

After recording return to:  
Green Intentions LLC  
PO Box 1562  
Bend, OR 97709



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## DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR SAGINAW SUNSET

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR SAGINAW SUNSET ("Declaration") is made by GREEN INTENTIONS, LLC, an Oregon Limited Liability Company ("Declarant").

### RECITALS

18 Declarant is the owner of all the real property and improvements thereon located in Deschutes County, Oregon, described as follows (the "Property"):

Lots 1 through 20 of SAGINAW SUNSET, Deschutes County, Oregon.

Declarant intends to develop Saginaw Sunset as a single family residential subdivision. Declarant intends to impose these mutually beneficial covenants, conditions, restrictions, easements, assessments, and liens on the Property, under an integrated general plan of improvement and development for the benefit of all Lots.

NOW THEREFORE, Declarant declares that the Property shall be held, transferred, sold, conveyed, and occupied subject to the following covenants, conditions, restrictions, easements, charges and liens, which shall run with the land, which shall be binding on all parties having or acquiring any right, title, or interest in the Property or any part thereof, and which shall inure to the benefit of the Association and of each Owner.

### ARTICLE I. DEFINITIONS

1.1 *Architectural Review Committee* or "ARC" shall refer to that committee constituted and acting pursuant to this Declaration.

1.2 *Association* shall mean the Saginaw Sunset Homeowners' Association, an Oregon nonprofit corporation, and its successors and assigns.

1.3 *Board* shall mean the Board of Directors of the Association.

**1.4** *Common Area* shall mean those areas of land shown or declared as such in any recorded Subdivision plat of the Properties and intended to be devoted to the common use and enjoyment of the Owners of the Properties.

**1.5** *Declaration* shall mean the covenants, conditions, restrictions, and all other provisions set forth in this Declaration.

**1.6** *Declarant* shall mean and refer to Green Intentions LLC, an Oregon Limited Liability Company, and its successors or assigns, or any successor or assign to all or the remainder of its interest in the Property.

**1.7** *Home* shall mean and refer to each and any portion of a structure situated on a Lot and designed and intended for use and occupancy as a residence by a single family or household.

**1.8** *Lot* shall mean and refer to each and any of Lots 1 through 20 and/or any legally subdivided lot or portion thereof.

**1.9** *Members* shall mean and refer to the Owners of Lots in Saginaw Sunset subdivision.

**1.10** *Occupant* shall mean and refer to the occupant of a Home, whether such person is an Owner, a lessee, or any other person authorized by the Owner to occupy the Home.

**1.11** *Owner* shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or a purchaser in possession of a Lot under a land sale contract. The foregoing does not include persons or entities that hold an interest in any Lot merely as security for the performance of an obligation.

**1.12** *Plat* shall mean and refer to the Plat of Saginaw Sunset recorded in the plat Records of Deschutes County, Oregon, at Book 2014, Pages 15863, on May 20, 2014.

**1.13** *Property* shall have the meaning attributed to such term in the Recitals of this Declaration.

**1.14** *Rules and Regulations* shall mean and refer to the documents containing rules and regulations and policies adopted by the Board or the Architectural Review Committee, as may be from time to time amended.

**1.15** *Street* shall mean the interior road(s) and cul de sacs shown on the recorded plat of the Property.

## **ARTICLE 2. PROPERTY SUBJECT TO THIS DECLARATION**

**2.1 Description of Property Subject To This Declaration.** The development of Saginaw Sunset subdivision shall consist of the Property, which shall be held, transferred, sold, conveyed, occupied and developed subject to this Declaration.

## **ARTICLE 3. OWNERSHIP AND EASEMENTS**

**3.1 Ownership of Lots.** Title to each Lot in Saginaw Sunset shall be conveyed in fee to an Owner. If more than one person and/or entity owns an undivided interest in the same Lot, such persons and/or entities shall constitute one Owner.

**3.2 Easements.** Individual deeds to Lots may, but shall not be required to, set forth the easements specified in this Article.

**3.2.1 Easements on Plat.** The Lots are subject to the easements and rights-of-way shown of the Plat.

**3.2.2 Easements Reserved by Declarant.** As long as Declarant owns any Lot, Declarant reserves an easement over, under, and across the Lot in order to carry out construction activity for the development of Lots, and/ or sales activities necessary or convenient for the sale of Lots.

