DESCHUTES COUNTY OFFICIAL RECORDS
MARY SUE PENHOLLOW, COUNTY CLERK
2002-50532
$171.00
00097747200200505320280285
09/16/2002 10:10:59 AM
D-COTV Cnt=2 Stn=2 TRACY
$140.00 $5.00 $11.00 $10.00 $5.00

AFTER RECORDING, RETURN TO:
LMC Properties, LLC
695 SW Mill View Way
Bend, OR 97701

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR

SAGEWOOD

THIS DECLARATION is made this 13th day of SEPTEMBER, 2002 by **LMC PROPERTIES, L.L.C.**, an Oregon limited liability corporation, as the owner of all of the Property currently being subjected to the easements, reservations, conditions, restrictions, and covenants herein contained ("**Title Holder**") and **ALLEN – ROSE HOMES, L.L.C.**, an Oregon limited liability corporation, as developer of the Property ("**Declarant**")

RECITALS

A. Title Holder owns property located in the City of Bend, Deschutes County, Oregon. Title Holder and Declarant propose to develop portions of this property as a single-family residential development to be known as SageWood.

B. Title Holder has filed the plat of SageWood in the plat records of Deschutes County, Oregon. Title Holder and Declarant desire to subject the property described in the attached **Exhibit A** (the "**Property**") to the terms of this Declaration for the benefit of such property and its present and subsequent owners.

NOW, THEREFORE, Title Holder and Declarant hereby declare that the Property shall be held, sold, and conveyed subject to the terms of this Declaration, which will run with such property and shall be binding upon all parties having or acquiring any right, title, or interest in such property or any part thereof and shall inure to the benefit of each owner thereof.

ARTICLE 1

DEFINITIONS

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

1.1 "**Assessments**" means all assessments and other charges, fines and fees imposed by the Association on an Owner in accordance with this Declaration, including, without limitation, Annual Assessments, Special Assessments, Emergency Assessments, and Individual Assessments as described in Article 10 below.

1.2 "**Association**" means the nonprofit corporation formed to serve as the Owners' association and known as "SageWood Owners Association."

1.3 "**Building**" shall mean any structure located on a Lot within the Property.

1.4 "**Bylaws**" means the bylaws of the Association as such bylaws may be amended from time to time.

1.5 "**Common Areas**" means those lots or tracts designated as such on any plat of the Property or in this Declaration including any Improvements thereon, but excluding those areas designated as public streets and right-of-ways. Common Areas will also include Common Easement Areas, Public Areas, and any Lots converted to Common Areas as provided in Section 3.3 below.

1.6 "**Common Easement Areas**" means those easements established for the benefit of all property within SageWood pursuant to any plat of the Property.

1.7 "**Community-Wide Standards**" means the standards of conduct, maintenance, or other activity generally prevailing throughout the Property. Such standard may be more specifically determined by the Board of Directors and the Design Review Committee.

1.8 "**Declarant**" shall mean Allen – Rose Homes, L.L.C., an Oregon limited liability corporation, and its successors and assigns if a recorded instrument executed by Declarant assigns to the transferee all of Declarant's rights under this Declaration.

1.9 "**Declaration**" shall mean the Declaration of Covenants, Conditions and Restrictions for SageWood.

1.10 "**Design Review Committee**" or the "**Committee**" shall mean the committee appointed pursuant to Article 6 hereof.

1.11 "**Improvement**" shall mean every temporary or permanent structure of any kind, including, but not limited to any buildings, outbuildings, private roads, driveways, parking areas, walkways, fences and barriers, retaining walls and stairs, decks, hedges, windbreaks, planting, planted trees and shrubs, park strip (if any), signs, storage areas and all other structures or exterior landscaping, vegetation or ground cover of every type and every kind above the land surface.

1.12 "**Living Unit**" shall mean any portion of a structure situated upon the Property designed and intended for use and occupancy as a residence by a single family.

1.13 "**Lot**" shall mean each platted or legally partitioned lot within the Property. Lot does not include Common Areas or Public Areas.

1.14 "**Mortgage**" means a mortgage or a trust deed: "mortgagee" means a mortgagee or a beneficiary of a trust deed: and "mortgagor" means a mortgagor or a grantor of a trust deed.

1.15 "**Owner**" shall mean the record Owner, including Title Holder and Declarant, whether one or more persons or entities, of the fee simple title to any Lot or a purchaser in possession 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 or a tenant or holder of a leasehold interest. The rights, obligations, and other status of being an Owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of such ownership, but termination of ownership shall not discharge an Owner from obligations incurred prior to termination.

1.16 "**Policies and Procedures**" means those policies, procedures, rules and regulations adopted by the Association pursuant to the authority granted in this Declaration, as the same may be amended from time to time.

1.17 "**Property**" shall mean the property described on Exhibit A attached hereto.

1.18 "**Public Areas**" means areas dedicated to the public or established for public use in any plat of the Property, or so designated in this Declaration.

1.19 "**Title Holder**" means LMC Properties, L.L.C., an Oregon limited liability corporation, and its successors and assigns.

ARTICLE 2

PROPERTY SUBJECT TO THIS DECLARATION

Title Holder and Declarant hereby declare that all the real property described on Exhibit A attached hereto, is owned and shall be owned, conveyed, hypothecated, encumbered, used occupied and improved subject to this Declaration.

ARTICLE 3

DESCRIPTION OF PROPERTY AND CONVERSION AND CONSOLIDATION OF LOTS

3.1 **Number of Lots.** The Property contains 75 Lots.

3.2 **Common Facilities**. Neither Title Holder nor Declarant agree to build any improvements on the Common Areas other than as required by the City of Bend or as shown on any plat of the Property, but may elect, at Title Holder or Declarant's option, to build additional improvements.

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

3.4 **Consolidation of Lots**. Title Holder and Declarant reserve the right to combine any two or more Lots then owned by Title Holder or Declarant upon receipt of any required approvals from the City of Bend, if applicable, and recording an amendment to this Declaration. For Owners other than Title Holder or Declarant, the Owner of two adjoining Lots, with the approval of Declarant and the Design Review Committee, may elect to consolidate such Lots into one Lot. The consolidation shall be effected by the Owner's recording in the deed records of Deshutes County a declaration stating that the two Lots are consolidated, which declaration shall include a written consent executed on behalf of the Design Review Committee by at least one member of the Committee. Thereafter, the consolidated Lots shall constitute one Lot for all purposes of this Declaration, including voting rights and assessments. Once so consolidated, the consolidated Lot may not thereafter be partitioned nor may the consolidation be revoked.

ARTICLE 4

PROPERTY RIGHTS IN COMMON AREAS

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

4.2 **Title to the Common Areas**. Title to the Common Areas, except Common Easement Areas and Public Areas, shall be conveyed to the Association by Title Holder free and clear of monetary liens and encumbrances prior to the date on which ninety-five (95%) percent of Lots within the Property have been sold and conveyed to Owners other than Title Holder or Declarant, or December 31, 2010, whichever first occurs.

4.3 **Common Easement Areas**. Common Easement Areas, if any, shall be granted or reserved as signage and visual landscape features, or as otherwise provided in this Declaration or the plat establishing the Common Easement Area. Such areas are to be maintained by the Association and no changes in landscaping will be permitted without written authorization by the Design Review Committee. No building, wall, fence, paving, landscaping or construction of any type shall be erected or maintained by any Owner so as to trespass or encroach upon the Common Easement Areas. In the event any Common Easement Area is conveyed to the Association, such Common Easement Area shall then become a Common Area.

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

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

(i) An easement on all Common Areas for underground installation and maintenance of power, gas, electric, water and other utility and communication lines and services installed by or with the consent of Declarant or with the approval of the Board of Directors of the Association and any such easement shown on any plat of the Property.

