

**DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS**

**FOR HECETA SOUTH SUBDIVISION
HOMEOWNERS ASSOCIATION, INC.
LANE COUNTY, STATE OF OREGON**

AMENDED AND RESTATED

Return to:
Cindy Brent Wobbe
President
Heceta South Homeowners Association
P.O. Box 2075
Florence, OR 97439

Lane County Clerk
Lane County Deeds and Records

2023-003724



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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR HECETA SOUTH SUBDIVISION
LANE COUNTY, STATE OF OREGON**

**ARTICLE I
PURPOSE AND DECLARATION**

- 1.1 **Owner.** Heceta, Inc., hereafter referred to as "Declarant," is the owner of certain real property, located in Lane County, Oregon, and more particularly described in Exhibit A, attached and incorporated by this reference.
- 1.2 **Property.** The real property described in the attached Exhibit A includes all of the real property that is included within and described as the HECETA SOUTH SUBDIVISION, for which tentative approval was given by Lane County on April 27, 1992, (PA 2288-91). This subdivision shall consist of two phases. Phase I shall consist of 66 lots and Phase II shall consist of 45 lots. Legal descriptions are attached for Phase I only (Exhibit B) and Phase 2 only (Exhibit C). Plats are shown in Exhibits D and F. The final approved map for Phase 1 was filed April 29, 1993. The final approved map for Phase II was filed April 27, 1993.
- 1.3 **Lots in Subdivision.** Any reference hereafter to "Lot" or "Lots" in the Heceta South Subdivision will mean, unless stated differently, the entire area of the property as described on Exhibit A, except for Common Property, if any. Any reference hereafter to the Heceta South Subdivision (hereafter "Subdivision" or "Heceta South") will mean and include all the real property described in Exhibit A.
- 1.4 **Purpose.** Declarant desires to subject Heceta South to certain restrictions, covenants, easements and conditions, referred to hereafter as the "Covenants." The Covenants are for the benefit of Heceta South, as provided below, and for each Owner thereof and shall inure to the benefit of and bind Heceta South and each and every parcel thereof. The Covenants are intended to protect and enhance the value, desirability and attractiveness of Heceta South and to recognize and protect certain physical conditions of Heceta South. Further, the Covenants shall apply to and bind the successors and assigns in interest and all parties having or acquiring any right, title or interest in Heceta South.

- 1.5 **Future Common Facilities or Common Property.** Currently, no property is owned in common. However, the Homeowners Association is responsible for maintaining the streets, shoulders and entrances to the Subdivision.
- 1.6 **Declaration.** Declarant hereby declares Heceta South shall be held, sold and conveyed subject to and restricted by the Covenants, which are for the purpose of protecting the value, desirability and physical conditions, and which shall run with the Subdivision and the Lots located therein and which shall be binding on all parties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.
- 1.7 **Homeowners Association.** Declarant has established a Homeowners Association by incorporation as a nonprofit corporation under the laws of the State of Oregon for the purpose of maintaining, managing and operating the association and any future Common Facilities, including a process for enforcing the Covenants and collecting and disbursing the assessments and charges.
- 1.8 **Term.** These Covenants shall run with and be binding on Heceta South and Lots located therein and shall be binding on the parties, Owners, their heirs, successors and assigns for a term of forty (40) years from the date of recordation, after which time they shall be automatically extended for another term of twenty (20) years unless terminated as evidenced by a document signed by the Owners of at least 75% of the Lots. Thereafter, the Covenants may be extended at twenty (20) year intervals by a vote of a majority of the Owners of Lots within Heceta South.

ARTICLE II
DEFINITIONS

- 2.1 “Association” or “Homeowners Association” shall mean and refer to the Heceta South Homeowners Association, its successors and assigns, organized and established to preserve and maintain the Subdivision and to promote the health, safety and welfare of the occupants of the Subdivision.
- 2.2 “Declarant” shall mean Ray Wells, and any person or entity that is assigned the rights to act and function as the “Declarant,” which assignment must be executed in writing and recorded in the Lane County Property Records.
- 2.3 “Development Period” shall mean that period Declarant requires to initially sell all of the Lots within the property and any additions thereto made pursuant to Article III.
- 2.4 "Easement" shall mean any easement shown on the face of the plat of the Heceta South Subdivision, described in paragraph 1.2, and also including those easements described in Article VI herein, including future easements and areas for drainage, road access, water lines, utilities, septic drain fields, wetlands, prime wildlife areas and any other easements referenced herein.
- 2.5 “Lot” shall mean and refer to those particular parcels of land created by the aforementioned Subdivision, which Lots are depicted on the map included with “Exhibit D.”
- 2.6 “Board of Directors” or the “Board” means the board of directors of the Association elected as provided in the Bylaws.
- 2.7 “Member” shall mean any person or entity holding membership in the Association.
- 2.8 “Operation Fund” shall mean the fund established to pay the operating expenses of the Homeowners Association which are required by this Declaration, the Bylaws, municipal codes, and statutes. These funds may also be used for any other lawful purpose duly approved by the Homeowners Association.
- 2.9 “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple interest to any Lot, which is a part of the Subdivision, including contract purchasers, but excluding those who have such interest merely as a security for performance of an obligation, excluding contract sellers, and excluding tenants holding a leasehold interest in any Lot.
- 2.10 “Reserve Fund” shall mean the fund established as required by ORS 94.595 established for the maintenance and repair of entrances, roads and road shoulders within the Subdivision.
- 2.11 “Subdivision” shall mean and refer to all that certain real property described in Exhibit A, and to the extent additional property is added in accordance with subparagraph 3.1.1

or as a legal Lot adjustment, “Subdivision” shall be construed to include such additional real property.

ARTICLE III

ADDITIONS OF PROPERTY SUBJECT TO THIS DECLARATION

3.1 **Additions to Existing Property**

3.1.1 **Additions by Declarant.** The Declarant, from time to time, and at times of the Declarant's own choosing, may transfer additional portions of property to Heceta South Subdivision. However, those properties must be contiguous to Heceta South Subdivision, and such additions must lie within the boundaries of the property described in Exhibit “D” attached hereto and incorporated herein. Otherwise, the Declarant may add additional parcels of land to Heceta South Subdivision pursuant to Section 3.1.2 below.

