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# Deschutes County Clerk- Certificate Page



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AMENDED DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS OF SUNSET VIEW ESTATES

This Declaration of Covenants, Conditions and Restrictions of Sunset View Estates is made August 21, 2007 by the Sunset View Estates Homeowners Association Board of Directors and approved at a general meeting of the members of the Homeowners Association on September 28, 2007. This document is a total replacement of all preceding documents as listed below:

Document#	Date of Document	Recorded date	Signed by
90-11949	April 27, 1990	May 1, 1990	William Bundy
91-13862	May 2, 1991	May 21, 1991	William Bundy
95-04133	Jan. 24, 1994	Feb. 8, 1995	William Bundy
95-37113	Sept. 5, 1995	Oct. 24, 1995	William Bundy
95-39357	Sept. 5, 1995	Nov. 9, 1995	William Bundy
95-39949	Sept. 5, 1995	Nov. 15, 1995	William Bundy
98-17857	Apr. 29, 1998	Apr. 30, 1998	William Bundy
2003-36439	Sept. 18, 2002	May 30, 2003	Wendy Potok

This document will not replace or amend the following two documents, which were Recorded as required by the Oregon Revised Statutes 94.600-94.622 (2001 edition) regarding turnover from the declarant to the Homeowners Association:

2004-00584	Jan. 7, 2004	Jan. 7, 2004	William Bundy
2004-00585	Jan. 7, 2004	Jan. 7, 2004	William Bundy

It is the intention of the Board and the Homeowner's Association to impose upon the properties mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of residential property within Sunset View Estates, the planned unit development made subject to this Declaration and amendments thereto by the recording of this Declaration.

All Properties which are part of Sunset View Estates as identified in the current Deschutes County Assessor's Department maps shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real

property subjected to the Declaration and which shall be binding on all parties having any right, title, or interest in the described properties or any part hereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

## ARTICLE 1: DEFINITIONS

Section 1. "Area of Common Responsibility" shall mean and refer to the Common Area.

Section 2. "Bylaws" shall refer to the Bylaws of SUNSET VIEW ESTATES, INC.

Section 3. "Common Area" shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners.

Section 4. "Common Expenses" shall mean and include the actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to the Declaration, the Bylaws, and the Articles of Incorporation of the Association.

Section 5. "Eligible Mortgage Holder" shall mean a holder, insurer, or guarantor of a first mortgage on a unit who has requested notice of certain matters from the Association as hereinafter and in the Association's bylaws provided.

Section 6. "Eligible Votes" shall mean those votes available to be cast on the issue at hand. A vote that is for any reason suspended is not available to be cast.

Section 7. "Lot" shall mean a platted Lot in Sunset View Estates.

Section 8. "Majority" means those eligible votes, owners, or other groups as the context indicate totaling more than fifty (50%) percent of the total eligible number.

Section 9. "Member" shall mean and refer to a person or entity entitled to membership in the Association, as provided herein.

Section 10. "Mortgage" means any mortgage, deed to secure debt, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment of satisfaction of an obligation.

Section 11. "Mortgagee" shall include a beneficiary or holder of a deed of trust, as well as a mortgage.

Section 12. "Mortgagor" shall include the trustor of a deed of trust, as well as a mortgage.

Section 13. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of any Lot which is part of the Properties, but excluding any party holding the fee simple title merely as security for the performance of an obligation.

Section 14. "Person" means a natural person, a corporation, a partnership, trustee, or other legal entity.

Section 15. "Property or Properties" shall mean and refer to the real property described on page one of the Declaration.

Section 16. "Subsequent Amendment" shall mean an amendment to the Declaration that adds additional property to that covered by this Declaration. Such subsequent amendment may, but is not required to impose, expressly or by reference, additional restrictions and obligations on the land submitted by that amendment to the provisions of this Declaration.

## ARTICLE 2: PROPERTY RIGHTS

Section 1. OWNER'S EASEMENT OF ENJOYMENT. Every owner shall have a right and easement of ingress and egress, use and enjoyment in and to the common area that shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions.