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

(iii) An easement for the purpose of making repairs to any Improvements on Common Areas.

Title Holder, Declarant or the Association may (and, to the extent required by law, shall) grant or assign such easements to governmental entities or other utilities performing utility services and to communication companies, and the Association may grant free access thereon to police, fire, and other public officials and to employees of utility companies and communications companies serving the Property.

(b) **Use of the Common Areas**. The Common Areas shall not be partitioned or otherwise divided into parcels for residential use. Except as otherwise provided in this Declaration, the

Common Areas shall be reserved for the use and enjoyment of all Owners and no private use may be made of the Common Areas, including Common Easement Areas.

(c) **Alienation of the Common Areas**. The Association may not encumber, sell or transfer the Common Areas owned directly or indirectly by the Association for the benefit of the Lots unless such encumbrance, sale or transfer has been approved by a majority of the voting rights in the Association. This requirement shall not apply to the easements described in Section 4.4(a) above.

(d) **Limitation on Use**. Use of the Common Areas by the Owners, their family members, guests, tenants and contract purchasers, shall be subject to the provisions of this Declaration and to the following:

(i) The right of the Association to suspend such use rights of any Owner and the Owner's members, guests, tenants and contract purchasers to the extent provided in Article 11 below.

(ii) The right of the Association to adopt, amend and repeal Policies and Procedures in accordance with this Declaration.

4.5 Delegation of Use. Any Owner may delegate, in accordance with any applicable provisions of the Bylaws of the Association, the Owner's right of enjoyment of the Common Areas to the members of the Owner's family and tenants or contract purchasers who reside on the Property, whose use of the Common Areas shall be subject to this Declaration and the Policies and Procedures adopted under this Declaration.

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

ARTICLE 5

PROPERTY RIGHTS IN LOTS

5.1 Use and Occupancy. The Owner of a Lot in the Property shall be entitled to the exclusive use and benefit of such Lot, except as otherwise expressly provided in this Declaration, but the Lot shall be bound by and the Owner shall comply with the restrictions made applicable to such Lot by this Declaration.

5.2 Easements Granted. In addition to any easements shown on the recorded plats, in recorded access easements, and as set forth in Article 4, Title Holder hereby grants to Declarant and Association the following easements for the benefit of Declarant and the Association:

(a) **Adjacent Common Area**. The Owner of any Lot which blends together visually with any Common Area shall, if the Association elects from time to time to so require, permit the Association to enter upon the Lot to perform the maintenance of such Common Area.

(b) **Right of Entry**. Declarant, the Design Review Committee and any representative of the Association authorized by it may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of determining whether or not the use and/or improvements of such Lot are then in compliance with this Declaration. The Owner will be given advance notice if possible. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot.

(c) **Utility Easements**. Easements for installation and maintenance of utilities and drainage facilities may be reserved over portions of certain Lots, as shown on or described in the recorded plat. Within the easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. Notwithstanding the provisions of this paragraph, no such easements shall exist along adjoining side lot lines on which a party wall exists.

ARTICLE 6

DESIGN REVIEW

6.1 Approval Required. No Improvement, as defined in Section 1.5 above, shall be erected, placed, altered, maintained, or permitted to remain on any Lot subject to this Declaration, except Lots owned by Title Holder or Declarant, until final plans and specifications have been submitted to and approved in writing by the Design Review Committee. It is the intent and purpose of this Declaration to assure quality of workmanship and materials, to assure harmony of external design with the existing Improvements and as to location with respect to topography and finished grade elevation, and to avoid plan repetition. The procedure and specific requirements for review and approval of residential construction may be set forth in Design Guidelines adopted from time to time by the Design Review Committee. The Committee may charge a reasonable fee to cover the cost of processing the application. In all cases which the Design Review Committee consent is required by this Declaration, the provisions of this Article shall apply.

6.2 Required Documents. Any Owner proposing to utilize, improve and/or develop real property within the Property shall submit a completed Design Review Committee Construction Submittal Form and Application with accompanying application fee and a site plan, floor plans and exterior elevations all in compliance with the Design Guidelines referred to in Section 3.4.

6.3 Review. All plans and drawings identified in paragraph 3.3 above shall be submitted to the Design Review Committee for review prior to the performance of any proposed work. Such plans and drawings shall be accompanied by a check in the amount of the application fee payable to the order of Declarant or the Design Review Committee as designated by the Design Review Committee from time to time. No plans shall be reviewed until the design review fee is paid in full and all items specified in this section and the Design Guidelines are submitted. No work may be performed relating to any Improvement unless and until all aspects of all plans required under paragraph 3.2 above have been approved by the Design Review Committee. The Committee shall render its decision with respect to the construction application within thirty (30) working days after it has received all material and fees required by it with respect to the application.

6.4 **Design Guidelines**. The development concept for the Property shall be determined by the Design Review Committee. Design Guidelines setting forth various aspects of the development concept, in addition to this Declaration, shall be published from time to time by the Design Review Committee. Separate Design Guidelines may be established for Lots 70 through 75, inclusive, within the Property as adopted from time to time by the Design Review Committee. The Design Review Committee shall have the right to alter, rescind or amend any published Design Guidelines without prior notice to any party; provided, however, that once approval has been given pursuant to Section 3.3 above, work may proceed in accordance with the approved plans and drawings notwithstanding any changes in the development concept. All such Design Guidelines shall be in general conformity with this Declaration. The Design Review Committee may, at its sole discretion, withhold consent to any proposed work if the Committee finds the proposed work would be inappropriate for the particular Lot or incompatible with the development concept or the design standards that the Committee intends for the Property.

6.5 **Inspection.** All work related to any building, structure or Improvement or any landscaping, vegetation, ground cover or other improvements within the Property shall be performed in strict conformity with the plans and drawings approved under paragraph 3.2 above. The Design Review Committee shall have the right to inspect any such work to determine its conformity with the approved plans and drawings and reserves the right to order a stop to all work if, in good faith, it believes that any such work is nonconforming. In the event that it is determined by the Committee that certain work is nonconforming, a stop work notice may be issued, without necessity of court order, which shall require the Owner to correct all non-conforming work specified in the notice before the remainder of the proposed work may be completed. Continued work without correction of any such non-conforming items shall be deemed a breach of this Declaration. Neither Declarant or the Design Review Committee nor any officer, director, employee, agent, member, or servant of Declarant or the Design Review Committee shall be responsible for any damages, loss, delay, cost, or legal expense occasioned through a stop work notice given in good faith, even if it is ultimately determined that such work was in conformity with the approved plans and drawings.

6.6 **Waiver.** Any condition or provision of paragraph 3.2 through 3.5 above may be waived by the Design Review Committee in its exclusive discretion. Any waiver shall be in general conformity with the development concept and development standards for the Project. Any such waiver shall not be deemed a general waiver of any aspect of the development concept or the required procedures and approvals specified under paragraphs 3.2 through 3.5. The granting of a waiver as to one Owner shall not automatically entitle any other Owner to the waiver of the same or similar conditions or provisions. No waiver shall be valid unless it is in writing, signed by an authorized representative of the Design Review Committee and delivered by certified mail to the party claiming the benefit of such waiver.

6.7 **Design Review Committee**. The Design Review Committee shall consist of as many persons, but not less than three, as the Declarant may from time to time appoint. As long as Declarant owns any Lot, the members of the Design Review Committee shall be appointed by Declarant. The Declarant may remove any member of the Committee from office at its discretion at any time and may appoint new or additional members at any time. Declarant may at any time delegate to the Board of Directors of the Association the right to appoint or remove members of the Design Review Committee. Thereafter, or in the event Declarant fails to appoint a Design Review Committee, the Board of Directors shall assume responsibility for appointment and removal of members of the Design Review Committee or, if it fails to do so, the Board of Directors shall serve as the Design Review Committee.

