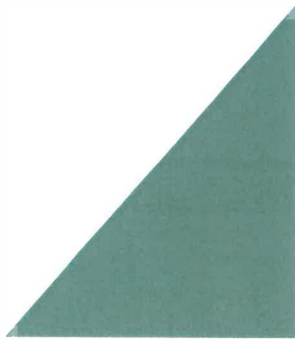


ATTACHMENT 8

Template CCRs (Oak Street Commons)

Myrtle Glenn Subdivision
Preliminary PUD Application to City of Florence
December 2, 2022



Lane County Clerk
Lane County Deeds and Records 2019-058456



\$292.00

12/20/2019 09:30:19 AM

RPR-DECL Cnt=1 Pgs=38 Stn=1 CASHIER 05
\$190.00 \$20.00 \$10.00 \$11.00 \$61.00

After Recording Return To:
David and Margaret Bielenberg
16425 Herigstad Rd. NE
Silverton, OR 97381



Tax Statements:
No Change



**DECLARATION OF PLANNED COMMUNITY
FOR
OAK STREET COMMONS**

This Declaration of Planned Community ("Declaration") is made this 21st day of October, 2019, by David J. Bielenberg, Trustee, or his successors in trust under the David J. Bielenberg Revocable Living Trust dated August 20, 2014 and any amendments thereto as to 50% and Margaret A. Bielenberg, Trustee, or her successors in trust under the Margaret A. Bielenberg Revocable Living Trust dated August 20, 2014, and any amendments thereto as to 50% ("Declarants") and Oak Street Commons Association, an Oregon non-profit corporation (the "Association").

RECITALS

- A. Declarants are together the fee simple owners of the real property described in Section 2 of this Declaration (the "Real Property"). The Declarants desire to establish a planned community with the Real Property and submit the Real Property to the provisions of ORS 94.550-84.783 (the "Oregon Planned Community Act"), to be known as Oak Street Commons.
- B. The Oak Street Commons planned community consists of Common Area and sixteen (16) Lots, which are to be improved with single family residence townhomes.
- C. The Declarants have incorporated Oak Street Commons Association (the "Association") under the nonprofit corporation laws of the State of Oregon.
- D. The Declarants, and the Association on their own behalf, respectively, and on behalf of their respective successors, grantees, and assigns, as well as to any and all persons having, acquiring, or seeking to have any or acquire any interest of any nature whatsoever in and to any part of the Real Property, submit their ownership and/or possession of the Real Property, as may be shown of record, as follows:

DECLARATIONS

1. **DEFINITIONS.** Except as otherwise provided or modified by this Section 1, the terms contained in this Declaration have the meaning set forth in the Oregon Planned Community Act. As used in this Declaration and in the bylaws of the Association (the "Bylaws"), unless otherwise defined herein or therein, the following capitalized terms have the following meanings:

1.1 **ASSOCIATION** means Oak Street Commons Association, formed pursuant to ORS 94.625 as a nonprofit corporation under ORS Chapter 65.

Exhibit I

1.2 **COMMON AREA(S) OR COMMON ELEMENT(S)** means all real property, appurtenances thereto, and interest therein, now or hereafter owned by Declarant or the Town Home Owners and designated for the common use and enjoyment of the Town Home Owners, consisting of the "common area" and "common open space" as designated and shown on the Plat as Alley Right of Way, Recreational Space, Common Parking, and Drainage Swails (together with any improvements thereon or appurtenances thereto), roofs, siding and exterior components of Town Homes, expressly excluding Lots 1 through 16, as designated and shown on the Plat (and any improvements on or appurtenances to Lots 1 through 16 other than roofs, siding, exterior components and common irrigation system).

1.3 **DECLARANT** means David J. Bielenberg, Trustee, or his successors in trust under the David J. Bielenberg Revocable Living Trust dated August 20, 2014 and any amendments thereto as to 50% and Margaret A. Bielenberg, Trustee, or her successors in trust under the Margaret A. Bielenberg Revocable Living Trust dated August 20, 2014, and any amendments thereto as to 50% which the Declarants collectively join in this Declaration by submitting to this Declaration.

1.4 **LOT** means any one of Lots 1 through 16, as designated and shown on the plat.

1.5 **MEMBER** means the Town Home Owners, who are entitled to membership in the Association as provided in Section 5 below.

1.6 **MORTGAGE** means a recorded first mortgage, first Trust Deed, or first contract of sale that creates a first lien against a Lot, and "Mortgage Holder" means the holder, beneficiary, or vendor of such a mortgage, Trust Deed, or contract of sale, but only when the holder, beneficiary, or vendor notified the Association in writing of the existence of the mortgage, gives the Association a current name and mailing address, and requests that it be accorded the "Mortgage Holder" rights specified in Section 10 below.

1.7 **ORS** means Oregon Revised Statutes. References to specific ORS provisions include any amendments or successor provisions thereto.

1.8 **OWNER** refers to the record owner, whether one or more persons or entities, of the fee simple title to a Town Home Lot (sometimes also referred to as the Town Home Owner or collectively as the Town Home Owners); in the plural, Owners means all of the Owners of the Town Home Lots. The Owner of a Lot subject to a recorded contract of sale is the contract buyer(s) and not the seller(s) of the Lot. Notwithstanding any applicable theory of a lien, mortgage or Trust Deed, Owner shall not include, mean or refer to a lienholder, mortgagee, vendor under a land sale contract, or beneficiary or trustee under a Trust Deed, unless and until such lienholder, mortgagee, vendor, beneficiary or trustee has acquired title pursuant to foreclosure of any proceeding or in lieu of said foreclosure proceeding.

1.9 **PLANNED COMMUNITY** means the Real Property, all buildings and structures constructed on it and all improvements made to it, and all easements, rights and appurtenances belonging to it, all of which are here submitted to the provisions of the Oregon Planned Community Act.

1.10 **PLAT** means the final recorded plat of the Property creating the Lots and Common Areas, and any supplement thereto.

1.11 **RESERVED.**

1.12 **TOWN HOME LOT** means any one of Lots 1 through 16 as designated and shown on the Plat. Lots 1 through 16 are sometimes referred to herein as the Town Home Lots, Declarant has improved or intends to improve each of the Town Home Lots with Town Homes, as provided below in Section 3.2.

2 **REAL PROPERTY DESCRIPTION.** The Real Property that is hereby submitted to the Oregon Planned Community Act is located in Florence, Lane County, Oregon, and is more particularly described on Exhibit A. Each Owner holds fee simple title to a Lot and the improvements thereon. The Declarant will deed the Common Elements to the Association at or before the turnover Meeting pursuant to Section 6.2, below. Before such conveyances, Declarant holds fee simple title to all Lots and Common Elements.

3 **NAME AND LOT DESCRIPTION/DEVELOPMENT PLAN.** The name of the Planned Community created by this Declaration and the Plat is Oak Street Commons Association; it is a Class I Planned Community.

3.1 **RESERVED.**

3.2 **TOWN HOME LOTS: PARTY WALLS.**

a. As shown on the Plat, Lots 1 through 4 adjoin each other, Lots 5 through 8 adjoin each other, 9 through 12 adjoin each other, and Lots 13 through 16 adjoin each other. Each of these sets of adjoining Lots are or may be improved with residential town home structures (the "Town Homes"). Each wall that is built as a part of the original construction of the town Homes structure and that is placed at or on the boundary line between the adjoining Town Home Lots is a "party wall". To the extent not inconsistent with other provisions of this Declaration, or with the Bylaws of the Association, the general rules of law regarding party walls (including, without limitation, regarding liability for property damage due to negligence or willful acts or omissions) apply to the party walls.

1. Mutual reciprocal easements are hereby established, declared, and granted in favor of adjoining Town Home Owners and the association, with respect to any for all party walls between improvements constructed or to be constructed on the Town Home Lots, which reciprocal easements are for mutual support and for upkeep, repair, maintenance, replacement and restoration, as may be required herein of the Town Home Owners and the Association. Every deed, whether or not expressly so stating, shall be deemed to convey and to be subject to the reciprocal party wall easements herein established, declared and granted.

2. If the Association fails to undertake necessary or appropriate repairs, maintenance replacement, or restoration of a party wall, then, in addition to any right or remedy against the Association or other Town Home Owners that the Town Home Owner served by the party wall may have, the cost of reasonable and necessary repair, maintenance, replacement or

Page 3 – Declaration of Planned Community for Oak Street Commons

Description: Lane, OR Document - Year.DocID 2019.58456 Page: 3 of 38
Order: q Comment:

restoration of that party wall will be borne equally by the Owners of the Town Home Lots that are served by and that make use of the party wall. If one of the Town Home Owners refuses to pay the proportionate share of the cost of the repair, maintenance, replacement or restoration, then the other Town Home Owner may cause the party wall to be repaired, maintained, replaced or restored and shall be entitled to assess the share of the cost attributable to the adjoining Owner against the non-paying adjoining Owner of the Town Home Lot, and the same shall become and remain a lien against the Town Home Lot of the non-paying Owner until fully paid. The lien may be foreclosed in the manner provided by law for the foreclosure of a mortgage or deed of trust on real property.

3. If a party wall is destroyed or damaged by fire or other casualty not covered or not fully covered by insurance to be maintained by the Association, any Town Home Owner served by the party wall may restore it (if it is not covered by insurance) or complete the restoration (if it is only partially covered by insurance), and the other Town Home Owner shall contribute to the cost of the restoration thereof an equal proportionate share, without prejudice, however, to the right of the Owner to call for a larger contribution from the other Town Home Owner under any rule of law regarding liability for negligent or willful acts or omissions. If one Town Home Owner causes the party wall to be restored, or completes the restoration, and the other town Home Owner served by the party wall does not contribute, the Town Home Owner's full allocable share of the costs incurred by the town Home Owner who caused the wall to be restored, the costs attributable to the non-paying adjoining Owner shall be assessed against that non-paying adjoining Town Home Owner's Town Home Lot, and the same shall become and remain a lien against said Lot until fully paid. Said lien may be foreclosed in the manner provided by law for the foreclosure on a mortgage on a deed of trust or real property.

b. In interpreting deeds, mortgages, deeds of trust, and other instruments for any purpose whatsoever or in connection with any matter, the existing physical location of the party wall located between two adjoining Town Home Lots will be conclusively presumed to be the boundary between the two adjoining Town Home Lots, regardless of settling, rising, or lateral movement of the party wall or the building of which it is a part, and regardless of variances between boundaries shown on the Plat. If a party wall between Town Home Lots shall encroach upon a Town Home Lot by reason of original construction or non-purposeful or non-negligent act of the adjoining Town Home Lot Owner, then an easement appurtenant to such encroaching Town Home Lot, to the extent of such encroachment, shall exist so long as such encroachment shall exist. If any improvement on a Town Home Lot shall encroach upon any other Town Home Lot by reason of the original construction of the Town Homes, or the non-purposeful or non-negligent act of the Association, then an easement appurtenant to such party wall to the extent of such encroachment shall exist so long as such encroachment shall exist.

c. In no event will any Town Home Owner be entitled to make any structural changes to a party wall without the consent of the other Town Home Owner served by the party wall.

3.3 **IMPROVEMENTS.** Nothing in this Declaration shall limit Declarant's rights to add such improvements to the Planned Community as Declarant may, in Declarant's discretion, decide to add prior to the Turnover Meeting described below in Section 6.2.

3.4 DEVELOPMENT PLAN

a. **PHASED DEVELOPMENT.** Declarant will develop and plat Oak Street Commons in one phase. Concurrently with this recording of this Declaration, Declarant will record a Plat of the development, identifying the lots and Common Elements.

b. **TERMINATION DATE.** The date after which any right reserved by the Declarant hereunder pursuant to ORS 94.600 will terminate is seven years from the date this Declaration is recorded.

c. **MAXIMUM NUMBER OF LOTS.** The maximum number of total Lots that may be created is sixteen.

4. COMMON ELEMENTS.

4.1 **DEFINITION.** The Common Elements of Oak Street Commons Association consist of the entire Real Property, except the Lots. The Common Elements include, but are not limited to, the following:

a. The land exterior and adjacent to each Lot, designated and shown as "common area" and "common open space" and "Recreational Area" on the Plat.

b. Any other elements that serve or benefit or are necessary or convenient for the existence, maintenance, operation or safety of the Association and its Members that are not a part of any Lot.

c. Roofs, siding, exterior components of Town Homes, common lighting and irrigation systems.

4.2 **INCOME FROM COMMON ELEMENTS.** Any income derived from the Common Elements will be income of the Association. The Board of Directors of the Association, in its discretion, may use such income to help meet the expense of maintaining the general Common Elements or for such other purpose as may benefit the Association and the Town Home Owners in a substantially equal manner.

4.3 **RIGHT TO USE COMMON ELEMENTS.** The Common Elements are solely for the use and enjoyment of the Association Members (that is, the Town Home Lot Owners).

5. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION.

5.1 **MEMBERSHIP.** Each Town Home Owner is a Member of the Association. Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale, conveyance, judicial sale, or other voluntary or involuntary transfer of the Town Home Lot to which it is appurtenant, and then only the purchaser in the case of a sale, or to the transferee in the case of any other transfer. Any attempt to make a prohibited transfer is void.

