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Sawgrass LLC  
P O Box 370  
Nehalem, OR 97131

Tillamook County, Oregon  
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I hereby certify that the within  
Instrument was received for record and  
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State of Oregon.  
Tassi O'Neil, Tillamook County Clerk

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
SAWGRASS ESTATES  
(A subdivision in Tillamook County, Oregon)**

This Declaration made this 14<sup>th</sup> day of September 2007, by Sawgrass LLC, an Oregon Limited Liability Company, hereinafter referred to as "Declarant".

**RECITALS:**

1. Declarant is the Owner of the real property described as SAWGRASS ESTATES, a subdivision, filed in the Plat Records of Tillamook County, Oregon, at Plat Cabinet B-1029, Document No. 2007-8071. Declarant makes this Declaration and it is the Declarant's intent and desire to create thereon a residential subdivision with a permanent private roadway, utility installations and special utility installations for the benefit of said property owners of the subdivision lots.
2. Declarant desires to provide for the preservation and enhancement of the property values, amenities and livability in said development. Declarant desires to also provide for the maintenance of the common property and improvements thereon and to this end desires to subject the property to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the property and each owner of any lot thereof.
3. Declarant has deemed it desirable for the efficient preservation of the values and amenities in the Sawgrass community, to create a nonprofit corporation, if it is deemed necessary, or such other entity as may be determined, for the management of the common areas or to allow the Homeowner's Association members to do so, unless the creation of a non profit corporation has preceded the release of the management by the Declarant. The Declarant and/or subsequently the Homeowner's Association shall manage and oversee the maintenance of common property based on the formula hereinafter stated and to which should be delegated and assigned the powers of owning, maintaining and administering the common property and administering and enforcing the covenants, conditions and restrictions, collecting and disbursing the assessments and charges hereinafter created, and promoting the health, safety, recreation and welfare of the residents.
4. This Declaration applies to SAWGRASS ESTATES lots and lot owners, whether or not a residence has been constructed on the lot(s).
5. NOW, THEREFORE, Declarant declares that SAWGRASS ESTATES, according to the plat thereof filed in the Plat Records of Tillamook County, Oregon is and shall be held, transferred, sold, conveyed and

occupied subject to the covenants, conditions and restrictions and easements, charges and liens (sometimes referred to as "covenants, conditions and restrictions" or CC&R's) hereinafter set forth.

## **ARTICLE I DEFINITIONS**

1. "Association" shall mean and refer to SAWGRASS ESTATES Homeowner's Association, (HOA) an Oregon Non Profit Corporation, its successors and assigns or an Oregon multi member LLC, its successors and assigns, or such other form as may be determined, the form of which shall be chosen by a majority of the voting members at the time to be organized in accordance with the terms hereof unless earlier formed by the Declarant, in which case the members would be required to change the form if they choose to organize in a different manner.
2. "Board of Directors" shall mean and refer to the management team of the Sawgrass Homeowner's Association, which shall consist of not less than three members of the Homeowner's Association. Upon formation of the Homeowner's Association, the members shall elect a Board of Directors of the Homeowner's Association by a majority vote. Lot ownership is required to be a member of the Homeowner's Association and/or a member of the Board of Directors. The Board of Directors shall conduct at least one open meeting a year for the members after control is transferred to the Homeowner's Association. The Board of Directors shall be required to meet as often as needed in order to manage the facilities and the common property. The duly elected Chairman of the Board of the Homeowner's Association may handle URGENT issues, subject to the rules of the HOA. Bonding may or may not be required, as shall be determined under the rules to be developed by the HOA's Board of Directors later. However, under no circumstances shall any Board of Director member be liable to the members for any actions taken on the members' behalf in good faith.
3. "Common Property" shall mean and refer to all real or personal property and appurtenances thereto now or hereafter acquired, whether owned or leased, or otherwise controlled by the Declarant and subsequently by the Homeowner's Association for the common use and enjoyment of the members, including, but not limited to, the property designated as the Roadway Tract, to be known as Sawgrass Place, (see E 2) on the plat of SAWGRASS ESTATES recorded at Plat Cabinet\_\_\_\_\_, Document No.\_\_\_\_\_, Plat Records of Tillamook County, Oregon, which is by this reference incorporated herein. See Recitals No. 1
4. "Declarant" shall mean and refer to the undersigned developer or its successors and/or assigns.
5. "Assessment" shall mean and refer to regular annual, regular periodic assessments, special assessments or charges against each lot and owners as established by the Declarant and/or the Homeowner's Association for the management, maintenance and/or repair of common facilities.
6. "Lot" shall refer to the respective 12 developed lots. Each lot is to be used for residential purposes only.
7. "Member" shall mean and refer to every individual person or entity that holds ownership in a lot, entitling each owner to be a member. See Article II Section 2 and Section 4
8. "Owner" shall mean and refer to the recorded owner, whether one or more persons or entities, of the fee simple title to any lot, including contract buyers (vendees), but excluding those having such interest merely as security for the performance of an obligation.
9. "Quorum" shall mean and refer to the number of owner members for any meeting of the Homeowner's Association shall consist of the number of persons who are entitled to cast 66 2/3% of the possible votes outstanding and who are present in person, or by proxy at the meeting. Each member shall be required to provide proxy if they cannot be in attendance. If two consecutive meetings are properly noticed for the same business agenda without reaching the 66 2/3% quorum required at the beginning of the 2<sup>nd</sup> meeting, the quorum participation requirement shall be reduced to 50% for that meeting.
10. "Meeting" shall mean and refer to a time and place of which owners are notified for the opportunity to participate in the decision making of Homeowner's Association business. The owner member may attend the meeting in person at a specified location, or may vote by submitting a proxy, whichever applies to the specific meeting situation to be determined by Declarant and/or subsequently by the Homeowner's Association Board of Directors. Each meeting notice must be sent via documented US Mail or other documented delivery service to the address noted for the lot owner by the County Clerk's office or as indicated as current within the records of the Declarant and/or subsequent Homeowner's Association records, not less than 30 days in advance nor more than 90 days in advance of the meeting.
11. "Real Property" or "SAWGRASS ESTATES" shall mean and refer to all real property contained within

the plat of SAWGRASS ESTATES filed in the Plat Records of Tillamook County, Oregon.

12. "Residence" shall mean and refer to that portion or part of any structure intended to be a single family dwelling, together with attached or detached garage and the patios, porches, decks and steps annexed thereto. See Article VI Residential

13. "Structure" shall mean and refer to anything built or constructed, whether permanent or temporary, or whether portable, movable, or immovable. For purpose of this definition, to "build" or to "construct" shall include, without limitation, the construction, fabrication, assembly or production of a thing or piece of work artificially built up or composed of parts joined together in some definite manner.

14. "The Roadway" shall mean and refer to the Asphalt area of the street known as Sawgrass Place, which was designed to be 22' wide into the cul-de-sac, which is 100' diameter asphalt (E 2 on the plat)

15. "The Dedicated Roadway" – (referenced as E-2 on the plat) shall mean and refer to the total width of the roadway known as Sawgrass Place, which was designed to be 40' wide and which includes approximately nine feet on each side of the 22' asphalt roadway, which may be used for off-asphalt parking, if maintained as such, as required herein, excepting the cul-de-sac where the dedicated roadway is 100' in diameter and where there is only 1' to 2' off asphalt area. See Easement E2 on the final plat.

16. "Utilities" shall mean and refer to all utilities provided to the lots, which include Tillamook Public Utility District Electrical, Nehalem Telephone, Nehalem Bay Wastewater, CATV, storm drainage system, which includes some side and rear easements, and special utilities. Some utilities are located in the lot owner's required 8' easement area across the front of each lot, as well as in the common property.

