

MUCKEN Alyssa M * WRD

From: chuck baker <cbak19269@gmail.com>
Sent: Thursday, September 24, 2020 8:39 PM
To: MUCKEN Alyssa M * WRD
Subject: Re: New Groundwater application, mailing address?

Follow Up Flag: Follow up
Flag Status: Flagged

Yes use
P.O. Box 1083
Crescent Lake oregon 97733
What's Diamond Meadows HOA mailings address
Thank you
Chuck

On Thu, Sep 24, 2020 at 3:31 PM MUCKEN Alyssa M * WRD <Alyssa.M.Mucken@oregon.gov> wrote:

Hi Chuck, the Department received the check yesterday. The older groundwater application had a mailing address of 371 Spyglass Drive in Eugene. I noticed a different mailing address of PO BOX 1083, Crescent Lake, Oregon 97733-1083 on

the envelope.

Should the Department be using this Crescent Lake address for future correspondence?

Thanks,

Alyssa

Alyssa Mucken

Water Rights Section Manager

Oregon Water Resources Department

725 Summer St NE Suite A | Salem OR 97301 | 503-986-0891

Pronouns: she/her/hers

Integrity | Service | Technical Excellence | Teamwork | Forward-Looking



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 MEADOWS TRACT #1384 HOMEOWNER'S ASSOC., INC.		PHONE 541-344-8455	FAX
ADDRESS 371 SPYGLASS DR P.O. Box 1083			CELL
CITY EUGENE Crescent Lake	STATE OR	ZIP 97401 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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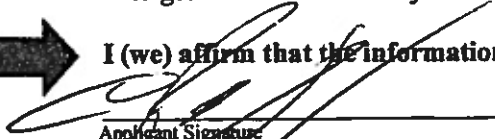
Note: Attach multiple copies as needed


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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.

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


Applicant Signature


Applicant Signature

PRESIDENT, DM TRACT 5/8/11
Print Name and title if applicable Date

1384 HOA
Print Name and title if applicable Date

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For Department Use		SEP 23 2020
App. No. <u>G-17465</u>	Permit No. _____	Date _____
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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	300'	10'

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*).

See Well Log KLAM 55044

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SECTION 3: WELL DEVELOPMENT, CONTINUED

Source (aquifer), if known: _____

Total maximum rate requested: 35 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.

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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)
1	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KLAM 55044	<input type="checkbox"/>	12"						46'	35 gpm	56.5 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"/>									
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>									
	<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.

SECTION 4: WATER USE

USE	PERIOD OF USE	ANNUAL VOLUME (ACRE-FEET)
Quasi-Municipal	January 1 – December 31	56.5

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

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): _____

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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 55044 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.

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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.

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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.

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

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SECTION 8: PROJECT SCHEDULE

Date construction will begin: _____

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

Date beneficial water use will begin: Already occurring under 15,000 gallon daily 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 Meadows Tract #1384 Homeowner's Association, Inc.

Name and size of area to be served: 0.2 square miles
(in square miles)

Present population of service area: 15 full time, 75 transient (weekends)
(Contact county planning staff, if needed.)

Projected population in 20 years: 117 full time (city-data.com give 1.4 people / home, 83 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>			

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Water Use

Average yearly demand: 56.5 AFY Year: 2030

Per-capita daily consumption (in gallons): 431
(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: 56.5 AFY
(diverted or pumped)

Delivered: 56.5 AFY

Is your system fully metered? Yes No

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

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Request for Water

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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 subdivision. Water is then piped to all 83 lots, fire spigots, and fire hydrants. Existing submersible 5 HP pump may be current constraining component but is relatively easily replaced.

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 supply 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 or outdoor irrigation.

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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 Meadows Tract #384 Homeowner's Association, Inc.
First Last

Mailing Address: 371 Spyglass Drive,
Eugene OR 97401 Daytime Phone: _____
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:
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
245	07E	07	B	3800	R-2	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	Rural
245	07E	07	A, B, C + D	Diamond Meadows Stewers Ranch	R-2	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	Residential
245	07E	07	D		R-2	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" 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: 50 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:

5 HP submersible pump feeds water tanks and water system to subdivision of 75 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.

See bottom of Page 3. →

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Land Use Information Form - Page 2 of 3

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For Local Government Use Only

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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

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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Legal Descriptions:

Place of Use

Leisure Woods in the County of Klamath, State of Oregon

Block 1

Lots 17 thru 35 inclusive

Block 2

Lots 1 thru 7 inclusive

Block 3

Lots 1, 2, 17, and 7 thru 13 inclusive

Land Partition LP 29-09 in the County of Klamath, State of Oregon

Parcels 1 & 2

Diamond Meadows Tract 1384 in the County of Klamath, State of Oregon

Lots 1 thru 45 inclusive

Appropriation:

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

Block 1, Lot 1, Cres-Del Acres 1st Addition, in the County of Klamath, State of Oregon.

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, Sections 7,
17, & 18.

Utility Easement Per Plat of Leisure Woods, Leisure Woods Unit 2, Cres-Del Acres
1st Addition, Cres-Del Acres 2nd Addition, and Diamond Meadows Tract 1384,
Township 24 South, Range 7 East, Sections 7 & 18.

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AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
THE DIAMOND MEADOWS TRACT # 1384
HOMEOWNERS ASSOCIATION, INC.
Klamath County, Oregon

THIS DECLARATION is made this 13 day of Nov 2010.

RECITALS

Pursuant to the affirmative vote of more than 75% of the Association's Owners, amendment is hereby made to the re-recorded Declarations, Covenants and Conditions for The Diamond Meadows Tract # 1384 Homeowners Association, Inc., rerecorded at Volume 2010-001803 on February 2, 2010, and originally recorded at Volume M05, page 33826 on May 10, 2005, in the Real Property Records of Klamath County, Oregon. This Restated Declaration supersedes and replaces in full all of the previous declarations and amendments to such previous declarations as they apply to the Property.

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

ARTICLE 1
DEFINITIONS

- 1.1 Architectural Review Committee or "ARC" shall refer to that committee constituted and acting pursuant to Article 6 of this Declaration.
- 1.2 Articles shall mean the Articles of Incorporation for the nonprofit corporation, The Diamond Meadows Tract # 1384 Homeowners Association, Inc. as filed with the Oregon Secretary of State.
- 1.3 Association shall mean and refer to The Diamond Meadows Tract # 1384 Homeowners Association, Inc., and its successors and assigns.
- 1.5 Bylaws shall mean and refer to the Bylaws of the Association, which shall be recorded in the Klamath County, Oregon, deed records.
- 1.6 Commonly Maintained Property shall mean the roadways, water system including lines to each Lot's back flow valve, well including pump and appurtenances, reservoir and upper system pumping station including the building and appurtenances located on Lot 7, Block 2 in Tract 1074 Leisure Woods, telemetry, fire hydrant system, street signs located adjacent to the Roadways, a portion of the Diamond Peaks entry sign located off Highway 58, and a portion of the rockered entry area on either side of the Diamond Peaks road connection to Highway 58. The Roadways have been deeded to Klamath County, but the Association must maintain the

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Roadways, including providing snow removal. All Commonly Maintained Property and the water system shall be decided by Declarant to the Association in the near future. Future acquisition of a) the Lot that the well is located b) Water Rights and any other acquired property will also become common property of the Association.

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

1.8 Declarant shall mean and refer to Patrick M. Gisler, or his successor in interest.

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

1.10 Lot shall mean and refer to each and any of Lots 1 through 45 (inclusive) in Diamond Meadows Tract # 1384, in the County of Klamath, State of Oregon and Lots 17, 20, 22, 26, 27, 28, 30, 31, 32, 33, 34 and 35, Block 1; Lots 1, 2, 3, 4, 5, 6, 7, Block 2; Lots 1, 2, 7, 8, 10, 11, 12, 13, 17, Block 53, all in TRACT 1074, LEISURE WOODS, in the County of Klamath, State of Oregon.

1.11 Members shall mean and refer to the Owners of a Lot.

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

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

1.14 Plat shall mean and refer to the official Plat of Diamond Meadows Tract No. 1384 on file in the office of the County's Clerk of Klamath County, Oregon.

