

RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
MALLARD LAKE ESTATES
(Lots 1 Through 18)

These Restated Restrictions replace and supersede all previously executed conditions and restrictions and amendments thereto affecting the property described in Exhibit "A" including, but not limited to, the Declaration of Covenants, Conditions and Restrictions of Mallard Lake Estates recorded on October 22, 2002 in the Official Records of Lane County, Oregon.

THIS DECLARATION made on the date hereinafter set forth by MALLARD LAKE CORPORATION, hereinafter referred to as "Declarant".

WITNESSETH

I.

Declarant is the owner of certain real property in Lane County, Oregon, which is more particularly described in Exhibit "A" attached hereto and made a part hereof by this reference.

II.

Declarant proposes to create a subdivision of single family lots and homes to be known as MALLARD LAKE ESTATES, composed of the real property described in Exhibit "A". This property and other contiguous real property in Mallard Lake Estates is owned by Declarant and known as Mallard Lake Estates and First Addition to Mallard Lake Estates.

After recording please return to: Mallard Lake Corporation
4055 Sunset View
Eugene, OR 97405

III.

Declarant deems it desirable in furtherance of the purposes set out herein to create an organization called The Architectural Control Committee, hereinafter called "The Committee", to review plans and specifications of buildings, fences, walls, landscape and planning as to location and exterior design in the development.

IV.

Declarant deems it desirable in furtherance of the purposes set out herein to establish these covenants, conditions and restrictions which shall apply to all real property contained in the development

V.

MALLARD LAKE ESTATES is a subdivision proposed for that real property more particularly described in Exhibit "A" attached hereto and made a part hereof by this reference.

NOW THEREFORE, Declarant hereby declares that the real property described in Exhibit "A" and each other parcel of real property, as and when it is separately platted and declared to be a part of the subdivision, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

Definitions

Section 1 - "Association": Shall mean and refer to Mallard Lake Estates Homeowners Association

Section 2 - "Committee": Shall mean and refer to the Architectural Control Committee.

Section 3 - "Developer": Shall mean and refer to Mallard Lake Corporation.

Section 4 - "Lot": Shall mean and refer to any plot of land shown on any recorded subdivision map of the properties.

Section 5 - "Member Lot": Shall mean and refer to those lots that directly adjoin Mallard Lake. Lot numbers 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 are member lots. Lot numbers 1, 16, 17, and 18 are not a Member Lots.

Section 6 - "Owner": Shall mean and refer to the record owner, including contract purchasers

whether one or more persons or entities, of the fee simple title to any lot which is part of the properties including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

ARTICLE II

Architectural Control Committee

Section 1 - Approval: No building, excavation, fencing, landscaping, or structural improvement shall be undertaken until the construction plans have been approved by the Architectural Control Committee.

Section 2 - Committee Membership: There shall be not less than two, nor more than three members of the Committee. The initial members of the Committee shall be Karen Berry, Jonathan Berry, and Daniel Leahy. The decision of any two members of the Committee shall be binding; however, applications may be resubmitted. Upon failure of the Committee or its designated representative to take action on a completed application within 30 days of submission, the application will be deemed to have been approved.

Section 3 - Application for Approval: Each owner or builder desiring to make site or structural improvements on his or her lot shall, prior to requesting a building permit from the City of Eugene, submit to the Committee for approval, the following:

- a. One set of plans which shall be retained by the Committee, containing:
 - I. Plot plan showing location of proposed improvements on the lot;
 - II. All elevations;
 - III. Floor plan of all levels;
 - IV. Finish floor grades on all levels, including parking structures and garages.
- b. One set of specifications or materials description list;

All plans, specifications and sample will be reviewed by the Committee, taking the Requirements and Criteria (Article IV) then in effect, into consideration and shall notify the owner in writing of approval or disapproval within 30 days of submission. Any notice of disapproval shall state, with particularity, the areas of disapproval and, if practicable, corrective measures consistent with the Requirements and Criteria.

Section 4 - Scope: In addition to the above authority, the Committee shall also have the authority to establish rules and approve or disapprove with respect to the various matters set forth in the following restrictions.

Section 5 - Liability: Neither the Architectural Control Committee nor any member thereof shall be held 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 by the Committee or a member thereof, provided that the member has, in accordance with actual knowledge possessed by him or her, acted in good faith.

