

173925-50

DESCHUTES COUNTY OFFICIAL RECORDS  
NANCY BLANKENSHIP, COUNTY CLERK

2005-55137



\$46.00

00300411200500551370040048

08/19/2005 03:31:46 PM

D-CCR Cnt=1 Stn=3 PAM  
\$20.00 \$11.00 \$10.00 \$5.00

AFTER RECORDING, RETURN TO:  
Mike Loomis  
D.R. Horton, Inc.-Portland  
4386 SW Macadam Avenue, Suite 102  
Portland, OR 97239

4

4

**FIFTH AMENDMENT TO  
DECLARATION OF PROTECTIVE COVENANTS FOR  
RIVER CANYON ESTATES**

THIS FIFTH AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR RIVER CANYON ESTATES this ("Fifth Amendment") is made and entered into effective this 17<sup>th</sup> day of August, 2005 by D.R. Horton, Inc. - Portland (the "Declarant").

RECITALS:

WHEREAS, Declarant was assigned rights by River Canyon Estates, LLC (the "Initial Declarant") under that certain "Assignment of Declarant Rights and Naming of Successor Declarant for River Canyon Estates", recorded as Document No. 2005-21843, in Deschutes County on April 12, 2005.

WHEREAS, the Initial Declarant caused to be recorded that certain Declaration of Protective Covenants for River Canyon Estates that was recorded December 23, 2002, Document #: 2002-72315 in the records of Deschutes County, Oregon (the "Declaration"). Initial Declarant also recorded that certain Plat of River Canyon Estates on December 23, 2002, recorded as Document #: 2002-72311 (the "Plat"). Initial Declarant recorded that certain First Amendment to the Declaration of Protective Covenants for River Canyon Estates that was recorded April 4, 2003, as Document #: 2003-22312 in the records of Deschutes County, Oregon (the "First Amendment"). Initial Declarant recorded that certain Second Amendment to the Declaration of Protective Covenants for River Canyon Estates that was recorded June 26, 2003, as Document #: 2003-43136 in the records of Deschutes County, Oregon (the "Second Amendment"). Initial Declarant recorded that certain Third Amendment to the Declaration of Protective Covenants for River Canyon Estates that was recorded September 15, 2003, as Document #: 2003-63718 in the records of Deschutes County, Oregon (the "Third Amendment"). Initial Declarant recorded that certain Fourth Amendment to Declaration of Protective Covenants for River Canyon Estates that was recorded August 4, 2004, as Document # 2004-46491 in the records of Deschutes County, Oregon (the "Fourth Amendment").

WHEREAS, pursuant to Article XII, Section 3 of the Declaration, Declarant desires to amend the Declaration as provided herein, to define the term "Investment Property" and to provide for the addition of a provision in the Declaration that places limitations upon Investment Property (as such term is defined herein) located within

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

River Canyon Estates. Capitalized terms not defined herein shall have the meaning given in the Declaration, except as otherwise indicated.

The Declaration is hereby amended as follows:

1. Article II, Section 21. Section 21 of the Definitions section of the Declaration is hereby added to include the following language:

Section 21. "Investment Property" shall mean any Lot in which the Occupant of the Home located upon such Lot is not the Owner of such Home."

2. Article VI, Section 1. "Land Use" of the Declaration is hereby amended to include the following language:

Section 1A. "Rental of Homes". An Owner shall be entitled to rent or lease his/her/their residence if:

(a) Written Rental Agreements Required. There is a written rental or lease agreement specifying that: (i) the tenant shall be subject to all provisions of the Declaration, Bylaws and Rules and Regulations, and (ii) failure to comply with any provision of the Declaration, Bylaws and Rules and Regulations shall constitute a default under the rental agreement.

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

(c) Tenant Must Be Given Documents. The Owner gives each tenant a copy of the Declaration, Bylaws and Rules and Regulations.

(d) Owner Responsibility. Owner shall be responsible for any violations by tenants and shall be solely responsible for either correcting or eliminating such violations, or getting tenant to do same.

(e) Limitation/Cap Regarding Investment Property. At any given time, Investment Property shall not make up greater than twenty-five percent (25%) of the total Lots located within River Canyon Estates. Occupancy of Investment Property shall be limited to the tenant, such tenant's visitors and guests. At least fifteen (15) days prior to entering into any rental or lease agreement, an Owner must notify the Board of Directors in writing of such Owner's intent, the name and address of the proposed tenant and the circumstances of the proposed rental arrangement. If the Board of Directors finds that such proposed tenancy will not exceed the limitation on Investment Property described in the first sentence of this subsection and otherwise is not detrimental to the Association and River Canyon Estates, the Board of Directors will approve such tenancy. Provided, however, such tenants shall always be under the control of and subject to all provisions of the Declaration, Bylaws and Rules and Regulations. At any time during the tenancy, the Board of Directors may cause the termination of such tenancy and evict such

tenants for cause with or without joining the Owner of such Lot/Home in any such action.”

WHEREAS, pursuant to Article V, Sections 2.2 and/or 2.7, Section 3 in its entirety, and Section 4 in its entirety, Declarant desires to amend the Declaration as provided herein, to add River Canyon Estates Homeowners Association Design Guidelines for River Canyon Estates – River Bluff Lots, dated July 2005.

The Declaration is hereby amended as follows:

Article V, Section 2.2(a) is hereby added to include the following language:

2.2(a) Design Guidelines for River Bluff Lots. Design Guidelines are available for the River Canyon Estates Bluff Lots through the Association Manager. These Guidelines will apply to River Canyon Lots 2, 4, 7, 8, 11, 12, 15, 16, 19, 20, 23, 24, 28, 29, 30, 31, 33, 34, 38, 39, 40; River Canyon Estates 2 Lots 175, 176, 181, 182, 185, 186, 190; and River Canyon Estates 4 Lots 341 through 357.

3. Effect of Amendment. Except as expressly amended hereby and by prior amendments, the Declaration remains in full force and effect.

4. Indemnification. The Owners of the Commonwall Single Family Lots and the Association shall hold harmless, defend and indemnify the City of Bend and its officers, agents and employees against all claims, demands, actions and suits including attorney’s fees and costs brought against any of them arising out of the failure to properly design, locate, construct, repair or maintain any Building Structure element.

5. Certification. The undersigned Declarant certifies that this Fifth Amendment has been approved in the manner required by Article V, Section 2.2 and Article XIII, Section 3.

