

executed on behalf of the Architectural Review Committee by at least one member thereof and a description of any restrictions and conditions imposed as a condition of such consent. Thereafter, and except if otherwise provided by the Architectural Review Committee as a condition to its consent, the consolidated Lots will constitute one Lot for all purposes of this Declaration, including voting rights and assessments.

ARTICLE 4

LOTS AND HOMES

4.1 Residential Use. Lots shall only be used for residential purposes. No trade, craft, business, profession, commercial, or similar activity of any kind shall be conducted on any Lot, and no goods, equipment, vehicles, materials, or supplies used in connection with any trade, service, or business shall be kept or stored on any Lot if such activities or goods are visible from a public street or private areas of other Lots and incompatible with normal residential activities. Nothing in this Section 4.1 shall be deemed to prohibit (a) activities relating to the sale of residences, (b) the right of Declarant or any contractor or homebuilder to construct residences on any Lot, to store construction materials and equipment on such Lots in the normal course of construction, and to use any residence as a sales office or model home for purposes of sales in MOUNTAINGATE.

4.2 Residential Floor Area. The floor area of constructed residences shall have a minimum area of the main structure, exclusive of open porches and garages, of not less than 2000 square feet.

4.3 Landscaping. Each Owner other than Declarant shall obtain the Association's architectural review committee's ("the ARC") prior approval of all landscaping plans before commencing installation of any landscaping pursuant to the review procedures set forth in Article 6. Each Owner shall complete the landscaping of the Owner's Lot within 90 days of substantial completion of the Home on the Lot, except when substantial completion occurs between October 1 and May 1, in which case, landscaping shall be completed by the first day of the following August.

4.4 Owner's Obligation to Maintain Landscaping. After initial landscaping has been installed on a Lot, each Owner shall thereafter maintain, at all times, the landscaping and all unimproved areas of the Lot in good condition, including trimming, mowing, watering, replacing dead or diseased vegetation, and any other activity in the approved landscaping plan, and shall maintain proper and natural drainage, and minimize any fire hazard.

4.5 Rental of Homes. An Owner may rent or lease the Owner's Home but such letting of the Home shall not relieve, release, or excuse the Owner and occupant from being subject to and bound by all the terms and conditions of this Declaration.

4.6 **Animals.** With the exception of household pets, no livestock, poultry or other animals of any kind shall be raised, bred or kept on any Lot. Household pets shall not be bred on any Lot if the young animals are to be raised in any structure other than the House and garage on the Lot. Owners of pets shall maintain control of the pets at all times so that the pets do not go upon any other Lot or otherwise disturb or disrupt any other Owners or their pets.

4.7 **Nuisance.** No noxious, harmful, or offensive activities shall be carried out on any Lot or Common Area, nor shall anything be done or placed on any Lot or Common Area that interferes with or jeopardizes the enjoyment of, or that is a source of annoyance to, the Owner or other Occupants.

4.8 **Parking; Vehicles in Disrepair.** Parking of boats, trailers, motor homes, motorcycles, trucks, truck-campers and like equipment shall not be allowed on any part of the Property nor on public streets or Common Area excepting only within the confines of an enclosed garage or, with approval by the ARC, within a screened or enclosed area and visibility of the parked vehicle or unit from the street or adjoining Homes is minimized. Each dwelling must have off street parking for at least two vehicles in addition to having and maintaining a minimum two car garage which shall not be converted to any other use without the approval of the ARC. No owner shall permit any vehicle of any kind including, without limitation, boats, trailers, motor homes, motorcycles, trucks, truck campers, etc. to be abandoned or to remain parked upon any Lot, the Common Area, or street for a period in excess of one week except for vehicles that are used in daily or regular family activities such as school, work, shopping, etc. No Owner shall permit any vehicle that is in a state of disrepair or that is not currently licensed to be abandoned or to remain parked on the Common Area or on any street on or adjacent to the Property at any time and may not permit them on a Lot for a period in excess of 48 hours. A vehicle shall be deemed in a "state of disrepair" when the Board reasonably determines that its presence offends the occupants of the neighborhood. If an Owner fails to remove such vehicle within five days following the date on which the Declarant or the Association mails or delivers to such Owner a notice directing such removal, the Association may have the vehicle removed from the Property and charge the expense of such removal to the Owner.

