

**DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR
EDGEFIELD (CC&R)**

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DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR
EDGEFIELD

THIS DECLARATION is made this ____ day of _____, 1996 by EDGEFIELD PARTNERS (Declarant).

Recitals:

Concurrently with the recordation of this Declaration, Declarant has recorded the plat of AEDGEFIELD (the Plat) in the plat records of Washington County, Oregon in connection with the development of a community to be known as EDGEFIELD. Declarant hopes to create in EDGEFIELD a carefully planned community which will create a desirable place to live.

Declarant desires to subject the property described in the Plat to the easements, covenants, conditions, restrictions, and charges set forth in this Declaration for the benefit of such property and its present and subsequent owners.

Declaration:

NOW, THEREFORE, Declarant hereby declares that the property described in the Plat shall be held, sold, and conveyed subject to the following easements, covenants, conditions, restrictions, and charges, which shall run with such property and shall be binding upon all parties having or acquiring any right, title, or interest in such property or any part thereof and shall inure to the benefit of each owner thereof.

SECTION 1 DEFINITIONS

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

1.1 Architectural Control Committee means the committee appointed pursuant to Section 6 hereof.

1.2 Association means a Homeowners Association, an Oregon nonprofit corporation to be organized in accordance with the terms hereof, of all owners of Residential Lots and Declarants.

1.3 City means the City of Hillsboro, Oregon

1.4 County means Washington County, Oregon

- 1.5 Declarant means EDGEFIELD PARTNERS and its successors and assigns if such successor or assignee should acquire all of Declarant's rights under this Declaration pursuant to a recorded instrument executed by Declarant.
- 1.6 Design Guidelines shall mean Architectural Design Guidelines promulgated from time to time by the Architectural Control Committee.
- 1.7 Duplex means a building containing two living units on one lot. Duplex Parcel shall mean Lots 47 to 52, Lots 54 to 69, Lot 87, and Lot 88.
- 1.8 Easements means easements in, on, and over the Property designated as such on the Plat and in this Declaration of Protective Covenants which are reserved for a specific limited use or enjoyment.
- 1.9 Improvement means every structure or improvement of any kind, including but not limited to buildings, landscaping, and any fence, wall, driveway, swimming pool, tennis court, light fixture, entry gate, storage shelter, or other product of construction efforts on or in respect to the Property.
- 1.10 Living Unit means a building located upon a Lot and designated for separate residential occupancy providing complete, independent living facilities for one or more persons.
- 1.11 Lot means a platted or partitioned lot or tract within the Property.
- 1.12 Mortgage means a mortgage, trust deed, or contract of sale; mortgagee means a mortgagee, holder of a vendor's interest under a land sale contract or a beneficiary of a trust deed; and mortgagor means a mortgagor, holder of a vendee's interest under a land sale contract or a grantor of a trust deed.
- 1.13 Multifamily Parcel shall mean Lot 53 as shown on Exhibit A hereto. Lot 53 shall be developed as a multifamily Parcel and shall contain a minimum of fifty (50), but not more than a maximum of one hundred forty-nine (149) living units.
- 1.14 Owner means the person or persons, including Declarant, owning any Lot (including the holder of a vendee's interest under a land sale contract), but does not include a tenant or holder of a leasehold interest or a person holding only a security interest in a Lot (including the holder of a vendor's interest under a land sale contract). The rights, obligations, and other entitlements granted to or imposed upon

an Owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of such ownership, but termination of ownership shall not discharge an Owner from obligations incurred prior to termination. In the event any Lot is further partitioned or subdivided, the Owner of each such subdivided parcel shall be an Owner.

1.15 Plat shall have the meaning given in the Recitals to this Declaration. The term shall include all recordations of this development which formally may be known as EDGEFIELD, EDGEFIELD NO. 1, and EDGEFIELD NO. 3.

1.16 Property means the property described in the Plat.

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

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

SECTION 2 PROPERTY SUBJECT TO THIS DECLARATION

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

SECTION 3 PROPERTY RIGHTS IN LOTS

3.1 Use and Occupancy. Except as otherwise expressly provided in this Declaration or in the Plat, the Owner of a lot shall be entitled to the exclusive use and benefit of such Lot.

3.2 Easements Reserved. In addition to any utility and drainage easements shown on the Plat, Declarant hereby reserves the following easements for the benefit of Declarant and the Architectural Control Committee.

(a) Right of Entry. Declarant, the Architectural Control Committee, and their respective representatives may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of determining whether or not the use of and/or Improvements on such Lot are

then in compliance with this Declaration. No such entry shall be deemed to constitute a trespass or conversion or otherwise create any right of action in the Owner of such Lot.

- (b) Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved, as shown on the Plat. Within the easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities, or which may change the direction of flow of drainage flow of water through drainage channels in the easements. The easement area of each Lot and all Improvements therein shall be maintained continuously by the Owner of the Lot, except for those Improvements for which a public authority or utility company is responsible. Each Lot owner shall be responsible for removal of any fencing or vegetation in the easement area in the event a utility company makes such a request.

- 3.3 Title to Common Areas. The Declarant hereby covenants for itself and its successors and assigns that it will convey to the Association fee simple title to TRACT A, subject to the rights of the City of Hillsboro, prior to the conveyance of the first Residence located within such plat.