3.1.2 **Additions by Others.** So long as the Declarant or the Declarant's successors in interest or assigns own any interest in any property within Heceta South Subdivision, no additional property may be added to the Subdivision without the expressed written consent of the Declarant. If the Declarant owns no property in the Subdivision, others may add property to the Heceta South Subdivision by obtaining the approval of the Board of Directors, and by obtaining approval from the Owners of 75% of the Lots within Heceta South Subdivision.

3.1.3 **Property Line Adjustments.** Property line adjustments must first be approved by the Board of Directors. After receiving such approval, the Board of Directors will notify all Lot Owners contiguous to the Lot whose Owner is requesting a lot line adjustment of the pending request. The lot line adjustment must then be approved by all of the Lot-contiguous Owners.

3.1.4 **Combined Lots.** With the exception of Lots 31 and 32, Lots which are combined for the purpose of creating a single Lot will still be considered as Lots originally platted for the purpose of levying assessments.

3.2 **Subject to Declaration.** All property set forth in Exhibit “D” attached hereto and incorporated herein by reference is subject to the declarations contained in this declaration of covenants, conditions and restrictions for Heceta South Subdivision. All initial purchasers and subsequent purchasers, their assigns, or successors in interest shall be bound by the Declaration of Covenants, Conditions and Restrictions.

ARTICLE IV

VOTING

- 4.1 **Individual Owner.** Each Lot shall have one vote in any election or vote of the Association. The person or persons entitled to exercise that vote shall be the persons who appear as owners of record of the Lot. The Board of Directors shall then determine whether the majority of Owners favored or opposed the proposal.
- 4.2 **Multiple Owners.** In the event of voting by multiple Owners of a Lot, the Board of Directors shall determine each Lot Owner's interest in the Lot as it appears in record. If there is no percentage or equivalent designation of ownership, multiple Owners shall be construed by the Board of Directors to own the Lot in equal shares. The majority vote of the Owners of the Lot shall determine the vote cast by that Lot. If the vote results in a tie vote by the multiple Owners, the Lot's vote shall be considered a nay vote.

ARTICLE V

ASSESSMENTS

- 5.1 **Annual and Other Assessments.** The Homeowners Association shall assess a yearly assessment to each Lot to maintain and replace the streets, and an amount to pay the operating expenses of the Homeowners Association. This assessment shall be paid on or before the 1st day of January, and be delinquent on February 1st. If the annual assessment is insufficient for whatever reason, the Board of Directors may levy other assessments against each Lot to pay the expenses of the Homeowners Association. Other assessments levied during the year shall be delinquent 60 days following the due date of the assessment. Delinquent Lot Owners shall be given a written notice of such delinquency by the secretary or other agent of the Homeowners Association. Delinquent Lot Owners shall be assessed a late fee of 10% of the assessment. In addition, all delinquent assessments shall be charged interest at a rate of twelve percent (12%) per annum beginning from the date of delinquency. Penalties may be enforced by recording the penalties as a lien and foreclosing said lien provided by ORS 94.550 through 94.785.

Notwithstanding the above, property acquired by Lane County through tax or lien foreclosure proceedings shall be exempt from assessments or any obligation to pay assessments for as long as the property is owned by Lane County.

- 5.1.1 **Note:** The final approved map for Phase 1 was filed April 29, 1993 and consists of 66 Lots. The final approved map for Phase II was filed April 27, 1993 and consists of 45 Lots. Lot number 32 is owned by the Declarant but is a seasonal lake and non-buildable. Due to restrictions imposed by the County, Lots numbered 30 and 31 had to be combined in order to be a developable building site; therefore, Lots 31 and 32 are assessed as one combined Lot, and not as two separate Lots. The total number of Lots that are assessed to pay for the Association's operating and reserve expenses is 109 Lots.
- 5.2 **Notice.** Except in the case of an emergency, at least thirty (30) days prior to any date any assessment is due, the secretary of the Homeowners Association shall cause to be mailed to each Lot Owner notice of the assessment at the name and address listed by the Owners of each Lot.
- 5.3 **Delinquency.** In the event of delinquency, notices of said delinquency shall be provided to the Owner(s) of each Lot that is delinquent at the mailing address provided to the Homeowners Association by the Owner of the Lot. The Homeowners Association may retain legal counsel to enforce the assessments. To the extent permitted by Oregon law, assessments shall become a lien against real property. To the extent, if any, allowed by law, the assessments may be foreclosed as a lien against real property. In the event that litigation is filed, the prevailing party shall be entitled to recover its reasonable attorney fees, in addition to any costs associated with prosecuting the case such as witness fees, expert witness fees and other related expenses.
- 5.4 **Determination of Annual Assessment.** During November of each year, the Board of Directors of the Homeowners Association shall review the budget for that fiscal year and the balance sheet for the previous year. The assessment for the upcoming year will be set each year by the Board of the Homeowners Association in a sum sufficient to pay actual and estimated association expenses and debts.
- 5.5 **Penalty.** Failure to pay assessments when due shall result in a late fee of 10% of the assessment so long as the assessments run unpaid. The penalty shall commence the day following the grace period. In addition, each delinquent assessment shall also be charged interest at a rate of twelve percent (12%) per annum beginning from the date of delinquency. Penalties may be enforced by recording the penalties as a lien and foreclosing said lien provided by ORS 94.550 through 94.785.

ARTICLE VI

RESTRICTIONS ON USE OF PROPERTY

Lots and all improvements thereon shall be subject to the restrictions set forth in the following sections. Every Lot Owner, by acceptance of a deed or other conveyance of interest, agrees to be bound by the provisions of the following sections. In all cases, the Lot Owner shall be responsible to the Association for any violations of the Governing Documents committed by themselves, their tenant, or a guest of themselves or their tenant, including fines incurred. Any deviations from the restrictions on the use of property set forth in Article VI, to accommodate unusual circumstances, must be approved by a majority vote of the Board of Directors, and must be consistent with all applicable governmental laws, regulations, and codes. Approval shall be conveyed in writing (e.g., by letter or e-mail) from the Board to the Lot Owner.

