

DECLARATION OF DEED RESTRICTIONS
AND DEDICATIONS FOR SHAMROCK PINES
(A Clatsop County, Oregon Subdivision)

**This Declaration of Deed Restrictions and Dedications is made this 28th day of May, 1997
by Malarkey Properties II, Inc., an Oregon corporation herein after called "Declarant",
witnesseth:**

RECITALS

1. Declarant is the sole owner of certain property located in Clatsop County, Oregon. The property is being subdivided and shall be known as "Shamrock Pines", hereinafter sometimes referred to as the "real property" or "property". The plat of Shamrock Pines is of record in Book 14, Pages 87-89 of the Plat Records of Clatsop County, Oregon.
2. It is Declarant's desire to subject all home sites, tracts, streets, roads and any all other property within the boundaries of the subdivision plat to the covenants, conditions, restrictions and dedications as set forth herein, respectively, for the benefit of such property and its present and subsequent owners for purposes of enhancing and protecting the value, desirability and attractiveness of said real property.
3. The power to enforce such conditions, covenants, restrictions and dedications is to reside in the Declarant and each owner of the home sites and Tracts "D" and "E" within the plat as set forth herein.
4. Declarant has deemed it advisable for efficient preservation of the values and amenities in the subdivision to create a non-profit corporation which shall constitute a homeowners association and shall be designated as the Shamrock Pines Homeowners Association, Inc. (hereinafter sometimes referred to as the "HOA"). HOA shall be responsible with Declarant and each home site and tract owner, as their respective rights and responsibilities appear, for the preservation, maintenance and enforcement of the covenants, conditions, restrictions, dedications, reservations, easements, charges and liens as set forth herein, and including but not limited to collecting and disbursing assessments and charges hereinafter created in promoting the recreation, health, safety and welfare of the residents and owners of home sites and tracts within the subdivision.
5. Declarant intends to provide water to the subdivision by installing a municipal water supply system connected to the City of Gearhart Water Supply and thereafter dedicating and conveying said water system to the City of Gearhart for future maintenance and regulation all for the benefit of the home site and tract owners within the subdivision. Such dedication and conveyance to the City of Gearhart shall be a continuing offer of dedication and conveyance to be accepted by the City in the City's discretion or upon annexation of the property to the City. Until the City accepts the dedication and conveyance, the water system is hereby dedicated and conveyed to the HOA who shall have full responsibility therefore until same is accepted by the City of Gearhart.

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6. Declarant shall fully cooperate with the City of Gearhart for annexation of the territory consisting of the subdivision at such time as the City wishes to annex the property. Declarant is hereby making a continuing consent to the annexation and is hereby withholding the right of remonstrance for objection to the annexation as part of each sale of each home site and tract within the subdivision.

7. Declarant reserves the right to replat Tracts "D" and "E" in any manner permitted pursuant to the applicable land use regulations in effect at the time.

NOW, THEREFORE, Declarant declares that home sites 1 through 41 and the roadways and easements of Shamrock Pines and Tracts "A", "B", "C", "D", and "E", according to the Plat of Shamrock Pines filed in the Plat Records of Clatsop County, Oregon in Plat Book 14, Pages 87-89, are and shall be held, transferred, sold, conveyed, occupied and used subject to the obligations, conditions, covenants, restrictions, easements, reservations and dedications set forth herein. Such obligations, easements, covenants, restrictions, conditions, reservations and dedications (collectively hereinafter referred to as "deed restrictions") shall run with home sites 1 through 41, and Tracts "A" through "E", all easements, the water system and the designated roadways within Shamrock Pines 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 and the Shamrock Pines Homeowners Association, Inc., and Oregon non-profit corporation and Declarant, respectively.

ARTICLE I

DEFINITIONS

1.1 "Architectural Committee" shall mean that organization created pursuant to Article VIII hereof.

1.2 "Building", for purposes of definition a "building" is included within the term "structure" but not all "structures" shall be included within the term "building".

1.3 "Building Line" shall mean a line drawn on the plat indicating the limit beyond which buildings or such structures may not be erected, or the minimum distance as prescribed by applicable land use regulations or this Declaration, whichever is the most restrictive, between the front property line abutting the street, a back property line, away from the street serving the premises or a side property line, and the closest point of the roof line of any building or structure located thereon.

1.4 "Common Property" shall mean and refer to all real property and appurtenances thereto, now or hereafter acquired, whether owned or leased, or otherwise controlled by HOA for the common use and enjoyment of some or all of the members, including but not limited to roads and water system. Tracts "A", "B", and "C" shall be owned in common, but subject to the use, regulation and assessment therefore imposed pursuant to the terms set forth herein.

1.5 "Declarant" shall mean and refer to the undersigned or its successors and assigns, as described at Paragraph 12.9 herein below.

1.6 "Declaration" shall mean the terms and provisions of this Declaration of Deed Restrictions and Dedications for Shamrock Pines.

1.7 "HOA" shall mean and refer to the Shamrock Pines Homeowners Association, an Oregon non-profit corporation organized in accordance with the terms hereof, and its successors and assigns. The owners of home sites 1 through 41 and Tracts "D" and "E" shall be members of the HOA for all purposes.

1.8 "Home Site" shall mean and refer severally to the home sites designated as 1 through 41 set forth in Shamrock Pines Subdivision Plat as recorded or subsequently amended. Home

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Site shall also mean and refer severally to such additional home sites created from Tracts "D" and "E" of Shamrock Pines Subdivision Plat. Each home site is intended to be used for residential purposes as further defined herein.

1.9 "Member" shall mean and refer to every person or entity that holds membership in the HOA. To be a member an individual or entity must own or own an interest in a home site or tract within Shamrock Pines Subdivision.

1.10 "Owner" shall mean and refer to the owner of record, whether one or more persons or entities, of the fee simple title to any home site or Tracts "D" and "E", including contract buyers, but excluding those having some interest merely as security for performance of an obligation.

1.11 "Plat" shall mean and refer to the Shamrock Pines Subdivision Plat recorded at Book 14, Pages 87-89, Plat Records of Clatsop County, Oregon, as recorded and amendments or replats thereto.

1.12 "Quorum" shall mean and apply to any meeting of the HOA consisting of the number of property owners who are entitled to cast 20% of the votes which may be cast for election of the Board of Directors and who are present in person or by proxy at the beginning of a duly called meeting.

1.13 "Real Property" or "Property" shall mean and refer to all real property contained within the plat of Shamrock Pines filed in the Plat Records of Clatsop County, Oregon, on the 28th day of May, 1997 in Book 14, Pages 87-89.

1.14 "Residence" shall mean that portion or any part of any structure intended to be occupied by a single household as a dwelling, together with attached or detached garage, including patios, porches, decks and steps annexed thereto.

1.15 "Structure" shall mean and refer to the most broad legal construction possible attributable to the term "structure" and legal construction of the word "structure" shall not be subject to restrictive legal rules of construction such as ejusdem generis. For purposes of construction, the term "structure" shall mean, but not be limited to, the construction, fabrication or assembly or production or piece of work artificially built up or composed of parts, joined together in some definite manner whether of a permanent or temporary nature and whether moveable or immovable. The terms "building", "residence" and "dwelling" are included within the meaning of the term "structure", but the term structure shall be more inclusive.

1.16 "Tract" shall mean and refer to those areas of real property and the improvements located thereon or to be located thereon which are designated as "tracts" within the real property and which may be owned as common property or by the Declarant. Such tracts are currently referred to as "A", "B", "C", "D", and "E" and shall include any additional tracts created by amendment hereafter of the plat.

1.17 "Undefined Terms". Any and all undefined terms used within this Declaration or the Declaration of Plat Restrictions, the Subdivision Plat or any amendments thereto that are not otherwise defined herein, but which are defined in the Gearhart Zoning Ordinance, Number 684 and the Gearhart Subdivision Ordinance, Ordinance Number 685, as amended and in effect as of the date of the filing of this Plat shall have the meanings described thereto. Otherwise, such undefined terms shall have their common meanings.

ARTICLE II

RESTRICTIONS ON USE OF REAL PROPERTY

2.1 Structure Construction & Use Regulation

2.1.1 Primary Use and Structure Limitation. Use of each home site within Shamrock Pines is limited to use for one single household dwelling unit per platted home site in existence as of the effective date of this Declaration. No building shall be erected, altered, placed or permitted to remain on any home site other than one detached single household dwelling, including garage, except as provided in Paragraphs 2.1.2 and 2.1.3 below and except as approved by the

Architectural Committee as described in Article VIII herein below. The Architectural Committee approval shall not be exercised to prohibit the construction of a residence on a home site in compliance with this Declaration, or the storage, during the course of construction, of construction materials and equipment on said home site as may be necessary for such construction or the use of any residence on a home site as a model home for purposes of sales in Shamrock Pines under such circumstances and for such period of time as may from time to time, be deemed reasonable by the Architectural Committee. Provided, however, Declarants may use any residence on a home site as a model home for purposes of sales in Shamrock Pines as long as Declarant owns a home site in the subdivision.

