

**2011-004957**

**Klamath County, Oregon**

**AFTER RECORDING RETURN TO:**

Linette Dobbins

Association Secretary

12455 SW 68<sup>th</sup> Avenue

Portland, OR 97223



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**AMENDED BYLAWS  
OF  
THE DIAMOND MEADOWS TRACT #1384  
HOMEOWNERS ASSOCIATION, INC.  
KLAMATH COUNTY, OREGON**

**Dated:** November 13, 2010

**Declarant:** The Diamond Meadows Tract #1384 Homeowner's Association, Inc.

Previously recorded on October 30, 2007 as Amended Bylaws of the Diamond Summit at Leisure Woods II Homeowner's Association, Inc. Volume 2007, page 018621, Microfilm Records of Klamath County, Oregon.

**AMENDED BYLAWS  
OF  
THE DIAMOND MEADOWS HOMEOWNERS  
TRACT # 1384 HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE 1  
PLANNED COMMUNITY PLAN OF LOT OWNERSHIP; DEFINITIONS**

- 1.1 Bylaws Applicability.** The Lots described on Exhibit "A" (comprising 72 lots), together with any Lots annexed hereafter, and the Commonly Maintained Property, in the County of Klamath, State of Oregon (jointly the "Property" or "Project"), as well as the Diamond Meadows Tract # 1384 Homeowners Association, Inc. (the "Association"), and all Members and the management structure thereof, are submitted to the provisions of the Oregon Planned Community Act ("PGA"), Oregon Revised Statutes §94.550, et seq, these Bylaws and any amendments thereto, and to the Amended and Restated Declarations, Covenants and Conditions for the Diamond Meadows Tract # 1384 Homeowners Association, Inc., and any amendments to the same subsequently recorded ("Declaration").
- 1.2 Personal Application.** All present or future Owners, tenants, occupants or their employees, and any other person that might occupy any portion of the Property in any manner, are subject to these Bylaws.
- 1.3 Definitions.** Capitalized terms used but not defined herein shall have the same meaning given to them in Article I of the Declaration.

The acquisition, occupancy or rental of any of the Lots or the mere act of occupancy of any said Lots constitutes acceptance and ratification of these Bylaws and agreement to comply with all the provisions hereof.

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

- 2.1 Membership in the Association.** Upon recordation of a conveyance or contract to convey a Lot, the grantee or purchaser named in such conveyance or contract shall automatically be a Member of the Association, and shall remain a Member of said Association until such time as such person's ownership ceases for any reason. For all purposes of the Declaration and the administration of the Property, Lot ownership shall be determined from the record maintained by the Association. The record shall be established by the Owner filing with the Association a copy of the deed to or land sale contract for his or her Lot, to which shall be affixed the certificate of the recording officer of the County of Klamath, Oregon, showing the date and place of recording of such deed or contract. No person shall be recognized as an Owner unless a copy of the deed or contract has been filed with the Association as provided above showing him or her to be the current Owner or contract purchaser of a Lot. Notwithstanding the foregoing, the Declarant shall be the Owner of all

