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Cascade Communities, Inc.
700 N. Hayden Island Drive #340
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**DECLARATION OF PROTECTIVE COVENANT, CONDITIONS,
RESTRICTIONS AND EASEMENT'S FOR
ASHLEY VILLAGE**

CASCADE COMMUNITIES, INC.,
an Oregon corporation, Declarant

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**DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR
ASHLEY VILLAGE**

THIS DECLARATION is made this (16th) day of (May) 1995,
by CASCADE COMMUNITIES, INC., an Oregon corporation ("Declarant").

Declarant has recorded the plat of "Ashley Village No. 1" in the plat records of Clackamas County, Oregon. Declarant desires to subject the property described in such plat to the easements, covenants, conditions, restrictions and charges set forth herein for the benefit of such property and its present and subsequent owners. Ashley Village is exempt from the Oregon Planned Community Act pursuant to ORS 94.570(2).

NOW, THEREFORE, Declarant hereby declares that the property described in the plat of Ashley Village, Phase 1, except the public streets and access ways therein, shall be held, sold and conveyed subject to the following easements, covenants, conditions, restrictions and charges, which shall run with such property and shall be binding upon all parties having or acquiring any right, title or interest in such property or any part thereof and shall inure to the benefit of each owner thereof.

ARTICLE 1

DEFINITIONS

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

1.1 **"Association"** means the nonprofit corporation to be formed to serve as the owners association as provided in Article 6 hereof, and its successors and assigns.

1.2 **"Architectural Review Committee"** means the committee appointed pursuant to Article 5 hereof.

1.3 **"Common Areas"** means the tracts designated as such in this declaration, or in any declaration annexing property hereto, including any Improvements thereon.

1.4 **"Common Easement Areas"** means those areas designated as such in this Declaration, including the entry monuments thereon.

1.5 **"Declarant"** means Cascade Communities, Inc., an Oregon corporation, and its successors and assigns.

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

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

1.8 **"Limited Common Areas"** means those areas established for the exclusive use or enjoyment of certain Lots as designated in this Declaration or any declaration annexing property to Ashley Village.

1.9 **"Lot"** means a platted or partitioned Lot within the Property, with the exception of any tract.

1.10 **"Mortgage"** means a mortgage or a trust deed; "mortgagee" means a mortgagee or a beneficiary of a trust deed; and "mortgagor" means a mortgagor or a grantor of a trust deed.

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

1.12 **"The Property"** means the Initial Development, together with any other property annexed pursuant to Section 2.2.

1.13 **"Residence"** shall mean that portion or part of any structure intended to be occupied as a dwelling, together with attached or detached garage, as the case may be, and the patios, porches, or steps annexed thereto, together with accessory dwellings as permitted by Clackamas County.

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

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

ARTICLE 2

PROPERTY SUBJECT TO THIS DECLARATION

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

All that certain real property located in Clackamas County, Oregon, in that certain plat entitled "Ashley Village No. 1" filed in the plat records of Clackamas County, Oregon, on the (15th) day of (June) 19(95) at (Plat) (#3187), except the public streets and Tract A thereof.

The Initial Development contains up to 38 Lots.

2.2 **Annexation of Additional Property.** Declarant may from time to time and in its sole discretion annex to this Declaration any adjacent real property now or hereafter acquired by it, and may also from time to time and in its sole discretion permit other holders of adjacent real property to annex the adjacent real property owned by them to this Declaration. The annexation of such adjacent real property shall be accomplished as follows:

(a) The owner or owners of such real property shall record a declaration which shall be executed by or bear the approval of Declarant and shall, among other things, describe the real property to be annexed, establish any additional limitations, uses, restrictions, covenants and conditions which are intended to be applicable to such property, and declare that such property is held and shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to this Declaration.

(b) The property included in any such annexation shall thereby become a part of this Declaration, and the Declarant and the Association shall have and shall accept and exercise administration of this Declaration with respect to such property.

(c) Notwithstanding any provision apparently to the contrary, a declaration with respect to any annexed property may:

(i) establish such new land classifications and such limitations, uses, restrictions, covenants and conditions with respect thereto as Declarant may deem to be appropriate for the development of the annexed property.

(ii) with respect to existing land classifications, establish additional or different limitations, uses, restrictions, covenants and conditions with respect thereto as Declarant may deem to be appropriate for the development of such annexed property.

(d) There is no limitation on the number of Lots or dwelling units which Declarant may create or annex to this Declaration, except as may be established by applicable ordinances of Clackamas County. Similarly, there is no limitation on the right of Declarant to annex common property, except as may be established by Clackamas County.

(e) Upon annexation, additional Lots so annexed shall be entitled to voting rights as set forth in Section 6.3 below.