2.1.2 Accessory Structures Permitted. The foregoing Paragraph 2.1.1 shall not be interpreted to exclude construction of appurtenant and customary accessory buildings and enclosures, including but not limited to private greenhouse, private swimming pool, or a shelter or port for the protection of said swimming pool, or structures to enclose or screen the parking of boats, trailers, motorcycles, trucks, truck campers, other like recreational or residential equipment and other similar type residential accessory building structures. No metal outbuildings are permitted.

2.1.3 Compatibility of Accessory Building and Structures. The accessory buildings and structures must also be compatible in design, location and character with the residence constructed on the home site, and be specifically approved in writing by the Architectural Committee pursuant to Article VIII hereinbelow.

2.1.4 Duplication of Housing Design and Materials Regulated. Unless specifically exempted in writing by the Architectural Committee, no house plans which are the same or very similar in external appearance shall be permitted within the property.

2.1.5 Residential Structure, Minimum Size. Each single household dwelling structure constructed after the effective date of this Declaration on the property shall have a minimum living space floor area footprint of 1,550 square feet on the main ground level floor (exclusive of second stories square footage and exclusive of basement square footage) and the measurement of the 1,550 square feet shall exclude porches, patios and garage areas. Provided, however, their minimum size may be reduced with the prior written consent of the Architectural Committee.

2.1.6 Restrictions as to Building Materials.

(a) All single residential buildings shall be constructed on the home site upon which they shall permanently remain. "Precut", "prefabricated" or other means of "off site" construction of more than 15% of the structure of the residential dwelling are prohibited.

(b) All single household residential roof materials must be approved beforehand by the Architectural Committee and be of such materials as cedar shake, cedar shingle, clay tile, concrete tile, architectural asphalt or synthetic composite (concrete, fiberglass), blends of tile or shake-style roofing materials. No metal, vinyl, plastic, tar, standard asphalt or flat asphalt shingle roofing shall be allowed unless preapproved in writing by the Architectural Committee. All roofing material shall be a neutral earthtone, singular in color, without variation of type or color of materials per single household dwelling. If a flat roof is used, only built up asphalt material shall be used unless approved in writing beforehand by the Architectural Committee.

(c) All exterior construction of single household residential structures shall consist of a double wall system. T-111 siding is not permitted for an exterior finish surface. The exterior walls shall be of such materials as cedar shingles, cedar shakes, cedar siding, brick, stucco or materials determined in writing in advance of construction to be suitably compatible by and in the sole discretion of the Architectural Committee. The exterior of all construction on any home site shall be designed, built and maintained in such a way as to blend in with the natural surrounding, existing structures and landscaping in Shamrock Pines and be preapproved in writing to be in

compliance thereof by the Architectural Committee. The exterior colors must be preapproved in writing by the Architectural Committee in accordance with the provisions of Article VIII. Exterior trim, fences, doors, railings, decks, eaves, gutters and the exterior finishes of garages and other accessory buildings shall be designed, built and maintained to be compatible with the exterior of the structure they adjoin.

(d) All fencing materials shall be preapproved in writing as to compatibility and esthetics by and in the sole discretion of the Architectural Committee.

2.1.7 Utility Structure Exception. The prohibitions contained herein do not apply to structures created by governmental entities or utilities for purposes of supplying utility services or sewer.

2.1.8 Temporary Residential Structures Prohibited. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any home site or tract at any time as a residence whether temporary or permanently.

2.1.9 Antennas and Service Facilities. Exterior communication sending or receiving devices, including but not limited to antennas or satellite receiving stations (satellite dishes) shall not be permitted to be placed upon any existing home site or on any structure thereon without prior written architectural approval. With prior written architectural approval, satellite dishes not larger than 24 inches and obscure antenna devices may be installed on the exterior structure if the antenna, satellite dish or other form of communication sending or receiving device or structure is minimally visible and determined not to deter from the character of the neighborhood. This determination shall be based upon the sole discretion of the Architectural Committee applying the standards set forth herein.

2.1.10 Limit on Construction Time Period. Construction of any residence or accessory structure shall be completed, including exterior decoration within eight (8) months from the date of the start of such construction. All home sites shall, prior to, during, and after the construction or improvements thereon, be kept in a neat and orderly condition and free of brush, vines, weeds and debris. The home site shall be maintained in order to prevent the creation of a nuisance or health hazard. The grass shall be cut and mowed at sufficient intervals to comply with the standard of maintenance prevailing in the neighborhood unless otherwise approved in writing by the Architectural Committee. Any and all disturbance of the natural soil condition thereon shall be done in strict compliance with the Soil Conservation Service and any other applicable governmental zoning requirements to protect the home site and surrounding home sites from erosion.

2.1.11 Rental Regulation. Rental of homes within Shamrock Pines is allowed subject to reasonable control by the Board of Directors of the HOA. The Board of Directors of the HOA shall provide guidelines designed to protect the owners enjoyment and use of the properties and also provide opportunity for renting for those owners desiring to do so. Activities deemed offensive and intrusive of the rights of other home site owners shall be deemed grounds for withdrawal of the rental opportunity. Specifically, short term rentals, i.e. rentals for periods of less than 30 days and behavior by renters that is perceived to be offensive in nature are prohibited.

2.1.12 Construction Guidelines. Builders, contractors and subcontractors shall adhere to these residential covenants and construction regulations set forth herein and as further developed by the Architectural Committee. Builders shall review such regulations prior to beginning construction. Each home site or tract owner whose contractors or subcontractors damage roadways or any utility or other amenities including but not limited to the water supply system, shall be required to repair the damages or the Board of Directors of the HOA shall do so at the home site owner's expense. Contractors and builders shall acknowledge receipt of all such

regulations by signing and return one copy of each to the Architectural Committee prior to beginning construction activity on each home site.

2.1.13 Building Height and Roof Pitch Limitations. The building height and roof pitch shall be governed by applicable land use ordinances in effect and governing the real property.

2.1.14 Exterior Lighting. Property owners shall minimize exterior lighting of any sort which is visible from the dwelling of any Shamrock Pines homeowner. All exterior lighting shall be preapproved in writing by the Architectural Committee.

2.1.15 Clotheslines. No clotheslines shall be erected on any property within Shamrock Pines.

2.1.16 Mailbox and Newspaper Holder Locations. The physical appearance of these receptacles shall be uniform in design and shall be grouped for convenient access by each home site and tract owner. Design and location shall be selected and approved by the Architectural Committee in conjunction with the applicable U.S. Postal authority.

2.1.17 Firewood Storage. Provision for storing firewood on the premises must be included in the overall design. A firewood storage plan will be submitted along with the house plans and landscape plan to the Architectural Committee. This plan must provide for the location of wood storage that will not be visible either from adjoining properties or from the street and must be adhered to by the property owner.

2.1.18 Fuel Tanks. No fuel tanks will be maintained above the ground on the property.

2.1.19 Driveways. Location and design of driveways shall be subject to prior written approval by the Architectural Committee.

2.1.20 Refuse Storage. Garbage cans and recycling products must be kept in an enclosed area so that they are not visible from the street or other properties in the vicinity of the subject property except when placed at roadside on collection day if curb service is required.

2.2 Animals

2.2.1 Animals and Pets. No animals or fowl shall be raised or kept or permitted upon said home site or tract developed for single household residential use or any part therein excepting caged pet birds kept within the dwelling house, domestic dogs or cats, provided said dogs and cats are not permitted to run at large and are not kept, bred or raised for commercial purposes or in unreasonable numbers. This restriction does not apply to wild ducks, wild birds, and other wildlife inhabitant native to the area.

2.2.2 Pet Control. Dogs and cats are required to be controlled so as not to be a nuisance to other homeowners or wildlife. Any inconvenience, damage or unpleasantness caused by any such pets shall be the responsibility of the respective owners thereof. Dogs and cats shall not be permitted to roam the property unattended and all dogs and cats shall be kept on a leash while outside their owner's home site. An owner may be required to remove a pet upon the receipt of a notice in writing from the Board of Directors of the HOA of violation of any rule, regulation or restriction governing pets within the property. Any dog or cat which the Board of Directors of the HOA reasonably determines to be vicious or dangerous to owners of home sites or tracts, their families, guests, invitees, pets or the wild life of the area shall be removed by the owner thereof immediately upon written notice from the Board of Directors. At the homeowner's request after such removal, a hearing will be held by the Board of Directors of the HOA to review its determination and affirm or reverse its previous determination. Any dog which is considered vicious under a City of Gearhart ordinance, Clatsop County ordinance or State law, shall be conclusively deemed a vicious dog which the Board of Directors of the HOA shall exclude from the property.

2.3 Offensive Activities.

2.3.1 Nuisances Prohibited. No nauseous or offensive activity shall be carried on upon any home site within the plat nor shall anything be done or maintained thereon which may be or

become an annoyance or a nuisance to the home sites or detract from their values as a high class residential district.

2.3.2 Home site Maintenance Required. No home site or tract shall be used or maintained as a dumping ground for rubbish. Trash, garbage, and other waste shall be kept in acceptable sanitary containers. All materials shall be kept in a clean and sanitary condition which is not accessible to vectors, rodents, or other animals. The grounds of each home site or tract (whether vacant or occupied) shall be maintained in a neat and attractive condition which is compatible with the maintenance of the other properties in Shamrock Pines area. Provided, however, when the home site or tract is unimproved it may be maintained in its natural habitat condition.