6.8 Majority Action. Expect as otherwise provided herein, a majority of the members of the Design Review Committee shall have the power to act on behalf of the Design Review Committee, without the necessity of a meeting and without the necessity of consulting or notifying the remaining members of the Design Review Committee. The Design Review Committee may render its decision only by written instrument setting forth the action taken by the members consenting thereto.

6.9 Liability. The scope of the Design Review Committee's review is not intended to include any review or analysis of structural, geophysical, engineering, building or zoning code compliance or other similar considerations. Neither the Design Review Committee nor any member thereof shall be liable to any Owner, tenant, occupant, invitee, builder, or developer for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the Design Review Committee or a member thereof, provided only that the Design Review Committee has, or the member has, in accordance with the actual knowledge possessed by the Design Review Committee or by such member, acted in good faith.

6.10 Appeal. At any time after Declarant has delegated appointment of the members of the Design Review Committee to the Association pursuant to Section 6.7, any Owner adversely affected by action of the Design Review Committee may appeal such action to the Board of Directors of the Association. Appeals shall be made in writing within ten (10) days of the Committee's action and shall contain specific objections or mitigating circumstances justifying the appeal. A final, conclusive decision shall be made by the Board of Directors of the Association within fifteen (15) working days after receipt of such notification.

6.11 Effective Period of Consent. The Design Review Committee's consent to any proposed Improvement shall automatically be revoked one year after issuance unless construction of the Improvement has been commenced or the Owner has applied for and received an extension of time from the Committee.

ARTICLE 7

RESTRICTIONS ON USE OF RESIDENTIAL LOTS

7.1 Structures Permitted. No structures shall be erected or permitted to remain on any Lot except structures containing Living Units and structures normally accessory thereto the location of which is in conformity with the applicable governmental regulations, is compatible in design and decoration with the dwelling structure constructed on such Lot, and has been approved by the Design Review Committee.

7.2 Residential Use. All Lots shall be used for residential purposes only. No retail or industrial use shall be allowed on any Lot. Except with the consent of the Board of Directors, no trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any Lot, nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade or business be kept or stored on any Lot. Nothing in this paragraph shall be deemed to prohibit (a) activities relating to the rental or sale of Living Units, (b) the right of Title Holder, Declarant or any contractor or homebuilder to construct Living Units on any Lot, to store construction materials and equipment on such Lots in the normal course of construction, and to use any Living Unit as a sales or rental office or model home or apartment for purposes of sales or rental in SageWood, and (c) the right of the Owner of a Lot to maintain his professional personal library, keep his personal business or professional records or accounts, handle his personal business or professional telephone calls or confer with business or professional

associates, clients or customers, in his Living Unit. Commercial use in a residence may be allowed provided only normal residential activities would be observable outside the Living Unit and that the activities would not be in violation of applicable governmental ordinances.

7.3 **Access to Property.** Except as shown on the plat or by recorded easement, no other Lots or private properties may be used for access or parking without that Owner's written permission.

7.4 **Access Easements**. Certain Lots are encumbered by recorded access easements. Included with these recorded easements is a maintenance and use agreement whereby Owners of the Lots sharing such access easements are equally and jointly responsible for the costs of maintenance and repair of the asphalt overlaying the access easement. The Association shall have the right to enforce all of the provisions of the recorded access easements affecting the Lots sharing such access easements. Further, the Association shall have the right to assess the costs for repair and maintenance of the access easements as provided herein as Individual Assessments to the Owners of the Lots sharing such access easements.

7.5 **Antennas.** Only standard TV antennas and satellite dishes shall be permitted on a Lot. All over-the-air reception devices shall comply with the Design Guidelines and any other applicable restrictions adopted by the Design Review Committee, the Board of Directors, or the Association, pertaining to the size, means, method and location of TV antenna and satellite dish installation.

7.6 **Appearance.** All garbage, trash, cuttings, refuse, garbage and refuse containers, clothes drying apparatus, heat pumps, air conditioners, and other service facilities located on the Lot shall be screened from view of neighboring lots and streets in a manner approved by the Design Review Committee.

7.7 **Building Height Limitation.** Subject to the provisions of Section 7.1, no structure shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family Living Unit, and, with the exception of Lots 2, 5, 6, 10, 11, 12, 13, 16, 17, and 18, no such structure shall exceed thirty (30') feet in height. For Lots 2, 5, 6, 10, 11, 12, 13, 16, 17, and 18, no such structure shall exceed the approved maximum ridge height elevations as shown on Exhibit B attached hereto and made a part hereof.

7.8 **Clothes Drying Area.** No portion of any Lot shall be used as a drying or hanging area for laundry of any kind where it can be viewed from any neighboring property.

7.9 **Completion of Construction**. Home building must be completed, including painting and all exterior finish, within nine (9) months from the start of construction. ("Complete" means obtaining certificate of final inspection from the City of Bend). In the event of undue hardship due to weather conditions or other causes beyond the reasonable control of the Owner, this time period may be extended for a reasonable length of time upon written approval from the Design Review Committee.

7.10 **Driveways and Walkways.** Allowed materials for driveways and walkways include concrete, asphalt and masonry. All driveways shall be finished prior to occupancy. Exceptions may be allowed with Design Review Committee approval. Owners are responsible for repair of all driveway cuts, concrete breakage of curbs, sidewalks or sidewalk aprons. The Declarant or Design Review Committee representative will monitor and provide written documentation to the offending Owner. All repairs must be completed within a reasonable period of time from receipt of written notification from the Declarant or Design Review Committee representative.

7.11 Exterior Colors and Materials. All exterior colors and materials including those for trim, windows and doors are subject to approval by the Design Review Committee. Clearly indicate on submitted plans the locations of all proposed exterior colors. Samples may be standard manufacturer's paint chip samples or such larger samples as may required by the Committee. Use of muted, earth related tones are encouraged.

All exposed exterior metals (including vent pipes, fireplace flues and flashing), PVC vents and plumbing pipes must be painted to match or blend with exterior house colors or roofing. This includes the gas furnace and gas fireplace exhausts. All exterior mechanical equipment shall be centralized and screened from view. No T-1 -11 or similar type of siding will be allowed on the exterior walls of any home, garage or any Improvement.

7.12 Exterior Lighting. No exterior lighting shall be placed on a Lot or any portion thereof without approval by the Design Review Committee.

7.13 Fences and Walls. No fences shall be placed on any Lot or any portion thereof without approval by the Design Review Committee. Declarant may, but is not obligated to, construct a fence along the rear lot line on any of Lots 1 through 20 within the Property, referred to herein as a "rear lot fence"; as may be agreed upon between Declarant and the owners of adjacent lots within the West Ridge Subdivision. Provided, however, the Declarant and owners of adjacent lots within the West Ridge Subdivision shall determine within 120 days of the recording of this Declaration the Lots on which a rear lot fence will be constructed by Declarant (the "fence lots"), and Declarant shall give a written list of such fence lots to the Association at that time. Declarant may at reasonable times and with a five (5) day advance notice to the Owner of a fence lot, enter upon the fence lot for the purpose of constructing the rear lot fence. Once constructed, the fence becomes the property of the Owner of the fence lot on which it is situated and the Owner is obligated to maintain the rear lot fence as required in Section 7.19 herein. Such rear lot fences, if constructed, must extend the full length of a Lot's rear property line, from lot corner to lot corner, and must be completed prior to the completion of a home on such fence lot.