6.1 **Permitted Uses.** No Lot or combined Lot within the Subdivision shall be used for any purpose other than the construction and occupancy of one single-family residential dwelling and related uses. No additional building or structure shall be erected, altered, placed, or permitted to remain on a Lot other than sewage disposal facilities, a garage or carport, storage or garden shed, swimming pool, tennis court, non-commercial greenhouse, or other structure directly related to the use and occupancy of a residential dwelling.

6.1.1 **Prohibited Uses.** No Lot or combined Lot within the Subdivision shall be used for transient rental (“vacation rental”) purposes. A transient rental is defined as a rental having a duration of 29 days or less.

6.1.2 **Prohibited Structures.** Mobile homes, prefabricated homes, modular dwellings and other improvements that are assembled off-site are prohibited. Metal structures and improvements are prohibited, except as provided for in subsection 6.4.12 (Roofs) of the Declaration.

6.1.3 **Parking and Storage on Lots and Roads.** No Lot, road, or right-of-way shall be used to park or store a motor home, camper, tractor trailer, fifth-wheel vehicle, tent, or any other type of living quarters, boat, truck (greater than 1.5 tons load rating), any type of trailer, jet ski, four-wheeler, or any other type of motorized recreational vehicle, unless it is substantially screened from view from Subdivision roads. Lot Owners may park any of the above listed items on their driveway for up to 48 hours in order to clean or make ready for travel. No parking in excess of twelve hours during any 24-hour period measured from midnight to midnight is permitted on or adjacent to Subdivision roads.

Long-term (more than 30 days) parking or storage of an inoperative vehicle is only permitted if it is entirely screened from the view of the Owner's neighbors and Subdivision roads.

Notwithstanding the parking and storage restrictions in this section, moving vans and containers may be parked or stored for up to 14 days to facilitate moving, and service vehicles may be parked for the duration of a service call. All parking must allow for the unobstructed passage of all emergency vehicles at all times.

The Board of Directors, in its sole discretion, will determine whether any of the items listed in this subsection are "substantially screened." Generally, this means that only a very minor portion of the screened object is visible. Screening referenced in this subsection must be pre-approved by the Architectural Review Committee (ARC)¹.

- 6.2 **Structure Setbacks.** No structures or improvements other than mailboxes; fire hydrants; driveway lights; accent lights; or ground protection, stabilization, and erosion control measures and structures may be installed, erected, located, or kept within twenty feet (20') of a Lot's front boundary line. Accent lights are not allowed in right-of-ways. On corner Lots, defined as Lots which have a street on two sides, the Lot Owner shall designate one Lot boundary as the front boundary. This setback limitation does not apply to certain shared driveways serving Lots 8, 9 29, 30, 31, 47, 48 55, 56, 57, 58, 59, 89, and 90. This setback limitation also does not apply to single lot access driveways serving Lots 18, 19, 21, 51, 74, 75, 83, and 111.

No structures or improvements may be within ten feet (10') of a Lot's side or rear boundary lines, except for ground protection, stabilization, and erosion control measures and structures. Outdoor lighting is subject to the limitations in subsection 6.6.1 (*Lighting*). Ground stabilization and erosion control measures and structures are subject to the limitations in subsection 6.4.10 (*Ground Protection, Stabilization, and Erosion Control*).

¹ Also known as, the Architectural and Site Development Review Committee (ASDRC).

6.3 **Vegetation.** The intent of this section, is to maintain the native vegetation on each Lot in a natural condition to the extent practicable. On each Lot, native or similar vegetation in its natural condition shall be retained ten feet (10') in width along all side and rear boundary lines of the Lot, unless a variance is allowed, in writing, by the Board of Directors. This setback limitation does not apply to certain shared driveways serving Lots 8, 9, 29, 30, 31, 47, 48, 55, 56, 57, 58, 59, 89, and 90. In addition, this setback limitation also does not apply to single lot access driveways serving Lots 18, 19, 21, 51, 74, 75, 83, and 111.

Dead, dying, diseased, or dangerous trees may be removed, except for those in designated wetland and wildlife areas. Under no circumstances will existing vegetation in designated wetland or wildlife areas be removed, trimmed or otherwise changed. Generally, vegetation removal done by machinery larger than common yard care tools would be considered major clearing, and is addressed in subsection 6.4.8 (*Vegetation Removal*).

Notwithstanding the restrictions in this section, no vegetation management provisions in the Declaration shall interfere with a Lot Owner's lawful observance of state and local fire safety statutes, codes, or, with approval of the ARC, recommendations from the local fire protection district.

6.3.1 **Right-of-way Vegetation.** The Association may permit Lot Owners to manage vegetation between their Lot's front boundary and the paved road edge, provided that Lot Owners maintain native vegetation or similar species in a natural condition as required by this section 6.3 and also comply with section 6.4.10 (*Ground Protection, Stabilization, and Erosion Control*). Application to corner Lots is discussed in section 6.2.

6.3.2 **Vegetation Maintenance on Roads.** The Association shall be responsible for trimming and/or removing brush, trees, and other vegetation one foot from the paved road edge within right-of-ways.

6.3.3 **Wetlands.** Certain wetlands have been identified within the Subdivision and have been mapped. Stringent federal, state, and county regulations severely limit development or disturbance of soils or vegetation within wetlands. Current wetland designations for Lane County, including this subdivision, are available online in the category 'Zone and Plan Maps' at <https://www.lanecounty.org/>. These designations are revised regularly, and are intended for planning purposes only. Permitting for lot development requires onsite confirmation of wetland boundaries. Lot owners are responsible for obtaining all required permits from the appropriate government agencies prior to any construction activities.

6.4 **New Construction, Remodeling, Excavation, Grading, and Clearing.**

6.4.1 **Scope of Section 6.4.** Unless otherwise stated, all restrictions in this Declaration apply to all construction or ground disturbing activities, including new construction, remodeling, excavation, grading, or clearing (vegetation removal). These activities are jointly referred to herein as “construction activities.” In general, but not in all cases, construction activities do not include routine, commonly-practiced yard-care or home-care maintenance.