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

- 2.2 Voting Rights.** The Association shall have one class of voting Members. Each Member shall be entitled to one (1) vote for each Lot owned with respect to all matters upon which Owners are entitled to vote. When more than one (1) person or entity owns a Lot, the vote for such Lot may be cast as they shall determine, but in no event will fractional voting be allowed. Fractionalized or split votes shall be disregarded, except for purposes of determining a quorum. The total number of votes shall be equal to the total number of Lots within the Property and subjected to these Bylaws as of the date of the initial adoption of these Bylaws, plus any lot annexed thereafter.
- 2.3 Majority of Owners.** As used in these Bylaws, the term "Majority" shall mean those Owners holding over fifty percent (50%) of the voting rights allocated to the Owners in accordance with the Declaration and Section 2.2 above. "Majority of Owners present" shall mean Owners holding over fifty percent (50%) of the votes present at any legal meeting.
- 2.4 Quorum.** Except as otherwise provided in these Bylaws, or the Declaration, the presence in person or by proxy of Owners holding twenty percent (20%) or more of the outstanding votes in the Association, as defined in Section 2.2, shall constitute a quorum.
- 2.5 Voting; Proxies.** Owners may cast votes in person, by written ballot, or by proxy. Proxies must be filed with the Secretary of the Association ("Secretary") before or during the appointed meeting. A proxy shall expire one year after the date it was signed unless a shorter period is specified in the proxy. The proxies may require the holder to cast a vote for or against any specific proposal set out in the notice calling the meeting. Unless withdrawn, a proxy given to another person to vote at a specific meeting shall also be valid at an adjourned meeting called under the provisions of Section 3.6. The Association must retain proxies and ballots for one year from the date of the determination of the vote.
- 2.6 Authority to Vote.** All Owners, including those who have leased their Lot to a third party, shall be entitled to vote. An Owner's right to vote may not be revoked. A purchaser under a land sale contract entitled to immediate possession of the Lot shall be deemed the Owner thereof, unless otherwise provided in such contract.
- 2.7 Fiduciaries and Joint Owners.** An executor, administrator, guardian, or trustee may vote, in person or by proxy, at any meeting of the Association with respect to any Lot owned or held by such person in such capacity, whether or not the same shall have been transferred to such person's name, provided that such person has satisfied the Association Secretary that such person is the executor, administrator, guardian or trustee holding such Lot in such capacity. Whenever any Lot is owned by two or more persons jointly according to the records of the Association, the vote of such Lot may be exercised by any one of the Owners then present, in the absence of protest by a co-owner. In the event of such protest, no one co-owner shall be entitled to vote without the approval of all co-owners. In the event of disagreement among the co-owners, the vote of such Lot shall be disregarded for all purposes, except for determining whether a quorum is present.

### **ARTICLE 3 ADMINISTRATION**

- 3.1 Association Responsibilities.** The Owners shall constitute the Members of the Association. Except as otherwise provided in the Declaration or these Bylaws, decisions and resolutions of the Association shall require approval by a majority of the Owners present at any legal meeting. A legal meeting is one duly called pursuant to these Bylaws at which a quorum is present, in person or by proxy at a formal gathering or, if a vote is taken by written ballots, when ballots are returned representing more than twenty percent (20%) of the vote, unless a larger vote is required to approve a ballot item, in which case the quorum requirements shall be the number of votes required to approve the proposal.
- 3.2 Place of Meetings.** Formal meetings of the Association shall be held at suitable places convenient to the Owners as may be designated by the Board of Directors of the Association ("Board"). Any vote taken by written ballot shall be determined by the Board of Directors within seven (7) days of the deadline for return of ballots. Each Owner shall be notified by mail or other delivery of written notice of the results of the ballot meeting or that a quorum of the ballots was not returned, within ten (10) days after the ballots have been counted.
- 3.3 Annual Meetings.** The annual meeting of the Association shall be held within one hundred and eighty (180) days of the end of the Association's fiscal year and shall be set by action of the Board of Directors. The date for this meeting, at the discretion of the Board of Directors, may be changed from time to time, but must be held annually under the rules and regulations as set out in the Bylaws. At such meetings, new members of the Board of Directors shall be elected by the Owners in accordance with the requirements of Section 4.7 of these Bylaws, to replace those directors whose terms have expired. The Owners may also transact such other business of the Association as may properly come before them.
- 3.4 Special Meetings.** It shall be the duty of the President to call a special meeting of the Owners as directed by resolution of the Board of Directors or upon a petition signed by twenty-five percent (25%) or more of the Owners having been presented to the Secretary. All meetings called because of petition of Owners shall be held at a formal gathering and not by ballot, and shall be held within sixty (60) days after receipt of the petition. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of all the Owners of the Lots or as otherwise set out in these Bylaws.
- 3.5 Notice of Meetings.** It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof and the time and place where it is to be held, to each Owner of record at least ten (10) but not more than fifty (50) days prior to such meeting or the date when ballots for a ballot meeting are required to be returned. The mailing shall be to the Owner's address last given the Secretary in writing by the Owner or Owner's vendee. If Lot ownership is split or the Lot has been sold on a contract, notice

shall be sent to a single address of which the Secretary has been notified in writing by such parties. If no address has been given the Secretary in writing, then mailing to the Project Lot address shall be sufficient. The mailing of a notice in the manner provided in this Section shall be considered notice legally served.