7.14 Firearms and Related Activity. The Property is subject to the City of Bend Codes for firearms which state, in part: There shall be no... "discharge of any gun or other weapon, including spring or air-actuated pellet guns or a weapon which propels a projectile by use of a bow or sling, explosives or jet or rocket propulsion."

7.15 Grades, Slopes and Drainage. Each Owner of a Lot shall accept the burden of, and shall not in any manner alter, modify or interfere with, the established drainage pattern and grades, slopes and courses related thereto over any Lot or Common Area without the express written permission of the Design Review Committee, and then only to the extent and in the manner specifically approved. No structure, plantings or other materials shall be placed or permitted to remain on or within any grades, slopes, or courses, nor shall any other activities be undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow, or obstruct or retard the flow of water through drainage channels.

7.16 Landscaping Completion. Landscaping plans for each Lot shall be submitted to the Design Review Committee and shall be in compliance with guidelines as may be established by the Committee from time to time. Each Owner shall attempt to preserve as many trees and manzanita on each lot as possible. Installation of underground sprinkler systems for front lawns of each home is mandatory on all Lots, and for rear lawns on certain Lots as will be determined by the Design Review Committee. The approved landscaping must be completed not later than ninety (90) days from

completion of the home. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval of the Design Review Committee.

7.17 **Livestock, Poultry and Pets.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats or other common household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes and do not constitute a nuisance.

The Property is within the City limits of Bend and resident animals are subject to the City of Bend leash laws. Animal nuisance ordinances are also in effect for barking and trash strewing dogs. If an animal is off the Owner's Lot, it must be on a leash. Contact the City of Bend Police Department to report violations. The City of Bend is best equipped to deal with these problems and can enforce stringent fines.

7.18 **Lot Area, Width, Setback Lines.** Lot area, width and setback lines shall be in accordance with the requirements of the applicable City of Bend Zoning and Use Regulations and as shown on the Plat. No Lot shall be further partitioned or subdivided.

7.19 **Maintenance of Improvements and Grounds.** Each Lot within the Property shall be maintained in a clean and attractive condition, in good repair and in such a fashion as not to create a fire hazard. Such maintenance shall include, without limitation, painting, repair, replacement and care for roofs, gutters, downspouts, exterior building surfaces, fences, walks and other exterior improvements and glass surfaces. All repainting or restaining and exterior remodeling shall be subject to prior review and approval by the Design Review Committee. In addition, each Owner shall keep all shrubs, trees, grass and plantings of every kind on the Owner's Lot neatly trimmed, properly cultivated and free of trash, weeds and other unsightly material. Damage caused by fire, flood, storm, earthquake, riot, vandalism, or other causes shall likewise be the responsibility of each Owner and shall be restored within a reasonable period of time. Unsightly rear storage is prohibited.

7.20 **Minimum Square Footage.** With the exception of single-family residences constructed on Lots 70 through 75, inclusive, within the Property, any single-family residence shall be a minimum of 1,400 square feet in size, not including any enclosed garage. Any single-family residence constructed on Lots 70 through 75, inclusive, within the Property shall be a minimum of 2,000 square feet in size, not including any enclosed garage. The maximum permissible interior floor area shall be limited only by constraint of the building site area and other reasonable limitations as may be established by the Design Review Committee.

7.21 **Model/Offices.** Models with sales offices are allowed for any builder with multiple homes for sale with Declarant's approval.

7.22 **Nuisances.** No obnoxious or offensive activity shall be carried on upon any Lot therein nor shall anything be done thereon which may be an annoyance or nuisance to the other Owners. Boundary fences, walls or hedges as approved by the Committee must be kept in good condition and repair. Lawns must be cut sufficiently and yards maintained at all times so that they do not become eyesores and detrimental to the values of other properties. Trees and shrubs that encroach on any other Lot shall be trimmed and pruned if it is a nuisance to neighbors.

7.23 **Offensive or Unlawful Activities.** No noxious or offensive activity shall be carried on upon any Lot therein nor shall anything be done or placed thereon which interferes with or jeopardizes

the enjoyment of the Common Areas, or which is a source of annoyance to residents. No unlawful use shall be made of a Lot nor any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

7.24 **Occupancy.** No occupancy will be allowed before:

(a) Final inspection and approval by the DRC and in accordance with approved plans.

(b) Removal of all construction waste, materials and portable toilet.

(c) Completion of exterior painting.

No owner shall occupy, use or permit his Lot or any part thereof to be used for any purpose other than a private residence for the Owner, their family or their guests, except that each Owner shall be permitted to rent the unit when he is not in occupancy. The rental period shall not be less than one month.

7.25 **Outside Fixtures.** No recreational equipment, including but not limited to, basketball hoops or play structures, are allowed in any street. Other accessory structures or equipment, including but not limited to, tool sheds, play equipment and dog houses are allowed only in the backyard and must be approved by the Design Review Committee.

7.26 **Outside Storage**. Woodpiles, storage areas, machinery and equipment shall be prohibited upon any Lot, unless obscured from view of neighboring property and streets by a fence or appropriate screen approved by the Design Review Committee. Colored tops and covers shall be of a color approved by the Committee. Trash cans and other moveable rubbish containers shall be allowed to be visible from the street or adjacent Lots within the Property only during the days on which rubbish is collected and after 9 p.m. of the preceding evening.

7.27 **Parking, Prohibited Vehicles, and Lot Appearance.** An enclosed garage, of a size appropriate for a minimum of two cars, is required for any Living Unit on a Lot. No parking on any street shall be allowed of any commercial or recreational vehicles, including but not limited to horse trailer, travel trailer, commercial 18-wheel tractor, boat trailer, camper or incapacitated motor vehicle. Boats, trailers, buses, motor homes, commercial vehicles, flat bed pick-up trucks, recreational vehicles, (including campers), disabled vehicles or other similar vehicles shall not be parked or stored on any Lot other than inside an enclosed garage, screened from view in a manner approved by the Design Review Committee, or on a temporary basis as allowed in the Association Policies and Procedures which may be amended from time to time. No vehicle shall be parked in the street for more than 24 hours at a time. No stripped down, partially wrecked, inoperative or junk motor vehicle (or sizable part thereof), or other materials, trash, garbage, refuse containers, or other unattractive materials shall be permitted on any Lot, Common Area, or the streets.

7.28 **Required Setbacks.** All Improvements shall be erected, placed, altered and maintained in accordance with all applicable City of Bend setbacks, building height limitations, solar setbacks, building codes and the Design Review Committee guidelines for the Property.

7.29 **Roofs.** All roofs and roofing materials shall be limited to quality composition roofs (30-year or better), slate, tile, fiberglass or other acceptable fire resistant materials approved by the Design

Review Committee. No wood, shake-shingle or other highly combustible roof materials will be allowed. Roof materials shall be of earth tone colors; no metal roofs are allowed. Colors shall not be bright and outstanding.

7.30 Sidewalks. Owners are responsible for clearing sidewalks of snow and debris. Maintenance of the park strip (the landscaped area between a sidewalk and the paved street), if any, shall be the responsible of the adjacent Lot Owner.

7.31 Signs. No sign of any kind shall be displayed to public view on or from any Lot without the Design Review Committee's prior written consent; provided, however, that an Owner may display not more than one (1) "for sale" sign or one (1) "for rent" sign per Lot. Said signs shall be limited in size to not more than four (4) square feet.

7.32 Utilities. No above ground utilities, pipes or wires shall be used to connect Improvements with supplying facilities.

7.33 Utility Easements. Easements for installation and maintenance of utilities may be reserved over portions of certain Lots, as shown on the recorded plat. Within the easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities. The easement area of each Lot and all Improvements in it shall be maintained continuously by the Owner of the Lot, expect for those Improvements for which a public authority or utility company is responsible.