6.4.2 **Building Codes.** All construction activities and resulting structures and improvements shall conform to all applicable building codes, including Lane County Code 16.213, Beaches and Dunes Combining Zone, of the Lane County Rural Comprehensive Plan, or successor provisions subsequently added to or adopted to replace section 16.213.

6.4.3 **ARC Review.** For all construction activities, Lot Owners shall contact the ARC for guidance. The ARC, in its sole discretion, will determine if a construction activity has sufficient impact to require ARC review. The ARC may require the Lot Owner to submit a proposed scope of work (“proposal”), which includes a limited or a complete set of plans to the ARC for review. The ARC may require that the proposal include a plot plan detailing those portions of the Lot to be cleared and plans for grading, construction, revegetation, stabilization, erosion control, and other plans. Specific requirements for reroofing and repainting are explained in subsections 6.4.12 (*Roofs*) and 6.4.13 (*Exterior Surfaces*), respectively. The proposal shall be reviewed by the ARC within 30 days after the plans are submitted. No submission shall be considered complete, and the 30-day period will not begin to run, until all required plans, as described in subsection 6.4.3, are submitted to the ARC.

Within that 30-day period, the ARC will respond to the proposal in writing, and either accept the proposal or reject the proposal and identify deviations from the Declaration or from ARC policies that require correction. If the ARC rejects the proposal and identifies deviations from the Declaration or ARC policies, the Lot Owner shall submit a new or a revised proposal to the ARC for review. After a Lot Owner has resubmitted a revised proposal, the ARC must respond as described above within 30 days of the revised proposal’s submission. Nonetheless, failure by the ARC to respond to a proposal or revised proposal within the time periods identified in this section shall not constitute a waiver or be deemed an automatic approval of the proposal or revised proposal. Construction activities shall not commence until the ARC gives its approval in writing and land use permits, building permits, and any other applicable permits or approvals are obtained.

- 6.4.4 **Temporary Structures.** No temporary structure, improvement, motor home, camper, tractor trailer, fifth-wheel vehicle, tent, or living quarters shall be located on any Lot before or during home construction.
- 6.4.5 **Construction Activities Parking.** Notwithstanding the restrictions contained in subsection 6.1.3 of this Declaration, during construction activities, large trailers and trucks will be allowed to park on a limited basis, and a larger area for parking of vehicles and storage of materials may be used in order to avoid unnecessary disturbance to the Lot's vegetation.
- 6.4.6 **Construction Activities Time Frame.** Any construction activities, including the exterior of any new or remodeled building, shall be completed, including exterior finish paint and trim, within twelve (12) months from the issuance of a building permit. The construction activities area shall be kept reasonably clean during the work period, and all work shall be performed without unreasonable delay.
- 6.4.7 **Construction Activities Noises.** Construction activities noises shall be restricted to the hours of 8:00 a.m. to 6:00 p.m. Monday through Saturday. Construction activities noises are not allowed on Sundays, Memorial Day, July 4, Labor Day, Thanksgiving, or Christmas.
- 6.4.8 **Vegetation Removal.** During construction activities the existing vegetative cover within any side- or rear- vegetation setback or right-of-way on a Lot may not be removed except as provided for in the ARC-approved plans, which shall consider governmental fire safety requirements and recommendations. All vegetation removal and repair must comply with Lane County Code 16.213, as described in subsection 6.4.2 (*Building Codes*).
- 6.4.9 **Revegetation.** Areas within any side or rear vegetation setback or right-of-way on a Lot that were cleared of vegetation during construction activities shall be replanted within nine (9) months of the completion of major construction activities. The affected areas shall be replanted with native or similar plant species to achieve a natural condition over time. Application to corner Lots is discussed in section 6.2.
- 6.4.10 **Ground Protection, Stabilization, and Erosion Control.** Any construction activities that disturb the vegetation, soil, or sand requires ground stabilization by application of bark mulch or similar material, plantings, rock, reapplication of the original organic surface layer, or any combination thereof. All disturbed areas must be covered within thirty (30) days following completion of major construction activities. Any major disturbance on sloped areas must be stabilized by use of timbers, rock, retaining walls, plantings, or any combination thereof in a manner that maintains the natural look of the Subdivision, as pre-approved by the ARC.

- 6.4.11 **Residence Size.** Any residence constructed on a Lot shall have a minimum floor area, exclusive of open porches and garages, of 1,250 square feet.
- 6.4.12 **Roofs.** For new construction and reroofing, roofs on all structures shall be composed of fire-resistant materials, as pre-approved by the ARC. Metal chimney flues for fireplaces or woodstoves shall be enclosed in a wood, masonry, stone, or similar structure. ARC review may be required.
- 6.4.13 **Exterior Surfaces.** The exterior surface of all structures shall either be left in a natural wood appearance or stained or painted an earth tone color that is compatible with the natural setting. ARC review, including sample color chips, may be required for new construction or exterior repainting.
- 6.4.14 **Driveways.** Entrance driveway approaches to all Lots shall have an asphaltic or concrete surface from the access road to the garage. Driveway crossings over roadside ditches or local drainage shall be constructed with culverts of a size determined by the county. Culverts shall be kept unobstructed and in good operating condition by the Lot Owner. Damage to the access road, or to adjacent ditches and shoulders, caused by driveway construction, repair or replacement, shall be repaired at the expense of the Owner(s) whose driveway construction, repair, or replacement caused the damage.
- 6.4.15 **Sanitary Sewage.** No sanitary sewage drain field may be constructed, located and or used within one hundred (100) feet of any well, and fifty (50) feet from any designated wetland area, except as specifically provided for by the appropriate public agency.
- 6.4.16 **Electrical Lines.** No electrical, telephone or cable television lines or wires shall be constructed, placed or permitted on any Lot outside any building unless the lines or wires are located underground or in conduit attached to the building.
- 6.5 **Derogation of Laws.** No Owner shall carry on any activity anywhere in the Subdivision that is in derogation or violation of the laws or statutes of the State of Oregon, Lane County, or any other applicable governmental body.