- 3.6 Adjourned Meetings.** If any gathering of Owners is not a legal meeting because a quorum has not attended, the Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours nor more than ten (10) days from the time the original meeting was called. The adjournment provisions of this Section do not apply to meetings by ballot.
- 3.7 Ballot Meetings.** Unless prohibited or limited by the Articles of Incorporation of the Association, any action that may be taken at any annual or special meeting of the Owners may be taken without a meeting if the Association delivers a written ballot to every Owner entitled to vote on the matter as provided in ORS 94.647. Such ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. A proposed action shall be deemed to be approved by written ballot when the number of votes cast by ballot equals or exceeds any quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceed the number or votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. The Board must provide Owners with at least ten (10) days' notice as required by ORS 94.647(2)(b) before written ballots are mailed or otherwise delivered. If, at least three (3) days before written ballots are scheduled to be mailed or otherwise distributed, at least ten percent (10%) of the Owners petition the Board requesting secrecy procedures, a written ballot must be accompanied by a secrecy envelope, the return identification envelope to be signed by the Owner and instructions for making and returning the ballot. Written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.
- 3.8 Order of Business.** The order of business at all meetings shall be as follows:
- (a) Roll call.
  - (b) Proof of Notice of meeting or waiver of notice.
  - (c) Reading of minutes of the preceding meeting.
  - (d) Reports of officers.
  - (e) Reports of committees.
  - (f) Election of inspectors of election.
  - (g) Election of directors,
  - (h) Unfinished business,
  - (i) New business.

## **ARTICLE 4 BOARD OF DIRECTORS**

- 4.1 Number and Qualification.** The affairs of the Association shall be governed by a Board of Directors composed of three (3) persons, all of whom must be an Owner or the co-owner

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

- 4.2 Powers and Duties.** The Board of Directors shall have the powers and duties necessary for administration of the affairs of the Association and may do all such acts and things as are not by law or by these Bylaws directed to be exercised and done by the Owners.
- 4.3 Other Duties.** In addition to duties imposed by these Bylaws or by resolutions of the Association, the Board of Directors shall have authority to carry out and be responsible for the following matters:
- 4.3.1 Upkeep of Commonly Maintained Property.** Care, upkeep, and supervision of the Commonly Maintained Property.
  - 4.3.2 Reserves.** Establishment and maintenance of replacement reserve accounts and other reserves which are required by the Oregon Planned Community Act, the Declaration, or these Bylaws plus such other reserve accounts as the Board deems prudent to ensure that funds are available for the reasonable upkeep, maintenance and replacement of Commonly Maintained Property.
  - 4.3.3 Assessments.** Designation and collection of assessments from the Owners, in accordance with these Bylaws, the Declaration and the Oregon Planned Community Act.
  - 4.3.4 Budget; Voucher System.** Establishment of a budget and payment of all common expenses of the Association and institution and maintenance of a voucher system for all such payment, which shall require a sufficient number of signatories thereon as may be reasonably necessary to prevent any misuse of Association funds.
  - 4.3.5 Insurance.** Obtaining and maintaining insurance policies and payment of premiums thereof out of the common expense funds in respect to the Commonly Maintained Property as more specifically provided in Article 8 of these Bylaws.
  - 4.3.6 Personnel.** Designation and dismissal of the personnel necessary for the maintenance and operation of the Project.
  - 4.3.7 Financial Statements.** Causing the preparation and distribution of annual financial statements of the Association to each of the Owners as more specifically provided in Section 4.5.
  - 4.3.8 Rules.** Adoption and amendment of administrative rules and regulations governing the details of operation and use of the Commonly Maintained Property. Provided, however, any such rules or regulations shall always be subject to rescission or amendment by the Association upon majority vote of Owners preset at any properly called meeting.
  - 4.3.9 Documents.** Causing the Association to comply with the Oregon Planned Community Act relating to maintenance of documents delivered to the Association by the Declarant and maintenance and distribution of financial statements. Also to maintain copies suitable for duplication of the following: Declaration, Bylaws, Association rules and regulations and any amendments thereto, the most recent annual financial statement and the current operating budget of the Association.
  - 4.3.10 Tax Returns.** Causing the Association to file the necessary tax returns of the Association.