2.3 **Withdrawal of Property.** Declarant may withdraw property from this Declaration only by duly adopted amendment to this Declaration, except that Declarant may withdraw all or a portion of any property annexed pursuant to a declaration described in Section 2.2 above at any time prior to the sale of the first Lot in the property annexed by the supplemental declaration. Such withdrawal shall be by a declaration executed by Declarant and recorded in the deed records of Clackamas County. If a portion of the Property is so withdrawn, all voting rights otherwise allocated to Lots being withdrawn shall be eliminated. Such right of withdrawal shall not expire except upon sale of the first Lot within the applicable phase of the property as described above.

ARTICLE 3

COMMON AREAS, COMMON EASEMENT AREAS AND LIMITED COMMON AREAS

3.1 **Designation of Common Areas.** There are no Common Areas in the Initial Development.

3.2 **Owner's Easements of Enjoyment in Common Areas.** Subject to the provisions of Section 3.4, every Owner and his family, tenants, guests and invitees shall have a right and easement of enjoyment in and to the Common Areas, which easement shall be appurtenant to and pass with the title to every Lot.

3.3 **Title to Common Areas.** Declarant shall convey the Common Areas to the Association not later than upon termination of the Class B membership.

3.4 **Easements Reserved in Common Areas.** Declarant reserves to itself and grants to the Association for the benefit of Declarant, the Association, all Owners of Lots within the Property an easement on the Common Areas for installation and maintenance of power, water, communication and other utility services, and an easement for construction, maintenance, repair and use of the Common Areas.

3.5 **Designation of Common Easement Areas.** The entry monument easements on Lots 2, 3, 15 and 32, as shown on the plat of the Initial Development, shall be Common Easement Areas.

3.6 **Easements Within Common Easement** Declarant reserves unto itself and grants to the Association an easement over and upon the Common Easement Areas for entry monuments and for the maintenance and repair of such monuments.

3.7 **Designation of Limited Common Areas.** The private alley shown as Tract B on the plat of the Initial Development shall be a Limited Common Area for ingress and egress to and from Lots 3 through 23 of the Initial Development.

3.8 **Use of Limited Common Areas.** The Limited Common Areas shall be for the exclusive use for ingress and egress by the Owners of the Lots having the right to use the same. Such areas shall be maintained and repaired by the Association, but the entire costs thereof shall be assessed on an equal basis to the Owners of the Lots having the exclusive use of such areas.

ARTICLE 4

USE RESTRICTIONS

4.1 **Land Use and Building Type**

(a) No Lot shall be used except for single family residential purposes except as provided in Section 4.1.(b).

(b) An "accessory" dwelling unit up to 500 square feet may be added within any Lot provided that it meets all applicable standards of the Clackamas County Zoning Ordinance for Sunnyside Village, applicable building code requirements, and all exterior standards specified in this Declaration.

(c) Mobile homes are not permitted to be placed as a residence on any Lot, either temporarily or permanently.

(d) No. structures of a temporary character, such as a trailer, recreational vehicle, tent, shack, garage, barn or other outbuildings shall be used on any Lot at any time as an additional or only residence, except that Declarant may use a mobile office structure on the site for sales or otherwise, for a period of one year following initiation of home construction.

(e) Exterior buildings such as a private greenhouse, storage unit, private swimming pool or similar detached structures are permitted if the location, size, design, and decoration of such structure is in conformance with the residence as determined by the Architectural Review Committee. No such exterior structures shall be constructed or placed on any Lot prior to construction of the residence nor prior to the approval of the Architectural Review Committee.

4.2 **Dwelling Size.** The dwelling, exclusive of open porches and garage, shall not be less than 1,300 square feet in gross floor area.

4.3 **Easements and Setbacks.**

(a) Each Lot shall be subject to all easements as shown on the plat.

(b) Building setback lines shall be as required by Clackamas County Zoning Ordinance for Sunnyside Village for VR-4/5 zone.

4.4 **Exterior Materials.**

(a) Roofing material must be cedar shingles or shake, tile or tile substitutes, or dimensional tab shingles (Architectural Type)..

~~(b) Exterior siding shall be stucco, cedar shingles, brick, stone, or composite lap siding. T-111 plywood or other pressed wood sheet siding shall not be permitted.~~

(b) Exterior siding shall be stucco, or simulated stucco such as Drivet, cedar shingles, brick, vinyl or composite lap siding, or stone. T-111 plywood or other pressed wood sheetsiding shall not be permitted. (Amendment #1 16th April, 1996 Document No. 96-029930)

(c) Windows shall be wood or vinyl clad in white or color coordinated with the house, but may not be mill finish aluminum. In appropriate circumstances the Architectural Review Committee may approve other materials if necessary to facilitate design, provided they are in keeping with the character of Ashley Village. The Uniform Building Code and Clackamas County Zoning Ordinance, if more restrictive, shall apply.

