DEPOSITION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR LAFAYETTE HIGHLANDS PHASE I
INDEX

ARTICLE 1 - DEFINITIONS  
1.1 Architectural Review Committee 2  
1.2 Declarant 2  
1.3 Improvement 2  
1.4 Initial Development 2  
1.5 Lot 2  
1.6 Owner 2  
1.7 Property 2  
1.8 This Declaration 2  
1.9 Association 2  
1.10 Common Area 2  
1.11 Reserve Account 2

ARTICLE 2 - PROPERTY SUBJECT TO THIS DECLARATION 3  
2.1 Initial Development 3  
2.2 No Right to Annex or Withdraw Property 3

ARTICLE 3 - OWNERSHIP AND EASEMENT 3  
3.1 Utility and Service Easement 3  
3.2 Ownership of Lots 3  
3.3 Ownership of Common Area 3  
3.4 Easements Reserved by Declarant 3

ARTICLE 4 - USE RESTRICTIONS 4  
4.1 Structures Permitted 4  
4.2 Residential Use 4  
4.3 Offensive or Unlawful Activities 4  
4.4 Animals 4  
4.5 Maintenance of Structures and Grounds 5  
4.6 Parking 5  
4.7 Vehicles in Disrepair 5  
4.8 Signs 5  
4.9 Rubbish and Trash 5  
4.10 Completion of Construction 5  
4.11 Landscape Completion 5  
4.12 Temporary Structures 6  
4.13 Fences, Hedges and Planting Along Lot Lines 6  
4.14 Services Facilities 6  
4.15 Antennas and Satellite Disks 6  
4.16 Dwelling Size and Height 6  
4.17 Building Setbacks 6  
4.18 Exterior Finish 6  
4.19 Roofing 6  
4.20 Driveways and Garages 6
<table>
<thead>
<tr>
<th>Article</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.21</td>
<td>Plan and Exterior Color Approval</td>
<td>7</td>
</tr>
<tr>
<td>4.22</td>
<td>Reserve Strip</td>
<td>7</td>
</tr>
</tbody>
</table>

**ARTICLE 5 - ARCHITECTURAL REVIEW**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.1</td>
<td>Architectural Review Required</td>
<td>7</td>
</tr>
<tr>
<td>5.2</td>
<td>Committee Decision</td>
<td>8</td>
</tr>
<tr>
<td>5.3</td>
<td>Committee Discretion</td>
<td>8</td>
</tr>
<tr>
<td>5.4</td>
<td>Appointment and Removal</td>
<td>8</td>
</tr>
<tr>
<td>5.5</td>
<td>Liability</td>
<td>8</td>
</tr>
<tr>
<td>5.6</td>
<td>Nonwaiver</td>
<td>8</td>
</tr>
<tr>
<td>5.7</td>
<td>Effective Period of Consent</td>
<td>8</td>
</tr>
<tr>
<td>5.8</td>
<td>Estoppel Certificate</td>
<td>8</td>
</tr>
</tbody>
</table>

**ARTICLE 6 - COMMON AREA**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.1</td>
<td>Storm Water Detention Basin</td>
<td>9</td>
</tr>
<tr>
<td>6.2</td>
<td>Pedestrian Paths</td>
<td>9</td>
</tr>
<tr>
<td>6.3</td>
<td>Maintenance of Duniway Strip</td>
<td></td>
</tr>
</tbody>
</table>

**ARTICLE 7 - HOMEOWNERS ASSOCIATION**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.1</td>
<td>Creation</td>
<td>9</td>
</tr>
<tr>
<td>7.2</td>
<td>Membership</td>
<td>9</td>
</tr>
<tr>
<td>7.3</td>
<td>Voting</td>
<td>10</td>
</tr>
<tr>
<td>7.4</td>
<td>Dissolution</td>
<td>10</td>
</tr>
</tbody>
</table>

**ARTICLE 8 - FUNDS AND ASSESSMENTS**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.1</td>
<td>Purpose of Assessments; Expenses</td>
<td>10</td>
</tr>
<tr>
<td>8.2</td>
<td>Covenants to Pay</td>
<td>10</td>
</tr>
<tr>
<td>8.3</td>
<td>Basis of Assessment; Commence of Assessments</td>
<td>11</td>
</tr>
<tr>
<td>8.4</td>
<td>Annual Assessments</td>
<td>11</td>
</tr>
<tr>
<td>8.5</td>
<td>Special Assessments</td>
<td>12</td>
</tr>
<tr>
<td>8.6</td>
<td>Accounts</td>
<td>12</td>
</tr>
<tr>
<td>8.7</td>
<td>Default in Payment of Assessments; Enforcement of Liens</td>
<td>13</td>
</tr>
</tbody>
</table>

**ARTICLE 9 - GENERAL PROVISIONS**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
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</tr>
</thead>
<tbody>
<tr>
<td>9.1</td>
<td>Records</td>
<td>14</td>
</tr>
<tr>
<td>9.2</td>
<td>Indemnification of Directors, Officers, Employees and Agent</td>
<td>15</td>
</tr>
<tr>
<td>9.3</td>
<td>Enforcement; Attorney Fees</td>
<td>15</td>
</tr>
<tr>
<td>9.4</td>
<td>Severability</td>
<td>15</td>
</tr>
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**ARTICLE 10 - MISCELLANEOUS PROVISIONS**

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<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
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<tbody>
<tr>
<td>10.1</td>
<td>Unilateral Amendment by Declarant</td>
<td>16</td>
</tr>
<tr>
<td>10.2</td>
<td>Amendment and Repeal</td>
<td>16</td>
</tr>
<tr>
<td>10.3</td>
<td>Duration</td>
<td>16</td>
</tr>
</tbody>
</table>
10.4  Lessees and Other Invitees  16
10.5  Enforcement  17
10.6  Construction; Severability; Number; Captions  17
10.7  Notices and Other Documents  17
DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR LAFAYETTE HIGHLANDS PHASE I

THIS DECLARATION is made this 16th day of February, 2005, by PREMIER DEVELOPMENT, LLC (collectively "Declarant").

Declarant is the owner of all the real property and improvements thereon located in Yamhill County, Oregon, described as follows ("the Property"): Parcel 2 of Partition Plat 2004-15, Yamhill County Deed Records.

Contemporaneous herewith, Declarant shall be filing a subdivision plat governing this property as approved by Yamhill County and the City of Lafayette. References to tracts and lots in this Declaration refer to the tracts and lots set forth in said subdivision plat.

Declarant intends to develop Lafayette Highlands Phase I as a Class II planned community. To establish Lafayette Highlands as a planned community, Declarant desires to impose these mutually beneficial covenants, conditions, restrictions, easements, assessments and liens on the property, under a comprehensive general plan of improvement and development for the benefit of all the Lots and Common Area in Lafayette Highlands Phase I.

Declarant has deemed it desirable for the efficient preservation of the Property and amenities in Lafayette Highlands Phase I to create a nonprofit corporation, to which will be delegated and assigned the powers and authorities to own, maintain, administer the Common Area and facilities, to maintain, repair and replace certain portions of the Lots and exterior of the homes, to administer and enforce the covenants, conditions and restrictions of this Declaration, and to collect and disburse the assessments and charges hereinafter created.

Declarant shall convey tracts A and B to the Lafayette Highlands Homeowners Association, (hereinafter "the Association"). The Association shall assume the maintenance and obligation of tracts A, B and the strip of land between Duniway guardrail and the retaining wall north of 14th Street for the benefit of the owners and assess the Owners of all Lots equally for expenses.

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

ARTICLE 1

DEFINITIONS

As used in this Declaration, the terms set forth below shall have the following meanings:
1.1 "Architectural Review Committee"
Architectural Review Committee means the Committee appointed pursuant to Article 5 hereof.

1.2 "Declarant"
Declarant means Premier Development, LLC.

1.3 "Improvement"
Improvement means every structure or improvement of any kind, including but not limited to a fence, wall, driveway, swimming pool, storage shelter or other product of construction efforts on or in respect to the Property.

1.4 "Initial Development"
Initial Development means the property referred to in Section 2.1.