5.2 **VOTING RIGHTS.** The Association shall have two classes of voting membership:

a. **CLASS A.** Class A membership shall be all Town Home Owners with the exception of the Declarant. Class A Members shall be entitled to one vote for each Town Home Lot owned; that is, the Owner (whether one or more persons or entities, as defined above in Section 1.8) of each Town Home Lot shall be entitled, as a Member of the Association, to one vote per Town Home Lot. Upon purchase, the Owner of a Town Home Lot shall automatically become a

Member of the Association and shall be entitled to vote as provided in this Declaration and the Bylaws. When more than one person or entity is an Owner of any Town Home Lot, all such persons or entities shall be Members, but there shall only be one vote for such Town Home Lot, which shall be exercised as those Members who own the Town Home Lot, among themselves, determine.; in no event shall more than one vote be cast with respect to any one Town Home Lot.

b. **CLASS B.** The Class B Member shall be the Declarant. The Class B Member shall be entitled to three votes for each Town Home Lot that it owns. The Class B Member shall be entitled to vote on all issues which come before the Members of the Association. Class B membership shall cease and become converted to Class A membership on the earlier of: (a) the date on which 70% of the Town Home Lots have been conveyed to persons other than Declarant or (b) the date on which three years have elapsed since the date of the first conveyance of a Town Home Lot to a person other than Declarant.

5.3 **ASSIGNMENT.** Voting rights held by any Town Home Owner in his or her capacity as a Member of the Association may not be assigned to another person without the permission of the Association.

5.4 **VOTING.** "Majority" or "Majority of Owners" means the Owners of more than 50% of the voting rights allocated to the Town Home Lots by this Declaration (that is, more than 50% of the Members). The call and conduct of meetings of the Association and the exercise of voting rights in the Association is controlled by the Association's Bylaws.

6. OPERATION OF THE ASSOCIATION.

6.1 **DECLARANT CONTROL.** Until the date of turnover, as provided in this Section 6, the Declarant shall control the Association. During the period of Declarant control, the Board of Directors of the association shall consist of at least one and not more than three individuals, each of whom shall be named by the Declarant and who shall serve until the date of turnover, or until removed by the Declarant, with or without cause. During the period of Declarant control, any act which the Association is permitted to perform may be performed by the board of directors without any vote of the membership.

6.2 **TURNOVER.** Not later than 90 days after the earlier of the following dates: (a) the date on which 12 Town Home Lots have been conveyed to persons other than Declarant or (b) not later than 90 days after expiration of any period of Declarant control reserved under ORS 94.600, Declarant shall hold a meeting (the "Turnover Meeting") for the purpose of turning over control of the Association to the Members. Declarant shall also deliver to the Association all of the documents so required by OS 94.616. The Association shall keep as permanent records of the association all of the documents received from the Declarant at the Turnover Meeting.

6.3 **ELECTION OF DIRECTORS.** The Members shall elect a board of directors at the Turnover Meeting in accordance with the Bylaws of the Association. If the Member fail to elect a board of directors, the Declarant shall call such subsequent meeting or meetings as are necessary to enable the Members to elect a board of directors. The date of turnover shall be the

date of the Turnover Meeting or such subsequent meeting when the Members are able to elect a board of directors.

6.4 CONTROL AFTER TURNOVER. After the date of the turnover, control of the Association shall be vested in the Members, operating through the elected board of directors.

6.5 DECLARANT'S RIGHTS. After the date of the turnover, the Declarant shall have Class A membership as describe din Section 5 of this Declaration, with respect to any Lots owned by Declarant at that date.

6.6 POWERS AND DUTIES OF THE ASSOCIATION. The Association and the Board of Directors have the powers and duties granted to them by this Declaration, any applicable supplemental declaration, the Articles of Incorporation of the Association, the Bylaws of the Association, and ORS 94.625, and all other provisions of the Oregon Planned Community Act.

7. PERMITTED USES AND RESTRICTIONS. Each Lot shall be for the exclusive use and benefit of the Owner and residents thereof, subject, however, to all of the following limitations and restrictions:

7.1 USE AND OCCUPANCY. The Lots shall be used exclusively for residential purposes. No Lot may be used for commercial purposes or in violation of any zoning ordinance, City ordinance, County ordinance or State law, except that Lots may be used as a combined residence and a home, executive or professional office by the Owner thereof, so long as such use is in compliance with applicable law and does not interest with the quiet enjoyment of other Owners. Renting or leasing a Lot shall not be considered a commercial purpose, even if the rental term is as short as a day. However, a Lot may not be rented or leased to a Person, or used otherwise by any Person, without the presence of the Owner, for fewer than 48 consecutive hours. Additional restrictions and regulations are set forth in the Bylaws and any rules or regulations adopted pursuant to the provisions of the Bylaws. Every Town Home Owner has an easement to enjoy and use the Common Elements in the manner for which they were intended or as may be otherwise established by the Association. No person may use the common Elements or the Lots, or any part thereof in any manner contrary to or inconsistent with this Declaration, the Bylaws and the rules promulgated by the Association. The common Elements may be used for furnishing services and facilities to the Town Home Owners.

7.2 EQUITABLE SERVITUDES. The covenants and restrictions set forth in this Declaration shall be enforceable as equitable servitudes, shall run with the land, and shall inure to the benefit of and bind all Owners. These servitudes may be enforced only by the Association.

7.3 WAIVING OF RESTRICTION. The Association shall have the right, in the exercise of its reasonable discretion (that is, in a good faith exercise of its discretion), to waive any of the foregoing conditions or restrictions.

7.4 RULES AND REGULATIONS PROMULGATED BY THE ASSOCIATION. The Board of Directors of the Association has the authority from time to time to promulgate such rules and regulations as the Board may deem to be in the best interest of the Association. No person may use the Common Elements, the Town Home Lots, or any part thereof in any manner contrary

Page 7 -- Declaration of Planned Community for Oak Street Commons

to or inconsistent with the rules and regulations. Without limiting the generality of the foregoing, the Board of Directors has the right to, but not the obligation, to promulgate rules and regulations limited the use of the common Elements to the Members of the Association and their respective tenants. Such use may be conditioned on, among other things, (a) the payment by the town Home Owner of assessments for common expenses and such other assessments or fees as may be established by the Association for the purpose of defraying the costs associated with the use of such Common Elements and the administration and operation of the Planned Community; and (b) the observance by the Town Home Owner, and his or her tenants, of the provisions of this Declaration, the Bylaws, and the Association rules and regulations. The Board of Directors has the authority to fine Town Home Owners who are not in compliance with this Declaration, the Association Bylaws and such rules and regulations. The amount and the procedure to impose fines must be established by Board of resolution.

7.5 RIGHT OF INGRESS AND EGRESS. Each Town Home Owner has a perpetual right over the Common Elements of ingress and egress to and from the Owner's Lot. This right passes to all successors in interest to the Town Home Lot when the Town Home Lot is transferred voluntarily, involuntarily, or by operation of law. Any attempt to transfer voluntarily or involuntarily any Common Element ownership interest separately from the transfer of the Town Home Lot to which such interest pertains will be void.

7.6 EASEMENTS OF ENJOYMENT. Subject to the provisions of this Declaration and the Bylaws, every Member of the Association shall be entitled to the exclusive use and enjoyment of the Member's Town Home Lot and, as a Town Home Owner, every Member of the Association shall also have a right and easement of enjoyment in and to the Common elements, and such easements shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the other provisions of this Section 7, including:

a. The right of the Association to determine the manner in which Members are permitted to use, and to prescribe limitations and rules on Members' access to and use of the Common Elements in accordance with the Bylaws or rules (which may include, without limitation, rules restricting persons under or over designated ages from using certain portions of the Common elements during certain time, and rules regarding parking):

b. The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Elements, and in aid thereof, to mortgage or subject all or any portion of the Common elements to a security interest for such purposes, with the rights of the mortgagee in the Common Elements being subordinate to the rights of the individual Owner mortgagees:

c. The right of the Association to sell, convey, dedicate, or subject to a security interest all or any part of the Common Elements to any public agency, authority, utility, or other party subject to such conditions as may be agreed to by the Members. The proceeds from a sale, conveyance, dedication or transfer of all or any part of the Common elements shall be an asset of the Association. No such dedication or transfer shall be effective unless Members entitled to cast

75% of the votes of the Class A membership and 75% of the votes of the Class B membership, if any, have voted in favor of such sale, conveyance, dedication or transfer; and

d. An easement, hereby granted to and in favor of the Association, for the benefit of Town Home Owners, over, upon, under and across all parts of the real Property to the extent reasonably required by the Association to perform maintenance or as the Association determines to be reasonably necessary or advisable to protect or preserve the value of the Planned Community, and the Town Home Lots otherwise to perform the Association's obligations under this declaration, the Bylaws, or as required by law.

7.7 EASEMENT DURING DEVELOPMENT PERIOD. Until the development is complete, Declarant reserves an easement over, upon and across all portions of the Real Property (except those portions thereof actually intended to be occupied as living space in any building now existing or hereafter constructed or located upon the Real Property, but specifically including, without limitation, the walls, attic, crawl spaces and the area below the living space for the purpose of constructing, installing, and maintaining underground or concealed electrical and telephone lines, grass, water, sewer, storm drainage lines, security, radio and television antennae and cables, and other utilities and services commonly supplied by public utilities or municipal corporations, and upon all Common Elements for constructing, installing and maintaining thereon Common Elements. All of such easements shall be for the benefit of all present and future Owners and the Planned Community; such easement and rights of use, however, shall not be unrestricted, but shall be subject to reasonable rules that may be adopted from time to time by the Association.

7.8 ENCROACHMENT EASEMENTS. Each Lot is hereby declared to have an easement over any adjoining Lot for the purpose of accommodating any encroachment of a structure, which is due to any engineering errors, errors in original construction or design, reconstruction, repair, replacement, restoration, movement, settlement or shifting of any building, or any similar cause. There shall be valid easements for the maintenance of said encroachments as long as they exist, and the rights and obligations of the Owners and the Association shall not be altered in any way by said encroachment, settlement or shifting; provided, however, in no event shall a valid easement for encroachment be crated in favor of an Owner or the Association if said encroachment occurred due to the willful misconduct of such Owner or the Association. In the event a structure is partially or totally destroyed and then repaired or rebuild in substantially the same manner as originally constructed, the Owner of each Lot agrees that minor encroachments over adjoining Lots or common element shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

7.9 RESTRICTIONS ON LOT OWNERS.

- a. An Owner may not divide a Lot or combine it with other Lots.
- b. A town Home Owner may not repair, maintain, replace or restore a Town Home roof or the exterior, structure of party wall of a Town Home, unless the Association, within a reasonable period following demand therefor by the Owner, has failed to do so (or failed to commence doing so and thereafter diligently prosecuted the repair, maintenance, replacement or restoration to completion). A reasonable period following demand is thirty (30) days, except in the

case of emergency (such as a health, safety or habitability issue) or if the Association is not active (that is, it does not have currently functioning Board and officers), in which case, no demand is necessary.

c. A Town Home Owner may not improve or alter the improvements on the Owner's Town Home Lot, without the prior approval of the Association (which may be withheld, conditioned or denied in the exercise of the Association's reasonable discretion).

8. BYLAWS; ASSOCIATION; MANAGEMENT

8.1 ADOPTION OF BYLAWS. On behalf of the Association, Declarant hereby adopts the Bylaws attached hereto as Exhibit B to govern the administration of the Oak Street Commons. The Bylaws must be recorded; they are attached as Exhibit B and shall be recorded as a part of and shall be effective on the execution and recording of this Declaration.

8.2 ASSOCIATION MEMBERSHIP. Each Town Home Owner must be a Member of the Association, and membership is limited to Town Home Owners only. The association, which shall be organized when this Declaration and the Bylaws are recorded, serves as a means through which the Owners may take action with regard to the administration, management, and operation of Oak Street Commons Association and the Common Elements. The Association is an Oregon non-profit corporation.

8.3 MANAGEMENT; BOARD OF DIRECTORS. The affairs of the Association will be governed by a Board of Directors as provided in the Bylaws. The affairs of the Association include, but are not limited to, the operation, management and maintenance of the Common Elements and the repair, or the maintenance and replacement of the roofs, exteriors, structure and party walls of the town Home improvements on the Town Home Lots. The Board of Directors shall elect officers as provided in the Association's Bylaws. Pursuant to the provisions of the Bylaws and the Oregon Planned Community Act, the Board of Directors may adopt administrative rules and regulations governing details of the operating, maintenance, and use of the real Property. The Board of Directors may contract with a professional manager or management firm to manage some or all of the affairs of the Association.

8.4 INTERIM BOARD AND OFFICERS. The Declarant has reserved control over the administration of the Association by reserving the right in the Bylaws to appoint an interim Board of Directors to manage the Real Property until the Turnover Meeting. The members of the interim Board must also serve as the interim officers.

8.5 POWER OF THE ASSOCIATION. The Association shall have all of the powers granted to it in this Declaration, the Bylaws, and ORS 94.630. Without limiting the generality of the foregoing statement, the Association may sell, convey or subject to a security interest all or any portion of the Common Elements as provided in ORS 94.665.

8.6 MAINTENANCE AND REPAIR OF TOWN HOME ROOFS, EXTERIORS, STRUCTURES AND PARTY WALLS. The Association will be responsible for and will provide for all upkeep, repair, maintenance, replacement and restoration of the Town Home roofs, and of the building exteriors, structure and party walls of the Town Homes; provided, however, that with

respect to party walls: (a) routine upkeep is the responsibility of the adjoining Town Home Owners served by the party wall, and (b) repair, replacement or restoration of any damage or destruction of a party wall caused the act of a Town Home Owner (or an agent, contractor, tenant, guest or invitee of a Town Home Owner) is the responsibility of that Town Home Owner.

8.7 COMMON ELEMENTS. The Association will be responsible for and will provide for all upkeep, repair, maintenance and replacement of Common Elements (including, without limitation, landscaping and paving), and for any alterations of or improvements to the Common Elements that the Association determines are necessary or appropriate.