**3.3 Declarant's Right to Grant Easements; Board's Authority After Title Transferred to Association.** Declarant reserves the right and power to dedicate and convey any portion of the property to any governmental body or agency and reserves the right to grant an easement over the property to any governmental body or agency or any public or private utility company or provider. Declarant's rights and powers under this section shall expire upon the transfer of the last Lot owned by Declarant.

**3.4 Streets, Sidewalks, and Drainage Facilities.** As shown on the Plat, the Property and Lots shall be served by private internal streets, cul-de-sacs, sidewalks and drainage facilities that will be owned and maintained by the Saginaw Sunset Homeowners Association.

## **ARTICLE 4. LOTS AND HOMES**

**4.1 Residential Use.** Lots shall only be used for residential purposes. Except with the Board's consent no trade, craft, business, occupational or commercial use, or similar activity of any kind, including but not limited to short-term or vacation rental activity, shall be conducted on any Lot, and no goods, equipment, vehicles, materials, or supplies used in connection with any trade, service, or business shall be kept or stored on any Lot. Nothing in this Section

4.1 shall be deemed to prohibit (a) activities relating to the sale of residences, (b) the right of Declarant or any contractor or homebuilder to improve or construct residences on any Lot, to store construction materials and equipment on such Lots in the normal course of construction, and to use any residence as a sales office or model home for purposes of sales in Saginaw Sunset, and (c) the right of the Owner of a Lot to maintain such Owner's personal business or professional library, keep such Owner's personal business or professional records or accounts, handle such Owner's personal business or professional telephone calls, or confer with business or professional associates, clients, or customers in such Owner's residence. The Board shall not approve commercial activities otherwise prohibited by this Section 4.1 unless the Board determines that only normal residential activities would be observable outside of the residence and that the activities would not be in violation of applicable local government ordinances.

**4.2 Maintenance of Lots and Homes.** Each Owner shall maintain such Owner's Lot and all improvements thereon in a clean and attractive condition, in good repair, and in such fashion as not to create a fire hazard. Such maintenance shall include, without limitation, maintenance of windows, doors, garage doors, walks, patios, chimneys, and other exterior improvements and glass surfaces. All repainting or restaining and exterior remodeling shall be subject to prior review and approval by the ARC. Each Owner shall repair damage caused to such Owner's Lot or improvements located thereon by fire, flood, storm, earthquake, riot, vandalism, or other causes within a reasonable period. Insurance purchased by the Association may be used to pay for such repairs, subject to the Association's Board of Directors' right to adjust the losses with the Association's insurance carrier.

**4.3 Home Construction.** All homes shall meet the following conditions:

**4.3.1 Height.** All buildings shall be no more than two stories above ground-level but in any event shall not exceed thirty-five (35) feet.

**4.3.2 Site Built.** All such buildings shall be built on-site. Manufactured homes and manufactured dwellings shall not be placed upon any lot.

**4.3.3 Parking.** Each residence and site must provide for on-site, off-street parking for a minimum of two (2) automobiles. Garages shall not be converted to or used as living space. Parking shall be prohibited at all times on the private streets and cul-de-sacs.

**4.3.4 ARC Approval.** The design for the landscaping of each Lot and the construction of each residence or part thereof must be approved by the ARC before such landscaping or construction may commence.

**4.4 Garages and Other Accessory Buildings.** Each inter-related structure shall be reasonably consistent with all other structures. The design for the construction of any Garage or other accessory building or structure of any kind, including but not limited to sheds, carports, canopies, boat shelters, or portable storage units must be approved by the ARC prior to the commencement of construction, placement or installation.

**4.5 Building Character and Color.** Garish and unusual architecture and colors or materials in strong contrast to neighboring buildings will not be acceptable. Finishing materials and colors shall be approved by the ARC. Roof overhangs shall be a minimum of one (1) foot.

**4.6 Clotheslines.** Clotheslines may be allowed, subject to ARC approval.

**4.7 Animals.** No animals or livestock of any kind, other than a reasonable number of household pets that are not kept, bred, or raised for commercial purposes and that are reasonably controlled so as not to be a nuisance, shall be raised, bred, kept, or permitted within any Lot. Poultry may be allowed, with ARC approval, so long as confined to an ARC-approved coop and subject to any applicable municipal or local ordinance. Owners whose pets cause any inconvenience or unpleasantness to other Owners shall take all steps reasonably necessary to prevent recurrence thereof and Owners whose pets damage other Owners' Lots or personal property shall reimburse such other Owners for reasonable costs actually incurred by such other Owners in repairing such damage. An Owner shall ensure that such Owner's dog is leashed when on the Property and outside of such Owner's Lot. An Owner may be required to remove a pet on the receipt of the third notice in writing from the Board of a violation of any rule, regulation, or restriction governing pets within the Property.