Section 6 - Dissolution: The Architectural Control Committee will be dissolved after a sufficient number of dwellings are constructed and occupied in Mallard Lake Estates and it is decided by the Architectural Control Committee that it should be dissolved. The duties will then be handled by the Mallard Lake Estates Homeowners Association.

ARTICLE III

Use and Maintenance Restrictions

Section 1 - Residential Use: Except as set forth below all lots as shown on the plat of Mallard Lake Estates shall be used only for private residential purposes and no trade, business or profession shall be conducted or practiced thereon.

Only one private, single family dwelling, not exceeding, two stories in height including private garage for not less than two (2) cars or more than three (3) cars (which may be incorporated into the main residence) shall be erected or maintained on any lot. No carports shall be allowed.

All structures in said subdivision shall be constructed of entirely new materials, and shall be constructed entirely on site.

Section 2 - Permits/Occupancy: Except for landscaping as provided in Article III, Section 11 herein below, every lot owner shall: 1) within eighteen (18) months of the date the lot is sold by Declarant, obtain final approval of all planned residential construction intended for the lot by the Architectural Control Committee, and all permits to construct all planned residential improvements from all appropriate government agencies; and 2) within twenty-four (24) months of the date the lot is sold by Declarant, complete construction of all residential improvements approved by the Architectural Control Committee.

The deadlines for obtaining approvals and permits, and completion as set forth above, may be extended upon the approval of the Architectural Control Committee. Any request for extension shall be in writing and shall include the grounds upon which the extension is requested.

Section 3 - Animals: No kennel, aviary, dairy, stable, barn, hutch or warren shall be erected or maintained on any residential lot, nor shall dogs, cats, birds, horses, cows, poultry, rabbits or other domestic animals or fowl be kept thereon, except this restriction shall not be construed to prohibit ordinary household pets which do not constitute any annoyance or nuisance to the neighborhood.

Section 4 - Street Trees/Sidewalks: Except as otherwise set forth herein, no tree on the properties subject hereto shall be damaged or removed without first obtaining a permit from the Eugene Public Works Department.

Street trees are required for the proposed public streets and will be installed according to requirements of the Eugene Code and Urban Forestry standards and specifications.

The City of Eugene Public Works Maintenance Division is responsible for providing and planting street trees within this development. The City only plants new street trees during the trees dormant period between the months of November through March. To get on the list for the City's next planting season, the property owner must contact the office of the Urban Forester at 682-4800. No trees will be planted until after home construction, driveways, sidewalks, and rough landscaping is completed. The property owner may request the planting of any species of tree included in the City's "Approved Street Tree Species list" which will meet the planting standards contained within City of Eugene Administrative Rule R-7.280. Selection may be limited by availability. It is recommended that the landscaping design within the parking strip (planting strip) allow for future automated irrigation. (Automatic irrigation systems are not provided by the City). The initial payment to the City of Eugene for trees will be the responsibility of the Developer.

Except as otherwise set forth above, sidewalks and street trees for each lot as required by the City of Eugene shall be the responsibility of the lot owner. A final street tree plan and trees chosen to be planted shall be subject to approval by the Urban Forester and the Planning Division for the City of Eugene.

Section 5 - Nuisance: No noxious or offensive trade or activity shall be carried upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

Section 6 - Signs: Unless approval is first obtained from the Committee, no sign of any kind shall be displayed to the public from any residential lot, except 1) professional sign of not more than 24" X 36" advertising the lot for sale or signs used by the developer to advertise the lot during construction or sale period. During construction of the residence, the general contractor may display signage consistent with these covenants and the Eugene City Sign Code.

Section 7 - Temporary Buildings: No trailer, basement, shack, tent, garage, barn or other outbuilding erected in the subdivision shall at any time be used as a residence temporarily, or permanently, nor shall any structure of a temporary character be used as a residence.

Section 8 - Drainage: Each owner, their heirs, successors and assigns of a lot in said subdivision agree that they will not in any way interfere with the established drainage over their lot and that they will make adequate provisions for property drainage for the benefit of all affected lots. For the purpose hereof, "established drainage is defined as the drainage which occurred at the time the overall grading of said subdivision was completed by the undersigned Declarant."

