemption but expects to exceed that once full buildout is reached.

**B. How long is the amount of water requested in this application expected to meet future needs?**  
*(e.g. until the year 2040)* Forever

**C. Briefly discuss operation of water system and the most constraining component of the system:**

Water system includes a single well piped up to a 43,000 gallon tank at top of water system. Water is then piped to all 66 lots, fire spigots, and fire hydrants. Submersible pump may be the most constraining component of the system but can be upgraded as well test results show well can sustain much higher flows than currently used.

**D. Percentage of water use by type:**

Residential: 100% including fire flows Commercial: \_\_\_\_\_  
Public Authority: \_\_\_\_\_ Agricultural: \_\_\_\_\_  
Unaccounted for use: \_\_\_\_\_ Industrial: \_\_\_\_\_  
Other (specify use): \_\_\_\_\_

**E. List cost to implement proposed request.**

*Compare cost and benefits with other water supply, or combination of supply options. This should include water efficiency measures such as replacing current showerheads with low-flow types. (Attach documentation, as available.)*

No other water options are known to exist.

**F. How and by how much will your proposed water use efficiency programs increase efficiency?**  
*(Express as a percentage of per-capita consumption.)*

All new construction meeting current low water use regulations. Native landscaping - i.e. no lawns.

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Last revision: March 26, 2009

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# Land Use Information Form



Oregon Water Resources Department  
 725 Summer Street NE, Suite A  
 Salem, Oregon 97301-1266  
 (503) 986-0900  
 www.wrd.state.or.us

Applicant: The Diamond Peaks at Leisure Woods I+II Homeowners Association  
First Last  
 Mailing Address: P.O. Box 1021  
Crescent Lake OR 97733 Daytime Phone: 503-977-1021  
City State Zip

## A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:	Proposed Land Use:
24S	07E	07	C	1102	R-2	<input checked="" type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used	Rural
24S	07E	07	A, B, C	Leisure Woods	R-2	<input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	Residential
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	

List all counties and cities where water is proposed to be diverted, conveyed, and/or used or developed:

Crescent Lake, Klamath County, OR

## B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water  Water Right Transfer  Permit Amendment or Ground Water Registration Modification  
 Limited Water Use License  Allocation of Conserved Water  Exchange of Water

Source of water:  Reservoir/Pond  Ground Water  Surface Water (name) \_\_\_\_\_

Estimated quantity of water needed: 85  cubic feet per second  gallons per minute  acre-feet

Intended use of water:  Irrigation  Commercial  Industrial  Domestic for \_\_\_\_\_ household(s)  
 Municipal  Quasi-Municipal  Instream  Other \_\_\_\_\_

Briefly describe:

Five HP submersible pump feeds water tanks and water system to subdivision of 67 homesites. System is owned and operated by homeowners association.

Note to applicant: If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department.

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See bottom of Page 3. →

## For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

**Please check the appropriate box below and provide the requested information**

- Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): KCLDC Article 51.320 (A) R2 Zone
- Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) If approvals have been obtained but all appeal periods have not ended, check "Being pursued."

Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

water will be used for residential development previously approved.

Name: Mark Gallagher Title: Planner III  
 Signature: Mark Gallagher Phone: 541-883-5721 Date: 11-9-10  
 Government Entity: Klamath County Planning

**Note to local government representative:** Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

**Receipt for Request for Land Use Information**

Applicant name: \_\_\_\_\_  
 City or County: \_\_\_\_\_ Staff contact: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Phone: \_\_\_\_\_ Date: \_\_\_\_\_

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 SALEM, OREGON

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**Legal Descriptions:**

**Place of Use**

Leisure Woods in the County of Klamath, State of Oregon

Block 1

Lot 20

Block 3

Lots 14 & 15

Lots 18 & 19

Block 4

Lots 4 thru 8 inclusive

Leisure Woods Unit 2 in the County of Klamath, State of Oregon

Block 3

Lots 38 thru 48 inclusive

Block 4

Lots 9 thru 14 inclusive

Block 5

Lots 16 thru 20 inclusive

Lots 31 thru 38 inclusive

Block 6

Lots 1 thru 14 inclusive

Lots 26 thru 31 inclusive

Diamond Peaks Tract 1355 in the County of Klamath, State of Oregon

Lots 22 thru 25 inclusive

Lots 30 & 31

**Appropriation:**

Well #1, known as the Middle Well is located on:

Parcel 2, Land Partition 43-99, Township 24 South, Range 7 East, Section 7C,  
Willamette Meridian, Klamath County, OR.

**Piping:**

Parcels 1 & 2, Land Partition 43-99, Township 24 South, Range 7 East, Section 7C,  
Willamette Meridian, Klamath County, OR.

Willamette Highway - State Highway #58, Township 24 South, Range 7 East, Section 7

16' Utility Easement Per Plat of Leisure Woods & Leisure Woods Unit 2, Township 24  
South, Range 7 East, Section 7

