

COMMON INTEREST COMMUNITY NUMBER 150
(Planned Community)

PINE SUMMIT
DECLARATION

This Declaration is made in the County of Washington, State of Minnesota, on this 25th day of September, 2000, U. S. HOME CORPORATION, a Delaware corporation (the "Declarant"), pursuant to the provisions of Minnesota Statutes Chapter 515B, known as the Minnesota Common Interest Ownership Act (the "Act"), for the purpose of creating Pine Summit Homeowners' Association, a planned community.

WHEREAS, Declarant is the owner of certain real property located in Washington County, Minnesota, legally described in Exhibit A attached hereto and Declarant desires to submit said real property and all improvements thereon (collectively the "Property") to the Act; and

WHEREAS, Declarant desires to establish on the Property and any Additional Real Estate added thereto a plan for a permanent residential community to be owned, occupied and operated for the use, health, safety and welfare of its resident Owners and Occupants, and for the purpose of preserving the structural quality, and the original architectural and aesthetic character of the Property; and

WHEREAS, the Property is not subject to an ordinance referred to in Section 515B.1-106 of the Act, governing common interest ownership, and is not subject to a master association as defined in the Act.

THEREFORE, Declarant makes the Declaration and submits the Property to the Act as a planned community under the name "Pine Summit," initially consisting of the Units referred to in Section 2, declaring that this Declaration shall constitute covenants to run with the Property, and that the Property shall be owned, used, occupied and conveyed subject to the covenants, restrictions, easements, charges and liens set forth herein, all of which shall be binding upon all Persons owning or acquiring any right, title or interest therein, and their heirs, personal representatives, successors and assigns.

**SECTION 1.
DEFINITIONS**

The following words when used in the Governing Documents shall have the following meanings (unless the context indicates otherwise):

1.1 “Additional Real Estate” shall mean the real property legally described in Exhibit C attached hereto, including all improvements located thereon now or in the future, and all easements and rights appurtenant thereto, which property Declarant has the right to add in whole at any time or in part from time to time to the common interest community.

1.2 “Association” shall mean Pine Summit Single Family Homeowners’ Association, Inc., a nonprofit corporation which has been created pursuant to Chapter 317A of the laws of the State of Minnesota and Minnesota Statutes Section 515B.3-101, the members of which consist of all Owners as defined herein.

1.3 “Berm Area” shall mean fifty (50) feet of the Property adjacent to the north right of way line of 70th Street within which the Declarant has constructed a berm and as to which an easement for such purposes has been granted to the Association. Should that portion of the Additional Real Estate adjacent to 65th Street South be added to the Common Interest Community by Declarant, the term “Berm Area” shall also mean the fifty (50) foot portion thereof adjacent to the South right-of-way line of 65th Street South within which Declarant has constructed a berm and as to which an easement for such purpose has been granted to the Association.

1.4 “Board” shall mean the Board of Directors of the Association as provided for in the Bylaws.

1.5 “Bylaws” shall mean the Bylaws governing the operation of the Association, as amended from time to time.

1.6 “Center Islands” shall mean any curb enclosed area upon which grass, trees, shrubs and/or other vegetation is planted within the public streets serving the Common Interest Community.

1.7 “Common Elements” shall mean all parts of the Property except the Units and all improvements on the Units, including all improvements thereon, owned by the Association for the common benefit of the Owners and Occupants. The initial Common Elements are legally described on Exhibit B attached hereto.

1.8 “Common Expenses” shall mean all expenditures made or liabilities incurred by or on behalf of the Association that are incident to its operation, including without limitation allocations to reserves, those items specifically identified as Common Expenses in the Declaration or Bylaws.

1.9 "Common Interest Community" means Pine Summit, Common Interest Community Number 150, Washington County, Minnesota including any Additional Real Estate subsequently added to the Common Interest Community,

1.10 "Declarant" means U.S. Home Corporation, a Delaware corporation; any person who executes an amendment to the Declaration adding Additional Real Estate to the Common Interest Community, other than persons holding interest in the real estate solely as security for an obligation; or any person who succeeds under the provisions of the Act to any Special Declarant Rights, as defined in the Act;

1.11 "Dwelling" shall mean a part of a building consisting of one or more floors, designed and intended for occupancy as a single family residence, and located within the boundaries of a Unit. The Dwelling includes any garage attached thereto or otherwise included within the boundaries of the Unit in which the Dwelling is located.

1.12 "Entrance Monument" shall mean a structure identifying the Property constructed and maintained on such portion of the Property (and properties lying contiguous to Property) over which Declarant has granted an easement for such purposes to the Association.

1.13 "Governing Documents" shall mean this Declaration, and the Articles of Incorporation and Bylaws of the Association, as amended from time to time, all of which shall govern the use and operation of the Property.

1.14 "Member" shall mean all persons who are Owners as defined in this Declaration. The words "Owner" and "Member" may be used interchangeably in the Governing Documents.

1.15 "Occupant" shall mean any person or persons, other than an Owner, in possession of or residing in a Unit.

1.16 "Owner" shall mean a Person who owns a Unit, but excluding secured parties within the meaning of Section 515B.1-103(29) of the Act. The term "Owner" includes, without limitation, contract for deed vendees and holders of a life estate.

1.17 "Person" shall mean a natural individual, corporation, limited liability company, partnership, trustee, other or legal entity capable of holding title to real property.

1.18 "Plat" shall mean the recorded plat depicting the Property pursuant to the requirements of Section 515B.2-110 of the Act, and satisfying the requirements of Minnesota Statutes Chapters 505, 508 or 508A, as applicable, including any amended or supplemental Plat recorded from time to time in accordance with the Act.

1.19 "Private Driveway" shall mean that part of a Unit paved to connect the Dwelling situated on such Unit to the public street.

1.20 "Private Yard Area" shall mean that part of a Unit not covered by a Dwelling.

1.21 "Property" shall mean all of the real property submitted to this Declaration, including the Dwellings and all other structures and improvements located thereon now or in the future. The Property as of the date of this Declaration is legally described in Exhibit A attached hereto.

1.22 "Rules and Regulations" shall mean the Rules and Regulations of the Association as approved from time to time pursuant to Section 5.6.

1.23 "Special Declarant Rights" shall mean the rights reserved in Section 15 for the benefit of Declarant.

1.24 "Unit" shall mean any platted lot subject to this Declaration upon which a Dwelling is located or intended to be located, as shown on the Plat, including all improvements thereon, but excluding the Common Elements.

Any terms used in the Governing Documents, and defined in the Act and not in this Section, shall have the meaning set forth in the Act.

SECTION 2. DESCRIPTION OF UNITS AND APPURTENANCES

2.1 Units. There are thirty-nine (39) Units which Declarant intends to develop, all of which are restricted exclusively to residential use. Each Unit constitutes a separate parcel of real estate. No additional Units may be created by the subdivision or conversion of Units pursuant to Section 515B.2-112 of the Act except in accordance with Section 7.2. The Unit identifiers and locations of the Units are as shown on the Plat, which is incorporated herein by reference, and a schedule of Units is set forth on Exhibit A. The Unit identifier for a Unit shall be its lot and block number and the subdivision name.

2.2 Unit Boundaries. The front, rear and side boundaries of each Unit shall be the boundary lines of the platted lot upon which the Dwelling is located or intended to be located as shown on the Plat. The Units shall have no upper or lower boundaries. Subject to this Section 2 and Section 3.2, all spaces, walls, and other improvements within the boundaries of a Unit are a part of the Unit.

2.3 Common Elements. Each Unit shall be the beneficiary of appurtenant easements for use and enjoyment on and across the Common Elements, subject to any restrictions authorized by the Declaration.

2.4 Other Easements. Each Unit shall be subject to and shall be the beneficiary of appurtenant easements described in Section 13.

2.5 Declarant's Easements. Declarant shall have and be the beneficiary of easements for construction and sales activities as described in Section 15.5.

2.6 Easements are Appurtenant. All easements and similar rights burdening or benefiting a Unit or any other part of the Property shall be appurtenant thereto, and shall be permanent, subject only to termination in accordance with the Act or the terms of the easement. Any recorded easement benefiting or burdening the Property shall be construed in a manner consistent with, and not in conflict with, the easements created by this Declaration.

2.7 Impairment Prohibited. No person shall materially restrict or impair any easement benefiting or burdening the Property, subject to the Declaration and the right of the Association to impose reasonable Rules and Regulations governing the use of the Property.