## **ARTICLE II HOMEOWNERS' ASSOCIATION**

**Section 1. Organization.** Declarant shall organize a Homeowner's Association to be comprised of the owners of all lots in Sawgrass Estates, as defined in Article II Section 3 below. The Homeowner's Association shall be organized under the name of SAWGRASS ESTATES Homeowner's Association, or a name similar thereto, as a nonprofit corporation under the general nonprofit corporation laws of the State of Oregon or as a Limited Liability Company, to be determined later. The Homeowner's Association shall hold property, and have powers and obligations as set forth in this recorded Covenants, Conditions, and Restrictions Declaration for the benefit of the Sawgrass Estates lot owners, who are the members. The Articles of Incorporation of the Homeowner's Association shall provide for its perpetual existence. However, if the Homeowner's Association is, at any time, dissolved, whether inadvertently or deliberately, the Homeowner's Association shall automatically be succeeded by an unincorporated Homeowner's Association of all lot owners of a similar name and shall continue to operate with the same force and effect. In such event, all of the property, powers and obligations of the Homeowner's Association entity existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated association, and such vesting shall, thereafter, be confirmed and evidenced by appropriate conveyances and assignments. To the greatest extent possible, any successor unincorporated association shall be governed by the Articles of Incorporation or Organization of the preceding entity and the Bylaws of the Homeowner's Association, as if they had been made to constitute the governing documents of the unincorporated association being formed. The Articles of Incorporation or Organization and the Bylaws of the Homeowner's Association hereafter adopted and duly amended shall be deemed covenants running with the ownership of the lots and shall be binding upon owners as if recited verbatim herein. If a simpler appropriate organizational structure is permitted under Oregon law, members are allowed herein to adopt, subject to the requirement of a minimum three person management team elected by majority among members after the Homeowner's Association takes over the management responsibilities. The management team shall be allowed to meet in person or by telephone conference to consider issues and make decisions.

**Section 2. Membership.** Every person or entity who is an owner of any lot shall be a member of the Homeowner's Association when it is formed. The foregoing is not intended to include persons or entities whose interest is merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot, whether ownership is held by deed or as a contract vendee purchaser. Ownership of a lot shall be the sole qualification for membership. Each lessee, renter or other non-owner occupant of a structure is not eligible for membership. Members are responsible for the actions of their tenants, co-habitants or guests. Each tenant, co-habitant or guest is required to adhere to

these covenants, conditions and restrictions as they relate to their enjoyment and use of the area.

**Section 3. Control of Homeowner's Association Affairs.** Not later than 120 days after 10 lot sales are closed (recorded) representing 83.33 % (the 10<sup>th</sup> lot sale will reach 83% of the possible member votes) have been conveyed, Declarant shall call a meeting to facilitate arrangements for the formation of the Homeowner's Association and election of a Board of Directors under the terms of this declaration. Within 90 days after declarant is notified in writing of completion of the formation of the Homeowner's Association, Declarant shall transfer by appropriate instrument the Declarant's interest in the common properties to the entity established for the benefit of the Homeowner's together with all administrative responsibilities for Sawgrass Estates Homeowner's common areas to the Homeowner's Association in accordance with applicable statutes. In the event 83.33% of the lots have not been sold by 7/30/2011: The Declarant, Sawgrass LLC shall transfer to the Homeowner's Association all of the management of the common facilities and property.

**Section 4. Voting.** After the responsibilities for control and management have been transferred to the Homeowner's Association, members shall have the right to vote. There shall be only ONE vote per lot. Multiple member lot owners shall designate in writing to the Declarant and/or subsequently to the Homeowner's Association, the name of the voting owner member for the lot, together with permission for the designated voting owner member to act on their behalf by the non-voting member(s) for verification of that authority, or the non-voting member may give a proxy to the voting owner member. If an owner member is not in attendance, has not given a proxy or a written authority to the owner member in attendance, the owner member of the lot then in attendance shall not have their vote counted, as if not in attendance.

The Declarant, Sawgrass LLC, its successors and/or assigns, shall become a member of the Homeowner's Association when 10 lots have been sold or on 7/30/2011 whichever is sooner, and as a member, Declarant shall retain ONE vote per lot which the Declarant still owns. See Article I - Definitions # 7

### **ARTICLE III PROPERTY RIGHTS and RESTRICTIONS IN COMMON PROPERTIES**

**Section 1. Members' Easement of Enjoyment.** Every owner member of a lot shall have a right and easement of enjoyment in and to the common property (the dedicated roadway – E-2) and such easements shall be appurtenant to and shall pass with the title to every lot. Every owner shall be subjected to these restrictions at the minimum.

a. The Declarant and/or subsequently the Homeowner's Association shall have the right to limit the number of guests to use the common property. See #e and #f below.

b. The rights of the Declarant and/or subsequently the Homeowner's Association to *suspend* the voting rights of any owners of any lots for any period during which any assessment against said lot has been declared delinquent under the terms herein

c. The rights of the Declarant and/or subsequently the Homeowner's Association, to monitor and maintain for the benefit of the owners any easements for public utilities or for other public purposes consistent with the intended use of the Homeowner's Association common property and easements, but subject to such conditions as may be agreed to by the Homeowner's Association. In case of emergency situations, such as flood, wind, plugged up storm drains, etc., emergency crews shall have the right of entry and access to each lot without notice in order to attempt to minimize damages to properties within Sawgrass Estates.

d. The rights of the Declarant and/or subsequently the Homeowner's Association to promulgate reasonable rules and regulations governing rights of use, from time to time, in the interest of securing maximum safe and enjoyable usage of common property without unduly infringing upon the privacy or enjoyment of the owner or occupant of any part of real property, including, without being limited thereto, reasonable regulations and restrictions regarding parking and speed on the roadway. See Article 6 Sections 5 & 7.

e. The rights of the Declarant and/or subsequently the Homeowner's Association to restrict parking on the asphalt roadway except in the cul-de-sac and require alternate parking arrangements as herein defined. Each lot owner shall provide on site parking for not less than 2 vehicles outside of any garage constructed for storage of vehicles. This may be required to be 3 spaces if the owner petitions for design review approval of a home with additional permanent guest quarters. See Parking Article VI Section 5.

f. The rights of the Declarant and/or subsequently the Homeowner's Association to restrict visibility of

recreational vehicles. Recreational vehicles of any type including, but not limited to, Boats with or without trailers, Campers, Travel Trailers and Motor homes, if parked, must be parked on the owner's property, adjacent to the residence or other structure positioned behind a screened area, a fence, or within a garage, so as to hide the recreational vehicle from view. These vehicles may NOT be stored in the 20' front setback area from the street or on the driveway, except that the owner is allowed to periodically clean, load, unload, wash and repair these vehicles in the 20' front setback area for a period not to exceed 72 hours. Visitors may be allowed to park these vehicles for periods not to exceed 72 hours without special permission. This rule is intended to allow storage of recreational vehicles on the owner's property and in so doing cause such storage to be unobtrusive from the street. See Parking Article VI Section 5.

g. The rights of the Declarant and/or subsequently the Homeowner's Association to place a LIEN against the property of any owner member who fails to pay within 90 days an assessment for common property or services provided within Sawgrass Estates.

h. The rights of the Declarant and/or subsequently the Homeowner's Association to restrict and/or regulate obnoxious activities and/or restrict speed on the common property asphalt roadway.

**Section 2. Title to Common Property.** Declarant hereby covenants for itself and its successors and assigns that it will convey to the Homeowner's Association fee simple title to the common property "dedicated roadway tract E 2", and all personal property including the, the special utilities equipment, special utilities building and the log splitter (use at your own risk) within the time prescribed above in Article II, Section 3.