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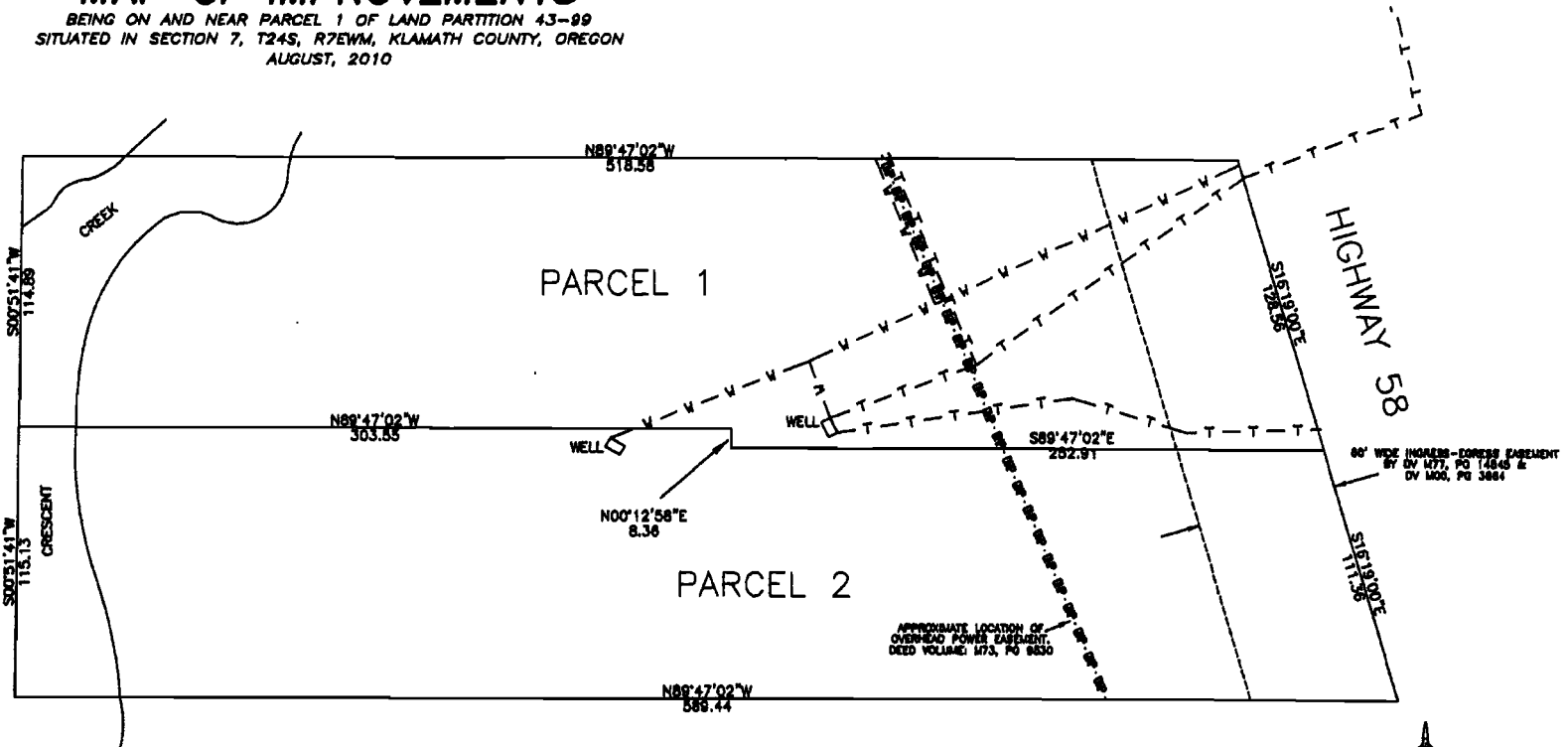
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# MAP OF IMPROVEMENTS

BEING ON AND NEAR PARCEL 1 OF LAND PARTITION 43-89  
SITUATED IN SECTION 7, T24S, R7EWM, KLAMATH COUNTY, OREGON  
AUGUST, 2010



Sheet 6

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SALEM, OREGON

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SUBJECT TO: DOMESTIC WATER WELL AGREEMENT AND EASEMENT  
CONTAINED IN VOLUME 2010 PAGE 010212

THERE ARE NO WATER RIGHTS APPURENANT TO THESE PARCELS

SUBJECT TO: OVER AND ACROSS EASEMENT FOR EXISTING WATER DISTRIBUTION LINES



TRU SURVEYING INC. LINE  
2333 SUMMERS LANE  
KLAMATH FALLS, OREGON 97603

04 APR 19 AM 11:13



WTC-64058

Vol M04 Page 22823

THIS SPACE RESERVED FOR RECORDER'S USE

After recording return to:  
R. Scott Weaver  
PO Box 278  
Medford, OR 97501

State of Oregon, County of Klamath  
Recorded 04/19/2004 11:13 a.m.  
Vol M04 Pg. 22823 - 27  
Linda Smith, County Clerk  
Fee \$ 26.00 # of Pgs 2

Until a change is requested all  
tax statements shall be sent to  
The following address:

R. Scott Weaver  
PO Box 278  
Medford, OR 97501

Escrow No. BT064828GC

### STATUTORY WARRANTY DEED

American Cash Equities, Inc., an Oregon Corporation, Grantor(s) hereby convey and warrant to R. Scott Weaver, Grantee(s) the following described real property in the County of Klamath and State of Oregon, free of encumbrances except as specifically set forth herein:

Lot 10 in Block 3 of tract 1119, LEISURE WOODS, UNIT 2, according to the official plat thereof on file in the office of the County Clerk of Klamath, Oregon.

Key No: 10687

2407-007AD-06400-000

The above-described property is free of encumbrances except all those items of record, or apparent, if any, as of the date of this deed and those shown below, if any:

1. The premises herein described are within and subject to the statutory powers, including the power of assessment and easements of Walker Range Timber Fire Patrol. 2. Easements as dedicated or delineated on the recorded plat. 3. Conditions contained in plat dedication: All lots subject to Klamath County building setback requirements. 4. Covenants, conditions and restrictions recorded February 12, 2002, Volume M02, page 8583, re-recorded April 15, 2002, Volume M02, Page 21922, Microfilm Records of Klamath County, Oregon. 5. Said covenants, conditions and restrictions contain among other things provisions for levies and assessments of the Diamond Summit at Leisure Woods II Homeowners Association.