SECTION 3. COMMON ELEMENTS

3.1 Common Elements. The Common Elements and their characteristics are as follows:

- a. All of the Property not included within the Units constitutes Common Elements. The Common Elements include those parts of the Property described in Exhibit B or designated as Common Elements in the Act.
- b. The Common Elements shall be subject to appurtenant easements for services, public and private utilities, access, use and enjoyment in favor of each Unit and its Owners and Occupants; subject to (i) the right of the Association to establish reasonable Rules and Regulations governing the use of the Property and (ii) conservation easements in favor of the City of Cottage Grove.
- c. Subject to Sections 5, 6 and 9, all maintenance, repair, replacement, management and operation of the Common Elements, Entrance Monuments, landscaping installed by Declarant along 70th Street and 65th Street South, if any, and Berm Easement Area shall be the responsibility of the Association.
- d. Common Expenses for the maintenance, repair, replacement, management and operation of the Common Elements, Entrance Monuments and Berm Area shall be assessed and collected from the Owners in accordance with Section 6.

SECTION 4. ASSOCIATION MEMBERSHIP; RIGHTS AND OBLIGATIONS

Membership in the Association, and the allocation to each Unit of a portion of the votes in the Association and a portion of the Common Expenses of the Association shall be governed by the following provisions:

4.1 Membership. Each Owner shall be a member of the Association by virtue of Unit ownership, and the membership shall be transferred with the conveyance of the Owner's interest in

the Unit. An Owner's membership shall terminate when the Owner's ownership terminates. When more than one Person is an Owner of a Unit, all such Persons shall be members of the Association, but multiple ownership of a Unit shall not increase the voting rights allocated to such Unit nor authorize the division of the voting rights.

4.2 Voting. Voting rights are allocated equally among the Units except that Declarant may appoint and remove the officers and directors of the Association between the date of the first conveyance of a Unit to an Owner other than Declarant and the fifth anniversary of said date (subject to Section 15.6 herein).

4.3 Common Expenses. Common Expense obligations are allocated equally among the Units except that special allocations of Common Expenses shall be permitted as provided in Section 6.1 and except, further, that assessments against Units owned by Declarant shall be in accordance with Section 6.6.

4.4 Appurtenant Rights and Obligations. The ownership of a Unit shall include the voting rights and Common Expense obligations described in Sections 4.2 and 4.3. Said rights, obligations and interests, and the title to the Units, shall not be separated or conveyed separately. The allocation of the rights, obligations and interests described in this Section may not be changed, except in accordance with the Governing Documents and the Act.

4.5 Authority to Vote. The Owner, or some natural person designated to act as proxy on behalf of the Owner, and who need not be an Owner, may cast the vote allocated to such Unit at meetings of the Association; provided, that if there are multiple Owners of a Unit, only the Owner or other Person designated pursuant to the provisions of the Bylaws may cast such vote. The voting rights of Owners are more fully described in Section 3 of the Bylaws.

4.6 Allocation After Addition of Units. After each addition of Units pursuant to Section 20, voting rights and common expense obligations shall be reallocated in accordance with Sections 4.2 and 4.3.

SECTION 5. ADMINISTRATION

The administration and operation of the Association and the Property, including but not limited to the acts required of the Association, shall be governed by the following provisions:

5.1 General. The operation and administration of the Association and the Property shall be governed by the Governing Documents and the Act. The Association shall, subject to the rights of the Owners set forth in the Governing Documents and the Act, be responsible for the operation, management and control of the Property. The Association shall have all powers described in the Governing Documents, the Act and the statute under which it is incorporated. All power and authority of the Association shall be vested in the Board, unless action or approval by the individual Owners is specifically required by the Governing Documents or the Act. All references to the Association shall mean the Association acting through the Board unless specifically stated to the contrary.

5.2 Operational Purposes. The Association shall operate and manage the Property for the purposes of (i) administering and enforcing the covenants, restrictions, easements, charges and liens set forth in the Governing Documents and the Rules and Regulations; (ii) maintaining, repairing and replacing those portions of the Property for which it is responsible; and (iii) preserving the architectural uniformity and character of the Property.

5.3 Binding Effect of Actions. All agreements and determinations made by the Association in accordance with the powers and voting rights established by the Governing Documents or the Act shall be binding upon all Owners and Occupants, and their lessees, guests, heirs, personal representatives, successors and assigns, and all secured parties as defined in the Act.

5.4 Bylaws. The Association shall have Bylaws. The Bylaws and any amendments thereto shall govern the operation and administration of the Association.

5.5 Management. The Board may delegate to a manager or managing agent the management duties imposed upon the Association's officers and directors by the Governing Documents and the Act; provided, however, that such delegation shall not relieve the officers and directors of the ultimate responsibility for the performance of their duties as prescribed by the Governing Documents and by law.

5.6 Rules and Regulations. The Board shall have the exclusive authority to approve and implement such reasonable Rules and Regulations as it deems necessary from time to time for the purpose of operating and administering the affairs of the Association and regulating the use of the Property; provided that the Rules and Regulations shall not be inconsistent with the Governing Documents or the Act. The inclusion in other parts of the Governing Documents of authority to approve Rules and Regulations shall be deemed to be in furtherance, and not in limitation, of the authority granted by this Section. New or amended Rules and Regulations shall be effective only after reasonable notice thereof has been given to the Owners.

5.7 Association Assets; Surplus Funds. All funds and real or personal property acquired by the Association shall be held and used for the benefit of the Owners for the purposes stated in the Governing Documents. Surplus funds remaining after payment of or provision for Common Expenses and reserves shall be credited against future assessments or added to reserves, as determined by the Board.

SECTION 6. ASSESSMENTS FOR COMMON EXPENSES

6.1 General. Assessments for Common Expenses shall be determined and assessed against the Units by the Board, in its discretion; subject to the limitations set forth in Sections 6.2 and 6.3, and the requirements of the Bylaws. Assessments for Common Expenses shall include annual assessments and may include special assessments. Assessments shall be allocated among the Units according to the Common Expense allocations set forth in Section 4.3, subject to the following qualifications:

- a. Any Common Expense or portion thereof benefiting fewer than all of the Units may be assessed exclusively against the Units benefited, on the basis of (i) equality; (ii) square footage of the area being maintained, repaired or replaced; or (iii) the actual cost incurred with respect to each Unit.
- b. The costs of insurance may be assessed in proportion to value, risk or coverage, and the costs of utilities may be assessed in proportion to usage.
- c. If any installment of an assessment becomes more than 30 days past due, then the Association may, upon 10 days written notice of the Owner, declare the entire amount of the assessment immediately due and payable in full.
- d. Assessments under Section 6.1 shall not be considered special assessments as described in Section 6.3.

6.2 Annual Assessments. Annual assessments shall be established and levied by the board, subject only to the limitations set forth in Sections 6.2 and 6.3. Each annual assessment shall cover all of the anticipated Common Expenses of the Association for that year. Annual assessments shall provide, among other things, for contributions to a separate reserve fund sufficient to cover the periodic cost of maintenance, repair and replacement of the Common Elements, Entrance Monuments, Center Islands and Berm Area, and Units for which the Association is responsible. After a Common Expense assessment is levied, the annual assessment may be subsequently increased by the Board, subject to the limitation in the next sentence. The increase in the annual assessment for any fiscal year shall not exceed 10% of the total annual assessment for the Association's previous fiscal year, unless such increase is approved by the vote of a majority of those Owners voting, in person or by proxy, at a meeting called for that purpose.

6.3 Special Assessments. In addition to annual assessments, and subject to the limitations set forth hereafter, the Board may levy in any assessment year a special assessment against all Units for the purpose of defraying in whole or in part (i) the cost of any foreseen or unbudgeted Common Expense, (ii) general or specific reserves for maintenance, repair or replacement, and (iii) the maintenance, repair or replacement of any part of the Property for which the Association is responsible pursuant to Section 9, and any fixtures or other property related thereto. Notwithstanding the foregoing, any special assessment shall be subject to approval by the vote of two-thirds (2/3) of those Owners voting, in person or by proxy, at a meeting called for that purpose.