4.9 **Signs.** No signs shall be erected or maintained on any Lot except that not more than one "For Sale" or "For Rent" sign placed by the Owner or by a licensed real estate agent, not exceeding 24 inches high and 36 inches long, may be temporarily displayed on any Lot. The restrictions contained in this Section shall not prohibit the temporary placement of "political" signs on any Lot by the Owner or Occupant. Provided, however, political signs shall be removed within three days after the election day pertaining to the subject of the sign. Real estate signs shall be removed within three days after the sale closing date. A reasonable number and size of advertising signs are permitted during construction of a Home.

4.10 **Rubbish and Trash.** No Lot or part of the Common Area shall be used as a

dumping ground for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate containers for proper disposal and out of public view. Yard rakings, dirt, and other material resulting from landscaping work shall not be dumped onto streets, the Common Area, or any other Lots. Except however, yard debris may be stored for pickup by the City of Springfield according to the City's policy and program for yard recycling. If an Owner fails to remove any trash, rubbish, garbage, yard rakings, or any similar materials from any Lot, any streets, or the Common Area where deposited by such Owner or the Occupants of such Owner's Lot after notice has been given by the Board to the Owner, the Association may have such materials removed and charge the expense of such removal to the Owner.

4.11 Fences, Walls, and Hedges. No fence, wall, or hedge shall be erected or placed on any Lot without prior ARC written approval. Fences and walls shall conform to the MOUNTAINGATE design criteria kept on file in the offices of Declarant. Specific standards for fences within Conservation Easements are described in Section 5 of this Declaration. In addition, the ARC shall have the right to require that fences of a specific material and design be installed and maintained in certain locations. The cost of installation and maintenance of fences located on a common boundary between Lots shall be shared equally by the affected Lot Owners. The cost to each Owner shall be limited to one-half (½) of the cost for installation of the minimum cedar fence required by the ARC.

4.12 Service Facilities. Service facilities (garbage containers, fuel tanks, clotheslines, etc.) shall be screened so that such facilities are not visible at any time from the street or a neighboring property. All telephone, electrical, cable television, and other utility installations shall be placed underground in conformance with applicable law.

4.13 Antennas and Satellite Dishes. Except as otherwise provided by law or this Section, no exterior antennas, satellite dishes, microwave, aerial, tower, or other devices for the transmission or reception of television, radio, or other forms of sound or electromagnetic radiation shall be erected, constructed, or placed on any Lot. With the express approval of the ARC, exterior satellite dishes or antennas designed to receive television broadcast signals only may be placed on any Lot if visibility from the street and neighboring Lots is minimized by size, location or screening to the extent practical.

4.14 Exterior Lighting or Noise-making Devices. Except with the consent of the ARC, no exterior lighting or noise-making devices, other than security and fire alarms, shall be installed or maintained on any Lot.

4.15 Basketball Hoops. Basketball hoops shall be prohibited in the Common Area and on any Lot if the area of play is intended to be the street or any Common Area.

4.16 Damage or Destruction to Home and/or Lot. If all or any portion of a Lot or Home is damaged by fire or other casualty, the Owner shall either (a) restore the damaged improvements or (b) remove all damaged improvements, including foundations, and leave

the Lot in a clean and safe condition. Any restoration proceeding under (a) above must be performed so that the improvements are in substantially the same condition in which they existed before the damage, unless the owner complies with the provisions of Article 6. Unless otherwise approved by the ARC, the Owner must commence such work within 60 days after the damage occurs and must complete the work within six months thereafter.

4.17 *Swimming Pools.* The location of a swimming pool on any Lot must be approved by the Architectural Review Committee. Adequate safety fencing must be installed and properly maintained around swimming pools.

4.18 *Damage to Roads or Curbs During Construction.* Any damage to roads, sidewalks, or curbs which occurs during the course of construction of improvements of any kind on a Lot shall be the responsibility of that Lot Owner. Repair of such damage, if not undertaken by the Lot Owner within 30 days of notice to correct may, at its option, be undertaken by the Declarant or the Association and charge the expenses to the Owner.