1.5 "Lot"
Lot means one of the platted lots within the Property.

1.6 "Owner"
Owner means the person or person, including Declarant, owning any Lot in the Property, but does not include a tenant or holder of a leasehold interest or a person holding only a security interest in a Lot. The rights, obligations and other status of being an Owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of such ownership, but termination of ownership shall not discharge an Owner from obligations incurred prior to termination.

1.7 "The Property"
The Property means the Initial Development.

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

1.9 "Association"
The Association shall mean and refer to Lafayette Highlands Phase I Homeowners Association, its successors and assigns.

1.10 "Common Area"
The Common Area shall mean and refer to tracts A and B, and the strip of land between Duniway guardrail and the retaining wall north of 14th Street shown on the recorded plat of the Property, including any improvements located therein, which areas and improvements are intended to be devoted to the common use and enjoyment of the members in which land has been conveyed to the Association.

1.11 "Reserve Account"
Reserve Account shall mean and refer to an account set up by the Board to hold funds for construction, improvements or maintenance of the Common Area and the commonly maintained property.
ARTICLE 2

PROPERTY SUBJECT TO THIS DECLARATION

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


Contemporaneous herewith, Declarant shall be filing a subdivision plat governing this property as approved by Yamhill County and the City of Lafayette. References to tracts and lots in this Declaration refer to the tracts and lots set forth in said subdivision plat. Declarant does not intend to build any Common Area improvements in Lafayette Highlands Phase I other than those specified in the plat.

2.2 No Right to Annex or Withdraw Property.
Declarant reserves no right to annex additional property or to withdraw property from Lafayette Highlands Phase I.

ARTICLE 3

OWNERSHIP AND EASEMENTS

3.1 Utility and Service Easements.
Easements for installation and maintenance of utilities, communication lines and drainage and irrigation facilities are reserved as shown on the recorded plat. No structure, fence, planting or other materials shall be placed or permitted to remain within these easements which may damage or interfere with the installation or maintenance of such utilities or facilities, or which may change the direction of water through a drainage channel in the easements or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all Improvements within it shall be maintained continuously by the Owner of the Lot, except for those Improvements for which a public authority or utility company is responsible.

3.2 Ownership of Lots.
Title to each Lot in Lafayette Highlands Phase I shall be conveyed in fee to an Owner. If more than one person or entity owns an undivided interest in the same Lot, such person or entity shall constitute one owner.

3.3 Ownership of Common Area.
Title to any Common Area shall be conveyed to the Association not later than the date of the Turnover Meeting.

3.4 Easements Reserved by Declarant.
So long as Declarant owns any Lot, Declarant reserves an easement over, under and across the Common Area in order to carry out sales activities necessary or convenient for the sale of the lots. Declarant, for itself and successors and assigns hereby retains the right of ingress and egress to, from, over, in, upon, under and across the Common Area and the right to store materials thereon, to make such other use thereof as may be reasonably necessary and incident to the construction of the
Improvements on the Property in such a way as to not to interfere unreasonably with the occupancy, use, enjoyment or access to an Owner’s Lot by such Owner or such Owner’s family, tenants, guest, employees or invitees.

ARTICLE 4

USE RESTRICTIONS

4.1 Structures Permitted.

No structures shall be erected or permitted to remain on any Lot except one single-family structure containing a dwelling unit, which shall include a private garage, a backyard fence, and structures normally accessory to a dwelling. The foregoing provision shall not exclude construction of a private greenhouse, storage unit, private swimming pool, or a shelter or port for the protection of such swimming pool, or a structure for the storage of a boat and/or camping trailer for personal use, provided the location of any such structure is in conformity with the applicable governmental regulations, and the structure is compatible with the dwelling structure constructed on such Lot and approved by the Architectural Review Committee. No mobile, log or manufactured homes are permitted within the Property. Each Lot shall provide for off street parking in the garage. Nothing in this section shall be deemed to prohibit the construction of a residence on a Lot in accordance with this Declaration, nor the storage during the course of construction, of materials and equipment on the Lot as may be necessary for such construction, nor the use of any residence on a Lot as a sales office or model home for the purposes of sales of homes or lots in Lafayette Highlands.

4.2 Residential Use.

Lots shall only be used for single-family residential purposes. No trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any Lot except as allowed by the City of Lafayette, 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 paragraph shall be deemed to prohibit (a) activities relating to the rental or sale of dwelling units, (b) the right of Declarant or any contractor or homebuilder to construct dwelling units on any Lot, to store construction materials and equipment on such Lots in the normal course of construction, and (c) the right of the Owner of a Lot to maintain his professional records or accounts, handle his personal business or professional telephone calls or confer with business or professional associates, clients or customers, in his dwelling units.

4.3 Offensive or Unlawful Activities.

No noxious or offensive activities shall be carried on 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 residents. No unlawful use shall be made of a Lot nor any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. Off-road motorized recreational vehicles shall not be allowed to operate upon any street or Lot within the Property.

4.4 Animals.

No animals, livestock or poultry of any kind shall be raised, bred or kept on permitted within any Lot, except no more than three dogs, cats and other household pets which are not kept, bred or raised for commercial purposes and which are
reasonably controlled so as not to be a nuisance. Dogs shall be kept within fenced yards unless on leash. Any inconvenience, damage or unpleasantness caused by such animals shall be the responsibility of the respective owners thereof.

4.5 Maintenance of Structures and Grounds.
Each Owner shall maintain his Lot and Improvements thereon in a clean and attractive condition, in good repair and in such fashion, as not to create a fire hazard. Such maintenance shall include, without limitation, painting, repair, replacement and care for roofs, gutters, downspouts, exterior building surfaces, walks and other exterior improvements and glass surfaces. In addition, each Owner shall keep all shrubs, trees, grass and plantings of every kind on his Lot neatly trimmed, properly cultivated and free of trash, weeds and other unsightly material. Damage caused by fire, flood, storm, earthquake, riot, vandalism, or other causes shall likewise be the responsibility of each Owner and shall be restored within a reasonable period of time.

4.6 Parking.
Parking of commercial vehicles, boats, trailers, motorcycles, trucks, truck campers or other recreational vehicles or equipment shall not be allowed on any part of the Property nor on public streets adjacent thereto, except on an occasional basis.

4.7 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 or on any street within the subdivision for a period in excess of forty-eight (48) hours.

4.8 Signs.
No signs shall be displayed to the public view on any Lot or Improvement, except one professional made sign of not more than six (6) square feet advertising such property for sale. The restriction contained in this paragraph does not apply to signs used by a builder during the construction and sales period and shall not prohibit the temporary placement of “political” signs on any Lot by the Owner.

4.9 Rubbish and Trash.
No Lot shall be used as a dumping ground for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate sanitary containers for proper disposal and out of public view. Yard rakings, dirt and other material resulting from landscaping work or construction shall not be dumped onto streets or on any Lots. All incinerators or other equipment for the storage of disposal of such materials shall be kept in a clean and sanitary condition.

4.10 Completion of Construction.
The construction of any building on any Lot, including painting and all exterior finish, shall be completed within twelve (12) months from the beginning of construction. The building area shall be kept reasonably clean and in workmanlike order during the construction period.

4.11 Landscape Completion.
All landscaping must be completed within one hundred twenty (120) days from the date of substantial completion of the dwelling unit constructed thereon. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time.
4.12 **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.

4.13 **Fences, Hedges and Planting Along Lot Lines.**
No fence shall exceed six (6) feet in height from the finished Lot grade on the highest side. Fences shall be well constructed of number one cedar one inch by six inch fencing materials with “good neighbor” style. Fencing shall not protrude beyond the front of a dwelling or garage, excepting those Lots whose side yards are along the periphery. No fence shall be constructed prior to obtaining a fence permit from the City of Lafayette. All fences shall be subject to City requirements and code.

4.14 **Services Facilities.**
Service facilities (garbage, fuel tanks, clotheslines, etc.) shall be screened such that the element screened are not visible at any time from the street or a neighboring property. All telephone, power, natural gas, cable television and other communication lines shall be placed underground, except as otherwise mandated by local jurisdictions or public utility companies.