Section 9 - Refuse: No Lots shall be used or maintained as a dumping ground for refuse. Trash, garbage, and other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material as prescribed by ordinance shall be kept in a clean and sanitary condition. During the period of construction and development of the plat, this provision will not apply to the Declarant. Storage of any kind of chattels, merchandise, material, fuel, supplies or machinery shall be within walls of the building or enclosed by tight fences that completely screen it from sight.

Section 10 - Vehicle; Parking: These covenants hereby include a restriction on overnight parking on the dedicated streets within the subdivision. All unsightly or inoperable vehicles shall be removed from the subdivision. All boats, trailers, and R.V.'s shall be stored in an appropriate area that doesn't infringe upon other homeowners view or enjoyment of the lake.

Section 11 - Landscaping: Yards shall be landscaped not more than 60 days after final inspection except when occupancy occurs after October 1 and before May 1. Yards of residences ready for occupancy during inclement weather shall be landscaped not more than 60 days after May 1. Yards shall be maintained in a neat and clean condition and grass shall be watered and cut regularly. Landscaping shall be subject to approval by the Architectural Control Committee as set forth above. Each owner shall, prior to commencement of landscape work, submit to the Architectural Control Committee a detailed landscape plan including location of all fencing.

Section 12 - Heating and Air Conditioning: Exterior air conditioning or heating units of heat pump design shall be approved by the Architectural Control Committee subject to location on the lot. Window mounted air conditioners shall not be allowed.

Section 13 - Partition: No lot may be partitioned or subdivided after sale or conveyance by the Declarant.

Section 14 - Utilities and Utility Easements: Easements and right-of-ways for installation and maintenance of utilities, facilities, and signage, are shown on the recorded plat, or otherwise recorded in the Official Records of Lane County, Oregon.

Section 15 - Satellite Dishes and Antennas: No external television, radio or other antennae, satellite dishes, clotheslines or other similar structures may be erected in any location without permission of the Architectural Control Committee.

Section 16 - Placement of Utilities: Declarant discloses to all lot owners that the placement of all utility lines and equipment, including meters, hydrants, conduit and piping, is up to the sole discretion of the utility installing such equipment, and that placement may not be centered within easements, or on lot corners or boundaries. Lot owners are advised that they cannot rely on placement of such equipment to delineate boundaries of lots or easements.

Section 17 - Panhandle Lots: Certain Lots within Mallard Lake Estates are Panhandle Lots as defined by the City of Eugene Code. Driveways of Panhandle Lots must be constructed in accordance with the Code, and the travel area must be free of structures. A portion of the

driveway area for Lots 2 and 3 serves as an Emergency Vehicle Turnaround Area and must be constructed and maintained accordingly.

Section 18 - Fire Sprinklers: Lots 5, 6 and 7 within Mallard Lake Estates are required to equip their home with Fire Sprinklers.

ARTICLE IV

Requirements and Criteria

Upon submission of plans to the Committee by an owner as set forth in Article II, approval or disapproval of all residential construction will be based upon the following requirements and criteria:

Section 1 - Height: All buildings shall be one story, two story or split level, and the maximum height shall be subject to approval by the Committee.

Section 2 - Square Footage: No dwelling shall be erected or maintained on any lot unless it contains at least 1,200 square feet of living space exclusive of garage, open porches, patios, or breezeways or any building structure or floor which is other than a part of the principal residential structure. Notwithstanding anything to the contrary herein, the square foot requirements may be waived or decreased with the written approval of the Architectural Control Committee where the size or location of the lot warrants consideration thereof by the Committee.

Section 3 - Siding: T111 siding or similar products will not be allowed on any walls facing the street or private driveway, or any gables.

Section 4 - Roof Pitch: Minimum roof pitch shall be 5/12 on all predominant roof lines;

Section 5 - Roof: All roof material shall be shake, tile or minimum twenty-five (25) year offset composition. Color and design must be approved by the Architectural Control Committee prior to installation.

Section 6 - Exterior Colors, Windows: All exterior paint colors and stains must be approved by the Committee prior to installation. All windows shall be vinyl or painted wood.