4.19 *Sidewalks and Driveways.* All driveways shall extend from the edge of the finished surface of the street to the surface of the garage floor and shall be constructed of concrete and/or materials acceptable to the ARC such as brick, stamped concrete or cobblestones. No asphalt driveways will be permitted except that asphalt may be used in driveways located within or extending from Private Joint Use Access Easements. Sidewalks shall be maintained by the owner of each adjacent lot in a clean, unobstructed and safe condition at all times.

4.20 *Temporary Structures.* No structure of a temporary character or any trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Lot as a residence, either temporarily or permanently.

4.21 *Variances and Waivers.* The ARC may, in its sole discretion, grant reasonable variances or waivers for the provisions set forth in this Article 4 when: (a) a literal application thereof results in unnecessary hardship, and (b) the granting thereof will not be materially detrimental or injurious to Owners of other Lots in MOUNTAINGATE. All variances or waivers shall contain findings of fact by the ARC, setting forth each criterion for variance or waiver considered, shall be in writing, and shall be signed by the ARC in order to be valid.

4.22 *Declarant Exemptions.* Declarant shall be exempt from the application of Sections 4.1, 4.8, 4.9, 4.10, 4.11, 4.12, and 4.20.

4.23 *Right of Maintenance and Entry by Association; Enforcement.* If an Owner fails to perform maintenance and/or repair that such Owner is obligated to perform pursuant to this Declaration, and if the Board determines, after notice, that such maintenance and/or repair is necessary to preserve the attractiveness, quality, nature, and/or value of MOUNTAINGATE the Board may cause such maintenance and/or repair to be performed

and may enter any such Lot whenever entry is necessary in connection with the performance thereof. An Owner may request, and the Board shall conduct, a hearing on the matter. The Owner's request shall be in writing delivered within five days after receipt of the notice, and the hearing shall be conducted within not less than five days nor more than 20 days after the request for a hearing is received. Entry shall be made with as little inconvenience to an Owner as practicable and only after advance written notice of not less than 48 hours, except in emergency situations. The costs of such maintenance and/or repair and any costs incurred as a result of the association's enforcement of the provisions of this Section 4 shall be charged to the Owner of the Lot as a Reimbursement Assessment, which may be collected and enforced as any other assessments imposed pursuant to Section 10.6.5 of this Declaration and the Bylaws. If an Owner violates any of the provisions of this Section, the Declarant, Association or any Lot Owner shall have the right to seek enforcement of the Declaration and correction of the violation in accordance with Section 11.3 herein.

4.24 Ordinances and Regulations. The standards and restrictions set forth in this Article 4 shall be the minimum required. To the extent that local governmental ordinances and regulations are more restrictive or provide for a higher or different standard, such local governmental ordinances and regulations shall prevail.

ARTICLE 5

DEVELOPMENT PLAN FOR MOUNTAINGATE SUBDIVISION

5.1 Introduction. MOUNTAINGATE consists of 71 Lots that have been approved for residential development under the provisions of a Master Plan approval of the development by the City of Springfield (the City) and the City's development code requirements including the Subdivision Ordinance, Tree Felling Ordinance and Hillside Development Ordinance. Conditions within the various approval documents require the Declarant to provide an overall "Development Plan" for the subdivision to guide the construction of dwellings on the individual lots. The Development Plan will be used by the City of Springfield at the time of building permit submittal to assure that dwelling placement and construction will conform with approval standards for the subdivision. Elements of the Development Plan are also included in this Article in order to provide individual Lot Owners and their contractors with guidelines for how individual Lots should be developed.

The Development Plan includes a lot-by-lot description of conditions that may affect the location of structures and driveways and potential special foundation requirements. It also includes standards and guidelines that apply to the entire subdivision including a tree preservation plan and a fire protection plan.

The Development Plan is on file with the City and consists of the following documents:

- Development Plan Map (Scale 1" = 100')
- Tree Preservation Plan
- Fire Protection Plan
- Geotechnical Requirements
- Drainage
- Individual Lot Standards and Guidelines

For purposes of this Declaration, portions of that Plan are described herein and declared to be part of this Declaration.