**Section 3. Special Restriction of Uses of the Property within Sawgrass Estates.** The property is subject to requirements contained in this Declaration or any amendments thereto.

(a) Lots 5 through 12 of Sawgrass Estates have some designated wetland areas. The wetlands do not constitute common property. Each purchaser who becomes an owner of a lot consisting of lands within the wetland shall be advised that these areas are subject to government regulations administered by the Oregon Dept. of State Lands (DSL) and the US Army Corp of Engineers (USACE). The subdivision approval requires a 5' setback for any structure from the wetland area for lots 5 through 12. Native trees and shrubs shall be planted within the 5-foot buffer. Appropriate storm water detention and treatment facilities to treat runoff prior to discharge shall be installed and erosion control and other wetland protection measures shall be implemented during construction. Lot 9 has a "potential future fill area" subject to approval from DSL and USACE. If any development requiring fill and/or removal is proposed within the 5' setback from the wetland area, the owners of Lots 5-12 shall contact DSL and the USACE to determine if the area proposed for development is subject to permits or mitigation. If necessary, all determinations or permit approvals shall be obtained from DSL and the USACE prior to any regulated development and prior to the submittal of an application for a Building Permit to the Tillamook County Department of Community Development.

(b) After title of the dedicated roadway common property tract, known as E 2, also known as Sawgrass Place, is transferred to the Homeowners Association, the Homeowner's Association shall NOT have the right to sell or convey this common property area or subject the common property to a security interest.

**Section 4. Dedicated Roadway and Utilities.** The Dedicated roadway (E 2) known as Sawgrass Place and the underground storm drainage system which is installed over, through and under all platted road right of ways and some property line easement areas within the property shall be common property and shall be for the use and benefit of owners. Maintenance of the roadway and underground storm drainage system shall be the management responsibility of the Declarant and/or subsequently the Homeowner's Association with the owners, (members) of Sawgrass Estates lots being assessed for the upkeep on a pro-rata basis of lots, not votes, which may result in an assessment by the Declarant prior to the formation of the Homeowner's Association under the terms of Article II, Section 3, after which the responsibility reverts to the Homeowner's Association, which shall consist of lot owners as members of the Homeowner's Association. See Definitions in Article 1 #16 and see Article VI Section 5 Parking

**Section 5. Special Utilities:** The Declarant intends to construct a building approximately 5' x 6' as a special utility building in the easement area in the front 8' of Lot 9 near the joint lot line of either Lot 8 or Lot 10. This special utility building will provide a weather tight and secured equipment location in order to provide the homeowners with fiber optic amenities when and if they become available and amenities that may be

provided through any other medium. This special utilities building and equipment shall become the property of the Homeowner's Association when the Declarant releases control to the Homeowner's Association. The intention is to provide what services may become available to benefit the lot owners, as opportunities arise and/or disappear, in this new high tech world. Any services provided through the Special Utilities to any lot owner by any provider shall be additional to the costs projected as the anticipated maximum assessment or paid directly to the provider by each lot owner as applicable.

#### **ARTICLE IV COVENANTS FOR MAINTENANCE - ASSESSMENTS**

**Section 1. Creation of the Lien and Personal Obligation of Assessment.** Declarant hereby covenants for all the real property, and each owner of any lot, that by acceptance of a deed or contract of purchase for a lot in Sawgrass Estates, whether or not it shall be so expressed in any such deed or other conveyance, such lot owner is deemed to covenant and agree to pay the Declarant and/or the Homeowner's Association:

- a. regular annual or other regular periodic assessments or charges as established by the Declarant and/or subsequently by the Homeowner's Association from time to time, and
- b. special assessments for capital improvements and/or repairs and maintenance to the roadway, systems or facilities. Such assessments shall be fixed, established and collected from time to time as hereinafter provided. The regular and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the lot and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees shall also be the personal obligation of the person who was the owner of such lot at the time such assessment became due. The obligation shall not be a personal obligation of successors in title unless expressly assumed by them.

**Section 2. Purpose of Assessments.** The assessments levied by the Declarant and/or subsequently by the Homeowner's Association shall be used exclusively for the purposes of covering the cost associated with operating and maintaining the dedicated roadway, the privacy fence for property owner to the north of the entrance, the storm drainage system, the special utility building, the special utility systems, and equipment owned now or later acquired by the Declarant and/or subsequently the Homeowner's Association for Sawgrass Estates lot owners, acquiring additional improvements, such as group mailbox, entrance sign, if required or desired, payment of applicable property taxes, operational expenses of any kind, but not limited to only these items, for promoting the recreation, health, safety, enjoyment and protection of the residents and guests of owners of SAWGRASS ESTATES lots and for funding the reserve account provided for in Section 3 d of this Article IV after Declarant's reserve contribution is exhausted, subject to the determination of the Homeowner's Board of Directors. The water system has been accepted by Nehalem Water District. The Sanitary Sewer system has been accepted by Nehalem Wastewater District. Therefore, the Homeowner's Association will not be responsible for maintenance of these two utilities.

**Section 3. Annual Assessment Basis and Maximum.** Beginning January 1, 2009, the anticipated maximum regular assessment shall be at the rate of \$ 300.00 per year for each lot in Sawgrass Estates.

- a. There will be no annual assessment due until January 1, 2009 – the assessment billing will be for the annual period, but may be paid quarterly. The Declarant and/or subsequently the Homeowner's Association shall fix the amount of the regular assessment at least 45 days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner within 10 days of determination of the assessment amount.
- b. From and after January 1, 2009, the maximum annual assessment may be increased by a vote of the members, provided that any such increase shall be approved by the affirmative vote of not less than 51% of the votes of each class of members who are voting in person or by proxy, at a meeting attended by not less than a quorum and which is duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 90 days in advance of the meeting setting forth the purpose of the meeting. A portion of the collected annual regular assessment, to be determined by Declarant and subsequently by the Homeowner's Association, shall be set aside as reserves for future required repairs.
- c. The Declarant and/or subsequently the Homeowner's Association shall furnish within 45 days after the

end of any assessment year an accounting in writing of all expenditures and of assessment amounts and payments made by the owners.

d. The Declarant shall fund a HOA reserve account with \$5,000.00 within 180 days of recording of the plat to provide for planned or unplanned expenses or needs prior to the beginning assessment date. The Declarant herein notifies all owners that it is the intention to use the reserve account funds, prior to the assessment date for the following items, but not limited to these items:

1. electric service expense for special utility building
2. water use fees on lot 9 (or such other designated lot) if it becomes possible for the owner to install a water meter for use by all owners and/or contractors in clearing lots and facilitating burning of debris for calendar years 2007 and 2008. Burn permits require water availability at the site of the burning. This will save each owner \$2,867.00 hookup (current charge) plus \$40.60 per month (current charge) during construction of a residence or clearing. Long hoses will be required for lot owners to benefit from this option, which may or may not be made available by Lot 9 owner.
3. toilet (portable potty) facilities (if practical) for calendar years 2007 and 2008 – resulting in considerable savings
4. property taxes on common property
5. weed control on common property
6. maintenance of systems on common property

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Homeowner's Association may levy in any assessment year a special assessment applicable to that year only for the purposes of defraying in whole or in part, the cost of any construction or reconstruction or unexpected repair or replacement of a capital improvement upon the common property, including the necessary fixtures and personal property related thereto, provided that any such special assessment must be approved by a majority vote of the membership of the Homeowner's Association voting in person or by proxy at a meeting duly called for the purpose of voting on such special assessment, written notice of which meeting (setting forth the date, time, and purpose of the meeting) shall be sent to all members not less than 30 days nor more than 90 days in advance of the meeting. A quorum must be present for said meeting. See Definitions #10 for Quorum requirements. This section shall not prohibit the Declarant and/or subsequently the Homeowner's Association from authorizing capital expenditures for replacement, repairs or improvements from funds generated by regular assessments.