2.3.3 Motorized Vehicles and Devices Regulated. No motorized vehicle, including but not limited to trail bikes, motorcycles, motor scooters, go carts and four wheel drive vehicles may operate upon any home site or tract except for parking on the driveway or other parking areas. All such recreational type of noisy machinery is prohibited. Machinery necessary for the care and maintenance of the property such as lawnmowers, rototillers, and wood cutting machinery is specifically permitted at reasonable times.

2.4 Vehicle Parking

2.4.1 On Street Parking Area Responsibility. It shall be the duty of the owner or the occupant of any home site or tract to improve and maintain in proper condition the area between the property line and the improved area of the street including installing and maintaining paved parking bays within said area if vehicles are to be parked on the street which are owned by the home site or tract owners or the guests or invitees of the specific home site owner.

2.4.2 Regulation of On Site Vehicle Parking. Parking of boats, trailers, campers, truck campers, trucks (excepting pickup trucks), light recreational vehicles or equipment and more than four other vehicles shall not be allowed in excess of 72 hours nor shall the repair of any of the same be permitted on any home site or Tracts "D" and "E" (if developed for single household residential use), excepting only within the confines of an enclosed garage, storage port or behind a screening fence or shrubbery, which shall be attached to a dwelling or if detached, shall be of compatible design, construction materials and decoration to be compatible with the buildings. Such confines, structures or enclosures, whether attached or detached to the dwelling unit shall be approved by the Architectural Committee pursuant to Article VIII hereinbelow.

2.4.3 Regulation of On Street Vehicle Parking. No trucks, trailers, campers, boats, truck campers or vehicles determined to be unsightly or to create a nuisance in the sole discretion of the Architectural Committee shall be permitted to park overnight on any street within the Property.

2.4.4 Construction. All driveways and parking bays on home sites or Tracts "D" and "E" shall be constructed of asphalt pavement or concrete.

2.4.5 Non-operative Vehicles. No owner shall permit any vehicle which is in a state of disrepair to be abandoned or to remain parked upon any home site or tract or on a public way or common property for a period in excess of 48 hours unless confined within an enclosed garage or storage port.

2.5 Signs

2.5.1 Regulation. Exclusive of developers project or subdivision recognition signage, no sign or other advertising device of any character shall be erected on any home site or maintained upon part of any home site except one (double face) sign not larger than 500 square inches on each side advertising a home site or building for sale or for rent. Provided, however, during the course of construction, a builder may use a sign not more than 500 square inches to advertise the property during construction and sale. Signage for the recreational amenities of

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the subdivision including but not limited to easements and signage for signs and subdivision identification shall be subject to the Architectural Committee's approval and otherwise be exempt from this regulation. This regulation provision does not apply to Tracts "D" and "E" if not developed for single household residential use nor to small homeowner name signs and street numbers which are preapproved in writing by the Architectural Committee.

2.6 Hunting.

2.6.1 Prohibition. No hunting of any kind is permitted within Shamrock Pines. There shall be no pursuing, trapping, killing, injuring or molesting any bird or animal except in the interest of eradication of pests such as rodents or vectors.

2.7 Fireworks.

2.7.1 Prohibition. Keeping or use of fireworks are prohibited in Shamrock Pines

2.8 Alarm Systems.

2.8.1 Regulation. If homes have an alarm system that broadcasts outside the home, the broadcast system shall be set up so that the alarm shall not broadcast outside of the home for more than ten (10) minutes.

2.9 Private Dwelling Use and Exceptions.

2.9.1 Use as Private Dwelling Only; Exceptions. Each home site shall be occupied as a single household private dwelling by its owner or the owner's tenants, visitors or guests, and for no other purpose. Subject to compliance with applicable local ordinances and other restrictions of record, an owner may use the owner's dwelling on the home site as a "home office", provided that clients, customers, vendors and employees do not regularly visit the "home office".

Provided, however, any home builder or Declarant who is constructing residences on the home sites may store construction materials and equipment on said home sites in the normal course of said construction and to use completed homes as sales models as provided herein. Provided further, that with separate and additional approval of the Architectural Committee other home occupations may be conducted on the premises in strict compliance with applicable land use regulations in effect at the time and as specifically approved in writing by the Architectural Committee. This provision does not apply to Tracts "D" and "E" if not developed for single household residential use.

2.10 Utilities.

2.10.1 Regulation. No outdoor overhead wire or service drop or other facility for the distribution of electric energy or for telecommunication purposes, nor any pole, tower or other structure supporting outdoor overhead wires shall be erected, placed or maintained within Shamrock Pines. All owners of home sites or tracts within Shamrock Pines, their heirs, successors and assigns shall use underground service wires, cables and pipes and other underground facilities for service to connect their premises and the structures built thereon to the underground electric, telephone, utility or cable television facilities except as mandated by applicable local jurisdiction or public utility companies.

2.11 Water Supply.

2.11.1 Source. All users of the water supply system providing service to the Shamrock Pines shall comply with all regulations of the water supplier in effect now or hereafter adopted.

2.11.2 Individual Water Supply Systems. No individual water supply system except creek irrigation and shallow point well systems, which are not connected in any way to the domestic water supply system provided by the water supplier of domestic water services to Shamrock Pines or their successor, shall be permitted on any home site or tract unless such system is located, constructed or equipped in accordance with the requirements, standards and recommendations of the Oregon State Board of Health and the water supplier of domestic water within Shamrock Pines or their successors prior to installation.

2.12 Building Dimension Interpretation.

2.12.1 Projections. For purposes of this Declaration, eaves, steps and open porches or patios (at ground level or not to exceed 18 inches above ground) shall not be considered as part of the building for purposes of setback requirements. Provided, however, this shall not be construed to allow any portion of the building on a home site to encroach upon another home site. In addition, no projection of any type, including but not limited to chimneys, shall extend more than five feet above the highest point of the structure subject to the structure height regulation of the applicable land use laws or other restrictions set forth herein.

2.12.2 Minimum Home Site Size. No home site within Shamrock Pines shall be further reduced in size in order to create additional home sites. This provision does not apply to Tracts "D" and "E" because further subdivision or partitioning is intended.

2.13 Storm Water Control System. The control of storm water on each home site or tract is the responsibility of the owner thereof. Each dwelling shall have a system designed to mitigate the runoff from the improvements located on the property. This system shall be designed to take into account impervious surfaces, i.e. roof areas and paved or asphalt areas. Runoff from these areas shall be collected and placed back into the soil by use of dry wells and no drainage may be directed or delivered to any body of water located on the real property. The system shall be constructed to comply with all applicable governmental agency regulations and be designed in conformance with any and all applicable local governmental regulations involving storm water control.

2.14 Neacoxie Creek Riparian Protection. No structures may be constructed within Tracts "A" or "B". Said Tracts "A" and "B" are hereby dedicated as riparian buffer and wetland areas and are to remain in a natural state. No indigenous vegetation including trees, shall be cut or removed therefrom, and all vehicular traffic, including trail bikes and horses, are prohibited in said tracts. No soil removing or filling is allowed in Tracts "A" and "B".

2.15 Butterfly Habitat Dedication. Tract "C" is hereby dedicated as a butterfly habitat conservation area. A butterfly conservation plan for Tract "C" has been approved by the U.S. Fish and Wildlife Service and is on file with the zoning department of the City of Gearhart and a copy is attached hereto as Exhibit "A" and by this reference incorporated herein. All vehicular traffic, other than that traffic necessary for the maintenance of the butterfly habitat is prohibited in Tract "C".

2.16 Management, Control and Responsibility for Tracts "A", "B", and "C". Tracts "A", "B", and "C" will be maintained by the HOA under the direction of the Board of Directors.

ARTICLE III

ROADWAY, SEWER AND UTILITY EASEMENTS

3.1 Reservation. Declarant hereby reserves unto itself, his successors and assigns, perpetual easements under, over and across Tracts "A" through "C" and all common properties acquired or dedicated herein or in the future under, over or across strips of land ten feet in width running along and interior to the sidelines and rearlines of each home site and tract for the purposes of erecting, installing, constructing, maintaining and operating sewers, drainage and irrigation systems, pipes, wires, cables and conduits for lighting, heading, power, telephone and any other method of conducting or performing any public or semipublic utility service or function beneath, upon or above the surface of such common properties and such ten foot strips of land. Within the easements consisting of the herein defined ten foot strips of land on the interior of home site and tract lines, no structure, fence, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of such utilities or facilities, or which may change the direction of flow of water through a drainage channel or facilities in the easements or which may obscure or retard the flow of water through the drainage channels and easements. Provided, however, by prior written approval of the Architectural Committee, a home site or tract owner may place removable structures, surface

coverings such as asphalt or concrete or install fencing or plant shrubbery on such easement areas or otherwise landscape those areas if the home site or tract owner agrees to remove same at home site or tract owner's expense whenever it is necessary to have access to these surface or sub-surface properties within the easements for the purposes specified herein and conditioned upon home site and tract owner making all necessary provision for alternate drainage facilities within owner's home site or tract if surface drainage or sub-surface drainage is interrupted or altered. The easement property(s) of each home site and tract and all improvements upon such easement areas shall be maintained continuously by the owner except for those improvements for which the HOA, a public authority or utility company is responsible.