(d) Front door entry railings shall be of wood, brick, or wrought iron construction. Tubular metal railings shall not be permitted.

4.5 **Exterior Finish and Color.** The exterior finish of all construction on any Lot shall be designed, built and maintained in such a manner as to be compatible with the character and existing structures within the Property. Exterior colors must not be excessively bright and must be approved prior to application by the Architectural Review Committee.

4.6 **Business and Commercial Uses.**

(a) No trade, craft, business or similar activity of any kind shall be conducted on any Lot, nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service or business be kept or stored on any Lot.

(b) The provisions of this Declaration do not prohibit the right of any home builder to construct a residence on any Lot or to store construction materials and equipment on such Lots in the normal course of construction.

(c) The provisions of this Declaration do not prohibit the right of any home builder to use any single family residence as a model home for purpose of sales in this subdivision until all lots owned by that builder within this Property and/or within property annexed to the Property have been constructed and sold.

4.7 **Parking.**

(a) All residences shall include a private, fully enclosed garage with two parking spaces and an area of at least 400 square feet.

(b) Parking shall not be permitted within the Limited Common Area alley, which shall be kept free of parked vehicles for purposes of fire access.

(c) Parking of boats, trailers, motor homes, motorcycles, trucks, truckcampers and like equipment shall be behind a fence or within the confines of an enclosed garage, and out of direct view from the street. No owner shall permit any vehicle of any kind, including automobiles, boats, trailers, motor homes, motorcycles, trucks, campers, etc. to be abandoned or to remain parked on the street for a period in excess of 96 hours. Boats, trailers, motor homes, motorcycles, and campers shall not be allowed to be parked in any driveway for a period greater than 96 hours. Trucks larger than one ton shall not be parked in Ashley Village except for the purpose of delivery, loading or unloading.

4.8 **Fences.**

(a) Any fences constructed along any back Lot line or side Lot line shall not be more than six feet in height as measured from ground level and shall be constructed of cedar or nonpunctured, treated wood of a natural wood color finish. In addition, all fences must comply with Clackamas County standards. Any fences towards the street right-of-way from the building line shall not be more than three and one-half feet in height and shall not obstruct sight distance from any street, driveway, or alley.

(b) Declarant may erect brick entry monuments and landscape features within the Common Easement Areas. Such monuments shall be maintained by the Association. Owners of Lots 2, 3, 15 and 32 on which such monument or walls may be located shall not disturb wall or landscape features and shall not place any fences or other structures within the Common Easement Areas.

4.9 **Miscellaneous Outdoor Equipment.**

(a) No exterior antenna, except satellite dishes mounted at ground level in the backyard, shall be permitted. Air conditioners, heat pumps, and other service equipment are permitted outdoors, but may only be located to the rear of a residence and shall be screened so as not to be viewed from any street.

(b) All exterior equipment such as, but not limited to, air conditioning or heating systems, or swimming pool pumps, shall be sheltered, insulated, or otherwise baffled as necessary to conform to County noise standards.

(c) No outdoor overhead electric or telecommunications wire, service drop, pole, tower, or other structure supporting such an overhead wire shall be erected, placed or maintained. All connections to TV cable, telephone, and electric service shall be underground.

~~4.10 — Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that a reasonable number, not to exceed three (combined total number) of dogs, cats or other household pets may be kept provided that they are reasonably controlled so as not to be a nuisance. Wild animals which might be a threat to neighboring children or domestic pets are not permitted.~~

4.10 Animals. *No animals, livestock or poultry of any kind shall be kept on any lot, except that a reasonable number, not to exceed three (combined total number) of dogs and cats may be kept provided that they are reasonably controlled so as not to be a nuisance. Wild animals which might be a threat to neighboring children or domestic pets are not permitted. Indor pets such as tropical fish, turtles, small birds such as parakeets and canaries, hamsters, ec., are allowed provided they are kept indoors. Large birds such as parrots, may be kept if they are kept indoors and noise from squawking is sufficiently controlled to avoid disturbance to neighbors. In no event shall animals, fish or birds of any kind be raised or kept for commercial purposes within Ashley Village.* (Amendment #2 9th day of May, 1996 Document # 96-033136)

4.11 **Signs.** No signs shall be placed on any Lot (excluding Common Easement Areas on which Declarant may erect a brick comer monument) except that not more than two signs, each up to six square feet in size, may be temporarily displayed on any Lot by the Owner, Declarant or by a licensed real estate agent for the sale of homes within the Property. (This restriction shall not prohibit the temporary placement of "political" signs on any Lot.) Declarant may also erect up to three temporary real estate sales signs having a total of up to 30 square feet each to be located at the perimeter of the subdivision.

