DECLARATION OF COVENANTS AND RESTRICTIONS
FOR HORIZON HEIGHTS

A Residential Community with Common Facilities

THIS DECLARATION, made this 11th day of October, 1995 by the McMinnville Development Company, LLC., an Oregon limited liability company ("the developer").

WITNESSETH:

WHEREAS, McMinnville Development Company, LLC., an Oregon limited liability company is owner of the real property described in this Declaration, desires to create thereon a residential community with common facilities for the benefit of this community. This community shall be referred to as "Horizon Heights."

WHEREAS, the developer has deemed it desirable for the preservation of the values and amenities in this community to create an agency to which is assigned the powers of maintaining, administering, and enforcing the covenants and restrictions and collecting and disbursing any assessments and charges created. This agency shall be referred to as "Horizon Heights Homeowners' Association, Inc."

WHEREAS, the developer owns adjacent property which the developer anticipates (but does not promise) will be platted as Horizon Heights I and believes that it would probably be more economical and reasonable to impose and administer the same Covenants and Restrictions for both Horizon Heights and any Horizon Heights I.

ARTICLE I

DEFINITIONS: The following words, when used in this Declaration, shall have the following meanings:

Section 1. "Association" shall mean Horizon Heights Homeowners' Association, a non-profit company organized and existing under the laws of the State of Oregon.

Section 2. "Association of Members" shall mean all the owners and other persons entitled to vote, acting as a group, in accordance with the Declaration and By-laws of the Association.
Section 3. "Building" shall mean any structure now existing or later to be built on the property.

Section 4. "Common Expenses" shall mean the expense of administration, maintenance, repair or replacement of the private commons, expenses agreed upon as common by the owners, and expenses declared common by this Declaration, or the By-laws of the Association.

Section 5. "Declaration" shall mean the Declaration, including the covenants and restrictions, previously filed in Yamhill County, plus amendments and supplements thereto.

Section 6. "Lot" shall mean a parcel of land designated as a lot in the recorded plat, including any buildings thereon.

Section 7. "Member" shall mean that person or entity having a voting right in the Association pursuant to this Declaration and the Association’s Articles of Incorporation and By-laws.

Section 8. "Owner" shall mean the record owner, or contract purchaser, whether one or more persons or entities, of a fee simple title to any lot, but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee or holder of a trust deed unless such mortgagee or holder of the trust deed has acquired full title pursuant to foreclosure or any proceeding in lieu of foreclosure.

Section 9. "Private Commons" shall mean commons, structures, personal properties, and any and all other properties maintained by the Association for the common benefit and enjoyment of all the members of the Association, including, but not limited to, the areas shown as Tract "A" and Tract "B" plus areas of landscaping within public rights of way that are maintained by the Association.

Section 10. "Properties" or "Property" shall mean the land, whether leasehold or in fee simple, all building, improvements and structures thereon, and all easements, rights and appurtenances belonging thereto, which are under this Declaration, Articles of Incorporation, and By-laws of the Association.
ARTICLE II

PROPERTIES SUBJECT TO THE DECLARATION

Section 1. Horizon Heights. All property within the plat of Horizon Heights, a subdivision recorded in volume 146, page 198, Yamhill County record of plats on June 5, 1985.

Section 2. The developer, at its sole option, may elect to include additional property owned by the developer adjacent to the property described in Section 1. This shall be accomplished by recording a Declaration subjecting such property to the terms of this Declaration.

ARTICLE III

MEMBERSHIP AND VOTING

Section 1. Membership in the Association. Every person or entity which is an owner shall be a member and the Developer shall be a member. Acceptance of a deed shall be acceptance of membership in the Association.

Section 2. Voting Rights. The Association shall have two classes of voting membership:

Class A: Class A members shall be all the lot owners. An owner’s proportionate share of the revenue and expense associated with the private commons shall be equal to the member’s proportionate voting share in the Association. Each Class A owner shall have one vote per lot owned whether the lot owner is a corporation, an association, a partnership, or a husband and wife. When more than one person holds such interest in any lot, all such persons shall vote as a unit; provided, however, if a voting dispute arises, a multi-person ownership shall not be entitled to a vote unless the dispute be resolved as they among themselves decide.