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

**4.9 Parking.** Boats, trailers, commercial vehicles, mobile homes, campers, and other recreational vehicles or equipment, shall not be parked on any streets or cul-de-sacs on or adjacent to the property at any time for any reason, including loading or unloading and may not be parked on any lot for more than twenty-four hours (24) or such other period as may be permitted by the Association Rules and Regulations. The garage on each Lot shall be used to park the occupant's primary passenger vehicle, and for no other purpose.

**4.10 Vehicles in Disrepair.** No Owner shall permit any vehicle that is in a state of disrepair or that is not currently licensed to be abandoned or to remain parked on the Common Area or on any street on or adjacent to the Property at

any time and may not permit them on a Lot for a period in excess of 48 hours. A vehicle shall be deemed in a "state of disrepair" when the Board reasonably determines that its presence offends or bothers the occupants of the neighborhood. If an Owner fails to remove such vehicle within five days following the date on which the Association mails or delivers to such Owner a notice directing such removal, the Association may have the vehicle removed from the Property and charge the expense of such removal to the Owner as a Reimbursement Assessment, which may be collected and enforced as any other assessments imposed pursuant to the Declaration and Bylaws.

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

**4.12 Rubbish and Trash.** No Lot shall be used as a dumping ground for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate containers for proper disposal and out of public view. If an Owner fails to remove any trash, rubbish, garbage, yard rakings, or any similar materials from any Lot, any streets, or the Common Area where deposited by such Owner or the Occupants of such Owner's Lot after notice has been given by the Board to the Owner, the Association may have such materials removed and charge the expense of such removal to the Owner. Such charge shall constitute a Reimbursement Assessment, which may be collected and enforced as any other assessments imposed pursuant to the Declaration and Bylaws.

**4.13 Fences and Hedges.** No fences or boundary hedges shall be installed or replaced without prior written approval of the ARC. A good neighbor fence may be constructed on the side and rear yards subject to ARC approval, but may not be extended or exposed to frontage on any Lot.

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

**4.15 Antennas and Satellite Dishes.** Except as otherwise provided by law or this section, no exterior antennas, satellite dishes, microwave, aerial, tower, or other devices for the transmission or reception of television, radio, or

other forms of sound or electromagnetic radiation shall be erected, constructed, or placed on any Lot. With prior written consent from the ARC, exterior satellite dishes or antennas with a surface diameter of 18 inches or less and antennas designed to receive television broadcast signals only may be placed on any Lot if they are not visible from the street and are screened from neighboring Lots. The Board or ARC may adopt reasonable rules and regulations governing the installation, safety, placement, and screening of such antennas, satellite dishes, and other transmission devices. Such rules shall not unreasonably delay or increase the cost of installation, maintenance, or use or preclude reception of a signal of acceptable quality. (The ARC, in its sole discretion, may determine what constitutes a signal of acceptable quality.) Such rules may prohibit installation of exterior satellite dishes or antennas if signals of acceptable quality can be received by placing antennas inside a Home without causing an unreasonable delay or cost increase.

**4.16 Exterior Lighting or Noise-making Devices.** All exterior lighting shall be covered so that no light is cast onto neighboring property. Except with the consent of the ARC noise-making devices, other than security and fire alarms, shall not be installed or maintained on any Lot.

**4.17 Association Rules and Regulations.** The Board from time to time may adopt, modify, or revoke such Rules and Regulations governing the conduct of persons and the operation and use of Lots as it may deem necessary or appropriate to assure the peaceful and orderly use and enjoyment of the Property and the administration and operation of the Association. A copy of the Rules and Regulations, upon adoption, and a copy of each amendment, modification, or revocation thereof, shall be delivered by the Board promptly to each Owner and shall be binding upon all Owners and occupants of all Lots on the date of delivery or actual notice thereof. The method of adoption of such Rules and Regulations shall be provided in the Bylaws of the Association. Subject to the Board's approval or consent, the ARC may adopt rules and regulations pertinent to its functions.