5.2 Tree Preservation Plan For MOUNTAINGATE. The purpose of this plan is to summarize and implement measures adopted to maintain the aesthetic qualities of trees and native vegetation within MOUNTAINGATE as established by the approved tree felling permit, the associated forester's report and relevant Springfield City Code standards. The Tree Preservation Plan consists of the following elements:

5.2.1 Tree Removal-General. Springfield City Code requires that a tree felling permit be obtained for the removal of more than five trees greater than five inches in diameter. A tree felling permit is not required within MOUNTAINGATE for the initial removal of trees from a Lot in order to construct the dwelling, driveway or grading necessary to place the dwelling and driveway. For other portions of the Lot, a City tree felling permit is required for the removal of more than five trees that are greater than five inches in diameter. Additional restrictions for tree removal exist within Conservation Easements and Vegetation Easements as described below.

5.2.2 Private Conservation Easements. Private Conservation Easements have been established on the Plat of MOUNTAINGATE and are also referenced in Section 3.5.8. These areas are located upon portions of Lots 1 through 5, 10 and 40 through 52. These easements have been established to preserve the natural vegetation and character of the northern ridgeline boundary of the development primarily to protect viewsheds from lower elevations towards the northern boundary of MOUNTAINGATE. No structures, including decks, porches, eaves, etc. shall be located within these areas except fences. Retaining structures required to maintain the stability of a dwelling on a lot or to prevent soil movement may be allowed if recommended by a geotechnical engineer or structural engineer licensed in the State of Oregon, and if specifically approved by the Springfield Development Services Department. Any such structure shall be designed to intrude the least amount possible into the conservation easement area. No native vegetation may be removed from within these areas except as necessary to meet fuel break standards for fire protection and diseased or danger trees as determined by a professional forester or arborist. Diseased and danger trees to be removed shall be shown on the initial building permit application submittal to the City, or must otherwise be authorized for

removal through an independent tree felling permit issued by the City. Trees and understory may be thinned and pruned to enhance their health and appearance and to meet fire protection standards. Nonnative vegetation including blackberries, scotch broom and ivy may be removed. The use of herbicides within the Conservation Easement is limited to application to individual nonnative plants. Broadcast application is strictly prohibited. Use of heavy equipment within the easement area is limited to the minimum necessary for permitted tree removal or utility maintenance and repair. Fencing is allowed within the conservation easement provided that it is not a solid fence such as wood or block but consists of wrought iron or other open fencing materials as approved by the Architectural Control Committee. The fence shall be nonreflective and colored to blend in with the natural landscape. Black is preferred; white, yellow, red, blue and other bright coloring is prohibited. Fencing located within the conservation easement shall be installed such that it does not impact healthy native trees that have a diameter at breast height (DBH) of five inches or greater. This may be accomplished by offsetting sections of fencing at right angles to include or exclude trees from fenced in yards. Fence posts shall be placed at least three feet from the tree at breast height and shall be placed to minimize root damage. Fencing shall not be attached to trees. Maintenance and repair of utilities and access for such purposes within the conservation easement is allowed provided that care is taken to prevent damage to trees.

5.2.3 Private Vegetation Easements. Private Vegetation Easements have been established on the Plat of MOUNTAINGATE along certain rear lot lines and are referenced in Section 3.5.9. The goal within the easement areas is primarily to retain or create an internal buffer of trees along internal property boundaries. This may be achieved by pruning and shaping existing, healthy trees; by thinning younger existing trees to encourage growth into healthy properly spaced mature trees or by planting new trees. Mature maple trees with broken tops may be removed if replaced by an acceptable replacement tree. Otherwise, the trees shall be pruned and shaped to improve their health and appearance. Diseased, deformed or danger trees as determined by a professional forester or arborist should be removed. Grading may occur within the easements as necessary to establish a dwelling or retaining walls provided where native trees are removed, they are replaced with acceptable replacement trees at a maximum spacing of thirty feet. No structures shall be located within these areas except fences and retaining structures that are required for foundation or soil stability. The design and placement of retaining structures recommended by a geotechnical engineer or structural engineer shall be included with the initial building permit application submittal to the City.