6.4 Liability of Owners for Assessments. The obligation of an Owner to pay assessments shall commence at the later of (i) the recording of the Declaration or amendment thereto which creates the Owner's Unit, or (ii) the time at which the Owner acquires title to the Unit, subject to the alternative assessment program described in Section 6.6. The Owner at the time an assessment is payable with respect to the Unit shall be personally liable for the share of the Common Expenses assessed against such Unit. Such liability shall be joint and several where there are multiple Owners of the Unit. The liability is absolute and unconditional. No Owner is exempt from liability for payment of his or her share of Common Expenses by right of set-off, by waiver

of use or enjoyment of any part of the Property, by absence from or abandonment of the Unit, by the waiver of any other rights, or by reason of any claim against the Association or its officers, directors or agents, or for their failure to fulfill any duties under the Governing Documents or the Act. The Association may invoice the charges, sanctions and remedies set forth in Section 14, in addition to any remedies provided elsewhere in the Governing Documents or by law, for the purpose of enforcing its rights hereunder.

6.5 Working Capital Fund. Declarant shall establish a working capital fund to meet unforeseen expenditures or to purchase additional equipment or services during the period when Declarant is conducting its sales activities. There shall be contributed on a one-time basis for each Unit sold by Declarant an amount equal to two (2) month installments of the estimated Common Expense assessment for the Unit being conveyed. The contribution to the working capital fund shall be paid at the time of closing of sale of the Unit. The amounts paid into this fund are in addition to the regular monthly installments of assessments. The funds shall be deposited into the Association's account, and Declarant may not use the funds to defray any of its expenses, reserve contributions, or construction costs, or to make up any budget deficit while Declarant is in control of the Association. However, upon closing of an unsold Unit, Declarant may reimburse itself from funds collected at the closing for funds which it contributed to the working capital fund with respect to that Unit.

6.6 Declarant's Alternative Assessment Program. Notwithstanding anything to the contrary in this Section 6, if a Common Expense assessment has been levied, any Unit owned by Declarant for initial sale shall be assessed at the rate of 25% of the assessment levied on other Units of the same type until a certificate of occupancy has been issued with respect to such Unit by the municipality in which the Unit is located. There are no assurances that this alternative assessment program will have no effect on the level of services for items set forth in the Association's budget.

6.7 Assessment Lien. The Association has a lien, as provided for in Section 515B.3-116 of the Act, on a Unit for any assessment levied against that Unit as well as for fees, charges, late charges, fines and interest charges imposed by the Association pursuant to Section 515B.3-102(a)(10), (11) and (12) of the Act. Recording of the Declaration constitutes record notice and perfection of any lien under this Section, and no further recordation of any notice of or claim for the lien is required.

6.8 Foreclosure of Lien: Remedies. A lien under this Section is prior to all other liens and encumbrances on a Unit except (i) liens and encumbrances recorded before the Declaration, (ii) any first mortgage on the Unit, and (iii) liens for real estate taxes and other governmental assessments or charges against the Unit. Notwithstanding the foregoing, if (i) a first mortgage on a Unit is foreclosed, (ii) the first mortgage was recorded on or after June 1, 1994, and (iii) no Owner redeems during the Owner's period of redemption provided by Chapters 580, 581, or 582, then the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage shall take title to the Unit subject to unpaid assessments for Common Expenses levied pursuant to Sections 515B.3-115(a), (h)(1) to (3), (i), and (1) of the Act which became due, without acceleration, during the six months immediately preceding the first day following the end of the Owner's period of redemption.

6.9 Enforcement. Proceedings to enforce an assessment shall be instituted within three (3) years after the last installment of the assessment becomes payable, or shall be barred.

6.10 Voluntary Conveyances: Statement of Assessments. In a voluntary conveyance of a Unit the buyer shall not be personally liable for any unpaid assessments and other charges made by the Association against the seller or the seller's Unit prior to the time of conveyance to the buyer, unless expressly assumed by the buyer. However, the lien of such assessments shall remain against the Unit until satisfied.

SECTION 7. RESTRICTIONS ON USE OF PROPERTY

All Owners and Occupants, and all secured parties, by their acceptance or assertion of an interest in the Property, or by their occupancy of a Unit, covenant and agree that, in addition to any other restrictions which may be imposed by the Act or the Governing Documents, the occupancy, use, operation, alienation and conveyance of the Property shall be subject to the following restrictions:

7.1 General. The Property shall be owned, conveyed, encumbered, leased, used and occupied subject to the Governing Documents and the Act, as amended from time to time. All covenants, restrictions and obligations set forth in the Governing Documents are in furtherance of a plan for the Property, and shall run with the Property and be a burden and benefit to all Owners and Occupants and to any other Person acquiring or owning an interest in the Property, their heirs, personal representatives, successors and assigns.

7.2 Subdivision Prohibited. Except as permitted by the Act, no Unit nor any part of the Common Elements may be subdivided or partitioned without the prior written approval of at least 75% of the Owners and at least 75% of any secured parties holding first mortgages on the Units of the approving Owners.

7.3 Residential Use. The Units shall be used by Owners and Occupants and their guests exclusively as private, single family residential dwellings, and not for transient, hotel, commercial, business or other non-residential purposes, except as provided in Section 7.5. Any lease of a Unit (except for occupancy by guests with the consent of the Owner) for a period of less than 7 days, or any occupancy which includes services customarily furnished to hotel guests, shall be presumed to be for transient purposes.

7.4 Time Shares Prohibited. The time share form of ownership, or any comparable form of lease, occupancy rights or ownership which has the effect of dividing the ownership or occupancy of a Unit into separate time periods, is prohibited.

7.5 Business Use Restricted. Subject to the prior written approval of the Board, an Owner or Occupant residing in a Unit may keep and maintain his or her business or professional records in such Unit and handle matters relating to such business by telephone or correspondence therefrom, providing that such uses are incidental to the residential use, do not involve physical alteration of the Unit and do not involve any observable business activity such as signs, advertising displays, bulk mailings, deliveries, or visitation or use of the Unit by clients, customers, employees

or independent contractors. The Association may maintain offices on the Property for management and related purposes.

7.6 Signs. No signs of any kind shall be displayed to the public view on any Unit except for one sign of not more than five (5) square feet advertising the property for sale, except that Declarant shall be permitted to erect and maintain upon the Property such signs as Declarant deems appropriate to advertise the Property until the first anniversary of the date on which Declarant owns no Unit.

7.7 Antennas/Satellite Dish. No television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any Lot or upon any improvements thereon, except that this prohibition shall not apply to those antennae specifically covered by 47 C.F.R. Part 1, Subpart S Section 1.4000 (or any successor provision) promulgated under the Telecommunications Act of 1996, as amended from time to time. To the extent that reception of an acceptable signal would not be impaired, an antenna permissible hereunder may only be installed in a side or rear yard location, not visible from the street or neighboring property, and integrated with the dwelling and surrounding landscape. Antennae shall be installed in compliance with all state and local laws and regulations, including zoning, land-use, and building regulations.

7.8 Exterior Facilities. No playground equipment, furnishings or furniture (including basketball hoops and swing sets), whether temporary or permanent, shall be erected or placed on any Unit except as approved by the Board, or the appointed committee if so authorized by the Board, and, if so approved, shall not be altered, modified or removed except if approved by the Board or such committee. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other building shall be used on any Unit at any time as a residence, either temporarily or permanently.

7.9 Fences. No fence, whether temporary or permanent, shall be erected or placed on any Unit except as approved by the Board, or the appointed committee if so authorized by the Board, as part of a general landscape theme to be owned and maintained by the Association. No fence shall be erected within fifty (50) feet of north right of way line of 70th Street, Meadow Grass Lane and/or 65th Street South (if the real estate situated adjacent thereto is added to the Common Interest Community pursuant to Section 20 herein) except that Declarant may erect or place a fence and/or landscaping on the Units adjacent to 70th Street. No fence, whether temporary or permanent, shall be erected or placed on any Unit except as approved by the Board, or the appointed committee if so authorized by the Board, and, (approval being conditioned, with regard to any fence along 70th Street, 65th Street South and/or Meadow Grass Lane, upon all fencing being of uniform design and color), shall not be altered, modified or removed except if approved by the Board or such committee. All fence approvals by the Board or the appointed committee are conditional upon proper future maintenance by the Owner. All fences must be installed within the boundary of the Unit and with regard to Units with berms located upon the same, must be installed on the inside of the berm. Fences are subject to removal at the expense of the Owner if any drainage or utility easement is interfered with.

