

**2020 AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR SUN OAKS**

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**2020 AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR SUN OAKS**

This 2020 Amended and Restated Declaration of Protective Covenants, Conditions and Restrictions for Sun Oaks (“**Declaration**”) is made as of the date below, by Sun Oaks Homeowners Association, an Oregon nonprofit corporation (“**Association**”).

RECITALS

- A. Sun Oaks is a planned community in Jackson County, Oregon that consists of the property attached to this Declaration as Exhibit A. Sun Oaks was created on June 28th, 1977 by the following documents recorded in Jackson County, Oregon:
1. Covenants, Conditions, Restrictions dated June 28, 1977, and recorded June 30, 1977 as Document Nos. 76-06506, 76-06507, 77-13295 and 77- 13297;
 2. As amended thereafter by Documents recorded as Document Nos. 77-13805, 77-13806, 78-03938, 78-03939, 82-06549, and 85-06881;
 3. Amended thereafter by Documents recorded June 22, 1992 as Document No. 92-18094, No. 93-11717 and No. 96-01323, Oregon;
 4. Amended thereafter by a Document recorded January 22, 2004 as Document No. 2004-003266.
- B. Sun Oaks is currently governed by the following documents recorded in Jackson County, Oregon:
1. Restated Declaration, Covenants, Conditions and Restrictions of Sun Oaks Homeowners Association, recorded as document no. 2005-043295 (“**2005 Declaration**”).
 2. Restated By-Laws of Sun Oaks Homeowners Association, recorded as document no. 2005-043294 (“**2005 Bylaws**”).
- C. Sun Oaks and the Association is also governed by the Oregon Planned Community Act, ORS 94.550-94.783. Sun Oaks was created prior to 1980 and is therefore subject to the Oregon Planned Community Act only to the extent provided in ORS 94.572. The Association is also subject to the Oregon Nonprofit Corporation Act, ORS Chapter 65.

- D. Under Section 7.9 of the 2005 Declaration, the Association may adopt amendments to the 2005 Declaration with approval of 75% (or owners of 92 lots) of the total votes in Sun Oaks. The Association wishes now to amend and restate in its entirety the 2005 Declaration. This Declaration supersedes any prior declarations of covenants, conditions or restrictions applicable to Sun Oaks, including but not limited to the 2005 Declaration and any amendments or supplements thereto.

NOW, THEREFORE, pursuant to Article IX, Section 1 of the Declaration, and ORS 94.572 and 94.590, with the consent or approval of at least seventy five percent (75%) of the owners (owners of 92 lots), the Association hereby amends and restates in its entirety the Declaration and all amendments thereto, including amendments set forth in Recital B above. The Declaration as amended is replaced and superseded by this 2020 Amended and Restated Declaration of Protective Covenants, Conditions and Restrictions for Sun Oaks that reads as set forth below.

ARTICLE 1 DEFINITIONS

When used in this Declaration, the following terms, whether or not capitalized, have the following meanings:

- 1.1 **“Act”** means the Oregon Planned Community Act, ORS 94.550 to 94.783, as it may be amended from time to time.
- 1.2 **“Architectural Committee” or “AC”** means the committee constituted and acting under Article 8 below.
- 1.3 **“Articles of Incorporation”** means the Articles of Incorporation of the Association as they may be amended or restated from time to time.
- 1.4 **“Assessment”** means any charge imposed or levied by the Association on or against an Owner or Lot pursuant to the provisions of this Declaration, the Bylaws or the Act, including Association Common Expense Assessments and Individual Assessments as provided in Article 10 below.
- 1.5 **“Association”** means Sun Oaks Homeowners Association, an Oregon nonprofit, and its successors and assigns.
- 1.6 **“Annual Assessment”** means an assessment imposed by the Association under Section 10.5 below.
- 1.7 **“Board of Directors” or the “Board”** means the board of directors of the Association elected as provided in the Bylaws.
- 1.8 **“Bylaws”** means the Bylaws of Sun Oaks Homeowners Association recorded currently with this Declaration, as they may be amended from time to time.

- 1.9 **“City of Medford”** means the council or applicable, department, agency or other division of the City of Medford, Oregon.
- 1.10 **“Sun Oaks”** means the Sun Oaks Planned Community consisting of the property described in the attached Exhibit A.
- 1.11 **“Common Area”** means the areas designated as Common Area in Section 4.1 below.
- 1.12 **“Common Expenses”** means expenditures made by or financial liabilities incurred by the Association, including expenses specified in Section 10.4 below.
- 1.13 **“Common Property”** means any real property or interest in real property, including any improvements located thereon, that is owned or Leased by the Association or owned as tenants in common by the Owners. Common Property includes:
- (a) Any improvements located thereon.
 - (b) Common Area defined in Section 1.11 above.
- 1.14 **“Declaration”** means this 2020 Amended and Restated Declaration of Protective Covenants, Conditions and Restrictions for Sun Oaks.
- 1.15 **“Dwelling”** means a building or portion of a building located on a Lot and designated for separate occupancy as a residence, together with any attached deck.
- 1.16 **“Improvement”** means every structure or improvement of any kind, including, without limitation, landscaping, and any Dwelling, porch, awning, fence, garage, carport, driveway, storage shelter or other product of construction efforts on or in respect to the Property.
- 1.17 **“Individual Assessment”** means an assessment imposed by the Association under Section 10.7 below.
- 1.18 **“Lot”** means a numerically designated and platted lot on the Plat (including the Dwelling located thereon), but does not include any Common Area.
- 1.19 **“Majority” or “Majority of Owners”** means more than fifty percent (50%) (owners of at least 62 Lots) of the voting rights allocated to the Lots under Section 5.3 below.
- 1.20 **“Mortgage”** means a mortgage or trust deed; **“Mortgagee”** means a mortgagee or a beneficiary of a trust deed; and **“Mortgagor”** means a mortgagor or a grantor of a trust deed.
- 1.21 **“Oregon Nonprofit Corporation Act”** means ORS Chapter 65.

- 1.22 **“Owner”** means the person or persons owning any Lot (including the holder of a vendee’s interest under a land sale contract, unless otherwise stated in the contract), but does not include a Tenant or holder of a Leasehold interest or a person holding only a security interest in a Lot (including the holder of a vendor’s interest under a land sale contract, unless otherwise stated in the contract).
- 1.23 **“Percent of Owners” or “Percentage of Owners”** means the percent of the voting rights allocated under Section 5.3 below.
- 1.24 **“Planned Community,” “Property,” and “Properties”** mean the property described on the attached Exhibit A and on the Plat.
- 1.25 **“Plat”** means the plats described in the attached Exhibit A.
- 1.26 **“Rules and Regulations”** means those policies, procedures, rules and regulations adopted by the Board of Directors or Owners pursuant to the authority granted in this Declaration, the Bylaws or the Act.
- 1.27 **“Townhome”** means any residence consisting of a townhome design within the plat of Sun Oaks, Phase 1.
- 1.28 **“Voting Rights”** means the portion of the votes allocated to a Lot under Section 5.3 below.
- 1.29 **Additional Definitions.**
- (a) **Incorporation by Reference.** Except as otherwise provided in this Declaration, unless the context clearly requires otherwise, terms used in this Declaration, whether or not capitalized, that are defined in ORS 94.550 have the meanings set forth in ORS 94.550.
- (b) **Other Definitions.** Terms that are not defined in this article but are defined elsewhere in this Declaration, whether or not capitalized, have the respective meanings given them in the provisions of this Declaration.

ARTICLE 2
PROPERTY SUBJECT TO DECLARATION;
DESCRIPTION AND CLASSIFICATION
OF PLANNED COMMUNITY

- 2.1 **The Property.** Association hereby declares that all of the property described in attached Exhibit A shall be owned, conveyed, hypothecated, encumbered, used, occupied and improved subject to this Declaration. The easements, covenants, conditions, restrictions and charges, described in this Declaration run with the Property and are binding upon all parties having or acquiring any right, title or interest in the Property or any part thereof and inure to the benefit of the Association and each Owner.

- 2.2 **Land Classifications.** The Planned Community currently consists of Lots, on which are 28 Townhomes and 94 detached single-family homes, and Common Area described in Section 4.1 below.
- 2.3 **Classification of Planned Community; Application of Act.** The Property is a Class I Planned Community and subject to the provisions of the Act to the extent applicable in ORS 94.572 and this Declaration and the Bylaws.