4.15 **Antennas and Satellite Disks.**
Exterior antennas and satellite disks larger than 3 feet in diameter shall not be permitted to be placed on any lot. All exterior antennas and satellite disks shall be placed in a manner that minimizes their view from the street to the extent practical, and in a location acceptable to the Architectural Review Committee.

4.16 **Dwelling Size and Height.**
The total finished floor area of a dwelling, exclusive of open porches and garage, shall be not less than 1,200 square feet.

4.17 **Building Setbacks.**
Dwellings shall be situated on Lots according to applicable law, and in accordance with requirements of the Architectural Review Committee.

4.18 **Exterior Finish.**
The exterior of all dwellings constructed on any Lot shall be of double wall construction. Exterior trim, fences, doors, railings, decks, eves, gutters and the exterior finish of garages shall be designed, built and maintained to be compatible with the exterior of the structure they adjoin.

4.19 **Roofing.**
Only cedar, tile or architectural 25-year warranty or better composition roofing shall be used on any dwelling constructed on any Lot. Roofs shall have a pitch of not less than 6:12.

4.20 **Driveways and Garages.**
All driveways shall be of asphalt or concrete construction. All dwellings shall have at least a 2-car garage.

4.21 **Plan and Exterior Color Approval.**
Complete plans, including landscape plans, grade elevations and exterior color and lighting selection must be submitted to the Architectural Review Committee
for approval prior to the start of construction. It is suggested that preliminary plans be submitted for preliminary approval prior to commencing working drawings.

4.22 Reserve Strip. The planning conditions associated with the platting of this property include a requirement that certain lots have a one (1) foot wide non-access reserve strip track dedicated to the City along the frontage to their property. This reserve strip restricts vehicular access from part of the frontage of some of the following lots in the following manner:

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ARTICLE 5

ARCHITECTURAL REVIEW

5.1 Architectural Review Required.

No Improvement shall be commenced, erected, placed or altered on any Lot until the construction plans and specifications showing the nature, shape, heights, materials, colors and proposed location of the Improvement have been submitted to and approved in writing by the Architectural Review Committee. It is the intent and purpose of this Declaration to assure quality of workmanship and materials, to assure harmony and external design with existing Improvements and as to location with respect to topography and finished grade elevations, and to avoid plan repetition. Design features should include front porches, varying building setbacks and varying roof lines. The procedure and specific requirements for review and approval of residential construction may be set forth in Design Guidelines adopted from time to time by the Architectural Review Committee. The Committee may charge a fee not to exceed Three Hundred Dollars ($300) to cover the cost of processing the application. This fee may be reduced for multiple submissions of similar design. In all cases which the Architectural Review Committee consent is required by this Declaration, the provisions of this Article shall apply.

5.2 Committee Decision.

The Architectural Review Committee shall render its decision with respect to the construction proposal within thirty (30) days after it has received all material required by it with respect to the application. In the event the Committee fails
to render its approval or disapproval within thirty (30) days after the Committee has received all material required by it with respect to the proposal, approval will not be required and the related provisions of this Declaration shall be deemed to have been fully complied with.

5.3 Committee Discretion.
The Architectural Review Committee may, at its sole discretion, withhold consent to any proposed work if the Committee finds the proposed work would be inappropriate for the particular Lot or incompatible with the design standards that the Committee intends for the Property. Considerations such as siting, shape, size, color, design, height, impairment of the view form other Lots, or other effect on the enjoyment of other Lots, disturbance of existing terrain and vegetation and any other factors which the Committee reasonably believes to be relevant, may be taken into account by the Committee in determining whether or not to consent to any proposed work.

5.4 Appointment and Removal.
The Architectural Review Committee shall consist of one to three people, as the Declarant may from time to time appoint. The Declarant may remove the Committee from office at any time and may appoint a new Committee at any time. Declarant may at any time delegate to the Owners or a homeowners association the right to appoint or remove the Committee. In such event, a majority of the Owners so voting may appoint or remove the Architectural Review Committee. If no Architectural Review Committee is appointed, the provisions of this Article 5 shall not be applicable. The initial members of the Architectural Review Committee shall be Jeffrey A. Zumwalt and Lori L. Zumwalt.

5.5 Liability.
The Architectural Review Committee shall not be liable to any Owner, occupant, builder or developer for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the Committee, provided only that the Committee has, in accordance with the actual knowledge possessed by him, acted in good faith.

5.6 Nonwaiver.
Consent by the Architectural Review 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.

5.7 Effective Period of Consent.
The Architectural Review Committee's consent to any proposed work 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 Committee.

5.8 Estoppel Certificate.
Within fifteen (15) working days after written request is delivered to the Architectural Review Committee by any Owner, and upon payment to the Committee of a reasonable fee fixed by the Committee to cover costs, the Committee shall provide such Owner with an estoppel certificate executed by the Committee and acknowledged, certifying with respect to any Lot owned by the Owner, that as of the date thereof, either: (a) all improvements made or done upon or within such Lot by the Owner comply
with this Declaration, or (b) such Improvements do not so comply, in which event the certificate shall also identify the noncomplying Improvements and set forth with particularity the nature of such noncompliance. Any purchaser from the Owner, and any mortgagee or other encumbrancer, shall be entitled to rely on such certificate with respect to the matters set forth therein, such matters being conclusive as between Declarant, the Architectural Review Committee, all Owners, and such purchaser or mortgagee.

ARTICLE 6

COMMON AREA

6.1 Storm Water Detention Basin. The Common Area in Lafayette Highlands Phase I consists of a storm water detention basin. The Association shall be responsible for the maintenance, repair, replacement and upkeep of this storm water detention basin, including the irrigation system serving the basin as well as mowing the grass and maintaining the sidewalks in front of the detention basin, except where such maintenance is provided by any appropriate governmental agency or utility company. The costs for maintaining, repairing or replacing this detention basin shall be at the equal expense of the Owners of the Lots. No individual unit owner or its guests or invitees may utilize any portion of this common element. The Homeowners Association may, by rule, regulate access to this improvement. No individual Owner shall construct, alter or modify the improvement without an express written authority from the Board of Directors to the Homeowners Association.

6.2 Pedestrian Paths. The Association shall be responsible for and shall maintain common pedestrian paths, lighting for pedestrian paths and fences along pedestrian paths.

6.3 Maintenance of Duniway Strip. The Association shall maintain the strip of ground between the Duniway guardrail and the retaining wall north of 14th Street.

ARTICLE 7

HOMEOWNERS ASSOCIATION

7.1 Creation.
The Declarant shall create a homeowners association. The Association shall consist of a nonprofit corporation organized according to the laws of the State of Oregon.

7.2 Membership.
All owners of lots shall be members of the Association. Membership in the Association shall be appurtenant to ownership of each lot and may not be separated from ownership of any lot. Transfer of ownership of a lot shall automatically transfer membership in the Association.
7.3 Voting.

7.3.1 Voting. The Declarant reserves administrative control over the Homeowner prior to the time of meeting. The Declarant shall have exclusive voting rights in the Association prior to the turnover meeting. After the turnover meeting all owners shall be entitled to one vote for each lot owned with respect to all matters on which owners are entitled to vote. When one or more person or entity owns a lot, the vote for such lot may be cast as they shall determine, but in no event shall fractional voting be allowed. Fractional or split votes shall be disregarded, except for purposes of determining a quorum.

7.3.2 Turnover Meeting. Declarant shall call a meeting for the purposes of turning over administrative control of the Association from Declarant to the Owners within sixty (60) days of the earlier of the following dates:

Earliest Date. The date on which Lots representing 90% of the total number of votes of all Lots in Lafayette Highlands have been sold and conveyed to persons other than Declarant;

Optional Turnover. The date on which Declarant has elected in writing to turn over administrative control.

7.4 Dissolution. The Association shall not be dissolved without the written approval of the City Council of the City of Lafayette, Oregon. Such approval shall be for the sole purpose of assuring continuation of maintenance of common areas.