Class B: The Class B member shall be the Developer. The Class B member shall be entitled to two votes for each lot owned by the Developer. The Class B membership shall cease and become...
converted to Class A membership upon the happening of any of the following events: (a) when fifty percent of the lots subject to this Declaration have been sold; or (b) on the 1st day of October, 1998. After the happening of these events, whichever occurs earlier, the Class B member shall become a Class A member entitled to one vote for each lot then unsold and in which the Developer holds the interest required for membership under this Declaration.

ARTICLE IV

PROPERTY RIGHTS IN PRIVATE COMMONS

Section 1. Member's Easement of Enjoyment. Subject to the provisions of Section 3 of this Article IV, every member shall have a right and easement of enjoyment in the private commons and this easement shall be appurtenant to and shall pass with the title to every lot.

Section 2. Title to Private Commons. The title to the private commons shall be vested in the owners. Each owner in Horizon Heights in the City of McMinnville, Yamhill County, Oregon, shall have an undivided 1/93rd interest per lot owned in the private commons of Horizon Heights.

Section 3. Extent of Member's Easement. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association, as provided in its Articles of Incorporation and By-laws, to suspend the enjoyment rights of any member for as long as any assessment remains unpaid, and for a period not to exceed thirty days for any infraction of its published rules and regulations;

(b) The right of the Association or Developer to dedicate or transfer, subject to membership acceptance, all or any part of the private commons to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members; provided, that no such dedication or transfer shall be effective unless an instrument signed by the members entitled to cast two-thirds of the votes of each class of membership has been recorded, agreeing to such dedications or transfer, and unless written notice of the proposed agreement and action is sent to every member at least ninety days in advance of any action taken.
ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the lien and personal obligation of assessment. Developer, for each lot owned by it within the properties, and each owner of any lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed or other conveyance, shall covenant and agree to pay to the Association (1) annual assessments or charges (which may be paid on a monthly basis), (2) special assessments for capital improvements, replacements or repairs, such assessments to be established and collected from time to time as provided in the Bylaws of the Association. The annual and special assessments, together with interest, and costs of collections as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each assessment, together with interest and costs of collection shall also be the personal obligation of the person who is the owner of such property at the time the assessment fell due. Such lien shall be enforceable in a manner consistent with the provisions of Oregon law which govern foreclosures generally. The prevailing party shall be entitled to attorneys fees as provided by Article XI, Section 5.

ARTICLE VI

ARCHITECTURAL COMMITTEE

Section 1. An Architectural Committee shall be formed to ensure the harmonious development of the properties. Initially, the Developer shall be responsible to appoint members of the Architectural Committee. However, at such time as the Class B membership shall cease, the Homeowners' Association shall be responsible to appoint members to this Committee. The Committee shall consist of as many persons, not less than three, as the Developer or the Homeowners' Association shall appoint. The Architectural Committee shall be responsible for the following:

Section 2. Lot owners will not construct, alter or maintain any improvements on the premises until:

(a) They have submitted to the Architectural Committee a complete set of plans and specifications satisfactory to the Committee, showing, where appropriate: (1) the dimensions of the improvements, (2)
the exterior design, (3) the location of the improvement on the site, (4) the location of driveways, and (5) the dimensions and location of any outbuildings; and

(b) Approval of these plans may be withheld if the Committee finds that any of the items in paragraph (a) above are not in compliance with the restrictions outlined in this Declaration.

(c) If the lot owner shall have submitted to the Committee plans and specifications and the Committee has not approved such plans and specifications within forty-five days from the date of submission nor notified the lot owner of its objections within such period, then the plans and specifications shall be deemed to have been approved by the Committee. The same shall apply to action on any revised plans and specifications.