SECTION 4 USE AND ARCHITECTURAL RESTRICTIONS

- 4.1 Structures Permitted. Except to the extent expressly provided in this Declaration, no Improvements shall be erected or permitted to remain on any Lot except Improvements containing Living Units and Improvements normally accessory thereto, and (except for multiple units on the Multifamily Parcel or Duplex Parcels) only one Living Unit shall be permitted on any Lot. The foregoing provision shall not preclude construction of a private greenhouse, storage unit, tennis court, private swimming pool, or other similar outbuilding, provided the Improvement is in conformance with the other provisions of this Declaration and applicable City and County regulations, agreements, or land use approvals, is compatible in design and decoration with the Living Unit constructed on such Lot, does not obstruct or infringe on the view from or privacy or solar access of any Living unit located on another Lot, and (for so long as it exists) has been approved by the Architectural Control Committee. No manufactured home or mobile home shall be constructed or placed on any Lot under any circumstances. No basements shall be constructed under any Living Unit, except that the Architectural Control Committee may permit such basements if they can be constructed such that sewerage lines, drainage lines, window wells, and other affected criteria are functional and accounted for to the satisfaction of the Architectural Control Committee.
- 4.2 Residential Use. Lots shall only be used for residential purposes in accordance with and subject to the other provisions of this Declaration. Except with the consent of the Architectural Control Committee and as allowed by applicable City and County ordinances, agreements, or land use approvals, no trade, craft, business, profession, commercial, or similar activity of any kind shall be conducted on any Lot, nor shall any goods, equipment, vehicles, materials, or supplies used in connection with any trade, service, or business be kept or stored on any Lot. Nothing in this Section 4.2 shall be deemed to prohibit (a) activities relating to the rental or sale of Living Units, including builders', Declarant's, or real estate agents' temporary sales offices or model homes; (b) the right of the Declarant or any contractor or homebuilder to construct Living Units on any Lot and to store construction materials and equipment on such Lots in the normal course of construction in accordance with the other provisions of this Declaration; and (c.) the right of an Owner to maintain his professional personal library, keep his personal business or professional records or accounts, handle his personal business or professional telephone calls, or confer with

business or professional associates, clients, or customers, in his Living Unit, in one-room offices which are not designated by exterior signs and do not create additional vehicle traffic.

4.3 Duplex Restriction. Duplex buildings are allowed only on Lots 47 to 52. Lots 54 to 69, Lot 87, and Lot 88. Regardless of City zoning, the remaining lots, except Lot 53, are restricted to single-family detached living units.

4.4 Dwelling Size. The minimum living area of Living Units constructed at the Property shall be as stated in the Architectural Control Committee's Design Guidelines.

The Architectural Control Committee, upon application of any Owner, may waive and discharge any violation of this section which it finds to have been inadvertent.

4.5 Construction of Improvements. The construction of an Owner's Living Unit or any other building, including painting, all exterior finish, and hard surface driveways shall be completed within eight months from the beginning of construction so as to present a finished appearance when viewed from any angle. In the event of undue hardship due to extraordinary weather conditions, these periods may be extended for a reasonable length of time upon written approval from the Architectural Control Committee. The building area and streets shall be kept tidy, clean, and in workmanlike order during the construction period. The Owner of each Lot shall be responsible for any and all damage to curbs, streets, and utilities during construction. All construction activities shall be in conformance with construction rules that may be adopted from time to time by the Architectural Control Committee.

4.6 Landscaping. All front yard landscaping must be completed within six months from the date of occupancy of the Living Unit constructed thereon. Landscaping shall include installation of a property line sidewalk and street trees, as specified by the City of Hillsboro prior to occupancy. In the event of undue hardship due to extraordinary weather conditions, this period may be extended for a reasonable length of time upon written approval of the Architectural Control Committee and the City of Hillsboro. Landscape completion shall also include provisions for adequate roof and surface water drainage to prevent unreasonable discharge onto adjoining Lots. This requirement may be enforced by the City of Hillsboro.

The developer shall install the Landscaping, as approved by the City of Hillsboro, along the NE Evergreen Road right-of-way. The Landscaping shall be maintained by the Owner's Association in its original design and condition. This requirement may be enforced by the City of Hillsboro.

4.7 Setback, Maximum Height, and Minimum Yard Requirements. Each Lot shall be subject to (a) the setback, maximum height, and minimum side and rear yard requirements shown on the Plat or which are established by the City and (b) any land use review procedure established by the City for review and approval of variance from such requirements. In addition, all Lots are subject to any setback, maximum

height, or minimum side and rear yard requirements as are established in this Declaration or from time to time by the Architectural Control Committee. No Improvement shall be constructed or maintained in violation of any setback, maximum height, or minimum yard requirement, except with the written consent of the Architectural Control Committee and any applicable City and County approvals.