1.15 Property shall mean Lots 1 through 45 (inclusive) in Diamond Meadows Tract # 1384, in the County of Klamath, State of Oregon and Lots 17, 20, 22, 26, 27, 28, 30, 31, 32, 33, 34 and 35, Block 1; Lots 1, 2, 3, 4, 5, 6, 7, Block 2; Lots 1, 2, 7, 8, 10, 11, 12, 13, 17, Block 53, all in TRACT 1074, LEISURE WOODS, in the County of Klamath, State of Oregon, plus the Commonly Maintained Property.

1.16 Reserve Account(s) shall mean and refer to an account set up by the Board to hold funds for construction, improvements or maintenance of the Commonly Maintained Property.

1.17 Roadway shall mean any street created primarily for vehicular traffic shown on the Plat as being within the Association's property.

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

ARTICLE 2 PROPERTY SUBJECT TO THIS DECLARATION

2.1 Development. The development subject to this Declaration consists of the Property, including the Commonly Maintained Property, which shall be held, transferred, sold, conveyed, and occupied subject to this Declaration.

2.2 Annexation. Additional lands may be annexed to and made a part of the Property, or may become incorporated into the Association, only if all of the following conditions are met:

2.2.1 All record legal owners of the proposed annexation land must approve of and be bound by this Declaration to the same degree and extent as all current Owners.

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2.2.2 All legal owners of the proposed annexation lands must sign and agree to abide by the Articles and Bylaws of the Association.

2.2.3 Owners of the proposed annexation lands must record in the Klamath County, Oregon land records an appropriately amended copy of the Declaration and the Association's Bylaws, showing that the annexation land has been annexed into the Property and that all of the annexation land and its Owners are bound by the Declaration and Bylaws.

2.2.4 The annexation must be approved by no less than 80% of all Members. The vote to occur at a meeting called for that purpose of which adequate prior written notice is provided to all Members.

2.2.5 Owners of the proposed annexation lands must pay all utility reimbursements and systems development charges due Declarant herein, plus an annexation and reserve fee to the Association, to be set by the Board at the time of the annexation in the Board's sole discretion.

ARTICLE 3 OWNERSHIP AND EASEMENTS

3.1 Nonseverability. The interest of each Owner in the use and benefit of the Commonly Maintained Property shall be appurtenant to the Lot owned by the Owner. No Lot shall be conveyed by the Owner separately from the interest in the Commonly Maintained Property. Any conveyance of any Lot shall automatically transfer the right to use the Commonly Maintained Property without the necessity of express reference in the instrument of conveyance. There shall be no judicial partition of the Commonly Maintained Property. Ownership interests in the Commonly Maintained Property and Lots are subject to the easements granted and reserved in this Declaration. Each of the easements granted or reserved herein shall be deemed to be established upon the recordation of this Declaration and shall thenceforth be deemed to be covenants running with the land for the use and benefit of the Owners and their Lots.

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

3.3 Ownership of Commonly Maintained Property. Title to all Commonly Maintained Property is held by the Association, except that Klamath County owns the Roadways.

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

3.4.1 Easements on Plat. The Commonly Maintained Property and Lots are subject to the easements and rights-of-way shown on the Plat.

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

3.4.3 Association's Easements. Declarant and the Owners grant to the Association and its duly authorized agents and representatives such easements over the Lots and Commonly Maintained Property as are necessary to perform the duties and obligations of the Association, as set forth in this Declaration, the Bylaws, and the Articles, as the same may be amended.

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**ARTICLE 4
LOTS AND HOMES**

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

4.2 Dwelling. Each Lot shall contain no more than one (1) structure created for or generally considered a single family dwelling.

4.3 Size. Each single family dwelling must contain at least 1,000 square feet of useable interior floor space exclusive of garages and any accessory building. The maximum height of any structure is 35 feet measured from the highest peak of the roof down to the average natural dirt grade level (i.e., the level where the dirt was before being disturbed by construction or other alteration).

4.4 Garage and Accessory Buildings. Each Lot may have a garage that is built underneath as part of the main dwelling. In addition, or in the alternative, each Lot may have one garage that cannot exceed a 1,500 square foot footprint with a maximum of three bays built to a standard size matching the following: (1) one bay and its door may be of a size to accommodate a Recreational Vehicle; and (2) all other bays and their doors may be of a size as is standard to accommodate passenger vehicles. Owners may apply to the ARC for approval of an exception to these requirements on Lots where the garage is hidden from view of the Roadways and does not negatively impact neighboring Lots, or where other mitigating factors apply.

4.5 Lot Size. No Lot may be subdivided. A Lot may be joined or utilized with a neighboring Lot, but: (1) the resulting double-Lot is subject to all building restrictions contained in this Declaration and any Rules and Regulations as if it was one Lot; and (2) the double-Lot and its Owners are subject to all assessments and other similar obligations for two Lots.

4.6 Temporary Structures. No structure of a temporary character or any trailer, tent, shack, or other accessory shall be used on any Lot as a residence or place to sleep, either temporarily or permanently.

4.7 Landscaping. All landscaping must blend with the surrounding terrain and vegetation. All vegetation used in landscaping must be comprised of grasses, shrubs, plants, and/or trees that are native to the immediately surrounding area. Any terrain disturbed in construction or while making other property improvements must be either landscaped or otherwise restored to its natural state as soon as reasonably possible upon completion of the construction or improvement. All landscaping materials that are visible on a Lot after being installed must be materials appearing to be natural that blend with the surrounding terrain and vegetation, such as rocks, boulders, logs, or manmade materials mimicking those items.

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4.8 **Tree Cutting.** No living tree the diameter of which is 6 inches or more may be removed from any Lot without the prior written approval of the ARC, unless the tree is diseased, poses an immediate danger to persons or property, is within 10 feet of an existing or approved but not yet constructed building, is within 5 feet of an existing or approved but not yet paved surface or driveway, removal is reasonably necessary to decrease fire dangers, removal is reasonably necessary to provide space for the healthy-growth of closely adjacent trees, or removal is needed to provide the primary dwelling structure with the predominant view or views to which the structure is oriented. Provided, however, that each Owner has the affirmative obligation to remove all dead trees and timber on that Owner's Lot as soon as reasonably possible so as to not allow for a heightened fire danger. Further, each Owner has the obligation to promptly remove any trees or other vegetation that poses a risk of significant damage or harm to the Roadway, Commonly Maintained Property, or to persons using the Roadway.

4.9 **Manufactured Homes.** Unless otherwise allowed under Section 6.12, manufactured homes are strictly prohibited.

4.10 **Trailers, Mobile Homes and Recreational Vehicles.** House trailers, camping trailers, and mobile homes are strictly prohibited throughout the Property, except for use on a Lot during active construction of a dwelling on that Lot or as otherwise provided in this paragraph. Except as otherwise provided in this paragraph, Recreational Vehicles ("RV") are allowed on a Lot only so long as the RV is stored in a garage out of view from the Roadways and neighboring Lots. Notwithstanding the prior sentences, house trailers, camping trailers, mobile homes and RVs are allowed on a Lot for a maximum of 14 consecutive days if being used by a guest of the Lot Owner(s).

4.11 **Driveways.** All driveways must be composed of cinders, gravel, concrete, or asphalt.

4.12 **Maintenance, Fire Hazard and Water Drainage.** All buildings and improvements must be constructed in a workmanlike manner and kept in a condition of good repair. Each Lot, its improvements, and its landscaping shall be maintained in a clean and attractive condition in good repair and in such fashion as to not create an elevated fire hazard, or a problem with water runoff.

4.13 **Parking.** Parking must be planned for and provided on each Lot upon which any improvement is constructed. Parking and/or storage of all motor vehicles and recreational vehicles, including boats and snowmobiles must be done on each Lot in such a manner that they do not distract from the appearance of any particular property, including the Lot on which such items are parked or stored. Parking of vehicles of any kind on the side of the road is prohibited. Each Lot may have no more than one (1) boat parked or stored outside of a garage for more than fourteen (14) consecutive days at a time.

4.14 **Vehicles in Disrepair.** No Owner shall permit any vehicle that is in a state, of disrepair, not currently functional, or that is not currently licensed, to be on a Lot (other than if enclosed in a garage) for a period in excess of 48 hours. A vehicle may be deemed in a "state of disrepair" when the Board reasonably determines that its presence offends the occupants of the neighborhood. If an Owner fails to remove such vehicle within ten (10) days following the date on which the Association mails or delivers to such Owner a notice directing such removal, the Association may have the vehicle removed from the Property and charge the expense of such removal to the Owner as a reimbursement assessment, which may be collected and enforced as any other assessment imposed pursuant to the Declaration and Bylaws.