Reserving therefrom an easement in favor of Grantor, Grantor's Heirs and Assigns, for access, operation, maintenance, repair and replacement of the existing water reservoir, pumping facilities, buried lines and gravel access road, and for no other purpose, described as follows: sufficient in width to accommodate existing driveway. Along southerly lot line sufficient in width and length to accommodate existing reservoir.

House trailers, mobile homes and manufactured homes are strictly prohibited throughout the properties. All homes are to be built as per the standards provided in the Covenants, Conditions and Restrictions of each property's respective Homeowners Association.

The true and actual consideration for this conveyance is \$75,000.00.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Dated this 15th day of April, 2004

American Cash Equities, Inc.  
BY: *[Signature]*  
Joel Kjalet, President

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AM

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State of Oregon  
County of Deschutes

22824

This instrument was acknowledged before me on April 15, 2004 by Joel Glaser, President for American Cash Equities, Inc., an Oregon Corporation.

Glenda Cruz  
(Notary Public for Oregon)

My commission expires 4-20-2007



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**AMENDED AND RESTATED  
DECLARATIONS, COVENANTS AND CONDITIONS**

for

**THE DIAMOND PEAKS AT LEISURE WOODS I & II HOMEOWNERS ASSOCIATION,  
INC.**

**KLAMATH COUNTY, OREGON**

The undersigned, pursuant to the vote of more than 75 percent of the Association's Owners, hereby amends the Declarations, covenants, Conditions and Restrictions for the real property described on Exhibit "A," recorded at M98 Page 36329 on October 1, 1998 and M98 Page 37231 on October 9, 1998 in the Real Property Records of Klamath County, Oregon (collectively the "Declaration"), by 1) annexing the real property collectively described as Parcel 3 on Exhibit "A" (the "Annexed Property"); and 2) amending and restating the Declaration as follows:

**ARTICLE I  
DEFINITIONS**

Whenever used in the Declaration, the following terms shall have the following meanings:

1. "Association" shall mean "The Diamond Peaks At Leisure Woods I & II Homeowners Association, Inc.," a non profit corporation organized under the laws of the State of Oregon, its successors and assigns.
2. "Said Property" shall mean and refer to that certain real property hereinbefore described (including without limitation the Annexed Property) and such additions thereto as may be hereafter brought within the jurisdiction of the Association by recorded declarations in the manner hereinafter set forth.
3. "Lot" shall mean any numbered plot of land set forth above or hereafter added, the front of such lot being that boundary subject to a front yard set back.
4. "Member" shall mean every person or entity who holds membership in the Association.
5. "Owner" shall mean the recorded Owner, whether one or more persons or entities, of fee simple title to any lot situated upon said property, or a contract purchaser if his record Owner retains such title merely to secure any obligation and is registered as a purchaser in the Association records.

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6. "Roadway" shall mean any street, highway, or other thoroughfare as shown on the recorded plat of said property, and access thereto.
7. "Declarant" shall mean American Cash Equities Inc., or its successor in interest.

**ARTICLE II**  
**MEMBERSHIP**

Members of the Association shall be every Owner and shall be subject by covenants of record to assessments or charges by the Association or the Declarant. There shall be no other qualification for Membership except as set forth above. Membership shall terminate on transfer of fee simple title by an Owner or the contract purchaser's interest by a contract purchaser who qualifies as a member. If an Owner sells the Lot by contract of sale, upon written notification to the Association the Owner's membership shall not terminate. The Contract purchaser's membership shall commence and the Owner's obligation shall be held in abeyance so long as the purchaser fulfills all Owner's obligations. The Owner's liability shall terminate upon recordation of a deed conveying all right, title and interest, voluntary or involuntary to another Owner.

**ARTICLE III**  
**VOTING RIGHTS**

All Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article II. When more than one person holds such interest in any Lot, all such persons shall be Members. The vote for each Lot shall be exercised as they among themselves determine, or if unable to agree, they may cast fractional votes proportionate to their ownership interest, but in no event shall more than one vote be cast with respect to any one Lot.

**ARTICLE IV**  
**COVENANT FOR MAINTENANCE ASSESSMENT AND UTILITY**  
**REIMBURSEMENTS**

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** The Declarant hereby covenants for all said Property and each Owner of any Lot by acceptance of a deed or contract of purchase therefore, whether or not it shall be so expressed in any such deed or other conveyance or agreement for conveyance, is deemed to covenant and agree to pay to the Association: Regular annual or other regular periodic assessments or charges and utility reimbursements to the Declarant when applicable. The regular assessments and reimbursements, together with such interest thereof, and costs of collection thereof, as hereinafter provided, shall be a charges on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment together with such interest, costs, and reasonable attorney's fees, shall be the personal obligation of the person who was the Owner of such property at the time such assessment was levied. The obligation

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shall remain a lien on the property until paid or foreclosed, but shall not be a personal obligation of successors in title unless expressly assumed by them.

**Section 2. Purpose of Assessments.** The annual or regular periodic assessments levied by the Association shall be used exclusively for the maintenance of the roadways and utility facilities, costs of administration of a road and utility maintenance program and costs necessary to operate the Association in a continuous manner. Utility facility reimbursements to Declarant shall be a repayment of the advances in aid of construction aid by Declarant, not to exceed the amounts set forth herein, which benefit the said property.