ARTICLE 3 PROPERTY RIGHTS IN LOTS

- 3.1 **Use and Occupancy.** Except as otherwise expressly provided in this Declaration or the Bylaws, the Owner of a Lot is entitled to the exclusive use and benefit of the Lot. Each Lot is bound by and the Owner shall comply with the restrictions contained in Article 7 below and all other provisions of this Declaration and the Bylaws for the mutual benefit of all Owners.
- 3.2 **Restriction on Lot Division.** Subject to Section 3.3 below, Owners may not subdivide, partition or otherwise divide or change the property line of any Lot.
- 3.3 **Lot Line Adjustments.** The Owners of adjoining Lots may elect to adjust the property line between the Lots as may be permitted by the City of Medford and Jackson County, Oregon, in accordance with any applicable ordinances or regulations. If the property line adjustment results in the elimination of a Lot, the voting rights and assessment obligations of the eliminated Lot no longer exist and the Common Expenses and profits of the Planned Community must be reallocated among all remaining Lots in accordance with Sections 10.3 below. Dwellings or landscape on lots with adjusted lot lines must maintain compliance with Article 6.
- 3.4 **Easements.** In addition to the easements shown on the Plat or provided for under this Declaration, the Bylaws or law, Lots are subject to the following easements for the benefit of Owners and the Association:
- (a) **Utility Easements on Common Areas.** Public utility easements are reserved on common areas as shown on the plat. As more fully provided below, the Association is responsible for and has charge of all maintenance of improvements in common area public utility easements, except for those improvements for which a public authority or utility company is responsible. No owner shall place or permit to remain any structure, planting or other materials within the Public Utility Easements on Common Areas adjacent to their Lot other than at the Owner's sole expense and subject to approval by the Landscape Committee. Notwithstanding approval or prior acquiescence, the Association may require removal, replacement or alteration of any structure, planting or other materials in the Public Utility Easements on Common Areas at any time and for any purpose,

including but not limited to use or establishment of walks or pathways or to promote the overall appearance of the Planned Community.

- (b) **Utility Easement on Lots.** Easements for installation and maintenance of utilities are reserved as shown on the recorded plat on individual lots. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot except for those improvements for which a public authority, utility company or the Association is responsible. At Owner's cost, each Lot Owner shall be responsible for removal of any fencing or vegetation in the event a utility company or Association makes such a request.
- (c) **Drainage.** No owner shall block, hinder or interfere with the established drainage pattern affecting adjoining or adjacent land.
- (d) **Right of Entry.**
 - (1) **Lots.** Upon request to the Owner and any occupant in accordance with Paragraph (2) of this subsection, any person authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for emergency repairs that are necessary for the public safety or to prevent damage to common property or to another dwelling.
 - (2) **Requests for Entry.** Requests for entry must be made in advance and at a time reasonably convenient to the Owner, except in the case of emergency, when the right is immediate. An emergency entry does not constitute a trespass or otherwise create any right of action in the Owner of the Lot.
- (e)

**ARTICLE 4
PROPERTY AND USE RIGHTS
IN COMMON PROPERTY**

4.1 Designation and Use of Common Area.

- (a) **Designation.** The following described property is Common Area for the purposes of this Declaration.
- (b) **Use.** Common Area shall be used as follows:
 - (1) **Common Areas.** The land designated as "Common Area" on the plat of Sun Oaks, Phase 1 and Phase 2 is for open space, the pool and clubhouse, and Recreational Facilities for all owners in Sun Oaks.

- (2) **Public Utility Easements.** The areas designated on the plat as “Public Utilities Easement” that do not lie on any lot are common areas and are under the direct control and supervision of the Association. Notwithstanding that these areas may be directly behind the back yards of certain lots, owners may not interfere with these areas or make any alteration without prior written consent from the Board of Directors.
 - (3) **Recreation Facilities.** The land designated as “Recreation Facilities” on the plat of Sun Oaks, Phase 3 and 4 are Common Areas and shall be used for open space, two pools and two clubhouses, sports tennis courts, lower clubhouse parking (Lot #59), upper clubhouse parking area and overflow parking.
 - (4) **Private Streets.** All streets and parking areas within Sun Oaks are private common area streets to be used by the Association, owners, Tenants and guests.
- (c) **Modification of Common Area Uses.** The Association may modify, close remove, eliminate or discontinue the use of common areas as provided in ORS 94.630 or as that section may be amended.
- 4.2 **Title to Common Area.** Fee title to the Common Area designated in Section 4.1 above, including all improvements, is vested in the Association.
- 4.3 **Owner Easement of Use and Enjoyment.** Subject to the provisions of this article, and any other provisions of this Declaration, every Owner and Owner’s invitee have a right and easement of use and enjoyment in and to the Common Property. The easement is appurtenant to and passes with the title to every Lot as provided in ORS 94.733.
- 4.4 **Easements.** The Association may (and to the extent required by law, shall) grant or assign easements on Common Property to municipalities or other utilities performing utility services and to communication companies, and may grant free access over the Common Property to police, fire and other public officials and to employees of utility companies and communication companies serving the Property as provided under Section 4.7 below.
- 4.5 **Drainage.** Nothing in this Declaration may be interpreted to prohibit drainage from Lots to be discharged over and across any Common Area provided the drainage system complies with any requirements under Article 8 below and the City of Medford.
- 4.6 **Alienation and Monetary Encumbrances.**
- (a) Subject to Subsection (c) of this section, the Association may partition, subdivide, sell, transfer, convey or subject to a security interest any portion of the Common

Property if eighty (80) percent or more of the Owners (at least Owners of 98 Lots) vote in favor of the action.

- (b) A partition, subdivision, sale, transfer, conveyance or encumbrance by a security interest of the common property or any portion of the Common Property may provide that the Common Property be released from any restriction imposed on the Common Property by the Declaration or other governing document if the request for approval of the action also includes approval of the release. However, a sale, transfer or encumbrance may not deprive any Lot of its right of access to or support for the Lot without the consent of the Owner of the Lot.
- (c) Any action by the Association and Owners under Subsection (a) of this section is subject to any limitations or requirements of the City of Medford.
- (d) The Association shall treat proceeds of any sale under this section as an asset of the Association.

4.7 **Grant of Easements and Other Interests.**

- (a) **Authority to Grant.** Subject to Subsection (b) of this section, the Association may execute, acknowledge and deliver Leases, easements, rights of way, licenses and other similar interests affecting Common Property and consent to vacation of roadways within and adjacent to Common Property as provided in ORS 94.665.
- (b) **Permits.** Nothing in this section precludes the Board of Directors from issuing an Owner a permit described in ORS 94.630 to construct and maintain an improvement on Common Property. The permit may not limit the rights of other Owners to use the Common Property, including the improvement.
- (c) **Use of Proceeds.** The Association shall treat proceeds of any grant or consent to vacation under this section as an asset of the Association.

4.8 **Restrictions on Use of Common Property.**

- (a) Except as otherwise provided in this article and other provisions of this Declaration, the Common Property is reserved for the exclusive use and enjoyment of all Owners and no private use may be made of the Common Property.
- (b) Except as otherwise permitted under this Article, no building, wall, fence, paving, landscaping or construction of any type may be erected or maintained by any Owner so as to trespass or encroach upon the Common Area. The Association has authority to abate any trespass or encroachment upon the Common Area at any time, by any reasonable means, with or without having to bring legal proceedings.

- (c) The Common Property and any facilities thereon must be used for the purposes for which the same are reasonably intended as provided under Section 4.1 above and their use, operation and maintenance may not be obstructed, damaged or unreasonably interfered with by any Owner or other person.
- (d) The Board of Directors may adopt rules under Article 9 of the Bylaws that govern use of Common Property.
- (e) Nothing in this article prevents the Board of Directors from placing upon the Common Property:
 - (1) Signs identifying Sun Oaks or identifying items of interest, including directional signs or signs relating to traffic or parking, provided the signs comply with any applicable City of Medford or Jackson County, Oregon sign ordinances.
 - (2) Message or announcement boards relating Association meetings or other Association matters.

4.9 **Delegation of Use.** An Owner may delegate Owner’s right of enjoyment to the Common Property to other occupants, tenants, or contract purchasers who reside on the Property, whose use of the Common Property is subject to this Declaration, the Bylaws and all rules and regulations.

ARTICLE 5 GOVERNANCE OF THE PLANNED COMMUNITY

The administration, management and operation of Sun Oaks shall be by the Association as provided in this article, the Articles of Incorporation and the Bylaws.

5.1 Association Organization.

- (a) **Incorporation.** The Association is organized as a nonprofit corporation under the Oregon Nonprofit Corporation Act. The name of the association is “Sun Oaks Homeowners Association.”
- (b) **General Powers, Duties and Obligations.** The Association has such powers and duties as may be granted to it or imposed by the Act, including each of the powers and duties set forth in ORS 94.630 as the statute may be amended from time to time, together with such additional powers and duties afforded by this Declaration, the Bylaws and the Oregon Nonprofit Corporation Act. The duties include:
 - (1) Establishing a reserve account in accordance with ORS 94.595 and Article 11.3 of the Bylaws;

- (2) Preparing, reviewing and updating the maintenance plan required by ORS 94.595 in accordance with Section 9.1 below; and
 - (3) Conducting and updating a reserve study to the extent required under 11.4 of the Bylaws.
 - (c) **Bylaws.** Bylaws of Sun Oaks Homeowners Association, being recorded in the Records of Jackson County, Oregon, govern the operation of the Association and Sun Oaks.
 - (d) **Board of Directors.** The affairs of the Association shall be governed by a Board of Directors as provided in the Bylaws.
- 5.2 **Automatic Membership.** Each Owner is automatically a member of the Association. The rights, obligations and other entitlements granted to or imposed upon an Owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of the ownership. However, termination of ownership does not discharge an Owner from obligations incurred prior to termination.
- 5.3 **Voting Rights.** Each Lot is allocated one (1) vote in the affairs of the Association. If an Owner owns more than one Lot, the person has one (1) vote for each Lot owned. The Board of Directors is entitled to vote on behalf of any Lot that has been acquired by or on behalf of the Association. However, the Board of Directors is not entitled to vote any Lot in any election of directors. The method of voting is as specified in the Bylaws.