- 4.8 Exterior Plans, Material, and Finish. Exterior plans, materials, and colors must be approved for use in advance by the Architectural Control Committee in accordance with the provisions of Section 6. The architectural Control Committee shall have the sole right and authority to waive or enforce the provisions of the Design Guidelines.
- 4.9 Offensive or Unlawful Activities. No noxious or offensive activities shall be carried out upon any Lot, nor shall anything be done or placed on any Lot which interferes with or jeopardizes the enjoyment of other Lots, or which is a source of annoyance to any residents of the Property. No unlawful use shall be made of a Lot or any part thereof, and all laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction over the Property shall be observed. Without limiting the generality of the foregoing, no heat pump, heating, ventilating, or air conditioning equipment, or other equipment, the operation of which produces noise at a level higher than 80 decibels, shall be allowed on or in any Lot or Living Unit, except equipment used for initial construction of a Living Unit.
- 4.10 Maintenance of Improvements. Each Owner shall maintain the Improvements located on that Owner's Lot in a clean and attractive condition, in good repair, and in such fashion as not to create a hazard of any kind. Such maintenance shall include, without limitation, painting and staining and repair, replacement and care for roofs, gutters, downspouts, exterior building surfaces, surface water drainage, driveways, walks, and other exterior improvements and glass surfaces. In addition, each Owner shall keep shrubs, trees, grass, and plantings of every kind neatly trimmed, properly cultivated, and free of trash, weeds, and other unsightly materials. The provisions of this section include the area between the property line of any Lot and the nearest curb, including sidewalks and street trees. Damage caused by fire, flood, storm, earthquake, riot, vandalism, or other causes shall be the responsibility of each Owner and shall be restored within a reasonable period of time.
- 4.11 Storage of Equipment. Boats, trailers, truck-campers, motor homes, commercial vehicles, and like equipment shall not be parked or stored on any Lot or on public ways except that such equipment owned by a resident Owner shall be allowed to be parked in the driveway servicing a Dwelling or on the public street adjacent thereto for a period not to exceed five (5) days in any thirty (30) day period, and except further that such equipment may be parked on that portion of the Lot not located between the street and the front setback line which (in the opinion of the Architectural Control Committee) is adequately screened, which is specifically designed for such additional parking pad, and which has been approved by the Architectural Control Committee.
- 4.12 Vehicles in Disrepair. No owner shall permit any vehicle which is in a state of disrepair to be abandoned or to remain parked upon any Lot (except in an enclosed garage) for a period in excess of five (5) days. A vehicle shall be deemed in a state of disrepair when its presence reasonably offends the occupants of adjoining Lots.

4.13. Signs. No signs shall be erected or maintained on any Lot except for the following signs:

- (a) Political Signs. The temporary placement of political signs on any Lot by the Owner thereof not exceeding five square feet in size;
- (b) Security System Signs. Security system signs not exceeding one square foot in area and mounted on a wall, fence, or structure.
- (c) For Sale Signs. One **for sale** sign, not exceeding five square feet in area, placed on a Lot on behalf of Declarant or the Owner of the Lot;
- (d) Street Address Signage. A sign on an address column identifying the street address of the Dwelling, consistent in appearance with identification signage of other Dwellings in the vicinity and at a location and in accordance with specifications approved by the Architectural Control Committee.
- (e) Project Signage. Signage erected by or on behalf of Declarant in its sole discretion in connection with construction, development, and sale of Lots, including, without limitation, directional signs and signs identifying Lots.

4.14 Rubbish and Trash. No Lot shall be used as a dumping ground for trash or rubbish of any kind. All garbage and other debris and waste shall be kept in appropriate sanitary containers for proper disposal and out of public view.

4.15 Fencing. As used herein, fencing shall mean any fence, barrier, or wall. Any sight-obscuring fences shall be in accord with City ordinances and shall be complementary to the Living Unit on the Lot where the fence is located. However, no fence shall exceed six (6) feet in height from the finished lot grade. In no event shall side yard fences project beyond the front walls of any Residence or other dwelling or any garage, except as allowed by the Architectural Control Committee. Prior to construction, designs of all fences shall be approved in writing by the Architectural Control Committee.

The developer will install a border fence along NE 15th Avenue and the NE Evergreen Road right-of-way. The fence along NE Evergreen Road and that portion of the fence along NE 15th Avenue north of NE Edgefield Street will be maintained by the Homeowners Association in its original design and condition.

The fence along NE 15th Avenue south of NE Edgefield Street shall be maintained by the owner(s) of Lot 53 in its original design and condition. This requirement may be enforced by the City of Hillsboro.

- 4.16 Temporary Structures. No structure, of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.
- 4.17 Service Yards and Antennas. Service yards (for garbage receptacles, recycling containers, and the like), and exterior antennas, aerials, and satellite dishes located on a Lot shall be completely screened such that the elements screened are not visible at any time from the ground floor level of any Living Unit located on any other Lot or from any public street.
- 4.18 Animals. No animals of any kind, including poultry or other farm animals, shall be raised, bred, or kept or permitted within any Lot other than a reasonable number of household pets, provided they are not raised or kept for commercial purposes and are not permitted to run loose.
- 4.19 Grading. No Owner shall grade or regrade any Lot so as to materially raise or lower the Lot above or below the grade elevation as shown on Declarant's lot grading plans.

SECTION 5 MULTIFAMILY AND DUPLEX PARCELS

The Owners of the Multifamily Parcel and Duplex Parcels, respectively, may enact supplemental covenants, conditions, and restrictions applicable to such parcels, which shall in any event be subject to and interpreted consistent with the provisions of this Declaration, and this Declaration shall take precedence in the event of a dispute or disagreement over such interpretation.