3.2 Dedication and Financial Responsibility.

3.2.1 Shamrock Pines Homeowners Association and Financial Responsibility. All roadways and easements whether for ingress or egress, or for utilities located within Shamrock Pines are hereby dedicated for the benefit to the owners of home sites 1 through 41 and Tracts "A through "E". The roadways and said easements are hereby granted to Shamrock Pines Homeowners Association, Inc., for the benefit of the owners and occupants and their guests and invitees except as hereinabove provided if the water service and lines are accepted by the City of Gearhart and/or roadways become city streets upon annexation as set forth in Recital numbers 5 and 6 above and Article X below. As provided in Article VI the HOA will assume responsibility for maintenance of all roadways within Shamrock Pines upon their completion and the City of Gearhart's acknowledgement of compliance by Declarants with the subdivision improvement agreement with the City of Gearhart for such improvements. Such responsibility of HOA shall terminate upon the municipal annexation of said property if the street maintenance is being assumed by the City of Gearhart after June 1, 1998 and until such time as the water distribution system is accepted and responsibility therefore assumed by the City of Gearhart, the HOA shall assume responsibility for maintenance of said system upon completion and the City of Gearhart's acknowledgement of compliance by Declarant with a subdivision improvement agreement with the City of Gearhart for such improvement. The owners of home sites 1 through 41 and Tracts "D" and "E" shall have equal access to and use of all the utilities, common easements, easement areas and Tracts "A", "B" and "C" (subject to applicable regulation) within Shamrock Pines. Home sites shall each be equally assessed for such usage, including the maintenance and repair of the roads, easements, butterfly habitat conservation area and any and all other amenities within Shamrock Pines. The owner of Tracts "D" and "E" shall pay the same for each tract as each home site owner pays for one home site until the tracts are resubdivided or partitioned and thereafter each new home site or other use shall pay on an equivalent basis as home sites 1 through 41 and shall enjoy the same rights and privileges thereto.

3.3 Common Easements and Dedications.

3.3.1 Roads and Streets. Subject to Paragraph 7.1, Declarant, as the owner of each and every home site and tract, hereby grants to the purchasers of home sites 1 through 41 and Tracts "D" and "E" and any resubdivision or partition thereof, the non-exclusive right to utilize the roads and streets rights-of-way for access purposes for both vehicular and pedestrian purposes and of all other common amenities which may be lawfully placed within the platted streets and easements. The Shamrock Pines rights-of-way and utilities easements designated herein shall be for the respective and mutual use of all parties for access to utility services of every kind and nature and for sewer service. Each home site and tract shall have the right to connect to and use said utilities located therein. Each home site and tract owner shall have all rights of ingress and egress to and from all said utility areas including the right from time to time except as hereinafter provided, to cut, trim and remove trees and brush, overhanging branches

and other obstructions necessary for the use, enjoyment, operation and maintenance of the easement hereby granted and all rights and privileges included and incident thereto.

3.3.2 Obstructions. Except as provided in Paragraphs 3.1 and 3.3.1 no permanent structure shall be placed upon the rights-of-way and easements set forth herein. Provided, however, property owners must meet applicable utility specifications for placement of hard surfaces over utilities to the extent of the home site or tract owners use of such rights-of-way or easement areas. This granted authority to construct within easements and rights-of-way does not include any right to construct within the right-of-way of the specific road rights-of-way except for the installation of utility and sewer facilities and parking bays.

3.3.3 Revocation of Right of Remonstrance. By this Declaration of Deed Restrictions and Dedications the Declarant hereby makes a continuing offer to the City of Gearhart or its successor entity for the right to take the streets into its public road system and the right of the current and future owners each and every home site and tract is hereby waiver to remonstrate against action by the City of Gearhart or its successor to take the easements and rights-of-way contained herein into the public road and water system of the City of Gearhart or its successor.

3.3.4 Perpetual Easement Term. The easements and rights-of-way are appurtenant to each home site and tract and shall be perpetual. The easement and rights-of-way shall bind and inure to the benefit of, as circumstances may require, not only the immediate parties hereto but also their respective heirs, personal representatives, assigns, and successors in interest as well.

3.3.5 Responsibility for Use of Easement. Any and all utilization of said easements shall be accomplished in such a manner as to cause the least inconvenience and disturbance to properties adjacent thereto, and any person accessing said easements for purposes of utility connections shall return the condition of the streets and easements as near as possible to their prior condition upon completion of any and all installations, connections and maintenance work within these easements permitted hereby in a timely and expeditious manner except as provided in Paragraph 3.1 hereinabove.

3.4 Financial Responsibility. Commencing June 1, 1998 the Owners of home sites 1 through 41 and Tracts "D" and "E" shall be responsible in common with all other members of the HOA, respectively, for all repair costs and maintenance of all easements and common utilities that are assessed pursuant to the terms for management, maintenance and financing as provided by this Paragraph 3.2.3. Provided, however, this obligation shall cease as to the roadway and water lines when the roadway and water line easements are taken into the City of Gearhart or its successors, for maintenance and upkeep.

3.5 Expanded Use. Notwithstanding the foregoing provisions, Declarant reserves the non-exclusive right to use and connect into all roadways, easements and utilities for future development of adjacent property including but not limited to Tracts "D" and "E" and the property of Michael Malarkey lying westerly and northerly of the subject property. Any such expanded use shall assume a pro rata responsibility for the maintenance of the roadways, easements and water system.

ARTICLE IV

LANDSCAPING

4.1 Time Limitation. All landscaping on all home sites must be completed within 120 days from the date of substantial completion of the residence constructed thereon, as required by the Architectural Committee. In the event of undue hardship caused by weather conditions, this provision may be extended for a reasonable length of time to the extent permitted by applicable law upon written approval of the Architectural Committee.

4.2 Temporary Landscaping. During development of a home site and tract, while in the course of construction of improvements and until permanent landscaping is in place, each home

site owner and his or her agent shall comply with all applicable utilization requirements in effect upon such properties and regulated by applicable governmental agencies.

4.3 View Restriction. In the event any tree, shrub or other vegetation blocks or substantially obscures scenic vistas from any residence or is otherwise a nuisance or inharmonious with the property, the owner of such residence may petition the Architectural Committee for the trimming, topping or removal of such tree, shrub or other vegetation. Upon receipt of such petition, the Architectural Committee shall investigate the matter and determine whether said view is a significant view of an amenity or the objected to trees, shrubs, or other vegetation is a nuisance or inharmonious with the property and if so, determine whether such view is, in fact, blocked or substantially obscured or the subject of the objection is otherwise a nuisance or inharmonious with the property. If the Architectural Committee so determines, in its sole discretion, then the offending tree, shrub or other vegetation shall be trimmed, topped or entirely removed to restore the view or otherwise satisfy the objection to the satisfaction of the Architectural Committee. The owner of the offending tree, shrub, or other vegetation shall be entitled to elect within ten (10) days after the Architectural Committee's determination, as to whether the offending tree, shrub or other vegetation shall be trimmed, topped or removed, so long as such choice shall resolve the issue to the satisfaction of the Architectural Committee. In any event, the reasonable cost of trimming, topping and removal shall be the responsibility of the petitioning owner.

4.4 Landscaping Materials. The use of native material for landscaping is encouraged. The Architectural Committee shall review all landscaping designs as planned or allowed to remain in its pre-existing condition, for purposes of promoting fire protection for the home site or tract on which the landscaping exists and the surrounding home sites or tracts in order to discourage spread of fire resulting from landscaping materials used.

4.5 Fences and Hedges. No fences or hedges shall be installed upon any portion of the home site unless written approval is first obtained from the Architectural Committee which specifies the height, material and color or type of vegetation to be used for the fence or hedge. That approval shall designate location and maximum height and width in order to preserve compatibility of design and maximum significant views for all properties in the vicinity of the home site upon which the fence or hedge is to be located. No building, wall, fence, paving, landscaping or other construction of any type shall be erected or maintained by an owner of a home site so as to trespass or encroach upon Tracts "A" through "E" unless specifically approved by the Architectural Committee in writing as to Tracts "A" through "C" and the tract owner as to Tracts "D" and "E".

4.6 Erosion Control.

4.6.1 Regulation. The owner of each home site and tract is responsible to prevent wind caused erosion and shall make no use of property or allow property to exist in such condition as to cause erosion on their home site or another home site or tract within the plat. The home site owner may not remove the vegetation on the home site including the trees or other ground cover without immediate restoration in such manner as to protect the home site or tract and surrounding areas from erosion.

4.6.2 Regulatory Authority and Compliance. During development and construction of a home site or tract and until permanent landscaping is in place, each home site or tract owner or his or her agent shall comply with all land use requirements in effect upon the subject properties and regulated by applicable governmental agencies. In the event of undue hardship resulting from weather conditions, this provision may be extended for a reasonable period of time, to the extent permitted by applicable law, upon the written approval of the Architectural Committee and applicable governmental agency.