5.2.4 Street Trees. During the subdivision process certain trees and tree groupings have been protected for potential qualification as street trees that will meet City requirements. There are four street trees shown on the Development Plan map that are to be retained as street trees. They are located on Lots 5, 11, 18 and 48. These trees shall be protected during house and driveway construction and preserved

as street trees. They may not be removed unless determined to be diseased or danger trees by a professional forester or arborist. If removed they must be replaced by street trees that meet City standards. Other individual trees, tree clusters and tree groupings are located close enough to the street curb that they could qualify as street trees if not damaged or removed with house and driveway placement. Generally trees within 20 feet of street right-of-way may qualify as street trees. Groupings of trees even beyond the 20 foot distance may be retained in lieu of City required street trees along the lot street frontages. Hardwood trees must be located at least 5 feet and conifers must be 10 feet behind curbside sidewalks. Street trees should be 10 to 20 feet from street lights. Specific standards regulating the use of existing native trees as street trees are contained in Section 6 of the City of Springfield Design Standards and Procedures Manual.

5.2.5 Acceptable Replacement Trees/Planting Standards. Trees replaced within the Private Conservation Easements as established on the Plat of MOUNTAINGATE shall be of a native species specified for hillside development in Section 6 of the City of Springfield Design Standards and Procedures Manual. Trees replaced within the Private Vegetation Easements as established on the Plat of MOUNTAINGATE may be selected from the entire list of street trees contained in Section 6 of the City of Springfield Design Standards and Procedures Manual. Tree planting shall follow the procedures contained in Section 6 of the City of Springfield Design Standards and Procedures Manual.

5.2.6 Tree Protection During Construction. During house and driveway construction designated street trees and other trees selected as native street trees as discussed above under "Street Trees" shall be protected with construction fencing. Construction fencing shall be placed between conservation easements and the worksites during construction. Construction fencing shall also be placed to protect vegetation easements that will not be altered with house, driveway or retaining wall construction. Silt fencing may be substituted for standard construction fencing when located to serve this dual purpose.

5.3 Fire Protection Standards. Due to the forested setting of this subdivision certain fire protection measures should be observed to help protect dwellings within a forested environment from the dangers of wildfire. The subdivision has been designed and constructed so that all dwellings will be located in close proximity to fire hydrants that are to be used for fire protection. Unless otherwise approved by the Springfield Fire and Life Safety Department, Homes shall be located within fifty (50) feet of the public street. The private joint use access easements shall be constructed to a standard that will accommodate fire fighting apparatus. In addition, landscaping within the lots should establish fuel breaks around the dwellings that discourage the spreading of wildfire. Fuel breaks may not extend beyond the boundary of the affected lot unless an easement exists upon the adjacent property that allows for such use. There are two levels of fuel breaks based upon proximity to the dwelling:

5.3.1 **"Primary Safety Zone"**. The primary safety zone is a firebreak extending a minimum of 30 feet in all directions around the dwelling except however that it shall not extend into a conservation easement or vegetation easement. The goal within the primary safety zone is to exclude fuels that will produce flame lengths in excess of one foot. Vegetation within the primary safety zone could include green lawns, low shrubs, individual trees and tree groupings. Where continuous canopies exist trees should generally be spaced with greater than 15 feet between the crowns and pruned to remove dead and low branches.

5.3.2 **"Secondary Fuel Break"**. The secondary fuel break extends a minimum of 100 feet downslope from the primary safety zone. The goal of the secondary fuel break is to reduce fuels so that the overall intensity of any wildfire would be lessened and the likelihood of crown fires and crowning is reduced. Vegetation within the secondary fuel break shall be pruned and spaced so that where continuous canopies exist, fire will not spread from crowns of trees in the secondary fuel break to crowns of trees in the primary safety zone. Due to the limited area affected, large healthy trees within the conservation easements should not be removed for purposes of fire protection. Small trees and brush growing underneath larger trees should be thinned or pruned to prevent spread of fire up into the crowns of the larger trees. Dead fuels that increase fire hazard may be removed.

5.4 **Geotechnical Requirements**. A geotechnical report has been included with the Development Plan and filed with the City. It provides specific recommendations for the level and type of geotechnical review that is appropriate for individual Lots. A copy of geotechnical recommendations for MOUNTAINGATE is attached as Exhibit "A" and by this reference incorporated herein.