7.10 Parking. Garages and parking areas on the Property shall be used only for parking of vehicles owned or leased by Owners and Occupants and their guests, and such other incidental uses as may be authorized in writing by the Association. The use of garages, driveways and other parking areas on the Property, and the types of vehicles and personal property permitted thereon, shall be subject to regulation by the Association, including without limitation the right of the Association to tow illegally parked vehicles or to remove unauthorized personal property. No boats, trailers, automobiles or other motor equipment, licensed or unlicensed, shall be stored or parked anywhere on any Unit except for short-term parking of less than 48 hours and then only on the Private Driveway of the Owner of said vehicles and equipment. Temporary guest parking and overnight parking on public streets are subject to City of Cottage Grove's parking ordinance.

7.11 Animals. No animal may be bred, kept or maintained anywhere on the Property except that two (2) dogs, two (2) cats or two (2) other household pets may be kept on the condition that they are not kept, bred or maintained for any commercial purpose and upon the further condition that they comply with the City of Cottage Grove ordinance for domestic pets. The word "animal" shall be construed in its broadest sense and shall include all living creatures except humans. The person in charge of the pet must clean up after it and the owner of the pet(s) causing any damage to the landscaping upon the Common Elements and/or Private Yard Area.

7.12 Quiet Enjoyment; Interference Prohibited. All Owners and Occupants and their guests shall have a right of quiet enjoyment in their respective Units, and shall use the Property in such a manner as will not cause a nuisance, nor unduly restrict, interfere with or impede the use of the Property by other Owners and Occupants and their guests. Nothing shall be done or kept on any Unit or part thereof which would (i) increase the rate of insurance on any other Unit over what the Owner of such other Unit, but for such activity, would pay without the prior written consent of the Board, or the appointed committee if so authorized by the Board; or (ii) which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Property or the buildings situated thereon shall be committed by any Owner or any invitee of any Owner and each Owner agrees to indemnify and hold harmless the Association and the other Owners from and against all loss resulting from any such damage or waste caused by such Owner or such Owner's invitees. No noxious, destructive or offensive activity shall be allowed on any Unit, nor shall anything be done thereon which may be or may become an annoyance or nuisance to any other Owner or any other Person at any time lawfully residing on the Property.

7.13 Trash. No Unit shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. No part of any Unit may be used at any time for the storage or abandonment of junked automobiles or other motor equipment. Garbage, rubbish and trash shall not be kept on any Unit except in sanitary containers. All equipment used or kept for the storage or disposal of such materials shall be kept in a clean and sanitary condition inside a garage.

7.14 Compliance with Law. No use shall be made of the Property which would violate any then existing municipal codes or ordinances (including, but not limited to, the municipal 10-foot side yard setback, 30-foot front yard setback and 30-foot rear yard setback requirements), or state or federal laws, nor shall any act or use be permitted which could cause waste to the Property, cause a material increase in insurance rates on the Property, or otherwise cause any unusual liability, health or safety risk, or expense, for the Association or any Owner or Occupant.

7.15 Soil Removal. Except as approved by the Board, or the appointed committee if so authorized by the Board, no sod, soil or gravel shall be sold or removed from any Unit. All soil or gravel available from any excavation for the construction or alteration of any Dwelling or any appurtenance on any Unit and by whomsoever owned shall be hauled and disposed of to other points within the boundaries of the Property at the discretion of the Board or such committee. Except as approved by the Board, or committee thereof, the finished landscaping, sod and shrubbery shall not be removed, added to or altered in any manner.

7.16 Trees. No live trees or shrubs shall be removed, damaged or altered in appearance except in connection with initial construction by Declarant or except as approved by the Architectural Control Committee. Nothing in this section, however, shall prevent careful removal of dead trees or diseased or damaged limbs of live trees.

Nothing contained in the foregoing provisions of this Section 7 or in the following provisions of Section 8 shall be construed to limit the rights of Declarant to alter the Property or to construct or modify improvements thereon, or to limit the manner in which such improvements, alterations, or modifications may be made as to Units owned by Declarant.

SECTION 8. ARCHITECTURAL CONTROL

8.1 Restrictions on Alterations. The following restrictions and requirements shall apply to alterations on the Property:

- a. Except as expressly provided in this Section 8, and except for alterations made by Declarant in connection with its initial sale of a Unit, no structure, building, addition, deck, patio, fence (whether of vegetation or otherwise), wall, enclosure, window, exterior door, sign, display, decoration, color change, shrubbery, material topographical or landscaping change, nor any other exterior improvements to or alteration of any Dwelling or any other part of a Unit which is visible from the exterior of the Unit (collectively referred to as "alterations"), shall be commenced, erected or maintained in a Unit, unless and until the plans and specifications showing the nature, kind, shape, height, color, materials and locations of the alterations shall have been approved in writing by the Board or a committee appointed by it. Notwithstanding the foregoing, Declarant's written consent shall also be required for alterations until Declarant no longer owns any unsold Unit and has no further rights to add Additional Real Estate to the Common Interest Community. In addition, any alteration shall comply with City of Cottage Grove building permit as applied to Property.
- b. The criteria for approval shall include and require, at a minimum, (i) substantial uniformity of color, size, location, type and design in relation to existing improvements and topography; (ii) comparable or better quality of materials as used in existing improvements; (iii) ease of maintenance and repair; (iv) adequate protection of the Property, the Association, Owners and Occupants from liability and liens arising out of the proposed

alterations; (v) compliance with governmental laws, codes and regulations; (vi) compliance of color and exterior materials with City requirements; and (vii) that the requested alteration shall not result in identical building design and/or exterior color in adjacent Units.

- c. Approval of alterations which encroach upon another Unit or the Common Elements shall create an appurtenant easement for such encroachment in favor of the Unit with respect to which the alterations are approved; provided, that any easement for a deck or patio other than as originally constructed shall be approved by resolution of the Board and a file of such resolutions shall be maintained permanently as a part of the Association's records.
- d. Alterations described in Section 16 shall be governed by that Section.

8.2 Review Procedures. The following procedures shall govern requests for alterations under this Section:

- a. Detailed plans, specifications and related information regarding any proposed alteration (the "Plans"), in form and content acceptable to the Board shall be submitted to the Board at least sixty (60) days prior to the projected commencement of construction. No alterations shall be commenced prior to approval.
- b. In the event the Board has not delivered written approval of the Plans within sixty (60) days after the Plans have been submitted to it, the Plans will be deemed to be disapproved.
- c. The Plans are required to be submitted by first class mail, registered or certified, postage prepaid and return receipt requested or delivered personally to the Board.

8.3 Remedies for Violations. The Association may undertake any measures, legal or administrative, to enforce compliance with this Section and shall be entitled to recover from the Owner causing or permitting the violation all attorneys' fees and costs of enforcement, whether or not a legal action is started. Such attorneys' fees and costs shall be a lien against the Owner's Unit and a personal obligation of the Owner. In addition, the Association shall have the right to enter the Owner's Unit and to restore any part of the Dwelling or Unit to its prior condition if any alterations were made in violation of this Section, and the cost of such restoration shall be a personal obligation of the Owner and a lien against the Owner's Unit.

SECTION 9. MAINTENANCE

9.1 Common Area and Center Islands. The Association shall provide for all maintenance, repair or replacement (collectively referred to as "Maintenance") of the Common Elements, Entrance Monuments, Center Islands and Berm Area (except for any landscaping

materials which are installed by any Owner within the Berm Area, the maintenance of which shall be the responsibility of the Owner). With regard to the Center Islands, the Association's maintenance obligations shall continue until such time as the City of Cottage Grove directs the Association to discontinue the same, there exists no vegetation to maintain or upon the request of the Association, the City of Cottage Grove granting the Association permission to discontinue the maintenance of the Center Islands.

9.2 Maintenance by Owner. Except for the exterior maintenance to be provided by the Association under Section 9.1, all maintenance of the Dwellings and Units shall be the sole responsibility and expense of the Owners thereof. The Association may require that any exterior maintenance to be performed by the Owner be accomplished pursuant to specific uniform criteria established by the Association.

SECTION 10. DECLARANT'S LANDSCAPING REQUIREMENT

Prior to the initial sale of any Unit, Declarant shall cause to be installed in the front yard of each Unit landscaping materials with a minimum of a retail value of \$1,000.00. After said initial installation, Declarant shall have no responsibility for the maintenance of said landscaping materials (subject to applicable warranties).