- 4.3.11 Mailing Address.** Establishing and maintaining a current mailing address for the Association.
- 4.3.12 Professional Services.** Employment of legal, accounting and other personnel or consultants for reasonable compensation to perform such services as may be required for the proper administration of the Association and filing proper tax returns.
- 4.4 Limited Authority.** The Board of Directors shall be prohibited from taking any of the following actions, except with the vote or written assent of a majority of the voting power of the Owners other than the Declarant:
- 4.4.1 Third Party Contracts.** Entering into a contract with a third party wherein the third person will furnish goods or services for the Commonly Maintained Property, or the Association for a term longer than one year, with the following exceptions:
- a) Management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration.
  - b) A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.
  - c) Prepaid casualty and/or liability insurance policies not to exceed three (3) years duration provided that the policy permits short rate cancellation by the insured.
  - d) A contract for snow removal off the Roadways and related Roadways maintenance not to exceed three (3) years duration provided that the Board, in its discretion, determines that a contract longer than one (1) year is financially beneficial to the Association.
- 4.4.2 Capital Expenditures.** Incurring aggregate expenditures for capital improvements (as opposed to maintenance, repair and replacement costs) to the Commonly Maintained Property during any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.
- 4.4.3 Compensation.** Paying compensation to members of the Board of Directors or to officers of the Association for services performed in the conduct of the Association's business provided, however, that the Board of Directors may cause a Member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.
- 4.5 Budgets and Financial Statements.** The Board of Directors shall prepare an annual budget for the Association and prepare such financial statements and other reports for review of the Members as may be required by law.
- 4.6 Management Agent.** The Board of Directors may employ a management agent, to be compensated in an amount established by the Board, to perform such duties and services as the Board may authorize.
- 4.7 Election and Term of Office.** The number of members on the Board of Directors shall be three (3). At the first election of directors occurring after adoption of these Amended

Bylaws, one director will be elected to a one (1) year term, one director will be elected to a two (2) year term, and one director will be elected to a three (3) year term. Upon expiration of each of the just-described terms of office, all subsequent Directors will serve a three (3) year term. In this manner, expiration of the terms of office will be staggered so as not to all occur in the same year.

- 4.8 Vacancies.** Vacancies on the Board of Directors caused by any reason other than the removal of a Director by a vote of the Association shall be filled for the balance of the term of each directorship by vote of a majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall be a Director until a successor is elected upon expiration of the term for which such person was elected by the other Directors to serve.
- 4.9 Removal of Directors.** At any legal annual or special meeting, other than a meeting by ballot, any one or more of the Directors may be removed with or without cause, by a majority vote of the total voting power of the Owners and a successor may be then and there elected to fill the vacancy thus created. Provided however, the notice of meeting shall specifically indicate that the removal of one or more named directors is an agenda item for such meeting. Any Director whose removal has been proposed by the Owners shall be given an opportunity to be heard at the meeting. Any Director or Directors who fail(s) to attend three (3) successive meetings of the Board of Directors which have been properly called, or who has failed to attend more than one-third (1/3) of the Board of Directors meetings during a twelve (12) month period which have been properly called, may be removed by a majority of the remaining Directors.
- 4.10 Organizational Meeting.** The first meeting of a newly elected Board of Directors shall be held within thirty (30) days of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order to legally hold such meeting, providing a majority of the newly elected Directors are present.
- 4.11 Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings of the Board of Directors may be called by the President on three (3) days' notice to each Director, given personally or by mail, telephone or facsimile, which notice shall state the time, place (as herein above provided) and purpose of the meeting.
- 4.12 Special Meetings.** Special meetings of the Board of Directors may be called by the President or on the written request of at least two (2) Directors. Special meetings of the Board of Directors may be called on three (3) days' notice to each Director, given personally or by mail, telephone or facsimile, which notice shall state the time, place (as herein above provided) and purpose of the meeting.
- 4.13 Waiver of Notice to Directors.** Before, at or after any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of



the Board shall be a waiver of notice by him or her of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice to Directors shall be required and any business may be transacted at such meeting.