4.12 **Rubbish and Trash.** No Lot, open space, or street shall be used to dump trash, rubbish, yard debris, or dirt resulting from landscaping work. All garbage and other waste shall be kept in appropriate sanitary containers for proper disposal. Such containers shall be kept out of public view except on scheduled trash collection days.

4.13 **Completion of Building Construction.** The construction of any building on any Lot, including private Lot drainage, construction of sidewalks and other driveway entrance, exterior painting, and all other exterior finish, shall be completed within eight months from the beginning of construction on that lot. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval from the Architectural Review Committee.

4.14 **Site Alteration.** There shall be no grading, excavation or filling on any Lot of more than 24 cubic yards of material, except to backfill around a house foundation and for the surface application of landscape materials, without the approval of the Architectural Review Committee.

4.15 **Completion of Landscaping.**

(a) Front and corner yard areas must be landscaped within eight weeks after substantial completion of home construction, except if such completion occurs during the months of November through March in which case the landscaping shall be completed by May 15th of that year. "Landscaped" means 100 percent coverage of the following combination of landscape materials: (1) grass seeding, hydroseeding, or grass turf, (2) street trees, (3) other planted trees and shrubs, and (4) ground cover such as mat vegetation, barkdust, or river rock.

(b) In addition to the provisions of Section 4.15.(a), rear and side yard areas must be landscaped by the Owner of any Lot within six months of occupancy of the dwelling on that Lot.

4.16 **Access.**

(a) Tract "A" shall be deeded to Clackamas County as a permanent bike and pedestrian access way. Owners of Lots 35 and 36 may construct fences up to a maximum height of four feet along the north and south boundaries of the access way, provided that the fence conforms with other provisions of this Declaration.

(b) All vehicular access to Lots 4-15 shall be from the private alley designated as Tract "B" There shall be. no driveway access from Oregon Trail Drive onto these Lots and onto Lot 32. Lots 3 and 16-23 have right of access from the private alley described as "Tract "B".

(c) No vehicular access onto Lots 1-5 is permitted from SE 152nd Avenue.

4.17 **Association Rules and Regulations.** In addition, the Association from time to time may adopt, modify or revoke such rules and regulations governing the conduct of persons and the operation and use of Lots and the Common Areas, Limited Common Areas and Common Easement Areas as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. A copy of the rules and regulations, upon adoption, and a copy of each amendment, modification or revocation thereof, shall be delivered by the Association Board of Directors promptly to each Owner and shall be binding upon all Owners and occupants of all Lots upon the date of delivery. The method of adoption of such rules shall be as provided in the Bylaws of the Association.

ARTICLE 5

ARCHITECTURAL REVIEW

5.1 **Architectural Review Required** No Improvement shall be commenced, erected, placed or altered on any Lot until the construction plans and specifications showing the nature, shape, heights, materials, colors and proposed location of the Improvement have been submitted to and approved in writing by the Architectural Review Committee. It is the intent and purpose of this Declaration to assure quality of workmanship and materials, and to assure harmony of external design with existing Improvements as to location, topography and finished grade elevations. Dwellings shall be double wall construction. In all cases which the Architectural Review Committee consent is required by this Declaration, the provisions of this Article shall apply.

(a) Major Construction In the case of initial or substantial construction of a dwelling the Lot Owner shall prepare and submit to the Architectural Review Committee such plans and specifications for the proposed work as the Committee may require. Materials required by the Committee may include, but not necessarily be limited to, the following:

(i) A plan indicating location of all improvements, including private drainage;

(ii) A drawing showing facade elevations, finish floor elevation of the ground floor, types of exterior materials to be used, and exterior colors proposed for all improvements.

(b) Minor Work. In the case of minor additions or remodeling, change of existing color scheme or exterior materials, greenhouse, or any other work referred to in Section 5.1.(a) above, the Owner shall submit to the Architectural Review Committee such plans and specifications for the proposed work as the Committee determines to be necessary to enable it to evaluate the proposal.

5.2 **Committee Decision.** The Architectural Review Committee shall render its decision with respect to the construction proposal within ten (10) working days after it has received all material required by it with respect to the application. In the event the Committee fails to render its approval or disapproval within thirty (30) working days after the Committee has received all material required by it with respect to the proposal, or if no suit to enforce this Declaration has been commenced within one year after completion thereof, approval will not be required and the related provisions of this Declaration shall be deemed to have been fully complied with.