ARTICLE 8

FUNDS AND ASSESSMENTS

8.1 Purpose of Assessments: Expenses. The Association may levy assessments which shall be used exclusively to promote the health, safety, aesthetics, and welfare of the Owners and Occupants of Lafayette Highlands Phase I, for the improvement, operation, and maintenance of the Common Area and Commonly Maintained Property, for the administration and operation of the Association, (for the payment of the pro rata share of the “Common Area Operating Expenses” and “Common Area Infrastructure Costs” as provided in this Declaration, Bylaws or rules and regulations of the Homeowners Association.

8.2 Covenants to Pay. Declarant and each Owner covenant and agree to pay the Association the assessments and any additional charges levied pursuant to this Declaration or the Bylaws. All assessments for operating expenses, repairs and replacement, and reserves shall be allocated among the Lots and their Owners as set forth in Section 8.4.2.

8.2.1 Funds Held in Trust. The assessments collected by the Association shall be held by the Association for and on behalf of each Owner and shall be used solely as set forth in Section 7.1. On the sale or transfer of any Lot, the Owner's interest in such funds shall be deemed automatically transferred to the successor in interest to such Owner.
8.2.2 Offsets. No offsets against any assessment shall be permitted for any reason, including, without limitation, any claim that the Association is not properly discharging its duties.

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

8.3 Basis of Assessment: Commencement of Assessments. Declarant shall pay all common expenses of the Association until the Lots are assessed for common expenses. The amount and date of the commencement of the initial annual assessment to Owners other than Declarant and payment of resources shall be determined by Declarant. In the sole and unfettered discretion of Declarant, Declarant may defer payment of reserves for a Lot until the Lot is conveyed to a third party. However, Declarant may not defer payment of accrued reserves beyond the date of the Turnover Meeting. Lots owned by the Declarant shall not be subject to assessments.

8.4 Annual Assessments. Annual assessments for each fiscal year shall be established when the Board approves the budget for that fiscal year. The initial annual assessment shall be determined by Declarant and shall be prorated on a monthly basis at the time of the closing of the first sale from Declarant. For proration purposes, any portion of a month shall count as a full month. Annual assessments shall be payable on a periodic basis, not more frequently than monthly, as determined by the Board. The fiscal year shall be the calendar year unless another year is adopted by vote of the Association members.

8.4.1 Budgeting. Each year the Board shall prepare, approve and make available to each Member a pro forma operating statement (budget) containing: (a) estimated revenue and expenses on an accrual basis; (b) the amount of the total cash reserves of the Association currently available for replacement or major repair of the Common Area and Commonly Maintained Property and for contingencies; (c) an itemized estimated for the remaining life of, and the methods of funding to defray repair, replacement, or additions to major components of such improvements; and (d) a general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Common Area and the Commonly Maintained Property. Notwithstanding that budgeting shall be done on an accrual basis, the Association's books shall be kept on a cash basis and the Association shall be a cash basis taxpayer, unless applicable governmental regulations require otherwise. For the first fiscal year, the budget shall be approved by the Board no later than the date on which annual assessments are scheduled to commence. Thereafter, the Board shall annually prepare and approve the budget and distribute a copy or summary thereof to each Member, together with written notice of the amount of the annual assessments to be levied against the Owner's Lot, within thirty (30) days after adoption of such budget.

Allocation of Assessments. The total amount in the budget shall be charged against all Lots in equal shares. There are 72 Lots. Therefore, each Lot will be responsible for 1/72th of the annual budget.

8.4.3 Nonwaiver of Assessments. If before the expiration of any fiscal year the Association fails to fix annual assessments for the next fiscal year, the annual assessments established for the preceding year shall continue until a new annual assessment if fixed.
8.5. **Special Assessments.** The Board and/or the Owners shall have the power to levy special assessments against an Owner or all Owners in the following manner for the following purposes:

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

8.5.2. **Special Obligations of an Owner.** To collect amounts due to the Association from an Owner for breach of the Owner's obligations under this Declaration, the Bylaws, or the Rules and Regulations, by vote of a majority of the Board;

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

8.5.3. **Capital Improvements.** To make capital acquisitions, additions or improvements, by vote of at least 80% of all votes allocate to the Lots.

8.5.4. **Reimbursement Assessments.** The Association shall levy a reimbursement assessment against any Owner and such Owner's Lot if a failure to comply with this Declaration, Bylaws, Architectural Standards, or any Rules and Regulations has (a) necessitated an expenditure of monies by the Association to effect compliance or (b) resulted in the imposition of a fine or penalty against such Owner or such Owner's Lot (a "Reimbursement Assessment"). A Reimbursement Assessment shall be due and payable to the Association when levied. A Reimbursement Assessment shall not be levied by the Association except on at least ten (10) days' written notice to the Owner being assessed. If, within said 10-day period, the Owner makes a written request to the Board for a hearing, a hearing shall be held. On request for a hearing, the Board shall conduct it not less than ten (10) nor more than thirty (30) days after the request by the Owner, and shall make its decision within not more than thirty (30) days after the hearing is held. If a notice has been previously given, and the hearing has already been held or waived (in writing or by the Owner's failure to appear) for the violation resulting in the Reimbursement Assessment, no additional notice and hearing is required before levying the Reimbursement Assessment.

8.6 **Accounts.**

8.6.1. **Types of Accounts.** Assessments collected by the Association shall be deposited into at least two separate accounts with a bank, which accounts shall be clearly designated as (a) the Current Operating Account and (b) the Reserve Account. The Board shall deposit those portions of the assessments collected for current maintenance and operation into the Current Operating Account and shall deposit those portions of the assessments collected as reserves for replacement and deferred maintenance of capital improvements into the Reserve Account. Withdrawal of funds for the Association's Reserve Account shall require the signatures of either two Directors or one Director and an officer of the Association who is not a Director. In its books and records, the Association shall account separately for operating expenses relating to the Common Area/Commonly Maintained Property and operating expenses relating to all other matters, as well as for necessary reserves relating to the Common
Area/Commonly Maintained Property and necessary reserves relating to all other matters.

8.6.2. **Reserve Account.** Declarant shall establish a Reserve Account, in the name of the Association, which shall be kept separate from all other funds held by the Association. The Association shall pay out of the Reserve Account only those costs that are attributable to the maintenance, repair, or replacement of Common Area property and Commonly Maintained Property that normally requires replacement, in whole or in part, within three to 30 years and not for regular or periodic maintenance and expenses. No funds collected for the Reserve Account may be used for ordinary current maintenance and operation purposes.

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

8.6.2.2. **Increase or Reduction, or Elimination of Reserve Account Assessment.** At any time after the second year after the Turnover Meeting, future assessment for the Reserve Account may be increased or reduced by the vote of 75% of the Lot Owners.

8.6.2.3. **Investment of Reserve Account.** Nothing in this Section 7.6 prohibits the prudent investment of Reserve Account funds, subject to any constraints imposed by the Board, the Bylaws, or the Rules and Regulations.

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

8.6.3. **Current Operating Account.** All costs other than those to be paid from the Reserve Account pursuant to Section 8.6.2. may be paid from the Current Operating Account.

8.7 **Default in Payment of Assessments, Enforcement of Liens.**

8.7.1. **Personal Obligation.** All assessments properly imposed under this Declaration or the Bylaws shall be the joint and several personal obligation of all Owners of the Lot to which such assessment pertains. In a voluntary conveyance (i.e., one other than through foreclosure or a deed in lieu of foreclosure), the grantees shall be jointly and severally liable with the grantors for all Association assessments imposed through the recording date of the instrument affecting the conveyance. A suit for a money judgment may be initiated by the Association to recover such assessments without either waiving or foreclosing the Association's lien.
8.7.2 **Association Lien.** The Association shall have a lien against each Lot for any assessment (of any type provided for by this Declaration of the Bylaws) or installment thereof that is delinquent. Such lien shall accumulate all future assessments or installments, interest, late fees, penalties, fines, attorney fees (whether or not suit or action is instituted), actual administrative costs, and other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. Recording of the Declaration constitutes record notice and perfection of the lien. Said lien may be foreclosed at any time pursuant to the Planned Community Act. The Association shall record a notice of a claim of lien for assessments and other charges in the deed records of Yamhill County, Oregon, before any suit to foreclose may be filed. The lien of the Association shall be superior to all other liens and encumbrances except property taxes and assessments, any first mortgage, deed of trust or land sale contract recorded before the Association’s notice of lien, and any mortgage or deed of trust granted to an institutional lender that is recorded before the Association’s notice of lien.