**4.14 Board of Directors' Quorum.** At all meetings of the Board of Directors, a majority of the existing Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors shall be the acts of the Board of Directors. If at any meeting of the Board of Directors there be less than a quorum present at any Board of Directors meeting, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

**4.15 Board of Directors Meeting Open to all Association Members.** Except in Executive Sessions, all meetings of the Board of Directors shall be open to any and all Members of the Association. Provided, however, no Association Member shall have a right to participate in the Board of Directors meetings unless such Member is also a member of the Board of Directors. The President shall have authority to exclude any Association Member who disrupts the proceedings at a meeting of the Board of Directors. At the discretion of the Board, the following matters may be considered in executive sessions:

- a) consultation with legal counsel concerning rights and duties of the Association;
- b) negotiations of contracts with third parties;
- c) collection of assessments; and
- d) for any other purpose permitted by the PCA.

Except in the case of an emergency, the Board shall vote in an open meeting whether to meet in executive session. If the Board votes to meet in executive session, the presiding officer of the Board shall state the general nature of the action to be considered, as precisely as possible, when and under what circumstances the deliberations can be disclosed to Owners. The statement, motion, or decision to meet in executive session must be included in the minutes of the meeting. A contract or an action considered in executive session does not become effective unless the Board, following the executive session, reconvenes an open meeting, and votes on the contract or action, which must be reasonably identified in the open meeting and included in the minutes.

**4.16 Notice to Association Members of Board of Directors Meetings.** For other than emergency meetings, notice of Board of Directors meetings, including the date, time, location and general agenda of the meeting, shall be posted on the Association's Internet web-site in a format accessible to all Members at least five (5) days before the meeting is held.

**4.17 Telephonic Meetings.** In the event of an emergency, telephonic meetings may be held by the Board of Directors. Such telephonic meetings shall be carried on by means of a "conference call" in which each Director may speak with any of the other Directors. The Directors shall keep telephone numbers on file with the President to be used for telephonic meetings. No notice to either Directors or Association Members shall be

required for a telephonic meeting of the Board of Directors to be held for any emergency action. Provided, however, no such telephonic meeting shall occur unless at least a quorum of the Board of Directors participate in the same and after reasonable attempts have been made to call and obtain the participation of each Director at the telephone number maintained on file with the Board of Directors for such purpose.

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

## **ARTICLE 5 OFFICERS**

- 5.1 Designation.** The principal officers of the Association shall be a President, a Secretary and a Treasurer, all of whom shall be elected by the Directors. The Directors may appoint an assistant treasurer and an assistant secretary, and any such other officers as in their judgment may be necessary.
- 5.2 Election of Officers.** The officers of the Association may be elected by the Board of Directors at the organizational meeting of each new board or any board meeting thereafter, and shall hold office at the pleasure of the board.
- 5.3 Removal of Officers.** Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his or her successor elected at any regular or special meeting of the Board of Directors.
- 5.4 President.** The President shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association and of the Board of Directors. The President shall have all of the general powers and duties which are usually vested in the office of president of an association, including, but not limited to, the power to appoint committees from among the Owners from time to time as he or she may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Association.
- 5.5 Secretary.** The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association; he or she shall have charge of such books and papers as the Board of Directors may direct; and he or she shall, in general, perform all the duties incident of the office of Secretary.
- 5.6 Treasurer.** The Treasurer shall have responsibility for Association funds and securities not otherwise held by the managing agent, and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in, books belonging to the Association. He or she shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors.
- 5.7 Directors as Officers.** Any Director may be an officer of the Association.