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

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## **ARTICLE 5. ARCHITECTURAL REVIEW COMMITTEE**

**5.1 Architectural Review.** After initial construction of the residence by Declarant, no improvement shall be commenced, erected, placed, or altered on any Lot until the construction plans and specifications showing the nature, shape, heights, materials, colors, and proposed location of the improvement have been submitted to and approved in writing by the ARC. This Article's purpose is to assure quality of workmanship and materials and harmony between exterior design and the existing improvements and landscaping and as to location with respect to topography and finished grade elevations. The ARC shall not be responsible for determining compliance with structural and building codes, solar ordinances, zoning codes, or other governmental regulations, all of which are the applicant's responsibility. The procedure and specific requirements for review and approval of construction may be set forth in design guidelines and standards adopted from time to time by the ARC. The provisions of this Article shall apply in all instances in which this Declaration requires the ARC's consent.

**5.2 Architectural Review Committee, Appointment and Removal.** Declarant reserves the right to appoint all members of the ARC and all replacements thereto until Saginaw Sunset is 100% built out. The ARC shall consist of no fewer than three members and no more than five members. Each ARC member shall serve for one year terms. After build-out, Declarant shall assign to the Board the right to appoint and remove members of the ARC. The Board may appoint itself as the ARC or any of its members to the ARC. If an ARC has not been appointed, the Board shall serve as the ARC.

**5.3 Majority Action.** Except as otherwise provided in this Declaration, a majority of the members of the ARC shall have the power to act on behalf of the ARC, without the necessity of a meeting and without the necessity of consulting the remaining member or members of the ARC. The ARC may render its decision only by written instrument setting forth the action taken by the members consenting thereto.

**5.4 Duties.** The ARC shall consider and act on the proposals and/or plans submitted pursuant to this Article. The ARC, from time to time and at its sole discretion, may adopt architectural rules, regulations, and guidelines ("Architectural Standards"). The Architectural Standards shall interpret and implement the provisions of this Declaration for architectural review and guidelines for architectural design, placement of buildings, color schemes, exterior finishes and materials, and similar features that may be used in Saginaw Sunset; provided, however, that the Architectural Standards shall not be in derogation of the minimum standards established by this Declaration.

**5.5 ARC Decision.** The ARC shall render its written decision approving or denying each application submitted to it within 15 working days after its receipt of all materials required with respect to such application. If the ARC fails to



render such written decision within 30 days of its receipt of all required materials or request an extension, the application shall be deemed approved. The ARC shall be entitled to request one or more extensions of time, not to exceed 45 days. In the event of such extension requests, if the ARC does not render a written decision within 15 days after the expiration of the extension(s), the application shall be deemed approved. Provided, however, the applicant may agree to further extensions to allow the applicant to complete or supplement the application.

**5.6 ARC Discretion.** The ARC, at its sole discretion, may withhold consent to any proposed work if the ARC finds the proposed work would be inappropriate for the particular Lot or incompatible with the design standards that the ARC intends for Saginaw Sunset. The ARC may consider siting, shape, size, color, design, height, solar access, or other effect on the enjoyment of other Lots or the Common Area, and any other factors that it reasonably believes to be relevant in determining whether or not to consent to any proposed work.

**5.7 Non-waiver.** Consent by the ARC to any matter proposed to it or within its jurisdiction shall not be deemed to constitute precedent or waiver impairing its right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.

**5.8 Appeal.** Any Owner adversely impacted by ARC action may appeal such action to the Board. Such appealing Owner shall submit to the Board a written notice of appeal, setting forth specific objections or mitigating circumstances justifying the appeal, within 10 days after the ARC's action. The Board shall issue a final, conclusive decision within 45 days after receipt of such notice, and such decision shall be final and binding on the appealing Owner and the ARC. Provided, however, the Board shall make reasonable efforts to reach a decision within 20 days. If the Board is serving as the ARC, then such appeal shall be deemed a request for reconsideration.

**5.9 Effective Period of Consent.** The ARC's consent to any proposed work shall automatically expire three months after issuance unless construction of the project has been commenced or the Owner has applied for and received an extension of time from the ARC.

**5.10 Determination of Compliance.** The ARC may inspect, from time to time, all work performed and determine whether it is in substantial compliance with the approval granted. If the ARC finds that the work was not performed in substantial conformance with the approval granted, or if the ARC finds that the approval required was not obtained, the ARC shall notify the Owner in writing of the noncompliance. The notice shall specify the particulars of noncompliance and shall require the Owner to remedy the noncompliance.