Section 5. Uniform Rate of Assessment All annual assessments and any special assessments must be fixed at a uniform and equal rate per lot for services rendered for all lots and may be collected on an annual, semiannual, quarterly, or monthly basis in the discretion of the Declarant and/or subsequently the Homeowner's Association. If special services are rendered to specific lots at the request of the owner thereof, additional assessments shall be charged to such lots. If the Declarant and/or the Homeowner's Association has any common profits at the end of any fiscal year, the Declarant and/or the Homeowner's Association may, in its sole discretion, elect to distribute them to members in proportion to the assessments made to the members' lots during the same fiscal year. Such decisions shall be impacted and ruled in general by the Federal and State Income Tax laws governing the type of entity reporting the profits (also known as reserves).

Section 6. Date of Commencement of Annual Assessments; Due Dates. The annual assessment provided for herein shall commence as to all lots on the first day of the month following December 31, 2008. Any lots being purchased after January 1, 2009, shall have the annual assessment provided for herein pro-rated at closing. The assessment date shall be January 1, 2009 and thereafter on the 1<sup>st</sup> day of January each year. The due date for the 1<sup>st</sup> quarterly payment shall be January 10, 2009 and thereafter at not less than quarterly intervals. The Declarant and/or subsequently the Homeowner's Association shall, upon written demand at any reasonable time, furnish an accounting, in writing signed by the Declarant and/or subsequently the Homeowner's Association setting forth whether the assessments on a specific lot have been paid. The Declarant and/or subsequently the Homeowner's Association may make a reasonable charge for the issuance of these accountings, other than annual statements, which shall be sent to each owner within 45 days of the end of each calendar year in which an assessment has been charged and payments collected. Such written accounting shall be conclusive evidence of payment of any assessment



therein stated.

**Section 7. Delinquency - Effect of and Remedies for Nonpayment of Assessments:**

The Declarant and/or subsequently the Homeowner's Association shall have the authority to collect delinquent regular and/or special assessments from the lot owners. Any assessments which are not paid when due shall be delinquent and constitute a lien on the lot on which it is assessed, whether or not the lien has yet been filed or recorded. If the assessment is not paid within 60 days after the due date, it shall be considered delinquent. Beginning 60 days after the date on the request for payment, interest shall accrue at the rate of 10% per annum. Not less than 60 days and within 90 days from the date of the original billing for the assessment which remains unpaid, the Declarant and/or subsequently the Homeowner's Association shall send a delinquency statement via documented US Mail detailing the total amount of all then existing delinquent charges and assessments, the intent to accrue interest to the delinquent account at the rate of 10% per annum, and together with a Notice of Potential Lien filing, which shall be included with the statement. The Declarant and/or subsequently the Homeowner's Association shall file, or cause to be filed, a notice of delinquency and a lien against the lot and property owner in the amount of the total amount of any and all such delinquent charges, and/or delinquent assessments, and together with interest at the rate of 10% in the office of the Director of Records, County Clerk, or appropriate recorder of conveyances of Tillamook County, Oregon within 90 days of the date of the delinquent notice having been sent to any delinquent lot owner via documented US Mail. The aggregate amount of such assessments, as shall continue to accrue during the delinquent period together with interest, costs, expenses and reasonable attorneys fees for the filing and enforcement thereof, shall constitute a recorded lien on the lot, including any improvement thereon, from the date the notice of delinquency thereof is filed in the office of said County Clerk or other appropriate recording office, until the same has been paid. The Declarant and/or subsequently the Homeowner's Association in the manner provided by law with respect to the liens upon real property may enforce such lien. The owner of said lot at the time said assessment becomes due shall be personally liable for the resulting expenses, costs, disbursements, expert witness fees and attorneys fees which shall also be secured by said lien, including additional attorneys fees incurred on appeal. The owner at the time such assessment is incurred shall also be personally liable for any deficiency remaining unpaid after any foreclosure sale. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the common property or abandonment of his residence, lot or any improvement thereon. Upon payment in full of all charges, Declarant and/or subsequently the Homeowner's Association officer shall execute and file a proper release of the lien.

**Section 8. Subordination of the Lien to Prior liens of lenders:** The lien of the assessments provided for herein accruing after the effective date of a mortgage, a trust deed, or a contract shall be inferior, junior and subordinate to the lien of all mortgages, trust deeds or contracts now or hereafter placed upon any such lot. However, the foreclosure sale or transfer of any lot which is subject to any mortgage, trust deed, or contract pursuant to a decree of foreclosure under such mortgage, trust deed, or contract or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to amounts thereof which became due prior to such sale or transfer. A sale, deed in lieu of foreclosure or other transfer shall not relieve such lot and any improvements thereon together with the new owner from liability for any assessments that accrue and become due after the purchase or transfer, or the subsequent lien, which shall occur if such assessments are not paid. The owner-mortgagor, owner-Grantor or owner-vendee, at the time any assessment is incurred shall also be personally liable for any unpaid assessment deficiency remaining unpaid after any foreclosure sale or deed in lieu of foreclosure occurs. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the common property or abandonment of his residence, lot or any improvement thereon.

**Section 9. Exempt Property.**

The following property, which is subject to this Declaration, shall be exempt from the assessments created herein:

- a. all property known as the "dedicated roadway" (E 2 on the plat), which is a private road
- b. all property, buildings and systems known as "special utilities"
- c. all property, real or personal, owned or to be owned by the Sawgrass Homeowner's Association



## **ARTICLE V ENCROACHMENTS**

If any portion of a residence or other structure now or hereafter constructed upon any lot encroaches upon any common properties or upon a lot or lots used or designated for use by an owner of another lot, such residence or other structure shall promptly be removed by the owner of the lot upon which the encroaching residence or other structure is primarily located, excepting the utility building to be built on the 8 foot front easement area of Lot 9.

## **ARTICLE VI RESIDENTIAL COVENANTS, CONDITIONS AND RESTRICTIONS**

**Section 1. Permitted Use.** Each lot shall be used for single-family residential purposes. Each single family residence, may include a guest quarters such as a casita or mother-in-law separate quarters, which shall not exceed 650 square feet in total if a separate entrance is provided to the space, and each single family residence may include auxiliary structures such as a workshop, garden shed or other related structures, subject to local governmental regulations and subject to prior approval of the Declarant and/or subsequently the Homeowner's Association, in accordance with this Declaration. Duplexes are prohibited. This approval shall not be exercised to prohibit the construction of a residence with amenities on a lot in accordance with this Declaration or the storage, during the course of construction, of construction materials and equipment on said lot as may be necessary for such construction or the use of any residence on a lot. Prior approval from the Declarant and/or the Homeowner's Association must be acquired before any lot may be used for any conditional uses as described in zoning ordinance 80-2 with amendments.

**Section 2. Architectural requirements.** The square footage of the residence is defined as that part of the structure, which lies between the exterior face of the exterior walls, excluding garages or auxiliary structures. This portion of the residence shall be heated and ventilated in accordance with existing codes. Garages, carports, similar structures and/or auxiliary structures shall not be included in the square footage calculation. Garages must be sized for a minimum of 2 cars. The main floor footprint of each single level residence shall have NOT less than 1,300 square feet of single family living space, excluding decks, covered or not covered, porches, covered or not covered, auxiliary structures and garages, detached or not. All single level structures shall have not less than a 6/12 roof pitch. The main floor footprint of each two story residence shall have NOT less than 900 square feet of single family living space, with NOT less than 1300 total square feet single family living space in the two levels, excluding decks, covered or not covered, porches, covered or not covered, auxiliary structures and garages, detached or not. The portion of the dwelling containing a second story of a two-story dwelling is exempt from the 6/12 roof pitch requirement because of the ordinance of the City of Nehalem indicating a maximum building height of 24'. Carports, covered porches, greenhouses, boat storage buildings, and auxiliary structures of a non-residential nature are not required to have the 6/12 roof pitch. Any approvals granted by the Declarant and subsequently the Homeowner's Association shall expire and become invalid and must be resubmitted if permits for construction have not been acquired by one year from the date of approval. T-111 siding shall only be allowed on a structure in the rear yard, unless it looks like board and batton and is approved under the terms herein. See Article VI Section 1 above for limitations regarding casitas, guesthouse and mother-in-law separate quarters.