## **ARTICLE 6 OBLIGATIONS OF THE OWNERS**

- 6.1 Assessments.** All Owners are obligated to pay assessments imposed by the Board or by the Association as more particularly set forth herein and in the Declaration. Assessments shall be payable on a periodic basis as determined by the Board of Directors. The Board may, but is not required to, impose interest and/or impose charges for late payments, plus attorney fees and other collection costs incurred as a result of overdue payments. The Board may, but is not required to, allow a discount for early payment of assessments.
- 6.2 Investment of Reserve Account Funds.** Each reserve account shall be kept in an account with a safe and responsible depository, shall be accounted for separately and, if invested, the obligation or security shall be fully guaranteed as to principal by the United States of America or one of its agencies. Assessments paid into the reserve accounts are the property of the Association and are not refundable to sellers of Lots. Provided however, nothing herein shall prevent sellers of Lots from treating their outstanding allocable share of reserve accounts as a separate or reimbursable item in a sales agreement. No Owner shall have any individual rights in any of these reserves, although it is understood that the value of their respective Lots may increase in proportion to each Lot's right to receive repair, maintenance and replacement therefrom.
- 6.3 Assessment.** The amount of the assessments due from Owners shall be based on a budget determined by the Board of Directors. All assessments are subject to periodic review and revision by the Board of Directors.
- 6.4 Initial Assessment of Lots Subjected in the Future.** The initial assessment for Owners of Lots subjected to the Declaration by annexation shall be an amount equal to one-sixth (1/6th) of the annual assessment then in effect for similar Lots in Diamond Meadows, plus a prorated portion of the assessment for the assessment installment period during which the Lots in such stages are annexed to Leisure Woods. Thereafter, the owners of such Lots shall be assessed directly by the Association. The initial assessment equal to one-sixth (1/6th) of the current annual assessment shall be a one-time contribution of working capital of Diamond Meadows. Upon the annexation of additional Lots to Diamond Meadows, the Board of Directors shall promptly prepare a new budget reflecting the additional Lots and shall recompute any previous assessment covering any period after the annexation.
- 6.5 Payment of Assessments.** The Declarant shall:
- 6.5.1** Pay assessments due for operating expenses on all unsold Lots; and
  - 6.5.2** Pay assessments due for reserves on all unsold Lots, at the Declarant's option, pay or require the Owner to pay all accrued reserve assessments against the Lot at the time of the initial sale to the Owner.
- 6.6 Default.** Failure by an Owner to pay any assessment when due of the Association shall be a default by such Owner of his or her obligations pursuant to these Bylaws, the Declaration, and the Oregon Planned Community Act. In addition to the interest which

may be charged on delinquent assessments, the Board of Directors, at its option, may impose a late charge penalty in respect to any assessment not paid within ten (10) days from the due date. Such penalty may not exceed the sum often percent (10%) of the annual assessment. The Association shall be entitled to a lien which may be enforced upon compliance with the provisions of the Oregon Planned Community Act.

In any foreclosure suit by the Association with respect to such lien, the Association shall be entitled to collect reasonable rent from the defaulting Owner for the use of Owner's Lot or shall be entitled to the appointment of a receiver. The Association shall be entitled to the additional remedies provided in the Declaration and the PC A.

**6.7 Income Tax Returns; Determination of Fiscal Year.**

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

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

**6.8 Statement of Assessments.**

**6.8.1** The Association shall provide, within ten (10) business days of receipt of a written request from an Owner, a written statement that provides:

**6.8.1.1** The amount of assessments due from the Owner and unpaid at the time the request was received, including:

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

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

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

**6.8.2** The Association is not required to comply with Section 6.8.1 if the Association has commenced litigation by filing a complaint against the Owner and the litigation is pending when the statement would otherwise be due.

**6.9 Maintenance and Repair.**

**6.9.1 Lots.** Except as otherwise specifically provided in the Declaration and Bylaws, every Owner must promptly perform all maintenance and repair work within the Owner's own Lot and to the exterior of the improvements thereon, which if omitted would negatively affect other Lots or the Commonly Maintained Property, and shall be responsible for the damages and liabilities that the Owner's failure to do so may cause.

**6.9.2 Reimbursement of Association.** An Owner shall reimburse the Association for any expenditures incurred in repairing or replacing any Commonly Maintained Property damaged through his or her fault, not otherwise covered by insurance

policies carried by the Owner or the Association for the Owner's and Association's benefit. In such circumstances, the insurance obtained by the Owner shall be deemed to be the primary coverage. The Board of Directors shall have the unfettered discretion to refuse to make a claim on the Association's policy even though coverage may pertain. Such discretion is for the purpose of maintaining the Association's insurability and controlling the amount of the premiums for the Association's insurance.

**6.10 Right of Entry; Encroachments; Easements for Maintenance.**

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

**6.10.2 Easement.** An easement is reserved to the Association in and through any Lot and the Commonly Maintained Property providing access at reasonable times and with reasonable notice for purposes of maintenance, repair and replacement of the Commonly Maintained Property. If, in the process of such repair and maintenance by the Association, it is necessary to alter or damage any Lot or Commonly Maintained Property, such alterations or damages will be permitted without compensation, provided the Lot and/or Commonly Maintained Property are promptly restored to substantially their prior condition by the Association.

