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DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2004-44825



\$66.00

07/28/2004 11:59:58 AM

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\$40.00 \$11.00 \$10.00 \$5.00

AFTER RECORDING RETURN TO:
VENTURE PROPERTIES, INC.
4230 Galewood Street #100
Lake Oswego, Oregon 97035

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
DESERT SKIES**

KNOW ALL MEN BY THESE PRESENTS, that Venture Properties, Inc. (hereinafter "Declarant") hereby declares and records the following covenants, conditions and restrictions pertaining to and binding the following described real property, to wit:

Dated this 28th day of JULY, 2004, Recorded according to the duly recorded plat of DESERT SKIES, filed JUNE 1, 2004, ~~2004~~, in Plat Book G, Page 298, Records of the County of Deschutes and State of Oregon, excluding Lots 16 and 17 of DESERT SKIES.

DECLARATION

This Declaration establishes a plan for the private ownership of Lots and buildings constructed thereon. This Declaration further establishes certain restrictions on the various uses and activities that may be permitted in DESERT SKIES and further establishes the right of the Declarant to promulgate rules and regulations which may further define and limit permissible uses and activities consistent with the provisions of this Declaration.

NOW, THEREFORE, the undersigned hereby covenants, agrees, and declares that Lots 1-15 and 18-20 of DESERT SKIES as defined herein and the buildings and structures hereafter constructed thereon are, and will be, held, sold, and conveyed subject to the following Declaration, conditions, restrictions. All provisions of this Declaration shall be binding upon all parties having or acquiring any right, title, or

DESERT SKIES
Declaration of Covenants, Conditions and Restrictions
July 10, 2004
Page 1 of 8

RECORDED BY FIRST AMERICAN TITLE
INSURANCE COMPANY OF OREGON AS AN
ACCOMODATION ONLY. NO LIABILITY IS
ACCEPTED FOR THE CONDITION OF TITLE
OR FOR THE VALIDITY, SUFFICIENCY, OR
EFFECT OF THIS DOCUMENT.

interest in DESERT SKIES or any part thereof, and shall inure to the benefit of the Owners thereof and are intended to be and shall in all respects be regarded as covenants running with the land. Lots 16 and 17 of DESERT SKIES shall not be subject to the following Declaration, conditions, restrictions.

1. **LAND USE AND BUILDING TYPE.** No Lot shall be used except for residential purposes. Homes must be constructed of new materials and all homes must be constructed on site. Manufactured and mobile homes are prohibited. Declarant may use trailers and/or residential structures currently constructed and/or constructed in the future as model homes and sales offices.
2. **CONSTRUCTION OF HOMES.** Each home shall have a minimum of a double car garage unless otherwise approved by Declarant. Each Home shall be sided with cedar, hardi-plank, composite wood or other siding approved by Declarant on all four sides. Roofs shall be architectural composition (Firehalt brand name) and have a 25-year guarantee or similar asphalt composition roofing approved by Declarant. The total floor area of the main structure, exclusive of open porches and garages, shall be not less than 1,200 square feet for a one-story or two-story dwelling.
3. **BUILDING LOCATION.** Building locations shall conform to the setbacks adopted in the DESERT SKIES subdivision approved by the City of Bend.
4. **EASEMENTS.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels in the easement, or which may obstruct or retard the flow of water through drainage channels in the easements. After initial sale of each Lot, 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 or utility company is responsible.
5. **UNDERGROUND SERVICE.** No outdoor overhead wire or service drop for the distribution of electric energy or for telecommunications purposes, nor any pole, tower, or other structure supporting said outdoor overhead wires shall be erected, placed or maintained within this subdivision. All owners of Lots or tracts within this subdivision, their heirs, successors, and assigns shall use underground service wires to connect their premises and the structures thereon to the underground electric, cable, or telephone utility facilities provided. Except as permitted by law, no antennas, aerials or satellite dishes shall be permitted on any part of a Lot or house, except for "mini" satellite dishes, which do not exceed two (2) feet in diameter. Owners shall not place such antennas, satellite dishes or other transmission devices in the front

yard, on the front porch or on the front of the house if signals of acceptable quality can be received by placing such device in an alternative location.