**Section 3. Restriction on Further Subdivision.** No lot shall be further subdivided or separated into smaller lots by any owner, excepting lots 6 & 10, and no portion less than all of any such lot, excepting lots 6 & 10, nor any easement or other interest herein shall be granted, conveyed or transferred by an owner, provided that this shall not prohibit deeds of correction, deeds of lot line adjustment, deeds to resolve boundary disputes, and similar corrective instruments, or ownership of a single lot in common with another or others, or by the entirety, between spouses or other types of joint ownership that might be allowed by governing authorities. If 2 lots are ever amalgamated into one the owner shall have two votes and two assessments as if the property were still two lots.

**Section 4. Easements.** Declarant and/or subsequently the Homeowner's Association, hereby reserves to itself, it's successors and assigns, perpetual easements under, over and across all common properties acquired or dedicated in the future and under, over and across strips of land eight feet in width running

along and interior to the front lot line, and five feet in width running along and interior to the side lines and rear lines of each lot for the purpose of erecting, installing, constructing, maintaining and operating sewers and drainage and irrigating systems, and pipes, wires, cables and conduits for lighting, heating, power, telephone and any other method of conducting and performing any public or quasi-public utility service or function beneath, upon, or above the surface of such common properties and such five-foot strips of land. Within the easements consisting of the herein defined five-foot strips of land on the interior of lot lines, no structure, fence, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of such utilities or facilities, or which may obstruct, retard or change the direction of flow of water through a drainage channel or other facilities in the easements. Provided, however, with prior written approval by the Declarant and/or subsequently the Homeowner's Association, a lot owner may place surface coverings such as asphalt or concrete on this easement area or plant shrubbery in this area or otherwise landscape this area if the lot owner agrees to remove same at lot owner's expense whenever it is necessary to have access to the surface or subsurface property(s) within the easement for the purposes specified herein and conditioned upon lot owner making all necessary provision for alternate drainage facilities within owner's lot if surface drainage or sub-surface drainage is interrupted or altered. The easement areas of each lot and all improvements within the easement area shall be maintained continuously by the owner of the lot, except for those improvements for which the Declarant and/or subsequently the Homeowner's Association and/or a public authority or utility company is responsible. In addition to the above easements, each lot owner shall grant to the Nehalem Bay Wastewater Agency a separate easement for sewer service lines if required. Each lot owner shall grant to the Tillamook PUD a separate easement for electrical service to the structure.

**Section 5. Parking.** When developing a lot for a residence, asphalt or concrete surfaced driveways shall be required to be provided on the lot for the parking of a minimum of 2 cars and similar passenger vehicles, in addition to any garages, to facilitate periodic regular parking off of the dedicated roadway. This shall be required to be 3 spaces if the owner petitions for approval of a home with additional permanent guest quarters etc. There shall be no parking on the common area asphalt roadway, except around the edge of the 100' cul-de-sac, but parking shall be allowed on the gravel side adjacent to the 22' asphalt roadway, which is part of the dedicated roadway, for not longer than 72 hours. Parking of vehicles other than cars and similar passenger vehicles, including, but not limited to, campers, R.V.'s, camping trailers, boats, motor homes and other types of transportation will not be allowed on any lot or on the dedicated roadway for any period in excess of seventy two (72) hours and only on an occasional basis, consistent with guidelines that the Declarant and/or the Homeowner's Association may, from time to time, adopt, unless they are parked within an enclosed structure or behind a sight obscuring fence approved by the Declarant and/or subsequently the Homeowner's Association. Requests for permission to accommodate a visitor with a motor home for a specific short term period shall be reviewed on a case-by-case basis by the Declarant and/or subsequently the Homeowner's Association, and subject to their decision, may or may not be approved. No owner shall permit any vehicle, which is in a state of disrepair to be abandoned or to remain parked upon any lot or on the dedicated roadway, which is common property, for a period in excess of seventy two (72) hours, unless parked in a screened area on the owner's property or in the garage. Each lot owner, except those in the cul-de-sac, shall be required to maintain the portion of the dedicated roadway adjacent to their lot for off-asphalt parking. The cul-de-sac lot owners do not have off-asphalt parking available to them. RV use on undeveloped lots is prohibited. Use of an RV, etc. during construction of a residence may be allowed by the HOA if requested in advance and is in conformance with the local ordinance governing the use. See Article VI Section 30.

**Section 6. Landscaping.**

a. All street side landscaping on a lot must be completed not later than 18 months after substantial completion of the residence from the date of substantial completion of the residence constructed thereon. SAWGRASS ESTATES encourages installation of low maintenance landscaping ideas in the interest of maintaining the coastal environment and in so doing encourage natural plantings, rock gardens, etc. No scotch broom may be planted on any lot.

b. All trees in the designated WETLAND area must remain in place, even if blown down in a windstorm. Any tree coming down on a structure or in the "upland" may be removed. However, any tree that appears to be a danger to life and/or property should be removed subject to approval of HOA and adjoining lot owner.

- c. Landscaping within the Dedicated Roadway on Each Lot: Each owner shall be required to maintain the land within the dedicated road right-of-way in front of their lot as parking area.
- d. In order to allow for adequate access to the utility easement area, including equipment, and to provide off-asphalt parking, no trees shall be located within the road right of way or the first eight feet beyond the dedicated road right of way across the front of each lot. Any landscaping in this first eight-foot easement area shall be no higher than 36" above ground.

**Section 7. Offensive Activities.** No noxious or offensive activity shall be carried on or upon any lot, including the dedicated roadway known as Sawgrass Place, nor shall anything be done thereon which may be, or may become, an annoyance or a nuisance to the neighborhood as may be determined by the Declarant and/or subsequently by the Homeowner's Association. No loud noise shall be allowed prior to 7:00 am or after 9:00 pm, such as lawnmowers, weed-eaters, etc., including construction noise, such as power saws etc. No lot shall be used or maintained as a dumping ground for rubbish, garbage or trash. Garbage and other waste shall be kept in sanitary containers. All equipment for storage or disposal of such material shall be kept in a clean and sanitary condition, and comply with local, state or federal requirements.

**Section 8. Home Occupations.** Home occupations are allowed providing:

- a. The home occupation is conducted by the resident of the property upon which the activity is located.
- b. Reasonable and legitimate complaints from lot owners and neighbors may be cause for grounds for requiring the discontinuance of the business activity.
- c. all of the above conditions presume that the activity is legal within the governing jurisdiction and a permit has been acquired if required. If either situation is not met, complaints from neighbors will be cause for discontinuance under this declaration.

**Section 9. Rental Policy:** Rental of homes within SAWGRASS ESTATES is allowed subject to control by the Declarant and/or subsequently the Homeowners' Association. The Homeowner's Association shall provide guidelines designed to protect the owners' enjoyment and use of their properties and also provide opportunity for renting for those owners desiring to do so. Activities deemed and/or perceived offensive and intrusive to the rights of the owners shall be deemed grounds for withdrawal of the rental option. Reasonable and legitimate complaints from owners and/or neighbors may be cause to cancellation of the rental option, which shall be determined by the Declarant and/or the Homeowner's Association.