**5.11 Noncompliance.** If the ARC determines that an Owner has not constructed an improvement consistent with the specifications of an ARC approval or has constructed an improvement without obtaining ARC approval, sends a notice of noncompliance to such Owner, and such Owner fails to commence diligently remedying such noncompliance in accordance with such notice, then, effective at 5:00 p.m. on the third day after issuance of such notice, the ARC shall provide notice of a hearing to consider the Owner's continuing noncompliance. The hearing shall be set not more than 30 days from the date on which the notice of noncompliance was issued. At the hearing, if the ARC finds that there is no valid reason for the continuing noncompliance, the ARC shall determine the estimated costs of achieving compliance and may issue a fine against the noncomplying Owner for such amount. The ARC also shall require the Owner to remedy such noncompliance within 10 days after the date of the ARC's determination. If the Owner does not comply with the ARC's ruling within such period or any extension thereof granted by the ARC, at its sole discretion, the ARC may remove the noncomplying improvement, remedy the noncompliance, and/or record a notice of noncompliance in the county deed records. The costs of any such action shall be assessed against the Owner as a Reimbursement Assessment either before or after any remedial action is taken.

**5.12 Liability.** Neither the ARC nor any member thereof shall be liable to any Owner, Occupant, for any damage, loss, or prejudice suffered or claimed on account of any action or failure to act of the ARC or a member thereof, provided only that the ARC or the member has, in accordance with its or his or her actual knowledge, acted in good faith. The Association shall indemnify each member of the ARC from any loss or action taken against such member arising out of the member's actions in the course and scope of serving on the ARC.

**5.13 Estoppel Certificate.** Within 15 working days after the ARC's receipt of a written request from an Owner and the ARC's receipt of payment of a reasonable fee fixed by the ARC to cover costs, the ARC shall provide such Owner with a certificate executed by the Chairperson or other authorized member of the ARC certifying with respect to any Lot owned by the Owner, that, as of the date thereof either (a) all improvements made or done upon such Lot comply with this Declaration, or (b) such improvements do not so comply, in which event, the certificate shall also identify the noncomplying improvements and set forth with particularity the nature of such noncompliance. The Owner and such Owner's heirs, devisees, successors, and assigns shall be entitled to rely on the certificate with respect to the matters set forth therein. The certificate shall be conclusive as among Declarant, the ARC, the Association, all Owners, and all persons deriving any interest through any of them.

## **ARTICLE 6. MEMBERSHIP IN THE ASSOCIATION**

**6.1 Members.** Each Owner shall be a member of the Association. Membership in the Association shall be appurtenant to, and may not be

separated from, ownership of any Lot. Transfer of ownership of a Lot shall automatically transfer membership in the Association. Without any other act or acknowledgment, Occupants and Owners shall be governed and controlled by this Declaration, the Articles, Bylaws, and the Rules and Regulations of the Association and any amendments thereof.

**6.2 Proxy.** Each Owner may cast such Owner's vote in person, by written ballot, or pursuant to a proxy executed by such Owner. An Owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy shall not be valid if it is undated or purports to be revocable without notice. A proxy shall terminate one year after its date, unless the proxy specifies a shorter term.

**6.3 Voting Rights.** Except as described in Article 8, all owners of lots shall be entitled to one combined vote for each lot owned with respect to all matters in which owners are entitled to vote.

**6.4 Procedure.** All meetings of the Association, the Board, the ARC, and Association committees shall be conducted with such rules of order as may from time to time be adopted by the Board. Notwithstanding which rule of order is adopted, the President shall be entitled to vote on all matters, not merely to break a tie vote. A tie vote does not constitute a majority or approval of any motion or resolution.

## **ARTICLE 7. DECLARANT CONTROL**

**7.1 Interim Administration Controlled By Declarant.** Declarant hereby reserves all administrative control over the Association and shall serve as its Board until Declarant no longer owns a lot within the Property. Declarant shall turn over administrative control at a Turnover Meeting within sixty (60) days of the date upon which owner no longer owns a Lot within the Property, or when Declarant elects to terminate.

## **ARTICLE 8. FUNDS AND ASSESSMENTS**

**8.1 Basis for Assessments; Expenses.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, aesthetics, and welfare of the Owners and Occupants of Saginaw Sunset.