7.34 Vacant Lot. The Owner of a vacant Lot shall maintain the Lot at all times in a groomed and attractive manner so that the Lot does not become an eyesore or fire hazard and detrimental to the values of other properties.

7.35 Water and Sewer Supply. No individual water supply system or sewage disposal system shall be permitted on any Lot.

ARTICLE 8

ASSOCIATION

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

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

be governed by the Articles of Incorporation and Bylaws of the Association as if they had been made to constitute the governing documents of the unincorporated association.

8.2 **Membership**. Every Owner of one or more Lots within the Property shall, immediately upon creation of the Association and thereafter during the entire period of such Owner's membership of one or more Lots within the Property, be a member of the Association. Such membership shall commence, exist and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

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

(a) **Lots.** Lots shall be allocated one Voting Unit per Lot. A single-family Lot shall be allocated one vote regardless whether the Living Unit has been constructed on such Lot.

(b) **Classes of Voting Membership.** The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Class B member and shall be entitled to Voting Units for each Lot owned computed in accordance with Section 8.3(a) above. When more than one person holds an interest in any Lot, all such persons shall be members and the vote for such Lot shall be exercised as they among themselves determine. In no event, however, shall more Voting Units be cast with respect to any Lot than as set forth in Section 8.3(a) above.

Class B. The Class B member shall be the Declarant and shall be entitled to three times the Voting Units computed under Section 8.3(a) for each Lot owned by Title Holder or Declarant. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(i) Declarant has completed development of all Lots and Common Areas permitted under the City of Bend approval for SageWood, and Lots representing ninety-five percent (95%) of the Voting Units computed in accordance with this section have been sold and conveyed to Owners other than Title Holder or Declarant; or

(ii) At such earlier time as Declarant may elect in writing to terminate Class B membership.

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

(a) The powers, duties and obligations granted to the Association by this Declaration.

(b) The powers and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Oregon.

(c) The powers, duties and obligations of a homeowners association pursuant to the Oregon Planned Community Act, whether or not such Act is applicable to the Association.

(d) Any additional or different powers, duties and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners within the Property.

The powers and obligations of the Association may from time to time be amended, repealed, enlarged or restricted by changes in this Declaration made in accordance with the provisions herein, accompanied by changes in the Articles of Incorporation or Bylaws of the Association made in accordance with such instruments and with the nonprofit corporation laws of the State of Oregon.

8.5 Specific Powers and Duties. The powers and duties of the Association shall include, without limitation, the following:

(a) **Maintenance and Services**. The Association shall provide maintenance and services for the Property as provided in Article 9 and other provisions of this Declaration.

(b) **Insurance**. The Association shall obtain and maintain in force policies of insurance as provided in this Declaration or the Bylaws of the Association.

(c) **Community-Wide Standards, Rulemaking**. The Association, through the Board of Directors, shall have the right to make, establish, promulgate, amend and repeal Community-Wide Standards and any Policies and Procedures governing the conduct of persons and the operation and use of Lots and the Common Areas as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. A copy of the Policies and Procedures, upon adoption, and a copy of each amendment or modification shall be furnished to each Owner and shall be binding upon all Owners and occupant of all Lots upon the date of delivery.

(d) **Assessments**. The Association shall adopt budgets and impose and collect Assessments as provided in Article 10 of this Declaration.

(e) **Enforcement**. Subject to the provisions of Article 11, the Association shall perform such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of this Declaration and the Policies and Procedures adopted by the Association, including without limitation, enforcement of the decisions of the Design Review Committee.

(f) **Employment of Agents, Advisers and Contractors**. The Association, through its Board of Directors, may employ the services of any person or corporation as managers, hire employees to manage, conduct and perform the business, obligations and duties of the Association, employ professional counsel and obtain advice from such persons or firms or corporations such as, but not limited to, landscape architects, architects, planners, attorneys and accountants, and contract for or otherwise provide for all services necessary or convenient for the management, maintenance and operation of the Property.

(g) **Borrow Money, Hold Title and Make Conveyances**. The Association may borrow and repay moneys for the purpose of maintaining and improving the Common Areas, subject to Section 4.4 above, and encumber the Common Areas as security for the repayment of such borrowed money. The Association may acquire, hold title to and convey, with or without consideration, real and personal property and interests therein, including but not limited to easements across all or any portion of

the Common Area, and shall accept any real or personal property, leasehold or other property interest within the property conveyed to the Association by Title Holder or Declarant.

(h) **Transfer, Dedication and Encumbrance of Common Area**. Except as otherwise provided in Section 4.4 above, the Association may sell, transfer or encumber all or any portion of the Common Area to a person, firm or entity, whether public or private, and dedicate or transfer all or any portion of the Common Area to any public agency, authority, or utility for public purposes.

8.6 **Liability**. A member of the Board of Directors or an officer of the Association shall not be liable to the Association or any member of the Association for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of his or her duties, except for acts of gross negligence or intentional acts. In the event any member of the Board of Directors or any officer of the Association is made a party to any proceeding because the individual is or was a director or officer of the Association, the Association shall indemnify such individual against liability and expenses incurred to the maximum extent permitted by law.

8.7 **Interim Board**.Declarant shall have the right to appoint an interim board of three directors, who shall serve as the Board of Directors of the Association until replaced by Declarant or until their successors take office at the next annual meeting following termination of Class B membership. At such meeting, the interim directors shall resign and be replaced by their successors, who shall be designated as provided in this Declaration and the Bylaws of the Association.

8.8 **Turnover Meeting**. Declarant shall call a meeting of the Association for the purpose of turning over administrative responsibility for the Property to the Association not later than ninety (90) days after Lots representing ninety-five (95%) of the Voting Units computed in accordance with Section 8.3(a) above have been sold and conveyed to Owners other than Declarant or Title Holder. If the Declarant fails to call the turnover meeting as required by this section, any Owner or mortgagee of a Lot may call the meeting by giving notice as provided in the Bylaws.

8.9 **Declarant Control After Turnover**. After the turnover meeting described in Section 8.8 above, Declarant shall continue to have the voting rights described in Section 8.3 (b) above and the right to appoint interim directors as provided in Section 8.7 until termination of the Class B membership.

8.10 **Appointment of Directors**. Effective as of the next annual meeting following termination of Class B membership, the Board of Directors of the Association will be composed of three directors, all of whom shall be elected by the Owners.

ARTICLE 9

MAINTENANCE, UTILITIES AND SERVICES

9.1 Maintenance and Lighting of Common Areas. The Association shall be responsible for exterior lighting for and perform all maintenance upon the Common Areas, Common Easement Areas, and landscaping within dedicated rights of way, including but not limited to grass, trees, entrance signs, street lighting and signs, parking areas, walkways and trails, unless the maintenance thereof is assumed by a public body. Such areas shall be maintained in a good and workmanlike manner such as to carry out the purpose for which such areas are intended.

9.2 **Maintenance of Access Easements.** As provided in recorded access easements, the Association shall be responsible for maintenance of the asphalt overlaying the access easements. Such areas shall be maintained in a good and workmanlike manner such as to carry out the purpose for which such areas are intended. The costs of such maintenance and repair shall be assessed equally to the Owners of the Lots sharing the access easement as Individual Assessments as provided in Section 10.7 herein.

9.3 **Maintenance of Utilities.** The Association shall perform or contract to perform maintenance of all private utilities within Common Areas, such as sanitary sewer service lines, domestic water service lines and storm drainage lines, except to the extent such maintenance is performed by the utilities furnishing such services. Each Owner shall be responsible for maintaining utility lines within his Lot.

9.4 **Services.** The Association may provide or contract for such services as the Board may reasonably deem to be of benefit to the Property, including without limitation, garbage and trash removal for Common Areas.