**Section 10. Signs.** No sign of any kind shall be displayed to the public view on any home site or structure except one professionally made and approved in advance by the Declarant and/or subsequently the Homeowner's Association. Temporary signs shall be allowed for a period of not more than one year. Specifically allowed would be professional real estate signs of not more than six (6) square feet in area that are constructed of standard weather resistant materials. This restriction shall not prohibit the temporary placement of political signs on any lot with the consent of the lot owner, the removal of which shall be within fourteen (14) days following the pertaining election. This restriction shall not prohibit the permanent placement of a professionally made sign for the subdivision in the dedicated roadway area by the Declarant and/or subsequently the Homeowner's Association, which complies with the local sign ordinances. Garage Sale and/or yard sales signs shall be limited to one per year per lot owner. Directional signs out at Tohl Road are subject to local sign ordinances and shall be permitted if allowed by the local jurisdiction. Small signs with fewer than 3 square feet may be placed in a street side window. Builder signs and temporary address signs are allowed during construction. The builder signs must be removed within 90 days after the occupancy permit is issued.

**Section 11. Animals.** No farm animals, livestock, fowl, poultry of any kind, reptiles or parrots, shall be raised, bred, or kept on any lot. Dogs, cats, or other household pets are allowed, excepting any purebred or mixed breed pit bulls, or any breed considered by local, county or state authorities to be vicious. All pet owners must meet local and county ordinances. All domestic pets must be properly restrained so they are not free to roam the neighborhood and must not be used for commercial breeding purposes. Complaints from owners and neighbors regarding obnoxious animals shall cause the Declarant and/or subsequently the Homeowner's Association to restrict the right of the owner to continue to allow the obnoxious animal activity. Domestic animals that disturb the wildlife in the area shall be prohibited. No hunting shall be allowed in the

subdivision. Lot owners in Sawgrass Estates whose children are involved in a 4-H small animal project may request special permission to accommodate their involvement in the project for a limited time, which may or may not be granted, but shall be considered on a case by case basis.

**Section 12. Construction Completion.** Construction of any residence shall be completed, including exterior decoration, within eighteen (18) months from the date of the start of such construction. All lots shall, prior to and after the construction of improvements thereon, be kept in a reasonable and orderly condition and free of debris. The lot shall be maintained in order to prevent the creation of a nuisance, fire hazard or health hazard.

**Section 13. Maintenance of Grounds.** The grounds of each developed lot shall be maintained in a neat and attractive condition. Upon the failure of any owner to maintain his lot in a neat and attractive condition, the Declarant and/or subsequently the Homeowner's Association may after thirty (30) days' notice to such Owner enter upon such lot and have the grass, trees, shrubs and other vegetation cut or trimmed and debris removed, when and as often as necessary in its judgment. Such Owner shall be personally liable for such services and the charges therefore shall constitute a permanent lien on such lot. Undeveloped lots should be maintained in a reasonable way.

**Section 14. Explanation of Design Review Function.** The Declarant, during the time prior to releasing control to the Homeowner's Association, shall have complete control over approvals of any and all submissions. Declarant may choose to acquire advice from any Sawgrass lot owners, engineers, architects, etc, but is not required to do so. Subsequent to the release of the control by the Declarant as outlined elsewhere in this document, the Homeowner's Association shall determine who participates in the design review functions, which determination shall include at least three people and may be made up of the other lot owners within Sawgrass Estates, an architect, a contractor or The Homeowner's Association. The goal is not to predict specific design, but to ensure that sensitivity to the climate, site, neighborhood and building character is maintained in the SAWGRASS ESTATES development, keeping the coastal environment and construction methods in mind. Individual design of each home or selection of each home to fit each unique site is expected. The Declarant and/or subsequently the Homeowner's Association shall have the discretion to approve or deny each design and shall do so on a case-by-case basis. Clear communication from the outset is critical to this process of working together effectively. The Declarant and/or the Homeowner's Association shall have the right to authorize all tree trimming and tree removal on both individual lots and in all common areas. It is expected that each property owner will be cognizant of the covenants, conditions and restrictions stated herein and communicate with all persons involved in planning their project. All proposed structures shall be reviewed by the Declarant and/or subsequently the Homeowner's Association with these covenants in mind within 21 days of submission, by mail or in person. Architect, designers and builders are encouraged to meet with the Homeowner's Association before beginning plans to better understand how the committee will review the plans for both building and landscape. The Homeowner's Association may establish a fee to accompany the submittal of home plans. This fee, if implementation becomes necessary, the fees shall be used to fund an architectural review by the Homeowner's Association consulting architect, if one is determined to be needed.

***Preliminary Submittals:*** When an owner is ready to start the design review process, an application is made for preliminary approval. The intent at this stage is to ensure that the proposal meets the intent of the covenants. Broad issues, such as placement of the structure on the lot, proposed character of the building, and exterior materials, will be discussed. Detailed issues will be discussed at the final submittal stage.

A review of information to be provided includes:

1. Site plan showing, house location, driveway, lot lines, decks
2. Elevation of garage floor and driveway
3. Floor plans of all levels
4. All exterior elevations
5. Preliminary Storm Drainage Plan
6. Preliminary Final Grade Plan

**Final Submittal** After receiving preliminary plan approval, final construction drawings shall be approved in writing by the Declarant and/or subsequently the Homeowner's Association prior to commencement of construction. All requirements of Tillamook County and City of Nehalem must be met and shown, ready for permit.

A review of information to be provided includes:

1. Site plan showing house location, driveway, lot lines, decks
2. elevation of garage floor and driveway
3. Construction drawings for the home and any auxiliary structure together with its location
4. Storm water connection location and storm-water control plan.
5. Final Grade Plan
6. Firewood storage plan
7. RV and Boat Storage plan

During the course of construction the Declarant and/or subsequently Homeowner's Association shall have the authority to issue a "stop work order" if work is not in compliance with the approved plans. *Please review construction noise regulations Article VI Section 7.* Plan approval expires and become invalid one year after the date of the approval if a permit for construction has not been issued by that time.

**Section 15. Sanitary Sewer Requirements.** Sewer service in SAWGRASS ESTATES is provided by the Nehalem Bay Wastewater Agency (NBWA). Connection to the NBWA sewer system is required prior to an occupancy permit issuance for each lot in SAWGRASS ESTATES.

**Section 16. Construction Guidelines and Requirements.** Builders, contractors and subcontractors shall adhere to these Residential Covenants and construction regulations as developed by the Declarant and/or subsequently the Homeowner's Association. Builders shall review these regulations prior to beginning construction. The lot owner whose contractors or subcontractors damage the roadway or other common areas such as the dedicated roadway or common facilities in SAWGRASS ESTATES shall be required to repair the damages at the lot owner's expense. In the event there is damage to any of the common facilities, the owner is subject to lien for repair by the Declarant and/or subsequently the Board of Director's of the Homeowner's Association, whichever applies.

a. Contractors and builders shall acknowledge receipt of these regulations by signing and returning one copy to the Declarant and/or subsequently the Homeowner's Association prior to beginning construction activity.

b. All construction and lot grading shall comply with the requirements of the approved Wetland Delineation for SAWGRASS ESTATES. Finish grades and driveways after construction of a residence shall be planned and constructed to encourage proper use of the storm drainage system, especially lots 1 through 6.

**Section 17. Building Height and Roof Pitch Limitations.** The allowed height of a building, as defined by the City of Nehalem Zoning Ordinance, shall not exceed 24 feet. Unless approval is first obtained from the City of Nehalem in accordance with the provisions of Section 3.040, subsection 7, or such other pertinent part of the code, of the Nehalem City Zoning Ordinance the Declarant and/or subsequently the Homeowner's Association shall not consider a request for approval of a residence that would be greater height. Single level residence roofs shall have a pitch of at least 6 in 12 (6 inches measured vertically for every 12 inches measured horizontally). Flat or low-slope roofs are not allowed, except on the second story of a two-story residence. Carports, covered porches, greenhouses, boat storage buildings, and auxiliary structures of a non-residential nature are not required to have the 6/12 roof pitch.