- 6.6 **Nuisances.** No noxious or offensive activity shall be conducted anywhere in the Subdivision that is a nuisance to the use or enjoyment in any other portion of the Subdivision. The Board of Directors, in its sole discretion, will consider the Reasonable Person Standard² to determine whether an activity is noxious or offensive.
- 6.6.1 **Outdoor Lighting.** Outdoor lighting shall be limited to residential fixtures attached to the house, driveway lights, and accent lights located at least ten feet (10') from the side and rear boundary lines of a Lot and not within the right-of-ways, except as may otherwise be provided in this Declaration. All outdoor lighting shall be situated so as to be directed away from the adjoining Lots and streets, and may not illuminate adjoining Lots.
- 6.6.2 **Noise.** Quiet hours in the development are from 10:00 p.m. until 8:00 a.m. daily. Property maintenance noises shall be restricted to the hours from 8:00 a.m. to 6:00 p.m. daily.
- 6.7 **Fences.** Fences are discouraged, but may be constructed to provide screening and privacy or containment of household pets. No fence may be within twenty feet (20') of the front boundary line or ten feet (10') of side or rear boundary lines of a Lot. Fences shall not exceed six feet (6') in height except for screening purposes, as approved by the ARC and appropriate governmental agency. Fences shall be designed and constructed to be compatible with the natural setting. Bath wire, wire mesh, and similar fences are prohibited. Chain-link fences must be screened from view. All fences require pre-approval by the ARC, and shall be maintained. Fences may require a building permit. The Lot Owner is responsible for determining permit requirements and obtaining necessary permits.
- 6.8 **Animals.** No animals of any kind, including, without limitation, livestock and poultry, shall be raised, bred, or kept on any Lot except as household pets. All household pets must be kept on a leash at all times when off of the Owner's Lot. Lot Owners and their family members, tenants, guests, and invitees shall not allow their pets to trespass on other Lots. Pet owners must immediately clean up any mess or waste left by their pets. Pet owners shall maintain control of their pets so that the pets do not disturb other persons or pets within the development or otherwise create or become a nuisance. Lot Owners or their tenants shall be allowed to keep only as many household pets as do not create objectionable odor, noise, or disorder as may be determined by the Board of Directors in its sole discretion. Lot Owners shall be responsible for any damage caused by pets owned by themselves, their family members, tenants, guests, or invitees.

² *The Reasonable Person Standard refers to, "a hypothetical person in society who exercises average care, skill, and judgment in conduct and who serves as a comparative standard for determining liability"* (West's Encyclopedia of American Law, 2nd edition, 2008).

- 6.9 **Garbage.** All garbage, refuse, rubbish, or other waste shall be kept in garbage receptacles. Garbage receptacles and storage areas shall be substantially screened from view, and are to be kept in a clean and sanitary condition. Garbage receptacles are allowed on street side only on assigned pick up day and may not be left overnight. Natural compost or waste materials must be placed in suitable containers and must be substantially screened from view. No Lot Owner or family member, tenant, guest, or invitee of a Lot Owner shall dispose of trash, waste, debris, brush, or other clippings on any other Lot, common area or common facility; all garbage, refuse, rubbish, waste, and yard debris other than natural compost, must be removed from each Lot at least weekly.
- 6.10 **Signs.** No lighted signs of any kind shall be displayed in the Subdivision except for Subdivision identification and driveway entrances. Lot address identification shall be clearly posted on each dwelling. Non-lighted signs not exceeding five square feet, excluding the structure, base, and supports, are permitted. All signage must be free standing. No signage may be affixed to any existing utility or street pole. No commercial signs except "For Sale," "Garage Sale," "Yard Sale," or "Estate Sale" signs are permitted. Commercial signs shall be removed upon closing of escrow or completion of the sale.
- 6.11 **Transmission/Reception Devices.** The Association shall comply with the FCC's Over-the-Air-Reception Devices (OTARD) rules. Antennas used for AM/FM radio, amateur ("ham") radio, CB radio, digital audio radio services or antennas used as part of a hub to relay signals among multiple locations are limited in height to a maximum of two feet above the surface on which they are mounted. Antennas of any kind must be securely fastened down, to avoid being separated from the surface upon which they are mounted by wind or other non-intentional means.
- 6.12 **Fires and Grills.** Any form of fire or burning of materials which takes place outdoors is limited to the use of gas grills, charcoal grills, smokers, portable fire pits and bowls, outdoor fireplaces, and in-ground fire pits. No person shall burn any material except propane, dry wood, or charcoal. No Lot Owner or the Lot Owner's family member, tenant, or guest shall burn vegetation or other garbage. Any construction of in-ground fire pits, or similar immovable features for burning materials requires pre-approval by the ARC.
- 6.13 **Enforcement Resolution.** The Association has established a detailed process for receiving, investigating, and pursuing a remedy for any violation of the Governing Documents or Rules and Regulations by a Lot Owner or a Lot Owner's family member, tenant, guest, or invitee. This process is described in full in the *Enforcement Resolution* dated June 25, 2019, as may be amended from time-to-time.

ARTICLE VII
THE ASSOCIATION

- 7.1 **Governance of Subdivision.** The administration, management and operation of the Subdivision shall be by the Association in conformance with the Oregon Planned Community Act and as provided in this Declaration, the Articles of Incorporation and the Bylaws.
- 7.2 **Creation and Management of Association Accounts.**
- 7.2.1 **Association Accounts.** The Association shall establish and maintain, in accordance with ORS 94.670, two (2) primary accounts and such other accounts as the Board of Directors deems necessary or appropriate to manage the Association's funds. The accounts shall be in the name of the Association with a financial institution in accordance with ORS 94.670. The primary accounts shall be generally identified as the:
- 7.2.1.1 General Operating Account, and
- 7.2.1.2 Reserve Account for major maintenance, repair and replacement established as provided elsewhere in this Declaration and the Bylaws.
- 7.2.2 **Deposit of Funds.** All assessments and other funds of the Association shall be deposited in accounts described in Subsection 7.2.1.1 of this section. The Board shall cause to be allocated to the accounts those amounts from the assessments deemed necessary by the Board for the purposes set forth in this Declaration and the Bylaws.
- 7.2.3 **Distribution of Funds.** All expenses of the Association shall be paid from accounts of the Association in accordance with this Declaration and the Bylaws. The Association shall maintain a voucher or payment system that requires a sufficient number of signatories as is reasonably necessary to prevent any misuse of the Association's funds.
- 7.3 **Powers of Association.** The Association has such powers and duties as may be granted to it or imposed by the Oregon Planned Community Act, including each of the powers and duties set forth in ORS 94.630 as the statute may be amended to expand the scope of associations powers and duties, together with such additional powers and duties afforded by this Declaration, the Bylaws and the Oregon Nonprofit Corporation Act.
- 7.4 **Assessments.** All assessments shall be assessed by dividing the total sum of money needed by the number of Lots in the Subdivision. The quotient of that calculation shall be assessed against each Lot. Assessments may be modified from time to time pursuant to the terms of this Covenant, the Bylaws, and the powers granted a Homeowner Association by ORS 94.550 through ORS 94.785.