9.5 **Owner's Responsibility.** Except as otherwise provided in this Declaration or by written agreement with the Association, all maintenance of the Lots and all structures, landscaping, parking areas, and other Improvements thereon, shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in accordance with the Community-Wide Standard of SageWood. The Association shall, in the discretion of the Board of Directors, assume the maintenance responsibilities of such Owner if, in the opinion of the Board of Directors, the level and quality of maintenance being provided by such Owner does not satisfy such standard. Before assuming the maintenance responsibilities, the Board of Directors shall notify the Owner in writing of its intention to do so, and if such Owner has not commenced and diligently pursued remedial action within 30 days after mailing of such written notice, then the Association may proceed. The expenses of such maintenance by the Association, including administrative costs as determined by the Board of Directors, shall be reimbursed to the Association by the Owner, together with interest as provided in Section 11.6 below. Such charges shall be Individual Assessments and a lien on the Lot as provided in Sections 10.7 and 11.3 below.

ARTICLE 10

ASSESSMENTS

10.1 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and occupants of SageWood and for the improvement, operation and maintenance of the Common Areas.

10.2 Types of Assessments. The Association may levy Annual Assessments, Special Assessments, Emergency Assessments and Individual Assessments, all as more particularly described below.

10.3 Apportionment of Assessments. All Lots shall pay a pro rata share of the Annual Assessments, Special Assessments and Emergency Assessments commencing upon the date such Lots are made subject to this Declaration. The pro rata share shall be based upon the total amount of each such Assessment divided by the total number of Lots subject to Assessment. A Lot shall be obligated to pay such Assessments regardless of whether the Living Unit has been constructed on the Lot.

10.4 Annual Assessments. The Board of Directors of the Association shall from time to time and at least annually prepare an operating budget for the Association, taking into account the current costs of maintenance and services and future needs of the Association, any previous overassessment and any common profits of the Association. In addition, the budget shall take into account the number of Lots as of the first day of the fiscal year for which the budget is prepared and the number of Lots reasonably anticipated to become subject to assessment during the fiscal year. The budget shall provide for such reserve or contingency funds as the Board deems necessary or as may be required by law, but not less than the reserves required by Section 10.9 below. Annual Assessments for such operating expenses and reserves ("**Annual Assessments**") shall then be apportioned among the Lots as provided in Section 10.3 above. The method of adoption of the budget and the manner of billing and collection of Assessments shall be as provided in the Bylaws.

10.5 Special Assessments. In addition to the Annual Assessment authorized above, the Board of Directors may levy during any fiscal year a Special Assessment ("**Special Assessment**"), applicable to that year only, for the purpose of deferring all or any part of the cost of any construction or reconstruction, unexpected repair, or acquisition or replacement of a described capital improvement, or for any other one-time expenditure not to be paid for out of Annual Assessments. Special Assessments which in the aggregate in any fiscal year exceed an amount equal to twenty (20%) percent of the budgeted gross expenses of the Association for the fiscal year may be levied only if approved by a majority of the voting rights as provided in the Bylaws. Special Assessments shall be apportioned as provided in Section 10.3 above and may be payable in lump sum or in installments, with or without interest or discount, as determined by the Board of Directors.

10.6 Emergency Assessments. If the Annual Assessments levied at any time are, or will become, inadequate to meet all expenses incurred under this Declaration for any reason, including nonpayment of any Owner's Assessments on a current basis, the Board of Directors of the Association shall immediately determine the approximate amount of such inadequacy and issue a supplemental budget, noting the reason therefor, and levy an Emergency Assessment for the amount required to meet all such expenses on a current basis ("**Emergency Assessment**"). Any Emergency Assessment which in the aggregate in any fiscal year would exceed an amount equal to twenty (20%) percent of the budgeted gross expenses of the Association for the fiscal year may be levied only if approved by not less than a majority of the voting rights as provided in the Bylaws. Emergency Assessments shall be apportioned as set forth in Section 10.3 above and payable as determined by the Board of Directors.

10.7 Individual Assessments. Any common expense or any part of a common expense benefiting fewer than all of the Lots may be assessed exclusively against the Lots benefited ("**Individual Assessment**"). Individual Assessments include, without limitations, charges for services provided under Section 9.2 relating to maintenance of access easements and under Section 9.4 herein. Individual Assessments shall also include default assessments levied against any Lot to reimburse the Association for costs incurred in bringing such Lot or its Owner into compliance with the provisions of this Declaration or the Policies and Procedures of the Association and for fines or other charges imposed pursuant to this Declaration for violation thereof. Unless otherwise provided by the Board of Directors, Individual Assessments shall be due 30 days after the Board of Directors has given written notice thereof to the Owners subject to Individual Assessments.

10.8 Operations Fund. The Association shall keep all funds received by it as Assessments, other than reserves described in Section 10.9, separate and apart from its other funds, in an account to be known as the "**Operations Fund**." The Association shall use such fund exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents within the Property and in particular

for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and of the Lots situated on the Property, including but not limited to:

(a) Payment of the cost of maintenance, utilities and services as described in Article 9.

(b) Payment of the cost of insurance as described in the Bylaws of the Association.

(c) Payment of taxes assessed against the Common Areas and any improvements thereon.

(d) Payment of the cost of other services which the Association deems to be of general benefit to the Owners, including but not limited to accounting, legal and secretarial services.

10.9 Reserve Fund. The Declarant shall establish a reserve fund for replacement of those items to be maintained by the Association all or a part of which will normally require replacement in more than three (3) and less than thirty (30) years ("**Reserve Fund**"). Such Reserve Fund shall be funded by Assessments against the individual Lots assessed for maintenance of the items for which the Reserve Fund is being established. The amount assessed shall take into account the estimated remaining life of the items for which the reserve is created and the current replacement cost of such items. The Reserve Fund shall be established in the name of the Association and shall be adjusted at regular intervals to recognize changes in current replacement cost over time. The Reserve Fund shall be used only for replacement of common property as determined by the Board of Directors and shall be kept separate from the Operations Fund. Any interest earned on funds deposited in the Reserve Fund, however, may either be accumulated in the Reserve Fund or deposited in the Operations Fund. The Board of Directors may borrow funds from the Reserve Fund to meet high seasonal demands on the regular operating funds or to meet other temporary expenses which will later be paid from Annual Assessments, Special Assessments or Emergency Assessments. Nothing in this section shall prohibit prudent investment of the reserve account. Assessments paid into the Reserve Fund are the property of the Association and are not refundable to sellers or Owners of Lots. Sellers of the Lots, however, may treat their outstanding share of the Reserve Fund as a separate item in any sales agreement.

10.10 Creation of Lien and Personal Obligation of Assessments. Declarant and Title Holder, for each Lot owned by them within the Property, hereby covenants, and each Owner of any Lot by acceptance of a conveyance thereof, whether or not so expressed in any such conveyance, shall be deemed to covenant to pay to the Association all Assessments or other charges as may be fixed, established and collected from time to time in the manner provided in this Declaration or the Association Bylaws. Such Assessments and charges, together with any interest, expenses or attorneys' fees imposed pursuant to Section 11.6, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment or charge is made. Such Assessments, charges and other costs shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth in Article 11 below.

ARTICLE 11

ENFORCEMENT

11.1 Remedies. This Declaration shall be specifically enforceable by Declarant or by any Owner of any Lot. Any breach of this Declaration shall subject the breaching party to any and all legal remedies, including damages or the destruction, removal, or enjoining of any offending Improvements or condition.