SECTION 11. INSURANCE

11.1 Required Coverage. The Association shall obtain and maintain, at a minimum, a master policy or policies of insurance in accordance with the insurance requirements set forth in the Act. The Association may also obtain and maintain the following types of insurance:

- a. Fidelity bond or insurance coverage against dishonest acts on the part, of directors, officers, manager, trustee, employees or persons responsible for handling funds belonging to or administered by the Association if deemed to be advisable by the Board.
- b. Workers' Compensation insurance as required by law.
- c. Directors and officers liability insurance with such reasonable limits and coverages as the Board shall determine from time to time.
- d. Such other insurance as the Board may determine from time to time to be in the best interests of the Association and the Owners.

11.2 Premiums; Improvements; Deductibles. All insurance premiums shall be assessed and paid as a Common Expense.

**SECTION 12.
RECONSTRUCTION, CONDEMNATION AND EMINENT DOMAIN**

12.1 Reconstruction. The obligations and procedures for the repair, reconstruction or disposition of the Property following damage to or destruction thereof shall be governed by the Act.

12.2 Approval of Board. If a Unit is partially or totally damaged or destroyed by fire or other casualty, no such reconstruction shall be commenced without the written approval of the plans and specifications therefor by the Board.

**SECTION 13.
EASEMENTS**

13.1 Easement for Maintenance, Repair, Replacement and Reconstruction. Each Unit, and the rights of the Owners and Occupants thereof, shall be subject to the rights of the Association to an exclusive, appurtenant easement on and over the Units for the purposes of maintenance, repair, replacement and reconstruction of the Units, utilities serving the Units, landscaping, waterways, lawn sprinkling, signage and monuments, to the extent necessary to fulfill the Association's obligations under the Governing Documents.

13.2 Berm Easement. The Property shall be subject to a non-exclusive easement in favor of the Association over the Berm Area to construct, maintain, repair and replace a berm.

13.3 Entrance Monument Easement. Lot 1, Block 2, Pine Summit 1st Addition ("Lot 1") shall be subject to a non-exclusive easement in favor of the Association over that portion of Lot 1 legally described on Exhibit D and graphically depicted on Exhibit D-1 to construct, maintain, repair and replace the Entrance Monument.

13.4 Continuation and Scope of Easements. Notwithstanding anything in this Declaration to the contrary, in no event shall an Owner or Occupant be denied reasonable access to his or her Unit or the right to utility services thereto. The easements set forth in this Section shall supplement and not limit any easements described elsewhere in this Declaration or recorded, and shall include reasonable access to the easement areas through the Units and the Common Elements for purposes of maintenance, repair, replacement and reconstruction.

**SECTION 14.
COMPLIANCE AND REMEDIES**

Each Owner and Occupant, and any other Person owning or acquiring any interest in the Property, shall be governed by and comply with the provisions of the Act, the Governing Documents, the Rules and Regulations, the decisions of the Association, and such amendments thereto as may be made from time to time. A failure to comply shall entitle the Association to the relief set forth in this Section, in addition to the rights and remedies authorized elsewhere by the Governing Documents and the Act.

14.1 Entitlement to Relief. The Association may commence legal action to recover sums due, for damages, for injunctive relief or to foreclose a lien owned by it, or any combination thereof, or an action for any other relief authorized by the Governing Documents or available at law or in equity. Legal relief may be sought by the Association against any Owner, or by an Owner against the Association or another Owner, to enforce compliance with the Governing Documents, the Rules and Regulations, the Act or the decisions of the Association. However, no Owner may withhold any assessments payable to the Association, or take (or omit) other action in violation of the Governing Documents, the Rules and Regulations or the Act, as a measure to enforce such Owner's position, or for any other reason.

14.2 Consensus for Association Action.

- a. Notwithstanding anything contained herein to the contrary and except as provided in this Section, the Association may not commence a legal proceeding or an action under this Section without the approval of at least two-thirds of the Members. A Member representing Units owned by Persons other than the Member shall not vote in favor of bringing or prosecuting any such proceeding unless authorized to do so by a vote of Owners of two-thirds of the total number of Units represented by the Member. This Section shall not apply, however, to (i) actions brought by the Association to enforce Governing Documents (including, without limitation, the foreclosure of liens); (ii) the imposition and collection of assessments; (iii) proceedings involving challenges to ad valorem taxation; or (iv) counterclaims brought by the Association in proceedings instituted against it.
- b. Notwithstanding anything contained herein to the contrary and prior to the Association or any Member commencing any proceeding to which Declarant is a party, including, but not limited to an alleged defect of any improvement, Declarant shall have the right to be heard by the Members, or the particular Member, and to access, inspect, correct the condition of, or redesign any portion of any improvement as to which a defect is alleged, or otherwise correct the alleged dispute.

14.3 Sanctions and Remedies. In addition to any other remedies or sanctions, expressed or implied, administrative or legal, the Association shall have the right, but not the obligation, to implement any one or more of the following actions against Owners and occupants and/or their guests, who violate the provisions of the Governing Documents, the Rules and Regulations or the Act:

- a. Commence legal action for damages or equitable relief in any court of competent jurisdiction.
- b. Impose late charges of up to 15% of each late payment of an assessment or installment thereof.

- c. In the event of default of more than 30 days in the payment of any assessment or installment thereof, all remaining installments of assessments assessed against the Unit owned by the defaulting Owner may be accelerated and shall then be payable in full if all delinquent assessments, together with all costs of collection and late charges, are not paid in full prior to the effective date of the acceleration. Reasonable advance written notice of the effective date of the acceleration shall be given to the defaulting Owner.
- d. Foreclose any lien arising under the provisions of the Governing Documents or under law, in the manner provided for the foreclosure of mortgages by action or under a power of sale.

14.4 Alternative Method for Resolving Disputes. Declarant, its officers, directors, employees and agents; the Association, its officers, directors and committee members; all Persons subject to this Declaration; any builder, its officers, directors, employees and agents; and any Person not otherwise subject to this Declaration who agrees to submit to this Section (each such entity being referred to as a "Bound Party") agree to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit those claims, grievances or disputes described in Section 14.5 (collectively, "Claims") to the procedures set forth in Section 14.6.

14.5 Claims. Unless specifically exempted below, all Claims between any of the Bound Parties regardless of how the same might have arisen or on what it might be based including, but not limited to Claims (a) arising out of or relating to the interpretation, application or enforcement of the Governing Documents or the rights, obligations and duties of any Bound Party under the Governing Documents; (b) relating to the design or construction of improvements; (c) based upon any statements, representations, promises, warranties, or other communications made by or on behalf of any Bound Party shall be subject to the provisions of Section 14.6.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 14.6:

- a. any suit by the Association against any Bound Party to enforce the provisions of Section 6 (Assessment for Common Expenses);
- b. any suit by the Association or Declarant to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to act under and enforce the provisions of Section 7 (Restrictions on Use of Property) or Section 8 (Architectural Control);
- c. any suit between or among Owners, which does not include Declarant, a builder or the Association as a party, if such suit asserts a claim which would constitute a cause of action independent of the Governing Documents; and

- d. any suit in which any indispensable party is not a Bound Party.

With the consent of all parties hereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 14.6.

14.6 Mandatory Procedures.

- a. Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (the Claimant and the Respondent referred to herein being individually as a "Party," or collectively as the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

- (i) the nature of the Claim, including the persons involved and Respondent's role in the Claim;
- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (iii) the proposed remedy; and
- (iv) the fact that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

- b. Negotiation and Mediation.

- (i) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiation.
- (ii) If the Parties do not resolve the Claim within 30 days after the date of the notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have 30 days to submit the Claim to mediation under the auspices of the American Arbitration Association ("AAA") in accordance with the AAA's Commercial or Construction Industry Mediation Rules, as appropriate.
- (iii) If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

- (iv) Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation, or within such other time as determined by the mediator or agreed to by the Parties, the mediator shall issue a notice of termination of the mediation proceeding ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section 14.6 and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate arbitration proceedings to enforce such agreement without the need to again comply with the procedures set forth in Section 14.6. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including without limitation, attorneys' fees and court costs.

c. Binding Arbitration.