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4.15 **Setbacks.** The setback line is 20 feet back from all Lot lines to the closest edge of any structure built upon the Lot. No structures or driveways may be placed within the setback area.

4.16 **Fences.** No fences may be installed around a Lot or otherwise on a Lot for any purpose, other than to secure the Commonly Maintained Property as the Board may determine appropriate. A decorative or security gate may be installed at the end of a driveway if the gate is approved before installation by the ARC.

4.17 **Animals.** No animals, livestock, or poultry of any kind, other than a reasonable number of household pets that are not kept, bred, or raised for commercial purposes and that are reasonably controlled so as not to be a nuisance, shall be raised, bred, kept, or permitted within any Lot. Owners whose pets cause any inconvenience or unpleasantness to other Owners shall take all steps reasonably necessary: to prevent reoccurrence thereof. Owners whose pets damage other Owner's Lots or personal property shall reimburse such other Owners for reasonable costs actually incurred by such other Owners in repairing such damage. An Owner must have that Owner's dog leashed when on the Property and outside of such Owner's Lot so that all residents wishing to use the roadways for recreational walks, jogging, etc. feel safe to do so. An Owner will be required to permanently remove a pet from the Property on the receipt of the third notice in writing from the Board of a violation of any rule, regulation, or restriction governing pets within the Property.

4.18 **Firearms.** No hunting or discharging of firearms is permitted on the Property.

4.19 **Signs.** No sign shall be erected or maintained on any Lot, except that (a) one (1) "For sale" or similar sign 18" x 24" or smaller may temporarily be placed by the Owner, developer, or by a licensed real estate agent on any Lot; and (b) not more than one (1) sign of 18" x 24" or smaller may be temporarily placed on a Lot for each contractor or construction-related supplier providing service to that Lot. All signs shall be removed within a reasonable time after closing of a sale or completion of construction, whichever is applicable. The Board may consider and approve exceptions to this rule in the Board's discretion.

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

4.21 **Service Facilities.** Service facilities, including but not limited to garbage containers, fuel tanks, and clothes lines shall be screened so that such facilities are not visible at any time from the Roadway or neighboring properties.

4.22 **Exterior Lighting.** Exterior lighting shall be used primarily for safety purposes rather than illumination or decoration of any building or landscaping. The purpose of this restriction is to eliminate glare and annoyance, as well as to preserve the natural setting. Exterior lighting shall not cast a light on adjoining properties and shall be shielded so that light rays are directed to the ground.

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4.23 Sewage. Sewage disposal systems shall meet all county health department standards and requirements.

4.24 Damage and Destruction to Home and/or Lot. If all or any portion of a Lot or Home is damaged by fire or other casualty, the Owner shall either: (a) restore the damaged improvements; or (b) remove all damaged improvements, including foundations, and leave the Lot in a clean and safe condition. Any restoration proceeding under option (a) above must be performed so that the improvements are in at least substantially the same condition in which they existed before the damage. All restoration must be approved by the ARC just the same as new improvements. The Owner must commence work under either option (a) or (b) within sixty (60) days after the damage occurs or as soon as reasonably possible if there is a substantial accumulation of snow on the ground that prevents taking action at an earlier time. All such work must be completed within ten (10) months after the damage occurs.

4.25 Siding, Color, and 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 all trim and roofing materials) of all homes and other structures (whether paint, stain or otherwise) shall be in earth tones that blend with the immediate surroundings and are approved by the ARC in its discretion. Exterior reflective metals must be painted to blend with surrounding earth tones. Roof pitch on all homes shall be 6-12 or steeper. Any garage or accessory building must be constructed so that it blends with and is complementary to the dwelling on that Lot and must be approved by the ARC prior to construction the same as a dwelling.

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

4.27 Progress of Construction. No more than twenty-four (24) months of construction time shall lapse between the initial groundbreaking for and receipt of an occupancy permit for a dwelling unit. An exterior latrine shall be allowed only during this construction period of the permanent dwelling unit. No more than twenty-four (24) months of construction time shall lapse between the initial groundbreaking for and completion of any other improvement upon a Lot. Any construction not completed as described in this paragraph, within the allowed 24 month period, will result in a special assessment being made against the relevant Lot and Owner in the sum of \$100 per month for each month after the 24th month until construction is completed.

4.28 Right of Maintenance and Entry by Association. If an Owner fails to perform maintenance and/or repair that such Owner is obligated to perform pursuant to this Declaration, and if the Board determines, after notice, that such maintenance and/or repair is necessary to preserve the attractiveness, quality, nature, and/or value of the Property, the Board may cause such maintenance and/or repair to be performed and may enter any such Lot whenever entry is necessary in connection with the performance thereof. An Owner may request, and if requested, the Board shall conduct, a hearing on the matter. The Owner's request shall be in writing delivered within ten (10) days after receipt of the notice, and the hearing shall be conducted within not less than five (5) nor more than 20 days after the request for a hearing is received. Entry shall be made with as little inconvenience to an Owner as practicable and only after advance written notice of not less than 48 hours, except in emergency situations. The costs of such maintenance and/or repair shall be chargeable to the Owner of the Lot as a reimbursement

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assessment, which may be collected and enforced as any other assessments authorized hereunder.

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

ARTICLE 5 COMMONLY MAINTAINED PROPERTY

5.1 Generally. The Commonly Maintained Property is subject to the provisions of the Declaration, Bylaws, Articles, and the Rules and Regulations adopted by the Board. No alterations or additions to the Commonly Maintained Property shall be permitted without the prior written consent of the Board.

5.2 Maintenance of Commonly Maintained Property. The Association shall be responsible for maintenance, repair, replacement, and upkeep of the Commonly Maintained Property. This includes regular snow removal and plowing of the Roadways. The Association shall keep the Commonly Maintained Property in good condition and repair, provide for all necessary services, and cause all acts to be done that may be necessary or proper to assure the maintenance of the Commonly Maintained Property.

5.3 Alterations to Commonly Maintained Property. Only the Association shall construct, reconstruct, or alter any Commonly Maintained Property. A proposal for any construction or alteration, maintenance, or repair to any Commonly Maintained Property may be made at any Board meeting. The Board may adopt a proposal, subject to the limitations contained in the Bylaws and this Declaration.

5.4 Funding. Expenditures for alterations, maintenance, or repairs to an existing improvement for which a reserve has been collected shall be made from the Reserve Account. As provided in Section 8.8, the Board may levy a special assessment to fund any construction, alteration, repair, or maintenance of an improvement (or any other part of the Commonly Maintained Property) for which no reserve has been collected or for which the Reserve Account is insufficient to cover the cost of the proposed improvement.

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

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5.6 Power of Association to Sell, Dedicate, or Transfer Common Area. As provided in ORS 94.665, the Association may sell, dedicate, transfer, grant a security interest in, or grant an easement for installation and maintenance of utilities or for similar purposes in or over any Commonly Maintained Property. Except for grants of easements for utility-related purposes, no such sale, dedication, transfer, or grant of a security interest shall be effective unless approved by 80% of all Member votes.

ARTICLE 6
ARCHITECTURAL REVIEW COMMITTEE

6.1 Architectural Review. No improvement shall be commenced, erected, placed, or altered in any manner visible from the exterior on any Lot until, the construction plans and specifications showing the nature, shape, heights, materials, colors, and proposed location of the improvement have been submitted to and approved in writing by the ARC. This Article's purpose is to assure harmony between the proposed improvement's exterior design and the already existing improvements and landscaping on the Property, the natural surroundings, and the restrictions and guidelines established by this Declaration and the ARC. The ARC shall not be responsible for determining compliance with structural and building codes, zoning codes, or other governmental regulations, all of which are the applicant's responsibility. In addition to what is required by this Declaration, further procedure and specific requirements for review and approval of construction may be set forth in design guidelines and standards adopted from time to time by the ARC, which are available upon request made to the ARC by any Lot Owner or interested person. The provisions of this Article shall apply to all instances in which this Declaration requires the ARC's consent.

6.2 Architectural Review Committee, Appointment and Removal. The ARC shall consist of no fewer than three members and no more than five members. Each ARC member shall serve for two years. The Board appoints all ARC members. The Board may appoint itself as the ARC or any of its members to the ARC. If an ARC has not been appointed, the Board shall serve as the ARC.