Upon completion of the improvement and notice to the Committee, the Committee shall have ten days from receipt of such notice to inspect the improvement to determine whether it complies with the plans and specifications approved. Within ten days thereafter, the Committee shall either approve the improvement or notify the lot owner of changes necessary to comply with the plans and specifications. If the Committee does not act within the ten day period, the improvement shall be deemed to be satisfactory to the Committee. All communications to the Committee shall be delivered by hand or mail to the Developer at its office in McMinnville, Oregon or at a place specified in writing to the last known address of the member. All notifications to the owner shall be deemed made when actually delivered to the owner or when deposited in the U.S. Mail, postage prepaid, to the address of the property, or the address to which property tax statements are mailed concerning the property.

ARTICLE VII

BUILDING RESTRICTIONS

Section 1. Dwelling Size. The main floor (exclusive of porches and garage) to be not less than 1,500 square feet for a one-level home. If there are two levels, each shall be at least 800 square feet (exclusive of porches and garage). The total living area in a multi-level home shall be not less than 1,600 square feet.
Section 2. Set-back requirements. The minimum side yard requirements for a single family lot shall be 10 feet. Front, exterior side and rear yard set-back requirements shall be 20 feet.

Section 3. Fences. The location, material, and design of any fences constructed shall be approved by the Architectural Committee prior to construction. In approving or disapproving any fence design, the committee shall evaluate whether the fence would be a significant detriment to the adjoining properties or the development as a whole. Fences constructed adjacent to Cemetery Road, the Masonic Cemetery and tax lot 4419-2202 (Larsen property) shall be similar to the fence constructed by the developer on Hill Road. Each property owner will maintain the portion of such fence (including on Hill Road) located on that owner's lot.

Section 4. Roof. Roofs shall be cedar, tile, or minimum 40 year architectural grade composition roof. The roof color shall be compatible with the house color.

Section 5. Siding. All siding material shall be brick, stone, cedar or LP masonite horizontal board-type siding or comparable material on the front of the house. Stucco-like siding may be allowed if approved by the Architectural Committee.

Section 6. Construction time limit. All construction on any lot must be completed and the final occupancy permit issued within 365 days from the issuance of a building permit.

Section 7. Detached Improvements. Any detached improvement must be approved by the Architectural Committee of the Association. The approval or denial of the committee shall rest on whether the structure is generally compatible in style and scale with other structures on the lot and in the development.

Section 8. Restrictions on carports. No carport shall be allowed in the development. Parking shall be provided by means of entirely closed parking facilities or garages. Every home shall have at least two paved off-street parking places.

Section 9. Antennas/Satellite Dishes. No antennas or satellite dishes are allowed unless approved by the Architectural Committee.
Section 10. Signs. No sign shall be erected on any lot except not more than one "For Sale" or "For Rent" sign placed by the owner, the Declarant, or by a licensed real estate agent. This restriction shall not prohibit the temporary placement of "political" signs on any lot by the owner, or the placement of a professional sign by the Developer, or builder's signs during construction.

Section 11. Applicable law. Improvements on the property must also comply with other applicable law and governmental agency requirements.

ARTICLE IX

GENERAL RESTRICTIONS

Section 1. Animals. No domestic animals shall be raised, kept, or permitted on the premises other than dogs, cats, birds, and household animals which are not kept, bred or raised for commercial purposes or in unreasonable numbers, and which are reasonably controlled to avoid their being a nuisance to other lot owners.

Section 2. Manufactured dwelling, temporary structures. No manufactured dwelling (or comparable structure), recreational vehicle used as a dwelling on site or other temporary structure shall be allowed in the development, with the exception of a portable toilet as required during construction.

Section 3. Recreational vehicles, campers, motor homes, boats, travel or other trailers. These must be stored in a closed garage. For a period not to exceed three consecutive days or six days in any thirty day period, these vehicles may be left in the driveway, rear yard or the street to permit cleaning, loading or unloading.

Section 4. Trash or refuse. No garbage or trash will be allowed to accumulate on any property in the development. Failure to remove will result in the Association having such removed and charging the owner or tenant for removal.