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

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

8.7.5 **Association’s Right to Rents; Receiver.** In any foreclosure suit by the Association with respect to such lien, the Association shall be entitled to collect reasonable rent from the defaulting Owner for the use of such Owner’s Lot or shall be entitled to the appointment of a receiver.

**ARTICLE 9**

**GENERAL PROVISIONS**

9.1 **Records.** The Board shall preserve and maintain minutes of the meetings of the Association, the Board and any committees. The Board also shall keep detailed and accurate financial records, including individual assessment accounts of Owners, the balance sheet, and income and expense statements. Individual assessment accounts shall designate the name and address of the Owner or Owners of
the Lot, and amount of each assessment as it becomes due, the amounts paid on the account, and the balance due on the assessment. The minutes of the association, the Board and Board committees, and the Association's financial records shall be maintained in the State of Oregon and reasonably available for review and copying by the Owners. A reasonable charge may be imposed by the Association for providing copies.

9.2 Indemnification of Directors, Officers, Employees and Agents. The Association shall indemnify any Director, officer, employees or agent who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative (other than an action by the Association) by reason of the fact that such person is or was a Director, officer, employee or agent of the Association or is or was serving at the request of the Association as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by said person in connection with such suit, action or proceeding if such person acted in good faith and in a manner that such person reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had no reasonable cause to believe that such person's conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or with a plea of nolo contendere or its equivalent, shall not of itself create a presumption that a person did not act in good faith and in a manner that such person reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had reasonable cause to believe that such person's conduct was unlawful. Payment under this clause may be made during the pendency of such claim, action, suit, or proceeding as and when incurred, subject only to the right of the Association to reimbursement of such payment from such person, should it be proven at a later time that such person had no right to such payments. All persons who are ultimately held liable for their actions on behalf of the Association as a Director, officer, employee, or agent shall have a right of contribution over and against all other Directors, officers, employees, or agent and members of the Association who participated with or benefited from the acts that created said liability.

9.3. Enforcement; Attorney Fees. The Association and the Owners and any mortgagee holding an interest on a Lot shall have the right to enforce all of the covenants, conditions, restrictions, reservations, easements, liens and charges now or hereinafter imposed by any of the provisions of this Declaration. Failure by either the Association or by any Owner or mortgagee to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of their right to do so thereafter. The Association shall be entitled to its reasonable attorney fees and costs incurred in any enforcement activity or to collect delinquent assessments, whether or not suit or action is filed.

9.4. Severability. Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall not affect the other provisions hereof and the same shall remain in full force and effect.
ARTICLE 10

MISCELLANEOUS PROVISIONS

10.1 Unilateral Amendment by Declarant. In addition to all other special rights of Declarant provided in this Declaration, Declarant may amend this Declaration in order to comply with the requirements of the Federal Housing Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Mortgage Loan Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon, or any other state in which the Lots are marketed and sold, or any corporation wholly owned, directly or indirectly, by the United States of the State of Oregon, or such other state, the approval of which entity is required in order for it to insure, guarantee, or provide financing in connection with development of the Property and sale of Lots. Before the Turnover Meeting, no such amendment shall require notice to or approval by any Owners.

10.2 Amendment and Repeal.

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 as to all or any portion of the Property by a written instrument signed by Owners owning not less than 75 percent of the Lots within the Property, effective when such instrument is recorded in the records of Yamhill County, Oregon, except that Declarant or Declarant's assigns may amend this Declaration in whole or in part as long as it owns a majority of the Lots within the Property. No amendment of this Declaration regarding maintenance of common areas, whether by the homeowners or the Declarant shall be effective without prior written authority of the City Council of the City of Lafayette.

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 thirty (30) years commencing with the date on which this document is recorded. Thereafter, this Declaration shall continue to run with the land and be and remain in full force and effect at all times with respect to all property within the Property and Owners thereof for successive additional periods of ten (10) years each. The continuation from the initial or any additional period into the next subsequent period shall be automatic and without the necessity of any notice, consent or other action whatsoever; provided, however, that this Declaration may be terminated at the end of the initial or any additional period by a written, recordable instrument signed by owners owning a majority of the Lots within the Property, and which instrument shall only be effective when recorded in the records of Yamhill County, Oregon.

10.4 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, improvement or enjoyment of his 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 Owner himself had committed the failure.
10.5 Enforcement.

Any Owner or the City of Lafayette, Oregon shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants and reservations now or hereafter imposed by the provisions of this Declaration. Failure by any Owner or the City of Lafayette, Oregon 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.

10.6 Construction; Severability; Number; Captions.

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

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

10.7 Notices and Other Documents.

Any notice or other document permitted or required by this Declaration may be delivered either personally or by mail. Delivery by mail shall be deemed made twenty-four (24) hours after having been deposited in the United States mail as certified or registered mail, with postage prepaid, addressed as follows: If to Declarant, Lori Zumwalt, Premier Development, LLC, 1312 NE HWY 99W, McMinnville, OR 97128; if to an Owner at the address given by him at the time of his purchase of a Lot, or at his Lot. The address of a party may be changed by him at any time by notice in writing delivered as provided herein.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date set forth above.

My Commission Expires: 6/23/08

Lori Zumwalt
for Premier Development, LLC

By ____________________________

Lori Zumwalt, Member

State of OREGON

County of Yamhill

This instrument was acknowledged before me on _______________, 2005, by ____________________________

____ as member of ____________________________

Premier Development

Abby Webb
Notary Public, State of Oregon
My Commission Expires: 6/23/08
AMENDMENTS AND REVISIONS TO THE DECLARATION OF
PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR
"LAFAYETTE HIGHLANDS PHASE I"
CITY OF LAFAYETTE, YAMHILL COUNTY, STATE OF OREGON WHICH ARE
DATED THE 16TH OF FEBRUARY 2005 ANDRecorded THE 23RD OF FEBRUARY 2005
AS DOCUMENT NUMBER 200503643

The following Article is amended as follows:  

Article 4.6 Parking

Article 4.6 is hereby amended to read:
Parking of commercial vehicles, boats, trailers, motorcycles, trucks, truck campers or other recreation
vehicles or equipment shall not be allowed on any part of the property nor on public streets adjacent
thereto, except on an occasional basis or screened behind a 6' fence.

The undersigned being the owners of real property described below, of Lafayette Highlands Phase I
agree to amend the above amendment to the Protective Covenants, Conditions and Restrictions for
Lafayette Highlands, Phase I, City of Lafayette, County of Yamhill, State of Oregon.

Premier Development LLC
Owner of lots 1-72

Dated 5/6/05

By:  
Jeffrey A. Zumwalt, Member

Dated 5/6/05

By:  
Lori L. Zumwalt, Member

Grantor Acknowledgment

State of Oregon
County of Yamhill ss.

Acknowledged before me, ABBY WEBB, a Notary Public, this 2nd day of
May, 2005 by Jeffrey A. Zumwalt and Lori L. Zumwalt, husband and wife, of 1312 NE
Hwy 99W, McMinnville, OR 97128, known to me (or proven on the basis of satisfactory evidence) to
be the Grantor, who has acknowledged the said instrument to be the Grantor’s voluntary and lawful act
and deed.

ABBY WEBB
Notary Public for State of Oregon
County of Yamhill

My commission expires: June 22, 2008

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS
INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS.
BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE
TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY
PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY
LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS
30.930.
Bylaws of the Lafayette Highlands Phase I
Homeowner’s Association
BYLAWS
OF
HOMEOWNERS' ASSOCIATION

ARTICLE I
LOCATION

The principal office and place of business of the Association shall initially be at 1312 NE HWY 99W, McMinnville, OR 97128. Other offices for the transaction of business may be located at such places as the Board of Directors may determine from time to time. The Association shall be authorized to carry on the activities of a nonprofit Homeowners' Association and engage in any lawful activity, none of which is for profit, for which corporations may be organized under ORS Chapter 65.