**8.2 Method of Assessment.** The Board of Directors shall determine all assessments allowed or called for under these CCRs. Unless otherwise noted, all assessments shall be fixed at a uniform rate per Lot for all Lots. The Board shall set the date such assessments shall become due. The Board may approve a budget for projected expenses under this Article and assess each owner in advance for such expenses. The Board may provide for collection of

assessments annually or in monthly, quarterly or semi-annual installments; provided, however, upon the default in the payment by Owner of any one or more installments, the entire balance of such assessment may be accelerated at the option of the Board and be declared due and payable in full, together with interest, attorneys fees and costs as provided. Any assessment may also include any deficit amounts for any expenses for any prior period that could have been levied as an Assessment under this Article.

**8.3 Covenants to Pay.** Declarant and each Owner covenant and agree to pay the Association the assessments and any additional charges levied pursuant to this Declaration. The Association may levy the assessments called for by this Article in one single cumulative assessment, or it may separately levy and itemize the assessments.

**8.4 Administrative, Maintenance, and Special Assessments.**

**8.4.1 Administrative Assessments.** Each Owner of any Lot shall pay the Association administrative assessments for each Lot owned as provided in this Declaration to pay for expenses of administration. Such expenses may include, but are not limited to, the costs of any professional services such as management or bookkeeping services procured by the Board of Directors to carry out its duties under these CCRs, and for any other items properly chargeable as an expense of the Association.

**8.4.2 Maintenance Assessments.** Each Owner of any Lot shall pay the Association maintenance assessments for each Lot owned as provided in this Declaration to pay for the upkeep, maintenance and replacement of any and all common areas, private streets, cul-de-sacs and sidewalks, and drainage facilities. Maintenance assessments may be levied for the costs of any utilities used for common areas or that have a common meter or that are commonly billed. Maintenance assessments may also be levied for the cost of any insurance or bond premium to guarantee any maintenance obligations under these CCRs.

**8.4.3 Special Assessments.** The Board of Directors shall have the power to levy special assessments against an Owner or all Owners to correct a deficit in the operating budget; to collect amounts due to the Association from an Owner for breach of the Owner's obligations under the Declaration, these Bylaws, or the Association's Rules and Regulations, by vote of a Majority of the Board; To make necessary repairs, renovations or replacements of the Private Streets, Cul-de-Sacs, Sidewalks, drainage facilities or common areas; to make capital acquisitions, additions or improvements; and for any other purpose allowed under these CCRs.

**8.5 Assessment for Reserve Account.** Each Owner of any Lot shall pay the Association for each Lot owned as provided in this Declaration an

assessment that is allocated to a reserve account established for the purpose of funding repair and/ or replacement of the private streets, sidewalks, drainage facilities and common areas that will normally require repair and/ or replacement, in whole or in part, in more than three (3) and less than thirty (30) years. The reserve account need not include those items that could reasonably be funded from Maintenance or Administrative Assessments. The assessments under this Section shall accrue from the date of conveyance of the first Lot in the Property.

**8.6 Reserve Study.** The Board of Directors shall annually conduct a reserve study or review and update if necessary an existing study of the Street, Sidewalk, Drainage and Common Area components to determine the reserve account requirements. The reserve study shall include:

**8.6.1** Identification of all items for which reserves are required to be established;

**8.6.2** The estimated remaining useful life of each item as of the date of the reserved study;

**8.6.3** The estimated cost of maintenance, repair or replacement of each item at the end of its useful life; and

**8.6.4** A thirty (30) year plan with regular and adequate contributions, adjusted by estimated inflation and interest earned on reserves, to meet the maintenance, repair and replacement schedule.

**8.7 Default in Payment of Assessments, Enforcement of Liens.**

**8.7.1 Personal Obligation.** All assessments under this Declaration or the Bylaws shall be the joint and several personal obligation(s) of all Owners of the Lot to which such assessment pertains. In a voluntary conveyance (i.e., one other than through foreclosure or a deed in lieu of foreclosure), the grantees shall be jointly and severally liable with the grantors for all Association assessments imposed through the recording date of the instrument effecting the conveyance. No Owner may waive or otherwise escape liability for the assessments by non-use of the private streets, sidewalks, drainage facilities or common areas or by abandonment of his or her Lot. A suit for a money judgment may be initiated by the Association to recover such assessments without either waiving or foreclosing the Association's lien.