**Section 18. Roofing.** Acceptable roofing materials: 30 or 40 year architectural grade composition roofing, colored ribbed metal roofing, tile, cedar shake or cedar shingles. Upon request, the Declarant and/or subsequently the Homeowner's Association may consider other roofing materials.

**Section 19. Storm Drainage.** Care should be taken to provide for filtration of the water that is allowed to go into the storm drainage system so that is free from sand and silt, if at all possible, to help minimize maintenance of the storm drainage system throughout the subdivision.

**Section 20. Exterior Lighting.** Property OWNERS shall install and maintain an exterior post light near the

driveway entrance to the lot, which must be visible from the street. The lot owner must set the exterior post light on a dark to daylight sensitive switch in order to maintain visibility of the light at all darkness hours. Screening of offensive view by other lot owners of exterior floodlights and other such outdoors fixtures is required. The House number on the front of the residence must be lighted. The Declarant intends to provide each lot owner with front exterior post lights in order to uniformly light the street.

Section 21. Garbage, Refuse, Rubbish and Cuttings. No garbage, refuse, rubbish or cuttings shall be deposited upon or left on property owner's premises unless suitably located and screened from public view. It is recommended that all non-permanent resident garbage be taken to Cart M prior to departure at the end of a week-end or take it home. If refuse containers are left outside when the owner leaves, the wind will blow them over or away, which is unacceptable.

Section 22. Mailbox and Newspaper Holder Locations. Declarant and/or subsequently the Board of Director's of the Homeowner's Association may be required to place a group mailbox and/or newspaper boxes. Individual placement of receptacles will not be permitted without prior approval of the post office and the Declarant and/or subsequently the Homeowner's Association Board of Director's.

Section 23. Firewood Storage. Provision for storing firewood on the premises must be included in the overall home design. A firewood storage plan will be submitted along with the house plans and landscape plan. This plan must provide for the location of wood storage that will not be obtrusive either from adjoining properties or from the street.

Section 24. Driveways. All driveways shall to be paved with concrete or asphalt. Driveways shall be constructed to allow for the flow of the water into the storm drainage system.

Section 25. Fences and Hedges. Fencing and hedges are permitted on a case-by-case basis within SAWGRASS ESTATES with prior approval by the Declarant and/or subsequently the Homeowner's Association Board of Director's. No hedges or tall bushes are allowed in the front 8' easement of any lot.

Section 26. Utilities. No outdoor overhead wires.

Section 27. Antennas and Service Facilities. With prior written approval exterior communication sending or receiving devices, including, but not limited to, antennas, ham radio antennas or satellite receiving stations may be placed upon any lot or on the roof of any structure providing these units are as obscure as practical. Provided, however, with prior written approval by Declarant and/or subsequently the Homeowner's Association, obscure antenna devices may be installed on the exterior of the structure if the antenna or device or structure is minimally visible and determined not to deter from the character of the neighborhood by the Declarant and/or subsequently the Homeowner Association. No large Satellite dishes over 3' in diameter are allowed. Ham Radio Antennas are not limited by the residential structure height limit of 24', subject to local governing authorities. Ham Radio and other communication devices shall not be allowed if the transmission or receiving frequencies conflict with the special utilities in use or planned in the subdivision. Nothing in the paragraph or this Declaration shall preclude the HOA from erecting a tower to facilitate special utilities should it be needed.

Section 28. Fuel Tanks. No fuel tanks shall be installed unless a prior approval has been acquired from the Declarant and/or subsequently the Board of Director's. Propane tanks may be installed per governmental regulations. Tanks must be placed and/or screened, so as to be unobtrusive. The owner must acquire approval from the Declarant and/or subsequently the Homeowner's Association.

Section 29. Wells. Wells for irrigation purposes and/or water features are allowed if not prohibited by governing authorities.

Section 30. Local Zoning Ordinances. Local zoning ordinance 80-2 with amendments contains Section 6.020 permitted principal uses and 6.030 conditional uses, some of which under both are NOT allowed by this CC & R's Declaration. Sawgrass Estates CCR's Declaration may be more restrictive than the local

ordinance, in which case the CC & R's shall prevail. However, should the HOA determine that erection of a tower would benefit the HOA members special utility program, the HOA should comply with 6.030 if required to do so. Local zoning ordinances allow use of RV's, trailers or campers on any lot only after the issuance of a building permit for construction of a residence and only for use during construction of the residence. RV use on undeveloped lots is otherwise prohibited by local ordinance.

**Section 31. Business and Commercial Use** No lot shall be used for a residential home or halfway house of any sort for the care of more than 2 adults.

## **ARTICLE VII ENFORCEMENT**

**Section 1. Use of Common Properties and Facilities.** In the event any owner shall violate any provision of this Declaration, the Bylaws of the Association or other rules adopted by the Declarant and/or subsequently the Homeowner's Association, The Declarant and/or subsequently the Homeowner's Association shall notify the owner in writing that the violation exists and that the owner is responsible for them and The Declarant and/or subsequently the Homeowner's Association may:

- a. notify the owner in writing that his voting rights are suspended for the time that the violations remain unabated or
- b. impose fines upon the Owner as such fines may be provided for in the Bylaws and rules of the Association, or
- c. enter the offending lot and remove the cause of such violation, or later, repair or change the item which is in violation of this Declaration in such a manner as to make it conform thereto, in which case the Homeowner's Association may assess such owner for 120% of the entire direct or indirect cost of the work done, which amounts shall immediately be payable to the Homeowner's Association, or
- d. bring suit or action against the owner on behalf of the Homeowner's Association and other owners to enforce the provisions of this Declaration, or do any of the above in conjunction with each other. Provided, however, in each remedy under a & b above, the lot owner shall have the right to a hearing before the Board of Directors to contest its determination, if requested within 30 days of the Homeowner's Association determination. If a hearing is requested, imposition of the applicable remedies will be withheld pending the Homeowner's Association decision after hearing the lot owner's testimony and evidence. If an emergency exists and is so determined by the Declarant and/or subsequently the Homeowner's Association, it may proceed with the remedies specified in c above pending the hearing or decision on the hearing. If a hearing is requested, the Declarant and/or Homeowner's Association shall hold it within 30 days of receipt of request at a location designated by the Declarant and/or subsequently the Homeowner's Association in a timely notice to the lot owner. Declarant and/or subsequently the Homeowner's Association shall make a decision on whether to proceed with the specified remedy or to abate its action and provide notice thereof to the lot owner. All assessed fines shall be paid immediately to the Homeowner's Association and deposited into the Homeowner's Association's general account.
- e. In the event the action denoted under c above is taken and the offending lot owner does not pay, the Declarant and/or subsequently the Homeowner's Association shall record a lien against the offending lot owner's property within 60 days of the completion of the work. All lien remedies under the law shall apply, including interest.