ARTICLE V

HOMEOWNERS ASSOCIATION

5.1 Organization. Declarant shall organize a homeowners association to be comprised of the owners of home sites 1 through 41, the owners of Tracts "D" and "E" and the Declarant. The HOA will be organized under the name of Shamrock Pines Homeowners Association, Inc. or a name similar thereto, as a non-profit corporation under the general non-profit corporation laws of the State of Oregon. The HOA shall have property, powers and obligations as set forth in this and other applicable recorded Declarations and Covenants and in its Articles of Incorporation and By-Laws for the benefit of the real property and the members. The Articles of Incorporation of the HOA shall provide for its perpetual existence but in the event HOA is at any time dissolved, whether inadvertently or deliberately, another HOA shall be immediately formed or shall automatically be succeeded by an unincorporated HOA of owners of home sites 1 through 41 and Tracts "D" and "E" with a similar name. Owners of all home sites and tracts and their successors or assigns are required to be members of this Homeowners Association. In such event, all of the property, powers and obligations of the incorporated association existing immediately prior to its dissolution shall thereupon automatically vest in its successor corporation or association and such vesting shall, thereafter, be conformed to legally implement the provisions hereof by appropriate conveyances and assignments. To the greatest extent possible, any successor association will be governed by the Shamrock Pines Homeowners Association, Articles of Incorporation, By-Laws and all applicable recorded Declarations as if they have been made to constitute the governing documents of the successor corporation or association. The Articles of Incorporation and the By-Laws of the HOA hereafter adopted and duly administered shall be deemed covenants appurtenant home sites 1 through 41 and Tracts "A", "B", "C", "D" and "E" and shall be binding upon owners, successors or assigns thereof as specifically mentioned herein. The Articles of Incorporation and the By-Laws of the HOA or any successor corporation or unincorporated association must be in compliance with and may not change any rights, privileges, duties or responsibilities established by this Declaration.

5.2 Membership. Every person or entity who is an owner of home sites 1 through 41 and Tracts "D" and "E" (as currently exist or as hereafter resubdivided or partitioned) shall be members of the HOA. The forgoing is not intended to include persons or entities who have an interest merely as a security for the performance of an obligation. Membership shall be appurtenant to and not be separated from ownership of any home site or respective tract which is subject to assessment by HOA. Lessees, renters, or other non-owner occupants of home sites 1 through 41 or Tracts "D" and "E" are not eligible for membership.

5.3 Voting. There shall be one vote per home site and one vote each for Tracts "D" and "E" after Declarant turns over control of the affairs of the HOA to the members pursuant to Paragraph 5.4 below. Provided, however, if Tracts "D" and "E" shall be resubdivided or partitioned, each parcel of resubdivided or partitioned home site or tract shall also have one vote. This Paragraph shall not be amended without consent of owners of Tracts "D" and "E".

5.4 Control of Affairs of HOA. The initial Board of Directors as defined in the HOA By-Laws shall be appointed by the Declarant. The initial Board of Directors shall operate, manage and control the HOA until a date which is not later than 120 days after Declarant has conveyed all 41 home sites within Shamrock Pines, or at any sooner time determined by Declarant. Prior to such date, Declarant shall call a meeting in accordance with the procedure for a special meeting as set forth in the HOA By-Laws and at such time turn over administrative responsibility for Shamrock Pines to the members in accordance with applicable provisions contained herein. A quorum for this meeting shall be the number of home site owners who attend in person or by proxy. Until such time as Declarant turns over control to the HOA, individual home site owners shall have no vote in the control and operation of the HOA. After control of HOA is transferred to the owners of home sites 1 through 41 and Tracts "D" and "E", the HOA cannot treat Tracts "D"

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and "E" or the parcels of property subdivided or partitioned therein any different than home sites 1 through 41 except for the right to resubdivided or partition. This paragraph may not be amended without consent of the Declarant or its successors and assigns or the owners of all parcels of property within Tracts "D" and "E".

ARTICLE VI

COMMON AREA MAINTENANCE

6.1 Initial Maintenance.

6.1.1 Management. Maintenance of all common areas including roadways shall be managed by Declarant until June 1, 1998.

6.1.2 Responsibility. The Declarant shall maintain the roadways, water system and other commonly owned amenities within the real property at its expense until June 1, 1998.

Thereafter, such costs shall be borne by the owners of each home site and Tract "D" and "E" as set forth herein.

6.2 Permanent Maintenance.

6.2.1 Roadway, Water System and Easements.

(a) Responsibility. The Declarant shall maintain the roadways, water system and other commonly owned amenities within the real property at its expense until June 1, 1998.

Thereafter, such costs shall be borne by the owners of each home site and Tract "D" and "E" as set forth herein.

6.2.2 Tracts "A" and "B".

(a) Responsibility. The tracts designated on the Plat of Shamrock Pines as Tracts "A" and "B" shall be owned by and be the responsibility of the HOA. The HOA will have full responsibility for the maintenance, care and upkeep of the tracts.

6.2.3 Endangered Species Habitat Preservation: Tract "C"

(a) Oregon Silverspot Butterfly Habitat. The area designated on the plat of Shamrock Pines as a butterfly habitat preservation area (Tract "C") shall be owned by and be maintained by the HOA. The HOA shall have full responsibility for the maintenance, care, upkeep and enforcement of the Oregon Silverspot butterfly habitat.

(b) Oregon Silverspot Butterfly Plan. Attached as Exhibit "A" and by this reference incorporated herein is the Oregon Silverspot Butterfly plan for Shamrock Pines Subdivision in Gearhart, Oregon. This plan is hereby adopted and becomes part of this Declaration and the Declarant, home site and tract owners and Homeowners Association, respectively, shall comply therewith.

(c) Reversion. If Tract "C" becomes no longer subject to the Habitat Plan attached as Exhibit "A", then Tract "C" shall revert to the ownership of Declarant or its successors or assigns.

6.3 Assessments.

6.3.1 Purpose of Assessments. The assessments levied by the HOA shall be used for the costs of operation of the HOA, for purposes of promoting the recreation, health, safety, enjoyment and protection of the residents, guests and users of home sites 1 through 41 and Tracts "D" and "E" for the costs for endangered species habitat preservation as outlined in Exhibit "A" attached hereto and the maintenance of easements and improvements within the subdivision. In particular, such assessment shall be for the improvement and maintenance of the roadways and common property within the plat of Shamrock Pines to the extent such maintenance is not otherwise provided by a public entity.

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6.3.2 Members Covenants for Maintenance Assessments. Declarant hereby covenants for all the Property and each owner of any home site and Tracts "D" and "E" (including as later resubdivided or partitioned) that by acceptance of a deed or contract or purchase thereof, whether or not it shall be so expressed in any such deed, contract, trust deed, mortgage or other conveyance, such owners are deemed to covenant and agree to pay the HOA:

(a) Regular annual or other regular periodic assessments or charges established by HOA Board of Directors from time to time in accordance with this Declaration commencing June 1, 1998;

(b) Special assessments for capital improvements made by HOA Board of Directors in accordance with this Declaration commencing June 1, 1998.

Such assessment shall be fixed, established and collected from time to time as hereafter provided. The regular and special assessments, together with such interest thereon and cost of collection thereof, as hereafter provided, shall be a charge to each home site and Tracts "D" and "E" (including later resubdivided or partitioned parcels) in accordance with the provisions of this Declaration and shall be a continuing lien upon each home site and Tracts "D" and "E" (including later resubdivided or partitioned parcels) for each such assessment as made.

Each such assessment, together with interest, costs and reasonable attorneys fees shall be the personal obligation of the owner(s) who was/were the owner(s) of such home site or Tracts "D" and "E" (including later resubdivided or partitioned parcels) at the time such assessment became due. The obligation shall not be a personal obligation of successors in title unless expressly assumed by them, but shall remain a lien upon the property so long as unpaid except as otherwise provided herein.

6.3.3 Member Annual Assessment Basis and Maximum.

(a) Annual assessments for each home site and Tracts "D" and "E" shall commence on June 1, 1998.

(b) Until January 1, 1999, the maximum regular assessment shall be at the rate of \$200.00 per year for each home site and Tracts "D" and "E" subject thereto, paid quarterly, semi-annually or annually.

(c) From and after January 1, 1999, the annual regular assessment shall be established by the Declarant or the Board of Directors of the HOA, respectively. At any regular or special meeting of the HOA after the HOA is turned over by Declarant pursuant to Paragraph 5.4 above, the assessment determined by the Board of Directors of the HOA may be amended by affirmative vote of the owners of 67% of the home sites and tracts. The amount assessed shall take into account the anticipated future maintenance and improvement necessary to maintain the roadway, water system and common property (including Tract "C") and the improvement necessary to maintain the roadway, easements, water system and common property in good condition and the current cost to do so. The Board of Directors of the HOA shall adjust the amount of payments at regular intervals to reflect changes in the current costs over time.

6.3.4 Special Assessment for Capital Improvements. In addition to the annual assessment authorized above, the Board of Directors of the HOA may levy in any assessment year a special assessment applicable to that year only, for purposes of defraying, all or in part, the cost of any construction or reconstruction or any unexpected repair or replacement of the road system, other utilities or common properties or any other duties or activities. Provided that after the HOA

is turned over by the Declarant pursuant to Paragraph 5.4 above, any such special assessment by the Board of Directors for such alteration, repair or maintenance may be amended by an affirmative vote of 67% or more of the owners of the home sites and Tracts "D" and "E".