**8.7.2 Association Lien.** The Association shall have a lien against each Lot for any assessment (of any type provided for by this Declaration or the Bylaws) or installment thereof that is delinquent. Such lien shall accumulate all future assessments or installments, interest, late fees, penalties, fines, attorney fees (whether or not suit or action is instituted), actual administrative costs, and other appropriate costs properly chargeable to an Owner by the Association, until

such amounts are fully paid. Recording of the Declaration constitutes record notice and perfection of the lien. Said lien may be foreclosed at any time pursuant to the Planned Community Act. The Association shall record a notice of a claim of lien for assessments and other charges in the deed records of Deschutes County, Oregon, before any suit to foreclose may be filed. The lien of the Association shall be superior to all other liens and encumbrances except property taxes and assessments, any first mortgage, deed of trust or land sale contract recorded before the Association's notice of lien, and any mortgage or deed of trust granted to an institutional lender that is recorded before the Association's notice of lien.

**8.7.3 Interest; Fines; Late Fees; Penalties.** The Board, in its reasonable discretion, may from time to time adopt resolutions to set the rate of interest and to impose late fees, fines, and penalties on delinquent assessments or for violations of the provisions of this Declaration, the Bylaws, Architectural Standards, and the Rules and Regulations adopted by the Board or the ARC. The adoption of such impositions shall be communicated to all Owners in writing not less than 30 days before the effective date by a notice mailed to the assessment billing address of such Owners. Such impositions shall be considered assessments that are lienable and collectible in the same manner as any other assessments; provided, however, that fines or penalties for violation of this Declaration, the Bylaws, or any rule and regulation, other than late fees, fines, or interest arising from an Owner's failure to pay regular, special, or reimbursement assessments may not be imposed against an Owner or such Owner's Lot until such Owner is given an opportunity for a hearing as elsewhere provided herein.

**8.7.4 Acceleration of Assessments.** If an Owner is delinquent in payment of any assessment or installment on any assessment, the Association, on not less than 10 days' written notice to the Owner, may accelerate the due date of the full annual assessment(s) for that fiscal year and all future installments of any special assessments.

**8.7.5 Association's Right to Rents; Receiver.** In any foreclosure suit by the Association with respect to such lien, the Association shall be entitled to collect reasonable rent from the defaulting Owner for the use of such Owner's Lot or shall be entitled to the appointment of a receiver.

## **ARTICLE 9. CONDEMNATION OF COMMON PROPERTY**

In the event that all or any portion of the private streets, sidewalks, drainage facilities or common area is appropriated as the result of condemnation or the threat or imminence of condemnation, the following rules and guidelines shall apply:

**9.1 Representation by Association.** The Board of Directors of the Association shall have the sole authority, right and duty to represent each of the

Owners for the purpose of negotiating and contesting, if it deems necessary or appropriate, any condemnation award offered by the condemning authority in question and may authorize expenditures and assessments to retain adequate counsel or other experts for such purposes.

**9.2 Allocation of Condemnation Award.** The Board of Directors of the Association shall treat the proceeds any condemnation award received by it with respect to the private streets, sidewalks, drainage facilities or common area as an asset of the Association.

**9.3 Retention of Rights.** No provision of this Section shall be construed as negating the right of the individual Owners to such incidental relief as the law may provide against the condemning authority as a result of the condemnation of the Common Property.

## **ARTICLE 10. GENERAL PROVISIONS**

**10.1 Records.** The Board shall preserve and maintain minutes of the meetings of the Association, the Board and any committees. The Board also shall keep detailed and accurate financial records, including individual assessment accounts of Owners, the balance sheet, and income and expense statements. Individual assessment accounts shall designate the name and address of the Owner or Owners of the Lot, the amount of each assessment as it becomes due, the amounts paid on the account, and the balance due on the assessments. The minutes of the Association, the Board and Board committees, and the Association's financial records shall be maintained in the State of Oregon and reasonably available for review and copying by the Owners. A reasonable charge may be imposed by the Association for providing copies.