- (a) The right of the Board of Directors of the Homeowners Association, with regard to the Properties which may be owned for the purpose of the development, to grant easements in and to the Common Area contained within the respective properties to any public agency, authority, or utility for such purposes as benefits only the properties or portions thereof and owners or lots contained therein;
- (b) The right of the Association to borrow money for the purpose of improving the Common Area, and any portion thereof, for acquiring additional Common Area, or for constructing, repairing, or improving any improvements located or to be located thereon, and to give as security for the payment of any such loan a mortgage conveying all or any portion of the common area, provided eighty percent (80%) of the lot votes present in person or by written proxy at a meeting called for this stated purpose shall approve; provided, however, the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any and all rights, interest, options, easements, and privileges reserved or established in this Declaration for the benefit of any Owner, or holder of any mortgage; and
- (c) The right of the Association to dedicate or transfer all or any portion of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by at least two-thirds (2/3) of the votes represented in person or by proxy at a meeting duly called for such purpose.

Section 2. OWNERS RIGHT TO INGRESS, EGRESS AND SUPPORT. Each Owner shall have the right to ingress and egress over, upon and across the Common Area necessary for access to his or her lot and shall have the right to lateral support for his or her lot, and such rights be appurtenant to and pass with the title of each lot.

Section 3. USE OF LOTS. Except as may be otherwise expressly provided in this Declaration, each Lot shall be used for residential purposes only. No trade or business of any kind may be conducted. Lease or rental of a Lot or any building thereon for residential purposes shall not be considered to be a violation of this covenant, so long as the lease is in compliance with reasonable rules and regulations as the Board of Directors may promulgate. Any lessee or tenant shall in all respects be subject to the terms and conditions of this Declaration, the Bylaws, and the rules and regulations adopted hereunder.

Section 4. KEEPING OF ANIMALS. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on the Properties. Only domesticated household pets

that may be kept in the residences shall be permitted. Owners shall follow all rules and regulations concerning the care and keeping of animals that are included in this document, the Bylaws, and the Rules and Regulations. No animals shall be kept, bred, or maintained for any commercial purpose. The Board shall have the absolute power to prohibit a pet from being kept on the properties, including inside residences constructed thereon.

Section 5. PHASES OF DEVELOPMENT AND RESTRICTION

- a. Phase 1 - includes the first 16 lots only. These lots (and only these lots) are entitled to use their Lot to keep and maintain a reasonable number of horses and llamas in addition to domesticated household pets. The keeping and maintaining of horses and llamas shall be subject to the reasonable rules and regulations of the Association, but such rules and regulations shall not prohibit the keeping of horses and llamas. However, the restrictions on horses and llamas shall be consistent with the restrictions on domesticated household pets, and shall not allow any horses or llamas to be kept, bred, or maintained for any commercial purpose. In addition, perimeter fencing (consistent with the Homeowners fencing around the exterior of the development only) is permitted around the lots in Phase I only.
- b. Phase II and Phase III-includes all other lots. These lots have been constructed around a public golf course. The golf course is not part of Sunset View Estates, and is not intended to be part of Sunset View Estates. The use of any type of fencing around the perimeter of the lots in phases II and III is prohibited.
- c. Additional restrictions regarding the lots adjacent the golf courses are more fully identified in Article 8 of this document.

ARTICLE 3. MEMBERSHIP AND VOTING RIGHTS

Section I. MEMBERSHIP. Every person or entity that is the record owner of a fee interest, or contract vendee, in any lot that is subject to this Declaration shall be deemed to have membership in the Association. Membership shall be appurtenant to and may not be separated from such ownership. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No owner, whether one or more persons, shall have more than one (1) membership per lot owned. In the event the owner of a lot is more than one person or entity, votes and rights of use and enjoyment shall be as provided herein. A member or the member's spouse may exercise the rights and privileges of membership, including the right to vote, but in no event shall more than one (1) vote for each lot be cast. If the owners of a lot disagree on how a vote shall be cast or attempt to cast separate conflicting votes, the vote from that lot shall be disregarded.