6.3.5 Uniform Rate of Assessment; Common Profits. All annual assessments and any and all such special assessment must be fixed at a uniform and equal rate per home site and tract for services rendered for all home sites and Tracts "D" and "E" and may be collected on an annual, semi-annual, quarterly or monthly basis in the discretion of the directors. If special services are rendered to specific home sites or Tracts "D" and "E" at the request of the owner thereof, additional assessments shall be charged to such residential home sites or Tracts "D" and "E". If the association has any common profits or surplus assessments at the end of each fiscal year, the Board of Directors of the HOA may, in its sole discretion, elect to distribute them to the owners of home sites and Tracts "D" and "E" in proportion to assessments paid by said owners during the period over which the common profits accumulated.

6.3.6 Date of Commencement of Annual Assessment; Due Dates. The annual assessment provided for herein shall be made as of June 1 of each year. The Board of Directors of the HOA shall fix the amount of regular assessments at least 30 days in advance of each annual assessment date. Written notice of the annual assessment shall be sent to every property owner subject thereto. The due date shall be established by the Board of Directors. The HOA shall, upon demand, at any reasonable time, furnish a certificate in writing, signed by an officer of the HOA setting forth whether the assessments on a specific home site or Tracts "D" and "E" have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

6.3.7 Exempt Property. The following property which is subject to this Declaration shall be exempt from assessment created herein.

(a) All properties expressly dedicated to and accepted by a local public authority or a public utility.

(b) All properties owned by the HOA.

6.3.8 Subordination of the Lien Mortgages. The HOA lien for an assessment provided for herein is superior to all other liens except property taxes, a first mortgage, a first trust deed or first land sale contract of record now or hereafter placed upon such property. However, the sale of any home site pursuant to a judgment of foreclosure on a first mortgage, first trust deed or first land sale contract shall cancel the assessment and lien as to the amounts thereof which become due prior to such sale. Such sale shall not release such home site or any improvements thereon from liability for any assessments that become due from or after the date of sale.

6.4 Enforcement of Assessments.

6.4.1 Non-Payment of Assessment. The owner of each home site and Tracts "D" and "E" is hereby required to and shall forthwith pay their assessment for each home site and Tracts "D" and "E" within 30 days of date of notice of assessment.

6.4.2 Remedies of HOA. If any owner of a home site or Tracts "D" and "E" fails to pay their respective assessment pursuant to Paragraph 6.4.1 within 30 days, then the HOA is hereby granted a right to lien the owner's home site(s) or Tracts "D" and "E" as set forth herein. The lien upon the home site or Tracts "D" and "E" of the defaulting party may be enforced upon compliance with the terms and conditions set forth herein:

(a) The lien shall be prior to all other liens or encumbrances upon the property except property taxes and any prior mortgage, trust deed or contracts of record.

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(b) In order to enforce the lien provided for herein, the HOA shall record a lien claim containing a true statement of the amount due for unpaid charges (after deducting all just credits and offsets) and all costs of lien preparation and recording, including attorneys fees for both obtaining and collecting the lien, in the appropriate lien records of Clatsop County, Oregon. The name of the owner of the home site or Tract or the reputed owner, if known, and/or the legal description of the home site or Tract shall constitute sufficient designation of the home site or Tract for purposes of identification.

(c) The claim shall be verified by oath of one or more persons having knowledge of the facts and shall be filed with and recorded by the recording officer of Clatsop County, Oregon in the book kept for purposes of recording liens filed under ORS 87.035 or its successor statute.

(d) After a claim has been filed and recorded pursuant to the provisions of this Declaration of Deed Restrictions and the owner of the home site or tract subject to the claim thereafter fails to pay any such charge provided for therein, then and so long as the original or any subsequent unpaid balance remains unpaid, such claim shall automatically continue and subsequent unpaid amounts and interest thereon shall automatically accumulate without the necessity for further filings.

(e) The proceedings to foreclose liens created by provisions of this Declaration of Deed Restrictions shall conform as nearly as possible to the proceedings to foreclose statutory liens created by ORS 87.010 or its successor statute, except that notwithstanding ORS 87.055 or its successor statute, a lien may be continued and enforced for a period of time not to exceed six years from the date that the claim is filed under subparagraph 6.3.11(b) above. For the purposes of determining the date the lien is filed in those cases where subsequent unpaid costs have accumulated under the lien as provided in subparagraph 6.3.11(d) above, the claim regarding each unpaid cost shall be deemed to have been filed at the time such unpaid costs became due as represented therein. The lien may be enforced by the Board of Directors of the HOA or any individual member of the HOA in the absence of enforcement by the HOA.

(f) The party or parties foreclosing a lien provided for herein shall be entitled to reimbursement of all costs and expenses of foreclosing a lien and collecting the lien as part of the lien charges and including any attorneys fees incurred in connection therewith as defined in Paragraph 9.2 below.

(g) All unpaid balances shall bear interest at the rate of 1.5% per month.

(h) An action to recover a money judgment for unpaid charges against the default home site or Tract owner may be maintained by the HOA Board of Directors or in the absence of the action by the HOA, any member of the HOA acting jointly or individually without foreclosing or waiving the liens securing a claim for the unpaid charges.

(i) The remedies provided above shall be non-exclusive and in addition to any other remedies provided by law.

ARTICLE VII
PROPERTY RIGHTS IN COMMON PROPERTIES

7.1 Members' Easement of Enjoyment. As further described in Paragraph 3.3.1 above, every member who owns a home site within the property or who owns Tracts "D" and "E" in the

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property shall have a right and easement of enjoyment in and to the common property which include the roadways, Tracts "A" through "C" and other designated easements set forth herein or on the Plat. Such easements shall be appurtenant to and shall pass with the title of every home site or tract. Such easements of enjoyment to all members shall be subject however, to the following provisions:

(a) The right of the Board of Directors of the HOA to limit the number of guests to use the common property.

(b) The right of the Board of Directors of the HOA to charge home site and tract owners reasonable admission fees for the use of any facility situated upon Tracts "A", "B" and "C".

(c) The right of the Board of Directors of the HOA, in accordance with its Articles and By-Laws to borrow money for the purposes of improving common property and in aid thereof to mortgage said common property for such purposes. In the event of a default of such mortgage, the lender's rights shall be limited to a right after taking possession of common property to charge admission and other fees as a condition of continued enjoyment by the members and, if necessary, to open the enjoyment of such property to a wider public until the mortgage debt is satisfied, whereupon the possession of such common property shall be returned to the HOA and all rights of the members hereunder shall be fully restored.

(d) The right of the Board of Directors of the HOA to suspend the owners of any home sites or tracts voting rights and their right to use common properties, exclusive of the roadway and water systems, for any period during which any assessment against said home site or tract remains unpaid; and for a period not to exceed 30 days for infraction of its published rules and regulations.

(e) The right of the Board of Directors of the HOA to grant easements for public utilities or for other public purposes consistent with the intended use of the HOA's common property and easements but subject to such conditions as may be agreed to by the Board of Directors. Such action shall be preceded by written notice of the proposed action to every member not less than 10 days or more than 90 days prior to such dedication, transfer or grant.

(f) The right of the Board of Directors of the HOA to sell or convey or create a security interest in any portion of the common property subject to such conditions as may be agreed by the members. No such sale, conveyance, or creation of a security interest shall be effective unless an instrument signed by members entitled to case 2/3 votes of the membership votes has been recorded in the appropriate records of Clatsop County, Oregon agreeing to such sale, conveyance or creation of security interest. Written notice of the proposed action shall be sent to every member not less than 30 days or more than 90 days prior to such sale, transfer or creation of security interest.

(g) The right of the Board of Directors of the HOA to promulgate reasonable rules and regulations governing rights of use, from time to time, in the interest of securing maximum safety issues for the common property without unduly infringing upon the privacy or enjoyment of the owner or occupant of any part of the real property, including, without being limited thereto, rules restricting persons under or over designated ages from using certain portions of the common property during certain times and reasonable regulations and restrictions regarding the common property.

(h) The right of the Board of Directors of the HOA to promulgate rules in accordance with Exhibit "A" for the use, maintenance and restrictions of access to Tract "C" in a manner necessary to maintain the habitat for endangered species as validly required by all applicable regulatory agencies and pursuant to agreements entered into by Declarant or the HOA with other governmental or private entities dedicated to the preservation of the area for endangered species.

7.2 Delegation of Use. A member may delegate, in accordance with the reasonable rules and regulations adopted from time to time by the HOA Board of Directors, his or her rights of enjoyment to the common property, to the members of his or her family and guests, or his or her tenants providing they reside in his or her residence on a home site or tract.

7.3 Title to Common Property. Declarant hereby covenants for himself and assessors and assigns that they will convey to the HOA fee simple title to the common property but subject to any and all restrictions and encumbrances of record including this Declaration of Deed Restrictions and Dedications. Provided, however, the common roadways shall be deemed dedicated to the City of Gearhart to be accepted at such time as the property is annexed to the City and the common roadways are accepted by the City as public streets. Provided further the water system shall be deemed dedicated and transferred to the City of Gearhart as described in Recital 5 hereinabove.