6.3 Majority Action. Except as otherwise provided in this Declaration, a majority of the members of the ARC shall have the power to act on behalf of the ARC. The ARC may render its decisions only by written instrument setting forth the action taken by the members. All such written instruments must show specifically the Members consenting and/or opposing, and must be maintained and available for inspection by any Member.

6.4 Duties. The ARC shall consider and act on the proposals and/or plans submitted pursuant to this Article. The ARC, from time to time and at its sole discretion, may adopt architectural rules, regulations, and guidelines ("Architectural Standards"). The Architectural Standards shall interpret, implement and add to the provisions of this Declaration for architectural review and guidelines for architectural design, placement of buildings, color schemes, exterior finishes and materials, and similar features; provided, however, that the Architectural Standards shall not be in derogation of the minimum standards established by this Declaration.

6.5 ARC Decision. All complete applications submitted to the ARC before the 15th of each month will be considered with the ARC rendering its written decision approving or denying each application before the end of that same month. If the ARC fails to render such written decision before the end of the month, the applying party shall bring that party's application to the Board and the Board shall then render a decision in place of the ARC or ensure that a decision is

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promptly issued by the ARC. If no decision is rendered by the 15th day of the month following the month the completed application was submitted, the application is deemed approved

6.6 ARC Discretion. The ARC, at its sole discretion, may withhold consent to any proposed work if the ARC finds the proposed work would be inappropriate for the particular Lot or incompatible with the standards established in this Declaration or in the ARC's Architectural Standards. The ARC may consider siting, shape, size, color, design, height, solar access, view access, or other effect on the enjoyment of other Lots, and any other factors that it reasonably believes to be relevant in determining whether or not to consent to any proposed work. Priority for attaining and protecting views will be given to already established dwellings.

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

6.8 Appeal. Any Owner adversely impacted by ARC action may appeal such action to the Board. Such appealing Owner shall submit to the Board a written notice of appeal, setting forth specific objections or mitigating circumstances justifying the appeal, within 10 days after the ARC's action. The Board shall issue a final, conclusive decision within 45 days after receipt of such notice, and such decision shall be final and binding on the appealing Owner and the ARC. Provided, however, the Board shall make reasonable efforts to reach a decision within 20 days. If the Board is serving as the ARC, then such-appeal shall be deemed a request for reconsideration.

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

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

6.11 Noncompliance. If the ARC determines that an Owner has not constructed an improvement consistent with the specifications of an ARC approval or has constructed an improvement without obtaining ARC approval, sends a notice of noncompliance to such Owner, and such Owner fails to commence diligently remedying such noncompliance in accordance with such notice, then, effective at 5:00 p.m. on the seventh day after issuance of such notice, the ARC shall provide notice of a hearing to consider the Owner's continuing noncompliance. The hearing shall be set not more than 30 days from the date on which the notice of noncompliance was issued. At the hearing, if the ARC finds that there is no valid reason for the continuing noncompliance, the ARC shall determine the estimated costs of achieving compliance and may issue a fine against the noncomplying Owner for such amount. The ARC also shall require the Owner to remedy such noncompliance within 10 days after the date of the ARC'S determination. If the Owner does not comply with the ARC's ruling within such period or any extension thereof granted by the ARC, at its sole discretion, the ARC may remove the noncomplying improvement, remedy the noncompliance, and/or record the notice of noncompliance in the county' deed records. The costs of any such action shall be assessed against the Owner as a Reimbursement Assessment either before or after any remedial action is taken.

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6.12 Grandfathered Noncompliance. Any improvements already existing on the date this Declaration is adopted, plus improvement plans or drawings already approved by the Board in writing, are considered grandfathered in, accepted, and not subject to the noncompliance provisions of Sections 6.10 and 6.11.

6.13 Liability. Neither the ARC nor any member thereof shall be liable to any Owner, Occupant, or builder for any damage, loss, or prejudice suffered or claimed on account of any action or failure to act of the ARC or a member thereof provided only that the ARC or the member has, in accordance with its or his or her actual knowledge, acted in good faith.

6.14 Estoppel Certificate. Within 25 days after the ARC's receipt of a written request from an Owner and the ARC's receipt of payment of a reasonable fee fixed by the ARC to cover costs, the ARC shall provide such Owner with a certificate executed by the Chairperson or other authorized member of the ARC certifying with respect to any Lot owned by the Owner, that, as of the date thereof, either (a) all improvements made or done by such Lot comply with this Declaration, or (b) such improvements do not so comply, in which event, the certificate shall also identify the noncomplying improvements and set forth with particularity the nature of such noncompliance. The Owner and such Owner's heirs, devisees, successors, and assigns shall be entitled to rely on the certificate with respect to the matters set forth therein. The certificate shall be conclusive as among Declarant, the ARC, the Association, all Owners, and all persons deriving any interest through any of them.

ARTICLE 7 MEMBERSHIP IN THE ASSOCIATION

7.1 Members. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of any Lot. Transfer of ownership of a Lot shall automatically transfer membership in the Association. Without any other act or acknowledgement, Occupants and Owners shall be governed and controlled by this Declaration, the Articles, Bylaws, and the Rules and Regulations of the Association and any amendments thereof.

7.2 Proxy. Each Owner may cast such Owner's vote in person, by written, ballot, or pursuant to a proxy executed by such Owner, as further described in the Bylaws.

7.3 Voting Rights. Each Owner shall be entitled to one vote for each Lot owned with respect to all matters on which Owners are entitled to vote, and the total number of votes shall be equal to the total number of Lots subject to this Declaration. When more than one person or entity owns a Lot, the vote for such Lot may be cast as they shall determine, but in no event shall fractional voting be allowed. Fractional or split votes shall be disregarded, except for purposes of determining a quorum.

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

ARTICLE 8 FUNDS AND ASSESSMENTS

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8.1 Purpose of Assessments; Expenses. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, aesthetics, and welfare of the Owners and Occupants of the Property, for the improvement, operation, and maintenance of the Commonly Maintained Property, including snow removal on the Roadways, for domestic water service, for the administration and operation of the Association, and for related insurance.

8.2 Covenants to Pay. Each Owner covenants and agrees to pay the Declarant and/or Association the systems development charges, assessments, and any additional charges levied pursuant to this Declaration or the Bylaws. All assessments for operating expenses, repairs and replacement, and reserves shall be allocated among the Lots and their Owners as set forth herein.

8.3 Funds Held in Trust. The assessments collected by the Association shall be held by the Association for and on behalf of each Owner and shall be used solely as set forth herein. On the sale or transfer of any Lot, the Owner's interest in such funds shall be deemed automatically transferred to the successor-in-interest to such Owner.

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

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

8.6 Lots Subject to Assessments. All Lots and Owners thereof are subject to all assessments set out in this Declaration in the manner described herein, except that any Lot not hooked up to the community water system shall not be required to pay any portion of an assessment otherwise charged specifically for the purchase of consumable water and for back flow testing.

8.7 Annual Assessments. Annual assessments for each fiscal year shall be established by the Board in its discretion when the Board approves the budget for that fiscal year. Annual assessments shall be payable on a periodic basis, not more frequently than monthly, as determined by the Board. The Board, in its discretion, may offer a discount on annual assessments for Owners paying the annual assessments in full by a pre-set date as long as the reduction is offered to all Owners on an equal basis.

8.7.1 Budgeting. Each year the Board shall prepare, approve, and make available to each Member an operating statement (budget) containing: (a) estimated revenue and expenses; (b) the amount of the total cash reserves of the Association currently available for replacement or major repair of the Commonly Maintained Property and for contingencies; (c) an itemization estimate for the remaining life of, and the methods of funding to defray, repair, for replacement, or additions to major components of such improvements; and (d) a general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the cost of repair, replacement, or additions to major components of the Commonly Maintained Property. The Board shall annually prepare and approve the budget and distribute a copy or summary thereof to each Member, together with written notice of the amount of the annual assessments to be levied against the Owner's Lot, within 60 days after adoption of such budget.

8.7.2 Allocation of Assessments. Each Lot (and the Owners thereof) shall be charged an equal annual assessment, except as provided in Section 8.6 for Lots not yet hooked up to the domestic water system.