**Section 3. Annual Assessment.** After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix a regular flat assessment upon a month, quarterly, or annual basis. Any annual assessment paid within 30 days of the date billed shall be entitled to a three percent discount. Utility facility reimbursements may not be amended without consent of Declarant.

**Section 4. Uniform Rate of Assessment.** Both regular and periodic assessments, and any special assessments, must be fixed as a uniform rate for all Lots not exempt and may be collected on an annual, quarterly, or monthly basis in the discretion of the Directors.

**Section 5. Quorum.** The presence at any meeting of Members (including proxies entitled to cast ballots) of twenty percent (20%) of all the votes of the membership shall constitute a quorum.

**Section 6. Date of Commencement of Annual Assessments:**

**A. Roads.** All Lots not exempt shall be subject to the regular or periodic assessments provided for herein on July 1, 2000. The Board of Directors shall fix the amount of the regular assessment at least thirty (30) days in advance of each assessment period. Written notice of the assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The initial assessment shall be \$50.00 per year for road maintenance.

**B. Water.**

**1. Fire Hydrant System.** All lots not exempt shall be subject to the regular or periodic assessments provided for herein on July 1, 2000. The Board of Directors shall fix the amount of the regular assessment at least thirty (30) days in advance of each assessment period. Written notice of the assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The initial assessment shall be \$50.00 per year for fire hydrant system.

**2. Water Hook-up Fee.** All Lots not exempt shall be subject to the regular or periodic assessments provided for herein on July 1, 2000. The Board of Directors shall

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fix the amount of the regular assessment at least thirty (30) days in advance of each assessment period. Written notice of the assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The initial assessment shall be \$300.00 at the time of connection. In the event of an unauthorized connection prior to payment of the water hook-up fee, the assessment shall be \$1,000.00.

**3. Domestic Water Service.** All Lots not exempt shall be subject to the regular or periodic assessments provided for herein on July 1, 2000. The Board of Directors shall fix the amount of the regular assessment at least thirty (30) days in advance of each assessment period. Written notice of the assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The initial assessment shall be \$50.00 per quarter for domestic water service. For unauthorized use of water, the assessment shall be \$50.00 per month.

**4. System Development Charge.** All Lots not originally subject to these Declarations prior to connection to the water supply system shall pay Declarant a Systems Development Charge to be connected to the water supply system as reimbursement for contributions in aid of construction. The Systems development charge shall be \$9,700.00 per lot at the time of connection in addition to the cost of any line extension required. All line extensions shall meet standards requirements of Declarant, including provision for fire flow. For unauthorized connection to the water supply system, the charge shall be \$14,760.00 per lot.

**C. Power.**

**1. Current Facilities Power Charges.** All Lots not exempt shall be subject to the regular or periodic assessments provided for herein on the date of purchase or upon notification by Midstate Electric Cooperative, whichever occurs later. The initial assessment shall be \$14.00 per month or as may be amended by Midstate Electric Cooperative for standby power until a permanent residence is connected to Midstate Electric Cooperative.

**Section 7. Effect of Nonpayment of Assessments:** (Remedies of the Association and Declarant.) Any assessments or charges set forth above which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of one percent (1%) per month. The Secretary of the said Association or the Declarant, as the case may be, shall file in the office of the Directors of Records, County Clerk, or appropriate recorder of conveyances of Klamath County, State of Oregon, a statement of the amount of any such charges or assessments, together with interest as aforesaid, which have become delinquent with respect to any Lot on said property, and upon payment in full thereof, shall execute and file a proper release of the lien securing the same. The aggregate amount of such assessments, together with interest, costs and expenses, and a reasonable attorney's fee and collection fees for the filing and enforcement thereof, shall constitute a lien on the Lot, with respect to which it is fixed from the date the notice of delinquency thereof is filed in the office of said Directors of

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records or County Clerk, or appropriate recording office, until the same has been paid or released as herein provided by law with respect to lien upon real property. The Owner of said property at the time said assessment is levied shall be personally liable for the expense, costs and disbursements, including reasonable attorney's fees and collection fees of the Declarant or of the Association, as the case may be, of processing and, if necessary, enforcing such liens, all of which expense, costs and disbursements and attorney's fees shall be secured by said lien, including fees on appeal and such Owner at the time such assessment is levied shall also be personally liable for any deficiency remaining unpaid after any foreclosure sale. No Owner may waive or otherwise escape liability from the assessments provided for herein by non-use of his dwelling unit, lot or building site.

**Section 8. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be inferior, junior, and subordinate to the lien of all bonfire mortgages and trust deeds now or hereafter placed upon said property or any part thereof. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to any mortgage or trust deed, pursuant to a decree of foreclosure under such mortgage or any proceeding in lien of foreclosure thereof, shall extinguish the lien upon the lot of such assessments as to amounts thereof which became due prior to such sale or transfer; and such lien shall attach to the net proceeds of sale, if any, remaining after such mortgages and other prior liens and charges have been satisfied. No sale shall relieve the Owner of record prior to the sale from personal liability for any amounts due as set forth above. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

#### **ARTICLE V ANNEXATION**

Additional lands not included in the original Declaration may be annexed to and made a part of Diamond Peaks at Leisure Woods, or may become incorporated into the Association if all of the conditions are met:

1. Owners of the proposed annexation must record current Declarations, Covenants and Conditions which are approved by the Board of Directors.
2. Owners of the proposed Annexation must sign and agree to abide by the Articles and ByLaws of the Association.
3. The annexation must be approved by a majority of all Members voting at a meeting of the members called for that purpose.
4. Owners of the proposed Annexation must pay all utility reimbursements and system development charges due Declarant herein.