Section 2. VOTING. One vote, and only one vote, will be permitted per lot. No vote shall be cast or counted for any lot not subject to assessment. When more than one person or entity holds such interest in any lot, the vote for such lot shall be exercised as those persons or entities themselves determined and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the lot's vote shall be suspended in the event more than one person or entity seeks to exercise it. Any owner of lots that are leased may, in the lease or other written instrument, assign the voting right appurtenant to that lot to the lessee, provided that a copy of such instrument is furnished to the Secretary prior to any meeting. If the owners of a lot disagree on how a vote shall be cast or attempt to cast separate conflicting votes, the vote from that lot shall be disregarded.

#### ARTICLE 4. MAINTENANCE

Section 1. ASSOCIATION'S RESPONSIBILITY. The Association shall maintain and keep in good repair the Area of Common responsibility, such maintenance to be funded as hereinafter provided. This maintenance shall include, but not be limited to, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and other flora structures, and improvements situated upon the area of common responsibility.

Section 2. OWNER'S RESPONSIBILITY. Except as provided in Section 1 of this Article, all maintenance of the lot, all part of the residence thereon, and the exclusive use common area shall be the responsibility of the owner, and each owner shall maintain and keep in good repair such property and improvements.

#### ARTICLE 5. RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. COMMON AREA. The Association, subject to the rights of the owners set forth in this declaration, shall be responsible for the exclusive management and control of the common area and all improvements therein, and shall keep it in good, clean, attractive, and sanitary condition, order, repair, pursuant to the terms and conditions of this declaration and the bylaws. Owners shall be entitled to the exclusive use of the common area adjacent to their property. In Phase 1 only, this shall include the right to fence the common area and to install and maintain pasture, provided, however, that the use shall comply with the reasonable rule and regulations of the association with respect to such use. The owner shall not be permitted to construct any improvement on the common area.

Section 2. SERVICES. The Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the properties, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the properties or the enforcement of this declaration. The association may but shall not be

required to arrange with third parties to furnish water, trash collection, sewer service, and other common services to each Jot as an association expense.

Section 3. PERSONAL PROPERTY AND REAL PROPERTY FOR COMMON USE. The Association, through action of its Board of Directors may acquire, hold, and dispose of tangible and intangible personal property and real property.

Section 4. IMPLIED RIGHTS. The Association may exercise any right or privilege given to it expressly by this Declaration or the Bylaws, or every other right or privilege reasonably implied from the existence of any rights or privilege given to it herein.

Section 5. SELF-HELP. In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a Jot or any portion of a common property to abate or remove, using such force as may be reasonably necessary, any erection, thing or condition which violates this Declaration, the Bylaws, the rules and regulations or the use restrictions. Unless an emergency situation exists, the Board shall give the violating property owner ten (10) days written notice of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees actually incurred shall be assessed against the violating property owner and shall be collected as provided herein for the collection of assessments.

Section 6. RIGHT OF ENTRY. The Association shall have the right, in addition to and not in limitation of all the rights it may have, to enter onto lots for emergency, security, or safety purposes, which right may be exercised by the Association's Board of directors, officers, agents, employee's managers, and all police officers, firefighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in emergency situations, entry shall only be during reasonable hours and after reasonable notice to the owner or occupant of the lot.

Section 7. UTILITIES. The Association is authorized to enter into an agreement to purchase water for irrigation purposes to be used on the common areas within Sunset View Estates, including the front lawn area of the development. The Association is also authorized to enter into agreements for supplying electrical power, and telephone service for the gates and common areas.