9. ASSESSMENTS.

9.1 CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. Declarant hereby covenants for the Town Home Lots, and each Town Home Owner by acceptance of a deed or contract of purchase therefor (whether or not it shall be so expressed in any such deed or other conveyance or agreement for conveyance is deemed also to covenant and agree, to pay to the Association: (a) annual Assessments as established by the Association, and (b) Special Assessments for capital improvements or other unusual or special expenditures, such Assessments to be fixed, established and collected from time to time as provided in this Article 9 and the Bylaws. The annual and Special Assessments, together with interest, late charges, attorneys' fees and costs and other costs of collection, if any, constitute and will be a charge and a continuing lien upon the Town Home Lot against which each such Assessment is made, with priority over other liens as and to the extent provided by law, and which may be foreclosed in the manner provided by law. In addition, each such Assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who is or was the Town Home Owner of the Town Home Lot at the time such assessment became due.

9.2 PURPOSE OF ASSESSMENTS. The Assessments levied by the Association must be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Town Home Lots, and in particular, for the improvement, replacement and maintenance of the Common elements and the other items for which the Association has responsibility (such as Town Home Lot improvements, to the extent provided above) and for or related to the use and enjoyment of the Common Elements as provided in this Declaration and the Bylaws.

9.3 ANNUAL ASSESSMENTS. Annual Assessments against all Town Home Lots will be based upon an annual budget prepared by the Board, with respect to projected expenses of the Association. Annual Assessments will include the Reserve Account Assessments pursuant to Section 9.5, below, and will be prorated, charged and due and payable on a monthly basis in monthly installments (which the Association may sometimes refer to as monthly dues). The Declarant will pay assessments due for common expenses and reserves for Town Home Lots owned by the Declarant (that is, Town Home Lots not yet sold by Declarant) from the first day for the month following the month in which the first Town Home Lot is conveyed from Declarant to Town Home Owner. However, Declarant may defer payment of the portion of the accrued

Assessment for a Town Home Lot that consists of the Reserve Account Assessment until the date the Town Home Lot is conveyed.

9.4 SPECIAL ASSESSMENTS. In addition to the annual Assessments authorized in Section 9.3, the Association may levy in any year one or more Special Assessments for the purpose of defraying, in whole or in part, the cost of improvements to the Common Area (including any necessary or appropriate fixtures and personal property related thereto), or any unusual, non-routine or previously unanticipated expenses of upkeep, repair, maintenance, replacement or restoration of Common elements or Town Home roofs, exteriors, structure of party walls for which the Association is responsible under this Declaration, the Bylaws, or Oregon Planned Community Act, or for other unusual or special expenditures or other items for which the Association is responsible under this Declaration, the bylaws, or Oregon Planned Community Act, or for other unusual or special expenditures. However, a Special Assessment for a period that is in an amount greater than the Annual Assessment for that same period will not be levied if town Home Owners call a special meeting of the Association in accordance with the Bylaws of the purpose of reviewing the Special Assessment, unless a majority of town Home Owners approve the Special Assessment. This Section 9.4 will not prohibit the Board from authorizing capital expenditures for replacements, repairs, improvements, or other expenditures from funds generated by regular Annual Assessments. A Special Assessment may also be levied against a Town Home Owner as otherwise provided for in this Declaration or the Bylaws.

9.5 ASSESSMENTS FOR RESERVE ACCOUNT. Declarant will establish a Reserve Account for replacement of all Common Elements and other items for which the Association is responsible that will normally require replacement, in whole or in part, in more than 3 and less than 30 years, and that are insurable by a common carrier of all purpose risk insurance. The Reserve Account will be established in the name of the Association. Following the Turnover Meeting, the Association will assume responsibility for managing the reserve fund and conducting the annual study as provided in the Bylaws.

9.6 UNIFORM RATE OF ASSESSMENT. Annual Assessments and Special Assessments will be assessed at a uniform rate for, and will be allocated equally among, the Town Home Lots, with each Town Home Lot bearing and being responsible for 1/16th (or 6.25%) of the total Assessment.

9.7 DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS AND DUE DATES. Annual Assessments will commence as to each Town Home Lot on the first day of the month following the conveyance of the first Town Home Lot from Declarant to a Town Home Owner. The first Annual Assessments will be prorated according to the number of months remaining in the calendar year. The Board will determine the amount of the regular Annual Assessments in advance of each annual Assessments' period and written notice of the annual Assessments (which will include, but not be limited to, the due dates for the installment payments of the Assessments as established by the Association) shall be sent to each Town Home Owner as provided in the Bylaws.

10. **MORTGAGE HOLDERS.** If a conflict arises between this Section 10 and other provisions of this Declaration, the provisions of this Section 10 shall prevail. The terms "Mortgage" and "Mortgage Holder" are defined in Section 1 above.

10.1 **NOTICE OF ACTION.** On the written request of a Mortgage Holder, insurer, or guarantor to the Association, identifying the name and address of the person and the Town Home Lot number or address of the town Home on which a Mortgage has been placed, the Mortgage Holder, insurer, or guarantor is entitled to timely notice of the following:

a. Any condemnation loss or casualty loss that affects either a material portion of the Planned Community or town Home security its Mortgage:

b. Any 30-day delinquency in the payment of assessments or charges owed by an Owner of a Town Home Lot on which it holds a Mortgage:

c. Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; and

d. Any proposed action that would require the consent of a specified percentage of eligible Mortgage Holders.

10.2 **MORTGAGE HOLDER EXEMPT FROM CERTAIN RESTRICTIONS.** Any Mortgage Holder that comes into possession of the Town Home Lot pursuant to the remedies provided in the Mortgage, by foreclosure of the Mortgage, or by deed (or assignment in lieu of foreclosure, is exempt from any "right of first refusal" or other restriction on the sale of the mortgaged Town Home Lot, including, but not limited to, restrictions on the posting of signs pertaining to the sale of the Town Home Lot.

10.3 **LIMITED RIGHT OF AMENDMENT.** Except on the written approval of Mortgage Holders representing at least 51% of the Mortgage Holders, no amendment that adds to or amends any material provision that establishes, provides for, governs, or regulates any of the following may be made to this Declaration or the Bylaws:

a. Voting rights:

b. Increases in annual assessments that raise the previously assessed amount by more than 25%, assessment liens or subordination of liens, or the priority of Common Elements;

c. Reductions in reserves for maintenance, repair, and replacement of Common Elements by more than 25%;

d. Responsibility for maintenance and repairs;

e. Reallocation of interest in the general or limited Common Elements, or rights to their use;

f. Redefinition of any Town Home Lot boundaries;

g. Convertibility of Town Home Lots into Common Elements or vice versa;

h. Expansion or contraction of the real property subject to the Planned Community, or the addition, annexation, or withdrawal of property to or from the Planned Community, except as expressly permitted herein;

i. Imposition of any restrictions on a Town Home Owner's right to sell or transfer his or her Town Home Lot;

j. Restoration or repair of the Planned Community (after damage or partial condemnation) in a manner other than that specified in the governing documents; or

k. Any provisions that expressly benefit Mortgage Holders, insurers, or guarantors.

The provisions of this Section are intended to limit only the right of the town Home Owners, the Board of Directors, and the Association to amend this Declaration and the Bylaws, and are not intended to give any Mortgage Holders any specific rights to effect amendments or cause amendments to be made other than in full compliance with the provisions of this Declaration, the Bylaws, and the Oregon Planned Community Act relating to the procedure and percentage of Town Home Owner votes required for amendment. An addition or amendment to this Declaration or the Bylaws will not be considered to be material so as to require the consent or approval of Mortgage Holders, if its purpose is to correct technical errors or to clarify existing provisions or to bring the Declaration or Bylaws into compliance with the Oregon Planned Community Act or other applicable governmental law, regulation, rule, judgment or order.

10.4 REQUEST FOR APPROVAL OF MORTGAGE HOLDERS. Any Mortgage Holder that receives a written request to approve additions or amendments to this Declaration or the Bylaws, or any other action to be taken by the Board of Directors, the Association, or Owners, will be deemed to have given such approval unless the Mortgage Holder delivers a negative response to the Association within 30 days after deliver of the request.

10.5 PROXY HELD BY MORTGAGE HOLDER IN CERTAIN CASES. A Mortgage Holder that reasonably believes that the Association has failed to maintain the general Common Elements to prevent excessive wear and tear may attend a meeting of the Association and may cast the vote of the Owner of the Town Home Lot on which the Mortgage Holder holds a Mortgage if the proposal under consideration concerns maintaining the Common Elements, including imposing special assessments necessary to pay for such maintenance. However, such right arises only if the Mortgage Holder reasonably believes that the Association has failed to maintain the Common Elements in sufficient manner to prevent excessive wear and tear.

10.6 RIGHT TO EXAMINE DOCUMENTS. The Association must make available, upon request, to Owners, lenders, and Mortgage Holders current copies of this Declaration, the Bylaws, the Articles of Incorporation, other rules concerning the Planned Community, and the books, records, and financial statements of the Association. The Association has the right to impose a reasonable charge for copies requested by Owners, prospective purchasers, lenders, or Mortgage Holders.

10.7 RIGHT TO RECEIVE WRITTEN NOTICE OF MEETING. On a Mortgage holder's written request, the Association must give all Town Home Lot Mortgage Holders written notice of all meetings of the Association, and the Mortgage Holder must be permitted to designate a representative to attend all such meetings.

10.8 LIST OF MORTGAGE HOLDERS. The Association must maintain at all times a list of Mortgage Holders who have given the Association notice on any matter described in Section 10 of this Declaration, which list shall include their names, addresses, the Lots and Owners affected, and the matters with respect to which the Mortgage Holders have requested notice, provided that the information has been furnished to the Association by the Owners of their Mortgage Holders.

11. GENERAL PROVISION.

11.1 AMENDMENT. This Declaration may be amended at any time by the Declarant, to the extent permitted by law, prior to the expiration of Class B membership as defined in Section 5.2, by a properly recorded instrument executed by the Declarant. This Declaration may be amended at any time by a properly recorded instrument executed by each member of the board of directors of the Association, certifying that the amendment was approved by a vote of three-quarters of the votes of the entire membership at a meeting of the Association for which written notice of the proposed amendment had been sent to every owner at least 30 but not more than 50 days prior to the meeting in which the amendment was adopted. Declaration amendments may be proposed by a majority of the board of directors or by 30% of Town Home Owners. Amendments shall be executed and certified on behalf of the Association by the president and secretary as being adopted in accordance with the Declaration and the Oregon Planned Community Act and acknowledged in the manner provided for acknowledgement of deeds. Any amendment shall be effective upon recordation.

11.2 NOTICES. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage paid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

11.3 AUTHORITY TO GRANT EASEMENTS, RIGHTS-OF-WAY, LICENSES, AND OTHER SIMILAR INTERESTS/ENCROACHMENTS.

a. **GENERAL.** The Association has the authority to execute, acknowledge, deliver, and record easements, rights-of-way, licenses, and other similar interest affecting the general common elements, on behalf of Owners, provided that the granting of any such interest for a term of 2 years or less has been approved by a majority of the Board of Directors. All grants of leases, easements, rights-of-way, license or other similar interest affecting the general Common Elements for a term of more than 2 years to a public body, as defined under Oregon law, or to a utility or a communications company for underground installation and maintenance of power, gas, electric, water or other utility and communication lines and services requires the approval of a majority of the Board of Directors. The granting of a lease, easement, right-of-way, license or other similar interest to an Owner for the exclusive use of a part of the general Common Elements to

which a Town Home Owner's Lot provides primary access requires the approval of a majority of the Board of Directors. All other grants require the approval of 75% of the Owners. An instrument granting any such interest must be executed by the chairperson and secretary of the Association, must be acknowledged in the manner provided for acknowledgement of such instruments by such officers, and must state that the grant was approved by the appropriate number of directors. The consent to vacation of roadways within and adjacent to the Planned Community must be approved first by at least a majority of Owners present voting in person or by proxy at a duly constituted meeting of the Association called for the purpose.

b. **UTILITY EASEMENTS; DECLARANT'S DEDICATIONS.** Anything in this Declaration to the contrary notwithstanding, Declarant has the right to execute, deliver, and record on behalf of the Association and the Owners such documents as may be required to grant easements, rights-of-way, and licenses over the Common elements for the installation, maintenance, and repair of public utilities serving the Planned Community or adjacent property. Declarant has the right to execute, deliver, and record on behalf of the Association and the Owners such deeds and other documents as may be required to convey, dedicate, or grant easements, rights-of-way, or licenses over Common Elements, as may be required by any government or governmental agency to complete development of the Planned Community. To effect the intent of this section 10.3, each Owner, by acceptance of a deed or contract to a Lot, whether or not it is expressed in the deed or contract, for the Owner and the Owner's successors in interest, irrevocably appoints Declarant, or his or her nominee, as his or her lawful attorney-in-fact for the purpose of executing any and all documents required or permitted to be executed hereunder. The power of attorney and the rights under this Section 11.3 expire when Declarant no longer owns a Lot or 7 years from the date this Declaration is recorded, whichever is earlier.

11.4 **DECLARANT'S SPECIAL RIGHTS.** In addition to the rights elsewhere described or provided for in this Declaration, Declarant has the following special rights:

a. **SALES OFFICE AND MODEL.** Declarant has the right to maintain sales and/or rental offices and sales and/or rental models in one or more of the Lots that Declarant owns. Declarant, its agents, and prospective purchasers have the right to park automobiles on the Common Elements and to use and occupy the sales and/or rental office and models during reasonable hours any day of the week.

b. **"FOR SALE" SIGNS.** Declarant may maintain a reasonable number of "For Sale" signs at reasonable locations on the Planned Community property.

c. **NO CAPITAL ASSESSMENTS WITHOUT CONSENT.** Neither the Association nor the Board of Directors may make any assessments for new construction, acquisition, capital improvements, or otherwise without Declarant's prior written consent, as long as Declarant owns two or more Lots in the Planned Community. Nothing contained in this Section 11.4 (c) shall be construed to limit Declarant's obligation to pay assessments for Common Expenses on Town Home Lots owned by Declarant as provided herein or in the Oregon Planned Community Act.

d. COMMON ELEMENT MAINTENANCE BY THE ASSOCIATION.