SECTION 6 ARCHITECTURAL CONTROL COMMITTEE

- 6.1 Architectural Review. No Improvement shall be commenced, erected, places, altered, or maintained on any Lot until the plans and specifications, including, without plans, which plans shall include the proposed exterior lighting and exterior color and/or exterior material samples, showing the nature, shape, heights, materials, colors, and proposed location of the Improvement have been submitted to and approved in writing by the Architectural Control Committee. It is the intent and purpose of the Declaration to achieve a high standard of quality of workmanship and materials and to assure harmony of external design with existing Improvements and location with respect to topography and finished grade elevations.
- 6.2 Procedure. In all cases which require Architectural Control Committee approval or consent pursuant to this Declaration, the provisions of this Section 6 shall apply. The procedure and specific requirements for Architectural Control Committee approval or consent may be set forth in Design Guidelines adopted from time to time by the Architectural Control Committee. The Architectural Control Committee may charge a reasonable fee to cover the cost of processing an application for its approval, except that, until the Turnover Date described in Section 6.5, the Architectural Control Committee shall not impose such a fee for the first approval of initial construction of a Living Unit.

- 6.3 Committee Decision. The Architectural Control Committee shall use all reasonable efforts to render its decision on an application for approval of the design of an Improvement or any other proposal submitted to it for approval or consent within 15 working days after it has received a complete written application therefor. A complete material reasonably required or desired by the Architectural Control Committee to make an informed decision on such application. If the Architectural Control Committee fails to render approval, conditional approval, or disapproval of such applications within 30 working days after the Architectural Control Committee has received completed application, approval will not be required and the related provisions of this Section 6, or failure to construct an Improvement in accordance with plans approved by the Architectural Control Committee, must be commenced within one year after completions of construction of the Improvement, or such suit shall be barred and such Improvement shall be deemed to have been constructed in accordance with this Section 6. Working days shall mean weekdays when major banks are open for business.
- 6.4 Committee Discretion. The Architectural Control Committee may, at its sole discretion, withhold consent to any proposed Improvement if the Architectural Control Committee finds the proposed Improvement would be inappropriate for the particular Lot or incompatible with the design standards that the Architectural Control Committee intends for the Property. Consideration of siting, shape, size, color, design, height, solar access, impairment of the view from other Lots within the Property, effect on the enjoyment of other Lots, disturbance of existing terrain and vegetation, and other factors which the Architectural Control Committee reasonably believes to be relevant, may be taken into account by the Architectural Control Committee in determining whether or not to approve or condition its approval of any proposed Improvement.
- 6.5 Composition. Until the earlier to occur of (a) six months following the conveyance of the last Lot owned by Declarant to a third party and (b) notification by Declarant to the Owners of Declarant's determination to relinquish control of the Architectural Control Committee (the ATurnover Date@), the Architectural Control Committee shall consist of between one and three persons (who need not be Owners) appointed from time to time by Declarant. Thereafter, the Architectural Control Committee shall consist of five Owners elected by the Owners in accordance with Section 6.6. Prior to the Turnover Date, Declarant shall have the right to remove or replace any member of the Architectural Control Committee at any time.

6.6 Election by Owners.

- (a) The first meeting of Owners to elect members of the Architectural Control Committee shall occur not less than 30 days after the Turnover Date as described in Section 6.5. At such meeting, (i) the Owners of Lots other than within the Multifamily Parcel and Duplex Parcels shall elect three Owners; (ii) the Owner(s) of the Multifamily Parcel shall elect one Owner; and (iii) the Owner(s) of the Duplex Parcels shall elect one Owner; each to serve as members of the Architectural Control Committee. At such time, the members of the Architectural Control Committee appointed by Declarant shall resign.
- (b) Subsequent meetings of the Owners shall occur on an annual basis during the month in which the Initial meeting of Owners occurred, unless another annual date is agreed upon by the Architectural Control Committee. The Architectural Control Committee shall give at least seven days= notice of each such annual meeting. All meetings of Owners shall take place at a location in Washington County, Oregon specified in the notice. Notice of any meeting may be waived by any Owner at any time. No owner who is present at a meeting may object to the adequacy of the notice given.

(c) Any Owner may give a proxy to any other Owner, so long as the proxy is in writing and signed by such Owner. A proxy shall expire on the earlier to occur of (i) 11 months after the date of the proxy or (ii) the date of sale of such Owner's Lot by such Owner. There shall be no quorum requirements with respect to meetings of the Owners. Each Owner shall have one vote for each Lot owned by such Owner. If there is more than one Owner of any Lot, such Owners shall together be considered a single Owner with respect to such Lot. Voting for members of the Architectural Control Committee shall be conducted on an at-large basis.

(d) Except as provided in Section 6.5, all members of the Architectural Control Committee shall serve two-year terms. Any member may serve more than one term. In the event a member dies, resigns, or ceases to be an Owner of a Lot, the resulting vacancy shall be filled by designation of the Architectural Control Committee. The member so selected shall serve the remainder of the replaced member's term.