Section 5. Non usable motor vehicles. There shall not be stored, parked or kept upon said lots any motor vehicle which is rusted, wrecked, junked or partially dismantled or inoperative or abandoned condition unless it is completely enclosed within a building.
Section 6. Nuisance. No noxious or offensive activity shall be carried on or upon the single family lots or any part thereof, nor shall anything be done or maintained which may be or become a nuisance to the neighborhood or detract from its value as a high-class residential district, including permitting the landscaping on any lot to become overgrown or permitting any structure on any lot to become unsightly.

Section 7. Division lots or adjustments of lot lines. No lot may be divided nor may any lot line be moved or otherwise adjusted (except for the granting of private easements or licenses) unless all of the following occur:

A. All applicable laws and regulations are complied with;
B. Written consent is obtained from all owners; and,
C. This Declaration and the by-laws are duly amended to correct any potential problem or ambiguity concerning the rights and obligations of the lot owners in question or concerning questions of title to the lots or private commons. Such amendments are to be at the expense of the party seeking the change.

Section 8. Lot Maintenance. During the time that the land remains vacant, the lot must be kept free of debris and must be neat and maintained. Grass or ground cover may not exceed six inches in height. Until all the single family lots are sold, Declarant reserves the right, but not the obligation to perform such maintenance if an Owner fails to do so, and further, Declarant may assess charges for such maintenance. The Association also reserves the right, but not the obligation to perform such maintenance if an Owner fails to do so, and to assess charges for such maintenance.

ARTICLE X

COMPLIANCE WITH DIVISION OF STATE LANDS PERMIT

Section 1. The common areas include the existing and newly created wetlands described as a portion of Tract "A" of the plat and in the original Division of State Lands Permit #8687 ("The DSL Permit").

Section 2. Ownership of property in Horizon Heights is subject to the provisions of the DSL Permit. All property owners must refrain from

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violating or allowing/causing others to violate the requirements of the DSL Permit and other applicable laws or regulations.

Section 3. The Association may and shall take reasonable steps necessary to assure compliance with the DSL Permit and expenses involved are "common expenses" under this Declaration.

ARTICLE XI

GENERAL PROVISIONS

Section 1. Duration. The covenants, easements and restrictions contained herein are to run with the land for the benefit of each owner and shall pass with each parcel of the subdivision and shall bind the respective successors in interest of the present owner. These covenants, easements, and restrictions shall remain in full force and effect for a period of thirty years from the date of recording this Declaration. Thereafter, they shall terminate if at any time the majority of the then record owners of the lots contained in the tract elect to eliminate the covenants, easements and restrictions. Such voting shall be pursuant to Article III, Section 2.

Section 2. Enforcement. The Association, or any Owner, or the owner of any recorded mortgage or recorded trust deed on any part of said property shall have the right to enforce by any proceeding at law or in equity, all promises, restrictions, conditions, covenants, reservations, easements, liens, and charges now or hereafter created or imposed by the provisions of this Declaration. Failure by the Association or any owner to enforce any provision, covenant or restriction shall in no event be deemed a waiver of the right to do so thereafter.

Section 3. Severability. Invalidation of any of these covenants or restrictions by judgment or court order shall in no way affect any of the other provisions herein which shall remain in full force and effect.

Section 4. Amendments. The covenants and restrictions of this Declaration may be amended by an instrument signed by not less than ninety percent of the lot owners. Any amendment must be properly recorded. Easements herein granted and reserved shall not be amended except by instrument signed and acknowledged by one hundred percent of the owners of the property, including the Developer so long as the Developer owns any lots or holds a security interest in any lot.

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Section 5. Attorney Fees. In case suit or action is instituted to enforce any of the provisions hereof, the losing party agrees to pay such sum as the trial court may adjudge reasonable as attorney’s fees to be allowed prevailing party in said suit or action, and if an appeal is taken from any judgment or decree of such trial court, the losing party further promises to pay such sum as the appellate court shall adjudge reasonable as prevailing party’s attorney’s fees on such appeal.