ARTICLE 6 ARCHITECTURAL AND LANDSCAPING RESTRICTIONS

- 6.1 **Dwellings and Improvements on Lots.**
- (a) **Single Family Dwelling.** Subject to Subsection (c) of this section, no building may be erected, altered, placed or permitted to remain on any Lot in Sun Oaks other than one attached single-family dwelling within Sun Oaks, Phase 1 and one detached single-family dwelling in Sun Oaks, Phase 2, 3 and 4. No dwelling may be more than two stories in height, including the main floor level, designed for occupancy by not more than one family, together with a private two vehicle garage, which garage shall conform generally in architectural design and exterior materials and finish with the dwelling to which it is appurtenant.
 - (b) **Dwelling Size.** One-story dwellings, excluding Phase 1 dwellings, must have a minimum ground floor area of 1,600 square feet. Any multi-level dwelling must have a minimum ground floor area of 1,200 square feet exclusive of porches, patios, basements and garages.
 - (c) **City of Medford.** The height restrictions imposed under this subsection are defined in the City of Medford Ordinances.

- (d) **Inadvertent Violations.** The Architectural Committee, upon application, may in its discretion waive any violation of Subsection (a) or (b) of this section it finds to have been inadvertent, provided the violation would not constitute violation of City of Medford ordinances for which no variance has been granted.

6.2 Location of Improvements.

- (a) **Setback Lines.** Single family detached dwellings and garages shall have a minimum setback of twenty (20) feet from the front street and fifteen (15) feet from the side street unless otherwise specified by the Architectural Committee. Single family detached dwellings and garages shall have a setback of seven (7) feet from each side and rear line of the building site on which it is located. In determining setback, all projections from the structure except eaves, uncovered front porches and steps, shall be included. If Utility Easements are present the setback of 7 feet can be measured from the middle of the Easement.
- (b) **Local Ordinance.** Setbacks may change with approval of the City of Medford.

6.3 Exterior Finishes. All roofing materials shall be approved by the AC. Any changes in exterior appearance to dwellings, including changes in paint color, exterior siding or trim materials, gutters, downspouts, stone or other facades, and any other change in the exterior surface of the dwelling must be approved by the AC as provided in this Declaration.

6.4 Fences. Fences are allowed in Sun Oaks at a height of no more than 4 feet above ground level and may only be located in the back and side yards. The details in terms of the types and forms of fencing allowed are detailed in the rules and regulations. All fences must be consistent with the rules and regulations and approved in writing by the Architectural Committee as provided in the Declaration.

6.5 Utilities.

- (a) No outdoor overhead wire or service drop for the distribution of electric energy or for telecommunication purposes, nor any pole, tower or other structure supporting outdoor overhead wires may be erected, placed or maintained within Sun Oaks.
- (b) All Owners, their heirs, successors and assigns shall use underground service wires to connect their Lot and the improvements built thereon to the underground electric or telecommunication utility facilities provided.

6.6 Completion of Construction.

- (a) Construction of any improvement on any Lot, including painting and all exterior finish, must be completed within six (6) months from the beginning of construction so as to present a finished appearance when viewed from any angle.

In the event of undue hardship due to weather conditions, the time period may be extended by a reasonable length of time upon written approval from the Architectural Committee.

- (b) The building area shall be kept reasonably clean and in a workmanlike order during the construction period. The Lot shall be kept in a neat and orderly condition, free of brush, vines, weeds and debris. Any grass shall be cut or mowed at sufficient intervals to prevent creation of a nuisance or fire hazard.

6.7 Landscape Completion.

- (a) The installation or re-installation of any front yard landscaping must be completed within four (4) months from the date the existing landscaping is removed or otherwise destroyed.
- (b) In the event of undue hardship due to weather conditions, the time period specified in Subsection (a) of this section may be extended for a reasonable length of time upon written approval by the Landscape Committee.

6.8 Temporary Structures. No structure of a temporary character, trailer, tent, shack, garage, barn or other outbuilding located on a Lot may be used at any time as a residence either temporarily or permanently. However, with the approval of the Architectural Committee, a temporary structure may be maintained during a period of construction or substantial reconstruction of a Dwelling approved by the AC under Article 8 below.

6.9 Townhome Party Walls. Each wall which is built as a part of the original construction of the townhome lots upon the properties and placed along the dividing line between townhomes, shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. In addition, the following provisions shall apply to townhome party walls:

- (a) **Easement for Party Walls.** As a permanent easement running with the lot of which it is a party and not limited to the owner thereof, each townhome lot sharing a party wall shall have the right to enjoy in common with the adjacent property and its owner such portion of any party wall as shall be located on property adjacent to the townhome lot for purposes of support, screening or other related used and the adjacent townhome lot shall be subject and servient to such easement.
- (b) **Costs and Contribution.** The cost of reasonable repair and maintenance of a party wall shall be borne equally by the respective owners. The right of any owner to contribution from any other owner under this Section shall be appurtenant to the land and shall pass to such owner's successors in title.

- (c) **Dispute Resolution.** Any dispute arising out of the use, maintenance or repair or replacement of party walls shall be resolved as follows:
- (1) The parties shall attempt to mediate the dispute with a mutually agreed upon mediator. Either party may deliver an offer to mediate to the other party.
 - (2) If mediation is not completed within 30 days of an offer to mediate by either party, then the dispute shall be resolved by arbitration.
 - (3) If either party fails to agree to and participate in mediation, that party shall not be entitled to recover costs or attorney fees in any subsequent arbitration.

ARTICLE 7 RESTRICTIONS ON USE

The following restrictions and requirements are in addition to all other restrictions and requirements contained in this Declaration and the Bylaws:

- 7.1 **Residential Use; Home Businesses.** Lots may only be used for single family residential purposes. No trade, craft, business, profession, commercial or similar activities of any kind may be conducted on any Lot or in any other portion of Sun Oaks without the approval of the Board of Directors in accordance with Subsection (c) of this section. However, this section may not be construed so as to prevent or prohibit an Owner from using the Dwelling located on the Lot as a “home office” provided clients, customers and employees do not regularly visit the “home office” and provided that any business does not cause an increase in traffic or noise on private streets, either for customers or delivery or shipping of materials in connection with a business.
- 7.2 **General Condition and Maintenance of Lots.** Each Owner shall maintain the Owner’s Lot, including all improvements, in a clean and attractive condition, in good repair and in such manner consistent with Article 9 below and so as not to create a fire hazard.
- 7.3 **Offensive Activities.** No noxious or offensive activity or any unsightly condition or conduct may be carried on upon any Lot or Common Area, nor may anything be done or placed upon any Lot or Common Area that interferes with or jeopardizes any Owner’s use and enjoyment of Owner’s Lot or Common Areas within Sun Oaks.
- (a) Unsightly conditions include, without limitation, the placement or storage of boxes or bins, trunks, furniture, appliances, or car parts on any lot.
 - (b) Occupants shall exercise care about making noises or the use of musical instruments, radios, televisions, or amplifiers and may not unreasonably disturb other occupants.

- (c) Occupants may not exhibit offensive behavior that threatens or unreasonably interferes with or jeopardizes the peaceful enjoyment by other Occupants of his or her Dwelling or of the Common Property.

7.4 **Animals.**

- (a) **Definition.** As used in this section “animal” means any nonhuman mammal, bird, reptile or amphibian.
- (b) **Permitted Animals.** The following animals may be kept in or about a Dwelling without the prior approval of the Board of Directors provided they are not raised or bred for commercial purposes: Two (2) household pets and birds confined to a cage if they do not create a noise disturbance.
- (c) **Board Approval to Keep Animals.** An Owner may apply to the Board of Directors for approval to keep animals other than the animals described in Subsection (b) above. The Board, in its sole discretion, may permit other animals to be kept in the Dwelling. When reviewing an application for approval, the Board may consider the number of animals, the animal’s size (by weight, height, or other characteristic), breed or species or any other relevant criteria to minimize the possibility of violations of this section or other provisions of this Declaration or the Bylaws.
- (d) **Registration of Household Pets.** The Board of Directors may adopt rules that require household pets of Owners and Occupants be registered with the managing agent.
- (e) **Restrictions.** No animal may be permitted to cause or create a nuisance or unreasonable disturbance or noise. Pets may not be left unattended in either a yard or patio. All pets must be under the control of an individual by leash or lead at all times anywhere on Common Areas or Lots, however a pet may be off leash if the pet is kept contained in the Owner’s backyard by an electronic collar, fence or similar device. Aggressive behavior of a pet or any inconvenience, damage or unpleasantness caused is the responsibility of the respective pet owner. The owner of the animal is responsible for the removal of all waste products of the animals. No pets may be allowed to be loose on any part of the Common Property.
- (f) **Removal.** In addition to other remedies provided in this Declaration, the Bylaws or the Act, the Board may require an owner to remove a specific animal, even though other animals are permitted to remain, after giving the pet owner notice and an opportunity for a hearing, if an animal becomes a threat or nuisance to other owners.
- (g) **Animal Waste.** All owners are responsible to remove and dispose of the waste of their animals both in their yards and about the community.