Section 7 - Fencing: All fencing (including gates) must be approved by the Architectural Control Committee and meet minimum city codes.

Section 9 - Maintenance During Construction: During construction, the lot owner shall be responsible for keeping all streets and sidewalks in a neat and clean condition, and shall not allow any dangerous conditions left unattended on his or her property.

Section 10 - Storage Sheds: No storage sheds shall be allowed.

Section 11 - Waiver: The Committee shall have the sole and exclusive right in its discretion to waive, in whole or in part, any provision, covenant, condition, restriction or reservation herein, if in its discretion it is determined that such action is necessary to avoid hardship to any property owner, including the undersigned, and will not materially detract from the value of adjoining properties. Any instrument duly acknowledged by the undersigned and recorded in the Public Records of Lane County, Oregon shall be conclusive evidence of such determination and action.

ARTICLE V

Common Area

Section 1 - Use: Subject to the limitations and reservations hereafter provided, each Member Lot Owner shall have and is hereby granted and there by retained by and for the Declarant, its successors and assigns, a non-exclusive right to use the Common Area within said real property as shown on the recorded Plat thereof.

Section 2 - Rules and Limitations: The use of the Common Area shall be subject to all rules and regulations set forth by the Association, as well as the rights of Declarant and Declarants' successors hereafter described, and to such road and public utility easements, maintenance easements and rights of way as may from time to time be taken under power of eminent domain, and to such other road and public and private utility easements as may from time to time be granted or conveyed by the Association or by Declarant prior to the time Declarant shall transfer and convey said Common Area to the Association in accordance with Article V (4) hereof.

Section 3 - Improvements: No improvement, excavation or other work which in any way alters any Common Area from its natural or existing state on the date such Common Area was conveyed by Declarant to the Association as hereafter provided shall be made or done except upon strict compliance with the following provisions:

- a. No person other than the Association acting for the Owners shall alter or maintain any improvement upon or shall make or create any excavation or fill upon, or shall change the natural or existing drainage of, or shall destroy or remove any tree, shrub or other vegetation from, or plant any tree, shrub or other vegetation upon the Common Area.

Section 4 - Conveyance of Common Area: Grantor shall transfer and convey to the Association, by deed recorded after the recordation of the Plat Map hereinabove referred to, subject to the limitations and reservations hereafter provided, all right, title and interest in and to all the Common Area, on or before such time as 100% Lots in Mallard Lake Estates, as platted and recorded, shall have been sold.

ARTICLE VI

Association

Section 1 - Organization: Mallard Lake Estates Homeowners' Association is to be a nonprofit corporation charged with the duties and empowered with the rights set forth herein. The Association is to be created after a sufficient number of dwellings are constructed and occupied in Mallard Lake Estates and the need for such organization exists for the administration, regulatory use and enjoyment of the common areas throughout the subdivision. At that time the Articles of Incorporation will be filed by the Declarant and the corporation formed. The Board of Directors will be elected from the membership comprised of all Member Lot Owners, and officers shall be elected from the Board membership. The Declarant shall appoint the members of the first Board of Directors. Each Member Lot Owner shall automatically become a member of the Association. Until such time as the Association is incorporated, Mallard Lake Corporation shall have all of the powers and authority of the Association and its Board of Directors and Members as provided herein, including the unilateral power to amend, repeal or replace this Declaration; provided, however, that no provision herein required by the City in connection with subdivision plat approval shall be changed without the consent of the City.

Section 2 - Membership: Each Member Lot Owner, by virtue of being a Member Lot Owner and for so long as he/she is an Member Lot Owner, shall be a member of the Association. The rights, duties, privileges and obligations of an Member Lot Owner as a member of the Association shall be those set forth in, and shall be exercised and imposed in accordance with, the provisions of these Covenants and the Articles and the By-laws.

Section 3 - Voting Rights: Each Member Lot Owner shall be entitled to one vote for each Member Lot owned by such Owner on all matters properly submitted for vote to the membership of the Association; in the event of multiple Owners of the same Member Lot, the vote applicable to the Member Lot so owned shall only be cast if the multiple owners shall unanimously agree to cast said vote.