ARTICLE VIII

ARCHITECTURAL COMMITTEE

8.1 Purpose and Authority of Architectural Committee. One of the purposes of this Declaration is to provide for and require all improvements to be in harmony with the general plan of improvement of the real property to ensure the highest possible quality of residential development. The approval of all plans and specifications submitted to the Architectural Committee shall be withheld not only because of their non-compliance with any of the specific conditions, covenants and restrictions contained in this Declaration, but also because of the dissatisfaction of the HOA acting by and through the Architectural Committee with any and all other matters or things which, in the judgment of the architectural committee would render the proposed structure, improvement or home site or tract alternation or use in any manner in violation of this Declaration or rules promulgated pursuant thereto or otherwise out of character with the general plan of improvement of said real property or with the other improvements located through the remainder of Shamrock Pines.

8.2 Membership; Appointment and Removal.

8.2.1 Initial Architectural Committee. The initial Architectural Committee shall be comprised of George Malarkey, Richard Charlton and Don Lampi. These members shall continue to comprise the Architectural Committee until Declarant turns over control of the HOA pursuant to Paragraph 5.3. Any vacancies in the initial Architectural Committee shall be filled by the remaining members of the Architectural Committee or in their absence, by the Declarant.

8.2.2 Permanent Architectural Committee. The permanent Architectural Committee referred to herein shall be comprised of three persons with one elected annually by the majority vote of the HOA Board of Directors at the end of the term of the initial Architectural Committee. At the first election after the Declarant turns over control pursuant to Paragraph 5.3, one member shall be elected to serve until the next annual meeting of the HOA, one to serve until the second annual meeting of the HOA and one to serve until the third annual meeting of the HOA. At each annual meeting of the HOA thereafter, a member shall be elected to fill the position of a member whose term has expired and shall serve for a three year term. If any member of the Architectural Committee is unable or unwilling to act, the HOA Board of Directors shall elect a successor to serve out the unexpired term. No member of the Architectural Committee, however created or

constructed, shall receive any compensation from the HOA or make any charge for their services. However, the members of the Architectural Committee shall be entitled to reimbursement from the HOA for their out of pocket expenses incurred for purposes of performing the duties of the Architectural Committee. Architectural Committee members do not have to be members of the HOA.

8.3 Procedures. In the event the Architectural Committee fails to approve or disapprove plans and specifications within 45 days after full and final plans and specifications have been submitted to it, approval shall be deemed granted and the related covenants shall be deemed to have been complied with fully. The 45 day time for response shall be deemed complied with if the Architectural Committee notice is provided to the home site or tract owner in person or mailed within 45 days as determined by the date of mailing of the application to the committee and response by the committee to the applicant or the date of actual hand delivery. Such notice shall be delivered or mailed to the applicant at the address designated by the applicant for such purposes in his or her application.

8.4 Action. Except as otherwise provided herein, any two members of the Architectural Committee shall have the power to act on behalf of the Architectural Committee without the necessity of meeting (but with reasonable prior notice) and without the necessity of further consulting with the remaining member of the committee. The Architectural Committee may render its decision only by written instrument setting forth the action taken by the members.

8.5 Approval of Plan by Architectural Committee. No residence, building, garage or any structure or improvement of any kind or nature, including landscaping and timber or tree removal shall be commenced, erected, placed, or altered on any home site or tract until the construction plans and specifications, and a plan showing the nature, shape, height, materials and colors together with detail plan showing the proposed location of the same on the particular home site or tract and proposed landscaping shall have been submitted to and approved in writing by the Architectural Committee as defined in Paragraph 8.3 above. All plans and specifications for approval by the Architectural Committee shall be submitted at least 45 days prior to the start of the proposed construction unless such time is waived in writing by the Architectural Committee.

8.6 Right of Entry. Any agent or officer of the HOA and the Architectural Committee may, at any reasonable hour or hours during construction or remodeling, enter and inspect any home site or tract or residence as to its maintenance or improvements to determine if there has been compliance with the provisions hereof. The HOA and the Architectural Committee may, in like manner, inspect any home site or tract for compliance with the provisions hereof. The HOA and the Architectural Committee, and any agent or officer thereof shall not thereby be deemed guilty of any manner of trespass for such reasonable entry for inspection. The Architectural Committee shall issue a certificate of completion and compliance as to any property so inspected which is found to be complete and in compliance.

8.7 Evidence of Compliance with Restrictions. Records of the Association with respect to compliance with the provisions of the Declaration shall be conclusive evidence as to all matters shown by such records to the extent same are available. All records demonstrating compliance with the provisions of this Declaration shall be record in the miscellaneous records of the Clatsop County Clerk by the home site or tract owner receiving such approval. Issuance of a certificate of completion and compliance by the Architectural Committee showing that the plans and specifications for the improvements or other materials herein provided for have been approved and that such improvements have been made in accordance therewith, or a certificate as to and relating to this Declaration by the Architectural Committee shall be conclusive evidence that shall justify and protect any title company insuring title to any property subject to the Declaration and shall fully protect any purchaser or encumbrancer in connection therewith

from claims of non-compliance herewith. After the expiration of one year following the completion of construction under a building permit issued by municipal or other governmental authority, and written notice thereof is delivered to the Architectural Committee, any structure, work, improvement, or alteration shall be deemed to be in compliance with the provisions hereof unless a notice of non-compliance executed by the Architectural Committee shall have been recorded in the office of the Clatsop County Clerk, or unless legal proceedings shall have been commenced to enforce compliance or completion.

8.8 Construction by Declarant or HOA. This Article shall not govern construction, improvements or alterations by Declarant or the HOA upon portions of the real property owned by Declarant or the HOA. However, the Declarant or HOA, respectively, shall approve in writing all plans of original construction by Declarant or HOA prior to commencement of such construction and file same with the secretary of the HOA. Declarant does not choose to limit Declarant's or the HOA's right to add improvements not described in this Declaration.

8.9 Non-Waiver. Failure by the Architectural Committee to enforce any provisions of this Declaration shall not constitute abandonment or negate the legal effect of any such requirement unless notice in writing of such failure to act is provided to the Architectural Committee and they fail to initiate measures to obtain compliance with provisions of this Declaration within 180 days.

ARTICLE IX

ENFORCEMENT

9.1 Non-Compliance with Provisions of this Declaration. In the event that any owner shall violate any provision of this Declaration, the By-Laws of the HOA or other rules adopted by the HOA, then the HOA acting through its Board of Directors shall notify the offending owner in writing that the violation exists and that the owner is responsible for such violation. If the owner does not correct the violation to the satisfaction to the Board of Directors it may, on behalf of the HOA:

(a) Notify the owner in writing that his or her voting rights are suspended for the time that the violation remains unabated;

(b) Impose fines upon the owner to the extent such fines may be provided for in the By-Laws or rules adopted by the Board of Directors of the HOA;

(c) After reasonable prior notice of non-compliance, enter the offending home site or tract and remove the cause of such violation, or alter, repair, or change the item which is in violation of this Declaration and the HOA's respective By-Laws, rules or regulations in such manner as to obtain compliance therewith. In such case, the HOA may assess such owner for 120% of the entire direct cost and indirect cost of the work done, which amount shall be immediately due and payable to the HOA. Such costs shall be both the personal obligation of the owner of the offending home site and tract and shall be subject to a lien on the home site and the collection of such lien may be initiated in accordance with the applicable provisions of Article VI hereinabove which are hereby incorporated by reference;

(d) Bring suit or action against the owner on behalf of the HOA to enforce the provisions of this Declaration or its respective By-Laws, rules or regulations;

(e) Do any of the above in conjunction with each other;

(f) The above referenced remedies are non-exclusive.

Provided, however, for each remedy except that designated as subparagraphs (d), (e) and (f) herein, the home site or tract owner shall have the right to a hearing before the Board of Directors of the HOA to contest their determination. If the home site owner wishes a hearing, he or she must notify the Board in writing within ten (10) days of notice of deficiency or violation that he or she requests a hearing. If the owner requests a hearing, imposition of the applicable remedies will be withheld pending the HOA Board of Directors' decision after hearing the home site or tract owners testimony or evidence. If an emergency exists and it is so determined by the Board of Directors, the HOA may proceed with the remedies defined in subparagraph c hereinabove pending the hearing or decision on the matter. If a hearing is requested, it shall be held within 14 days of the date and time designated by the Board of Directors and shall give timely notice to the home site or tract owner. The respective Board of Directors shall make a decision as to whether to proceed with the specific remedy or abate their action and provide notice thereof to the home site or tract owner. All assessed fines shall be paid immediately to the HOA and deposited in the HOA's general account. All unpaid fines shall be both the personal obligation of each owner of the home site or tract and shall constitute a lien on the home site or tract owners property as described in this Article IX above. All liens shall be enforced as provided in this Article IX above.

9.2 Interest, Expenses and Attorneys Fees. Any amount not paid to the HOA when due in accordance with this Declaration shall bear interest from the due date until paid at the following rate per month: from the date thereof until the next meeting of the Board of Directors, 1.5% per month; thereafter at a rate per month which the Board of Directors shall establish at successive meetings thereafter. If such rate is not so established by the Board of Directors, then the rate shall remain at 1.5% or the last rate established. In the event the Board of Directors of the HOA shall bring suit or action to enforce the Declaration or collect any money due to it, or to foreclose a lien, the prevailing party shall be entitled to recover all costs and expenses incurred by the prevailing party in connection with such suit or action including the costs of the foreclosure or other title report, expert witness fees, such amount as the court may determine to be reasonable as attorney fees at trial and upon any appeal thereof, and for all costs of the proceedings and for collection of judgment. In addition to being the personal obligation of the home site owner, the HOA shall have a statutory lien upon any home site or tract owned by the losing party to secure payment of such costs and expenses.