- (h) **Animal Feed.** Consistent with City of Medford laws, wild animals such as turkeys and deer are not to be fed. Pet food, salt blocks or other food sources attractive to wild animals may not be put out on the Lots or Common Areas. This allows them to persist in their destruction of common and personal property.

7.5 **Signs and Flags.** Unless permitted under rules adopted by the Board of Directors or approved by the Architectural Committee under Article 8 below, no sign, including political, contractor, vendor or service signs, or flag may be erected or maintained on any Lot or Common Areas except the following:

- (a) **Real Estate for Sale or Rent Signs.** One (1) real estate “For Sale” or “For Rent” sign may be temporarily displayed on any Lot on behalf of the Owner of the Lot.
- (b) **American Flag.** In accordance with the Freedom to Display the American Flag Act, owners may display the American flag in accordance with applicable laws and customs related to the display of the American flag. No flag may be larger than 3 feet by 6 feet and can extend no more than 6 feet in length. Flagpoles are not allowed in any part of the Sun Oaks community.
- (c) **Sports and Decorative Flags and Seasonal Decorative Lights.** Flags that support a sports team and those that are decorative and in good taste can be hung. The flags cannot be larger than 28 inches by 40 inches. Seasonal lights may be hung. No inflatable holiday décor is allowed.

7.6 **Parking.**

- (a) **Definitions.** As used in this section:
 - (1) “Vehicle in disrepair” means a vehicle that is in a significant state of disrepair (as reasonably determined by the Board of Directors), under repair, inoperable, with an expired license plate or without a license plate.
 - (2) “Passenger Vehicle” means an automobile, minivan, sports utility vehicle, pickup truck, golf cart, motor scooter or motorcycle.
 - (3) “Vehicle” means any Passenger Vehicle, camper truck, motor home, recreational vehicle, boat or other watercraft, trailer, moving van and other similar vehicles and equipment.
- (b) **General Parking Restriction on Common Property; Passenger Vehicles:**
 - (1) Except as permitted in this section, no vehicle may be parked on any part of Common Property except in designated visitor, and upper and lower clubhouse parking areas.

- (2) Areas designated as guest parking are primarily for the use of guests. Residents may use them for short term purposes such as loading and unloading, etc.
- (3) Driveways and guest parking areas may not be used beyond a three-day overnight period without Board or manager approval. A vehicle that is identified as being parked in a driveway during night hours shall be considered as having been parked overnight. Vehicles may not be temporarily moved to bypass the parking requirements under this section, nor shall the parking of a different vehicle restart the three-day period.
- (4) Overflow parking is available within the Recreational Facilities on a first come, first served basis. The Association is not responsible for theft or damage to vehicles parking in the overflow parking lot.
- (c) **Garage Parking.** Garages shall be used primarily for parking of vehicles, and only secondarily for storage of other items. For households with two vehicles, the garage must be used to house both vehicles. In no event may a garage be used as a residence. Garage doors shall remain closed at all times for safety and security purposes, unless open for owner activity, delivery, or construction purposes.
- (d) **Loading and Unloading.** Motor homes, recreational vehicles, boats, trailers, moving vans and other Vehicles may be parked in a driveway or in designated visitor parking areas for loading and unloading up to 48 hours, without Board approval.
- (e) **Vehicles in Disrepair.** An Owner may not park or abandon any vehicle in disrepair on any part of the Sun Oaks community, including within the Recreational Facilities, for a period more than forty-eight (48) hours or a period of more than specified in rules adopted by the Board unless the vehicle is within owner's garage.
- (f) **Electric Vehicle Charging Stations.** Pursuant to ORS 94.762, an Owner may install and use an electric vehicle charging station. The Charging Station must be housed in the Garage. Installation and use of electric vehicle charging stations are subject to rules adopted by the Association for stations located on property.
- (g) **Remedies.** The Board may adopt rules necessary to implement any of the above which may include the right to tow vehicles or equipment parked or stored in violation of this section and to charge the towing and any storage costs to the Owner as an Individual Assessment and/or Fine.

7.7 **Rubbish and Trash.** No part of any lot or common area may be used or maintained as a dumping ground for yard cutting or debris, rubbish, trash, garbage, or any other waste.

No yard cuttings or other yard debris, garbage, trash, or other waste may be kept or maintained on any lot or common area except in sanitary trash receptacles, recycling containers or in designated locations. All garbage and other waste must be removed by an appropriate sanitation or disposal company every week or such other reasonable time prescribed by rules. A trash receptacle on a Single-Family Lot or the Townhome Plot must be in an area that is screened or otherwise not visible from any other part of the Planned Community, except for a reasonable period before and after the time of pick-up by the sanitation or disposal company.

- 7.8 **Antennas and Service Facilities.** Subject to any regulations issued by the Federal Communications Commission (“FCC”) or any other applicable governmental authority, exterior antennas, satellite receiver and transmission dishes may not be placed on any Lot so as to be visible from another Lot, the street or Common Area except in accordance with rules adopted by the Board of Directors. Exceptions to the visibility requirement may only be made based on difficulties with reception in preferred locations and only with written approval from the Board.
- 7.9 **Clothes Lines and Clothing and Materials.** No clothes lines, clothes racks or other apparatus on which clothes, rags, or similar items are exposed for the purpose of drying or airing may be located in Sun Oaks except within a Dwelling, unless in an area screened from public view. No garments, rags, laundry, or other clothing or materials may be allowed to hang from the windows or from any of the facades or any other part of a Dwelling unless in an area screened from public view.
- 7.10 **Increase in Insurance Cost.** Unless approved in writing by the Board of Directors, nothing may be done or kept within any Lot or the Common Property that will increase the cost of insurance to the Association or to other Owners. An Owner may not permit anything to be done or kept within Owner’s Lot or in the Common Property that will result in cancellation of insurance on any Lot or any part of the Common Property.
- 7.11 **Unlawful Activities.** No unlawful use shall be made of Sun Oaks or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof must be observed.
- 7.12 **Smoking.**
- (a) **Definitions.** As used in this section.
- (1) “Smoking” means the burning or smoldering of a lighted cigarette, cigar, pipe or other smoking product or the vaping of an e-cigarette or vape pen.
- (2) “Smoking Product” means: Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff, or other form of tobacco that may be utilized for smoking; any clove, marijuana or other plant matter or product that may

be utilized for smoking; or any other product or device defined by rule of the Board to be a Smoking Product.

- (b) **Smoking Prohibition.** Smoking is prohibited in any part of the common area or facilities. The prohibition applies to any individual who enters common areas, including any owner, Tenant or guest.
- (c) **Posting of No Smoking Signs.** The Board of Directors may post “Nonsmoking” signs. Such signs are to be posted in such locations in the Common Areas to provide reasonable notice of the smoking prohibition.
- (d) **Permitted Smoking Areas.** Pursuant to rules the Board of Directors may designate specific areas of the Common Property that are not subject to the smoking prohibition.

7.13 **Renting or Leasing, Rental or Lease, Non-Owners Occupied Lots.** Owners Renting or Leasing their lots must be in compliance with the following restrictions:

- (a) **Definitions** The following terms, have the following meanings:
 - (1) “Renting or Leasing” a Lot or “Rent or Lease” a Lot means to grant a right to use or occupy a Lot for a specific term or indefinite term in exchange for money or other value. “Renting or Leasing” a Lot or “Rent or Lease” a Lot does not mean: joint ownership of a Lot by means of joint tenancy, tenancy-in-common or other forms of co-ownership or an agreement between the Owner and a roommate under which the Owner and another person or persons share joint use of the Lot.
 - (2) “Tenant” means a person who is granted the right to use or occupy a Lot as described in Subsection (1) above.
 - (3) “Non-Owner Occupied” means an inhabitant permitted to occupy a Lot without Leasing or Renting such Lot. Both the Owner and the Occupant will be required to declare in writing that no Rent is being paid or value exchanged. The owner and inhabitant are required to follow the requirements of this Section 7.14.
- (b) **Limit on the Number of Lots which May Be Rented or Leased or Non-Owner Occupied; Board Approval.**
 - (1) **Rental-Lease Limit.** An Owner may not Rent or Lease a Lot if the Rental or Lease results in more than twelve (12) Lots (the “**Rental-Lease Limit**”) being Rented or Leased or Non-Owner Occupied. The Rental or Lease of a Lot under the Mortgagee Exception or Hardship Exception and all Non-Owner Occupied Lots count as a Rental or Lease for the purpose of calculating the Rental-Lease Limit.