6.7 Majority Action. A majority of the members of the Architectural Control Committee shall have the power to act on behalf of the Architectural Control Committee, without the necessity of a meeting, provided that all members of the Architectural Control Committee have been delivered prior notice of the proposed action. The Architectural Control Committee may render its decision only by written instrument setting forth the action taken by the members consenting thereto.

6.8 Liability. Neither Declarant, the Architectural Control Committee nor any member thereof shall be liable to anyone submitting plans to them for approval or to any Owner or occupant by reason of mistake in judgment, negligence, or disapproval or failure to approve plans. Every person who submits plans to the Architectural Control Committee for approval agrees by submission of such plans and every Owner by acquiring title to their Lot or interest therein agrees that they will not bring any action or suit against Declarant, the Architectural Control Committee, or any member thereof to recover damages of any nature. The Architectural Control Committee's review and approval or disapproval of plans and specifications shall not be relied upon by the applicant as an indication of sufficiency, structural soundness or in any other way, such review having been made solely to assure that the improvements contemplated would be aesthetically compatible with the existing and planned Living Units in EDGEFIELD. The scope of the Architectural Control Committee's review is not intended to include any review of analysis of structural, geophysical, engineering, or other similar considerations nor of any compliance with applicable building codes, rules, laws, and ordinances.

6.9 Nonwaiver. Consent by the Architectural Control Committee to any matter proposed to it or within its jurisdiction shall not be deemed to constitute a precedent or waiver impairing its right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.

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

SECTION 7 OWNERS' ASSOCIATION

- 7.1 **Organization.** The Declarant shall organize an association of all the owners of Residential Lots and the Other Declarants shall, to the extent deemed necessary by Declarant, join in such organization. Such Association, its successors and assigns, shall be organized under the name EDGEFIELD Homeowners= Association, or a name similar thereto, and shall have property, powers, and obligations as set forth in these Covenants for the benefit of the Properties.

The Declarants shall organize the Association as a nonprofit corporation under the general nonprofit corporation laws of the State of Oregon. The Articles of Incorporation of the Association shall provide for its perpetual existence, but in the event the Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. In that event, all of the property, powers, and obligations of the incorporated association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated association, and such vesting shall thereafter be confirmed and evidenced by appropriate conveyances and assignments by the incorporated association. To the greatest extent possible, any successor unincorporated association shall be governed by the Articles of Incorporation, and the Bylaws of the Association as if they had been made to constitute the governing documents of the unincorporated association. The Articles of Incorporation and the Bylaws of the Association shall be deemed Covenants running with the ownership of Residential Lots and shall be binding upon owners as if verbatim recited herein.

- 7.2 **Membership.** Every person or entity who is a record owner of a fee or undivided fee interest in any Residential Lot (including Residential Lots created or annexed under Section 1.13) shall be proprietary members of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Residential Lot which is subject to assessment by the Association. Ownership of such Residential Lot shall be the sole qualification for membership.

Each lessee, renter, or other occupant of a Residential Lot not eligible for proprietary membership, but who satisfied the conditions of the Bylaws of the Association of this Declaration shall be an associate member, which status shall continue in effect during such period as the associate member shall be an authorized nonproprietary tenant of a Residential Lot. Associate membership shall carry all of the rights and privileges and shall be subject to all the obligations and responsibilities of proprietary membership, except the right to vote. Associate membership alone shall not be deemed to constitute ownership of a Lot for purposes of liability for assessments. At any time an associate member shall cease to be a resident of the Properties, or shall become a proprietary member, his rights and privileges as an associate member shall thereupon terminate.

- 7.3 **Control of Affairs of Association.** On the date that is not later than 180 days after Lots representing 90 percent (90%) of the votes of the members have been conveyed, Declarant shall call a meeting and at such meeting shall turn over administrative responsibility to the Association in accordance with applicable statutes.

7.4 Voting Rights.

The Association shall have two classes of voting memberships:

Class A. Class A members shall be all of those members as defined in this Article with exception of EDGEFIELD PARTNERS, its successors and assigns; provided that EDGEFIELD PARTNERS shall become a Class member when its Class B membership has been converted as hereinafter defined. Class A members shall be entitled to one (1) vote for each Residential Lot in which they hold the interest required for membership by Section 7.2. When more than one person or entity holds such interest in any Residential Lot, each such person or entity shall be a member. The vote with respect to such a Residential Lot shall be exercised as they among themselves determine and shall have certified unanimously and in writing to the secretary of the Association, but in no event shall more than one (1) vote be case with respect to any Residential Lot.

Class B. The Class B membership shall be EDGEFIELD PARTNERS, its successors and assigns. The Class B member shall be entitled to three (3) votes for each Lot within the Properties in which it holds the interest required for membership by Section 7.2; provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- A. When the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership; or
- B. Twelve (12) years from the date of recording these Covenants in the County Deed Records.

SECTION 8 COVENANT FOR MAINTENANCE ASSESSMENTS

8.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant hereby covenants for all of the Properties, that each Owner and each vendee of any Residential Lot, whether or not it shall be so expressed in any deed or other conveyance or agreement for conveyance, is deemed to covenant and agree to pay to the Association (1) regular annual or periodic assessments or charges as established by the Association and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The regular and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Residential Lot and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys= fees, shall also be the personal obligation of the person or entity who was the Owner of such property at the time such assessment became due. The obligation shall remain a lien upon the property until paid or foreclosed, but shall not be a personal obligation of successors in title unless expressly assumed by them.