Notwithstanding the above, property acquired by Lane County through tax or lien foreclosure proceedings shall be exempt from assessments or any obligation to pay assessments for as long as the property is owned by Lane County.

- 7.5 **Membership.** All persons owning an interest of record in Lots in the Subdivision shall be members of the Association.
- 7.6 **Voting Rights.** A member's right to vote in association matters shall be governed by these Declarations and Bylaws.
- 7.7 **Association Procedures.** Procedures governing Association matters shall be controlled by the requirements set forth in ORS 94.550 through ORS 94.785. In addition, the Board may, by resolution, adopt, modify, or revoke Association procedures. These actions shall be by affirmative vote of a majority of the Board, a quorum being present. All such actions must be within the powers of the Association and conform to the Declaration, the Bylaws, other Association rules, and applicable statutes.

ARTICLE VIII

ARCHITECTURAL AND SITE DEVELOPMENT REVIEW

- 8.1 **Declarant's Role.** The responsibility for the Homeowner Association (Association) was transferred as of March 6, 1995, pursuant to ORS 94.609, to the Board of Directors of the Association. The Board of Directors shall ensure that all construction or ground disturbing activities comply with the requirements set forth in this Declaration.
- 8.2 **Architectural and Site Development Review,**
For all construction activities, Lot Owners shall contact the ARC for guidance. The ARC, in its sole discretion, will determine if a construction activity has sufficient impact to require ARC review. The ARC may require the Lot Owner to submit a proposed scope of work ("proposal"), which includes a limited or a complete set of plans to the ARC for review. The ARC may require that the proposal include a plot plan detailing those portions of the Lot to be cleared and plans for grading, construction, revegetation, stabilization, erosion control, and other plans. Specific requirements for reroofing and repainting are explained in subsections 6.4.12 (*Roofs*) and 6.4.13 (*Exterior Surfaces*), respectively. The proposal shall be reviewed by the ARC within 30 days after the plans are submitted. No submission shall be considered complete, and the 30-day period will not begin to run, until all required plans, as described in section 8.2, are submitted to the ARC.

Within that 30-day period, the ARC will respond to the proposal in writing, and either accept the proposal or reject the proposal and identify deviations from the Declaration or from ARC policies that require correction. If the ARC rejects the proposal and identifies deviations from the Declaration or ARC policies, the Lot Owner shall submit

a new or a revised proposal to the ARC for review. After a Lot Owner has resubmitted a revised proposal, the ARC must respond as described above within 30 days of the revised proposal's submission. Nonetheless, failure by the ARC to respond to a proposal or revised proposal within the time periods identified in this section shall not constitute a waiver or be deemed an automatic approval of the proposal or revised proposal. Construction activities shall not commence until the ARC gives its approval in writing and land use permits, building permits, and any other applicable permits or approvals are obtained.

ARTICLE IX

MAINTENANCE, UPKEEP AND REPAIR OF COMMON PROPERTY, STREETS, AND RIGHT OF WAYS, AND PAYMENT THEREOF

- 9.1 The Homeowners Association shall be responsible for the maintenance, upkeep, and repair of the public streets and right of ways within the Subdivision. The streets are more particularly described in Exhibit "E" attached hereto and incorporated herein by reference. In the event the Homeowners Association should acquire common property or facilities, that property shall be maintained by the Homeowners Association. The Board of Directors shall prepare a budget each year estimating the expenses of maintenance, upkeep, and repair of the streets and common property or facilities if any common property is owned by the Homeowners Association. Those expenses shall be assessed to each Lot by dividing the estimated cost therein by the number of Lots in the Subdivision, the quotient therefrom shall be assessed against each Lot.

Notwithstanding the above, property acquired by Lane County through tax or lien foreclosure proceedings shall be exempt from assessments or any obligation to pay assessments for as long as the property is owned by Lane County.

- 9.2 The Board of Directors shall engage a qualified person(s) or contractor to perform the services required. The Board shall require that prior to rendering services, the provider shall provide the Board with a written bid. The Board shall approve said bid. The Board shall pay no more than one-half (50%) of the bid price until the completion thereof. Thereafter the Board shall promptly pay the balance when all work is completed and final inspections have been received.

ARTICLE X
AMENDMENT

- 10.1 **How Proposed.** Amendments to the Declaration may only be proposed by either a majority of the Board of Directors or by Lot Owners representing thirty percent (30%) or more of the voting rights delivering the proposed amendment to the Board for presentation to the Lot Owners. The proposed amendment must be reduced to writing and included in the notice of any meeting at which action is to be taken thereon or attached to any request for approval or consent to the amendment.
- 10.2 **Approval Required.** Except as otherwise provided in Section 10.3 below or by other provisions of this Declaration or by the Oregon Planned Community Act, this Declaration may be amended if the amendment is approved by Owners holding at least seventy-five percent (75%) of the voting rights of the Subdivision.
- 10.3 **Additional Approval Requirements.**
- 10.3.1 Unless the Owners of the affected Lots unanimously consent to the amendment, no amendment may change:
- (1) The boundaries of any Lot or the use to which any Lot is restricted under Section 6.1, above.
 - (2) The method of determining liability for Association Common Expenses or right to revenues under Section 5.1, above.
 - (3) The method of determining voting rights for Association matters under Article IV above.
- 10.3.2 Any amendment to Sections 5.1, 7.4, and 9.1, above, altering or relating to the rights of Lane County requires the approval of Lane County.
- 10.4 **Execution and Recording.** An amendment is not effective until the amendment is:
- 10.4.1 Executed and acknowledged by the president and secretary of the Association;
 - 10.4.2 Certified by the president and secretary of the Association as being adopted in accordance with this Declaration and the applicable provisions of the Oregon Planned Community Act; and
 - 10.4.3 Recorded in the office of the recording officer of Lane County, Oregon.