**ARTICLE 7**

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

Restrictions and rules of conduct are set forth in the Declaration and are binding on all Lots and Owners. The Association, through its Board of Directors, shall have the power to enforce the covenants and restrictions in these Bylaws and in the Declaration. Owners shall also have the right to bring actions or suits regarding covenants and restrictions, but shall have no right or power to require the Association or Board of Directors to take any enforcement action.

**ARTICLE 8**

**INSURANCE**

The Board of Directors shall obtain and maintain at all times insurance of the type and kind and in the amounts hereinafter provided, and including insurance for such other risks of a similar or dissimilar nature as are or shall hereafter customarily be covered with respect to other planned communities similar in construction, design and which insurance shall be governed by the provisions in this numbered section.

**8.1 Types of Insurance Policies.** For the benefit of the Association and the Owners, the Board of Directors shall obtain and maintain at all times, and shall pay for out of the common expense funds, the following insurance to the extent available at reasonable cost:

**8.1.1 Property Insurance.** A policy or policies of property insurance including, but not limited to, fire, extended coverage, vandalism and malicious mischief, for the full

insurable replacement value, if available, of all Commonly Maintained Property, and such other fire and casualty insurance as the Board of Directors shall determine to be reasonably necessary.

- 8.1.2. Liability.** A policy or policies insuring the Association, its Board of Directors, the Owners individually, and the manager against any liability to the public or the Owners and their invitees or tenants, incident to the ownership, supervision, control or use of the Project with limits of liability under such insurance shall be as reasonably determined by the Board of Directors. Such limits and coverage shall be reviewed at least annually by the Board of Directors which may increase the limit of and/or coverage, in its discretion. Said policy or policies shall be issued on a comprehensive liability basis and shall provide cross liability endorsements wherein the rights of the named insured under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured.
- 8.1.3 Workers' Compensation.** Workers' compensation insurance to the extent necessary to comply with any applicable laws.

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

## **ARTICLE 9 AMENDMENT**

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

## **ARTICLE 10 RECORDS AND AUDITS**

- 10.1. General Records.** The Board of Directors and the managing agent or manager, if any, shall preserve and maintain minutes of the meetings of the Association, the Board and any committees. The Board of Directors shall maintain a list of Owners entitled to vote at meetings of the Association and a list of all mortgages of Lots. The minutes of the Association, the Board and committees, and the Association's financial records shall be reasonably available for review and copying by the Owners. A reasonable charge may be imposed by the Association for providing copies.
- 10.2 Records of Receipts and Expenditures.** The Board of Directors or its designee shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Commonly Maintained Property, itemizing the maintenance and repair

expenses of the Commonly Maintained Property and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available for examination by the Owners and mortgages at convenient hours of weekdays.

- 10.3 Assessment Roll.** The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Lot. Such account shall designate the name and address of the Owner or Owners, the amount of each assessment against the Owners, the dates and amounts in which the assessments come due, the amounts paid upon the account and the balance due on the assessments.
- 10.4 Payment of Expenses/Vouchers.** The Treasurer shall pay all proper vouchers up to \$1,000 each and signed by the President, managing agent, manager or other person authorized by the Board of Directors. Any voucher in excess of \$1,000 shall require the signature of the President. Provided, however, any withdrawal from reserve accounts shall require the signature of two board members or one board member and an officer of the Association who is not a board member.
- 10.5 Reports and Audits.** The Board of Directors shall prepare or cause to be prepared an annual report of the receipts and expenditures of the Association and a balance sheet and income and expense statement setting forth the financial conditions of the Association as of the end of each year as required by law. The report shall be distributed to all Owners within ninety (90) days after the end of each fiscal year and to all mortgagees of Lots to the extent required by law.
- 10.6 Notice of Sale, Mortgage, Rental or Lease.** Immediately upon the sale of any Lot, the Owner shall promptly inform the Secretary or manager of the name and address of said vendee.

## **ARTICLE 11**

### **COMPLIANCE WITH THE PLANNED COMMUNITY ACT; CONFLICTS**

These Bylaws are intended to comply with the provisions of the Oregon Planned Community Act, the provisions of which apply to this Association and its Members. In case any of the provisions hereof conflict with the provisions of said statutes, the statutory provisions shall apply. In case of any conflict between the provisions hereof and the Declaration, the provisions in the Declaration shall apply.