8.2 Purpose of Assessments.

- A. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and protection of the Members of the Association and in particular for the improvement and maintenance of the border fence and the NE Evergreen Road and NE 15th Avenue right-of-ways and other property designated by the Directors of the Association.

- B. The Association may levy special assessments against individual Lots for the maintenance and improvement of the NE Evergreen Road right-of-way and the NE 15th Avenue right-of-way north of NE Edgefield Street.

- C. The Association may levy a special assessment against Lot 53 for the maintenance and improvement of the NE 15th Avenue right-of-way south of NE Edgefield Street.

- D. The Association may also render such additional services as designated by its directors.

8.3 Basis and Maximum of Monthly Assessments. Until December 31, 1996, the maximum regular monthly assessment shall be \$25.00 for each Residential Lot subject thereto.

- A. From and after January 1, 1997, the maximum annual assessment may be increased effectively January 1 each year without a vote of the membership, in conformance with the rise, if any of the Consumer Price Index (published by the Department of Labor, Washington D.C. or successor U.S. governmental agency) from July of the year in which these Covenants are recorded to July of the year preceding the year in which such increase becomes effective, taking into consideration prior increases in such maxim, if any.

- B. From and after January 1, 1997, the maximum annual assessment may be increased above that determined by reference to the Consumer Price Index, as aforesaid, by a vote of the Members, provided that any such increase shall be approved by the affirmative vote of not less than fifty-one percent (51%) of the votes of each class of Members who are voting in person or by proxy, written notice of which shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The limitations hereof shall not apply to any change in the maximum flat charge and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

8.4 Reserve Account. The Declarant shall establish a reserve account for replacement of all items of common property (including right-of-ways as described above) which will normally require replacement, in whole or in part, in more than three (3) and less than thirty (30) years and which are insurable by a common carrier of all-purpose risk insurance.

The Reserve Account established under this section shall be funded by assessments against the Residential Lots for maintenance of items for which the reserves are established. The amounts assessed shall take into account the estimated remaining life of the items for which the reserve is created and the current replacement costs of those items.

The Reserve Account shall be established in the name of the Association. The Association is responsible for administering the account and for making periodic payments into it. The Association shall adjust the amount of payments at regular intervals to reflect changes in current replacement costs over time.

The Reserve Account may be used only for replacement of common property, the border fence and the NE Evergreen Road and N.E.15th Avenue right-of-ways and is to be kept separate from assessments for maintenance. However, after the individual lot owners have assumed responsibility for administration pursuant to Section 7.3, the Board of Directors of the Association may borrow funds from the Reserve Account to meet high seasonable demands on the regular operating funds or to meet other temporary expenses. Funds borrowed to meet temporary expenses under this subsection must be repaid from special assessments or maintenance fees.

Following the second year after the Association has assumed administrative responsibility for EDGEFIELD under Section 7.3, if owners of Lots representing seventy-five percent (75%) of the properties agree to the action, they may vote to increase, reduce, or eliminate future assessments for the Reserve Account.

Assessments paid into the Reserve Account are the property of the Association and are not refundable to sellers or owners of Lots.

8.5 Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction or unexpected repair or replacement of a described capital improvement upon the boundary fence and NE Evergreen Road and NE 15th Avenue right-of-ways, including the necessary fixtures and personal property related thereto, provided that any such special assessment for structural alteration, capital additions, or capital improvements shall require the assent of fifty-one percent (51%) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. This section shall not prohibit the Directors from

authorizing capital expenditures for replacements or repairs or improvements from funds generated by regular assessments.

- 8.6 Uniform Rate of Assessment; Common Profits. Annual assessments shall be fixed at a rate consistent with the amounts shown in Paragraph 8.3 above and may be collected on an annual, quarterly, or monthly basis at the discretion of the Directors. If special services are rendered to specific Lots at the request of such owner or as provided herein, additional assessments shall be charged to such Lots. If the Association has any common profits at the end of any fiscal year, the Board of Directors may, in its sole discretion, elect to distribute said profits to Members in proportion to the assessments made to the Members= Lots during the same fiscal year.
- 8.7 Quorum for Any Action Authorized Under Sections 3 and 4. At the first meeting called, as provided in Sections 8.3 and 8.4 hereof, the presence at the meeting of Members or of proxies entitled to cast twenty percent (20%) of all the votes of each class membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 8.3 and 8.5, and the required quorum at such subsequent meeting shall be one-half (2) the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixth (60) days following the date of the meeting at which no quorum was forthcoming.
- 8.8 Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Residential Lots on the first day of the month following the conveyance of the NE Evergreen Road and NE 15th Avenue right-of-ways to the City of Hillsboro. The first regular assessment shall be adjusted according to the number of months remaining in the calendar year. The board of Directors shall fix the amount of the regular assessment at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall upon demand at any reasonable time, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specific Residential Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates, such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.
- 8.9 Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the following rate per annum: From the date hereof until the first annual meeting of Members, twelve percent (12%) per annum; and thereafter at a rate per annum which the Members shall establish at each such annual meeting to be in effect until the next such annual meeting; but if no such rate is so established by the Members, the rate shall be twelve percent (12%) per annum. The Secretary of the Association shall file in the office of the Director of Records, County Clerk, or appropriate recorder of conveyances of Washington County, Oregon, within one hundred twenty (120) days after delinquency, a statement of the amount of any such charges or assessments together with interest as aforesaid, which have become delinquent with respect to any Residential Lot. Upon payment in full thereof, the Secretary shall execute and file a proper release of the lien securing the same. The aggregate amount of such assessment, together with interest, costs, expenses, and reasonable attorneys= fees for the filing and enforcement thereof, shall constitute a lien on the Residential Lot with respect to which it is fixed, including any improvement thereon, from the date the notice of delinquency thereof is filed in the office of said Director of Records or County Clerk or other