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

5.4 **Appointment and Removal.** The Architectural Review Committee shall be the Declarant or consist of one or more persons, as the Declarant may from time to time appoint. The Declarant may remove a member from office at any time and may appoint a new member at any time. The Association shall keep on file at its principal office the names and addresses of the Committee members. Declarant may at any time delegate to the Board of Directors of the Association the right to appoint or remove the Committee members. In such event, the Board of Directors shall assume responsibility for appointment and removal of the Architectural Review Committee, or if it fails to do so, the Board of Directors shall serve as the Architectural Review Committee.

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

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

5.7 **Appeal.** After Declarant has delegated appointment of the Architectural Review Committee to the Board of Directors of the Association, any Owner adversely affected by action of the Architectural Review Committee may appeal such action to the Board of Directors of the Association. Appeals shall be made in writing within ten (10) days of the Committee's action and shall contain specific objections or mitigating circumstances justifying the appeal. A final, conclusive decision shall be made by a majority vote of the Board of Directors of the Association within fifteen (15) working days after receipt of such notification.

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

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

ARTICLE 6

ASSOCIATION

Declarant shall organize an association of all of the Owners within the Property. Such Association, its successors and assigns, shall be organized under the name "Ashley Village Owners Association" or such similar name as Declarant shall designate, and shall have such property, powers and obligations as are set forth in this Declaration for the benefit of the Property and all Owners of property located therein.

6.1 **Organization.** Declarant shall, before the first Lot is conveyed to an Owner, organize the Association as a nonprofit corporation under the general nonprofit corporation laws of the State of Oregon. The Articles of Incorporation of the Association shall provide for its perpetual existence, but in the event the Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. In that event all of the property, powers and obligations of the incorporated Association existing immediately prior to its dissolution shall thereupon automatically vest in the .successor unincorporated association, and such vesting shall thereafter be confirmed as evidenced by appropriate conveyances and assignments by the incorporated Association. To the greatest extent possible, any successor unincorporated association shall be governed by the Articles of Incorporation and Bylaws of the Association as if they had been made to constitute the governing documents of the unincorporated association.

6.2 **Membership.** Every Owner of one or more Lots within the Property shall, immediately upon creation of the Association and thereafter during the entire period of such Owner's ownership of one or more Lots within the Property, be a member of the Association. Such membership shall commence, exist and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

6.3 **Voting Rights.** The Association shall have two classes of voting membership:

(a) Class A. Class A members shall be all Owners, including Declarant, to the extent Declarant owns any Lots.

(b) Class B. The Class B member shall be the Declarant, its successors and assigns. Class B membership shall terminate upon the happening of any of the following events, whichever occurs earlier: (i) two years after the date of recording of this Declaration or the date of recording of the most recent declaration annexing additional property to this Declaration, whichever is later; (ii) such earlier date as Declarant may elect to terminate such membership.

Until the Class B membership is terminated as provided above, all voting rights in the Association shall belong to the Class B member, except to the extent otherwise expressly provided herein. Upon termination of the Class B membership, an voting rights in the Association shall belong to the Class A members. On all matters upon which the Class A members are entitled to vote, each Class A member

shall have one vote for each Lot owned by him within the Property. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

6.4 **Powers and Obligations** The Association shall have, exercise and perform all of the following powers, duties and obligations:

(a) The powers, duties and obligations granted to the Association by this Declaration.

(b) The powers and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Oregon.

(c) Any additional or different powers, duties and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners within the Property.

The powers and obligations of the Association may from time to time be amended, repealed, enlarged or restricted by changes in this Declaration made in accordance with the provisions herein, accompanied by changes in the Articles of Incorporation or Bylaws of the Association made in accordance with such instruments and with the nonprofit corporation laws of the State of Oregon.

6.5 **Liability.** A member of the board of directors or an officer of the Association shall not be liable to the Association or any member thereof for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of his or her duties, except for acts of gross negligence or intentional acts. In the event any member of the board of directors or any officer of the Association is made a party to any proceeding because the individual is or was a director or officer of the Association, the Association shall indemnify such individual against liability and expenses incurred to the maximum extent permitted by law.

6.6 **Interim Board; Turnover Meeting.** Declarant shall have the right to appoint an interim board of one to three directors, who shall serve as the Board of Directors of the Association until replaced by Declarant or their successors have been elected by the Owners at the turnover meeting described in this section. Declarant shall call a meeting of the Association for the purpose of turning over administrative responsibility for the Property to the Association not later than one hundred twenty (120) days after termination of the Class B membership in accordance with Section 6.3.(b) above. At the turnover meeting the interim directors shall resign and their successors shall be elected by the Owners as provided in this Declaration and the Bylaws of the Association. If Declarant fails to call the turnover meeting as required by this section, any Owner may call the meeting by giving notice as provided in the Bylaws.