- (2) Except for Lots subject to a Mortgagee Exception or a Hardship Exception for more than one Lot, an Owner is not eligible to Rent or Lease more than one (1) Lot until the pending applications of are approved:
 - (A) Applications of all Owners who are not currently Renting or Leasing a Lot; and
 - (B) Applications of all Owners who are currently Renting or Leasing fewer Lots than the applicant.
- (c) **Board Approval.** Except for owners subject to a Mortgagee Exception or Hardship Exception, a Lot may not be Rented or Leased without the approval by the Board of Directors of an application from the Lot Owner in accordance with the rules adopted by the Board. The Board shall establish procedures for a waiting list by resolution. If a Rental or Lease that has been approved or terminated, the Owner shall have ninety (90) days to submit a renewal application for approval. The Board shall adopt rules by resolution establishing the requirements for renewing an approval. An owner applying to Rent or Lease a Lot or to be placed and remain on the waiting list must be in compliance with the Declaration, Bylaws, and any rules and regulations of the Association and current on any obligation to pay dues to the Association.
- (d) **Additional Rental and Lease Restrictions. The following restrictions are applicable to all Rentals or Leases, Non-Owner Occupants, and Rentals or Leases pursuant to a Mortgagee Exception or Hardship Exception:**
 - (1) An Owner may not Rent or Lease less than the entire Lot.
 - (2) A Lot may not be Rented, Leased or otherwise used for transient or hotel purposes.
 - (3) A Lot may not be Rented or Leased for a period of less than one (1) year.
- (e) **Mortgagee Exception.** Sections 7.14(b), (c) and (d)(3) above do not apply to a first mortgagee who acquires a Lot by foreclosure or deed in lieu of foreclosure. A successor to the first mortgagee is subject to the restrictions of this Subsection 7.14. The right to Rent or Lease a Lot under this Subsection is referred to as a “**Mortgagee Exception.**”
- (f) **Hardship Exception.**
 - (1) Subject to Subsection 2 below, if an application to Rent or Lease a Lot is denied, to avoid undue hardships or practical difficulties such as the Owner’s death, job relocation, disability or other similar circumstances,

the Board of Directors has discretion to approve a hardship application of an Owner or authorized representation of an Owner to temporarily Rent or Lease the Owner's Lot. The Board is limited to approving an additional twelve (12) Lots in excess of the Rental-Lease Limit.

- (2) The Board of Directors may not approve a hardship application to Rent or Lease a Lot under this Subsection if the Rental or Lease: 1) Is for a period of more than one (1) year; 2) Results in an Owner Renting or Leasing less than the entire Lot; or 3) Results in an Owner Renting or Leasing a Lot for hotel or transient purposes.
- (g) **Hardship Application.** An application for a Hardship Exception must be on a form prescribed by resolution of the Board of Directors. The Board shall review applications for Hardship Exception according to time periods established by the Board.
- (h) **Extension of Hardship Exception.** At the termination of any Hardship Exception, the Owner or authorized applicant of the Owner may submit an application for extension of the Hardship Exception including extension of time beyond one year.
- (i) **Rental, Lease and Non-Owner Occupied Agreement Requirements.** All Rental, Lease and Non-Owners Occupied agreements must be in writing and provide that:
 - (1) The agreement and Tenants are subject in all respects to the provisions of the Declaration, the Bylaws and any Amendments thereto, and all Rules and Regulations.
 - (2) Failure by a Tenant to comply with the terms of this document constitutes a default under the Rental or Lease agreement and the Association has the remedies including, without limitation, the right of the Association to require the Owner to terminate the tenancy and evict the Tenant.
- (j) **Copies of Documents Required to Be Provided Tenant.** The Owner shall provide the Tenant with a copy of the Declaration, Bylaws and all rules and regulations then in effect and shall take a signed receipt for delivery of the documents to be kept on file with the Sun Oaks property manager. If any document is amended, revised, changed, or supplemented by the Association, the Owner shall provide the Tenant with a copy of the revision.
- (k) **Information and Documents Required to Be Furnished to the Association.** Within seven (7) business days of the commencement of the Rental or Lease period, the Owner shall provide the Association the name and contact information of the Tenants, any information required by rules adopted and, if requested, a

copy of the Rental Agreement. If the Owner fails to provide the receipt under Subsection (k) above, the manager shall provide the documents to the Tenant and take a signed receipt for the documents. The Association shall assess the Owner a reasonable charge for the cost incurred in providing the documents.

- (1) **Remedies.** If the Board of Directors determines that a Tenant has violated a provision of the Declaration, Bylaws, any amendments or Rules and Regulations, after the Owner of the Rented or Leased Dwelling is given notice and an opportunity for a hearing, the Directors may require an Owner, subject to any requirements of ORS Chapter 90, to terminate a Rental Agreement, terminate the tenancy and evict the Tenant.

7.14 **Association Rules and Regulations.** In addition to the restrictions and requirements specified in this article and other provisions of this Declaration and the Bylaws, the Board of Directors from time to time may, by resolution, adopt, modify or revoke such rules and regulations governing the conduct of persons and the operation and use of the Lots and Common Property as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Planned Community. The action is subject to the procedures prescribed in Article 9 of the Bylaws.

ARTICLE 8 ARCHITECTURAL REVIEW

8.1 Architectural Review.

- (a) No improvement may be commenced, erected, placed, maintained or altered on any Lot until an application has been submitted to and approved in writing by the Architectural Committee as provided in this article.
- (b) The application required under Subsection (a) of this section shall be on a form adopted under Section 8.3 below and include:
 - (1) Construction plans and specifications showing the nature, kind, shapes, heights, materials, exterior colors and proposed location of Improvements or changes on the Lot.
 - (2) Any other information required by Architectural Standards and Guidelines adopted under Section 8.3 below.
- (c) In all cases in which approval of the AC is required by this Declaration or the Bylaws, the provisions of this article apply.

8.2 Architectural Committee

- (a) **Membership and Appointment.** The Architectural Committee shall consist of no fewer than three (3) members appointed by the Board of Directors. Each member must be an Owner. At least one member shall, if feasible, be an

architect, building designer, or contractor or have other similar qualifications. The term of office of each member of the AC is one (1) year unless lengthened or shortened by the Board. The Board will appoint a director to serve as a Liaison to the AC. The Liaison is not a voting member of the AC. Directors other than the Liaison may serve on the AC, but may not constitute a majority of the AC except when the Board itself serves as the AC as provided under Subsection (b) of this section.

- (b) Failure to Appoint or Failure to Serve. If for any reason there is not a separate AC constituted, or if the AC is unable to convene or serve as needed, the Board may serve as the AC.

8.3 **Architectural Standards and Guidelines.**

- (a) **Adoption.** The procedure and specific requirements for review and approval of an application required under Section 8.1 above, including fees charged under Section 8.10 below, must be set forth in design guidelines and standards (“Architectural Standards and Guidelines”) adopted from time to time by resolution of the Board of Directors at its sole discretion.
- (b) **Provisions.** The Architectural Standards and Guidelines shall interpret and implement the provisions of this Declaration for architectural review and guidelines for architectural design of Dwellings and other Improvements, exterior color schemes, exterior finishes and materials and similar features that may be used in the Planned Community and landscaping. Architectural Standards and Guidelines may not be in derogation of the minimum standards established by this Declaration.

8.4 **AC Decision.**

- (a) The AC shall render its approval or denial decision with respect to the proposal within thirty (30) business days after it has received all material required by it with respect to the application. Subject to Subsection (c) of this section, all decisions must be made by members of the AC at a meeting of the AC and must be memorialized in writing.
- (b) A decision of approval by the AC may include terms and conditions that the AC determines appropriate.
- (c) If the AC fails to render its decision of approval or denial in writing within thirty (30) business days of receiving all material required by it with respect to the proposal, the application is deemed approved.

8.5 **Non-waiver, Precedent and Estoppel.** Approval or disapproval by the AC of any matter proposed to it or within its jurisdiction may not be deemed to constitute precedent,

waiver or estoppel impairing its right to withhold approval or grant approval as to any similar matter thereafter proposed or submitted to it.

8.6 **Appeal to Board of Directors.** Unless the Board of Directors is serving as the AC under Section 8.2(b) above, any Owner adversely impacted by action of the AC may appeal the action to the Board of Directors in writing within 10 days of the AC's decision. If the Board serves as AC, there is no appeal.

8.7 **Effective Period of Approval.** Unless otherwise provided in the AC's approval of any proposal or a decision of the Board of Directors under Section 8.9 below, the AC's approval or Board's decisions is automatically revoked one (1) year after issuance unless construction or other work relating to the proposal has been commenced or the Owner has applied for and received an extension of time from the AC.

8.8 **Liability.**

(a) Neither the AC nor any member of the AC is liable to any Owner, occupant, builder or other person for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the AC or a member thereof, provided only that the member has, in accordance with the actual knowledge possessed by him or her, acted in good faith.

(b) The AC is not responsible for determining compliance with structural and building codes, solar ordinances, zoning codes or other governmental regulations, all of which are the responsibility of the Owner.

8.9 **Estoppel Certificate.**

(a) Within thirty (30) business days after a written request is delivered to the AC by an Owner, the AC shall provide the Owner with a certificate executed by the chairman, or other authorized member of the AC certifying with respect to any Lot owned by the Owner, that as of the date thereof:

(1) All improvements made or done upon or within the Lot by the Owner that are subject to the requirements of this article comply with the Declaration and rules and regulations;

(2) The improvements do not comply, in which event, the certificate must also identify the noncomplying improvements and set forth with particularity the nature of the noncompliance; or

(3) The AC is unable to confirm that the improvements comply with the Declaration and rules and regulations and, therefore, the improvements are deemed not in compliance.