In accordance with the original Declaration as set forth in Article I, 1.9, the proposal to Amend and Restate the original Declaration was voted upon by the lot owners, and on January 17, 2023 the Secretary-Treasurer reported to the Board of Directors of Heceta South Subdivision Homeowners Association, Inc. that of the 110 authorized voters, 94 voted, with 88 voting YES and six voting NO. In accordance with the above Article, in excess of 75% therefore voted to adopt the proposal.


On a motion made, seconded, and passed, the vote was ratified, and the President and Secretary-Treasurer were authorized and directed to sign and record the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Heceta South Subdivision, Lane County, State of Oregon.

IN WITNESS WHEREOF, the Heceta South Subdivision Homeowners Association, Inc.
has caused this Declaration to be executed this 8th day of February, 2023.

Heceta South Subdivision Homeowners
Association, Inc.

By: 

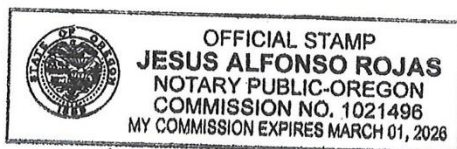
President

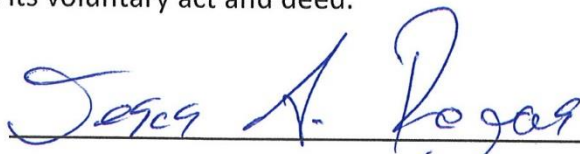
By: 

Secretary-Treasurer

STATE OF OREGON)
) ss.
County of Lane)

Personally appeared before me this 8th day of February, 2023, personally appeared Cindy Brent Wobbe and Robin Woodsmith, who, being duly sworn, each for themselves and not one for the other, did say that the former is the President and that the latter is the Secretary-Treasurer of the HECETA SOUTH HOMEOWNERS ASSOCIATION, INC. and the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and each of them acknowledge said instrument to be its voluntary act and deed.





NOTARY PUBLIC FOR OREGON

My Commission Expires: 03-01-2026

EXHIBIT A

HECETA SOUTH SUBDIVISION
(Entire Subdivision - Includes Phase 1 and Phase 2)

All of the following described real property lying South and West of the centerline of County Road No. 856 (Heceta Beach Road) as traveled September 1, 1984:

The Northeast 1/4 and the Northeast 1/4 of the Northwest 1/4 of Section 10, and the Southeast 1/4 of the Southwest 1/4 of Section 3, Township 18 South, Range 12 West of the Willamette Meridian, in Lane County, Oregon.

EXCEPT that portion described in deed to Lane County, Oregon, recorded February 23, 1978, Reception No. 7812389, Official Records of Lane County, Oregon.

ALSO EXCEPT Beginning at the Southwest corner of the Northeast one-quarter of Section 10, Township 18 South, Range 12 West of the Willamette Meridian; thence along the West line of said Northeast one-quarter North 0° 07' 12" East 1315.77 feet to the Southeast corner of the Northeast one-quarter of the Northwest one-quarter of said Section 10; thence along the South line of said Northeast one-quarter of the Northwest one-quarter North 89° 26' 38" West 603.42 feet; thence leaving said South line North 501.55 feet; thence North 36° 55' 23" East 74.52 feet; thence South 89° 27' 23" East 56.46 feet; thence along the arc of a 230.00 foot radius curve right (the chord of which bears South 78° 56' 15" East 83.98 feet) a distance of 84.45 feet; thence along the arc of a 280.00 foot radius curve right (the chord of which bears North 39° 40' 03" East 113.55 feet) a distance of 114.34 feet; thence North 51° 22' 00" East 123.28 feet to the centerline of Heceta Beach Road; thence along said centerline South 38° 38' 00" East 230.00 feet; thence along the arc of a 286.48 foot radius curve left (the chord of which bears South 60° 21' 30" East 212.09 feet) a distance of 217.26 feet; thence South 82° 05' 00" East 411.37 feet; thence along the arc of a 636.62 foot radius curve right (the chord of which bears South 52° 40' 00" East 625.35 feet) a distance of which bears 653.69 feet; thence South 23° 15' 00" East 431.19 feet; thence along the arc of a 954.93 foot radius curve right (the chord of which bears South 9° 02' 07" East 468.97 feet) a distance of 473.82 feet; thence South 5° 10' 45" West 105.28 feet; thence along the arc of a 477.46 foot radius curve left (the chord of which bears South 12° 03' 57" East 283.10 feet) a distance of 287.42 feet to the South line of the Northeast one-quarter of said Section 10; thence along said South line North 89° 36' 38" West 1340.40 feet to the point of beginning, in Lane County, Oregon.

EXHIBIT B

HECETA SOUTH SUBDIVISION (Phase 1 Only)

All of the following described real property lying South and West of the centerline of County Road No. 856 (Heceta Beach Road) as traveled September 1, 1984:

The Northeast 1/4 and the Northeast 1/4 of the Northwest 1/4 of Section 10, and the Southeast 1/4 of the Southwest 1/4 of Section 3, Township 18 South, Range 12 West of the Willamette Meridian, in Lane County, Oregon.

EXCEPT that portion described in deed to Lane County, Oregon, recorded February 23, 1978, Reception No. 7812389, Official Records of Lane County, Oregon.