#### **ARTICLE VI**

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## GENERAL PROVISIONS

**Section 1. Enforcement.** The Association, the Declarant, or any Owner, or the Owner of any recorded mortgage upon any part of Said Property, shall have the right to enforce by any proceeding at law or in equity, all conditions, covenants, liens, and charges now or hereafter imposed by the provision of this Declaration. Failure by the Association, the Declarant or by any Owner to enforce any covenant herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 2. Severability.** Invalidation of any one of these covenants by judgment or court order shall in nowise effect any other provision which shall remain in full force and effect. However, if any roads become accepted for maintenance purposes by any governmental agency or public district, the road maintenance assessment for Lots on said road shall be terminated.

**Section 3. Amendment.** The covenants of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, the Declarant, or the Owner of any Lot subject to this Declaration, their respective legal representative, heirs, successors, and assigns for a term of twenty-five (25) years from the date of this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. Any of the covenants of this Declaration may be amended by instrument signed by Members entitled to cast not less than seventy-five percent (75%) of the votes of Membership. All such amendments must be recorded in the appropriate Deed Records of Klamath County, Oregon, to be effective. No amendment shall limit the Declarant's right to receive utility reimbursements or systems development charges as set forth herein.

**Section 4. No Right of Reversion.** Nothing herein contained in the Declaration, or in any form of deed which may be used by Declaration, or its successors or assigns, in selling said Property, or any part thereof, shall be deemed to vest or reserve in Declarant or the Association any right of reversion or re-entry for breach of violation of any one or more of the provisions hereof.

**Section 5 Books and Records.** The books and records of the Association, upon demand in writing, stating the purpose thereof, may be inspected by any member, or his attorney or agent for any proper purpose , at any reasonable time.

**Section 6. Benefit of Provisions; Waiver.** The provisions contained in this Declaration shall bind and inure to the benefit of and be enforceable by Declarant, the Association, and the Owner or Owners of any portion of said Property, and their heirs and assigns, and each of their legal representatives, and failure by Declarant or by the Association or by any of the property Owners or their legal representatives, heirs, successors, or assigns, to enforce any of such conditions, restrictions, or charges herein contained shall in no event be deemed a waiver of the right to do so.

## ARTICLE VII

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## **BUILDING AND USE RESTRICTIONS**

**Section 1. Use.** Each Lot shall be used for residential purposes only, nor shall more than one detached single-family dwelling (not to exceed two stories in height from the nearest road to the dwelling) and not more than one double-car garage or carport and two accessory buildings (such as workshops or stables) shall be constructed or placed upon each lot in the subdivision. The combined square footage of all buildings on any lot other than the single-family dwelling shall not exceed the total square footage of the single-family dwelling and any attached garage located on such lot.

**Section 2. Maintenance.** Each Lot and its improvements shall be maintained in a clean and attractive condition in good repair and in such fashion as not to create a fire hazard. No Owner shall litter their property with metal objects or other objects, i.e. car or other vehicle parts, thus creating a visual disturbance to the continuity of the neighboring properties.

**Section 3. Driveways.** All driveways must be composed of cinder, gravel, concrete or asphalt.

**Section 4. Size.** Each single-family dwelling shall be at least 1,000 square feet in size exclusive of one-story porches and garages.

**Section 5. Building Standards.** All buildings, fences, and improvements must be constructed in workmanlike manner and kept in a condition of good repair. Exposed portions of foundation must be painted or sided if more than 12 inches above the ground. House trailers are strictly prohibited. Manufactured homes are allowed provided they meet the following standards:

(A) The manufactured home shall be multi-sectional and enclose a space of not less than 1,000 square feet.

(B) The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 24 inches above grade.

(C) The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a minimal six feet in height for each 12 feet in width.

(D) The manufactured home shall have exterior siding and roofing which in color, material, and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.

(E) The manufactured home shall be certified by the manufacturer to have and exterior thermal envelope meeting performance standard which reduce levels

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equivalent to the performance standards required of single-family dwellings constructed under the state Building Code as defined in ORS 455.010.

(F) The manufactured home shall comply with all other architectural, landscaping and building standards set forth herein.

**Section 6. Setbacks.** The setback line shall be at least twenty (20) feet back from all lot lines to any structure upon the lot with the exception of a fence, not to exceed 72 inches in height. Fences must be constructed of properly finished material and shall harmonize with the surroundings.

**Section 7. Compliance with Law.** All land Owners must comply with the laws and regulations of the State of Oregon, County of Klamath, and any municipality applicable to fire protection, building construction, water, sanitation, and public health.

**Section 8. Progress of Construction.** No more than 12 months' construction time shall elapse for completion of a permanent dwelling nor shall a temporary structure be used as living quarters. An exterior latrine shall be allowed only during the construction of a permanent residence.

**Section 9. No Commercial Use.** No commercial, industrial, noxious, or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.

**Section 10. Tree Cutting.** The cutting or removal of living trees will only be permitted where necessary for the construction of buildings or thinning for beautification and wildfire safety of the property.

**Section 11. Domestic Animals.** No animals or fowl other than domestic household pets, horses or cattle shall be kept on any part of said property.