11.2 Nonwaiver. Failure by the Declarant or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

11.3 Nonqualifying Improvements and Violation of General Protective Covenants. In the event any Owner constructs or permits to be constructed on his Lot an Improvement contrary to the provisions of this Declaration, or causes or permits any Improvement, activity, condition or nuisance contrary to the provisions of this Declaration to remain uncorrected or unabated on the Owner's Lot, then the Association acting through its Board of Directors shall notify the Owner in writing of any such specific violations of this Declaration and shall require the Owner to remedy or abate the same in order to bring his Lot, the Improvements thereon and the use thereof, into conformance with this Declaration. If the Owner is unable, unwilling or refuses to comply with the Association's specific directives for remedy or abatement, or the Owner and the Association cannot agree to a mutually acceptable solution within the framework and intent of this Declaration, after notice and opportunity to be heard and within thirty (30) days, 15 days for yard maintenance requirements and violations under Section 7.19, of written notice to the Owner, then the Association acting through its Board of Directors, shall have the right to do any or all of the following.

(a) Assess fines against such Owner in the manner and amount the Board deems appropriate in relation to the violation, which fines shall constitute Individual Assessments for purposes of this Declaration;

(b) Enter the offending Lot and remove the cause of such violation, or alter, repair or change the item which is in violation of this Declaration in such a manner as to make it conform thereto, in which case the Association may assess such Owner for the entire cost of the work done including administrative costs as determined by the Board of Directors, which amount shall be payable to the Operations Fund as an Individual Assessment, provided that no items of construction shall be altered or demolished in the absence of judicial proceedings, or;

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

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

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

(b) The Association shall have a lien against each Lot for any Assessment levied against the Lot, including any fines or other charges imposed under this Declaration or the Bylaws against the Owner of the Lot from the date on which the Assessment is due. The provisions regarding the attachment, notice, recordation and duration of liens established on real property under ORS 94.704 to 94.716, as the same may be amended, shall apply to the Association's lien. The lien shall be foreclosed in accordance with the provisions regarding the foreclosure of liens under ORS Chapter 88. The Association, through its duly authorized agents, may bid on the Lot at such foreclosure sale, and may acquire and hold, lease, mortgage and convey the Lot.

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

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

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

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

11.7 Interest, Expenses and Attorneys' Fees. Any amount not paid to the Association when due in accordance with this Declaration shall bear interest from the due date until paid at a rate three percentage points per annum above the prevailing Portland, Oregon prime rate at the time, or such other rate as may be established by the Board of Directors, but not to exceed the lawful rate of interest under the laws of the State of Oregon. A late charge may be charged for each delinquent Assessment in an amount established from time to time by resolution of the Board of Directors of the Association not to exceed thirty percent (30%) of such Assessment. In the event the Association shall file a notice of lien, the lien amount shall also include the recording fees associated with filing the notice, and a fee for preparing the notice of lien established from time to time by resolution of the Board of Directors of the Association. In the event the Association shall bring any suit or action to enforce this Declaration, or to collect any money due under this Declaration or to foreclose a lien, the Owner-defendant shall pay to the Association all costs and expenses incurred by it in connection with such suit or action, including a foreclosure title report, and the prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable as attorneys' fees at trial and upon any appeal or petition for review thereof or in connection with any bankruptcy proceedings or special bankruptcy remedies.

11.8 Assignment of Rents. As security for the payment of all liens arising pursuant to this Article 11, each Owner hereby gives to and confers upon the Association the right, power and authority, during the continuance of such ownership, to collect the rents, issues and profits of the Owner's Lot,

reserving unto the Owner the right, prior to any default by such Owner in performance of that Owner's obligation under this Declaration or the Bylaws to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, the Association may, at any time after ten (10) days written notice to such Owner, either in person, by agent or by a receiver to be appointed by a court of competent jurisdiction, and without regard to the adequacy of any security for such indebtedness, enter upon and take possession of such Owner's Lot or any part thereof, in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, in payment of any indebtedness to the Association or in performance of any agreement hereunder, and in such order. as the Association may determine. Such action shall not cure nor waive any default hereunder or invalidate any act done pursuant to this Declaration. The assignment of rents and powers described in the foregoing paragraph shall not affect, and shall in all respects be subordinate to, the rights and powers of the holder of any first or second mortgage on any Lot, or any part thereof, to do the same or similar acts.

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

11.10 Dispute Resolution.

(a) **Mediation/Arbitration.** Any claim, controversy or dispute by or among Title Holder, Declarant, the Association or one or more Owners, or any of them, arising out of or related to this Declaration shall be first subject to mediation and, if not timely settled by mediation, resolved by arbitration in accordance with this Section 11.9. Any party may at any time opt to forego mediation and submit the matter directly to arbitration as provided in this Declaration. The decisions and award of the arbitrator shall be final, binding and nonappealable. The arbitration shall be conducted in Deschutes County, Oregon pursuant to the arbitration statutes of the State of Oregon and any arbitration award may be enforced by any court with jurisdiction. Filing for arbitration shall be treated the same as filing in court for purposes of meeting any applicable statute of limitations or for purposes of filing a notice of pending action (**"lis pendens"**).

(b) **Selection of Arbitrator**. The arbitration shall be conducted by a single arbitrator selected by mutual agreement of the parties. The arbitrator selected shall be neutral and unbiased, except to the extent the arbitrator's prior relationship with any party is fully disclosed and consented to by the other party or parties. If the parties are unable to agree upon the arbitrator within ten (10) days after a party's demand for arbitration, upon application of any party, the Presiding Judge of the Circuit Court of Deschutes County, Oregon shall designate the arbitrator.

(c) **Consolidated Arbitration**. Upon demand by any party, claims between or among the parties and third parties shall be submitted in a single, consolidated arbitration.

(d) **Discovery**. The parties to the arbitration shall be entitled to such discovery as would be available to them in an action in Deschutes County Circuit Court. The arbitrator shall have all of the authority of the Court incidental to such discovery, including without limitation authority to issue orders to produce documents or other materials, to issue orders to appear and submit to deposition, and to

impose appropriate sanctions including without limitation award against a party for failure to comply with any order.

(e) **Evidence**. The parties to the arbitration may offer such evidence as they desire and shall produce such additional evidence as the arbitrator may deem necessary for an understanding and determination of the dispute. The arbitrator shall determine the admissibility of the evidence offered. All evidence shall be taken in the presence of the arbitrator and all of the parties, except where any of the parties is absent in default or has waived its right to be present.

(f) **Excluded Matters**. Notwithstanding the foregoing, actions to enforce any order, decision or award rendered by arbitration pursuant to this Section 11.9 shall not be subject to mediation or arbitration under this Section 11.9 (but shall be subject to the applicable provisions of Section 11.9(g) below). The filing of a lis pendens or the application to any court for the issuance of any provisional process or similar remedy described in the Oregon or Federal Rules of Civil Procedure shall not constitute a waiver of the right or duty to utilize the procedures specific in this Section 11.9.

(g) **Costs and Attorneys' Fees**. The fees of any mediator and the costs of mediation shall be divided and paid equally by the parties. Each party shall pay its own attorneys' fees and costs in connection with any mediation. The fees of any arbitrator and the costs of arbitration shall be paid by the nonprevailing party or parties; if none, such fees and costs shall be divided and paid equally by the parties. Should any suit, action or arbitration be commenced in connection with any dispute related to or arising out of this Declaration, to obtain a judicial construction of any provision of the Declaration, to rescind this Declaration or to enforce or collect any judgment or decree of any court or any award obtained during arbitration, the prevailing party shall be entitled to recover its costs and disbursements, together with such investigation, expert witness and attorneys' fees incurred in connection with such dispute, as the court or arbitrator may adjudge reasonable, at trial, in the arbitration, upon any motion for reconsideration, upon petition for review, and on any appeal of such suit, action or arbitration proceeding. The determination of who is the prevailing party and the amount of reasonable attorneys' fees to be paid to the prevailing party shall be decided by the arbitrator (with respect to attorneys' fees incurred prior to and during the arbitration proceeding) and by the court or courts, including any appellate or review court, in which such matter is tried, heard, or decided, including a court that hears a request to compel or enjoin arbitration or that hears exceptions made to an arbitration award submitted to it for confirmation as a judgment (with respect to attorneys' fees incurred in such proceedings).