appropriate recording office, until the same has been paid or released as herein provided. Such lien may be enforced by the Association in the manner provided by law with respect to liens upon real property. The owner of said Residential Lot at the time said assessment becomes due shall be personally liable for the expenses, costs, disbursements, and attorneys= fees which shall also be secured by said lien, including additional attorneys= fees incurred on appeal. The Owner at the time such assessment is incurred shall also be personally liable for any deficiency remaining unpaid after any foreclosure sale. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the common areas or abandonment of his Residential Lot or any improvement thereon.

- 8.10 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be inferior, junior, and subordinate to the lien of all mortgages and grant deeds now or hereafter placed upon said property or any part thereof. The sale or transfer of any Residential Lot which is subject to any mortgage or trust deed or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to amounts thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such Residential Lot and any improvements thereon from liability for any assessments thereafter becoming due or from the lien thereof.
- 8.11 Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein: (a) All properties expressly dedicated to and accepted by a local public authority; (b) the common areas; (c) all other properties owned by the Association.

SECTION 9 ENFORCEMENT

- 9.1 Non-qualifying Improvements. In the event any Owner constructs, attempts to construct, or permits to be constructed on such Owner's Lot an Improvement or removes or commences to remove any trees or vegetation contrary to the provisions of this Declaration, the Architectural Control Committee may notify the Owner in writing of any such specific violations of this Declaration and may require the Owner to remedy or abate the same in order to bring the Owner's Lot, the Improvements thereon, and the unwilling to comply with the Architectural Control Committee's specific directives for remedy or abatement or the Owner and the Architectural Control Committee cannot agree on a mutually acceptable solution within the framework and intent of this Declaration after the Owner has been afforded notice and opportunity to be heard within 60 days after such notice, then the Architectural Control Committee shall have, in addition to any other rights or remedies provided in this Declaration, at law or in equity, the right to do any or all of the following:
- (a) Remove Cause of Violation. Enter the offending Lot (which entry shall not subject the members of the Architectural Control Committee or any agent or representative thereof to liability for trespass, conversion, or any other claim for damages) and remove the cause of such violation or alter, repair, or change the item which is in violation of the Declaration in such manner as to make it conform thereto, in which case the Architectural Control Committee may assess such Owner for the entire cost of the work done, which amount shall be applied to defray the cost of such work, provided that no building shall be altered or demolished in the absence of judicial proceedings; and/or

(b) Suit or Action. Bring suit or action against the Owner to enforce this Declaration.

9.2 Other Violations. Except as provided in Section 7.1, should any person violate or attempt to violate any of the provisions of this Declaration, the Declarant or any other Owner, at its or their option, but without obligation, shall have the full power and authority to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any of such provisions, either to prevent the violation of such provision, to require the performance of such provision, or to recover damages sustained by reason of such violation. Failure by Declarant or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

9.3 Enforcement of Lien. If an assessment or other charge imposed under this Declaration is not paid within 30 days after the date of the assessment or charge, such assessment or charge shall become delinquent and shall bear interest from the date of the assessment or charge until paid at the rate set forth in Section 7.5. In addition, any or all of the following remedies may be exercised:

(a) Lien. The Architectural Control Committee (but not any individual Owner) shall have a lien against each Lot for any assessment levied against such Lot and other charges imposed under this Declaration against the Owner of the Lot from the date on which the assessment or charge is due. The provisions regarding the attachment, notice, recordation, and duration of liens established on real property under ORS 87.352 to 87.382 shall apply to the Architectural Control Committee's and Declarant's lien. The lien shall be foreclosed in accordance with the provisions regarding the foreclosure of liens under ORS Chapter 88. If any assessment is payable in installments, the full amount of the assessment is a lien from the date the first installment of the assessment becomes due.

(b) Suit or Action. The Architectural Control Committee or the enforcing Owner may bring an action to recover a money judgment for unpaid assessments and charges under this Declaration.

(c) Other Remedies. The Architectural Control Committee or enforcing Owner shall have any other remedy available to it by law or in equity.