- (i) Upon Termination of Mediation, Claimant shall thereafter be entitled to initiate final, binding arbitration of the Claim under the auspices of the AAA in accordance with the AAA's Commercial or Construction Industry Arbitration Rules, as appropriate. Such Claim shall not be decided by or in a court of law. Any judgment upon the award rendered by the arbitrator may be entered in and enforced by any court having jurisdiction over such Claim. If the Claim amount exceeds \$250,000.00, the dispute shall be heard and determined by three arbitrators. Otherwise, unless mutually agreed to by the parties, there shall be one arbitrator. Arbitrators shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved.
- (ii) Each Party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Notwithstanding the foregoing, if a Party unsuccessfully contests the validity or scope of arbitration in a court of law, the non-contesting party shall be awarded reasonable attorneys' fees and expenses incurred in defending such contest. All decisions respecting the arbitrability of any Claim shall be decided by the arbitrator(s).

- (iii) The award of the arbitrator(s) shall be accompanied by detailed written findings of fact and conclusions of law. Except as may be required by law or for confirmation of an award, neither a Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of the other Parties.

14.7 Costs of Proceeding and Attorneys' Fees. With respect to any collection measures which the Association takes, whether or not finally determined by a court or arbitrator, the Association may assess the violator and his, hers, or its Unit with any expenses incurred in connection with such enforcement, including, without limitation, fines or charges previously imposed by the Association, reasonable attorneys' fees, and interest (at the highest rate allowed by law) on the delinquent amounts owed to the Association.

14.8 Amendment of Article. Without the express prior written consent of Declarant, this Section may not be revoked and/or amended for a period of twenty (20) years from the effective date of this Declaration.

SECTION 15. SPECIAL DECLARANT RIGHTS

Declarant hereby reserves exclusive and unconditional authority to exercise the following Special Declarant Rights within the meaning of Section 515B.1-103(31) of the Act for as long as it owns a Unit, or for such shorter period as may be specifically indicated:

15.1 Complete Improvements. To complete all the Units and other improvements indicated on the Plat, or otherwise included in Declarant's development plans or allowed by the Declaration, and to make alterations in the Units and Common Elements to accommodate its sales facilities.

15.2 Relocate Boundaries and Alter Units. To relocate boundaries between Units and to otherwise alter Units owned by it, to the extent permitted by Section 16.

15.3 Sales Facilities. To construct, operate and maintain a sales office, management office, model Units and other development, sales and rental facilities within the Common Elements and any Units owned by Declarant from time to time, located anywhere on the Property.

15.4 Signs. To erect and maintain signs and other sales displays offering the Units for sale or lease, in or on any Unit owned by Declarant and on the Common Elements.

15.5 Easements. To have and use easements, for itself, its employees, contractors, representatives, agents and prospective purchasers through and over the Common Elements for the purpose of exercising its Special Declarant Rights.

15.6 Control of Association. To control the operation and administration of the Association, including without limitation the power to appoint and remove the members of the

Board pursuant to Section 515B.3-103 of the Act, until the earliest of: (i) voluntary surrender of control by Declarant, (ii) an Association meeting which shall be held within 60 days after conveyance to Owners other than a Declarant of 75% of the total number of Units authorized to be included in the Property or (iii) the date five (5) years following the date of the first conveyance of a Unit to an Owner other than a Declarant. Notwithstanding the foregoing, the Owners other than a Declarant shall have the right to nominate and elect not less than 33 1/3% of the directors at a meeting of the Owners which shall be held within 60 days following the conveyance by Declarant of 50% of the total number of Units authorized to be included in the Property.

15.7 Consent to Certain Amendments. As long as Declarant owns any unsold Unit, Declarant's written consent shall be required for any amendment to the Governing Documents or Rules and Regulations which directly or indirectly affects or may affect Declarant's rights under the Governing Documents.

15.8 Add Additional Real Estate. Add Additional Real Estate to the Property as described in Section 20 herein.

SECTION 16. RIGHTS TO RELOCATE UNIT BOUNDARIES AND ALTER UNITS

16.1 Rights to Relocate Boundaries and Alter Units. Existing or future Units may be altered and Unit boundaries may be relocated only in accordance with the following conditions:

- a. Combining Units. An Owner may make improvements or alterations to such Unit or, may, after acquiring an adjoining Unit, remove or alter any intervening partition or create apertures therein in accordance with Section 515B.2-113 of the Act and Subsection d of this Section.
- b. Relocation of Boundaries. The boundaries between adjoining Units may be relocated in accordance with Section 515B.2-114 of the Act and Subsection d of this Section.
- c. Subdivision or Conversion. No additional Units may be created by the subdivision or conversion of a Unit (within the meaning of the Act) into two or more Units, nor into other Units or Common Elements except in accordance with Section 7.2.
- d. Requirements. The alteration, relocation of boundaries or other modification of Units or the Dwellings or other structures located therein (collectively referred to herein as "alteration" or "alterations") pursuant to this Section, Section 8, and the Act may be accomplished only in accordance with the following conditions:
 - (i) No Unit may be altered if, thereafter, the Dwelling located therein, or any other Dwelling affected by the alteration, would no longer be habitable or practicably usable for its intended purpose or would

violate any law, code or ordinance of any governmental authority having jurisdiction over the Property.

- (ii) No alteration may be made which adversely affects the structural or functional integrity of any building system or the structural support or weather-tight integrity of any portion of any building or other structure.
- (iii) The prior written consent of the Association shall be required for any alteration, except alterations by Declarant. Where required, such consent shall be requested in writing by each Owner whose Unit is proposed to be altered, accompanied by such explanation, drawings and specifications relating to the proposed alterations as may be reasonably required by the Association or the first mortgagee of the Unit. The Association shall give such Owner(s) notice in an expeditious manner, granting, denying or qualifying its consent.
- (iv) As a precondition to consenting to alterations the Association may require, among other things, the following: (i) that all alterations will be done in a workmanlike manner and without impairing the structural, mechanical or weather-tight integrity of the Building; (ii) that the Common Elements and altered Units will be repaired and/or restored in the future as required by the Association; (iii) that the construction of the alterations will not create dangerous conditions for any Owners or Occupants; (iv) that the Property, the first mortgagees and the Owners and Occupants will be protected from liens and other liability arising from the alterations; and (v) that the alterations will be done in compliance with the applicable laws, regulations and ordinances of the governmental authorities having jurisdiction over the Property.
- (v) The Association may require that the Owners of the Units to be altered pay all costs of processing and documentation for the request and the preparation and recording of any necessary amendment to the Governing Documents, including without limitation such costs as filing, architects' and attorneys' fees incurred by the Association in connection with the alterations.

SECTION 17. AMENDMENTS

Except for amendments which the Declarant may execute to add Additional Real Estate to the Common Interest Community, this Declaration may be amended by the consent of (i) Owners of Units to which are allocated at least sixty-seven percent (67%) of the votes in the Association and (ii) the consent of Declarant to certain amendments as provided in Section 15.7. Consent of the Owners may be obtained in writing or at a meeting of the Association duly held in accordance

with the Bylaws. Consent of Declarant shall be in writing. Any amendment shall be subject to any greater requirements imposed by the Act. The Amendment shall be effective when recorded as provided in the Act. An affidavit by the Secretary of the Association as to the outcome of the vote, or the execution of the foregoing agreements or consents, shall be adequate evidence thereof for all purposes, including, without limitation, the recording of the amendment.

SECTION 18. MISCELLANEOUS

18.1 Severability. If any term, covenant or provision of this instrument or any exhibit attached hereto is held to be invalid or unenforceable for any reason whatsoever, such determination shall not be deemed to alter, affect or impair in any manner whatsoever any other portion of this instrument or exhibits.

18.2 Construction. Where applicable the masculine gender of any word used herein shall mean the feminine or neutral gender, or vice versa, and the singular of any word used herein shall mean the plural, or vice versa. References to the Act, or any section thereof, shall be deemed to include any statutes amending or replacing the Act, and the comparable sections thereof.

18.3 Tender of Claims. In the event that any incident occurs which could reasonably give rise to a demand by the Association against Declarant for indemnification pursuant to the Act, the Association shall promptly tender the defense of the action to its insurance carrier, and give Declarant written notice of such tender, the specific nature of the action and an opportunity to defend against the action.

18.4 Notices. Unless specifically provided otherwise in the Governing Documents or the Act, all notices required to be given by or to the Association, the Board, the Association officers or the Owners or Occupants shall be in writing and shall be effective upon hand delivery, or mailing if properly addressed with postage prepaid and deposited in the United States mail.