Section 4 - Duties and Obligations of the Association: The Association shall have the obligations and duties, subject to these Covenants, to do and perform each and every one of the following for the benefit of the Member Lot Owners and for the maintenance and improvement of Mallard Lake Estates. In this connection, the Association shall accept as part of Mallard Lake Estates all property annexed to Mallard Lake Estates pursuant to these Covenants and shall accept all Member Lot Owners thereof as members of the Association. The Association shall provide for the maintenance of the Common Area in good order and repair. The Association shall enter upon and maintain, or provide for the maintenance of, any Member Lot which is not maintained by the Owner thereof in accordance with the requirements of these Covenants. To the extent not assessed to or paid by the Member Lot Owners, the Association shall pay all real property taxes and assessments levied upon any portion of Common Area.

Section 5 - Power and Authority of the Association: The Association shall have all of the power

set forth in the Articles, together with its general powers as a corporation, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Articles, the By-laws and in these Covenants, to do any and all lawful things which may be authorized, required or permitted to be done by the Association under and by Virtue of the Covenants, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association or the peace, health, comfort, safety and general welfare of the Member Lot Owners. Without in any way limiting the generality of the foregoing:

a. The Association is hereby given the right, power and authority at any time, and from time to time, and without liability to any Member Lot Owner, to enter upon any Member Lot for the purpose of enforcing any and all of the provisions of these Covenants, and/or for the purpose of maintaining and repairing any such property if for any reason whatsoever the Owner thereof involved fails to maintain and repair such property as required herein, and all of the costs, of such entry, enforcement, maintenance and repair, including, without limitation, attorneys' fees, collection fees, personnel costs and equipment and material costs which shall be added to the amount of the maintenance assessment charged to said Owner and shall be treated as an enforceable assessment in accordance with Article VII hereof. The Association may from time to time, in its own name, on its own behalf, or on behalf of any Member Lot Owner or Member Lot Owners who consent thereto, commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of these Covenants and to enforce, by mandatory induction or otherwise, all of the provisions of these Covenants.

b. In fulfilling any of its obligations or duties under these Covenants, including, without limitation, its obligations or duties for the maintenance, repair, management, operation or administration of Common Area, or to construct improvements on the Common Area and, to the extent necessitated by the failure of the Member Lot Owners thereof on Lots, the Association shall have the power and authority:

I. To contract and pay for, or otherwise provide for, the maintenance, restoration, and repair of all improvements of whatever purpose from time to time located upon Common Area.

II. To obtain, maintain and pay for such insurance policies or bonds, whether or not required hereunder, as the Association shall deem to be appropriate for the protection or benefit of Mallard Lake Estates, the Association, the members of the Board, the members of the Architectural Control Committee, or Member Lot Owners, including without limitation, workers' compensation insurance, malicious mischief insurance, automobile non-ownership insurance and performance and fidelity bonds.

III. To contract and pay for, or otherwise provide for, such utility services as may from time to time be required.

IV. To contract and pay for the services of architects, engineers, attorneys and certified public accountants and such other professional and non-professional services and the Association deems necessary.

V. To contract and pay for, or otherwise provide for, such materials, supplies, furniture, equipment and labor as and to the extend the Association deems necessary.

3. The Association, acting on behalf of the Member Lot Owners, shall have the power and authority from time to time to grant and convey to any third party such easements, rights of way, parcels, or strips of land in, on over or under any Common Area, for the purpose of constructing, erecting, operating and maintaining thereon: (1) public roads, streets, walks, driveways, parkways and park areas; (b) poles, wires and conduits for the transmission of electricity for lighting, heating power, telephone, television and other purposes and for the necessary attachments in connection therewith; and (c) public and private sewers, storm water drains, land drains, land drains and pipes, water systems, sprinkling systems, water heating and gas lines or pipes, and any and all equipment in connection with the foregoing.

4. The Association may from time to time employ the services of a manager to manage the affairs of the Association and, to the extent not inconsistent with the laws of the State of Oregon and upon such conditions as are otherwise deemed advisable to the Association, the Association may delegate to the manager any of its powers under these Covenants.

5. The Association shall have the right to pay, compromise or contest any and all taxes and assessments levied against all or any part of the Common Area or upon any personal property belonging to the Association; provided, however, that prior to the sale or other disposition of any property to satisfy the payment of any such tax or assessment, the Association shall pay and discharge the lien imposed with respect to said property.