ARTICLE 7

MAINTENANCE AND ASSESSMENTS

7.1 **Maintenance of Common Areas, Limited Common Areas and Common Easement Areas.** The Association shall provide for and perform all maintenance upon any Common Areas, Limited Common Areas and the Common Easement Areas and all Improvements thereon.

7.2 **Purpose of Assessments** The assessments levied by the Association pursuant to this Declaration shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Property and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas, Limited Common Areas, Common Easement Areas, and Lots situated upon the Property, including, but not limited to the costs of providing the maintenance required in Section 7.1 above, and the costs of management, accounting and legal services, except that the Association may not incur legal costs in any one year in excess of \$1,500 without approval of seventy-five percent (75%) of the voting power of the Class A members.

7.3 **Duty of the Board of Directors.** The Board of Directors shall fix the amount of the assessments against each Lot for the purposes set forth above, taking into account the need for reasonable reserves for such purposes. The Board of Directors shall give each Owner written notice of such assessment at least thirty (30) days in advance of the due date of the assessment and shall cause to be prepared a roster of the Lots showing assessments applicable to each Lot. The roster shall be kept in the Association office and shall be subject to inspection by any Owner during regular business hours. Upon demand, the Board of Directors shall furnish to any Owner a certificate in writing setting forth whether the assessments on such Owner's Lot have been paid.

7.4 **Amount of Assessments.** The annual assessment for purposes of Section 7.2 above shall be assessed equally against each Lot, except that (i) no assessment shall be levied against any Lot until such time as it is first occupied or sold to a purchaser other than a successor Declarant, and (ii) assessments relating to the maintenance, upkeep, repair, replacement or improvement to Limited Common Areas shall be assessed exclusively to the Lots having the right to use the specific Limited Common Area.

7.5 **Special Assessments.** In addition to the assessments authorized by Section 7.4 above, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying all or part of the cost of any construction or reconstruction, unexpected repair, or replacement of a described capital improvement upon the Common Areas, Limited Common Areas or Common Easement Areas, or for any other one-time expenditure not to be paid for out of regular annual assessments. No such assessment may be levied without the vote or written consent of seventy-five percent (75%) of the voting power of the Class A members and the consent of the Class B member, if any. The special assessment shall be assessed among the Lots as provided in Section 7.4.

7.6 **Creation of Lien and Personal Obligation of Assessments.**

Declarant, for each Lot owned by it within the Property, does hereby covenant, and each Owner of any Lot by acceptance of a conveyance thereof, whether or not so expressed in any such conveyance, shall be deemed to covenant to pay to the Association all assessments or other charges as may be fixed, established and collected from time to time in the manner provided in this Declaration. Such assessments and charges, together with any interest, expenses or attorneys' fees imposed pursuant to Section 8.5, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment or charge is made. Such assessments, charges and other costs shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth in Article 8 below.

ARTICLE 8

ENFORCEMENT

8.1 **Nonqualifying Improvements and Violation of General Protective Covenants.** In the event any Owner constructs or permits to be constructed on his Lot an Improvement contrary to the provisions of this Declaration, or causes or permits any Improvement, activity, condition or nuisance contrary to the provisions of this Declaration to remain uncorrected or unabated, then the Association acting through its Board of Directors shall notify the Owner in writing of any such specific violations of this Declaration and shall require the Owner to remedy or abate the same. If the Owner is unable, unwilling or refuses to comply with the Association's specific directives for remedy or abatement, or the Owner and the Association cannot agree to a mutually acceptable solution within the framework and intent of this Declaration, after notice and opportunity to be heard and within sixty (60) days of written notice to the Owner, then the Association acting through its Board of Directors shall have the right to do any or all of the following:

- (a) Impose reasonable fines against such Owner in the manner and amount the Board deems appropriate in relation to the violation,
- (b) Enter the offending Lot and remove the cause of such violation, or alter, repair or change the item which is in violation of this Declaration in such a manner as to make it conform thereto, in which case the Association may assess such Owner for the entire cost of the work done, provided that no items of construction shall be altered or demolished in the absence of judicial proceedings, or
- (c) Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration.

8.2 **Default in Payment of Assessments: Enforcement of Lien.** If an assessment or other charge levied under this Declaration is not paid within thirty (30) days of its due date, such assessment or charge shall become delinquent and shall bear interest from the due date at the rate set forth below. In such event the Association may exercise any or all of the following remedies:

(a) The Association may suspend such Owner's voting rights and right to use any Common Areas until such amounts, plus other charges under this Declaration, are paid in full and may declare all remaining periodic installments of any annual assessment immediately due and payable. In no event, however, shall the Association deprive any Owner of access to and from his Lot.