**Section 12. Leashes.** All animals including dogs must be kept within the confines of the property or on a leash to protect those residents wishing to use the roadways or recreational walking, jogging, etc.

**Section 13. Firearms.** No hunting nor discharging firearms permitted.

**Section 14. Screen.** All garbage trash, cuttings, refuse, garbage and refuse containers, fuel tanks, clothes lines and other service facilities shall be screened from view from neighboring properties.

**Section 15. Fire Hazard.** Each lot and its improvements shall be maintained in a clean and attractive condition in good repair and in such fashion as not to create a fire hazard.

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**Section 16. Parking.** Parking must be provided for each building site. Parking and/or storage of recreational vehicles, i.e. camper trailers, boats, etc. must be done in such a manner that they do not distract from the appearance of any particular property including the property on which it is parked or stored.

**Section 17. Sewage.** Sewage disposal systems shall meet County Health Department standards.

**Section 18. Siding; Color; Pitch.** All homes and any other structure shall be sided with cedar shingles, lap siding, log, and/or board and bat. In addition, the exterior color (including roofing materials) of all homes and other structures (whether paint, stain or otherwise) shall be earth tones which blend with the surrounding natural terrain and vegetation. Exterior reflective metals must be painted to blend with surrounding materials. Roof pitch on all homes shall be 6-12 or steeper. Any garage, carport, or any other accessory building shall be constructed with the same architectural style, including siding and roof pitch, as the home located on the lot.

**Section 19. Landscaping.** All landscaping shall blend with surrounding terrain and vegetation. All vegetation used in landscaping shall be comprised of native grasses, shrubs and/or trees. Any terrain disturbed in construction shall be either landscaped or restored to its natural state.

**Section 20. Exterior Lighting.** Exterior lighting shall be used primarily for safety purposes rather than illumination of any building or landscaping so as to eliminate glare and annoyance as well as to preserve the natural setting. All exterior lighting shall not cast light on adjoining properties and shall be shielded so that light rays are directed to the ground.

**Section 21. Grading.** Construction grading shall be limited and shall minimize cut and fill.

**Section 22. Review of Plans.** Prior to commencing construction of improvements on any lot, including any remodel or expansion, the lot Owner shall submit to the Association's Board of Directors plans, including exterior elevations, in sufficient detail to demonstrate that such improvements shall comply with the Declaration. The Board of Directors shall have 15 days from the date of submission to approve such plans. Unless the Association's Board of Directors whether by approval in writing or by lapse of time. Any plans which are disapproved shall be modified so that the completed project shall comply with the Declaration and shall then be resubmitted for approval by the Board of Directors following the same procedures described above.

IN WITNESS WHEREOF, the undersigned, hereby certifies that the foregoing amended and restated covenants, conditions, and restrictions were adopted by a vote of seventy-five percent of the Associations' Owners, executed effective May 12, 2001.

EXHIBIT 'A'

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## LEGAL DESCRIPTION

Parcel 1:

Lot 16, Block 3; and Lots 4,6,7,8, Block 4, all in Tract No. 1074, Leisure Woods, in the County of Klamath, State of Oregon.

Parcel 2:

Lots 38 through 48 (inclusive), Block 3; Lots 9 through 14 and 16 through 20 (inclusive), Block 4; Lots 31 through 38 (inclusive), Block 5; and Lots 1 through 14 and 26 through 31 (inclusive), Block 6, all in Leisure Woods Unit 2, in the County of Klamath, State of Oregon.

Parcel 3:

Lots 22,23,24,25, 30 and 31 of Diamond Peaks. Tract 1355, County of Klamath, State of Oregon.

**RECORDED:**

In the County of Klamath, Sate of Oregon, 02/05/02, Vol. M02, Pg. 6873-6883.

## AMENDMENT TO THE DECLARATIONS, COVENANTS AND CONDITIONS for DIAMOND PEAKS AT LEISURE WOODS KLAMATH COUNTY, OREGON

In accordance with the Declarations, Covenants and Conditions the undersigned being authorized by more than fifty-one (51%) percent of the members entitled to cast more than fifty-one (51%) of the votes for membership in the Association at a meeting called for that purpose at Eugene, Oregon on December 16, 1999 did amend the Declarations, Covenants and Conditions for DIAMOND PEAKS AT LEISURE WOODS, Klamath County, Oregon, recorded in Volume M98, Page 36239 of the Deed of Records of Klamath County, Oregon. The Declarations, Covenants and Conditions for DIAMOND PEAKS AT LEISURE WOODS, Klamath County, Oregon is amended as follows:

**ARTICLE IV**

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**Section 6 Date of Commencement of Annual Assessments:**

**A. Roads.**

All Lots not exempt shall be subject to the regular or periodic assessments provided for herein on July 1, 2000. The Board of Directors shall fix the amount of the regular assessment at Least thirty (30) days in advance of each assessment period. Written notice of the assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. Effective January 1, 2000, assessment shall be increased to \$300.00 per year for road maintenance, and prorated accordingly for the current fiscal year of 1999/2000.

**B. Water.**

**2. Water Hook-up Fee.**

a. Back-Flow Device to be installed in accordance with the standard design approved by the Board of Directors.

**RECORDED:**

**In the County of Klamath, State of Oregon, 02/23/00, Vol. M00, Page 5556.**

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**BYLAWS  
OF  
THE DIAMOND PEAKS AT LEISURE WOODS I & II HOMEOWNERS ASSOCIATION, INC.  
As Dated September 2004**

**ARTICLE 1**

**PLANNED COMMUNITY PLAN OF  
LOT OWNERSHIP: DEFINITIONS**

**1.1. Lot Ownership.** The lots described on Exhibit "A" (comprising 61 lots), together with any Lots annexed hereafter and the common property of Leisure Woods, in the County of Klamath, State of Oregon (the "Property" or "Project"), are submitted to the provisions of Oregon Revised Statutes, Sections 94.550, *et seq.*, the Oregon Planned Community Act.