6. **NUISANCES.** No noxious or offensive activity shall be carried out anywhere in DESERT SKIES, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.
7. **TEMPORARY STRUCTURES.** No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Lot at any time as a dwelling either temporarily or permanently. Declarant may use trailer or other temporary structures for sales and/or construction purposes. Accessory uses, including storage sheds, shall be subject to City of Bend Development Code.
8. **PARKING.** Parking of boats, trailer RVs and like equipment shall not be allowed on public rights-of-way or in a driveway for more than twenty-four (24) hours and then for the purpose of loading and unloading only. Permanent storage for any of the above shall be obtained off-site, unless otherwise approved by Declarant in writing. Any of-site storage fees shall be at Owner's expense. Any vehicle in disrepair, sitting on blocks, or otherwise appearing inoperable shall not be visible from the street for any aggregate period in excess of three (3) days. No commercial vehicle with a gross vehicle weight of more than 8,000 pounds, trailer, travel trailer or motor coach may be parked over night on any street within DESERT SKIES and/or in violation of the City of Bend ordinances.
9. **SIGNS.** No signs shall be erected on any Lot except one (1) sign of not more than five (5) square feet advertising the property for sale or rent, unless otherwise approved in writing by Declarant, or signs used by Declarant or its assigns or successors to advertise the Property during the construction and initial sale period. Declarant may erect and maintain signs of any size at model homes or other area designated by Declarant. Owners or Owner associated companies, corporations or partnerships which own more than one (1) Lot or Home, excluding only Declarant or its assigns or successor, shall be limited to erecting and maintaining only one (1) such for rent or for sale sign for all Lots or Homes owned by Owner in DESERT SKIES, unless otherwise approved by Declarant in writing.
10. **OIL AND MINING OPERATION.** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

11. **LIVESTOCK AND POULTRY.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that a reasonable number of dogs, cats, or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose.
12. **GARBAGE AND REFUSE DISPOSAL.** No Lot shall be used or maintained as a dumping ground for rubbish or trash. Declarant may use containers for recycling or construction debris during the build-out of DESERT SKIES. Garbage or other waste shall not be kept on any Lot except in sanitary containers. All incinerators or other containers for the storage or disposal of such material shall be kept in a clean and sanitary condition. Homes with alleys may have (2) trash containers visible on trash collection days only.
13. **MAINTENANCE.** The maintenance, upkeep and repair of individual homes shall be the sole responsibility of each individual Owner. Owners shall maintain their Lots and homes and all appearances thereto at all times. Owners are responsible for the maintenance of the landscaped area in the right-of-way between the street and the sidewalk. All lawns shall be adequately watered and kept mowed and properly trimmed. Each Owner shall be obligated to maintain all landscaping (including lawn) on Owner's Lot and the right-of-way area between the street and the sidewalk in a healthy and attractive state and in a manner comparable to that on the other Lots in DESERT SKIES. Each Owner is responsible for the operation, repair and maintenance including winterization and spring start-up of their own private front yard sprinkler system installed by Declarant during home construction. Lot Owners are responsible for watering and maintaining the street trees in front of their Lots and guarantee the survival and replacement of approved street trees for one (1) year after planting. Lot Owners shall comply with all erosion and drainage regulations regarding all property within DESERT SKIES, including streets and sidewalks, promulgated by any city, county or state agency with jurisdiction over the property within DESERT SKIES.
14. **ROCK WALLS.** Engineered boulder rock walls or keystone walls may have been installed on or between Lots during the development of DESERT SKIES. If such walls were installed, homeowners shall not add additional rock to or alter these existing walls without the prior written approval of Declarant and the applicable governing jurisdiction.
15. **SLOPE AREAS.** Declarant has developed a storm drainage system ("community Erosion Control Plan"), which addresses water run-off for the entire property as opposed to run-off between individual Lots. This means that unfiltered surface water and sediment can traverse other Lots before reaching a public storm water facility, with the understanding that prior to reaching a gutter, street or storm water facility, the water will be filtered. Silt fencing has