6. The Association shall have the power and authority at any time, and from time to time, to require the payment by each Member Lot Owner of reasonable miscellaneous fees.

Section 6 - Rules: The Association may, subject to the provisions of these Covenants, adopt, amend and repeal rules and regulations, to be known as Mallard Lake Estates Rules, governing, among other things:

1. The use of Common Area

2. The use of roads and parking.
3. The collection and disposal of refuse.
4. The burning of open fires.
5. The maintenance of animals within Mallard Lake Estates
6. Restrictions on using Common Area and/or Lots for noxious, offensive or hazardous activities.
7. Parking restrictions and limitations.
8. The time when commercial vehicles may be permitted to use the roads.
9. The type or types of vehicles other than conventionally equipped passenger automobiles which may be permitted to use the roads.

The Rules may, without limitation and to the extent deemed necessary by the Association in order to preserve the benefits of Mallard Lake Estates for all Member Lot Owners, their Families, invitees, licensees and lessees, restrict and govern the use of Common Area by any Member Lot Owner, by the Family of such Member Lot Owner, or by any invitee, licensee, or lessee of such Member Lot Owner. A copy of the Mallard Lake Estates Rules shall be maintained with the corporate records of the Association and shall be available for inspection by any Member Lot Owner. Such Rules shall not discriminate against Grantor, its successors and assigns, or the occupants, tenants, licensees or dwellers of any property owned by Grantor, Grantor's successors or assigns in the uses of the Common Area herein reserved.

Section 7 - Liability of Members of Board: No member of the Board shall be personally liable to any Owner, or to any other person, including Grantor, for any error or omission of the Association, its representatives and employees, the Architectural Control Committee or the manager; provided, however, that such member has, with the actual knowledge possessed by him, acted in good faith.

ARTICLE VII

Funds and Assessments

Upon creation of the Mallard Lake Estates Homeowners Association, all costs for maintenance of all Common Areas and facilities, and any public assessment by the City of Eugene, shall be paid by Member Lot Owners and shall be assessed in accordance with this part.

Section 1 - Operating Fund: There shall be an operating fund, into which the Association shall deposit all monies paid to it as: (1) Maintenance assessments; (2) Special assessments; (3) Miscellaneous fees; and (4) Income and profits attributable to the operating fund. From this fund, the Association shall make disbursements in performing the functions for which the foregoing assessments are levied.

Section 2 - Maintenance Assessment: Within thirty (30) days prior to the commencement of each fiscal year, the Association shall estimate the costs and expenses to be incurred by the Association during such fiscal year in performing its function hereunder (including a reasonable provision for contingencies and replacements), and shall subtract from such estimate an amount

equal to the anticipated balance (exclusive of any reserves for contingencies and replacements) in the operating fund at the start of such fiscal year which is attributable to Maintenance Assessments.

The sum of the estimate determined as above provided shall be assessed to the Member Lot Owners as a Maintenance Assessment, with an equal amount per Lot to be fixed by the Association. If, at any time, during any fiscal year the Maintenance Assessment proves inadequate for any reason, the Association may levy a further assessment in the amount of such actual or estimated inadequacy, with an equal amount to be assessed to the Member Lot Owner of each Lot in Mallard Lake Estates. Maintenance Assessments shall be due and payable by the Member Lot Owners to the Association in equal monthly installments, on or before the first day of each month during the fiscal year, or in such other manner as the Association shall designate.

Section 3 - Special Assessment: The Association shall levy a Special Assessment against any Member Lot Owner as a direct result of whose acts or failure or refusal to act or otherwise to comply with these Covenants, the Rules and Architectural Control Committee rules, monies were expended from the operating fund by the Association in performing its functions under these covenants. Such assessment shall be in the amount so expended, and shall be due and payable to the Association when levied.

Section 4 - Improvement Assessment: The Association may levy, in any fiscal year, an Improvement Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement in the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the vote or written consent of fifty-one percent (51%) of the members of the Association, excluding Grantor. Such improvement assessments shall be deposited into an improvement fund.