## **ARTICLE 12**

### **INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS**

The Association shall indemnify any Director, officer, employee or agent who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by the Association) by reason of the fact that he or she is or was a Director, employee or agent of the Association or is or was serving at the request of the Association as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including

attorney fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by said person in connection with such suit, action or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or with a plea of no contest or its equivalent, shall not of itself create a presumption that a person did not act in good faith and in a manner which he or she reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had reasonable cause to believe his or her conduct was unlawful. Payment under this clause may be made during the pendency of such claim, action, suit or proceeding as and when incurred, subject only to the right of the Association, should it be proven at a later time that said person had no right to such payments. All persons who are ultimately held liable for their actions on behalf of the Association as a Director, officer, employee or agent shall have a right of contribution over and against all other Directors, officers, employees or agents and Members of the Association who participated with or benefited from the acts which created said liability.

### **ARTICLE 13**

#### **ASSESSMENT COLLECTION COSTS; SUITS AND ACTIONS**

Owners shall be obligated to pay reasonable fees and costs including, but not limited to, attorney fees incurred in connection with efforts to collect any delinquent unpaid assessments, whether or not a suit or action is filed. In addition to assessments for operating expenses and the funding of reserves, such assessments may include fees, late charges, fines and interest imposed by the Board. In the event the Association brings against any Owner a suit or action for the collection of any amounts due pursuant to these Bylaws or for the enforcement of any provisions of the Declaration, Bylaws or of the Oregon Planned Community Act, the Owner or Owners, jointly and severally, will in addition to all other obligations, pay the costs of such suit or action, including reasonable attorney fees to be fixed by the trial court and, in the event of an appeal, the cost of the appeal, together with reasonable attorney fees in the appellate court to be fixed by such court.

### **ARTICLE 14**

#### **MISCELLANEOUS**

- 14.1 Notices.** All notices to the Association or to the Board of Directors shall be sent care of the managing agent, or if there is no managing agent, to the principal office of the Association or to such other address as the Board of Directors may hereafter designate from time to time. All notices to any Owner shall be sent to such address as may have been designated by him or her from time to time, in writing, to the Board of Directors, or if no address has been designated, then to the Owner's Lot.
- 14.2 Waiver.** No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and the number of times that the pertinent restriction, condition, obligation or provision was not enforced.



143 **Invalidity; Number; Captions.** The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws. Provided, however, that if any of the provisions of these Bylaws would violate the rule against perpetuities or any other limitation on the duration of the provisions herein contained imposed by law, then such provision shall be deemed to remain in effect only for the maximum period permitted by law, or in the event the rule against perpetuities applies, until twenty-one (21) years after the death of the last survivor of the now living descendants of the Owners of the lots as of the date set forth below. As used herein, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

It is hereby certified that these Amended Bylaws have been adopted by a majority vote of all Members of The Diamond Meadows Tract # 1384 Homeowners Association, Inc., and may be recorded in the Deed Records of Klamath County.

DATED this 13<sup>th</sup> day of NOVEMBER, 2010.

THE DIAMOND MEADOWS TRACT #1384 HOMEOWNERS ASSOCIATION, INC.

By:

Paul Hackett, President

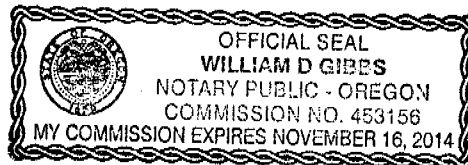
STATE OF OREGON )

11/17/10 County of Lane ) ss

KLAMATH

SUBSCRIBED AND SWORN TO before me by Paul Hackett, as President of The Diamond Meadows Tract # 1384 Homeowners Association, Inc. this 13<sup>th</sup> day of NOVEMBER, 2010.

William D. Gibbs  
NOTARY PUBLIC FOR OREGON



## EXHIBIT A

### Legal Description

Lots 1 through 45 (inclusive) all of Diamond Meadows Tract # 1384, in the County of Klamath, State of Oregon.

35  
Lots 17, 20, 22, 26, 27, 28, 30, 31, 32, 33, 34, Block 1; Lots 1, 2, 3, 4, 5, 6, 7, Block 2; Lots 1, 2, 7, 8, 10, 11, 12, 13 and 17, Block 3, all in Tract 1074 - Leisure Woods, in the County of Klamath, State of Oregon.