been installed in conjunction with the final site grading, in areas designated on the construction documents that meets the local storm water agency's guidelines for surface erosion control. Usually, the normal location for silt fencing is on or adjacent to the property line to protect rear and side sloping areas and adjacent to the curb to protect front sloping areas. It should be noted that the purpose of silt fencing is to control erosion only, and that storm water and some sediment can be expected to travel downhill from higher elevation Lots through lower elevation Lots to its final destination in a public storm water facility. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with the grading plan developed by the Declarant. This includes altering the defined slope areas, attempting to change the storm water direction or performing any action that creates erosion. Once the Declarant has conveyed title to any subsequent purchaser, either to a Owner or other Homebuilder, the established sloping areas of each Lot and all improvements on each Lot shall be maintained continuously by the Owner of the Lots to preserve Declarant's designed drainage and grading plan, except for those improvements for which a public authority or utility company is responsible. Declarant reserves the right to modify the Community Erosion Control Plan during the construction of homes in the subdivision.

16. **SIGHT DISTANCE AT INTERSECTIONS.** No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between three (3) and ten (10) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points thirty (30) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. All sight distance requirements must be in compliance with Deschutes County and the City of Bend Code.
17. **HOME OWNER ASSOCIATION.** No homeowner association exists at DESERT SKIES. Upon completion of initial construction of all of the homes in DESERT SKIES, individual Lot owners may vote to form a Home Owner Association. In the event that 51% of the Owners eligible to vote vote in favor of the formation of a Home Owner Association, an Association shall be formed. Each Lot shall receive one vote.
18. **ARCHITECTURAL CONTROL.** Architectural control of houses and accessory structures shall be by Declarant. Declarant must approve all plans, specifications and exterior color of houses or accessory structures in writing prior to start of construction. Declarant shall approve

any modifications to approved plans in writing. After initial construction of homes on all Lots in the subdivision, architectural control by Declarant shall cease. Upon the vote of 51% of the Owners in favor of continued Architectural Control, such control shall pass to an Owner's Committee consisting of three (3) Owners elected by a vote of the Owners.

19. **HOME OFFICES.** No business venture shall be conducted on a Lot or in or about any property in DESERT SKIES except for one-room offices that are not designated by exterior sign(s) and which does not become an undo burden on or nuisance to the DESERT SKIES neighborhood.
20. **TERM.** This Declaration shall run with the land with respect to all property within DESERT SKIES shall be binding on all Owners of the described Property and all persons claiming under them for a period of thirty (30) years from the date this Declaration is recorded, after which time, said Declaration shall automatically be extended for successive periods of ten (10) years unless an instrument signed by a majority of the then Owners of the Lots has been recorded, agreeing to terminate or change said Declaration in whole or in part. Paragraph 6 shall continue in perpetuity and is binding on all DESERT SKIES Owners and all persons claiming under it.
21. **ENFORCEMENT/ATTORNEYS' FEES.** Declarant and the Owners within the Property or any mortgagee on any Lot shall have the right to enforce all of the covenant, condition, 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 terms and provisions of this Declaration, the prevailing party shall be entitled to its 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 to be set by the appellate court. Neither Declarant nor Declarant's successors or assigns shall be liable to any Owner, Occupant, or to any other person for its enforcement or failure to enforce any provision of this Declaration.
22. **AIR CONDITIONING UNITS.** Any "window-model" air conditioning units shall not be visible on the front of a home. "Free-standing" compressors shall not be located in the front yard.