The Association must maintain all general Common Elements in a clean and attractive condition. If the Association fails to do so, Declarant may perform such maintenance at the expense of the Association.

e. DECLARANT'S EASEMENTS. Declarant and its agents have an easement on and over the Common Elements for the completion of any portion of the Planned Community (including, without limitation, completing improvements on the Lots), the furnishing or decorating any improvements on any lots, the placement and use of a temporary sales office or use of a model Town Home, and the right to store materials on the Common Elements at reasonable places and for reasonable lengths of time during that period.

f. DECLARANT'S OTHER SPECIAL RIGHTS. The rights reserved to Declarant in this Section 11.4 in no way limit any other special rights that Declarant, as a declarant, may have, whether pursuant to the Oregon Planned Community Act or otherwise. On the expiration of any or all such special rights, Declarant will have the same rights as any other Owner in the Planned Community with respect to such ownership.

g. ASSIGNMENT OF DECLARANT'S RIGHTS. Declarant has the right to assign any and all of its rights, including, without limitation, Declarant's special rights, as set forth in this Section 11.4, or to share such rights with one or more other persons exclusively, simultaneously, or consecutively.

h. EXPIRATION OF DECLARANT'S SPECIAL RIGHTS. Declarant's special rights, as reserved in this Section 11.4, expire on the conveyance by Declarant of the last Lot owned by Declarant or seven years from the date this Declaration is recorded, whichever is earlier.

11.5 SERVICE OF PROCESS. The designated agent to receive service of process is the Declarant until the Turnover Meeting.

11.6 ENFORCEMENT. Enforcement of this Declaration shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against a Town Home Lot to enforce any lien created by this Declaration. Failure by the Association or any Owner to enforce any covenant or restriction shall not be deemed a waiver of the right to do so thereafter.

11.7 INTERPRETATION. The rights and obligations of all members of the Association and any person dealing with the Association or any of its members with respect to matters pertaining to this Declaration, the Articles of Incorporation, or the Bylaws must be interpreted in accordance with and governed by the laws of the State of Oregon.

11.8 WAIVER OF RIGHTS. The failure of the Association, the Board of Directors, an officer, or an Owner to enforce any right, provision, covenant or condition provided in this Declaration, any Supplemental Declaration, the Articles of Incorporation, or the Bylaws do not constitute a waiver of the right of any such party to enforce the right, provision, covenant, or condition in the future.

11.9 LEGAL PROCEEDINGS. Failure to comply with any of the terms of this Declaration (as amended from time to time) or the Association's Articles of Incorporation, Bylaws and any rules or regulations adopted thereunder (as any of the same may be amended from time to time) is grounds for relief, which may include, without limitation, fining the non-complying Owner in accordance with the rules of the Association, bringing an action to recover money due, damages or a suit for injunctive relief, or an action to foreclose a lien, or any combination thereof. Relief may be sought by the Association, the Board of Directors, and officer, a professional manager or management firm for the Planned Community, or, if appropriate, by an aggrieved Owner.

11.10 COSTS AND ATTORNEY FEES. In any proceeding arising because of an alleged failure of an Owner to comply with the terms and provision of this Declaration (as amended or supplemented), the Bylaws (as amended), the Articles of Incorporation, rules and regulations adopted under the Bylaws, or the Oregon Planned Community Act, the prevailing party is entitled to recover the cost of the proceedings and such reasonable attorney fees as may be determined by the trial court in any trial or by the appellate court in any appeal. In addition, the Association is entitled to recover costs and attorney fees incurred by it to collect delinquent assessments or fines, or to enforce the terms of this Declaration, Supplemental Declaration, Articles of Incorporation, Bylaws or any rules or regulations promulgated thereunder, whether or not any collection or foreclosure action or suit is filed.

11.11 SEVERABILITY. Invalidation of any one of the provisions contained herein by judgment or court order shall in no way affect the validity or enforceability of any other provision of this Declaration, and such other provisions shall remain in full force and effect.

11.12 CONFLICTING PROVISIONS. This Declaration is intended to comply with the requirements of the Oregon Planned Community Act. If any of the provisions of this Declaration conflict with the requirements of the Oregon Planned Community Act applicable to the Planned Community, the applicable requirements of the Oregon Planned Community Act will be deemed to apply and govern over the conflicting provision herein. If a conflict arises between or among the provisions of this Declaration, the Articles of Incorporation of the Association, the Bylaws, or Association rules and regulations, the provisions of this declaration must be paramount to those of the Articles, the Bylaws, and the rules and regulations and the Articles will be paramount to the Bylaws and the rules and regulations, and those of the Bylaws will be paramount to the rules and regulations.

11.13 SECTION AND SECTION CAPTIONS. Section and Section captions shall not be deemed to be a part of this Declaration unless the context otherwise requires. In construing this Declaration, if the context so requires, the singular shall be taken to mean and to include the plural, the masculine and feminine shall be taken to mean and to include the neuter, and generally, all grammatical changes shall be made, assumed, and implied to make the provisions hereof apply equally to individuals, trusts, estates, personal representatives, trustees, and corporations.

The undersigned Declarant of the subject property has caused this Declaration to be executed this 6th day of Dec. 2019.

SIGNATURES AND NOTARIAL BLOCKS CONTINUE ON FOLLOWING PAGE

DECLARANT:

By: [Signature]
David J. Bielenberg, Trustee, under
the David J. Bielenberg Revocable Living
Trust dated August 20, 2014

By: [Signature]
Margaret A. Bielenberg, Trustee, under
the Margaret A. Bielenberg Revocable
Living Trust dated August 20, 2014

ASSOCIATION:
Oak Street Commons

By: [Signature]

Its: Declarant

STATE OF OREGON)
)ss.
County of Lane)

On this 6th day of December, 2019, personally appeared before me the above-named David Bielenberg, Trustee and Margaret Bielenberg, Trustee, and acknowledged the foregoing instrument to be their voluntary act and deed.



Conni S. Kief
Notary Public of Oregon
My Commission Expires: 4-5-20

STATE OF OREGON)
)ss.
County of Lane)

On this 6th day of December, 2019, personally appeared before me the above-named David J. Bielenberg and acknowledged the foregoing instrument to be his/her/their voluntary act and deed. Declarant



Conni S. Kief
Notary Public of Oregon
My Commission Expires: 4-5-20

EXHIBIT A

PARCEL 1

Lots 1 through 10, Block 28, of FRASIER & BERRY'S PART of the City of Florence, as platted and recorded in Book 2, Page 1, Lane County Oregon Plat Records, in Lane County, Oregon.

PARCEL 2

Lots 9 and 10, Block 27 of FRASIER & BERRY'S PART of the City of Florence, as platted and recorded in Book 2, Page 1, Lane County Oregon Plat Records, in Lane County, Oregon.

Page 20 – Declaration of Planned Community for Oak Street Commons

Description: Lane, OR Document - Year.DocID 2019.58456 Page: 20 of 38
Order: q Comment:

EXHIBIT B
BYLAWS OF
OAK STREET COMMONS ASSOCIATION

ARTICLE 1
PLAN OF LOT OWNERSHIP; DEFINITIONS

1.1 **Bylaws Applicability.** These Bylaws apply to the Lots and the Common Area in Oak Street Commons, a planned community in Marion County, Oregon, that have been subjected to the Declaration of Planned Community for Oak Street Commons (the "Declaration"), as well as to the Oak Street Commons Association, an Oregon non-profit corporation (the "Association") and the entire management structure thereof.

1.2 **Lots; Property.** The Town Home Lots ("Lots") and the Common Area may be collectively referred to in these Bylaws as the "Property" or "Project" and the Lots individually as a "Lot" or collectively as the "Lots."

1.3 **Personal Application.** All present or future Owners, tenants, Occupants, and their employees, and any other person that might occupy any portion of the Property in any manner, shall be subject to the provisions set forth in these Bylaws. The acquisition, rental, or occupancy of any of the Lots shall constitute acceptance and ratification of these Bylaws and agreement to comply with all the provisions hereof.

1.4 **Commonly Maintained Property.** "Commonly Maintained Property" shall mean any property owned or controlled by the Association or that is to be maintained by the Association pursuant to the terms of the Declaration, if any, that is not a Common Area.

1.5 **Definitions.** Capitalized terms used but not defined herein shall have meanings attributed to them in Article 1 of the Declaration.

1.6 **Name and Principal Office.** The name of this Association is Oak Street Commons Association, an Oregon non-profit corporation. The initial principal office of the Association shall be at 16245 Hergistad Road NE, Silverton Oregon 97381 and thereafter at such other place as may be established from time to time by the Board.

1.7 **Purposes.** This Association is formed under the provisions of the Oregon Planned Community Act to serve as the means through which the Lot Owners may take action with regard to the administration, management and operation of the Project. Subject to the provisions of the Declaration and these Bylaws, the Association may take any of the actions described in ORS 94.630.

ARTICLE 2
ASSOCIATION MEMBERSHIP, VOTING,
MAJORITY OF OWNERS, QUORUM, PROXIES

2.1 **Membership in the Association.** Upon recordation of a conveyance or land sales contract to convey a Lot, the grantee or purchaser named in such conveyance or contract shall automatically be and shall remain a Member of the Association until such time as such person's ownership ceases for any reason. Notwithstanding the foregoing, Declarant shall be the Owner of all

Page 1 - Bylaws of Oak Street Commons Association

Page 21 - Declaration of Planned Community for Oak Street Commons

Description: Lane, OR Document - Year.DocID 2019.58456 Page: 21 of 38
Order: q Comment:

previously unsold Lots, although no deed or land sale contract, with respect to such Lots, has been filed with the Association.

2.2 Voting Rights.

2.2.1 **Class A.** Class A Members shall be all Owners of Lots other than Declarant, and each Class A Member shall be entitled to one vote for each Lot owned with respect to all matters on which Owners are entitled to vote.

2.2.2 **Class B.** The Class B Member shall be Declarant, its successors, and its assigns. The Class B Member shall have three votes for each Lot owned; provided, however, that Class B membership shall cease on the Termination Date, as defined in Section 3.4. After termination of Class B membership, each Owner (including Declarant) shall be entitled to one vote for each Lot owned with respect to all matters on which Owners are entitled to vote, and the total number of votes shall equal the total number of Lots annexed to the Property and subjected to these Bylaws.

When more than one person or entity owns a Lot, the vote for such Lot may be cast as they shall determine, but in no event shall fractionalized or split votes shall be disregarded, except for purposes of determining a quorum.

2.3 **Majority of Owners.** As used in these Bylaws, the term *majority* shall mean those Owners holding over 50% of the voting rights allocated to the Owners in accordance with the Declaration and Section 2.2 above. *Majority of Owners present* shall mean Owners holding over 50% of the votes present at any meeting at which a quorum is present.

2.4 **Quorum.** Except as otherwise provided in these Bylaws, the presence in person or by proxy of Owners holding 20% or more of the outstanding votes in the Association, as defined in Section 2.2 of this Article, shall constitute a quorum.

2.5 **Voting; Proxies.** Owners may cast votes in person, by written ballot, or by proxy. Proxies must be filed with the Secretary of the Association ("Secretary") before or during the appointed meeting. A proxy shall expire one year after the date it was signed unless a shorter period is specified in the proxy. The proxies may require the holder to cast a vote for or against any special proposal set out in the notice calling the meeting. Unless withdrawn, a proxy given to another person to vote at a specific meeting shall also be valid at an adjourned meeting called under the provisions of Section 3.8. The Association must retain proxies and ballots for one year from the date of the determination of the vote. A Lot Owner may pledge or assign his or her voting rights to a mortgagee. In such a case, the mortgagee or its designated representative shall be entitled to receive all notices in which the Lot Owner is entitled hereunder and the exercise the Lot Owner's voting rights from and after the time that the mortgagee shall give written notice of such pledge or assignment to the Board.

2.6 **Authority to Vote.** All Owners, including those who have leased their Lot to a third party, shall be entitled to vote. An Owner's right to vote may not be revoked. A purchaser under a land sale contract entitled to immediate possession of the Lot shall be deemed the Owner thereof, unless otherwise provided in such contract.

Page 2 - Bylaws of Oak Street Commons Association

Page 22 - Declaration of Planned Community for Oak Street Commons

2.7 Fiduciaries and Joint Owners. An executor, administrator, guardian, or trustee may vote, in person or by proxy, at any meeting of the Association with respect to any Lot owned or held by such person in such capacity, whether or not the same shall have been transferred to such person's name, provided that such person has satisfied the Secretary that such person is the executor, administrator, guardian, or trustee holding such Lot in such capacity. Whenever any Lot is owned by two or more persons jointly according to the records of the Association, the vote of such Lot may be exercised by any one of the Owners then present, in the absence of protest by a co-owner. In the event of such protest, no one co-owner shall be entitled to vote without the approval of all co-owners. In the event of disagreement among the co-owners, the vote of such Lot shall be disregarded for all purposes, except for determining whether a quorum is present.