5.5 **Drainage**.

5.5.1 **Noninterference of Drainage**. There shall be no interference with the established drainage patterns or systems over or through any Lot or Common Area or any adjacent property unless adequate alternative provisions are made for proper drainage. The term established drainage shall mean the drainage swales, conduits, inlets, and outlets designed, maintained and constructed for MOUNTAINGATE. With the exception of eight lots, storm water sewer laterals have been extended to each Lot for conveyance of roof drains, building foundation drains and private property surface drainage. In order to meet City of Springfield requirements to maintain hydration for downslope wetlands, rear lot level spreaders are required for the discharge of roof and building foundation drains and property surface drainage on Lots 40, 41, 42, 48, 49, 50, 51, and 52. Lot 54 has the option, depending on house location, to use a level spreader or a storm water lateral provided. Subsurface drainage systems have been constructed in certain locations along the backside of curbs or sidewalks within the public street rights-of-way. The purpose of these systems is to improve individual lot drainage and intercept water in sloping areas and

direct it into the public storm water system. These drainages are within the City street maintenance system and shall not be blocked or diverted by adjacent lot owners. Inlets, pipes and ditches may be relocated provided that the facility maintains its intended function.

5.5.2 Private Storm Drainage Easement. A private storm drainage easement is designated on the plat and is located across portions of Lots 30, 32, 39, 42 and Lot "B" and within adjacent offsite easements described in separate recorded documents. It is a private easement for drainage of private storm water and is described in Section 3.5.1 (c). No structure, fence, planting, or other material that may damage or interfere with the installation, operation and maintenance of storm drainage facilities, that may redirect drainage to outside the easement, or that may obstruct or retard the flow of water through drainage channels in the easement area shall be placed or permitted to remain within this easement area. All effort shall be made to avoid allowing any petroleum-based products or other hazardous or foreign substances from entering or contaminating the area of this easement. Vegetation shall not be disturbed except as necessary for landscaping and maintenance, to reduce fire hazards or to control noxious and invasive overgrown vegetation such as blackberry vines. Owners of lots upon which the easement is located shall perform normal routine maintenance necessary to the drainage easement to allow the current level of drainage to be maintained. Any maintenance, repair or other work necessary to maintain the drainageway that is the result of any wrongful act or omission of another party shall be performed by that party. If that party fails to do so, the same may be performed by the Association and the entire expense of such work may be charged to and be the responsibility of the Party causing the necessary work as a Reimbursement Assessment pursuant to Section 10.6.5 of this Declaration. Damage to or failure of the drainage system, that is caused by major weather events or other catastrophes rather than by the owner or another party shall be repaired by the Association at its expense. With approval of the City of Springfield the drainageway or portions thereof may be enclosed within an underground pipe system designed with equal water carrying capacity as the open ditch. Also with City approval and agreement between affected Lot Owners this drainageway may be relocated to another location upon the same Lot. In the event of such relocation the easement designation on the plat of MOUNTAINGATE shall be deemed abandoned and relocated by the recording of a "Relocated Drainage Easement" that includes a legal description for the new easement and signatures of all affected Lot Owners.

ARTICLE 6

ARCHITECTURAL AND SITE DEVELOPMENT REVIEW

6.1. Architectural and Site Development Review. No building, structure, wall, fence, landscaping or any other improvement shall be commenced, erected or maintained upon any Lot nor shall any exterior addition to or change or alteration therein be made until

the building plans, plot plan, landscape and irrigation plan and material specifications (hereafter "a complete set of plans") showing the nature, kind, shape, height, materials, color, texture, location, and relationship to existing improvements and vegetation shall be submitted to Declarant or the Architectural Review Committee ("the ARC") and approved in writing as to the harmony and appearance of the external design and location in relation to surrounding structures and topography. Other sections of this Declaration require ARC approval. In those circumstances, and unless specified otherwise, the review process set forth hereafter in Section 6.4 shall be followed, except that Declarant may waive, modify or otherwise change any part or requirement of the review process as long as no additional requirements are imposed on a particular request. Notwithstanding this Section 6, no approval shall be required to refinish an exterior surface in accordance with a color scheme previously approved in writing by the ARC or to rebuild an improvement in accordance with plans previously approved in writing by ARC, and nothing contained in this Section shall limit the right of an Owner to remodel the interior of the Owner's Home or to paint the interior of the Home any color desired, except with regard to noise abatement and reasonable restrictions on time and method of such activities to protect the health, safety and welfare of other residents of MOUNTAINGATE.