- (b) The Owner, Owner's heirs, devisees, successors and assigns are entitled to rely on the certificate with respect to the matters set forth. The certificate is conclusive as between and among the AC, the Association and all Owners and persons deriving any interest through any of them.

8.10 Fees; Plans.

(a) **Fees.**

- (1) Pursuant to a fee schedule included in Architectural Standards and Guidelines or a separate resolution adopted by the Board, the AC may charge:
 - (A) A reasonable fee for issuance of an estoppel certificate issued under Section 8.9 above.
 - (B) A reasonable application fee and charge applicants' additional costs incurred or expected to be incurred by the AC to retain architects, attorneys, engineers, landscape architects and other consultants to advise the AC concerning any aspect of the application or compliance with any appropriate architectural criteria or standards. The fee is collectible as an Individual Assessment pursuant to Article 10 below.
- (2) Fees and costs incurred under this subsection constitute assessments against the Owner and Lot as provided under Article 10 below.

- (b) **Plans.** A copy of the plans as finally approved must be retained as a permanent record of the Association.

8.11 Additional Committees in Sun Oaks. All other committees in Sun Oaks will be identified in the ARR's.

**ARTICLE 9
MAINTENANCE, REPAIR, REPLACEMENT,
CONDEMNATIONS, DAMAGE**

The maintenance, repair and replacement of property in the Planned Community are governed by this article.

9.1 Responsibility of Association.

- (a) The Association is responsible for maintenance, repair and replacement of Common Property and the improvements located thereon as provided in this subsection.

- (b) Maintenance shall be performed in accordance with a maintenance plan prepared and updated in accordance with ORS 94.595.
- (c) The Association shall provide exterior maintenance upon each Townhome lot as follows: regular painting of siding and trim, and regular cleaning of gutters and downspouts. Such exterior maintenance does not include repair or replacement of roofs, siding, doors, windows, screens, skylights, glass in light fixtures, and other glass surfaces, or any other exterior building surfaces except as specifically noted in this Section 9.1 except to the extent of the proceeds of the Association's insurance.
- (d) The costs of maintenance of townhome lots shall be assessed to the townhome lot owners as a separate budget to be proposed by the Townhome Council as more fully provided in the Bylaws. Townhome funds are to be used for the cleaning of gutters and downspouts and cyclical painting; and the landscape maintenance contract and irrigation water for the Common Areas around the townhome lots on Sun Oaks Phase 1. Townhome funds are not to be used for tree maintenance. Such funds are not to be used for the upper clubhouse and other facilities in Sun Oaks Phases 2-4. The Townhome Council shall have control of the budget for townhome lot expenses as more fully provided in the Bylaws.

9.2 **Responsibility of Owners.**

- (a) **Maintenance, Repair and Replacement of Exterior of Dwellings and Lots.** Each Owner is responsible for all maintenance, repair and replacement of Owner's Dwelling and Lot.
- (b) **Landscaping Maintenance.** An Owner shall cause landscaping to be kept in a neat and orderly condition, free of debris, un-maintained vegetation, weeds, or excessive leaves. Grass shall be cut or mowed at sufficient intervals to keep it at a height conducive to an even, uniform and clipped appearance. Landscape should be watered sufficiently to prevent fire hazards. If an owner is unavailable to keep up their property and does not provide adequate coverage of the property, the Association will provide sufficient intervention to prevent a fire hazard. Any funds spent by the Association to do this will be reimbursed by the owner. The same applies to diseased trees not adequately addressed by a homeowner.

9.3 **Failure of Owner to Maintain Improvements and Lot.** If an Owner fails to maintain landscaping or improvements located on Owner's Lot in accordance with Section 9.2 above, and following a warning by the Association, the Board of Directors may cause the maintenance to be performed pursuant to rules adopted by resolution under Article 9 of the Bylaws. The resolution shall comply with Section 11.2 below and provide that the maintenance may only be performed at reasonable hours on any day except Sunday. All costs incurred by the Association are collectable as an Individual Fine and Assessment pursuant to Article 10 below.

9.4 **Damage or Destruction Due to Act of Owners or Others.** If, due to the act or neglect of an Owner, or a member of the Owner's family or household pet or of a guest or other authorized occupant or visitor of the Owner, damage is caused to Common Property, or if maintenance or, replacements are required which would otherwise be a common expense, then the Owner shall pay for the damage and such maintenance, repairs and replacements as may be determined by the Board of Directors. The amount shall be an assessment against the Lot and the Owner who caused or is responsible for the damage and is collectable as an Individual Assessment pursuant to Article 10 below.

ARTICLE 10 ASSESSMENTS

10.1 Types and Purpose of Assessments.

- (a) **Types of Assessments.** All Owners are obligated to pay the following types of assessments imposed by the Board of Directors on behalf of the Association pursuant to this Declaration and the Bylaws:
 - (1) Annual Assessments levied under Section 10.5 below.
 - (2) Special Assessments levied under Section 10.6 below.
 - (3) Individual Assessments levied under Section 10.7 below.
- (b) **Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and occupants of Dwellings, for the administration, management and operation of the Association and the Planned Community and for any other purposes required or permitted under this Declaration or the Bylaws.
- (c) **Assessments Property of Association.** All sums received on account of assessments, including assessments paid into a reserved account established under Section 11.3 of the Bylaws, belong to and are the property of the Association for the purposes designated under this Declaration and the Bylaws. The sums are not refundable to Owners.

10.2 Obligation of Owners for Assessments.

- (a) **Personal Obligation.** Each assessment, together with interest, late payment charges and collection costs as provided in section 11.6 below are the personal obligation of the Owner of the Lot and subsequent Owners as provided under ORS 94.712.
- (b) **Joint and Several Obligation.** In addition to constituting a lien on the Lot as provided under Section 11.3 below and the Act, each assessment is the joint and

several obligations of the Owner or Owners of the Lot against which the assessment is levied.

(c) **Offsets Prohibited.**

(1) An Owner may not claim an offset against an assessment for failure of the Association to perform its obligations. An Owner may not offset amounts owing or claimed to be owed by the Association to the Owner.

(2) An Owner by the Owner's action may not claim exemption from liability for contribution towards common expenses by waiver of Owner's use or enjoyment of any Common Property or by abandonment by the Owner of the Owner's Lot.

(d) **Voluntary Conveyances.** Except as may be limited by a Statement for Prospective Purchasers described under Section 10.8 below, in a voluntary conveyance of a Lot, the grantee is jointly and severally liable with the grantor for all unpaid assessments against the grantor of the Lot to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amount paid by the grantee.

(e) **Liability When Lot Foreclosed; Deeds in Lieu of Foreclosure.** The liability for assessments when a purchaser obtains title to a Lot as a result of foreclosure of first mortgage or trust deed, or when a deed in lieu of foreclosure is accepted by the holder of a first mortgage or trust deed is governed by the Act.

10.3 **Method of Allocation of Common Expenses and Profits.**

(a) **Association Common Expenses.** Association Common Expenses specified in Section 10.4 below shall be allocated equally among all Lots, except:

(1) To the extent permitted under ORS 94.704, any common expense or any part of a common expense benefitting fewer than all the Lots may be assessed exclusively against the Lots benefitted as an Individual Assessment as provided under Section 10.7 below. Notwithstanding, all common property is held by the Association as a benefit to all Lots.

(2) If the Board of Directors determines that any loss or cost incurred by the Association is the fault of one or more Owners, the Association may assess the loss or cost exclusively against the Owners and Lots of the Owners determined at fault as an Individual Assessment.

(b) **Surplus Funds.** If funds from assessments or other revenues at any time exceed the amount necessary to fund the budget, the Board of Directors may reduce the amount being assessed or apply the surplus to fund future budgets.

- (c) **Allocation of Profits.** Any common profits not governed under Subsection (b) of this section shall be allocated equally among all Lots.

10.4 **Determination of Common Expenses.** Common expenses include, without limitation:

- (a) Expenses of administration of the Association and Planned Community.
- (b) Expenses of maintenance, repair or replacement of Common Property and any other portions of the Planned Community required to be maintained by the Association pursuant to this Declaration or the Bylaws.
- (c) Cost of insurance or bonds obtained in accordance with the Bylaws.
- (d) Funding of the Reserve Account in accordance with Section 11.3 of the Bylaws.
- (e) A general operating reserve if established under Section 11.4 of the Bylaws.
- (f) Any deficit in common expenses for any prior period.
- (g) Any other items properly chargeable as an expense of the Association.

10.5 **Annual Assessments.** Subject to Subsection (e) of this section, the Board of Director shall levy an Annual Assessment based on the budget adopted under Section 10.2 of the Bylaws.