2.8 Voting by Absentee Ballot. Each official notice of a general or special meeting shall briefly explain the matter(s) to be voted upon at the meeting and shall include an absentee ballot. To be eligible for quorum purposes, and to be counted for the vote(s) described in the ballot, the ballot must be received by the Chair or Secretary of the Association prior to the meeting, must be contained in the special envelope provided for the absentee ballot (but only if such an envelope is provided), must be legible, and must be signed of the Lot Owner and must identify the Lot with respect to which it is to be counted.

2.9 Voting by Written Ballot. Any action that may be taken at any annual, regular, or special meeting of the Association may be taken without a meeting, by written ballot, but only as and to the extent allowed in and in accordance with ORS 94.647.

ARTICLE 3 ADMINISTRATION

3.1 Association Responsibilities. The Common Area in this Project consists of a right of way, alley, recreation areas, drainage swales, and common parking spaces. The use, maintenance, regulation, alterations and assessments for the Common Area are governed by the Association.

3.2 Members. The Owners shall constitute the Members of the Association. Except as otherwise provided in the Declaration or these Bylaws, decisions and resolutions of the Association shall require approval by a majority of the Owners present at any legal meeting. A legal meeting is one duly called pursuant to these Bylaws at which a quorum is present, in person or by proxy at a formal gathering or, if a vote is taken by written ballots, when ballots are returned representing more than 50% of the vote, unless a larger vote is required to approve a ballot item, in which case the quorum requirements shall be the number of votes required to approve the proposal.

3.3 Place of Meetings. Formal meetings of the Association shall be held at suitable places convenient to the Owners as may be designated by the Board of Directors of the Association (the "Board"). If a vote is taken by written ballot, the Board shall count the returned written ballots within 48 hours of the ballot return deadline. Each Owner shall be notified by mail or other delivery of written notice of the results of the ballot meeting or that a quorum of ballots was not returned within 15 days after the ballot return deadline.

3.4 Turnover Meeting. Declarant shall call a meeting (which shall also be the initial meeting) for the purpose of turning over administrative control of the Association from Declarant to

the Members within 90 days after Class B shares cease pursuant to Section 5.2b of the Declaration. (the "Termination Date").

Declarant shall give notice of the Turnover Meeting to each Owner as provided in these Bylaws. If Declarant does not call such meeting as required under this Section 3, or any Owner may do so.

At the Turnover Meeting, Declarant shall relinquish control of the administration of the Association and the Owners shall assume such control and shall elect the Board in accordance with the provisions of Article 4 of these Bylaws. Additionally, Declarant shall deliver to the Association all business and financial records, together with all Association bank accounts, funds and other assets as required by ORS 94.616. The turnover meeting may not be conducted by written ballot.

3.5 Annual Meetings. The Board, by a Board action, shall cause the first annual meeting of the Association to be held during the calendar year following the calendar year in which the Turnover Meeting is held. The Board, at its discretion, from time to time, may change the meeting date, provided that the meeting is held annually. At such meetings, the Owners shall elect new members of the Board in accordance with the requirements of Section 4.7 of these Bylaws to replace those Directors whose terms have expired. The Owners also may transact such other business of the Association as may properly come before them. Annual meetings of the Association may not be conducted by written ballot.

3.6 Special Meetings. The President shall call a special meeting of the Owners if so directed by a resolution of the Board or a petition, presented to the Secretary and signed by 30% or more of the Owners. All meetings called because of petition of Owners shall be held at a formal gathering, and not by written ballot, at least 10 days, but not more than 50 days after the Secretary's receipt of the petition. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business other than that stated in such notice shall be transacted at a special meeting unless by consent of all the Owners of the Lots or as otherwise set out in these Bylaws. Mortgagees may designate a representative to attend a special meeting.

3.7 Notice of Meetings. The Secretary shall mail a notice of each annual and special meeting, stating the purpose thereof and the time and place where such meeting is to be held, to each Owner of record at least 10 but not more than 50 days before such meeting or the date on which ballots for a ballot meeting are required to be returned. The Board of Directors may propose that the Owners take an action by written ballot without a meeting, pursuant to the provisions of the Planned Community Act and the Oregon Nonprofit Corporation Act. Such notices shall be mailed to the Owner's address last given to the Secretary in writing by the Owner or such Owner's vendee. If Lot ownership is split or the Lot has been sold on a contract, notice shall be sent to a single address, of which the Secretary has been notified in writing by such parties. If no address has been given to the Secretary in writing, then mailing to the Project Lot shall be sufficient. The mailing of a notice in the manner provided in this Section 3.7 shall be considered notice served.

3.8 Adjourned Meetings. As permitted by ORS 65.214, if any gathering of Owners is not a legal meeting because a quorum has not attended, the Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than 48 hours nor more than 10 days from the time of the original meeting. The adjournment provisions of this Section 3.8 do not apply to actions proposed to be taken by written ballot.

3.9 Ballot Meetings. Unless prohibited or limited by the Articles of Incorporation of the Association, any action that may be taken at any annual or special meeting of the owners may be taken without a meeting if the Association delivers a written ballot to every owner entitled to vote on the matter as provided in ORS 94.647. Such ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. A proposed action shall be deemed to be approved by written ballot when the number of votes cast by ballot equals or exceeds any quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. The Board must provide owners with at least 10 days' notice as required by ORS 94.647(2)(b) before written ballots are mailed or otherwise delivered. If, at least three days before written ballots are scheduled to be mailed or otherwise distributed, at least 10% of the owners petition the Board requesting secrecy procedures, a written ballot must be accompanied by a secrecy envelope, a return identification envelope to be signed by the owner and instructions for making and returning the ballot. Written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

3.10 Order of Business. The order of business at all annual meetings shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading of minutes of the preceding meeting.
- (d) Reports of officers.
- (e) Reports of committees.
- (f) Election of inspectors of election.
- (g) Election of Directors.
- (h) Unfinished business.
- (i) New business.
- (j) Adjournment.

ARTICLE 4 BOARD OF DIRECTORS

4.1 Number and Qualification. The initial Board shall be composed of the Declarant or a designee appointed by the Declarant. This Board member, or his or her replacement designated by the Declarant, shall continue to serve until control of the Association is turned over to the Association at the Turnover Meeting. Thereafter, The Board shall be composed of at least three persons and no more than five persons, all of whom must be an Owner or a co-owner of a Lot; provided, however, that if a Lot is owned by more than one owner, only one owner of that Lot may serve on the Board of Directors at any one time. An officer or employee of a corporation, the trustee

Page 5- Bylaws of Oak Street Commons Association

Page 25 – Declaration of Planned Community for Oak Street Commons

Description: Lane, OR Document - Year.DocID 2019.58456 Page: 25 of 38
Order: q Comment: _____

of a trust, the personal representative of an estate, or an employee of a trust or estate may serve on the Board if the corporation, trust, or estate owns a Lot.

4.2 Powers and Duties. The Board shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law or by these Bylaws directed to be done by the Owners.

4.3 Other Duties. In addition to duties imposed by these Bylaws or by resolutions of the Association, the Board shall have authority to carry out and be responsible for the following matters:

4.3.1 Upkeep of Common Area and Commonly Maintained Property. Care, upkeep, and supervision of the Common Area and Commonly Maintained Property.

4.3.2 Reserves. Review and update of Reserve Study, maintenance plan and establishment and maintenance of replacement Reserve Accounts that the Board deems prudent for replacement of the Commonly Maintained Property and Common Area.

4.3.3 Assessment Collection. Designation and collection of assessments from the Owners, in accordance with these Bylaws and the Declaration.

4.3.4 Insurance. Procurement and maintenance of insurance policies and payment of premiums therefor out of the common expense funds.

4.3.5 Financial Statements and Budget. Causing the preparation and distribution of annual financial statements of the Association to each of the Owners, as more specifically provided in the Declaration. The Board shall also annually adopt a budget which shall include moneys allocated to the reserve account. Copies of a summary of said budget shall be provided to lot owners within thirty (30) days.

4.3.6 Rules. Adoption and amendment of administrative Rules and Regulations governing the details of operation and administration of the Association, including a fine schedule for violations of these Bylaws, the Declaration, or any rules or regulations promulgated thereunder. Provided, however, that any such Rules and Regulations shall always be subject to rescission or amendment by the Association on a majority vote of Owners present at any properly called meeting.

4.3.7 Copies of Documents; Bank Accounts. Causing the Association to comply with ORS 94.670 relating to maintenance within the state of Oregon of documents delivered to the Association by Declarant, depositing all assessments in a separate bank account in the name of the Association, payment of all expenses of the Association from the Association's bank account, and maintenance and distribution of financial statements and to maintain copies suitable for duplication of the following: the Declaration, the Articles of Incorporation, the Bylaws, the Association rules and regulations and any amendments thereto, the most recent annual financial statement, and the current operating budget of the Association. Further, the Board of Directors shall cause to be maintained and kept current the information required to enable the Association to comply with ORS 94.670 as needed.

4.3.8 Tax Returns. Causing the Association to file the necessary tax returns of the Association.

Page 6- Bylaws of Oak Street Commons Association

Page 26 Declaration of Planned Community for Oak Street Commons

4.3.9 Mailing Address. Establishing and maintaining a current mailing address for the Association.

4.3.10 Professional Services. Employment of legal, accounting, and other personnel or consultants for reasonable compensation to perform such services as may be required for the proper administration of the Association, and preparing and filing the required income tax returns or forms.

4.4 Management Agent. The Board may employ a management agent, to be compensated in an amount established by the Board, to perform such duties and services as the Board shall authorize, including, but not limited to, the duties listed in Section 4.3 of these Bylaws.

4.5 Interim Board and Officers. Declarant hereby reserves administrative control of the Association until the Turnover Meeting. Declarant, in its sole discretion, may appoint and remove members of the Board and officers of the Association whose terms of service shall end on or before the date of the Turnover Meeting. However, at the Turnover Meeting, at least one Director shall be elected by Owners other than Declarant, even if Declarant otherwise has voting power to elect all three Directors.

4.6 Election and Term of Office. At the Turnover Meeting of the Association, the term of office of two Directors shall be fixed for two years. The term of office of one Director shall be fixed at one year. Should the number of Directors serving on the Board be increased, the same sequential election terms shall apply as nearly as is practicable. Upon expiration of the initial term of office of each respective Director, such Director's successor shall be elected to serve a term of two years. The Directors shall hold office until their successors have been elected and hold their first meeting. At the Turnover Meeting, on agreement by vote of the Owners, the Owners may elect Directors by using a ballot that permits each Owner to vote for three nominees. In such event, the two nominees receiving the highest number of votes shall be the two-year Directors and the nominee receiving the next highest number of votes shall be the one-year Director.

4.7 Vacancies. Vacancies on the Board caused by any reason other than the removal of a Director by a vote of the Association shall be filled for the balance of the term of each directorship by vote of a majority of the remaining Directors, even though they may constitute less than a quorum. Each person so elected shall be a Director until a successor is elected upon expiration of the term for which such person was elected to serve by the other Directors.

4.8 Removal of Directors. At any legal annual or special meeting (not including actions proposed to be taken by written ballot without a meeting), any one or more of the Directors may be removed with or without cause, by a majority vote of the total voting power of the Owners and a successor may be then and there elected to fill the vacancy thus created; provided, however, that the notice of meeting shall specifically indicate that the removal of one or more named Directors is an agenda item for such meeting. Any Director whose removal has been proposed by the Owners shall be given an opportunity to be heard at such meeting.

4.9 Organizational Meeting. The first meeting of a newly elected Board shall be held within 10 days of election at such place as shall be fixed by the Directors at the Association meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order to hold such meeting legally, providing a majority of the newly elected Directors are present.

Page 7- Bylaws of Oak Street Commons Association

Page 27 · Declaration of Planned Community for Oak Street Commons

4.10 Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings of the Board may be called by the President on at least three days' notice to each Director, given personally or by mail, telephone, e-mail, or facsimile, which notice shall state the time, place (as hereinabove provided), and purpose of the meeting.

4.11 Special Meetings. Special meetings of the Board may be called by the President or Secretary or on the written request of at least two Directors. Special meetings of the Board may be called on at least three days' notice to each Director, given personally or by mail, telephone, e-mail, or facsimile, which notice shall state the time, place (as hereinabove provided), and purpose of the meeting.

4.12 Waiver of Notice to Directors. Before, at, or after any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by such Director of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice to Directors shall be required and any business may be transacted at such meeting.

4.13 Board of Directors' Quorum. At all meetings of the Board, a majority of the existing Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors shall be the acts of the Board. If quorum requirements are not met at any meeting of the Board, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

4.14 Board Meetings Open to All Association Members. Except for executive sessions, all meetings of the Board shall be open to any and all Members of the Association; provided, however, that no Association Member shall have a right to participate in the Board's meetings unless such Member is also a member of the Board. The President shall have authority to exclude any Association Member who disrupts the proceedings at a meeting of the Board. At the discretion of the Board, the following matters may be considered in executive sessions:

- (a) consultation with legal counsel concerning rights and duties of the Association regarding existing or potential litigation or criminal matters;
- (b) personnel matters, including salary negotiations and employee discipline;
- (c) negotiations of contracts with third parties;
- (d) collection of assessments; and
- (e) for any other purpose permitted by the Planned Community Act.

Except in the case of an emergency, the Board shall vote in an open meeting whether to meet in executive session. If the Board votes to meet in executive session, the presiding officer of the Board shall state the general nature of the action to be considered, as precisely as possible, when and under what circumstances the deliberations can be disclosed to owners. The statement, motion, or decision to meet in executive session must be included in the minutes of the meeting. A contract

or an action considered in executive session does not become effective unless the Board, following the executive session, reconvenes in open meeting and votes on the contract or action, which must be reasonably identified in the open meeting and included in the minutes.