(h) **Survival**. The mediation and arbitration agreement set forth in this Section 11.10 shall survive the transfer by any party of its interest or involvement in the Property and any Lot or Living Unit therein and the termination of this Declaration.

ARTICLE 12

DECLARANT'S AND TITLE HOLDER'S IMMUNITY

The Title Holder and Declarant have a non-exclusive right and power to enforce the covenants, conditions, and restrictions contained in this Declaration, but neither the Title Holder nor Declarant has the legal obligation to enforce or attempt to enforce the provisions hereof. In the event the Title Holder or Declarant refuses, neglects, fails or is negligent in enforcing or attempting to enforce the Declaration, there shall not exist or be created any cause of action or claim against Title Holder or Declarant, and each Owner or any person or entity claiming by, through or from said Owner hereby releases Title Holder and

Declarant from and against any claim arising in connection with the development of the Property or related to Title Holder's or Declarant's acts or omissions in preparing, filing or enforcing this Declaration and shall be stopped from making or enforcing any such claim.

ARTICLE 13

MORTGAGEES

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

13.2 Right of First Mortgagees Relating to Maintenance. At any time that the Common Areas are not maintained or repaired by the Association to the extent reasonably necessary to protect and preserve the value of the Property for security purposes, then the record mortgagee, upon giving written notice as provided in this section, shall be entitled to exercise the rights of the Owner of the Lot as a member of the Association to vote at all regular and special meetings of the members of the Association

ARTICLE 14

MISCELLANEOUS PROVISIONS

14.1 Duration. This Declaration shall run with the land and shall be and remain in full force and effect at all times with respect to all property included in the Property and the Owners thereof for an initial period of thirty (30) years commencing with the date on which this document is recorded. Thereafter, this Declaration shall continue to run with the land and be and remain in full force and effect at all times with respect to all Property and the Owners thereof for successive additional periods of ten (10) years each. The continuation from the initial or any additional period into the next subsequent period shall be automatic and without the necessity of any notice, consent, or other action whatsoever; provided, however, that this Declaration may be terminated at the end of the initial or any additional period by an affirmative vote or written consent not less than size (6) months prior to the intended termination date of Owners owning not less than 75 percent of the Lots in the Property.

14.2 Amendment. This Declaration or any provision thereof may be terminated, extended, modified or amended, as to the whole of said Property or any part thereof with written consent of the Owners of at least seventy-five (75%) of the Lots in the Property; provided, however, that as long as Title Holder or Declarant owns any of the Lots, no such termination, extension, modification, or amendment shall be effective without the written approval of Declarant. Any such approved amendment must be certified by the President and Secretary of the Association as being adopted in accordance with the Declaration as provided in ORS 94.590.

14.3 Joint Owners. Unless otherwise provided in this Declaration, in any case in which two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility

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

14.4 Notice of Sale or Transfer of Title. Any Owner selling or otherwise transferring title to his or her Lot shall give the Association written notice within seven (7) days after such transfer of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Association may reasonably require. The transferor shall continue to be jointly and severally responsible with the Transferee for all obligations of the Owner of the Lot, including assessment obligations, until the date upon which such notice is received by the Association, notwithstanding the transfer of title.

14.5 Nonwaiver. Failure by the Declarant, Title Holder, Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

14.6 Construction: Severability, Number; Captions. This Declaration shall be liberally construed as an entire document to accomplish the purposes thereof as stated in the introductory paragraphs hereof. Nevertheless, each provision of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision shall not affect the validity or enforceability of the remaining part of that or any other provision.

As used in this Declaration, the singular shall include the plural and the plural the singular, and the masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Declaration.

14.7 Notices and Other Documents. Any notice or other document permitted or required by this Declaration may be delivered either personally or by mail. Delivery by mail shall be deemed made twenty-four (24) hours after having been deposited in the United States mail as certified or registered mail, with postage prepaid, addressed as follows: If to Declarant or the Association, Bend, Oregon; if to an Owner, at the address given by the Owner at the time of purchase of a Lot, or at the Lot. The address of a party may be changed at any time by notice in writing delivered as provided in this section.

14.8 Recording. Any amendment, deletion or repeal of this Declaration shall not become effective until recorded in the Official Records of Deschutes County, Oregon.

IN WITNESS WHEREOF, Title Holder and Declarant have executed this Declaration this 13th day of September, 2002.

LMC PROPERTIES, L.L.C., an Oregon limited liability corporation ("**Titleholder**")

By: E. S. Leagjeid
Its: Managing Partner

ALLEN – ROSE HOMES, L.L.C., an Oregon limited liability corporation ("**Declarant**")

By: [signature]
Its: Managing ~~Partner~~ MEMBER

STATE OF OREGON)
)Ss.
County of Deschutes)

The foregoing instrument was acknowledged before me on September 13th, 2002 by Eric Leagjeid as Managing Partner for LMC P[illegible]ted liability corporation.

OFFICIAL SEAL
LESLEY D EDWARDS
NOTARY PUBLIC - OREGON
COMMISSION NO. 324307
MY COMMISSION EXPIRES JUNE 13, 2003

Lesley D. Edwards
Notary Public for Oregon
My commission expires: 6/13/2003

STATE OF OREGON)
)Ss.
County of Deschutes)

The foregoing instrument was acknowledged before me on Sept 12, 2002 by Steve Buettner as managing member for ALLEN – ROSE HOMES, L.L.C., an Oregon limited liability corporation.

Joan C. Cooper-Pence
Notary Public for Oregon
My commission expires: 4/24/2005

OFFICIAL SEAL
JOAN C COOPER-PENCE
NOTARY PUBLIC-OREGON
COMMISSION NO. 344599
MY COMMISSION EXPIRES APR. 24, 2005

EXHIBIT A TO
Declaration of Covenants, Conditions and Restrictions for SageWood

Lots:
Lots 1 – 75 as shown on the plat of SAGEWOOD recorded in Deschutes County, Oregon.

Common Easement Areas:
The 10' Landscape Easement crossing Lots 20 – 43 and Lots 70 – 75 as shown on the plat of SAGEWOOD recorded in Deschutes County, Oregon;

And

The triangular-shaped Sign Easement on Lots 43 and 44 as shown on the plat of SAGEWOOD recorded in Deschutes County, Oregon;

And

The triangular-shaped Sign Easement on Lot 22 as shown on the plat of SAGEWOOD recorded in Deschutes County, Oregon.

Public Areas:
Tract A and Tract B as shown on the plat of SAGEWOOD recorded in Deschutes County, Oregon and dedicated to the City of Bend for sewer purposes and a pedestrian way.

EXHIBIT B TO
Declaration of Covenants, Conditions and Restrictions for SageWood

LOT NUMBER	*BUILDING HEIGHT*	*ORIGINAL GROUND ELEVATION (in feet)*	*APPROVED MAXIMUM RIDGE HEIGHT ELEVATION (in feet)*
2	25'	3816.04	3841.04
5	20'	3816.43	3836.43
6	25'	3816.46	3841.46
10	20'	3813.59	3833.59
11	20'	3812.74	3832.74
12	20'	3811.05	3831.05
13	25'	3810.05	3835.05
16	25'	3809.03	3834.03
17	25'	3804.81	3829.81
18	25'	3799.63	3824.63