ARTICLE II
NONPROFIT STATUS

Section 1. Nonprofit Status. Homeowners Association shall conform to the Oregon statutes regulating nonprofit corporations and planned communities.

Section 2. Activities. Homeowners Association will be operated as a nonprofit organization. No part of the net earnings of the Association shall inure to the benefit of, or be distributable to its directors, officers, members, other persons, or entities. However the Association shall be authorized and empowered to pay reasonable compensation for services rendered and to make payment and distributions in furtherance of the purposes of the association. No substantial part of the activities of the Association shall include any attempt to influence legislation, and the Association shall not participate in, any political campaign on behalf of any candidate for public office, or any ballot measure.

ARTICLE III
PURPOSES AND POWERS OF ASSOCIATION

Section 1. Purposes and Powers. The Association was formed for the following purposes:

(a) To provide for maintenance, preservation and architectural control of the residence lots and common areas within the tract of real property known as Lafayette Highlands and to promote the health, safety and welfare of the residents within the above-described property and any additions thereto as may be brought within the jurisdiction of the Association.

(b) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions applicable to the property and recorded in the Deed Records of Yamhill County, Oregon, together with any other Declarations filed in the future which would subject any additional properties to the authority of the Association.

(e) Adopt and amend bylaws, rules and regulations for Lafayette Highlands Subdivision.

(f) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments from owners for common expenses in the reserve account established under ORS 94.595.
(g) Hire and terminate managing agents and other employees, agents, and independent contractors.

(h) Institute, defend or intervene in litigation or administrative proceedings in its own name and on behalf of itself or two or more owners on matters affecting the planned community.

(i) Make contracts and incur liabilities.

(j) Regulate and use maintenance, repair, replacement and modification of common property. Maintain detention facility in phase I to include but not limited to mowing, weeding and clearing outflow grates. Maintain pedestrian accessway and the strip of land between Duniway guardrail and the retaining wall north of 14th Street.

(k) Cause additional improvements to be made as part of the common property.

(l) Acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property, except that common property may be conveyed or subjected to a security interest only pursuant to ORS 94.665.

(m) Grant easements, leases, licenses, concessions through or over the common property.

(n) Impose and receive any payments, fees or charges for the use, rental or operation of the common property and services provided to owners.

(o) To impose charges for late payment of assessments and after giving notice and an opportunity to be heard, levy reasonable fines for failure to pay the assessments and/or violations of the Declaration, Bylaws and Rules of the Association.

(p) Impose reasonable charges for the preparation and recordation of amendments to the Declaration, and for preparation of the statement of planned community information required by Oregon law.

(q) Provide for indemnification of its officers and board of directors and maintain liability insurance for directors and officers.

(s) Exercise any other powers necessary and proper for the administration and operation of the Association in the performance of its purposes listed herein.

Section 2. Declarants. The incorporator of the Association is Lori L. Zumwalt. Premier Development, LLC is the owner of a portion of the property and will sell individual lots and eventually deed the remainder of Lafayette Highlands to the Association. Jeffrey A. Zumwalt and Lori L. Zumwalt, through Premier Development, LLC, are known as the Declarants, and they are the developers of.

ARTICLE IV
MEMBERSHIP

Section 1. Number. Every owner of a lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment. Membership and voting shall be as set forth in the Declaration of Covenants, Conditions and Restrictions of Lafayette Highlands Phase I.

ARTICLE V
MEMBERSHIP MEETINGS

Section 1. Annual Meetings. Subsequent to the turnover meeting, the annual meetings of the Association shall be held on the last Saturday in January of each year. At this meeting, the members shall elect the officers and directors of the Association for
the ensuing terms. Ten (10) day's notice setting forth the time, place and purpose of the meeting shall be sent to all members. A majority of the members present at the meeting shall constitute a quorum for voting at said meeting.

Section 2. Special Meetings. Special meetings of the members shall be held upon the call of any officer, a majority of the Board of Directors, or by the president upon the request of at least 20% of the members of the Association at any reasonable time by giving notice to each member by hand delivery or by U.S. mail at least ten (10) days before the date of the meeting, but no more than fifty (50) days. The notice shall state the time, place and agenda items for the meeting, including the general nature of any proposed amendment to the Declaration or Bylaws, or any budget change or proposal to remove a director or officer.

Section 3. Quorum and Voting of Members.
(a) If less than twenty percent (20%) of the voting members are represented at a meeting, a majority of the members represented may adjourn a meeting from time to time without further notice. At such adjourned meeting at which a quorum shall be present or represented any business may be transacted which might have been transacted at the meeting as originally noted. The members present at a duly organized meeting may continue to transact business until an adjournment, notwithstanding withdrawals of enough members to leave less than a quorum.

(b) A member shall have voting rights as set forth in Article V, Sections 5.3 and 5.4 Homeowners Association Declaration of Covenants, Conditions and Restrictions for Lafayette Highlands. In the event the member or members have pledged their votes regarding special matters to a mortgagee under a duly recorded mortgage, and notice thereof has been given to the Secretary or manager of the Association, only the vote of the mortgagee will be recognized in regard to the special matters upon which the votes are so pledged.

(c) A guardian, trustee or personal representative may vote in person or by proxy at any meeting of the Association with respect to any parcel or lot owned or held by him or her in such capacity, whether or not same shall have transferred to his or her name; provided that he or she shall satisfy the Secretary that he or she is the guardian, trustee, or personal representative holding such lot in such capacity.

Section 4. Proxies. At all meetings of the members, a member may vote by proxy executed in writing by the member of his or her duly authorized attorney-in-fact. Such proxy shall be filed with the Secretary of the Association before or at the time of the meeting to limit or restrict the general authority vested in said Board for the management and control of the Association.

ARTICLE VI
BOARD OF DIRECTORS

Section 1. Number. The business and affairs of the Association shall be managed and controlled by a Board of three directors. Additional directors may be added only by the vote of the existing directors at any annual meeting of the directors, or special meeting of members called for that purpose.
Section 2. General Authority. The Board shall have the power and authority to make rules and regulations not inconsistent with the laws of the State of Oregon and the Bylaws and Declaration of this Association, for the guidance of the officers and employees of the Association and for the transaction of the Association's activities and the health and welfare of the Association and its property; to institute, defend or intervene in litigation or administrative proceedings in the name of the Association on behalf of itself or two or more members on matters affecting the Association; and generally to exercise all powers necessary for the transaction of the Association's activities. It is expressly understood that nothing herein contained shall be deemed to limit or restrict the general authority vested in said Board for the management and control of the Association.

Section 3. Election. The directors shall be elected at the turnover meeting, and at each annual meeting thereafter by a majority of all the existing members of the Association. The terms of office of such directors shall begin immediately after election and qualification, and they shall serve for one (1) year and until their successors are elected and qualified.

Section 4. Meetings.
(a) A regular meeting of the Board of directors shall be held immediately after and at the same place as the annual meeting of members. For any other meetings, other than emergency meetings, notice of the meeting shall be posted at a conspicuous place on the property of Lafayette Highlands Phase I at least five (5) days prior to the meeting, or notice shall be provided by a method otherwise reasonably calculated to inform members of meetings.
(b) Emergency meetings may be held without notice as long as the reason for the emergency is noted in the minutes.
(c) All meetings of the Board of Directors shall be open to all members, except emergency meetings held by telephone.
(d) Attendance of a Director at any meeting shall constitute a waiver of notice of such meeting except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called.

Section 5. Special Meetings. Special meetings of the Board of Directors shall be held upon the call of any officer or director of the Association at any reasonable time by giving to each director written notice at least five (5) days before the date of the meeting.

Section 6. Vacancies. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the Board of Directors. A director elected to fill a vacancy shall be elected for the unexpired term of the predecessor in office.

Section 7. Resignations. The resignation of any Director shall be in writing and addressed to the Board of Directors.

Section 8. Removal. Members may remove any member of the Board of Directors, other than members appointed by the Declarant by a majority vote of all members entitled to vote at any meeting of the members at which a quorum is present.
No removal is effective unless the item is on the agenda and stated in the notice for the meeting.