6.2 Architectural Review Committee, Appointment and Removal. Declarant reserves the right to appoint all members of the ARC and all replacements thereto until not later than the date of the Turnover Meeting described in Section 8.2 hereafter. The ARC shall consist of no fewer than three members and no more than five members. Each ARC member shall serve for one year. Declarant may, at anytime but not later than the date of final turnover, assign to the Board the right to appoint and remove members of the ARC. Board members and persons who are not Owners but who have special expertise regarding the matters that come before the ARC may serve as all or some of the ARC's members. In the Board's sole discretion, non-Owner members of the ARC may be paid. The Board may appoint itself as the ARC or any of its members to the ARC. If an ARC has not been appointed, the Board shall serve as the ARC, except that Declarant reserves the right to act as and for the ARC until such time it elects to establish an ARC and appoint its members pursuant to this section, which in no event would be later than MOUNTAINGATE is 100% built out. All references in this to Article to Declarant or the ARC in the singular shall mean and include the other unless the specific context provides otherwise.

6.3 Complete Set of Plans. A complete set of plans, as referenced herein, shall consist of building plans scaled at one quarter inch equals one foot ($1/4" = 1'$), consisting of elevations, floor plans, roof plans and pertinent exterior details in order to clearly show all aspects of the proposed design. The plot plan and conceptual landscape and irrigation plans shall be scaled at one inch equals twenty feet ($1" = 20'$). The plot plan shall show existing and approximate proposed ground surface elevations (in a minimum of two (2) foot intervals) for the areas of the lot to be improved. The finish floor elevations of the proposed structures shall also be shown on the plot plan.

6.4 Review Process. Declarant or the ARC shall conduct its architectural and site development review functions together with any other review functions that are assigned to the ARC in this Declaration or the Bylaws as follows:

6.4.1 Preliminary Review. Owners are strongly urged, but not required, to submit materials to the ARC for preliminary review, prior to their proceeding with completion of the final package of design drawings and exhibits. Suggested materials for preliminary review are a site plan, showing location of house, existing grades (minimally at each property corner and at top of curb at either side of Lot), first floor and garage floor grades, floor plan (s), and at least a front elevation, accurately reflecting proposed construction and finish grading. On corner lots, an elevation of both exposed sides will be helpful. Where major regrading is anticipated, information on retaining wall grades (finish grades either side), should be included. Trees to be removed, or whole areas to be cleared, should be noted; the later may be by means of a boundary line enclosing the area of removal of all trees. Designs requiring driveways, front decks and stairs elevated more than 2' above adjacent finish grades, should also be shown. Basic but accurate information regarding proposed finish materials on the house should be included.

The intention of the preliminary submittal is to allow early feedback from the ARC, so as to minimize expenditure of time and money by the applicant in pursuit of design which may require modification. Preliminary submittal may also result in a shorter overall design and approval period. In return for applicant's willingness to submit a request for preliminary review, the ARC will make every effort to respond to a complete preliminary submittal as quickly as possible. Response will include written material. Preliminary review does not insure later approval of any design or element thereof, but will increase the likelihood of a smoother process of design and approval, with less chance of wasted time and money on the part of the applicant.

6.4.2 Submittal. The ARC shall have thirty (30) days to respond after receipt of a complete set of plans or a request for approval as may be required by this Declaration. If no written response is made, the plans or a request are deemed approved and ARC may not, after thirty (30) days from receipt of a complete set of plans, require any changes, prohibit or otherwise prevent the Lot Owner from commencing construction.

6.4.3 Conflict Resolution. If within thirty (30) days after receipt of a complete set of plans or a request for approval, ARC objects to or disapproves the plans or request, it shall provide the Lot Owner with a written statement identifying the concerns and objections thereto. Declarant shall cooperate with the Lot Owner and exercise its review function in a reasonable manner and further, may require mitigation measures as a condition for approving plans.