**1.2. Bylaws Applicability.** The provisions of these Bylaws are applicable to the Property, The Diamond Peaks at Leisure Woods I & II Homeowners Association, Inc. ("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 the Project 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 the Declaration of Covenants and Restrictions, as amended, applicable to the Property.

The acquisition, occupancy or rental of any of the Lots of the Project 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 the 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 Owners 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 Klamath, 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,

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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 one class of voting members. Each member shall be entitled to one (1) vote for each Lot owned with respect to all matters upon which Owners are entitled to vote. 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. Fractionalized or split votes shall be disregarded, except for purposes of determining a quorum. The total number of votes shall be disregarded, except for purposes of determining a quorum. The total number of votes shall be equal to the total number of Lots within the Property and subjected to these Bylaws as of the date of the initial adoption of these Bylaws, plus any lots annexed thereafter.

**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, or the Declaration, the presence in person or by proxy of Owners holding twenty percent (20%) or more of the outstanding votes in the Association, as defined in Section 2.2, shall constitute a quorum of Owners present at any legal meeting. 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 twenty percent (20%) of the vote.

**2.5. Place of Meetings.** Formal meeting of the Association shall be held at the principal office of the Association or such other 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 if 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. Annual Meetings.** The annual meeting of the Association shall be held within one hundred-eighty (180) days of the end of the Association's fiscal year 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 3.8 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.

**2.7. 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.

**2.8. 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 ten (10) 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 Owner's 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, this 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.

**2.9. Adjourned Meetings.** If any gathering 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 of 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.

**2.10. 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 five (5) 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/or any roads dedicated to the public which the Association has a responsibility to maintain.

**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 annual 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 therefore out of the common expense funds in respect to the Common Property as more specifically provided in Article 6 of these Bylaws.

**3.3.6** Designation and dismissal of the personnel necessary for the maintenance and operation of the Project.

**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.

**3.3.8** Adoption and amendment of administrative rules and regulations governing the details of operation and use of the Common Property. Provided, however, any such rules or regulations shall always be subject to rescission or amendment by the Association upon majority vote of Owners present at any properly called meeting.

**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, Association 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 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) Agreements for cable television services and equipment or satellite television services and equipment of not to exceed five years duration provided that the supplier is not an entity in which the Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

(e) Agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services of not to exceed five years duration provided that the supplier or suppliers are not entities 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 area of any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for the 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 or 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.** The Board of Directors shall prepare an annual budget for the Association and prepare such financial statements and other reports for review of the members as may be required by law.

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**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. Election and Term of Office.** At the first meeting of the Association, the term of office of two (2) Directors shall be fixed for two (2) years. The term of office of two (2) Directors shall be fixed at one (1) year. The term of a third director shall be for until the next regular meeting of the members scheduled for May 12, 2001, at which time a new director shall be elected for a three (3) year term. 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 three (3) years. The Directors shall hold office until their successors have been elected and hold their first meeting. The Association may increase or decrease the number of Directors and length of terms for which each is elected upon amendment of this Section 3.8.

**3.9. 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 of 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.

**3.10. 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.

**3.11. 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.

**3.12. Regular Meeting.** 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 herein above provided) and purpose of the meeting.

**3.14. 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

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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 of Directors shall be required and any business may be transacted at such meeting.

**3.15. 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, the acts of the majority of the Directors shall be the acts of the Board of Directors, If at any meetings 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 such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

**3.16. Board of Directors Meetings open to all Association Members.** Except as otherwise provided by law for meetings in Executive Session, 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.

**3.17. 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 a reasonable location which has been generally publicized to the Owners.

**3.18. 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 a quorum 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.

**3.19. 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 any assistant treasurer and an assistant secretary, and any such other officers as in their judgment may be necessary.

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**4.2. Election of Officers.** 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 the 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 moneys 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 the Declaration. Assessments shall be payable on a periodic basis, not more frequently than annually, as determined by the Board of Directors. All initial, general and special assessments shall be allocated equally among the Lots.

**5.2. Investment of Reserve Account Funds.** Each reserve account shall be kept in an account with a safe and responsible depository, shall be accounted for separately and, if invested, the obligation or security shall be fully guaranteed as to principal by the United States of America or one of its agencies. Assessments paid into the reserve accounts are the property of the Association and are not refundable to sellers of Lots. Provided, however, nothing herein shall prevent sellers of Lots from treating their outstanding allocable share of reserve accounts as a separate or reimbursable item in a sales agreement. No Owner shall have any individual rights in any of these reserves, although it is understood that the value of

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their respective Lots may increase in proportion to each Lot's right to receive repair, maintenance and replacement there from.

**5.3 Initial Assessment.** the initial assessment to Owners shall be based on a budget determined by the Board of Directors. The monthly assessment shall thereafter be subject to review by the Board of Directors. The budget and lot assessments for all Lots shall be payable from the date Declaration is recorded.