4.15 Notice to Association Members of Board Meetings. For other than emergency meetings, notice of special Board meetings shall be mailed to each Owner at least seven days before the meeting by first-class mail or at least three days' notice by hand-delivery to each Lot Owner's address or by facsimile transmission. The Board shall give Owners notice of regular Board meetings at the beginning of each year by first class mail or other reasonable means setting out the time and place of the regular meetings. For any changed time or place, the notice requirements for special meetings shall apply.

4.16 Emergency Meetings. In the event of an emergency, Board of Directors meetings may be conducted by telephonic communication or by the use of a means of communication that allows all Board members participating to hear each other simultaneously or otherwise to be able to communicate during the meeting. No notice to either Directors or Association members shall be required for such meetings of the Board of Directors to be held for any emergency action. Provided, however, that no such meeting shall occur unless at least 75% of the Board of Directors participate in the same and after an attempt has been made to reach each Director.

4.17 Compensation of Directors. No Director shall be compensated in any manner, except for out-of-pocket expenses, unless such compensation is approved by vote of the Owners.

ARTICLE 5 OFFICERS

5.1 Designation. The principal officers of the Association shall be a President and a Secretary/Treasurer, both of whom shall be elected by the Directors. The Directors may appoint an assistant treasurer and an assistant secretary, and any such other officers as in their judgment may be necessary.

5.2 Election of Officers. The officers of the Association may be elected by the Board at the organizational meeting of each new Board or any Board meeting thereafter, and shall hold office at the pleasure of the Board.

5.3 Removal of Officers. Upon an affirmative vote of a majority of the Board, any officer may be removed, either with or without cause, and such officer's successor may be elected at any regular or special meeting of the Board.

5.4 President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board. The President shall have all of the general powers and duties which are usually vested in the office of president of an association, including, but not limited to, the power to appoint committees from among the Owners from time to time as the President may, in the President's discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

5.5 Secretary. The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Association and shall have charge of such books and papers as the Board may direct; and shall, in general, perform all the duties incident of the office of secretary.

Page 9- Bylaws of Oak Street Commons Association

Page 29 - Declaration of Planned Community for Oak Street Commons

5.6 **Treasurer.** The Treasurer shall have responsibility for Association funds and securities not otherwise held by the managing agent and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board.

5.7 **Directors as Officers.** Any Director may be an officer of the Association.

5.8 **Execution of Instruments.** All agreements, contracts, deeds, leases and other instruments of the Association, except checks, shall be executed by such person or persons as may be designated by general or special resolution of the Board and, in the absence of any general or special resolution application to any such instrument, such instrument shall be signed by the President and Secretary. The Treasurer may sign all checks under \$250.00. The Treasurer and one other officer must sign all checks in the amount of \$250.00 or more.

ARTICLE 6 OBLIGATIONS OF THE OWNERS

6.1 **Assessments.** All Owners are obligated to pay assessments imposed by the Association to meet all the Association's general common expenses, as more particularly set forth in the Declaration. Assessments shall be payable on a periodic basis, not more frequently than monthly, as determined by the Board. Declarant (before turnover) and the Board (after turnover) may, but shall not be required to, impose interest or a service charge for late installment payments or allow a discount for payment of the annual assessment or any installment in advance.

6.2 **Investment of Reserve Account Funds.** Assessments paid into Reserve Accounts shall be kept with a safe and responsible depository, shall be accounted for separately, and, if invested, the obligation or security shall be fully guaranteed as to principal by the United States of America or one of its agencies. Assessments paid into the Reserve Accounts are the property of the Association and are not refundable to sellers of Lots. However, nothing contained herein shall prevent sellers of Lots from treating their outstanding allocable share of Reserve Accounts as a separate or reimbursable item in a sales agreement. No Owner shall have any individual rights in any of these reserves, although it is understood that the value of an Owner's Lot may increase in proportion to such Lot's right to receive repair, maintenance, and replacement therefrom.

6.3 **Initial Assessment.** The amount of the initial assessment due from Lot owners other than Declarant shall be determined by Declarant. The amount of the annual assessment thereafter shall be subject to review and modification by the Board of Directors.

6.3.1 **Temporary Reduction of Assessment Amount.** If the Association expenses are temporarily less than projected by Declarant because some or most of the Lots are not yet sold or occupied, Declarant shall have the authority to reduce temporarily the amount of the assessment to reflect the lower expenses of the project.

6.4 Income Tax Returns; Determination of Fiscal Year.

6.4.1 **Fiscal Year.** The fiscal year of the Association shall be the calendar year unless otherwise determined by the Board.

Page 10- Bylaws of Oak Street Commons Association

Page 30 - Declaration of Planned Community for Oak Street Commons

6.4.2 Tax Returns. The Board, in its sole discretion, shall determine the manner in which all necessary income tax returns are filed and of selecting any and all persons to prepare such tax returns.

6.5 Statement of Assessments.

6.5.1 The Association shall provide, within 10 business days of receipt of a written request from an owner, a written statement that provides:

6.5.1.1 The amount of assessments due from the owner and unpaid at the time the request was received, including:

- (a) regular and special assessments;
- (b) fines and other charges;
- (c) accrued interest; and
- (d) late payment charges.

6.5.1.2 The percentage rate at which interest accrues on assessments that are not paid when due.

6.5.1.3 The percentage rate used to calculate the charges for late payment or the amount of a fixed charge for late payment.

6.5.2 The Association is not required to comply with Section 6.5.1 if the Association has commenced litigation by filing a complaint against the owner and the litigation is pending when the statement would otherwise be due.

6.6 Default. Failure by an Owner to pay any assessment of the Association shall be a default by such Owner of such Owner's obligations pursuant to these Bylaws and the Declaration. The Association shall be entitled to the remedies set forth in the Declaration.

6.7 Maintenance and Repair.

6.7.1 Lots. Except as otherwise specifically provided in the Declaration and these Bylaws, every Owner must promptly perform all maintenance and repair work to such Owner's Lot and the exterior of the improvements thereon (which do not constitute Commonly Maintained Property) and keep the same in good repair and sanitary and neat condition.

6.7.2 Common Area. The Association shall repair and maintain the Common Area as provided in the Declaration and Bylaws.

6.7.3 Reimbursement of Association. An Owner shall reimburse the Association for any expenditures incurred in repairing or replacing any portion of the Common Area or Commonly Maintained Property that was damaged through such Owner's fault and that is not otherwise covered by insurance policies carried by the Owner or the Association for the Owner's and the Association's benefit. In such circumstances, the insurance obtained by the Owner shall be deemed to be the primary coverage. The Board of Directors shall have the unfettered discretion to

Page 11- Bylaws of Oak Street Commons Association

Page 31 -- Declaration of Planned Community for Oak Street Commons

refuse to make a claim on the Association's policy even though coverage may pertain. Such discretion is for the purpose of maintaining the Association's insurability and controlling the amount of the premiums for the Association's insurance. Such charge shall be collectible as a Reimbursement Assessment as provided in the Declaration.

6.8 Right of Entry; Easements for Maintenance.

6.8.1 Emergencies. Present and future Owners, tenants, Occupants, and any other persons that occupy any portion of the Property, by virtue of acquisition, rental, or occupancy of any of the Lots, grant to the management agent or to any other person authorized by the Board or the Association the right to enter on such Lot in the event of an emergency originating in or threatening any Owner's Lot.

6.8.2 Maintenance Easements. Declarant grants an easement to the Association in and through any Lot and the Common Area providing access at reasonable times and with reasonable notice for purposes of maintenance, repair, and replacement of the Commonly Maintained Property. If, in performing such repair and maintenance, the Association needs to alter or damage any Lot or Commonly Maintained Property, it may do so without providing compensation, provided that it promptly restores area to substantially its prior condition.

**ARTICLE 7
USE AND OCCUPANCY RESTRICTIONS;
RULES OF CONDUCT**

In addition to the restrictions and rules of conduct set forth in the Declaration, the following shall apply:

7.1 Use of the Common Area. No Owner shall place or cause to be placed on any portion of the Common Area any trash, structure, equipment, improvement, furniture, package, or object of any kind. Common areas shall be used for no purpose other than what is customary for such areas and permitted by the Association.

7.2 Appearance of Lots. Owners shall keep their Lots and the improvements thereon (which do not include the common elements or those repairs, and maintenance required of the Association by the Declaration) in clean, good repair, compatible with the Declaration, and Rules and Regulations. Provided, however, the Association shall have such obligations with respect to the Commonly Maintained Property and maintenance required by the Declaration.

7.3 Nuisances. No Owner or Occupant shall cause or permit such Owner's representatives, agents, employees, or family members to cause any nuisance or to make any use or engage in any practice on the Property that is a source of annoyance to other Owners and Occupants or that interferes with other Owners' and Occupants' peaceful possession and proper use of the Property. Owners and Occupants shall keep all parts of their respective Lots in a clean and sanitary condition, free of any accumulation of rubbish, refuse, or garbage and free of any fire hazard and shall not cause any accumulation of rubbish, refuse, or garbage or any fire hazard on any other part of the Property. Owners and Occupants shall place all of their rubbish, refuse, and garbage inside disposal containers. No Owner shall make or permit any use of such Owner's Lot or of the Common Area that will increase the cost of insurance on the Common Area.

Page 12- Bylaws of Oak Street Commons Association

Page 32 Declaration of Planned Community for Oak Street Commons

7.4 Improper, Offensive, or Unlawful Use. No Owner or Occupant shall make any improper, offensive, or unlawful use of any part of the Property. Owners and Occupants shall observe all valid laws, zoning ordinances, and regulations of governmental bodies having jurisdiction over the Property. The responsibility for meeting the requirements of governmental bodies for maintenance, modification, or repair of the Property shall be carried out and paid for in the same manner as the responsibility for the maintenance and repair of the Property concerned.

7.5 Additional Rules. In addition to the rules set forth in this Article 7, the Board may promulgate and amend, from time to time, Rules and Regulations concerning other use of the Property and shall furnish copies of such Rules and Regulations to any Owner or Occupant requesting such copies.

7.6 Enforcement. The Association, through its Board of Directors, shall have the power to enforce the covenants and restrictions in these Bylaws and in the Declaration. Owners shall also have the right to bring actions or suits regarding covenants and restrictions, but shall have no right or power to require the Association or Board of Directors to take any enforcement action.

7.7 Restriction on Exterior Installations. Except as permitted by law, no owner, resident, or tenant shall install wiring for electrical or telephone installation, machines, or air conditioning units or similar devices on the exterior of the building(s) or cause them to protrude through the walls or the roof of the building(s) except as authorized in writing by the Board of Directors, and, if the modification or installation would require an easement pursuant to the Declaration, then prior approval by the required percentage of owners. No window guards, awnings, or shades shall be installed without the prior written consent of the Board of Directors.

7.8 Fines. The Board of Directors may, after giving written notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, Bylaws, and Rules and Regulations of the Association, provided that fines levied are based on a schedule previously adopted by Board resolution that is mailed to the mailing address of each Unit or mailed to the mailing address designated in writing by the owner(s).

ARTICLE 8 INSURANCE

8.1 General. The Board shall obtain and maintain at all times insurance of the type and kind and in the amounts hereinafter provided and additional insurance for such other risks of a similar or dissimilar nature as are now or as shall be hereafter customarily covered by insurance obtained by other planned communities similar in construction and design. Such additional insurance shall be governed by this Article 8.

8.2 Types of Insurance Policies Maintained by the Association. For the benefit of the Association and the Owners, the Board shall obtain and maintain at all times, and shall pay for out of the common expense funds, the following insurance to the extent that it is available at reasonable cost:

8.2.1 Property Insurance. A policy or policies of property insurance, including, but not limited to, fire, extended coverage, vandalism, and malicious mischief, for the full insurable replacement value of any Commonly Maintained Property to the extent such insurance is available

Page 13- Bylaws of Oak Street Commons Association

Page 33 - Declaration of Planned Community for Oak Street Commons

Description: Lane, OR Document - Year.DocID 2019.58456 Page: 33 of 38
Order: q Comment:

and, if available at a reasonable cost, shall obtain building code and actual replacement cost endorsements and earthquake insurance.

8.2.2 Liability. A policy or policies insuring the Association, its Board, the Owners individually, and the manager against any liability to the public or the Owners and their invitees or tenants, incident to the ownership, supervision, control, or use of the Property. Limits of liability under such insurance shall be not less than \$1 million per occurrence for bodily injuries and property damage liability. Such limit and coverage shall be reviewed at least annually by the Board, which may increase the limit of and/or coverage, in its discretion. Said policy or policies shall be issued on a commercial General Liability form and shall provide cross-liability endorsements wherein the rights of the named insured under the policy or policies shall not be prejudiced as respects his, her, or their action against another named insured.

8.2.3 Workers' Compensation. Workers' compensation insurance to the extent that it is necessary to comply with any applicable laws.

8.3 Fidelity Bond. For the benefit of the Association and Owners, the Board may obtain a fidelity bond naming such persons as may be designated by the Board as principals and the Association and the Owners as obligees, for the amount determined by the Board. The Board may pay for such bond out of the common expenses of the Association. In addition, the Board shall require that all officers and employees of the Association handling or responsible for Association funds to obtain adequate fidelity bonds and may pay for the premiums thereon.

8.4 Insurance Companies Authorized. All policies obtained under this Article 8 shall be written by a company licensed to do business in Oregon and holding a "Commissioner's Rating" of "A+" and a size rating of "AAA" or better, by Best's Insurance Reports, or as may be otherwise acceptable to all mortgagees and Directors.

8.5 Provisions in Insurance Policies. The Board shall make every reasonable effort to secure insurance policies that will provide for the following:

8.5.1 Waiver of Subrogation. A waiver of subrogation by the insurer as to any claims against the Board, the officers, the manager, the Owners, and their respective servants, agents, guests, and tenants.