Section 9. Waiver of Meetings. Any action which may be taken at a meeting of the directors, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the directors entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as an unanimous vote of such directors and may be stated as such.

Section 10. Quorum. A majority of the members of the Board of Directors shall constitute a quorum necessary for the transaction of any and all business of the Association.

Section 11. Order. At all meetings of the Board of Directors, the president, or in his absence, the vice-president of the Association shall preside.

Section 12. Assent. A director of the Association who is present at a meeting of its Board of Directors at which action on any Association matter is taken shall be presumed to have assented to the action unless the dissent shall be entered in the minutes of the meetings or unless he or she shall file a written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

Section 13. Loans. No loans shall be made by the Association to any officer or director or member.

Section 14. Prohibited Actions. The Board of Directors may not act on behalf of the Association to amend the Declaration, terminate the Association, elect members of the Board of Directors or determine the qualifications, powers, duties or terms of office of members of the Board of Directors, other than to fill vacancies on the Board for an unexpired portion of a term.

Section 15. Annual Budget. The Board of Directors shall adopt a budget for the Association, each year in accordance with the procedures set forth in the Declaration.

Section 16. Manager. The Board of Directors may retain the services of an individual or firm to act as Manager or Managing Agent and may employ, or instruct such Manager or Managing Agent to employ such other persons as may be necessary from time to time for the maintenance, upkeep and repair of the common elements.

Section 17. Administrative Rules and Regulations. The administrative rules and regulations adopted by the Declarant shall be binding as though they are a part hereof. The Board of Directors shall have the power to amend such administrative rules and regulations as may be necessary or desirable to govern the details of the operation and use of the common area and facilities, including such rules as are desirable to prevent unreasonable interference with the use of their respective parcels or lots and of the common area by the members. All amendments to the administrative rules and
regulations shall be adopted by the Board at a regular meeting and shall be published, mailed or posted in a manner to adequately notify the members.

Section 18. Attendance by Members. All meetings of the Board of Directors of the Association shall be open to members.

Section 19. Duties. In performance of their duties, members of the Board of Directors shall exercise the care required of fiduciaries.

(a) At least once every two years the Board of Directors shall review the insurance coverage of the Association.
(b) Annually, the Board of Directors shall cause the necessary income tax returns for the Association to be filed.
(c) The Board shall maintain a current mailing address for the Association.

ARTICLE VII
OFFICERS

Section 1. Number. The officers of the Association shall be a President, a Secretary, and a Treasurer, who shall be elected for one (1) year by the Board of Directors at its annual meeting, and the said officers shall hold office for one (1) year and until their successors are duly elected and qualified. One person may hold two or more offices. Vacancies in any office may be filled by the Directors at any regular or special meeting of the Board.

Section 2. President. The President shall be the executive officer of the Association, subject to the control of the Board of Directors. She or he shall preside at all meetings of the Directors and shall have general supervision of the affairs of the Association, and shall perform all other such duties that are incident to the office or are properly required of president by the Board of Directors. The President shall sign all Association contracts, bonds, mortgages, and other documents.

Section 3. Secretary. The Secretary shall issue notices for all meetings according to these Bylaws, and shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its Board of Directors; and shall keep all records at its registered office or principal place of business, and shall make such reports and perform such other duties that are incident to the office and are properly required of the Secretary by the Board of Directors under these Bylaws.

Section 4. Treasurer. The Treasurer shall be custodian of all funds of the Association and shall keep the same in a bank or banks to be designated by the Board of Directors. In the event of the absence or inability to act as the Secretary, he or she shall perform the duties of that office. The Treasurer shall also perform such other duties as may, from time to time, be authorized and directed by the Board of Directors.

Section 5. Removal. Any officer elected or agent designated by the Board of Directors may be removed by the Board of Directors whenever, in its judgement, the best interests of the Association will be served thereby; but such removal shall be without prejudice to the contract rights, if any, of the persons so removed.
Section 6. **Vacancies.** Any vacancies in an office of the Association shall be filled by the Board of Directors at a specially called meeting. A majority of the Board may elect an officer to fill a vacant office.

**ARTICLE VIII**

**RECORDS AND AUDIT**

(a) The Association shall keep financial records sufficient for proper recording purposes. The Board of Directors may appoint a certified public accountant or certified public accounting firm as auditor, who shall not be an officer of the Association or own any interest in any parcel or lot, to audit the books and financial records of the Association. Within ninety (90) days after the end of the fiscal year, the Board of Directors shall distribute to each member and upon written request, each mortgagee, a copy of the annual financial statement consisting of a balance sheet and income and expenses statement for the preceding fiscal year.

(b) The Association shall make all financial records and audit, all organizational documents and record books, and all contracts and any information regarding the Association business reasonably available for examination by a member and any mortgagee of a lot. Upon the written request of a member or mortgagee of a lot, the Association shall make available during business hours, all such records for duplication.

(c) The Association, within fourteen (14) days after receiving a written request from a member, shall furnish a statement of planned community information, prepared by the Association.

(d) The Association may charge a reasonable fee for furnishing copies of any documents, information or records described in this section.

(e) The Association shall keep minutes of the proceedings of its members, Board of Directors and committees having any of the authority of the Board of Directors.

**ARTICLE IX**

**CONTRACTIONS**

The Board of Directors may authorize any officer or director, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association; and such authority may be general or confined to specific instances. The Board shall have the right to make additions, alterations or improvements to the common element and to pay for the same out of the reserve fund established by the Board, or to specifically assess the members therefor as a common expense.

**ARTICLE X**

**LOANS**

No loan shall be contracted on behalf of the Association and no evidence of indebtedness shall be issued in its name unless authorized by a restitutiton of the Board of Directors and approved by the affirmative vote of the owners of two-thirds of each class of members of the voting rights. Such authority maybe general or confined to specific instances.

**ARTICLE XI**

**CHECKS, DRAFTS AND VOUCHERS**
All checks, drafts, vouchers or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by the resolution of the Board of Directors.

ARTICLE XII
COMMON EXPENSES

Each member shall be liable for and pay an equal share of the common expenses with all other members of the Association. Common expenses shall include the cost of all utilities except for the cost of utilities which are billed by the provider of the utility services directly to the individual owners; assessments; insurance, including fire and other casualty and liability insurance; cost of repair, rebuilding or replacement of the common areas and facilities; improvements, including utilities; wages, accounting and legal fees; management fees and other necessary expenses of upkeep, maintenance, management and operation actually incurred on or for the general common areas and facilities. Common expenses shall also include such amounts as the Board of Directors may deem proper to make up any deficit in the common expenses of any prior year. “Facilities” include, but are not limited to, the storm water detention facility, any structures in common areas, the sidewalks fronting the detention basin facility, the pedestrian path, the lights on the pedestrian path and fences along the pedestrian path.

ARTICLE XIII
COLLECTION OF MEMBERS’ SHARES OF COMMON EXPENSES

Section 1. Statements. Members’ shares of common expenses shall be collected monthly, in advance, by the Treasurer of the Association.

Section 2. Interest. Interest on any assessment which is not paid within thirty (30) days after the due date shall accrue at twelve percent (12%) per annum or such other rate as the Board may approve. The imposition of interest shall be without prejudice to any other remedy available to the Association.

Section 3. Liens.
(a) The Association has a lien on a lot for any assessment levied against the lot or any fines imposed under the Declaration or Bylaws against the owner of the lot from the date on which the assessment or fine is due. The provisions regarding the attachment, notice, recordation and duration of liens established on real property under Oregon Revised States 87.392 to 87.392 and provisions regarding the foreclosure of liens under ORS Chapter 88 apply to a lien created under this section. Unless the Declaration otherwise provides, the Association may enforce as assessments under this section any fees, charges, late charges, or interest charged under ORS 94.630(1)(j)(k) and (L). If an 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. Such lien is prior to a homestead exception and all other liens and encumbrances on a lot, except:
   (i) A first mortgage of trust deed of record;
   (ii) A lien for real estate taxes and other governmental assessments or charges; and
(iii) Liens and encumbrances recorded before the recordation of the Declaration.

(b) A lien created under subsection (a) of this section is extinguished unless proceedings to enforce the lien are instituted within six (6) years after the full amount of the assessments becomes due.