(b) The Association shall have a lien against each Lot for any assessment levied against the Lot and any fines or other charges imposed under this Declaration or the Bylaws against the Owner of the Lot from the date of recording of a Notice of Lien in the county real property records. The lien shall be foreclosed in accordance with the provisions regarding the foreclosure of liens under ORS Chapter 88. The Association, through its duly authorized agents, may bid on the Lot at such foreclosure sale, and may acquire and hold, lease, mortgage and convey the Lot.

(c) The Association may bring an action to recover a money judgment for unpaid assessments, fines and charges under this Declaration without foreclosing or waiving the lien described in paragraph (b) above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

(d) The Association shall have any other remedy available to it by law or in equity.

8.3 **Notification of First Mortgage.** The Board of Directors shall notify any first mortgagee of any individual Lot of any default in performance of this Declaration by the Lot Owner which is not cured within sixty (60) days.

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

8.5 **Interest, Expenses and Attorneys' Fees.** Any amount not paid to the Association when due in accordance with this Declaration shall bear interest from the due date until paid at a rate three percentage points per annum above the prevailing Portland, Oregon prime rate at the time, or such other rate as may be established by the Board of Directors, but not to exceed the lawful rate of interest under the laws of the State of Oregon. A late charge may be charged for each delinquent assessment in an amount established from time to time by resolution of the Board of Directors of the Association not to exceed thirty percent (30%) of such assessment. In the event the Association shall file a notice of lien, the lien amount shall also include the recording fees associated with filing the notice, and a fee for preparing the notice of lien established from time to time by resolution of the Board

of Directors of the Association. In the event the Association shall bring any suit or action to enforce this Declaration, or to collect any money due hereunder or to foreclose a lien, the Owner-defendant shall pay to the Association all costs and expenses incurred by it in connection with such suit or action, including a foreclosure title report, and the prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable as attorneys' fees at trial and upon any appeal or petition for review thereof.

8.6 **Nonexclusiveness and Accumulation of Remedies.** An election by the

Association to pursue any remedy provided for violation of this Declaration shall not prevent concurrent or subsequent exercise of another remedy permitted hereunder. The remedies provided in this Declaration are not exclusive but shall be in addition to all other remedies, including actions for damages and suits for injunctions and specific performance, available under applicable law to the Association. In addition, any aggrieved Owner may bring an action against another Owner or the Association to recover damages or to enjoin, abate or remedy any violation of this Declaration by appropriate legal proceedings.

ARTICLE 9

MISCELLANEOUS PROVISIONS

9.1 **Amendment.** This time to time in effect with Declaration, or any provision thereof, as from respect to all or any part of the Property, may be amended as to all or any portion of the Property by the vote or written consent of Owners holding not less than seventy-five percent (75%) of the voting rights of the Class A members of the Association, together with the written consent of the Class B member, if such membership has not been terminated as provided herein. Any such amendment shall become effective only upon recordation in the Deed Records of Clackamas County, Oregon, of a certificate of the president or secretary of the Association setting forth in full the amendment or amendments so approved and certifying that such amendment or amendments have been approved in the manner required by this Declaration. In no event shall an amendment under this section create, limit or diminish special Declarant rights without Declarant's written consent, or change the boundaries of any Lot or any uses to which any Lot is restricted unless the Owners of the affected Lots unanimously consent to the amendment. To the extent any amendment relates to the preservation or maintenance of the Common Areas or Common Easement Areas, or the existence of an entity responsible for accomplishing the same, such amendment shall be approved by the Clackamas County Planning Director.

9.2 **Regulatory Amendment.** Notwithstanding the provisions of Section 9.1 above, until termination of the Class B membership Declarant shall have the right to amend this Declaration or the Bylaws of the Association in order to comply with the requirements of any applicable statute, ordinance or regulation of the Federal Housing Administration, the Veterans Administration, the Farmers Home Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon, or any corporation wholly owned, directly or indirectly,

by the United States or the State of Oregon which insures, guarantees or provides financing for a planned community or lots in a planned community.