- (a) **Allocation.** Annual Assessment shall be allocated in accordance with Section 10.3 above.
- (b) **Notice of Annual Assessment.** The Board of Directors shall cause notice of Annual Assessments to be given at least thirty (30) days before the assessments are payable under Section 10.6 below. The notice may accompany a copy of the budget summary required under Section 10.8 below.
- (c) **Assessment Limitation.**
 - (1) Assessments levied under this section for the year may not exceed the assessments levied under this section for the prior year by more than ten percent (10%) without a binding vote of a majority of the Owners.
 - (2) Notwithstanding the limitation imposed under Paragraph (1) of this subsection, the budget may exceed the maximum amount of assessments that may be levied under Paragraph (1) of this subsection to the extent surplus funds are available.
- (d) **Payment of Annual Assessments.** Annual Assessments levied under Section 10.5 (a) and (b) above are due on the first day of each year. The Board may

establish a different due date for Annual Assessments and may collect Annual Assessments on an annual, quarterly, or monthly basis.

10.6 **Special Assessments.** The following special assessments may be levied by the Association:

- (a) The Board may approve special assessments for expenses required to fulfill the Association's maintenance, repair and replacement obligations under this Declaration, the Bylaws and the Act.
- (b) In addition to the assessments authorized above, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying all or part of the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the areas maintained by the Owners Association. No such assessment may be levied without the vote or written consent of a majority (representing owners of 62 lots) of the membership. The special assessment shall be made against each Lot on the Property equally.
- (c) Special Assessments levied under this Section for common expenses of a special budget are due and payable as prescribed in a resolution adopted by the Board of Directors.
- (d) For purposes of the Declaration and these Bylaws, the term "Capital Improvement" means the use of Association funds to construct or build a material structural or aesthetic change, where such use of funds is optional under the governing documents, rather than required, and is not otherwise required by law. The maintenance, repair or replacement of improvements within the Common Areas shall not be considered a "Capital Improvement," if:
 - (1) The Association is required to maintain the improvement; and
 - (2) The Association uses materials: 1) of similar kind; 2) that are required, either due to changes in building or fire codes or due to discontinued fabrication or unavailability; or 3) that have a substantially similar or lower cost over the useful life of the material.

10.7 **Individual Assessments.** The Board of Directors may levy Individual Assessments against one or more Lots and Owners as provided in this section.

(a) **Determination of Individual Assessments.** Individual Assessments include:

- (1) Any Association Common Expense Assessment that the Board of Directors determines is the fault of the Owner and not paid by Association insurance;

- (2) Fines or other charges imposed pursuant to this Declaration, the Bylaws or the Act, for violation of this Declaration, the Bylaws or rules and regulations; and
 - (3) Amounts due to the Association from an Owner pursuant to other provisions of this Declaration or the Bylaws.
- (b) **Allocation and Payment.** Unless otherwise provided in this Declaration or a resolution adopted by the Board of Directors, Individual Assessments are:
- (1) Allocated equally against the Owners subject to the Individual Assessment; and
 - (2) Due thirty (30) days after the Board has given written notice of the assessment to the Owners subject to the Individual Assessment.
- (c) **Distribution and Use of Individual Assessments.** Unless otherwise provided by resolution of the Board of Directors, fines, late charges, interest and other fees collected shall be allocated to the General Operating Account described under the Bylaws.

10.8 **Budget Summary; Statement of Assessments.**

- (a) **Statement of Assessments Payable.** The Board of Directors shall advise each Owner in writing of the amount of assessments payable by the Owner in accordance with Section 10.5 and 10.7 above. The Board shall promptly provide any Owner who makes a request in writing with a written statement of the Owner's unpaid assessments.
- (b) **Budget Summary.** Within thirty (30) days after adopting the annual budget, an amended budget or a special budget under Section 10.2 of the Bylaws, the Board of Directors shall provide a summary of the budget on which assessments are based to all Owners and, if requested in writing, to the Owner's mortgagee.
- (c) **Statement of Assessment Account.**
- (1) Subject to Paragraph (2) of this subsection, in accordance with ORS 94.670, within ten (10) business days of receipt of a written request by an Owner, the Board of Directors shall provide a Statement of Assessment Account that contains the information specified in ORS 94.670.
 - (2) The Association is not required to comply with Paragraph (1) of this subsection if the Association has commenced litigation.
- (d) **Statement for Prospective Purchasers.** In accordance with ORS 94.712, upon request of an Owner or Owner's agent, for the benefit of a prospective purchaser,

the Board of Directors shall make and deliver a written statement of the unpaid assessments against the prospective grantor or the Lot effective through a date specified in the statement, and the grantee in that case is not liable for any unpaid assessments against the grantor not included in the written statement.

- (e) **Fee for Providing Information.** Pursuant to rules adopted under Article 9 of the Bylaws, the Association may charge a fee for providing the information required under subsections (c) and (d) of this section.

ARTICLE 11 COMPLIANCE AND ENFORCEMENT

11.1 Compliance.

- (a) **Owners, Occupants and Tenants.** Each Owner and occupant (including Tenants) of a Lot shall comply with the provisions of this Declaration, the Bylaws and the rules and regulations and the Act. The Owner is responsible for obtaining the compliance by an occupant of the Lot and is liable for any failure of compliance by the persons occupying the Lot in the same manner and to the same extent were the Owner occupying the Lot.
- (b) **Guests and Other Invitees.** Guests, invitees, family members, contractors and other persons entering the Lot or other part of Sun Oaks under rights derived from the Owner shall comply with all the provisions of this Declaration, the Bylaws and rules and regulations restricting or regulating the Owner's use, improvement or enjoyment of Owner's Lot or other part of Sun Oaks. The Owner is responsible for obtaining compliance and is liable for any failure of compliance by the persons in the same manner and to the same extent were the noncompliance by the Owner.
- (c) **Joint Owners.** When two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of the persons to comply with this Declaration and the Bylaws and any rules and regulations adopted pursuant to the documents is a joint and several responsibility and the act or consent of any one or more of the persons constitutes the act or consent of the entire ownership interest. A disagreement among joint Owners as to the manner in which any vote or right of consent held by them is to be exercised with respect to a pending matter is governed by Section 3.6 of the Bylaws.

- 11.2 **Violations of Declaration or Bylaws.** The violation of any provision of this Declaration or of the Bylaws or rule or regulation gives the Board of Directors, subject to Section 11.8 below, acting on behalf of the Association, the right in addition to any other rights set forth in this Declaration or the Bylaws, to do any or all of the following after giving notice to the Owner and an opportunity to be heard:

- (a) To enter the Lot in which or as to which the violation exists and to summarily abate and remove, at the expense of the Owner, any structure, thing, or condition that may exist therein contrary to the intent and meaning of the provisions of the documents stated in this section, and the Board of Directors may not thereby be deemed guilty of any manner of trespass;
- (b) To enjoin, abate, or remedy such thing or condition by appropriate legal proceedings;
- (c) To levy reasonable fines accordance with ORS 94.630(1)(n);
- (d) Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration, the Bylaws and any rules and regulations; and
- (e) To do any of the action specified in this section in conjunction with each other.

11.3 **Default in Payment of Assessments; Enforcement of Lien.** If an assessment levied by the Association is not paid within thirty (30) days after its due date (which, unless otherwise specified in this Declaration or Bylaws, shall be established by resolution of the Board of Directors), the assessment is delinquent and is subject to interest, late payment charges and collection costs as set forth in Section 11.6 below. In addition, the Association may exercise any or all of the following remedies:

- (a) **Acceleration of Assessment.** If any assessment or any portion of any assessment is delinquent, the Board may, after ten (10) days written notice to the Owner, declare all assessments of the Owner due immediately and interest thereafter accrues as provided under Section 11.6 below on the entire assessment until paid.
- (b) **Association Lien.**
 - (1) Whenever the Association levies any assessment against a Lot, the Association automatically has a lien upon the Lot for any unpaid assessments as provided in ORS under the Act. No further recording of a claim of lien for assessments or notice of a claim of lien is required to perfect the Association's lien.
 - (2) At any time any assessment or installment thereof is delinquent, the Association, by and through the Board of Directors or any management agent, may record a notice of lien in the Deed Records of Jackson County, Oregon. The notice of lien shall be in the form and include the information specified in under the Act. The Association must record a notice of lien before any suit to foreclosure may proceed as provided in Subsection (c) of this section.