## ARTICLE 6. ASSESSMENTS

Section 1. PURPOSE OF ASSESSMENT. The assessments provided for herein shall be used for the general purposes of promoting the recreation health, safety, welfare, common benefit, and the enjoyment of the owners and occupants of the lots, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

Section 2. CREATION OF ASSESSMENTS. Each owner of any lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay the association; (a) annual assessment or charges; (b) special assessments, such assessments to be established and collected as hereinafter provided, and (c) specific assessments against any particular lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration.

a. Such assessments, together with the late charges, interest, not to exceed the maximum legal rate, costs, and reasonable attorney's fees actually incurred, shall be charged on the land and shall be a continuing lien upon the lot against which assessment is made.

b. As long as the Declarant (William Bundy) owns the one remaining lot of the subdivision, he shall be required to pay only fifty percent (50%) of the annual assessment for that unoccupied lot. Upon the recorded sale or transfer of that lot, the assessment will automatically be increased to the full amount as of the day of recording.

Section 3. COMPUTATION OF ASSESSMENT. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year, which shall include a capital contribution or reserve in accordance with a capital budget separately prepared. The Board shall cause the budget and the assessment to be levied against each lot for the following year to be delivered to each member at least thirty (30) days prior to the end of the current fiscal year. The budget and the assessment shall become effective unless disapproved at a meeting by a majority of the owners. Notwithstanding the forgoing, however, in the event the membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

Section 4. SPECIAL ASSESSMENTS. In addition to the other assessments authorized herein, the Association may levy special assessments in any year. So long as the total amount of special assessments allocable to each lot does not exceed Five Hundred Dollars (\$500) in any on fiscal year, the Board may impose the special assessment. Any special assessment that would cause the amount of the special assessment allocable to any lot to exceed this limitation shall be effective only if approved by a majority of the members. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

Section 5 EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION. Any assessments that are not paid when due shall be delinquent. Any assessment delinquent for a period of more than fifteen (15) days shall incur a late charge in an amount as the Board may from time to time determine. The association shall cause a notice of delinquency to be given to any member who has not paid within fifteen (15) days following the due date. If the assessment is not paid within thirty (30) days, the association may, as the Board shall determine, institute suit to collect such amounts. Each owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges.

Section 6. RESERVE ACCOUNT AND CONTRIBUTION. The Board of Directors shall annually prepare a capital budget that shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any; in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect to both amount and timing by annual



assessments over the period of the budget. The capital contribution required shall be fixed by the Board and included within the budget and assessments, as provided in Section 3 of this Article. A copy of the reserve account budget shall be distributed to each member in the same manner as the operating budget.

Section 7. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS. The annual assessments provided for herein shall be concurrent with our fiscal year. The official close of escrow and recording of ownership with Deschutes County, Oregon will constitute the date of the transfer of ownership.

## ARTICLE 7. ARCHITECTURAL STANDARDS

Section 1. AUTHORIZATION AND JURISDICTION. The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the Committee established in Section 2 of this Article. No construction, such term shall include within its definition staking, clearing, excavation, grading, and other site work, and no planting or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirement thereof have been fully met, and until the approval of the appropriate committee has been obtained.

Section 2. ARCHITECTURAL REVIEW COMMITTEE. The Architectural Review Committee (ARC) shall have exclusive jurisdiction over all original construction on any portion of the properties and jurisdiction over modifications, addition, or the alterations made on or to existing residential lots, buildings, and the open space, in any appurtenant thereto. The ARC shall prepare and, on behalf of the Board of Directors, shall promulgate design guidelines and application procedures. The standards and procedures shall be those of the Association, and the ARC shall have sole and full authority to prepare and to amend the standards and procedures. It shall make both available to the owners, builders and developers who seek to engage in the development or on construction upon all or any portion of the properties and who shall conduct their operations strictly in accordance herewith. The ARC shall consist of at least three (3), but no more than five (5), persons, and shall be appointed by the Board of Directors on an annual basis.