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

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8.8 Special Assessments Against All Lots/Owners. The Board shall have the power to levy special assessments equally against all Owners and Lots in the following manner for the following purposes:

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

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

8.8.3 Capital Improvements. To make capital acquisitions, additions, or improvements, by vote of at least 70% of all votes allocated to the Lots.

8.9 Special Assessment Against Specific Lots/Owners. The Board shall have the power to levy special assessments against a Lot and Owner as otherwise provided herein or in the Bylaws, including to collect amounts due to the Association for breach of the Owner's obligations under this Declaration, the Bylaws, or the Rules and Regulations, determined by unanimous vote of the Board as to both the breach and the amount of the assessment.

8.10 Reimbursement Assessments. The Association shall levy a reimbursement assessment against any Owner and such Owner's Lot if a failure to comply with this Declaration, Bylaws, Architectural Standards, or any Rules and Regulations has: (a) necessitated an expenditure of monies by the Association to effect compliance; or (b) resulted in the imposition of a fine or penalty against such Owner or such Owner's Lot (a "Reimbursement Assessment"). A Reimbursement Assessment shall be due and payable to the Association when levied. A Reimbursement Assessment shall not be levied by the Association except on at least 10 days written notice to the Owner being assessed. If, within said 10-day period, the Owner makes a written request to the Board for a hearing, a hearing shall be held. On request for a hearing, the Board shall conduct it not less than 10 or more than 30 days after the request by the Owner, and shall make its decision by majority vote within not more than 30 days after the hearing is held. If a notice has not been previously given, and the hearing has already been held or waived (in writing or by the Owner's failure to appear), for the violation resulting in the Reimbursement Assessment, no additional notice and hearing is required before levying the Reimbursement Assessment.

8.11 Water Hookup Fee. As a condition of getting hooked up to the community's domestic water system, the Owner(s) of each Lot must pay to the Association at the time of hook-up a one-time special assessment, which is set annually by the Board in its annual budget.

8.12 Systems Development Charge. All Lots not originally subject to these Declarations prior to connection to the domestic water system shall pay Declarant a systems development charge to be connected to such system as reimbursement for contributions in aid of construction. The systems development charge shall be \$9,760 per Lot at the time of connection in addition to the cost of any necessary line extension. All line extensions shall meet standard requirements for Declarant including provisions for fire low. For unauthorized connection to the water system, the charge owed to Declarant will be \$14,760 per Lot.

8.13 Accounts.

8.13.1 Types of Accounts. Assessments collected by the Association shall be deposited into at least two separate accounts with a bank, which accounts shall be clearly designated as (a) the Current Operating Account and (b) the Reserve Account. The Board shall deposit those portions of the assessments collected for current maintenance and operation into the Current Operating Account and shall deposit those portions of the assessments collected as reserves for

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replacement and deferred maintenance of capital improvements into the Reserve Account. Withdrawal of funds from the Association's Reserve Account shall require the signatures of two Directors. In its books and records, the Association shall account separately for operating expenses relating to the Commonly Maintained Property and operating expenses relating to all other matters, as well as for necessary reserves relating to the Commonly Maintained Property and necessary reserves relating to all other matters.

8.13.2 Calculation of Reserve Assessment; Reserve Study. The Board of Directors of the Association shall annually conduct a reserve study, or review and update an existing study, of the Commonly Maintained Property to determine the Reserve Account requirements. A Reserve Account shall be established for those items of the Commonly Maintained Property all or part of which will normally require replacement in more than three and less than 30 years from installation or construction, and for the maintenance, repair, or replacement of other items as may be required under the Declaration or Bylaws or that the Board of Directors, in its discretion, may deem appropriate. The Reserve Account need not include items that could reasonably be funded from operating assessments. The reserve study shall include:

- (a) identification of all items for which reserves are required to be established;
- (b) the estimated remaining useful life of each item as of the date of the reserve study;
- (c) the estimated cost of maintenance, repair or replacement of each item at the end of its useful life; and (d) a 30-year plan with regular and adequate contributions, adjusted by estimated inflation and interest earned on reserves, to meet the maintenance, repair and replacement schedule.

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

8.13.4 Investment of Reserve Account. The Board may place Reserve Account Funds in an appropriate checking or savings account, money market account, or certificates of deposit with maturities not exceeding one year. Other investments of Reserve Account Funds are prohibited.

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

8.13.6 Current Operating Account. All costs payable by the Association or its Board other than those to be paid from the Reserve Account may be paid from the Current Operating Account.

8.14 Default in Payment of Assessments or Systems Development Charges, Enforcement of Liens.

8.14.1 Personal Obligation. All assessments and systems development charges properly imposed under this Declaration or the Bylaws shall be the joint and several personal obligations of all Owners of the Lot to which such assessment pertains. In a voluntary conveyance (i.e., one other than through foreclosure or a deed in lieu of foreclosure), the grantees shall be jointly and severally liable with the grantors for all Association assessments and systems development charges imposed through the recording date of the instrument effecting the conveyance. A suit for a money judgment may be initiated by the Association or Declarant, as appropriate, to

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recover such assessments and system development charges without either waiving or foreclosing the Association's or Declarant's lien.

8.14.2 Lien. The Association or Declarant, as appropriate, shall have a lien against each Lot for any assessment (of any type provided for by this Declaration or the Bylaws) or installation thereof or systems development charge that is delinquent. Such lien shall accumulate and include all future assessments or installations, interest, late fees, penalties, fines, attorney fees (whether or not such suit or action is instituted), actual administrative costs, and other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. Late payments will incur interest at 1% per month. Both the Association and Declarant are expressly entitled to reasonable attorney fees, costs, and collection fees, even if no lawsuit is filed. Recording of the Declaration constitutes record notice and perfection of the lien. Said lien may be foreclosed at any time pursuant to the Planned Community Act. The Association or Declarant shall record a notice of a claim of lien for assessments and other charges in the deed records of Klamath County, Oregon, before any suit to foreclose may be filed.

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

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

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

ARTICLE 9 GENERAL PROVISIONS

9.1 Records. The Board shall preserve and maintain minutes of the meetings of the Association, the Board, and any committees. The Board shall also keep detailed and accurate financial records, including individual assessment accounts of Owners, the balance sheet, and income and expense statements. Individual assessment accounts shall designate the name and address of the Owner or Owners of the Lot, the amount of each assessment as it becomes due, the amounts paid on the account, and the balance due on the assessments. The minutes of the Association, the Board and Board committees, and the Association's financial records shall be

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maintained in the State of Oregon and reasonably available for review and copying by the Owners. A reasonable charge may be imposed by the Association for providing copies.

9.2 Indemnification of Directors, Officers, Employees, and Agents. The Association shall indemnify any Director, officer, employee, or agent who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by the Association) by reason of the fact that such person is or was a Director, officer, employee, or agent of the Association, against expenses (including attorney fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by said person in connection with such suit, action, or proceeding if such person acted in good faith and in a manner that such person reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, that a reasonable person would not have reason to believe was unlawful.

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

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

9.5 Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the land for a term of 35 years from the date of this Declaration being recorded, after which time they shall be automatically extended for successive periods of 10 years, unless rescinded by a vote of at least 90% of the Owners; provided, however, that amendments that do not constitute rescission of the planned community may be adopted as provided in Section 9.6 and that if any of the provisions of this Declaration would violate the rule against perpetuities or any other limitation on the duration of the provisions herein contained imposed by law, then such provision shall be deemed to remain in effect only for the maximum period permitted by law.

9.6 Amendment. Except as otherwise provided in ORS 94.590, and the restrictions set forth elsewhere herein, this Declaration may be amended at any time by an instrument approved by not less than 75% of the total votes of all Owners. Any amendment must be executed, recorded, and certified as provided by law; provided however, that no amendment of this Declaration shall effect an amendment of the Bylaws or Articles without compliance with the provisions of such

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documents and the Oregon Nonprofit Corporation Act, and that no amendment shall limit the Declarant's right to receive systems development charges as set further herein.

9.7 Resolution of Document Conflicts. In the event of a conflict among any of the provisions in the documents governing the Association or the Property, such conflict shall be resolved by looking to the following documents in the order shown below:

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

The undersigned hereby certifies that this Amended and Restated Declaration of Covenants, Conditions and Restrictions has been adopted in accordance with the Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Diamond Meadows Tract # 1384 Homeowners Association, Inc., and with the Oregon Planned Community Act, ORS 94.550-94.783.