Section 5 - Default in Payment of Assessments: Each assessment under this Part and each sum to be treated and/or enforced as an assessment under the terms of these Covenants shall be a separate, distinct and personal debt and obligation of the Member Lot Owner against whom it is assessed. If the Member Lot Owner does not pay such assessment or sum or any installment thereof when due, the Member Lot Owner shall be deemed to be in default and the amount of the assessment or sum not paid, together with the amount of any subsequent default, plus interest at ten percent (10%) per annum, and costs, including reasonable attorneys' fees, shall become a lien upon the Member Lot or Lots of such Member Lot Owner upon the recordation by the Association of a notice of default. Such lien shall be subject and subordinate to the lien of any mortgage upon the Member Lot or Lots of such Member Lot Owner which is made in good faith and for value and is recorded prior to the recordation of such notice of default. The Association shall timely record such notice of default and shall commence proceedings to enforce payment thereof of such lien following recordation by foreclosure in any manner provided by the laws of the State of Oregon. The foregoing remedy shall be in addition to any other remedies provided by law for the enforcement of such obligations.

The Association shall execute and acknowledge a certificate stating the indebtedness secured by the lien upon any Member Lot or Lots, and such certificate shall be conclusive upon the Association and the Member Lot Owners, in favor of all persons who rely thereon in good faith, as to the amount of such indebtedness on the date of the certificate. The Association shall furnish a copy of such certificate to any Member Lot Owner upon request, at a reasonable fee.

Section 6 - Public Assessments: Any public assessment against the property subject to the Plat Map that arises from public improvements adjacent to the property shall be allocated equally to each Member Lot in the Plat.

Section 7 - Timing of Assessments by the Association: The following provisions govern when Member Lot Owners will be subject to assessments imposed by the Association:

1. No maintenance assessment, special assessment, or improvement assessment shall be levied against any Member Lot Owner until the first day of the month following initial occupancy of a Dwelling or Lot.
2. No Member Lot Owner shall be subject to any maintenance assessment, special assessment, or improvement assessment prior to the creation of the Mallard Lake Estates Homeowners Association. Prior to creation of the Homeowners Association, the Declarant shall carry the full operational cost of the development.

ARTICLE VIII

General Provisions

Section 1 - Enforcement: Any affected Owner of a lot in the subdivision shall have full rights to enforce the covenants and restrictions contained herein. In addition to the rights of any affected Owner if any of the restrictions, covenants or conditions are violated, or if it appears that an attempt to violate will be made, the Committee, as a Committee, also shall have the authority to institute and prosecute such proceedings on behalf of any owner or owners of lots in the subdivision, provided however, that neither the Committee nor the Declarant shall have any obligation to enforce any violations of said covenants, conditions and restrictions. No failure to prosecute any person for any violation or attempted violation shall be deemed a waiver of a right to enforce any such violations by the same person or other persons. The prevailing party shall be entitled to recover costs and a reasonable attorney's fees, both trial and appellate, in any such proceeding.

Section 2 - Conflict: In the case of conflict between these restrictions and any zoning ordinance of any governmental body, the more restrictive shall prevail.

Section 3 - Severability: Invalidation of any part of the restrictions shall in no way affect the remaining restrictions.

Section 4 - Binding Effect: The provisions herein shall be binding upon and inure to the benefit of the successors, heirs, and assigns of the owners and all lot purchasers, users and owners.

Section 5 - Time: This Declaration shall run for the benefit of each of the lots affected and shall control the use of the lots for a period of twenty (20) years from the date the declaration is recorded, after which time they shall automatically be extended for successive periods of ten (10) years.

Section 6 - Amendment: Except as specifically set forth herein, this declaration may be amended by an instrument signed by 2/3 of the Architectural Control Committee. Once the Architectural Control Committee is dissolved, this declaration may be amended by an instrument signed by 2/3 of the lots of the subdivision. Upon execution, the instrument shall be recorded in the Official Records of Lane County, Oregon.

In witness whereof, Declarant has executed this instrument on the _____ day of _____, 2004.

Mallard Lake Corporation

By: _____
Karen Y. Berry, President

STATE OF OREGON)
 :SS
County of Lane)

_____, 2004

Personally appeared the above-named Karen Y. Berry of Mallard Lake Corporation, who acknowledged the foregoing instrument to be its voluntary act and deed. Before me.

Notary Public for Oregon