18.5 Conflicts Among Documents. In the event of any conflict among the provisions of the Act, the Declaration, the Bylaws or any Rules or Regulations approved by the Association, the Act shall control. As among the Declaration, Bylaws and Rules and Regulations, the Declaration shall control, and as between the Bylaws and the Rules and Regulations, the Bylaws shall control

SECTION 19. TERMINATION

The Common Interest Community may be terminated, in whole or in part, only by the affirmative vote of 80% of the Owners, and the consent of at least 80% of the first mortgagees of the Units (each mortgagee having one vote per Unit financed). All procedures, appraisals and disposition of proceeds following any termination of the Common Interest Community shall be governed by the applicable provisions of the Act.

**SECTION 20.
ADDITIONAL REAL ESTATE**

20.1 Right. Declarant reserves the right to record one or more amendments to this Declaration adding all or any part of the Additional Real Estate to the Common Interest Community. The right to add Additional Real Estate will expire on the date which is seven (7) years after the date Declarant records this Declaration. If, prior to the expiration of the seven (7) year period, Declarant determines that will not add all or any portion of the Additional Real estate to the Common Interest Community, Declarant may record a statement to that effect in the office of the County Recorder of Washington County, and upon the recording of the statement Declarant's right to add the Additional Real Estate described in the statement to the Common Interest Community will terminate.

20.2 Additions. Declarant may add portions of the Additional Real Estate at different times. Declarant makes no assurances regarding the configuration or boundaries of the portions of the Additional Real Estate which Declarant may add to the Common Interest Community. Declarant makes no assurances as to the order in which Declarant will add portions of Additional Real Estate to the Common Interest Community. Declarant makes no assurances that Declarant will add any of the Additional Real Estate to the Common Interest Community.

20.3 Number of Units. Declarant may create a maximum of two hundred fifty (250) Units on the Additional Real Estate. All Units created on the Additional Real Estate shall be restricted to residential use subject to Section 7.

20.4 Compatibility. Any and all buildings and Units on the Additional Real Estate, when and if added, will be compatible with the other buildings and Units in the Common Interest Community in terms of the quality of construction. In recognition of ongoing developments in the field of housing construction and energy supply, and changes in consumer demand for housing, Declarant makes no assurance with regard to the architectural style, the principal materials which may be employed in the construction or the size of the Units or buildings, if any, erected upon the Additional Real Estate when and if the Additional Real Estate is added to the Common Interest Community.

20.5 Restrictions. All restrictions contained in this Declaration which affect the use, occupancy or alienation of Units will apply to all Units created on any Additional Real Estate which Declarant adds to the Common Interest community. An amendment which adds Additional Real Estate to the Common Interest Community may contain additional restrictions as may be necessary to reflect the different character of the Additional Real Estate which is the subject of the amendment. Any additional restrictions contained in an amendment to this Declaration shall affect only the Additional Real Estate described in the amendment.

20.6 Notice. Before recording an amendment adding Additional Real Estate to the Common Interest Community, Declarant shall serve notice of its intention to add Additional Real Estate as provided for in the Act. If Declarant complies with the Act and the Declaration, Declarant may add the Additional Real Estate without the approval or consent of the Association or any Owner. Any assurances set forth in this Declaration regarding Additional Real Estate shall not

COMMON INTEREST COMMUNITY NO. 150

PINE SUMMIT

EXHIBIT A TO DECLARATION

SCHEDULE OF UNITS/LEGAL DESCRIPTION OF PROPERTY

Lots 1 through 6, inclusive, Block 1;
Lots 1 through 19, inclusive, Block 2;
Lots 1 through 14, inclusive, Block 3;
All in Pine Summit 1st Addition, Washington County, Minnesota.

NOTE: Each Unit's unit identifier is its lot and block number and the subdivision name.

COMMON INTEREST COMMUNITY NO. 150

PINE SUMMIT

EXHIBIT B TO DECLARATION

LEGAL DESCRIPTION OF COMMON ELEMENTS

NONE

COMMON INTEREST COMMUNITY NO. 150

PINE SUMMIT

EXHIBIT C TO DECLARATION

LEGAL DESCRIPTION OF ADDITIONAL REAL ESTATE

Outlots A, B, D, H, I and J, Pine Summit 1st Addition,
Washington County, Minnesota;

COMMON INTEREST COMMUNITY NO. 150

PINE SUMMIT

EXHIBIT D TO DECLARATION

LOT 1 ENTRANCE MONUMENT LEGAL DESCRIPTION

That part of Lot 1, Block 2, Pine Summit 1st Addition, Washington County, Minnesota, described as follows:

Beginning at the southeast corner of said Lot 1; thence North 00 degrees 38 minutes 52 seconds West, assumed bearing along the easterly line of said Lot 1, a distance of 32.41 feet; thence South 89 degrees 21 minutes 08 seconds West a distance of 8.53 feet; thence South 48 degrees 05 minutes 55 seconds West a distance of 30.00 feet; thence South 04 degrees 39 minutes 48 seconds West a distance of 9.73 feet to the southerly line of said Lot 1; thence easterly along said southerly line a distance of 32.12 feet to the point of beginning.

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

U.S. HOME CORPORATION, a Delaware corporation ("Declarant"), does hereby declare, establish and impose upon the following described premises, to-wit: The tract of land lying and being in the County of Washington and State of Minnesota, described as follows, to-wit:

Outlot J, Pine Summit 1st Addition, Washington County,
Minnesota (the "Encumbered Property")

the following covenants, conditions, restrictions and reservations, which are for the benefit of each platted single family residential lot ("Lot") subject to that certain Declaration dated September ____, 2000, executed by Declarant, and establishing the planned community (CIC No. 150) Pine Summit (the "Development"), and shall inure to and operate as restrictions, covenants and conditions running with the land and passing with the conveyance of the Encumbered Property as a servitude in favor of Pine Summit Single Family Homeowners' Association, a Minnesota nonprofit association (the "Association), and every Lot, and shall be binding upon the Declarant, and upon its successors and assigns:

1. Landscaping and Maintenance Responsibility. The Association is hereby granted a non-exclusive easement to, at its own cost and expense, maintain any landscaping materials (including without limitation grass, trees, shrubs, and other plantings) and any sign and monument, improvements and fencing constructed within the real property legally described on attached Exhibit A and graphically depicted on attached Exhibit B (the "Monument Area"), by Declarant or its respective agents (collectively the "Improvements").
2. Removal. The owner of the Encumbered Property shall not remove, relocate or destroy any of the Improvements located within, on or about the Monument Area.
3. Limitations. Notwithstanding anything contained herein to the contrary, the covenants, conditions and restrictions herein do not give any person except the Association and/or its employees, agents or contractors the right of access to the Encumbered Property and/or Monument Area.
4. Term of Covenants, Conditions and Restrictions. The covenants, conditions and restrictions stated herein and the obligations thereunder shall run with the land and be binding upon any owner of the Encumbered Property, and such owner's heirs, assigns and successors in interest.

EXHIBIT A

Monument Area Legal Description

That part of Outlot J, Pine Summit 1st Addition, Washington County, Minnesota described as follows:

Beginning at the Southwest corner of said Outlot J; thence North 00 degrees 38 minutes 52 seconds West, assumed bearing along the westerly line of said Outlot J, a distance of 29.28 feet; thence North 89 degrees 21 minutes 08 seconds East a distance of 9.82 feet; thence South 43 degrees 02 minutes 58 seconds East a distance of 30.00 feet; thence South 03 degrees 21 minutes 52 seconds West a distance of 9.29 feet to the southerly line of said Outlot J; thence westerly along said southerly line a distance of 29.48 feet to the point of beginning.

PROPOSED

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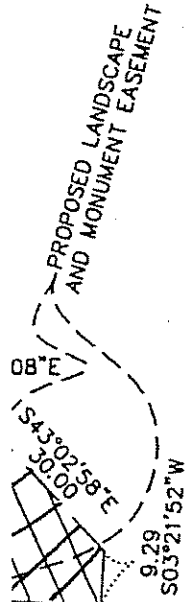
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GRANADA

11 7.16 S003852E

21 8 WESTHRLY LINE OF OUTLOT

OUTLOT J



220.40 S00°38'52"E



30)

SKETCH AND DESCRIPTION
FOR
THOMPSON LAND DEVELOPMENT

PINE SUMMIT 1ST ADDITION, Washington County, Minnesota

DRAWN BY	TD
DATE	9/25/00
REVISIONS	
CAD FILE	9672S2
PROJECT NO.	9672
FILE NO.	1-00-205
SHEET	1 OF

**NOTICE OF DECLARANT'S INTENTION
TO ADD ADDITIONAL REAL ESTATE TO
PINE SUMMIT
COMMON INTEREST COMMUNITY NUMBER 150
PLANNED COMMUNITY**

**TO: PRESIDENT OF PINE SUMMIT SINGLE FAMILY HOMEOWNERS'
ASSOCIATION, INC.**

U.S. Home Corporation is going to be filing an amendment to the Declaration for Pine Summit (copy enclosed herewith) which will have the effect of adding real property to the Common Interest Community legally described in said amendment. Twenty-three (23) additional single family units will be created.