DIAMOND MEADOWS TRACT # 1384 HOMEOWNERS ASSOCIATION, INC.

By: 
Paul Hackett, Association President

DIAMOND MEADOWS TRACT # 1384
HOMEOWNERS ASSOCIATION, INC.

By: 
Linette Dobbins, Association Secretary

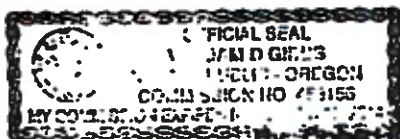
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State of OREGON
County of KEANAWA

Signed or attested before me on November 13th, 2020 by
PAUL HACKETT
LINETTE DOBBINS



William D Gibbs
Notary

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THIS IS REMOVED FROM ATTACHED DOCUMENT

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2010 -
Klamath County, Oregon

After Recording Return to:
Paul Hackett
PO Box 833
Gilchrist, Oregon 97737

**AMENDED BYLAWS
OF
THE DIAMOND MEADOWS TRACT #1384
HOMEOWNERS ASSOCIATION, INC.
KLAMATH COUNTY, OREGON**

Dated: August 14, 2010

Declarant The Diamond Meadows Tract #1384 Homeowners Association, Inc.

Previously recorded on October 30, 2007 as Amended Bylaws of the Diamond Summit at Leisure Woods II Homeowners Association, Inc. Volume 2007, page 018621, Microfilm Records of Klamath County, Oregon.

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**AMENDED BYLAWS
OF
THE DIAMOND MEADOWS HOMEOWNERS
TRACT # 1384 HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE 1
PLANNED COMMUNITY PLAN OF LOT OWNERSHIP; DEFINITIONS**

- 1.1 Bylaws Applicability.** The Lots described on Exhibit "A" (comprising 72 lots), together with any Lots annexed hereafter, and the Commonly Maintained Property, in the County of Klamath, State of Oregon (jointly the "Property" or "Project"), as well as the Diamond Meadows Tract # 1384 Homeowners Association, Inc. (the "Association"), and all Members and the management structure thereof, are submitted to the provisions of the Oregon Planned Community Act ("PGA"), Oregon Revised Statutes §94.550, et seq, these Bylaws and any amendments thereto, and to the Amended and Restated Declarations, Covenants and Conditions for the Diamond Meadows Tract # 1384 Homeowners Association, Inc., and any amendments to the same subsequently recorded ("Declaration").
- 1.2 Personal Application.** All present or future Owners, tenants, occupants or their employees, and any other person that might occupy any portion of the Property in any manner, are subject to these Bylaws.
- 1.3 Definitions.** Capitalized terms used but not defined herein shall have the same meaning given to them in Article I of the Declaration.

The acquisition, occupancy or rental of any of the Lots or the mere act of occupancy of any said Lots constitutes acceptance and ratification of these Bylaws and agreement to comply with all the provisions hereof.

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

- 2.1 Membership in the Association.** Upon recordation of a conveyance or contract to convey a Lot, the grantee or purchaser named in such conveyance or contract shall automatically be a Member of the Association, and shall remain a Member of said Association until such time as such person's ownership ceases for any reason. For all purposes of the Declaration and the administration of the Property, Lot ownership shall be determined from the record maintained by the Association. The record shall be established by the Owner filing with the Association a copy of the deed to or land sale contract for his or her Lot, to which shall be affixed the certificate of the recording officer of the County of 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

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previously unsold Lots, although no deed or land sale contract, with respect to such Lots, has been filed with the Association.

- 2.2 **Voting Rights.** The Association shall have 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 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 lot 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.
- 2.5 **Voting; Proxies.** Owners may cast votes in person, by written ballot, or by proxy. Proxies must be filed with the Secretary of the Association ("Secretary") before or during the appointed meeting. A proxy shall expire one year after the date it was signed unless a shorter period is specified in the proxy. The proxies may require the holder to cast a vote for or against any specific proposal set out in the notice calling the meeting. Unless withdrawn, a proxy given to another person to vote at a specific meeting shall also be valid at an adjourned meeting called under the provisions of Section 3.6. The Association must retain proxies and ballots for one year from the date of the determination of the vote.
- 2.6 **Authority to Vote.** All Owners, including those who have leased their Lot to a third party, shall be entitled to vote. An Owner's right to vote may not be revoked. A purchaser under a land sale contract entitled to immediate possession of the Lot shall be deemed the Owner thereof, unless otherwise provided in such contract.
- 2.7 **Fiduciaries and Joint Owners.** An executor, administrator, guardian, or trustee may vote, in person or by proxy, at any meeting of the Association with respect to any Lot owned or held by such person in such capacity, whether or not the same shall have been transferred to such person's name, provided that such person has satisfied the Association Secretary that such person is the executor, administrator, guardian or trustee holding such Lot in such capacity. Whenever any Lot is owned by two or more persons jointly according to the records of the Association, the vote of such Lot may be exercised by any one of the Owners then present, in the absence of protest by a co-owner. In the event of such protest, no one co-owner shall be entitled to vote without the approval of all co-owners. In the event of disagreement among the co-owners, the vote of such Lot shall be disregarded for all purposes, except for determining whether a quorum is present.

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**ARTICLE 3
ADMINISTRATION**

- 3.1 Association Responsibilities.** The Owners shall constitute the Members of the Association. Except as otherwise provided in the Declaration or these Bylaws, decisions and resolutions of the Association shall require approval by a majority of the Owners present at any legal meeting. A legal meeting is one duly called pursuant to these Bylaws at which 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, unless a larger vote is required to approve a ballot item, in which case the quorum requirements shall be the number of votes required to approve the proposal.
- 3.2 Place of Meetings.** Formal meetings of the Association shall be held at suitable places convenient to the Owners as may be designated by the Board of Directors of the Association ("Board"). Any vote taken by written ballot shall be determined by the Board of Directors within seven (7) days of the deadline for return of ballots. Each Owner shall be notified by mail or other delivery of written notice of the results of the ballot meeting or that a quorum of the ballots was not returned, within ten (10) days after the ballots have been counted.
- 3.3 Annual Meetings.** The annual meeting of the Association shall be held within one hundred and 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 4.7 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.
- 3.4 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.
- 3.5 Notice of Meetings.** It shall be the duty of the Secretary to mail a notice of each annual or special meeting, 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

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shall be sent to a single address of which the Secretary has been notified in writing by such parties. If no address has been given the Secretary in writing, then mailing to the Project Lot address shall be sufficient. The mailing of a notice in the manner provided in this Section shall be considered notice legally served.

- 3.6 **Adjourned Meetings.** If any gathering of Owners is not a legal meeting because a quorum has not attended, the Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours nor more than ten (10) days from the time the original meeting was called. The adjournment provisions of this Section do not apply to meetings by ballot.
- 3.7 **Ballot Meetings.** Unless prohibited or limited by the Articles of Incorporation of the Association, any action that may be taken at any annual or special meeting of the Owners may be taken without a meeting if the Association delivers a written ballot to every Owner entitled to vote on the matter as provided in ORS 94.647. Such ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. A proposed action shall be deemed to be approved by written ballot when the number of votes cast by ballot equals or exceeds any quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceed the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. The Board must provide Owners with at least ten (10) days' notice as required by ORS 94.647(2)(b) before written ballots are mailed or otherwise delivered. If, at least three (3) days before written ballots are scheduled to be mailed or otherwise distributed, at least ten percent (10%) of the Owners petition the Board requesting secrecy procedures, a written ballot must be accompanied by a secrecy envelope, the return identification envelope to be signed by the Owner and instructions for making and returning the ballot. Written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.
- 3.8 **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 4 BOARD OF DIRECTORS

- 4.1 **Number and Qualification.** The affairs of the Association shall be governed by a Board of Directors composed of three (3) persons, all of whom must be an Owner or the co-owner

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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.