- (c) **Foreclosure of Lien.** The Association, by and through the Board of Directors may file a suit to foreclose the lien, notice of which was recorded as provided in Subsection (b) of this section, as provided under the Act.
 - (d) **Suit or Action.** Subject Section to 11.8 below, the Association may bring an action to recover a money judgment for unpaid assessments under this Declaration or the Bylaws without foreclosing or waiving the lien described in Subsection (b) of this section. Recovery on any such action, however, operates to satisfy the lien, or the portion thereof, for which recovery is made.
 - (e) **Other Remedies.** The Association has any other remedy available to it by law or in equity.
- 11.4 **Priority of Lien; Prior Mortgages.** The priority of the lien of the Association against a Lot for assessments is governed by the Act.
- 11.5 **Deeds in Lieu of Foreclosure.** A deed in lieu of foreclosure accepted by the holder of a first mortgage or beneficiary of a first deed of trust in respect to a Lot has the effect specified in the Act.
- 11.6 **Interest, Late Payment Charge and Collection Costs.** If any assessment imposed or levied by the Association pursuant to the provisions of this Declaration, the Bylaws or the Act is not paid within thirty (30) days after its due date, the assessment is delinquent and the Owner is obligated to pay:
- (a) Interest from the due date of the assessment, or such other date as may be specified by resolution of the Board, at the rate of twelve percent (12%) per annum or at such other rate, not to exceed the maximum lawful rate, if any, as may be established by a resolution of the Board of Directors, from time to time.
 - (b) A late charge of twenty-five percent (25%) of the unpaid assessment, or such lower amount as may be established by resolution of the Board of Directors.
 - (c) All expenses incurred by the Association in collecting unpaid assessments including, without limitation:
 - (1) Attorney fees incurred by the Association (whether or not legal proceedings are instituted and including attorney fees at trial, in arbitration or on appeal, or petition for review).
 - (2) If a notice of lien is recorded under Section 11.3(b) above, the costs associated with the preparation and recording of the notice of lien.
- 11.7 **Costs and Fees.** An Owner determined liable under this article is responsible to the Association for any reasonable administrative fee as established by the Board of Directors, and all costs and attorney fees incurred by the Association, whether or not

legal proceedings are instituted and including attorney fees at trial, in arbitration or on appeal, or petition for review, together with any expense incurred by the Association in remedying the default, damage incurred by the Association or Owners, or fines so levied. The sums shall be levied against the Lot determined liable as an Individual Assessment under Section 10.7 above and enforced as provided in this article.

11.8 **Disputes between Association and Owners.** Litigation and administrative proceedings in which the Association and an Owner have an adversarial relationship are subject to ORS 94.630(4).

11.9 **Disputes among Owners.**

(a) **Referral to Board of Directors.** Any dispute among Owners concerning the provisions of this Declaration, the Bylaws or any rule or regulation may be referred in writing by both parties to the Board of Directors for resolution.

(b) **Action by Board.** The Board of Directors, in its sole discretion, has the option to hear the dispute or to decline to hear the dispute. The Board's decision not to hear a dispute is effective either upon written notice to the Owners involved or if no notice is given by the Board, thirty (30) days after receipt by the Board of the written referral. If the Board chooses to hear the dispute, any decision by the Board is binding upon the parties.

11.10 **Action by Owners.** Subject to Section 11.8 above, an aggrieved Owner may bring an action against another Owner or the Association to recover damages or to enjoin, abate or remedy such thing or condition by appropriate legal proceedings.

11.11 **Non-exclusiveness and Accumulation of Remedies.** An election by the Association to pursue any remedy provided for violation of this Declaration or the Bylaws does not prevent concurrent or subsequent exercise of any remedy permitted under this Declaration or the Bylaws. The remedies provided in this Declaration are not exclusive but are in addition to all other remedies, including actions for damages and suits for injunctions and specific performance available under

ARTICLE 12 AMENDMENT AND DURATION

12.1 **How Proposed.** Amendments to the Declaration may only be proposed by either a majority of the Board of Directors or by Owners representing at least thirty percent (30%) (representing owners of 37 lots) of the voting rights delivering the proposed amendment to the Board for presentation to the 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.

12.2 **Approval Required.** Except as otherwise provided in Section 12.3 below or by other provisions of this Declaration or by the 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 Planned Community (which represents owners holding 92 lots).

12.3 Additional Approval Requirements.

- (a) 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 7.1 above.
 - (2) The method of determining liability for Association Common Expenses or right to revenues under Section 10.3 above.
 - (3) The method of determining voting rights for Association matters under Section 5.3 above.
- (b) Any amendment to Section 4.6(c) above requires the approval of the City of Medford.

12.4 Execution and Recording. An amendment is not effective until the amendment is:

- (a) Executed and acknowledged by the president and secretary of the Association;
- (b) Certified by the president and secretary of the Association as being adopted in accordance with this Declaration and the applicable provisions of the Act; and
- (c) Recorded in the office of the recording officer of Jackson County, Oregon.

12.5 Duration.

- (a) This Declaration perpetually runs with the land and is and remains in full force and effect until July 29, 2021, after which the Declaration shall automatically be extended for successive periods of ten (10) years.
- (b) This Declaration may be terminated upon approval by the vote or written consent of not less than ninety percent (90%) (representing owners of 111 lots) of all Owners and the approval of the City of Medford. Any termination becomes effective only if a certificate signed by the president and secretary of the Association, certifying that termination as of a specified termination date has been approved in the manner required in this section, is duly acknowledged and recorded in the office of the recording officer of Jackson County, Oregon.

**ARTICLE 13
MORTGAGEES**

13.1 **Mortgagee Rights.** Each mortgagee has the following rights:

- (a) **Right to Examine Books and Records.** All mortgagees have the right to examine the books and records of the Association or the Planned Community upon reasonable notice and at reasonable times.
- (b) **Right to Annual Reports.** All mortgagees, upon written request, are entitled to receive an annual financial statement of the Association within ninety (90) days following the end of any fiscal year of the Association.
- (c) **Right to Receive Written Notice of Meetings.** The Association shall give all mortgagees, upon written request, written notice of all meetings of the Association, and mortgagees are permitted to designate a representative to attend all meetings.

13.2 **Request for Approval of Mortgagees.** Any mortgagee that receives a written request to approve amendments to the Declaration or Bylaws, or any other action to be taken by the Board of Directors, the Association or Owners, is considered to have given the approval unless the mortgagee delivers or posts a negative response within sixty (60) days after receipt of the request.

ARTICLE 14 GENERAL PROVISIONS

14.1 **Severability; Number; Construction; Captions.**

- (a) **Severability.** The invalidity of any part of this Declaration by judgment or court order does not impair or affect in any manner the validity, enforceability or effect of the balance of this Declaration.
- (b) **Number; Construction.** As used in this Declaration:
 - (1) The singular includes the plural and the plural the singular as the context requires.
 - (2) “May not” and “shall not” are equivalent expressions of an absolute prohibition.
 - (3) The masculine, feminine and neuter each include the masculine, feminine, and neuter, as the context requires.
- (c) **Liberaly Construed.** This Declaration shall be liberaly construed as an entire document to effectuate the intended purposes.

- (d) **Captions.** All captions used in this Declaration are intended solely for convenience of reference and in no way limit any of the provisions of this Declaration.
- 14.2 **Waiver, Precedent and Estoppel.** No restriction, condition, obligation or provision contained in this Declaration, the Bylaws or rules and regulations may be deemed to have been abrogated or waived by the Association or any Owner by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same may not be deemed to constitute precedent or estoppel impairing the right of the Association or Owner as to any similar matter.
- 14.3 **Statutory References.** References to a specific state statute include reference to any legislation amending that statute.
- 14.4 **Effect of Municipal Ordinances.** Police, fire and other public safety ordinances of any municipal corporation having jurisdiction over any portion of the Properties govern where more restrictive than the provisions of this Declaration.
- 14.5 **Conflicts.** Subject to ORS 94.770, if a conflict arises between or among the provisions of this Declaration, the Articles of Incorporation, the Bylaws, and any rules and regulations, the provisions of the Declaration are paramount to those of the Articles, the Bylaws, and the rules and regulations; the Articles of Incorporation are paramount to the Bylaws and the rules and regulations and those of the Bylaws are paramount to the rules and regulations, except to the extent the Declaration, Bylaws and Articles of Incorporation are inconsistent with the Act.

EXHIBIT A
LEGAL DESCRIPTION

The following property is subject to the foregoing Declaration:

SUN OAKS, PHASE 1, City of Medford, County of Jackson, State of Oregon

SUN OAKS, PHASE 2, City of Medford, County of Jackson, State of Oregon

SUN OAKS, PHASES 3 AND 4, City of Medford, County of Jackson, State of Oregon

CERTIFICATION

The undersigned Chairperson and Secretary of Sun Oaks Homeowners Association, Inc., an Oregon nonprofit corporation, hereby certify that the 2020 Amended and Restated Declaration of Covenants, Conditions and Restrictions for Sun Oaks has been adopted in accordance with Section 7.9 of the 2005 Restated Declaration and ORS 94.590.

Sun Oaks Homeowners Association,

By: Mary Kathleen Swartz

Chairperson

STATE OF OREGON)

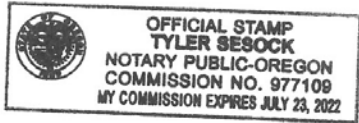
) ss.

County of Jackson)

The foregoing instrument was acknowledged before me this 15th July day of ~~February~~, 2020, MARY KATHLEEN SWARTZ, Chairperson of Sun Oaks Homeowners Association, an Oregon nonprofit corporation, on its behalf.

[Signature]
Notary Public for Oregon

My Commission Expires: July 23 2022



Sun Oaks Homeowners Association

By: Yvonne Endrikat

Secretary

STATE OF OREGON)

) ss.

County of Jackson)

The foregoing instrument was acknowledged before me this 15th July day of ~~February~~, 2020, YVONNE ENDRIKAT, Secretary of Sun Oaks Homeowners Association, an Oregon nonprofit corporation, on its behalf.

[Signature]
Notary Public for Oregon

Notary Public for Oregon

My Commission Expires: July 23 2022