Section 3. SPECIFIC VARIATION IN RULES AND REGULATIONS FOR LOT 15. A specific one-time variance was granted to lot 15. "The building side-setback minimum requirement along the common sideline with Lot 16 shall be reduced to ten (10) feet from thirty (30) feet. The driveway location entrance from the street must still enter lot 15 at least 30 feet from the common lot sideline with Lot 16."

## ARTICLE 8. GOLF COURSE

Section 1. GOLF COURSE. Sunset View Estates Phase II and III are constructed around a public golf course. No owner within Sunset View Estates shall have any rights or privileges to use the public golf course, except as may be extended by membership privileges granted to such owners. The golf course is not part of Sunset

View Estates, and is not intended to be part of Sunset View Estates, but does have certain easements as identified in Article 8, Section 2 of this Document in favor of the golf course to permit the continued operation and maintenance of the golf course in harmony with Sunset View Estates.

Section 2. GOLF COURSE EASEMENT. The Homeowner's Association reserves an easement for itself, its successors and assigns, including the owner and operator of the golf course adjacent to all lots within Sunset View Estates, an easement 25 feet wide along all property lines that are adjacent to and front the golf course. The easement is for the purpose of the operation and maintenance of the golf course, which included the right of the owner and operator of the golf course to enter the easement, provided that the entry is limited to golf course purposes. This easement does not give the right or responsibility to the golf course owner and operator to landscape the area. No structure of any kind shall be permitted within the golf course easement.

## ARTICLE 9. GENERAL PROVISIONS

Section 1. DURATION. The covenants and restrictions of this Declaration shall run with and bind the properties, and shall insure to the benefit of and shall be enforceable by the Association or their legal representatives for a term of thirty (30) years from the date this declaration is recorded, after which time they shall be automatically extended for successive periods often (10) years, unless the instrument in writing, signed by a majority of the owners has been recorded within the year preceding the beginning of each successive period often (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

Section 2. AMENDMENT. Amendments can occur at regular or special meetings if noticed and part of the agenda. Proxies or written acceptance of the proposed amendments shall be valid in computing whether the 75% threshold has been met. Amendments will be effective if signed and notarized by the Board Secretary and recorded in the official records of Deschutes County, Oregon.

Section 3. INDEMNIFICATION. The Association shall indemnify every officer and director against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any Officer or Director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The Officers and Directors shall have no personal liability with respect to any contract or other commitment made by them in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such Officer and Directors free and harmless against any commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Officer or Director, or former Officer or Director, may be entitled. The association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation.

Section 4. EASEMENTS FOR UTILITIES. There is hereby reserved to the Association blanket easements upon, across, above, and under all property within the Community for access, ingress, egress, installation, repair, replacement, and maintenance of all utilities serving the property or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone, and electricity, as well as storm drainage, and any other service such as but not limited to, a master television antenna system, cable television system, or security system which the association might decide to have installed to serve the property. It shall be expressly permissible for the Association or its designee, as the case may be, to install, repair, replace and maintain or to authorize the installation, repair, replacement and maintenance of such wire, conduits, cable, and other equipment related to the providing of any such utility or service. Should party furnishing any such utility or service request a specific license or easement by separate recordable; document, the Board shall have the right to grant such easement.

Section 5. GENDER AND GRAMMAR The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 6. SEVERABILITY. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition of invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end, the provisions of this declaration are declared to be severable.

Section 7. CAPTIONS. The captions of each Article and Section hereof, as to the contents of each Article and Section are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 8. LEGAL FEES. In the event any Owner, the Board, or the Association engages an attorney to enforce this Declaration or any of its terms, whether or not a suit or action is commenced, it is agreed that the prevailing party shall be entitled to recover all attorney fees, allowable costs and disbursements and other charges to be paid by the losing party to the prevailing party and to be fixed by the trial and appellate courts.

In witness whereof, the undersigned have executed this Amended Declaration on this 10<sup>th</sup> day of April, 2008.

***Stella Bladholm***

Secretary of Board of Directors of  
Sunset View Estates Homeowners Assoc.