McMinnville Development Company, L.L.C.,
an Oregon limited liability company

By: [Signature]

By: [Signature]

By: [Signature]

Personally appeared the above named JEFF ALLEN, ROBERT J. EMERICK, and RAYMOND C. KAUER, the authorized representatives of McMinnville Development Company, L.L.C., an Oregon limited liability company and acknowledged the foregoing instrument to be their voluntary act on behalf of McMinnville Development Company, L.L.C., an Oregon limited liability company.

Christine Ann Johnson
Notary Public for Oregon
My Commission Expires: 7/16/97

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DECLARATION OF COVENANTS AND RESTRICTIONS
FOR HORIZON HEIGHTS I

A Residential Community with Common Facilities

THIS DECLARATION, made this 1st day of February, 1996, 1996 by the McMINNVILLE DEVELOPMENT COMPANY, L.L.C., an Oregon limited liability company ("the developer").

WITNESSETH:

WHEREAS, McMinnville Development Company, L.L.C., an Oregon limited liability company, owner of the real property described in this Declaration, desires to create thereon a residential community with common facilities for the benefit of this community. This community shall be referred to as "Horizon Heights I."

WHEREAS, the developer has deemed it desirable for the preservation of the values and amenities in this community to create an agency to which is assigned the power of maintaining, administering, and enforcing the covenants and restrictions and collecting and disbursing any assessments and charges created. This agency shall be referred to as "Horizon Heights Homeowners' Association, Inc."

WHEREAS, the developer owns adjacent property which has been platted as Horizon Heights, made subject to a Declaration of Covenants and Restrictions for Horizon Heights dated October 16, 1995 recorded '199514700' on 10/16/95 and believes that it is more economical and reasonable to impose and administer the same covenants and restrictions for both Horizon Heights and Horizon Heights I (subject to additional covenants and restrictions applicable only to certain lots in Horizon Heights I as specified below).

WHEREAS Article II, Section 2 of the Declaration of Covenants and Restrictions for Horizon Heights provides that the developer may include the property which is the subject of this declaration (Horizon Heights I) in the terms of the Declaration of Covenants and Restrictions for Horizon Heights.

Recorded in Official Yamhill County Records
CHARLES STERN, COUNTY CLERK
199602594 3:13pm 02/21/96
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ARTICLE I
HORIZON HEIGHTS I

PROPERTIES SUBJECT TO THE DECLARATION

Section 1. Horizon Heights I. All property within the plat of Horizon Heights I, a subdivision recorded in volume 46, page 296, Yamhill County record of plats on FEB 28, 1995.

Instrument # 1996002593

Section 2. The property subject to this declaration shall also be subject to the Declaration of Covenants and Restrictions for Horizon Heights recorded 1995 14700 on 10/31/95 as if Horizon Heights I were originally included as part of the property subject to the Declaration of Covenants and Restrictions for Horizon Heights, provided that the following additional covenants and restrictions are also imposed on certain lots.

ARTICLE II

ADDITIONAL COVENANTS AND RESTRICTIONS

Section 1. The Covenants and Restrictions in Section 2 of this Article, are applicable only to lots 27, 28, 29, 30, 31, and 32 Horizon Heights I.

Section 2. As required in Article VII, Section 3 of the Declaration of Covenants and Restrictions for Horizon Heights, fences constructed adjacent to the Masonic Cemetery (on the lots which are subject to this additional Covenant and Restriction) shall be similar to the fence constructed by the developer on Hill Road. Each property owner will maintain the portion of such fence located on that owner's lot.

Section 3. Each owner of a lot described in Section 1 of this Article shall complete construction of such fence within one year of occupancy of a building on the lot. Such fence shall be constructed along the boundary between the lot and the Masonic Cemetery.

McMinville Development Company, L.L.C., an Oregon limited liability company

By: ________________________________

By: ________________________________

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Personally appeared the above named Jerry Allen and Raymond C. Kauer, the authorized representatives of McMinnville Development Company, L.L.C., an Oregon limited liability company and acknowledged the foregoing instrument to be their voluntary act on behalf of McMinnville Development Company, L.L.C., an Oregon limited liability company.

[Signature]

Notary Public for Oregon
My Commission Expires: 12-30-06

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