9.3 Non-exclusive and Accumulation of Remedies. Any election of the HOA to pursue any designated remedy for violation of this Declaration shall not prevent concurrent or subsequent exercise of any remedy permitted under this Declaration. The remedies provided in this Declaration are non-exclusive but shall be in addition to all other remedies including actions for damages, suits for injunctions and specific performance, available under applicable laws.

9.4 Affect of Breach. The breach of any of the covenants, conditions or restrictions contained in this Declaration shall not defeat or render invalid the lien of any mortgage, deed of trust or land sale contract made in good faith and for fair market value as to any home site or tracts or portions of home sites or tracts, but subject to Article VI, these covenants, conditions and their restrictions shall be binding upon and effective against any such mortgagee or trust deed beneficiary, contract purchaser, or owner thereof whose title is or was acquired by foreclosure, trustee sale or otherwise.

9.5 Delay and Limitation of Liability. No delay or omission on part of the Declarant or Association or owners of other home sites or tracts with exercising any right, power or remedy herein provided in the event of any breach of the covenants, conditions, restrictions or dedications herein contained shall be construed as a waiver thereof or acquiescence therein. No right of action shall accrue nor shall any action be brought or maintained by anyone

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whatsoever against Declarant and no right of action except for specific performance shall accrue nor shall any other right of action be brought or maintained by anyone whatsoever against the HOA, its officers and agents, on account of their failure to bring action on account of any breach of these covenants, conditions, restrictions or dedications or for the imposing of restrictions hereof which may be unenforceable by Declarant or the HOA.

ARTICLE X

MUNICIPAL ANNEXATION

10.1 Declarant's Continuing Consent. Declarant hereby grants its continuing consent to the City of Gearhart to annex the real property at such time as the City determines appropriate. To the extent possible this is a continuing and is given pursuant to the ORS 222.125 and 222.170 and successor statutes. This consent is given by the Declarant at the time the Declarant owns all the property and therefore such consent constitutes consent for 100% of the entire subdivision territory.

10.2 Imposition of Waiver of Objection to Annexation. Declarant hereby establishes that it is a condition of the purchaser of each home site or tract that the purchase of each home site or tract and their successors are hereby obligated to consent to the annexation of the real property by the City of Gearhart at such time as the City of Gearhart desires to annex. In addition the owner of each home site and tract and their successors hereby are, as a condition of purchase, waiving any right to remonstrate to such annexation.

ARTICLE XI

FUTURE DEVELOPMENT: TRACTS "D" AND "E"

11.1 Reservation of Right. Declarant hereby reserves the right to develop Tracts "D" and "E" at some date in the future. It will be in Declarant's discretion to withdraw said tracts from the terms and conditions of the subdivision or to develop the property and subject it to the same terms and conditions as are imposed upon home sites 1 through 41 or to develop them in any other manner permitted by the applicable regulations in effect at the time governing the use of the property.

11.2 Allocation of Common Expense. If Declarant develops Tracts "D" and/or "E" as residential property or for other purposes the common expenses of the HOA for the fiscal year in which the tracts are subdivided or partitioned for residential or other development and each year thereafter, shall be reallocated and reapportioned if additional residential home sites or other parcels are created. If the participation occurs other than at June 1 of the particular year, the home sites or other parcels shall bear their pro rata equal share of common expenses in proportion to the number of days during such fiscal year that the home site has been subdivided or partitioned by the Declarant to become used for a residential or other purpose. In addition, each new home site or other use parcel shall have one vote in the HOA on the same basis that votes are allocated to home sites 1 through 41.

This Article XI may not be amended without the written consent of the Declarant or Declarant's successors, heirs and assigns.

ARTICLE XII

GENERAL PROVISIONS

12.1 Severability. Invalidation of any one or more of the provisions of this Declaration by judgment or court order shall in no way effect any other provision which shall remain in full force and effect.

12.2 Duration. The provisions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by Declarant, the HOA, or the owner of any home site or tract subject to this Declaration, their respective legal representatives, heirs, successors and assigns, respectively, for a term of 25 years from the date of the recording of this Declaration,

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after which such provisions shall automatically extend for successive periods of five years each unless an instrument assigned by owners of 75% of the home sites and Tracts "D" and "E" has been recorded in the records of Clatsop County, Oregon, agreeing to modify, amend or revoke said provisions within six (6) months prior to expiration.

12.3 Member Initiated Amendment. Any member initiated amendment of any of the provisions of this Declaration (including this paragraph), may be amended only by an instrument signed by Declarant or its successors and assigns designated at Paragraph 12.9 below and the owners of 75% or more of the home sites and Tracts "D" and "E". The requirement to have the consent of the Declarant and his successors and assigns shall expire 10 years from the date of this Declaration. Easements herein granted and reserved shall not be amended except by instrument signed and acknowledged by all of the owners of the property affected, the Declarant or its successors or assigns, and by the Board of Directors of the HOA. No amendments may ever be made relative to Tracts "D" and "E" without consent of the owners thereof. All amendments must be recorded in the deed records or other appropriate records of Clatsop County, Oregon, to be effective. This paragraph may not be amended without consent of Declarant, its successors and assigns.

12.4 Declarant's Right to Unilaterally Amend Documents. The Declarant reserves the right and power, subject only to federal, state and local government laws and regulations, to unilaterally amend any and all provisions of this Declaration, the By-Laws, the Articles of Incorporation and the Plat, in any manner it deems necessary without consent or approval of any other owner. This right of the Declarant shall expire 10 years after the date of this Declaration. This Paragraph may not be amended without consent of Declarant, its successors and assigns.

12.5 No Right of Reversion. Nothing in this Declaration or in any form of deed which may be used by Declarant, or its successors or assigns, in selling Shamrock Pines, shall be deemed to vest or reserve in Declarant or the HOA any right of reversion or re-entry for breach or violation of any one or more of the provisions hereof except and in compliance with the due process of law and through formal litigation and judgment rendered thereon.

12.6 Rights of Mortgagees Relating to Maintenance. At any time the public roadways located with Shamrock Pines, or any residences, home sites or tracts or other buildings or improvements located thereon are not in accordance with this Declaration or the By-laws of the HOA or are not properly maintained and kept in good order and repair to the extent reasonably necessary to protect and preserve the appearance and value thereof and the appearance and value of the remainder of Shamrock Pines, then the mortgagee, trust deed beneficiary of contract seller of record of any part of said real property or residence or building thereon, upon giving written notice as herein provided, shall be entitled to exercise the rights of mortgagor, trust deed grantor, or contract purchaser of such property as a member of the HOA (in place of the mortgagor, trust deed grantor or contract purchaser), including the right to vote at all regular and special meetings of the members of the HOA for a period of one year following the date of such notice. This right may be renewed from year to year by repeating such procedures. During said period, or time, such mortgagees, trust deed beneficiaries or contract sellers shall be given notice of all regular or special meetings of the HOA and the mortgagor, trust deed grantor or contract purchaser shall receive such notice also and may attend such meeting as a non-voting observer. Said notice by the mortgagee, trust deed beneficiary or contract seller shall cite this paragraph and shall be sent by certified United States mail, postage pre-paid, return receipt requested, to the mortgagor, trust deed grantor or contract purchaser and to the HOA at the last known address of each.

12.7 Loss or Damage of Property. In order to protect and preserve the appearance and value of the real property, each owner is required to immediately commence and diligently

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pursue without delay, the repair or the rebuilding of each owner's residence or other improvements after any loss or damage to it.

12.8 Notices. Unless otherwise provided herein, any notice required to be sent to any member or owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage pre-paid, to the last known address provided to the HOA in writing by the person who appears as a member or owner on the records of the HOA at the time of such mailing.

12.9 Assignment. Any and all rights, powers and reservations of Declarant herein contained may be assigned to the HOA or to any person or corporation or association which is now organized or which may hereafter be organized and which will assume the duties of Declarant hereunder pertaining to particular rights, powers, and reservations assigned; and upon such person, corporation, or association evidencing its intent in writing and the recording of same in the appropriate records of Clatsop County, Oregon to accept such assignment and assume such duties. Such person, corporation or association shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein.

12.10 Indemnification. From the HOA errors and omissions insurance and assets on hand or obtained by assessment, the HOA hereby covenants and agrees to indemnify, hold harmless and defend the HOA's Board of Directors and members of the Architectural Committee, their agents and employees, who by reason of being such, or as a result of the exercise of their duties as such, are a party or are threatened to be made a party to any threatened, pending, or contemplated action, suit or proceeding, whether civil or criminal, administrative or investigative. Indemnification may be had for costs and expenses (including attorneys fees), judgments or settlement payments, provided that the officer or director acted in good faith, in a manner reasonably believed to be not opposed to the interest of the HOA and, in the case of criminal proceedings, had no reasonable cause to believe his or her conduct unlawful.

IN WITNESS WHEREOF, the undersigned being the Declarant herein, has executed this Declaration this 27th day of May, 1997.

MALARKEY PROPERTIES II, INC.

By: Michael O. Malarkey (signature)
President

By: George B. Malarkey (signature)
Secretary