23. **FENCING.** Any fencing installed by Lot Owners shall be six (6) foot high solid cedar fencing (similar to fencing installed on the Property adjacent to Pettigrew Road) or other fencing approved by Declarant in writing prior to installation. No chain link or cyclone fencing is allowed, excepting only the existing chain link fencing surrounding the sanitary sewer pump. Any fencing installed by a Lot Owner shall be in accordance with all City of Bend ordinances. Lot owner shall maintain all fencing located on their Lot in an attractive state and in good condition.
24. **ENTRANCE SIGN.** In the event an entrance monument is erected on any Lot within DESERT SKIES, such monument shall be maintained and repaired by the homeowners, and costs shared equally by all homeowners in the subdivision. The Declarant has no responsibility in the maintenance or repair of any monument.
25. **PETTIGREW ROAD FENCING AND LANDSCAPING.** Any perimeter fencing, including any associated landscaping, erected by Declarant along the rear of Lots abutting Pettigrew Road shall be maintained and repaired by the Owners of the Lots where the fencing is located. Lot Owners shall not remove such improvements. Declarant has no responsibility in the maintenance or repair of any monument or fencing other than its initial construction.
26. **SEVERABILITY.** Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall not in any way affect any of the other provisions, which shall remain in full force and effect.
27. **AMENDMENT.** These Declaration may be amended by an instrument signed by a majority of the current Lot owners and recorded with the County Recorder, agreeing to change said Covenants in whole or in part; provided however, that if Declarant owns at least one Lot, these covenants cannot be amended without Declarant's written consent. Declarant reserves the right, as long as it owns at least one Lot, to amend this Declaration in any way without approval of any Lot owners Paragraph 6 may amended or terminated only by obtaining written approval from the City of Bend and meeting any other requirement of this Declaration.
28. **ANNEXATION OF ADDITIONAL PROPERTY.** Declarant may from time to time and in its sole discretion annex to the Property subject to this Declaration any real property now or hereafter acquired by it. The annexation of such real property shall be accomplished by Declarant recording a declaration which describes the real property to be annexed, establish land classification for the real property, establish any additional limitations, uses, restrictions, covenants which are intended to be applicable to such property, and declare that such property is held and shall be held, conveyed, encumbered, used, occupied and improved subject to this Declaration. Upon annexation, additional Lots so annexed shall be entitled to voting rights.

29. **RENTAL OF HOMES.** An Owner may rent or lease such Owner's Home or a portion thereof, provided that the following conditions are met:

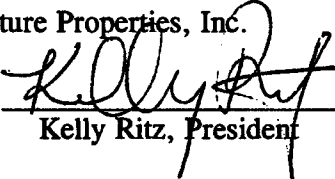
a) Written Rental Agreements Required. The Owner and the tenant enter into a written rental or lease agreement specifying that (i) the tenant shall be subject to all provisions of the Declaration, and (ii) a failure to comply with any provision of the Declaration shall constitute a default under the rental or lease agreement;

b) Minimum Rental Period. The period of the rental or lease is not less than thirty (30) days;

c) Tenant Must be Given Documents. The Owner gives each tenant a copy of the Declaration.

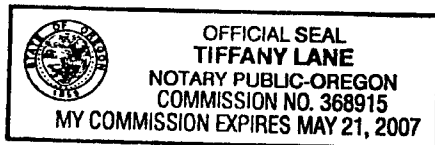
DECLARANT:

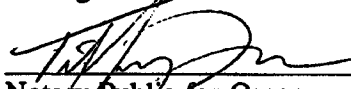
Venture Properties, Inc.

By:  Dated: 7-16-04
Kelly Ritz, President

STATE OF OREGON, County of Clackamas) ss.

Personally appeared Kelly Ritz who, being duly sworn, did say that she is the President of Venture Properties, Inc. and that said instrument was signed on behalf of said corporation by authority or its board of directors, and acknowledge said instrument to be its voluntary act and deed.




Notary Public for Oregon
My Commission Expires: 5-21-07