EXHIBIT C

HECETA SOUTH SUBDIVISION (Phase 2 Only)

Beginning at the Southwest corner of the Northeast one-quarter of Section 10, Township 18 South, Range 12 West of the Willamette Meridian; thence along the West line of said Northeast one-quarter North $0^{\circ} 07' 12''$ East 1315.77 feet to the Southeast corner of the Northeast one-quarter of the Northwest one-quarter of said Section 10; thence along the South line of said Northeast one-quarter of the Northwest one-quarter North $89^{\circ} 26' 38''$ West 603.42 feet; thence leaving said South line North 501.55 feet; thence North $36^{\circ} 55' 23''$ East 74.52 feet; thence South $89^{\circ} 27' 23''$ East 56.46 feet; thence along the arc of a 230.00 foot radius curve right (the chord of which bears South $78^{\circ} 56' 15''$ East 83.98 feet) a distance of 84.45 feet; thence along the arc of a 280.00 foot radius curve right (the chord of which bears North $39^{\circ} 40' 03''$ East 113.55 feet) a distance of 114.34 feet; thence North $51^{\circ} 22' 00''$ East 123.28 feet to the centerline of Heceta Beach Road; thence along said centerline South $38^{\circ} 38' 00''$ East 230.00 feet; thence along the arc of a 286.48 foot radius curve left (the chord of which bears South $60^{\circ} 21' 30''$ East 212.09 feet) a distance of 217.26 feet; thence South $82^{\circ} 05' 00''$ East 411.37 feet; thence along the arc of a 636.62 foot radius curve right (the chord of which bears South $52^{\circ} 40' 00''$ East 625.35 feet) a distance of which bears 653.69 feet; thence South $23^{\circ} 15' 00''$ East 431.19 feet; thence along the arc of a 954.93 foot radius curve right (the chord of which bears South $9^{\circ} 02' 07''$ East 468.97 feet) a distance of 473.82 feet; thence South $5^{\circ} 10' 45''$ West 105.28 feet; thence along the arc of a 477.46 foot radius curve left (the chord of which bears South $12^{\circ} 03' 57''$ East 283.10 feet) a distance of 287.42 feet to the South line of the Northeast one-quarter of said Section 10; thence along said South line North $89^{\circ} 36' 38''$ West 1340.40 feet to the point of beginning, in Lane County, Oregon.

EXHIBIT "D"

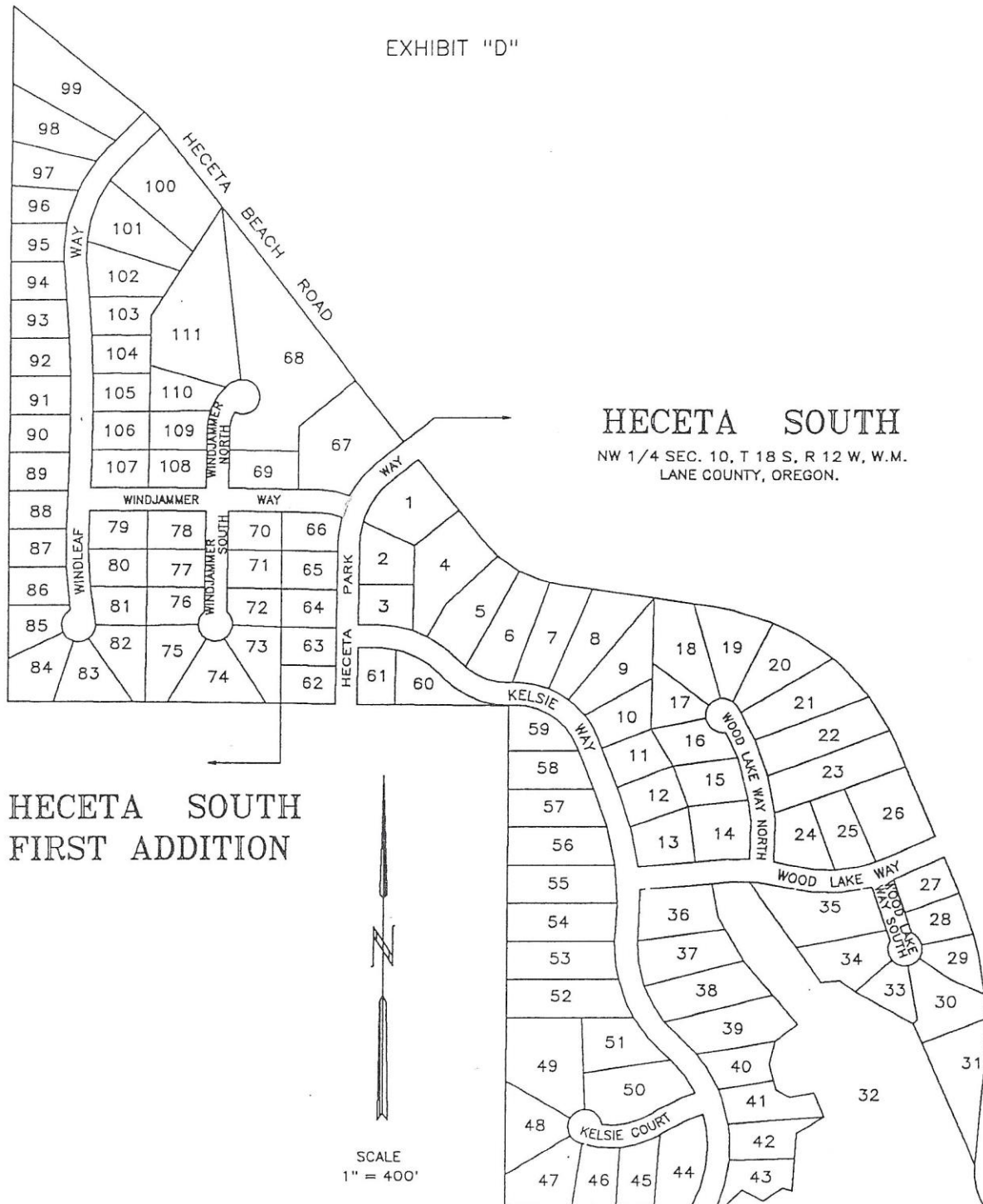


EXHIBIT "E"