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

- 9.5 Interest, Expenses, and Attorneys' Fee. Any amount not paid to the Architectural Control Committee or any Owner when due in accordance with this Declaration shall bear interest from the due date until paid at a rate three percentage points per annum above the prime rate offered by First Interstate Bank of Oregon as of the due date therefor, but not to exceed any applicable lawful rate of interest under the laws of the State of Oregon. In addition, a late charge may be charged for each delinquent charge or assessment in an amount not to exceed 30% of such assessment. In the event the Architectural Control Committee or an Owner shall file a notice of lien, the lien amount shall also include the recording fees associated with filing the notice and a fee for preparing the notice of lien established from time to time by resolution of the Architectural Control Committee. In the event the Architectural Control Committee or any Owner shall bring any suit or action to enforce this Declaration, or to collect any money due hereunder or to foreclose a lien, Owner-defendant shall pay to the Architectural Control Committee or such Owner all costs and expenses incurred in connection with such suit or action, including a foreclosure title report, and the prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable as attorneys' fees and expenses of litigation at trial and upon any appeal or petition for review thereof.
- 9.6 Nonexclusiveness and Accumulation of Remedies. An election to pursue any remedy provided for violation of this Declaration shall not prevent concurrent or subsequent exercise of any other remedy permitted hereunder. The remedies provided in this Declaration are not exclusive, but shall be in addition to all other remedies, including actions for damages and suits for injunctions and specific performance available under applicable law.

SECTION 10 MISCELLANEOUS PROVISIONS

10.1 Amendment and Repeal.

- (a) This Declaration or any provision thereof, as from time to time in effect with respect to all or any part of the Property, may be amended or repealed (i) by the Declarant alone for as long as Declarant owns at least 10% of the total number of Lots (the Multifamily Parcel and Duplex Parcel being counted as one Lot each for such purposes) or (ii) thereafter by the vote or written consent of not less than 60% of the Owners (together with the vote or written consent of Declarant, until the end of the sixth month following the conveyance of the last Lot owned by Declarant to a third party).
- (b) Any such amendment or repeal shall become effective only upon recordation in the deed records of the County of a certificate of a member of the Architectural Control Committee (and of Declarant, if applicable) setting forth in full the amendment, amendments, or repeal so approved and certifying that said amendment, amendments, or repeal have been approved in the manner required by this Declaration.

- 10.2 Regulatory Amendments. Notwithstanding the provisions of Section 8.1, until the conveyance of the last Lot owned by Declarant to a third party, Declarant shall have the right to amend this Declaration in order to comply with the requirements relating to the development of a single-family structures of any applicable statute, ordinance, regulation, or guideline of the Federal Housing Administration; the Veterans Administration; the Farmers Home Administration of the United States; the Federal National Mortgage Association; the Government National Mortgage Association; the Federal Home Loan Mortgage corporation; any department, bureau, board, commission, or agency of the United States or the State of Oregon; or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon which insures, guarantees, or provides financing for a single-family residential development or lots in a single-family residential development.
- 10.3 Duration. This Declaration shall run with the land and shall be and remain in full force and effect at all times with respect to all property included within the Property and the Owners thereof for an initial period of ten years commencing with the date on which this document is recorded. Thereafter, this Declaration shall continue to run with the land and be and remain in full force and effect at all times with respect to all property within the Property and to the Owners thereof for successive additional periods of ten years each. The continuation from the initial or any additional period into the next following period shall be automatic and shall not require any notice, consent, or other action whatsoever; provided, however, that this Declaration may be repealed at any pursuant to Section 8.1
- 10.4 Joint Owners. In any case in which two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Architectural Control Committee, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter.
- 10.5 Lessees and Other Invitees. Lessees, invitees, contractors, family members, and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration restricting or regulating the Owner's use, improvements, or enjoyment of such Owner's Lot and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.
- 10.6 Nonwaiver. Failure by the Architectural Control Committee or by any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter.
- 10.7 Severability. Each provision of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision shall not affect the validity or enforceability of the remaining part of that or any other provision.

- 10.8 Number. As used herein, the singular shall include the plural and the plural the singular, and the masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires.
- 10.9 Captions. All captions used in this Declaration are intended solely for convenience of reference and shall in no way shall limit any of the provisions of this Declaration.
- 10.10 Notices and Other Documents. All notices and other communications under this Declaration shall be in writing and shall be deemed to have been given on the date of delivery when delivered by personal service or facsimile transmission, or three business days after delivery to the United States mails, certified or registered mail, return receipt requested, addressed to the party to which such notice is directed at its address determined as provided in this Section 8.10. A minimum of 30 days advance written notice shall be given as to any matter requiring a vote of the Owners.
- (a) Addresses. All notices and other communications under this Declaration shall be given to the parties hereto at the following addresses:
- (i) If to an Owner, then to the last address for such Owner shown in the Architectural Control Committee's records.
- (ii) If to Declarant, then to
- EDGEFIELD PARTNERS
22651 N.W. West Union Road
Hillsboro, OR 97124
- (b) Change of Address. Any party hereto may change the address to which notices shall be directed by giving ten days' written notice of such change delivered was provided herein.
- 10.11 Limitation of Duties and Liability of Declarant. Neither Declarant nor the Architectural Control Committee shall have any duty to enforce any provision of this Declaration. Neither Declarant nor any partner, agent, or employee thereof shall be liable to any Owner or account of any action or failure to act

of Declarant in performing its duties or rights hereunder, provided that Declarant has, in accord with actual knowledge possessed by it, acted in good faith.

10.12 Time. Time is of the essence of each and every provision of this Declaration.