- 4.2 Powers and Duties.** The Board of Directors shall have the powers and duties necessary for 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.
- 4.3 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:
- 4.3.1 Upkeep of Commonly Maintained Property.** Care, upkeep, and supervision of the Commonly Maintained Property.
 - 4.3.2 Reserves.** Establishment and maintenance of replacement reserve accounts and other reserves which are required by the Oregon Planned Community Act, the Declaration, or these Bylaws plus such other reserve accounts as the Board deems prudent to ensure that funds are available for the reasonable upkeep, maintenance and replacement of Commonly Maintained Property.
 - 4.3.3 Assessments.** Designation and collection of assessments from the Owners, in accordance with these Bylaws, the Declaration and the Oregon Planned Community Act.
 - 4.3.4 Budget; Voucher System.** Establishment of a budget and payment of all common expenses of the Association and institution and maintenance of a voucher system for all such payment, which shall require a sufficient number of signatories thereon as may be reasonably necessary to prevent any misuse of Association funds.
 - 4.3.5 Insurance.** Obtaining and maintaining insurance policies and payment of premiums thereof out of the common expense funds in respect to the Commonly Maintained Property as more specifically provided in Article 8 of these Bylaws.
 - 4.3.6 Personnel.** Designation and dismissal of the personnel necessary for the maintenance and operation of the Project.
 - 4.3.7 Financial Statements.** Causing the preparation and distribution of annual financial statements of the Association to each of the Owners as more specifically provided in Section 4.5.
 - 4.3.8 Rules.** Adoption and amendment of administrative rules and regulations governing the details of operation and use of the Commonly Maintained Property. Provided, however, any such rules or regulations shall always be subject to rescission or amendment by the Association upon majority vote of Owners presert at any properly called meeting.
 - 4.3.9 Documents.** 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.
 - 4.3.10 Tax Returns.** Causing the Association to ile the necessary tax returns of the Association.

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- 4.3.11 Mailing Address.** Establishing and maintaining a current mailing address for the Association.
- 4.3.12 Professional Services.** Employment of legal, accounting and other personnel or consultants for reasonable compensation to perform such services as may be required for the proper administration of the Association and filing proper tax returns.
- 4.4 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:
- 4.4.1 Third Party Contracts.** Entering into a contract with a third party wherein the third person will furnish goods or services for the Commonly Maintained Property, 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 not to exceed three (3) years duration provided that the policy permits short rate cancellation by the insured.
 - d) A contract for snow removal off the Roadways and related Roadways maintenance not to exceed three (3) years duration provided that the Board, in its discretion, determines that a contract longer than one (1) year is financially beneficial to the Association.
- 4.4.2 Capital Expenditures.** Incurring aggregate expenditures for capital improvements (as opposed to maintenance, repair and replacement costs) to the Commonly Maintained Property during any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.
- 4.4.3 Compensation.** Paying compensation to members of the Board of Directors or to officers of the Association for services performed in the conduct of the Association's business provided, however, that the Board of Directors may cause a Member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.
- 4.5 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.
- 4.6 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 may authorize.
- 4.7 Election and Term of Office.** The number of members on the Board of Directors shall be three (3). At the first election of directors occurring after adoption of these Amended

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Bylaws, one director will be elected to a one (1) year term, one director will be elected to a two (2) year term, and one director will be elected to a three (3) year term. Upon expiration of each of the just-described terms of office, all subsequent Directors will serve a three (3) year term. In this manner, expiration of the terms of office will be staggered so as not to all occur in the same year.

- 4.8 Vacancies.** Vacancies on the Board of Directors caused by any reason other than the removal of a Director by a vote of the Association shall be filled for the balance of the term of each directorship by vote of a majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall be a Director until a successor is elected upon expiration of the term for which such person was elected by the other Directors to serve.
- 4.9 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.
- 4.10 Organizational Meeting.** The first meeting of a newly elected Board of Directors shall be held within thirty (30) 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.
- 4.11 Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings of the Board of Directors may be called by the President on three (3) days' notice to each Director, given personally or by mail, telephone or facsimile, which notice shall state the time, place (as herein above provided) and purpose of the meeting.
- 4.12 Special Meetings.** Special meetings of the Board of Directors may be called by the President or on the written request of at least two (2) Directors. Special meetings of the Board of Directors may be called on three (3) days' notice to each Director, given personally or by mail, telephone or facsimile, which notice shall state the time, place (as herein above provided) and purpose of the meeting.
- 4.13 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 to Directors shall be required and any business may be transacted at such meeting.

4.14 Board of Directors' Quorum. At all meetings of the Board of Directors, a majority of the existing Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors shall be the acts of the Board of Directors. If at any meeting of the Board of Directors there be less than a quorum present at any Board of Directors meeting, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

4.15 Board of Directors Meeting Open to all Association Members. Except in Executive Sessions, 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. At the discretion of the Board, the following matters may be considered in executive sessions:

- a) consultation with legal counsel concerning rights and duties of the Association;
- b) negotiations of contracts with third parties;
- c) collection of assessments; and
- d) for any other purpose permitted by the PCA.

Except in the case of an emergency, the Board shall vote in an open meeting whether to meet in executive session. If the Board votes to meet in executive session, the presiding officer of the Board shall state the general nature of the action to be considered, as precisely as possible, when and under what circumstances the deliberations can be disclosed to Owners. The statement, motion, or decision to meet in executive session must be included in the minutes of the meeting. A contract or an action considered in executive session does not become effective unless the Board, following the executive session, reconvenes an open meeting, and votes on the contract or action, which must be reasonably identified in the open meeting and included in the minutes.

4.16 Notice to Association Members of Board of Directors Meetings. For other than emergency meetings, notice of Board of Directors meetings, including the date, time, location and general agenda of the meeting, shall be posted on the Association's Internet web-site in a format accessible to all Members at least five (5) days before the meeting is held.

4.17 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 reasonable attempts have been made to call and obtain the participation of each Director at the telephone number maintained on file with the Board of Directors for such purpose.

- 4.18 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 5 OFFICERS

- 5.1 Designation.** The principal officers of the Association shall be a President, a Secretary and a Treasurer, all of whom shall be elected by the Directors. The Directors may appoint an assistant treasurer and an assistant secretary, and any such other officers as in their judgment may be necessary.
- 5.2 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.
- 5.3 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.
- 5.4 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.
- 5.5 Secretary.** The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association; he or she shall have charge of such books and papers as the Board of Directors may direct; and he or she shall, in general, perform all the duties incident of the office of Secretary.
- 5.6 Treasurer.** The Treasurer shall have responsibility for Association funds and securities not otherwise held by the managing agent, and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in, books belonging to the Association. He or she shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors.
- 5.7 Directors as Officers.** Any Director may be an officer of the Association.

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**ARTICLE 6
OBLIGATIONS OF THE OWNERS**

- 6.1 Assessments.** All Owners are obligated to pay assessments imposed by the Board or by the Association as more particularly set forth herein and in the Declaration. Assessments shall be payable on a periodic basis as determined by the Board of Directors. The Board may, but is not required to, impose interest and/or impose charges for late payments, plus attorney fees and other collection costs incurred as a result of overdue payments. The Board may, but is not required to, allow a discount for early payment of assessments.
- 6.2 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 their respective Lots may increase in proportion to each Lot's right to receive repair, maintenance and replacement therefrom.
- 6.3 Assessment.** The amount of the assessments due from Owners shall be based on a budget determined by the Board of Directors. All assessments are subject to periodic review and revision by the Board of Directors.
- 6.4 Initial Assessment of Lots Subjected in the Future.** The initial assessment for Owners of Lots subjected to the Declaration by annexation shall be an amount equal to one-sixth (1/6th) of the annual assessment then in effect for similar Lots in Diamond Meadows, plus a prorated portion of the assessment for the assessment installment period during which the Lots in such stages are annexed to Leisure Woods. Thereafter, the owners of such Lots shall be assessed directly by the Association. The initial assessment equal to one-sixth (1/6th) of the current annual assessment shall be a one-time contribution of working capital of Diamond Meadows. Upon the annexation of additional Lots to Diamond Meadows, 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.
- 6.5 Payment of Assessments.** The Declarant shall:
- 6.5.1** Pay assessments due for operating expenses on all unsold Lots; and
 - 6.5.2** Pay assessments due for reserves on all unsold Lots, 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.
- 6.6 Default.** Failure by an Owner to pay any assessment when due of the Association shall be a default by such Owner of his or her obligations pursuant to these Bylaws, the Declaration, and the Oregon Planned Community Act. In addition to the interest which

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may be charged on delinquent assessments, the Board of Directors, at its option, may impose a late charge penalty in respect to any assessment not paid within ten (10) days from the due date. Such penalty may not exceed the sum often percent (10%) of the annual assessment. The Association shall be entitled to a lien which may be enforced upon compliance with the provisions of the Oregon Planned Community Act.