**Section 2. Interest, Expenses and Attorneys Fees.** Any amount not paid to the Declarant and/or subsequently the Homeowner's Association when due in accordance with this Declaration shall bear interest from the due date until paid at the following rate per annum: From the date thereof until the first annual meeting of members, 10% per annum; and thereafter at a rate per annum which the members shall establish at each such annual meeting to be in effect until the next such annual meeting, but if no such rate is so established by the members, then the rate shall be 10% per annum. In the event the Declarant and/or subsequently the Homeowner's Association shall bring any suit or action to enforce this Declaration, to collect any money due to it, or to foreclose a lien, the Declarant and/or subsequently the Homeowner's Association shall be entitled to recover all costs and expenses incurred by The Declarant and/or subsequently the Homeowner's Association in connection with such suit or action, including the cost of a foreclosure and including, but not limited to a title report, expert witness fees and such amount as the court



may determine to be reasonable as costs and attorneys fees at trial and upon any appeal thereof. In addition to being the personal obligation of the lot Owner, the Declarant and/or subsequently the Homeowner's Association shall have a lien upon the lot owned by the delinquent party to secure payment of such costs and expenses.

**Section 3. Nonexclusiveness and Accumulation of Remedies.** An election by the Declarant and/or subsequently the Board of Directors of the Homeowner's Association to pursue any remedy provided for violation of this Declaration shall not prevent concurrent or subsequent exercise of any remedy permitted under this Declaration. The remedies provided in this Declaration are not exclusive, but shall be in addition to all other remedies, including actions for damages and suits for injunctions and specific performance available under applicable laws.

**Section 4. Effect of Breach.** The breach of any of the covenants, conditions or restrictions contained in this Declaration shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to any lot or lots or portions of lots, but these covenants, conditions and restrictions shall be binding upon and effective against any such mortgagee or trustee or Owner thereof, whose title thereto is or was acquired by foreclosure, trustee's sale or otherwise.

**Section 5. Delay.** No delay or omission on the part of Declarant and/or subsequently the Homeowner's Association's or the owners of other lots in exercising any right, power or remedy herein provided in the event of any breach of the covenants, conditions or restrictions herein contained shall be construed as a waiver thereof or acquiescence therein; and no right of action shall accrue nor shall any action be brought or maintained by any one whatsoever against Declarant and/or subsequently the Homeowner's Association and no right of action except specific performance shall accrue nor shall any other right of action be brought or maintained by any one whatsoever against the Homeowner's Association or on account of its failure to bring any action on account of any breach of these covenants, conditions or restrictions, or for imposing restrictions herein which may be unenforceable by Declarant or the Association.

## **ARTICLE VIII GENERAL PROVISIONS**

**Section 1. Severability.** Invalidation of any one or more of the provisions of this Declaration by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect. In all cases, the true intent of the covenants, conditions, and restrictions shall be taken into consideration in making decisions.

**Section 2. Duration and Amendment.** The provisions of this Declaration are intended by Declarant to be covenants that run with the land and shall run with and bind the Real Property and shall inure to the benefit of and be enforceable by Declarant, the Association, or the Owner of any lot subject to this Declaration, their respective legal representatives, heirs, devisees, successors and assigns, for a term of 25 years from the date of the recording of this Declaration, after which time said provisions shall be automatically extended for successive periods of 10 years each unless an instrument approved by 83.33% vote of the membership of the Homeowner's Association has been recorded in the records of Tillamook County, Oregon, setting forth an amendment or modification of this Declaration. Any such instrument may be executed and acknowledged on behalf of the Homeowner's Association, and shall recite the results of the vote taken approving such amendment or modification; provided, however, the failure to contain such a recitation shall not invalidate any amendment or modification otherwise adopted in accordance herewith. Any of the provisions of this Declaration, except the grant of the easements herein granted, but specifically including provisions related to the use and enjoyment of such easement (including, without limitation, the easements for use of the common property) not inconsistent with the provisions hereof, may be amended by a 66 2/3 majority vote of the Homeowner's Association membership. Any modifications of this declaration approved by a 66 2/3 vote of the membership of the Homeowner's Association shall be executed and acknowledged on behalf of the Homeowner's Association and recorded in the deed records or other appropriate records of Tillamook County, Oregon to be effective and shall recite the results of the vote approving such amendment; provided, however, that failure to contain such a recitation shall not invalidate any amendment otherwise adopted in accordance herewith. The requirement to have the consent of Declarant and its successors and

assigns shall expire 4 years from the date of recording of this Declaration and that authority shall vest in the Homeowner's Association, if not sooner. See Article II Section 4

Section 3. Rights of Mortgagees, Beneficiaries and Contract Vendors - Relating to Maintenance. At any time that any part of the residence, lot or other building or improvement located thereon is not in accordance with this Declaration or the Homeowner Association's Bylaws or is not properly maintained and kept in good order and repair to the extent reasonably necessary to protect and preserve the appearance and value thereof, then the record owner of any mortgage, trust deed or contract upon any part of said real property or residence or building thereon, upon giving written notice as hereinafter provided, shall be entitled to exercise the rights of the owner-mortgagor, Grantor, or Contract Vendee of such property as a member of the Association, including the right to vote at all regular and special meetings of the members of the Association or a period of one year following the date of such notice. During said time period such Mortgagees, Beneficiaries and Contract Vendors shall be given notice of all regular and special meetings of the Association, and the owner-mortgagor, Grantor, or Contract Vendee shall receive such notice also and may attend such meeting as an observer. Said notice by Mortgagee, Beneficiary or Vendor shall quote this paragraph and shall be sent by documented carrier or by certified U. S. mail, return receipt requested, to the owner-mortgagor, Grantor or Contract Vendee with a copy by regular mail to the Homeowner's Association at the last known address of each.

Section 4. Loss of Property. In order to protect and preserve the appearance and value of the real property, each owner is required to immediately commence and diligently pursue without delay the repair or rebuilding of his residence after any loss to it.

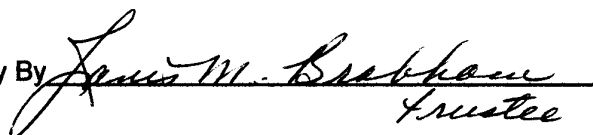
Section 5. Notices. Unless otherwise provided herein, any notice required to be sent to any member or owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last address provided to the Association in writing by the person who appears as member or owner on the records of the Association at the time of the mailing.

Section 6. Assignment. Any or all rights, powers and reservations of Declarant herein contained may be assigned to any person, corporation or Homeowner's Association which is now organized or which may hereafter be organized and which will assume the duties of Declarant hereunder pertaining to the particular rights, powers and reservations assigned; and upon such person, corporation or Homeowner's Association evidencing its intent in writing to accept such assignment and assume such duties, he or it shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given and assumed by Declarant herein.

Section 7. Indemnification. The Declarant and/or subsequently the Homeowner's Association shall carry liability insurance on the Homeowner's Association assets. The Declarant and/or subsequently the Homeowner's Association hereby covenants and agrees to indemnify, hold harmless and defend the Declarant, its successors and/or assigns, its participants, if any, and/or subsequently the Homeowner Association's Board of Directors and members of any committee, who by reason of being such, or as a result of the exercise of their duties as such, are a party or are threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil or criminal, administrative or investigative. Indemnification may be had for costs and expenses (including attorneys fees), judgments and settlement payments, provided that the officer or director acted in good faith, in a manner reasonably believed to be not opposed to the interests of the Homeowner's Association and, in the case of criminal proceedings, had no reasonable cause to believe his or her conduct unlawful. The use of the log splitter by any owners shall be at their own risk.

IN WITNESS WHEREOF, the undersigned being the Declarant herein has executed this Declaration this 14<sup>th</sup> day of September, 2007.

Sawgrass LLC, an Oregon Limited Liability Company By

  
Trustee

STATE OF OREGON - County of Tillamook  
On the 14 day of September, 2007, Janis M. Brabham,  
Trustee, Manager of Sawgrass LLC personally appeared  
before me and acknowledged the foregoing instrument to  
be her voluntary act and deed on behalf of Sawgrass Estates

Karen K Lorenz

Notary Public for Oregon

My Commission Expires: 1-4-2011



## **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SAWGRASS ESTATES**

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