8.5.2 Noncancellation for Owner Conduct. A provision that the master policy on the Property cannot be canceled, invalidated, or suspended on account of the conduct of any one or more individual Owners.

8.5.3 Noncancellation Without Opportunity to Cure. A provision that the master policy on the Property cannot be canceled, invalidated, or suspended on account of the conduct of any officer or employee of the Board or the manager without prior demand in writing that the Board or manager cure the defect.

8.5.4 No Other Insurance Clauses. A provision that any "no other insurance" clause in the master policy exclude individual Owners' policies and not otherwise prevent such individual policies from providing coverage for damage to Homes, Lots, or Common Area.

8.6 Personal Property Insurance Maintained by Each Owner. The Association shall have no responsibility to procure or to assist Owners or Occupants in procuring property loss insurance or liability insurance other than as expressly stated in this Article 8. Owners and Occupants shall procure all other insurance coverage that they deem necessary or prudent for their protection, and shall be obligated to carry personal property insurance with extended coverage endorsements in the amount of the replacement value of such Owners' personal property. Insurance coverage obtained and maintained by the Board of Directors may be brought into contribution with that obtained and maintained by Owners or mortgagees only in the Board of Directors' sole and unfettered discretion.

8.7 Review of Insurance Policies. At least annually, the Board shall review all insurance carried by the Association, which review shall include a consultation with a representative of the insurance carrier writing the master policy.

ARTICLE 9 AMENDMENT

Except as otherwise provided in this Article, and the restrictions set forth elsewhere herein, these Bylaws may be amended at any time by an instrument approved by at least a majority of the total votes of each class of Members that are eligible to vote. Any amendment must be executed, recorded and certified as provided by law. Provided, however, no amendment of these Bylaws may effect an amendment of the Declaration or the Articles without compliance with the provisions of such documents and the Oregon Nonprofit Corporation Act, and no amendment deleting or affecting any right of Declarant or its successor or assignee, including, without limitation, an amendment to this Article 9, may be adopted without the prior written consent of Declarant or its successor or assignee.

ARTICLE 10 RECORDS AND AUDITS

10.1 General Records. The Board and the managing agent or manager, if any, shall preserve and maintain minutes of the meetings of the Association, the Board, and any Board committees as required by ORS 94.670. The Board shall maintain a list of Owners entitled to vote at meetings of the Association. The minutes of the Association, the Board, and Board committees, and the Association's financial records shall be reasonably available for review and copying by the Owners. A reasonable charge may be imposed by the Association for providing copies. Proxies and ballots must be retained by the Association for one year from the date of determination of the vote.

10.2 Assessment Roll. The Board and the managing agent or manager, if any, shall maintain the assessment roll in a set of accounting books in which there shall be an account for each Lot. Such account shall designate the name and address of the Owner or Owners, the amount of each assessment against the Owner, the dates on which and the amounts in which the assessment comes due, the amounts paid upon the account and the balance due on the assessments.

10.3 Payment of Vouchers. The Treasurer or management agent shall pay all expenses authorized by the Board. The Treasurer or management agent shall maintain and follow reasonable procedures to assure the accounts and records are proper, and to assure that all expenditures are proper. Except in cases when an emergency exists (e.g., a repair must be made immediately to prevent further damage), any voucher for nonbudgeted items shall require the signature of the

Page 15- Bylaws of Oak Street Commons Association

Page 35 Declaration of Planned Community for Oak Street Commons

President; provided, however, that any withdrawal from Reserve Accounts shall require the signature of two Board members or one Board member and an officer of the Association who is not a Board member.

**ARTICLE 11
INDEMNIFICATION OF DIRECTORS, OFFICERS,
EMPLOYEES, AND AGENTS**

The Association shall indemnify any Director, officer, employee, 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. Indemnification will be made regardless of whether the action is 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. This applies 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 agents and Members of the Association who participated with or benefited from the acts that created said liability.

**ARTICLE 12
ASSESSMENT COLLECTION COSTS;
SUITS AND ACTIONS**

An Owner shall be obliged to pay reasonable fees and costs (including, but not limited to, attorney fees) and actual administrative costs incurred in connection with efforts to collect any delinquent unpaid assessments from such Owner, whether or not suit or action is filed. Assessments against Owners may include fees, late charges, fines, and interest imposed by the Board, in addition to amounts owed toward operating expenses and the funding of reserves. If the Association brings against any Owner or Owners a suit or action for the collection of any amounts due pursuant to or for the enforcement of any provisions of the Declaration, the Articles, or these Bylaws, such Owner or Owners, jointly and severally, shall pay, in addition to all other obligations, the costs of such suit or action, including actual administrative expenses incurred by the Association because of the matter or act which is the subject of the suit, reasonable attorneys' fees to be fixed by the trial court and, in the event of an appeal, the cost of the appeal, together with reasonable attorneys' fees in the appellate court to be fixed by such court.

Page 16- Bylaws of Oak Street Commons Association

Page 36 - Declaration of Planned Community for Oak Street Commons

**ARTICLE 13
MISCELLANEOUS**

13.1 Notices. All notices to the Association or to the Board shall be sent in care of the managing agent or, if there is no managing agent, to the principal office of the Association or to such other address as the Board hereafter may designate from time to time. All notices to any Owner shall be sent to such address as may have been designated by such Owner from time to time, in writing, to the Board, or if no address has been designated, then to such Owner's Lot.

13.2 Waiver. No restriction, condition, obligation, or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof that may have occurred and the number of times that the pertinent restriction, condition, obligation, or provision was not enforced.

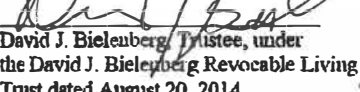
13.3 Invalidity; Number; Captions. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws. As used herein, the singular shall include the plural, and the plural the singular. The masculine and neuter shall 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 these Bylaws.

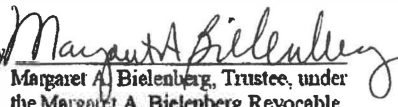
**ARTICLE 14
ADOPTION**

It is hereby certified that these Bylaws have been adopted by David J. Bielenberg, Trustee, or his successors in trust under the David J. Bielenberg Revocable Living Trust dated August 20, 2014 and any amendments thereto as to 50% and Margaret A. Bielenberg, Trustee, or her successors in trust under the Margaret A. Bielenberg Revocable Living Trust dated August 20, 2014, and any amendments thereto as to 50%, Declarant of Oak Street Commons, and shall be recorded in the Deed Records of Lane County, together with the Declaration for said planned community.

DATED: Dec. 6, 2019.

DECLARANT:

By: 
David J. Bielenberg, Trustee, under
the David J. Bielenberg Revocable Living
Trust dated August 20, 2014

By: 
Margaret A. Bielenberg, Trustee, under
the Margaret A. Bielenberg Revocable
Living Trust dated August 20, 2014

Page 17- Bylaws of Oak Street Commons Association

Page 37 -- Declaration of Planned Community for Oak Street Commons

Description: Lane, OR Document - Year.DocID 2019.58456 Page: 37 of 38
Order: q Comment:

STATE OF OREGON)
) ss.
County of Marion: Lane)

On the 6th day of December, 2019 personally appeared David J. Bielenberg, Trustee of the David J. Bielenberg Living Trust dated August 20, 2014 and any amendments thereto, and acknowledged said instrument to be his voluntary act and deed.



Conni S. Kief
Notary Public for Oregon
My Commission Expires: 4-5-20

STATE OF OREGON)
) ss.
County of Marion: Lane)

On the 6th day of December, 2019 personally appeared Margaret A. Bielenberg, Trustee of the Margaret A. Bielenberg Revocable Living Trust dated August 20, 2014 and any amendments thereto, and acknowledged said instrument to be her voluntary act and deed.



Conni S. Kief
Notary Public for Oregon
My Commission Expires: 4-5-20

Page 18- Bylaws of Oak Street Commons Association

Page 26 - Declaration of Planned Community for Oak Street Commons

7193-3405385

FIRST AMERICAN

After Recording Return To:
David and Margaret Bielenberg
16425 Herigstad Rd. NE
Silverton, OR 97381

Send Tax Statements To:
No Change

Lane County Clerk Lane County Deeds & Records	2020-016206 04/02/2020 10:47:50 AM
RPR-AMEN Cnt=1 Stn=1 CASHIER 05 7pages \$35.00 \$11.00 \$10.00 \$20.00 \$61.00	\$137.00

**FIRST AMENDMENT TO DECLARATION OF
PLANNED COMMUNITY FOR
OAK STREET COMMONS**

THIS FIRST AMENDMENT TO DECLARATION OF PLANNED COMMUNITY FOR
OAK STREET COMMONS (the "Amendment") is made this 30th day of March, 2020, by the
undersigned whom represent 100 percent (100%) of the owners of Lots within the Planned Community.

RECITALS

On December 20, 2019, David J. Bielenberg, Trustee, or his successors in trust under the David J. Bielenberg Revocable Living Trust dated August 20, 2014 and any amendments thereto as to 50% and Margaret A. Bielenberg, Trustee, or her successors in trust under the Margaret A. Bielenberg Revocable Living Trust dated August 20, 2014, and any amendments thereto as to 50% ("Declarants"), on behalf of themselves and Oak Street Commons Association, an Oregon non-profit corporation ("Declarant"), recorded the Declaration of Planned Community for Oak Street Commons in the Lane County Deed and Records, State of Oregon, as Document Number 2019-058456 ("the Declaration").

The Declarants own 16 Lots within the Planned Community. Under those conditions, pursuant to Section 10.3 of the Declaration, the Declaration may be modified by the Declarants, owning at least fifty-one (51%) percent of the Lots within the Planned Community.

The Declarants as all of the present owners of Lots or Tracts in the Project have determined that it is in the best interest of the Planned Community to modify some of the terms within the Declaration.

NOW, THEREFORE, in consideration of the foregoing, and pursuant to Section 10.3 of the Declaration, the Declaration is amended as follows:

Section 3.2 TOWN HOME LOTS; PARTY WALLS is amended as follows:

3.2 TOWN HOME LOTS: PARTY WALLS.

a. As shown on the Plat, Lots 1 through 4 adjoin each other, Lots 5 through 8 adjoin each other, 9 through 12 adjoin each other, and Lots 13 through 16 adjoin each other. Each of these sets of adjoining Lots are or may be improved with residential town home structures (the "Town Homes"). Each wall that is built as a part of the original construction of the town Homes structure and that is placed at or on the boundary line between the adjoining Town Home Lots is a "party wall". To the extent not inconsistent with other provisions of this Declaration, or with the Bylaws of the

MARTINIS & HILL
110 Madrona Avenue SE, Salem, OR 97302
Mailing Address: PO Box 3938, Salem, OR 97302
Phone: (503) 566-5800; Fax: (503) 566-6775
Email: wes@martinis-hill.com

Association, the general rules of law regarding party walls (including, without limitation, regarding liability for property damage due to negligence or willful acts or omissions) apply to the party walls.

1. Mutual reciprocal easements are hereby established, declared, and granted in favor of adjoining Town Home Owners and the association, with respect to any or all party walls between improvements constructed or to be constructed on the Town Home Lots, which reciprocal easements are for mutual support and for upkeep, repair, maintenance, replacement and restoration, as may be required herein of the Town Home Owners and the Association. Every deed, whether or not expressly so stating, shall be deemed to convey and to be subject to the reciprocal party wall easements herein established, declared and granted.

2. If a respective Town Home Owner fails to undertake necessary or appropriate repairs, maintenance, replacement, or restoration of a party wall, then, in addition to any right or remedy against that Town Home Owner that the other Town Home Owner served by the party wall may have, the cost of reasonable and necessary repair, maintenance, replacement or restoration of that party wall will be borne equally by the Owners of the Town Home Lots that are served by and that make use of the party wall. If one of the Town Home Owners refuses to pay the proportionate share of the cost of the repair, maintenance, replacement or restoration, then the other Town Home Owner may cause the party wall to be repaired, maintained, replaced or restored and shall be entitled to assess the share of the cost attributable to the adjoining Owner against the non-paying adjoining Owner of the Town Home Lot, and the same shall become and remain a lien against the Town Home Lot of the non-paying Owner until fully paid. The lien may be foreclosed in the manner provided by law for the foreclosure of a mortgage or deed of trust on real property. If neither Town Home Owner served by the party wall in need of repair, maintenance, replacement, or restoration undertakes the necessary repairs after notice from the Association, the Association shall have the right, but not the obligation, to undertake the necessary work and the cost shall become a lien borne equally against both Town Homes until fully paid.