**5.4. Initial Assessment of Lots Subjected in the Future.** The initial assessment for owners of Lots subjected to the Declaration by annexation shall be a one time only assessment of \$7,500 for maintenance and repair to be placed in the reserve account set up for that purpose, plus a prorated portion of the annual assessment for the remainder of the year in which the lot is annexed. Thereafter, the owners of such Lots shall be assessed directly by the Association. The total initial assessment of Lots subsequently subjected to the Declaration shall be collected by the Declarant and delivered to the Association within thirty (30) days from the time such Lots are annexed. Upon the annexation of additional Lots, the Board of Directors shall promptly prepare a new budget reflecting the additional Lots and shall recompute any previous assessment covering any period after the annexation.

**5.5. 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:

**5.5.1** To correct a deficit in the operation budget by vote of a majority of the Board;

**5.5.2** To collect amounts due to the Association from an owner for breach of the owner's obligations under the Declaration, these Bylaws, or the Association's rules and regulations, by a vote of a majority of the Board;

**5.5.3** Upon a vote of a majority of the Board of, to make repairs or renovations to the common area or those portions of the buildings for which the Association has maintenance responsibility if sufficient refunds are not available from the operating budget or replacement reserve accounts; or

**5.5.4** To make capital acquisitions, additions or improvements, by vote of at least seventy-five (75%) oa all votes allocated to Lots in the Planned Community.

**5.6. Payment of Assessments.** The Declarant shall:

**5.6.1** Pay assessments due for operating expenses on all unsold Lots; and

**5.6.2** 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.

**5.7 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. If the assessment is not paid within thirty (30) days after the due

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date, the assessment shall bear interest from the date of delinquency at the rate of one percent (1%) per month. 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 Owner's 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.

### **5.8 Maintenance and Repair.**

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

**5.8.2** An Owner shall reimburse the Association for any expenditures incurred in repairing or replacing any Common Property and/or facility damaged through his or her fault, not otherwise covered by insurance policies carried by the Association for the Owner's and Association's benefit.

### **5.9. Right of Entry; Encroachments; Easements for Maintenance.**

**5.9.1** In case of an emergency originating in or threatening Owner's 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.

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

## **ARTICLE 6**

### **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 the numbered section.

**6.1. 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.

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**6.1.1** 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 all Common Property, and such other fire and casualty insurance as the Board of Directors shall determine to be reasonable necessary.

**6.1.2** 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 limits of liability under such insurance shall be as reasonably determined by the Board of Directors. Such limits 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.

**6.1.3** Workers' compensation insurance to the extent necessary to comply with any applicable laws.

**6.2. Review of Insurance Policies.** At least annually, the Board of Directors shall review all insurance carried by the Association, which review shall include a consultation with a representative of the insurance carrier writing the master policy.

## **ARTICLE 7**

### **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 and 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 8**

### **RECORDS AND AUDITS**

**8.1. 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.

**8.2 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

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affecting the Common Property, itemizing the maintenance and repair expenses of the common Property 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.

**8.3. 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.

**8.4. 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.

**8.5. 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 as required by law. The report shall be distributed to all Owners within ninety (90) days after the end of each fiscal year and to all mortgagees of Lots to the extent required by law.

**8.6. Notice of Sale, Mortgage, Rental or Lease.** Immediately upon the sale of any Lot, the Owner shall promptly inform the Secretary or manager of the name and address of said vendee.

## ARTICLE 9

### COMPLIANCE

These Bylaws are intended to comply with the provisions of the Oregon Planned Community Act, which are incorporated herein and to supplement the provision in the Project Declaration. 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 10

### INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS

The Association shall indemnify any Director, officer, employer 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

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enterprise, against expenses (including attorney fees), judgments, fines and amounts paid in settlement actually and reasonable 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, 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 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 payment. All persons who are ultimately held liable for their action on behalf of the Association as a Director, officer, employee or agent shall have right of contribution over and against all other Directors, officers, employees or agents and members of the Association who participated with or benefitted from the acts which created said liability.

## ARTICLE 11

### 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. 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 suit or 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 or of the Oregon Planned Community Act, the Owner or Owners, jointly and severally, will in addition to all other obligation, 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 12

### MISCELLANEOUS

**12.1. 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.

**12.2. 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.

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**12.3. 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, or in the event the rule against perpetuities applies, until twenty-one (21) years after the death of the last survivor of the now living descendants of the Owners of the lots as of the date set forth below. As used herein, the singular shall include the plural, 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 the Board of Directors of the Diamond Peaks at Leisure Woods I & II Homeowners Association, Inc., and may be recorded in the Deed Records of Klamath County.

Dated effective September 14, 2004

**THE DIAMOND PEAKS AT LEISURE  
WOODS I & II HOMEOWNERS  
ASSOCIATION, INC.**

By \_\_\_\_\_  
**Mary Karp, President**

**EXHIBIT "A"**  
**Legal Description**

**Parcel 1:**

\_\_\_\_\_ Lot 16, Block 3; and Lots 4, 6, 7 and 8, Block 4, all in Tract No. 1047, LEISURE WOODS, in the County of Klamath, State of Oregon.

**Parcel 2:**

\_\_\_\_\_ Lots 38 through 48 (inclusive), Block 3; Lots 9 through 14 and 16 through 20 (inclusive), Block 4; Lots 31 through 38 (inclusive), Block 5; and Lots 1 through 14 and 26 through 31 (inclusive), Block 6, all in LEISURE WOODS UNIT 2, in the County of Klamath, State of Oregon.

**Parcel 3:**

\_\_\_\_\_ Lots 22, 23, 24, 25, 30 and 31 of Diamond Peaks, Tract 1355, County of Klamath State of Oregon.

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WATER RESOURCES DEPT  
SALEM OREGON

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