U.S. HOME CORPORATION

By: _____



Address: 935 East Wayzata Boulevard
Wayzata, Minnesota 55391

**COMMON INTEREST COMMUNITY NUMBER 150
PLANNED COMMUNITY**

PINE SUMMIT

FIFTH AMENDMENT TO DECLARATION

THIS FIFTH AMENDMENT TO DECLARATION is made this 27th day of July, 2005, by U.S. HOME CORPORATION, a Delaware corporation (hereinafter the "Declarant"),

WITNESSETH:

WHEREAS, Declarant has heretofore executed a Declaration dated September 25, 2000, and filed in the Office of the Washington County Recorder on October 10, 2000, as Document No. 3124162 (the "Declaration") covering property described on Exhibit A attached hereto; and

WHEREAS, the Declaration was amended by that certain First Amendment to Declaration dated December 12, 2001, and filed in the Office of the Washington County Recorder on May 7, 2002, as Document No. 3234840, covering property described on Exhibit B attached hereto; and

WHEREAS, the Declaration was amended by that certain Second Amendment to Declaration dated December 3, 2002, filed in the Office of the Washington County Recorder on February 10, 2003, as Document No. 3306972, covering property described on Exhibit C attached hereto; and

WHEREAS, the Declaration was amended by that certain Third Amendment to Declaration dated April 23, 2003, filed in the office of the Washington County Recorder on June 10, 2003, as Document No. 3343339, covering property described on Exhibit D attached hereto; and

WHEREAS, the Declaration was amended by that certain Fourth Amendment to Declaration dated _____, 2003, filed in the office of the Washington County Recorder on _____, 2005, as Document No. _____, covering property described on Exhibit E attached hereto; and

WHEREAS, Section 20 of the Declaration provides that the Declarant shall have the right to bring within the provisions of the Declaration the property described on Exhibit F attached hereto without the approval or consent of the Association or any Owner; and

WHEREAS, Declarant was or is the owner of real property located in the City of Cottage Grove, County of Washington, State of Minnesota, legally described on Exhibit G attached hereto (hereinafter the "Annexation Property") said Annexation Property having been subdivided from a portion of the property described on Exhibit F; and

WHEREAS, Declarant desires to subject the Annexation Property to, and bring the same within the provisions of, the Declaration.

NOW, THEREFORE, Declarant hereby declares as follows:

1. The Annexation Property is and shall be held, transferred, sold, conveyed and occupied subject to this Fifth Amendment to Declaration and subject to the covenants, restrictions, easements, charges and liens set forth in the Declaration, except as said covenants, conditions and restrictions are amended insofar as they apply to the Annexation Property.
2. This Fifth Amendment to Declaration is made pursuant to Section 20 of the Declaration.
3. The Unit Identifier assigned to each Unit formed from the Annexation Property shall be the lot and block number, subdivision name, Common Interest Community Number 150.
4. The voting rights and common expense allocation assigned to each Unit in the Common Interest Community shall be determined in accordance with the provisions of Section 4 of the Declaration.
5. Limited Common Elements formed out of the Annexation Property, are allocated to Units within the Annexation Property in accordance with Section 3 of the Declaration.
6. Attached as Exhibit H is proof of notice to the Association as required by Minnesota Statutes Section 515B.2-111(b)3.

EXHIBIT A

DECLARATION LEGAL DESCRIPTION

Lots 1 through 6, inclusive, Block 1;
Lots 1 through 19, inclusive, Block 2; and
Lots 1 through 14, inclusive, Block 3;
All in Pine Summit 1st Addition, Washington County, Minnesota.

EXHIBIT B

**FIRST AMENDMENT TO DECLARATION
ANNEXATION LEGAL DESCRIPTION**

Lots 1 through 6, inclusive, Block 1;
Lots 1 through 14, inclusive, Block 2;
Lots 1 through 12, inclusive, Block 3; and
Lots 1 through 9, inclusive, Block 4;
All in Pine Summit 2nd Addition, Washington County, Minnesota.

EXHIBIT C

**SECOND AMENDMENT TO DECLARATION
ANNEXATION LEGAL DESCRIPTION**

Lots 1 through 5, inclusive, Block 1; and
Lots 1 through 7, inclusive, Block 2;
All in Pine Summit 3rd Addition, Washington County, Minnesota.

EXHIBIT D

**THIRD AMENDMENT TO DECLARATION
ANNEXATION LEGAL DESCRIPTION**

Lots 1 through 21, inclusive, Block 1;
Lots 1 through 20, inclusive, Block 2; and
Outlots D and E;
All in Pine Summit 4th Addition, Washington County, Minnesota.

AND

Lots 1 through 18, inclusive, Block 1; and
Outlots A and B;
All in Pine Summit 5th Addition, Washington County, Minnesota.

EXHIBIT E

**FOURTH AMENDMENT TO DECLARATION
ANNEXATION LEGAL DESCRIPTION**

Lot 2, Block 1;
Lots 4 through 15, inclusive, Block 1;
Lots 1 through 4, inclusive, Block 2;
Lots 6 through 9, inclusive, Block 2;
All in Pine Summit 6th Addition, Washington County, Minnesota;

AND

Lots 4 and 5, Block 1;
Lots 9, 10, 11, 15, 17, 21 and 22; Block 2;
All in Pine Summit 7th Addition, Washington County, Minnesota;

AND the following real property, which shall comprise Common Elements:

Outlot B, Pine Summit 6th Addition, Washington County, Minnesota; and
Outlots D and E, Pine Summit 7th Addition, Washington County, Minnesota.

EXHIBIT F

**ADDITIONAL PROPERTY THAT MAY BE ANNEXED
TO DECLARATION LEGAL DESCRIPTION**

Outlot H, Pine Summit 1st Addition, Washington County, Minnesota

AND

Outlot C, Pine Summit 4th Addition, Washington County, Minnesota.

EXHIBIT G

**FIFTH AMENDMENT TO DECLARATION
ANNEXATION LEGAL DESCRIPTION**

Lots 1 and 3, Block 1;
Lot 5, Block 2;
All in Pine Summit 6th Addition, Washington County, Minnesota

AND

Lots 1 through 3, inclusive, Block 1;
Lots 1 through 8, inclusive, Block 2;
Lots 12, 13, 14, 16, 18, 19, 20, 23, and 24, Block 2;
All in Pine Summit 7th Addition, Washington County, Minnesota

EXHIBIT H

**PROOF OF NOTICE TO ASSOCIATION
NOTICE OF DECLARANT'S INTENTION
TO ADD ADDITIONAL REAL ESTATE TO
PINE SUMMIT
COMMON INTEREST COMMUNITY NUMBER 150
PLANNED COMMUNITY**

**TO: PRESIDENT OF PINE SUMMIT SINGLE FAMILY HOMEOWNERS'
ASSOCIATION, INC.**

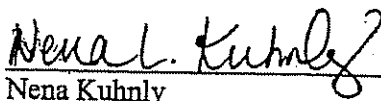
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U.S. HOME CORPORATION

By: _____
Address: 935 East Wayzata Boulevard
Wayzata, Minnesota 55391


STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Nena Kuhnly, of the City of Minneapolis, County of Hennepin, in the State of Minnesota, being duly sworn, says that on the 6th day of September, 2005, she served a copy of the Notice of Declarant's Intention to Add Additional Real Estate to Common Interest Community Number 150, Pine Summit, upon the President of Pine Summit Single Family Homeowners' Association, Inc. by enclosing in an envelope, postage prepaid, and by depositing the same in the post office at Minneapolis, Minnesota, directed to said individual at Personal Touch Management, P.O. Box 5233, Hopkins, Minnesota 55343.



Nena Kuhnly

Subscribed and sworn to before me this
6th day of September, 2005.



Notary Public



602289.1