**10.2 Indemnification of Directors, Officers, Employees, and Agents.** The Association shall indemnify any Director, officer, employee, or agent who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by the Association) by reason of the fact that such person is or was a Director, officer, employee, or agent of the Association or is or was serving at the request of the Association as a Director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorney fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by said person in connection with such suit, action, or proceeding if such person acted in good faith and in a manner that such person reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had no reasonable cause to believe that such person's conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or with a plea of nolo contendere or its equivalent, shall not of itself create a presumption that a person did not act in

good faith and in a manner that such person reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had reasonable cause to believe that such person's conduct was unlawful. Payment under this clause may be made during the pendency of such claim, action, suit, or proceeding as and when incurred, subject only to the right of the Association to reimbursement of such payment from such person, should it be proven at a later time that such person had no right to such payments. All persons who are ultimately held liable for their actions on behalf of the Association as a Director, officer, employee, or agent shall have a right of contribution over and against all other Directors, officers, employees, or agents and members of the Association who participated with or benefited from the acts that created said liability.

**10.3 Enforcement; Attorney Fees.** The Association and the Owners and any mortgagee holding an interest on a Lot shall have the right to enforce all of the covenants, conditions, restrictions, reservations, easements, liens, and charges now or hereinafter imposed by any of the provisions of this Declaration as may appertain specifically to such parties or Owners by any proceeding at law or in equity. Failure by either the Association or by any Owner or mortgagee to enforce any covenant, condition, or restriction herein contained shall in no event be deemed a waiver of their right to do so thereafter. In the event suit or action is commenced to enforce the terms and provisions of this Declaration (including without limitations, for the collection of assessments), the prevailing party shall be entitled to its actual administrative costs incurred because of a matter or event that is the subject of the suit or action, attorney fees and costs in such suit or action to be fixed by the trial court, and in the event of an appeal, the cost of the appeal, together with reasonable attorney fees on appeal, to be set by the appellate court. In addition thereto, the Association shall be entitled to its reasonable attorney fees and costs incurred in any enforcement activity or to collect delinquent assessments, together with the Association's actual administrative costs, whether or not suit or action is filed.

**10.4 Severability.** Invalidation of any one of these covenants, conditions, or restrictions by judgment or court order shall not affect the other provisions hereof and the same shall remain in full force and effect.

**10.5 Duration.** The covenants, conditions, and restrictions of this Declaration shall run with and bind the land for a term of 35 years from the date of this Declaration being recorded, after which time they shall be automatically extended for successive periods of 10 years, unless rescinded by a vote of at least 90% of the Owners and 90% of the first mortgagees; provided, however, that amendments that do not constitute rescission of the planned community may be adopted and that if any of the provisions of this Declaration would violate the rule against perpetuities or any other limitation on the duration of the provisions herein contained imposed by law, then such provision shall be deemed to remain in effect only for the maximum period permitted by law.



**10.6 Amendment.** Except as otherwise provided in ORS 94.590 and the restrictions set forth elsewhere herein, this Declaration may be amended at any time by an instrument approved by not less than 75% of the total votes of each Owner eligible to vote. Any amendment must be executed, recorded, and certified as provided by law; provided, however, that no amendment of this Declaration shall effect an amendment of the Bylaws or Articles without compliance with the provisions of such documents, and the Oregon Nonprofit Corporation Act and that no amendment affecting the general plan of development or any other right of Declarant herein contained may be made without the express written consent of Declarant or its successors and assigns, including, without limitation, amendment of this Section 10.6.

**10.7 Release of Right of Control.** Declarant may give up its right of control in writing at any time by notice to the Association.

**10.8 Unilateral Amendment by Declarant.** In addition to all other special rights of Declarant provided in this Declaration, Declarant may amend this Declaration in order to comply with the requirements of the Federal Housing Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Mortgage Loan Corporation, any department, bureau, board, commission, or agency of the United States or the State of Oregon, or any other state in which the Lots are marketed and sold, or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon, or such other state, the approval of which entity is required in order for it to insure, guarantee, or provide financing in connection with development of the Property and sale of Lots. Before the Turnover Meeting, no such amendment shall require notice to or approval by any Association member.

**10.9 Resolution of Document Conflicts.** In the event of a conflict among any of the provisions in the documents governing Saginaw Sunset, such conflict shall be resolved by looking to the following documents in the order shown below:

1. Declaration;
2. Articles;
3. Bylaws;
4. Rules and Regulations.

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IN WITNESS WHEREOF, Declarant has executed this Declaration of Covenants, Conditions, and Restrictions of Saginaw Sunset this 20th day of May, 2014.

GREEN INTENTIONS, LLC


By: 

Jim Guild, Member

STATE OF OREGON       )  
                                  ) ss.  
County of Deschutes    )

This instrument was acknowledged before me on May 20th, 2014, by Jim Guild as Member of Green Intentions LLC.



  
Notary Public for Oregon