In any foreclosure suit by the Association with respect to such lien, the Association shall be entitled to collect reasonable rent from the defaulting Owner for the use of Owner's Lot or shall be entitled to the appointment of a receiver. The Association shall be entitled to the additional remedies provided in the Declaration and the PC A.

6.7 Income Tax Returns; Determination of Fiscal Year.

6.7.1 Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise determined by the Board.

6.7.2 Tax Returns. The Board, 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.

6.8 Statement of Assessments.

6.8.1 The Association shall provide, within ten (10) business days of receipt of a written request from an Owner, a written statement that provides:

6.8.1.1 The amount of assessments due from the Owner and unpaid at the time the request was received, including:

- (a) regular, special and reimbursement assessments;
- (b) fines and other charges;
- (c) accrued interest; and
- (d) late payment charges.

6.8.1.2 The percentage rate at which interest accrues on assessments that are not paid when due.

6.8.1.3 The percentage rate used to calculate the charges for late payment or the amount of a fixed charge for late payment.

~~**6.8.2** The Association is not required to comply with Section 6.8.1 if the Association has commenced litigation by filing a complaint against the Owner and the litigation is pending when the statement would otherwise be due.~~

6.9 Maintenance and Repair.

6.9.1 Lots. Except as otherwise specifically provided in the Declaration and Bylaws, every Owner must promptly perform all maintenance and repair work within the Owner's own Lot and to the exterior of the improvements thereon, which if omitted would negatively affect other Lots or the Commonly Maintained Property, and shall be responsible for the damages and liabilities that the Owner's failure to do so may cause.

6.9.2 Reimbursement of Association. An Owner shall reimburse the Association for any expenditures incurred in repairing or replacing any Commonly Maintained Property damaged through his or her fault, not otherwise covered by insurance

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policies carried by the Owner or the Association for the Owner's and Association's benefit. In such circumstances, the insurance obtained by the Owner shall be deemed to be the primary coverage. The Board of Directors shall have the unfettered discretion to refuse to make a claim on the Association's policy even though coverage may pertain. Such discretion is for the purpose of maintaining the Association's insurability and controlling the amount of the premiums for the Association's insurance.

6.10 Right of Entry; Encroachments; Easements for Maintenance.

6.10.1 Emergencies. Present and future Owners, tenants, Occupants, and any other persons that occupy any portion of the Property, by virtue of acquisition, rental, or occupancy of any of the Lots, grants to the management agent or to any other person authorized by the Board or the Association the right to enter on such Lot in the event of an emergency originating in or threatening any Owner's Lot.

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

ARTICLE 7

USE AND OCCUPANCY RESTRICTIONS; RULES OF CONDUCT

Restrictions and rules of conduct are set forth in the Declaration and are binding on all Lots and Owners. The Association, through its Board of Directors, shall have the power to enforce the covenants and restrictions in these Bylaws and in the Declaration. Owners shall also have the right to bring actions or suits regarding covenants and restrictions, but shall have no right or power to require the Association or Board of Directors to take any enforcement action.

**ARTICLE 8
INSURANCE**

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

8.1 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:

8.1.1 Property Insurance. A policy or policies of property insurance including, but not limited to, fire, extended coverage, vandalism and malicious mischief, for the full

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insurable replacement value, if available, of all Commonly Maintained Property, ~~and such other fire and casualty insurance as the Board of Directors shall~~ determine to be reasonably necessary.

8.1.2. Liability. A policy or policies insuring the Association, its Board of Directors, the Owners individually, and the manager against any liability to the public or the Owners and their invitees or tenants, incident to the ownership, supervision, control or use of the Project with 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.

8.1.3 Workers' Compensation. Workers' compensation insurance to the extent necessary to comply with any applicable laws.

8.2 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 9 AMENDMENT

Except as otherwise provided in this Article, and the restrictions set forth elsewhere herein, ~~these~~ Bylaws may be amended at any time by an instrument approved by at least a majority of the total votes of each class of Members that are eligible to vote. Any amendment must be executed, recorded and certified as provided by law. Provided, however, no amendment of the Bylaws may effect an amendment of the Declaration or the Articles of Incorporation without compliance with the provisions of such documents and the Oregon Nonprofit Corporation Act. Provided further no amendment deleting or affecting any right of the Declarant may be adopted without the prior written consent of the Declarant.

ARTICLE 10 RECORDS AND AUDITS

10.1 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 mortgages 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.

10.2 Records of Receipts and Expenditures. The Board of Directors or its designee shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Commonly Maintained Property, itemizing the maintenance and repair

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expenses of the Commonly Maintained Property and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available for examination by the Owners and mortgages at convenient hours of weekdays.

- 10.3 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 assessments come due, the amounts paid upon the account and the balance due on the assessments.
- 10.4 Payment of Expenses/Vouchers.** The Treasurer shall pay all proper vouchers up to \$1,000 each and 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.
- 10.5 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 mortgages of Lots to the extent required by law.
- 10.6 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 11 COMPLIANCE WITH THE PLANNED COMMUNITY ACT; CONFLICTS

These Bylaws are intended to comply with the provisions of the Oregon Planned Community Act, the provisions of which apply to this Association and its Members. 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 12 INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS

The Association shall indemnify any Director, officer, employee or agent who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by the Association) by reason of the fact that he or she is or was a Director, employee or agent of the Association or is or was serving at the request of the Association as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including

attorney fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by said person in connection with such suit, action or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or with a plea of no contest or its equivalent, shall not of itself create a presumption that a person did not act in good faith and in a manner which he or she reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had reasonable cause to believe his or her conduct was unlawful. Payment under this clause may be made during the pendency of such claim, action, suit or proceeding as and when incurred, subject only to the right of the Association, should it be proven at a later time that said person had no right to such payments. All persons who are ultimately held liable for their actions on behalf of the Association as a Director, officer, employee or agent shall have a right of contribution over and against all other Directors, officers, employees or agents and Members of the Association who participated with or benefited from the acts which created said liability.

ARTICLE 13 ASSESSMENT COLLECTION COSTS; SUITS AND ACTIONS

Owners shall be obligated to pay reasonable fees and costs including, but not limited to, attorney fees incurred in connection with efforts to collect any delinquent unpaid assessments, whether or not a suit or action is filed. In addition to assessments for operating expenses and the funding of reserves, such assessments may include fees, late charges, fines and interest imposed by the Board. In the event the Association brings against any Owner a suit or action 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 obligations, pay the costs of such suit or action, including reasonable attorney fees to be used 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 14 MISCELLANEOUS

- 14.1 **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.
- 14.2 **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 and the number of times that the pertinent restriction, condition, obligation or provision was not enforced.

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143 **Invalidity; Number; Captions.** The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws. Provided, however, that if any of the provisions of these Bylaws would violate the rule against perpetuities or any other limitation on the duration of the provisions herein contained imposed by law, then such provision shall be deemed to remain in effect only for the maximum period permitted by law, 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, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

It is hereby certified that these Amended Bylaws have been adopted by a majority vote of all Members of The Diamond Meadows Tract # 1384 Homeowners Association, Inc., and may be recorded in the Deed Records of Klamath County.

DATED this 13th day of NOVEMBER, 2010.

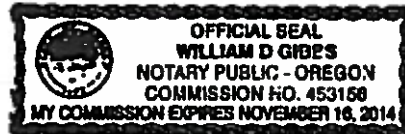
THE DIAMOND MEADOWS TRACT #1384 HOMEOWNERS ASSOCIATION, INC.

By: 
Paul Hackett, President

STATE OF OREGON)
) ss
W.D.G. County of Lane)
11/13/10 KLAMATH

SUBSCRIBED AND SWORN TO before me by Paul Hackett, as President of The Diamond Meadows Tract # 1384 Homeowners Association, Inc. this 13th day of NOVEMBER, 2010.


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EXHIBIT A

Legal Description

Lots 1 through 45 (inclusive) all of Diamond Meadows Tract # 1384, in the County of Klamath, State of Oregon.

Lots 17, 20, 22, 26, 27, 28, 30, 31, 32, 33, 34, ³⁵ Block 1; Lots 1, 2, 3, 4, 5, 6, 7, Block 2; Lots 1, 2, 7, 8, 10, 11, 12, 13 and 17, Block 3, all in Tract 1074 - Leisure Woods, in the County of Klamath, State of Oregon.

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