3. If a party wall is destroyed or damaged by fire or other casualty not covered or not fully covered by insurance to be maintained by the Town Home Owners served by the party wall, any other Town Home Owner served by the party wall may restore it (if it is not covered by insurance), or complete the restoration (if it is only partially covered by insurance), and the other Town Home Owner shall contribute to the cost of the restoration thereof, by an equal proportionate share, without prejudice, however, to the right of the Owner to call for a larger contribution from the other Town Home Owner under any rule of law regarding liability for negligent or willful acts or omissions. If one Town Home Owner causes the party wall to be restored, or completes the restoration, and the other Town Home Owner served by the party wall does not contribute, the Town Home Owner's full allocable share of the costs incurred by the Town Home Owner who caused the wall to be restored, the costs attributable to the non-paying adjoining Owner, shall be assessed against that non-paying adjoining Town Home Owner's Town Home Lot, and the same shall become and remain a lien against said Lot until fully paid. Said lien may be foreclosed in the manner provided by law for the foreclosure of a mortgage or a Deed of Trust secured against real property. If neither Town Home Owner caused the party wall to be restored, the Association, shall have the right, but not the obligation, to cause the restoration to be completed, the cost of which shall become a lien against both Town

Page 2 - First Amendment to Declaration of Planned Community for Oak Street Commons

MARTINIS & HILL
110 Madrona Avenue SE, Salem, OR 97302
Mailing Address: PO Box 3938, Salem, OR 97302
Phone: (503) 566-5800; Fax: (503) 566-6775
Email: wes@martinis-hill.com

Homes and borne equally between the Town Home Owners served by the party wall which failed to restore the party wall.

b. In interpreting deeds, mortgages, deeds of trust, and other instruments for any purpose whatsoever, or in connection with any matter, the existing physical location of the party wall located between two adjoining Town Home Lots will be conclusively presumed to be the boundary between the two adjoining Town Home Lots, regardless of settling, rising, or lateral movement of the party wall or the building of which it is a part, and regardless of variances between boundaries shown on the Plat. If a party wall between Town Home Lots shall encroach upon a Town Home Lot by reason of original construction or non-purposeful or non-negligent act of the adjoining Town Home Lot Owner, then an easement appurtenant to such encroaching Town Home Lot, to the extent of such encroachment, shall exist so long as such encroachment shall exist. If any improvement on a Town Home Lot shall encroach upon any other Town Home Lot by reason of the original construction of the Town Homes, or the non-purposeful or non-negligent act of the Association, then an easement appurtenant to such party wall to the extent of such encroachment shall exist so long as such encroachment shall exist.

c. In no event will any Town Home Owner be entitled to make any structural changes to a party wall without the consent of the other Town Home Owner served by the party wall.

Section 6.3 ELECTION OF DIRECTORS shall be amended as follows. Any references to a Member or Members shall be plural, and not singular. The word "meting" is also hereby corrected to read "meeting".

Section 6.5 DECLARANT'S RIGHTS shall be amended to read as follows:

6.5 DECLARANTS' RIGHTS. After the date of the turnover, the Declarants shall have Class A membership as described in Section 5 of this Declaration, with respect to any Lots owned by Declarants at that date.

Section 7.1 USE AND OCCUPANCY shall be amended to read as follows:

7.1 USE AND OCCUPANCY. The Lots shall be used exclusively for residential purposes. No Lot may be used for commercial purposes or in violation of any zoning ordinance, City ordinance, County ordinance or State law, except that Lots may be used as a combined residence and a home, executive or professional office by the Owner thereof, so long as such use is in compliance with applicable law and does not interfere with the quiet enjoyment of other Owners. Renting or leasing a Lot shall not be considered a commercial purpose, even if the rental term is as short as a day. However, a Lot may not be rented or leased to a Person, or used otherwise by any Person, without the presence of the Owner, for fewer than 48 consecutive hours. Additional restrictions and regulations are set forth in the Bylaws and any rules or regulations adopted pursuant to the provisions of the Bylaws. Every Town Home Owner has an easement to enjoy and use the Common Elements in the manner for which they were intended or as may be otherwise established by the Association. No person may use the Common Elements or the Lots, or any part thereof in any manner contrary to or inconsistent with this

Page 3 - First Amendment to Declaration of Planned Community for Oak Street Commons

MARTINIS & HILL
110 Madrona Avenue SE, Salem, OR 97302
Mailing Address: PO Box 3938, Salem, OR 97302
Phone: (503) 566-5800; Fax: (503) 566-6775
Email: wes@martinis-hill.com

Declaration, the Bylaws and the rules promulgated by the Association. The Common Elements may be used for furnishing services and facilities to the Town Home Owners.

Section 7.4 RULES AND REGULATIONS PROMULGATED BY THE ASSOCIATION shall be amended to correct the word "limited" to "limiting" where applicable.

The last sentence of Section 7.4 shall be corrected to read as follows:

"The amount and the procedure to impose fines must be established by Board by resolution."

Section 7.9 (b) shall be amended as follows:

b. A Town Home Owner may not repair, maintain, replace or restore a Town Home roof or the exterior of a Town Home, unless the Association, within a reasonable period following demand therefor by the Owner, has failed to do so (or failed to commence doing so and thereafter diligently prosecuted the repair, maintenance, replacement or restoration to completion). A reasonable period following demand is thirty (30) days, except in the case of emergency (such as a health, safety or habitability issue) or if the Association is not active (that is, it does not have currently functioning Board and officers), in which case, no demand is necessary.

Section 8.6 shall be amended as follows:

8.6 MAINTENANCE AND REPAIR OF TOWN HOME ROOFS, EXTERIORS, STRUCTURES AND PARTY WALLS. The Association will be responsible for and will provide for all upkeep, repair, maintenance, replacement and restoration of the Town Home roofs, and of the building exteriors, and structure of the Town Homes, excluding party walls; provided, however, that with respect to party walls: (a) routine upkeep is the responsibility of the adjoining Town Home Owners served by the party wall, and (b) repair, replacement or restoration of any damage or destruction of a party wall caused by the act of a Town Home Owner (or an agent, contractor, tenant, guest or invitee of a Town Home Owner) is the responsibility of that Town Home Owner.

Section 9.4 Special Assessments shall be amended to remove reference to assessments for the structure of party walls and to remove any reference to the Association being responsible for restoration, maintenance, repair or replacement, it being the intent of the Declarants' that the Association only has the right, but not the obligation, for party wall restoration, maintenance, repair or replacement of party walls if the adjoining Town Home Owners neglect their responsibilities for the same.

Section 11.4(f) shall be amended to correct the word "Actor" to "Act".

Section 11.10 shall be amended to correct the word "In additional" to "In addition".

Exhibit B, Bylaws of Oak Street Commons Association, Section 1.1 shall be amended to reflect that the Planned Association is in Lane County, Oregon.

Page 4 - First Amendment to Declaration of Planned Community for Oak Street Commons

MARTINIS & HILL
110 Madrona Avenue SE, Salem, OR 97302
Mailing Address: PO Box 3938, Salem, OR 97302
Phone: (503) 566-5800; Fax: (503) 566-6775
Email: wes@martinis-hill.com

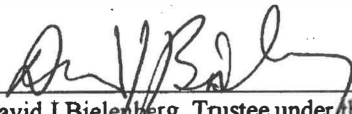
Section 11.14 shall be added to the Declaration as follows:


11.14. ADDITIONAL COMMON AREA TO ACCOMMODATE HVAC EQUIPMENT.

During construction of Town Homes, the builder discovered that additional common area was necessary to accommodate placement of sending units for HVAC for Town Homes. As a result, Declarants have determined that additional easements shall be granted to the Association and additional common area shall be designated to accommodate these improvements as and where built by the original builder in the Planned Community, regardless of whether they are built and located prior to the recording of this First Amendment. However, the easements granted and common area created for these improvements are limited to the original placement of the HVAC improvements and any replacements shall be located in the identical location as originally built by the original builder in the Planned Community. Generally, the locations of these improvements are as follows. Building 1 will have the improvements located to the east and west of the patio decks as the decks are depicted on the Landscape Plan received by the City of Florence on March 29, 2019, a copy of which is attached hereto and incorporated herein as **Exhibit A**. Building 2 will have the improvements located to the north of each unit and north of the patio decks as the decks are depicted on the Landscape Plan received by the City of Florence on March 29, 2019, a copy of which is attached hereto and incorporated herein as Exhibit A. Building 3 will have the improvements located to the north of each unit and north of the patio decks as the decks are depicted on the Landscape Plan received by the City of Florence on March 29, 2019, a copy of which is attached hereto and incorporated herein as Exhibit A. Building 4 will have the improvements located to the east of each unit and east of the patio decks as the decks are depicted on the Landscape Plan received by the City of Florence on March 29, 2019, a copy of which is attached hereto and incorporated herein as Exhibit A.

IT IS HEREBY AGREED that the foregoing amendment is adopted by the Declarants as one hundred percent (100%) of the present owners of Lots in the Planned Community by affixing their signatures below.

DECLARANTS:

By: 
David J Bielenberg, Trustee under the David
J. Bielenberg Revocable Living Trust dated
August 20, 2014

By: 
Margaret A. Bielenberg, Trustee under the
Margaret A. Bielenberg Revocable Living Trust
Dated August 20, 2014

NOTARIAL CERTIFICATIONS APPEAR ON THE FOLLOWING PAGE

Page 5 - First Amendment to Declaration of Planned Community for Oak Street Commons

MARTINIS & HILL
110 Madrona Avenue SE, Salem, OR 97302
Mailing Address: PO Box 3938, Salem, OR 97302
Phone: (503) 566-5800; Fax: (503) 566-6775
Email: wes@martinis-hill.com

STATE OF OREGON)
)ss.
County of Lane)

On this 30 day of March, 2020, personally appeared before me the above-named David J. Bielenberg* and Margaret A. Bielenberg*, and acknowledged the foregoing instrument to be their voluntary act and deed.

* *Trustee under the David J. Bielenberg Revocable Living Trust*
* *Trustee under the Margaret A. Bielenberg Revocable Living Trust*

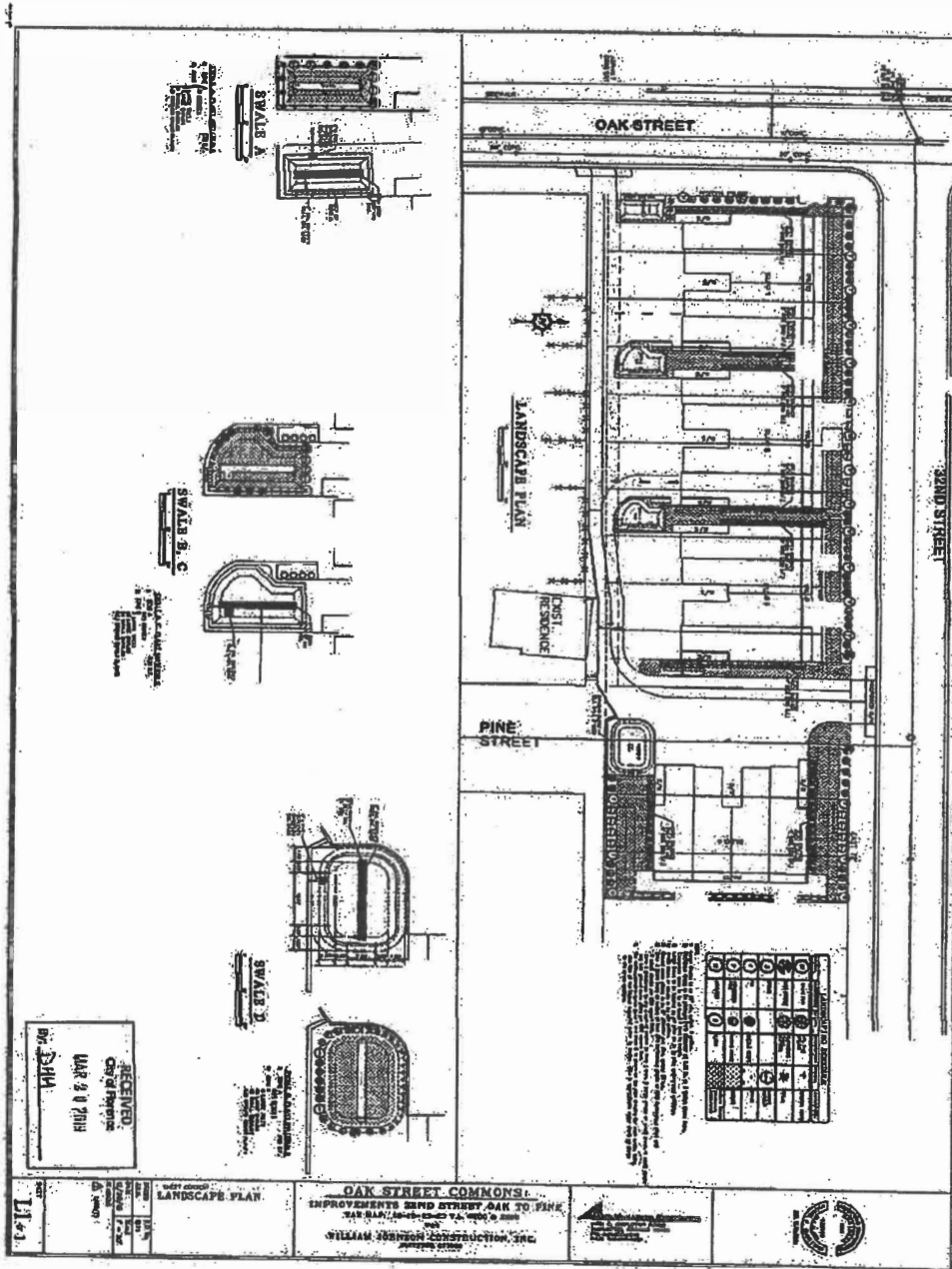
Conni S. Kief
Notary Public for Oregon
My Commission Expires: 4-5-2020



Page 6 - First Amendment to Declaration of Planned Community for Oak Street Commons

MARTINIS & HILL
110 Madrona Avenue SE, Salem, OR 97302
Mailing Address: PO Box 3938, Salem, OR 97302
Phone: (503) 566-5800; Fax: (503) 566-6775
Email: wes@martinis-hill.com

EXHIBIT A



Page 7 - First Amendment to Declaration of Planned Community for Oak Street Commons

MARTINIS & HILL
 110 Madrona Avenue SE, Salem, OR 97302
 Mailing Address: PO Box 3938, Salem, OR 97302
 Phone: (503) 566-5800; Fax: (503) 566-6775
 Email: wes@martinis-hill.com