(c) This section does not prohibit the Association from pursuing an action to recover sums for which subsection (a) of this section creates a lien.

(d) The Association shall furnish to a member upon the member’s written request, a recordable statement of the amount of unpaid assessments against the lot. The Association shall furnish the statement within ten (10) business days after receiving the request. The statement is binding on the Association, the Board of Directors, and every member as to the amounts of the unpaid assessments.

(e) An action to recover a money judgment for unpaid common expenses may be maintained without foreclosing or waiving the lien securing the claim for common expenses. However, recovery on the action operates to satisfy the lien, or the portion thereof, for which recovery is made.

Section 4. Special Assessments. The Association shall establish a reserve account for replacement or repair of all items of common property that are insurables by a common carrier of all purpose risk insurance. The reserve account shall be funded by assessments against lots for maintenance of items for which 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 cost of those items.

ARTICLE XIV
INSURANCE

Section 1. The Board of Directors shall obtain and maintain at all times and shall pay for out of common expense funds the following insurance covering the common elements:

(a) Property insurance including, but not limited to, fire, extended coverage, vandalism and malicious mischief to the full replacement value; and

(b) Insurance covering the legal liability of the Association, the members individually and the manager, including, but not limited to, the Board of Directors, the public and the members and their invitees, incident to ownership, supervision, control or use of the common elements; and

(c) Workers compensation insurance to the extent necessary to comply with any applicable law.

Section 2. Policies. Insurance obtained by the Association shall be governed by the following provisions:

(a) All policies shall be written with the State of Oregon or a company licensed to do business in the State of Oregon, and holding a commissioner’s rating of “A,” and a size rate of “AAA” or better, by the Best’s Insurance Reports current at the time the insurance is written or, prior to the initial meeting of the Association, one acceptable to the Declarants.

(b) All losses under policies hereafter in force regarding the property shall be settled exclusively with the Board of Directors or its authorized representative. Proceeds of the policies shall be paid to the Association as trustee for the members.
(c) The insurance obtained by the Board for the Association may not be brought into contribution with insurance bought by members or their mortgagees.

(d) The insurance premiums shall be a common expense of the Association and may contain a reasonable deductible.

Section 3. Insurance for Individual Lots. All members, as owners of developed property, shall obtain and maintain fire and hazard insurance with extended coverage for vandalism and malicious mischief, to the full replacement value of their property. The insurance obtained must contain a waiver of subrogation to the insurance obtained by the Association for Association property.

ARTICLE XV
INDEMNIFICATION OF DIRECTORS AND OFFICERS

Each director and officer of the Association now or hereafter in office, and his or her heirs, executors and administrators, shall be indemnified by the Association against all costs, expenses, amounts or liability therefor, including counsel fees, which are reasonably incurred by or imposed upon the Director in connection with or resulting from any action, suit, proceeding or claim to which he or she may be made a party, or in which he or she may be or become involved by reason of his or her acts or alleged acts of omission or commission as such director or officer, or subject to the provisions hereof, or any settlement thereof, whether or not he or she continues to be such director or officer at the time of incurring such costs, expenses or amounts. Such indemnification shall not apply, however, with respect to any matter as to which such director or officer shall be finally adjudged in such action, suit or proceeding to have been individually guilty or willful misfeasance or malfeasance in the performance of the duties of director or officer. Further, the indemnification herein provided shall, with respect to any settlement of any such suit, action, proceeding or claim, including reimbursement of any amounts paid and expenses reasonably incurred in settling any such suit, action, proceeding or claim when, in the judgment of the Board of Directors, a settlement or reimbursement appears to be in the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of any and all other rights as to which any such director or officer may be entitled under any agreement, vote of members or otherwise.

ARTICLE XVI
COMPLIANCE

Section 1. Subordination. These Bylaws are subordinate and subject to the provisions of the Declaration and all amendments thereto and the Articles of Incorporation.

Section 2. Interpretation. In case any provision of these Bylaws shall be held invalid, such invalidity shall not render invalid any other provision hereof which can be given effect. Nothing in these Bylaws shall be deemed or construed to authorize the Association or Board of Directors to conduct or engage in any act of business for profit on behalf of any or all of the members.
ARTICLE XVII
AMENDMENTS

Section 1. Prior to the Turnover Meeting. Prior to the Turnover Meeting, these Bylaws may be amended by a majority vote of the Board of Directors.

Section 2. After the Turnover Meeting. Amendments to these Bylaws may be proposed by resolution of the Board of Directors or by a member. Any proposed amendment shall be delivered in writing, either personally or by mail, to each unit owner entitled to vote not less than ten (10) nor more than fifty (50) days before the date of the meeting at which the proposed amendment will be voted upon or attached to any request for amendment. If mailed, such notice or request shall be deemed to be delivered when deposited in the United States mail addressed to the member at the last known address on the records of the Association, with postage thereon prepaid. No amendment of the Bylaws proposed in either of such ways shall be effective unless approved by a majority of the members either in writing or at a duly constituted meeting and until a copy of the Bylaws, as amended, or the amendment thereto has been certified by the President and Secretary of the Association. However, if the Declaration requires a different vote to amend any provision of the Declaration which would be in conflict with these Bylaws, the provisions of the Declaration shall govern.

ARTICLE XVIII
RESTRICTIONS AND REQUIREMENTS RESPECTING USE OF THE PROPERTY BY MEMBERS

The parcels or lots and common elements shall be used and occupied in accordance with the restrictions set forth in the Declaration, and such additional restrictions and requirements as shall be contained in these Bylaws, or Rules and Regulations adopted by the Board of Directors.

ADOPTION OF BYLAWS

Jeffery A. Zumwalt and Lori L. Zumwalt, the undersigned, did on this 22 day of February 2004, adopt these initial Bylaws of Lafayette Highlands Phase I Homeowners Association, an Oregon nonprofit corporation, as the directors of the original Board of Directors mentioned in the Articles of Incorporation of this Association and constituting the whole of said Board of Directors, at the time of the adoption of these Bylaws.

Jeffrey A. Zumwalt, Director

Lori L. Zumwalt, Director
INTERIOR MONUMENTATION AFFIDAVIT

I, Toby G. Bolden, Oregon PLS No. 60377, being duly sworn, did say that I am the surveyor who surveyed the plat of LAFAYETTE HIGHLANDS, recorded in Volume 12, Page 120, Yamhill County Plat Records. In accordance with O.R.S. 92.070(3), the subdivision plat has been correctly surveyed and marked with proper monuments at the interior corners of the subdivision as noted on the original subdivision plat. The monuments were set on December 15, 2004.

All monuments were set in place as shown on the plat with the following exceptions:

1. The northwest corner of Lot 17, also being the northeast corner of Lot 18, is marked with a witness monument, a 5/8" x 30" iron rod with yellow plastic cap marked "WESTLAKE CONSULTANTS," set South 04°21'04" East, 2.00 feet, due to a utility obstruction.

2. The northeast corner of Lot 21, also being the northeast corner of Tract "B," is marked with a brass screw with 3/4" brass washed marked "LS 60377" set in lead plug in concrete sidewalk.

3. The southeast corner of Lot 28, also being the southwest corner of Lot 29, is marked with a brass screw with 3/4" brass washed marker "LS 60377" set in lead plug in concrete sewer pipe approximately 0.5 feet below grade.

4. The northeast corner of Lot 28, also being the northwest corner of Lot 29, is marked with a brass screw with 3/4" brass washed marker "LS 60377" set in lead plug in concrete sewer pipe approximately 0.5 feet below grade.

5. The northeast corner of Lot 28, also being the northwest corner of Lot 37, is marked with a brass screw with 3/4" brass washed marker "LS 60377" set in lead plug in concrete sewer pipe approximately 0.5 feet below grade.

State of Oregon    
County of Washington

Signed and sworn before me on this 29th day of March, 2005, by Toby G. Bolden

Notary Public for the State of Oregon

COUNTY SURVEYOR'S APPROVAL

Approved this 29th day of March, 2005, in accordance with O.R.S. 92.070(3).

Yamhill County Surveyor