9.3 **Duration.** This Declaration shall run with the land and shall be and remain in full force and effect at all times with respect to all property included within the Property and the Owners thereof for an initial period of thirty (30) years commencing with the date on which this document is recorded. Thereafter, this Declaration shall continue to run with the land and be and remain in full force and effect at all times with respect to all property within the Property and the Owners thereof for successive additional periods of ten (10) years each. The continuation from the initial or any additional period into the next subsequent period shall be automatic and without the necessity of any notice, consent or other action whatsoever; provided, however, that this Declaration may be terminated at the end of the initial or any additional period only with written approval of the Clackamas County Planning Director and by resolution approved not less than six (6) months prior to the intended termination date by the vote or written consent of Owners owning not less than seventy-five percent (75%) of the voting rights in the Association. Any such termination shall become effective only if (a) a certificate of the president or secretary of the Association, certifying that termination as of a specified termination date has been approved in the manner required herein, is duly acknowledged and recorded in the Deed Records of Clackamas County, Oregon, not less than six months prior to the intended termination date, and (b) prior to the intended termination date, such termination has been approved by the Clackamas County Planning Director.

9.4 **Joint Owners.** In any case in which two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Association, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter.

9.5 **Lessees and Other Invitees.** Lessees, invitees, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration restricting or regulating the Owner's use, improvement or enjoyment of his Lot and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner himself.

9.6 **Nonwaiver.** Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

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

9.8 **Notices and Other Documents.** Any notice or other document permitted or required by this Declaration may be delivered either personally or by mail. Delivery by mail shall be deemed made twenty-four (24) hours after having been deposited in the United States mail as certified or registered mail, with postage prepaid, addressed as follows: If to Declarant, P.O. Box 19267, Portland, Oregon 97219; if to an Owner, at the address given by him at the time of his purchase of a Lot, or at his Lot; if to the Association, the mailing address of the Association as filed with the Oregon Corporation Commissioner. The address of a party may be changed by him at any time by notice in writing delivered as provided herein.

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

CASCADE COMMUNITIES, INC.
an Oregon corporation

By: s/ Donald W Oakley
Donald W. Oakley, President

STATE OF OREGON)
) ss.
Countyof (Multnomah))

This instrument was acknowledged before me on (May 16 , 1995) by Donald W. Oakley President of Cascade Communities, Inc., an Oregon corporation.

s/ Janet M. Johnson
Notary Public for Oregon
My commission expires

Oregon OFFICIAL SEAL
Notary Seal Janet M. Johnson
NOTARY PUBLIC OREGON
COMMISSION NO. 017571
My Commission Expires Aug 16, 1996

**DECLARATION OF ANNEXATION TO
ASHLEY VILLAGE
(Ashley Village No.2)**

THIS DECLARATION OF ANNEXATION TO ASHLEY VILLAGE is made this (24th) day of (June) 1996, by CASCADE COMMUNITIES, INC, an Oregon corporation ("Declarant")

Declarant is the declarant under the Declaration of Protective Covenants, Conditions and Restriction & Bylaws for Ashley Village recorded May 15, 1995 in the Records of Clackamas County, Oregon as Recorder's Fee No. 95-034529 (the "Declaration"), amended on April 29, 1996 Document No. 96-029930, and amended May 9, 1996, Document No. 96-033136.

Declarant has recorded the plat of Ashley Village No. 2, Pursant to Section 2.2 of the Declaration, Declarant wishes to annex Ashley Village No.2 to Ashley Village and subject the same to the Declaration.

NOW, THEREFORE, Declarant hereby declares as follows:

1. **PROPERTY ANNEXED.** Declarant hereby declares that all the property described below shall be annexed to Ashley Village and the Declaration and that such property is held and shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to the Declaration:

All that certain property located in Clackamas County, Oregon, in that certain plat entitled "Ashley Village No. 2" filed in Plat Records of Clackamas County, Oregon, on the (30) day of (September) 1996 at Book (107), Page (10), except the public street therein.

Ashley Village No.2 contains 24 single-family lots and will contain not more than 24 ~~dwelling units~~. ***Residences (as Defined in Section 1.13 of the Declaration).*** (3rd Ammendment to CC&R's 13rd December , 1997 Clackamas Co. document No.95-034529)

2. **DESIGNATION OF COMMON AREAS, COMMON EASEMENT AREAS AND LIMITED COMMON AREAS.**

2.1 **Designation of Common Areas.** Elm Park, designated as Tract C in the Plat of Ashley Village No. 2, shall be a Common Area/

2.2 **Designation of Limited Common Areas.** The Private alley shown as Tract D on the plat of Ashley Village No. 2 shall be a Limited Common Area for ingress and egress to and from Lots 51 through 53 of Ashley Villag No2.

2.3 **Designation of Common Easement Areas.** There are no Common Easement Areas within Ashley Village No.2.

3. **ADDITIONAL RESTRICTIONS**

3.1 **Access.**

(a) All vehicular access onto Lots 51 through 53 shall be from the private alley designated as Tract D.

(b) No vehicular access onto lots 40 through 51 is permitted from SE 152nd Avenue (Drive)

(c) No Vehicular access onto Lots 40 through 51 is permitted from SE Sunnyside Road.

