

Returned at Counter

2024-000632

Klamath County, Oregon



00324366202400006320040045

01/25/2024 09:43:38 AM

Fee: \$97.00

After recording, return to:
Brandsness, Brandsness & Rudd, P.C.
Attorneys at Law
411 Pine Street
Klamath Falls, OR 97601

DECLARATION OF
CONDITIONS, COVENANTS AND RESTRICTIONS

Pinecrest
Bly, Oregon

This Declaration of Conditions, Covenants and Restrictions made this 25th day of January, 2024 by Pinecrest Estates, Inc., an Oregon corporation ("Pinecrest"), and Margaret Davis ("Davis").

WITNESSETH:

WHEREAS, Pinecrest Estates, Inc., is the record owner of Lots 9, 10, and 11 in Block 1 and Lots 13, 14, 15, 16, 17 and 18 in Block 8, and Lots 1, 2, and 3 in Block 9, as well as all other surrounding lots, all in TRACT 1101, PINECREST FIRST ADDITION, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon, (collectively, the "Property"), as depicted on the attached Exhibit "A."

WHEREAS, Davis is the sole owner of all property abutting TRACT 1101, PINECREST FIRST ADDITION, located to the west of the Property.

WHEREAS, Pinecrest intends to sell the Property, in its entirety, to Davis, and both parties desire that the Property be subject to a general plan of improvement and to implement certain conditions, covenants, and restrictions upon the Property, as well as protect themselves and other future purchasers of property in TRACT 1101, PINECREST FIRST ADDITION; therefore, the parties desire to enter into this agreement between themselves and or future prospective purchasers of property in TRACT 1101, PINECREST FIRST ADDITION.

WHEREAS, it is also the intent of Pinecrest and Davis to vacate those portions of Whitmore Street and Driscoll Street dividing the lots comprising the Property and the lots contained therein consolidate into one parcel pursuant to a Land Partition ("LP") processed through Klamath County, as further depicted on the attached Exhibit "A." Once vacated, those portions of Whitmore Street and Driscoll Street shall be deemed included as a portion of the Property, subject to these CC&R's.

NOW, THEREFORE, Pinecrest and Davis declare that the Property is and at all times hereafter, shall be held, transferred, sold, conveyed, and occupied subject to these conditions, covenants and restrictions (CC&Rs), hereinafter set forth:

1. **Use of Property.** The Property shall not be used for residential purposes and no structures shall be built upon the Property. The Property shall be used only as open space and/or grazing.
2. **Subdivisions Prohibited.** The Property shall not be subdivided, partitioned, or otherwise consist of more than one parcel.
3. **Wells Prohibited.** No water wells or other water collection systems may be drilled, dug, installed or operated on the Property. Davis may place one or more above ground troughs solely for the watering of stock, which shall be filled only by a temporary water hose or other temporary means, when and as needed, and only if the water originates entirely from sources outside the Property.
4. **Fencing Required.** A continuous fence shall be installed and continuously maintained by Davis, at Davis's cost and at the cost of Davis's successors and assigns, encompassing the entire boundary between the Property and TRACT 1101, PINECREST FIRST ADDITION. The fence shall be sufficiently high and of sufficient density to prevent farm animals from crossing and significantly deter people from crossing onto the Property. The fence shall be installed on or before November 1, 2024.
5. **Enforcement of Fencing Requirement.** Should Davis or Davis's successors and assigns (collectively "Davis") fail to construct and maintain the fence and gates pursuant to paragraph 4, above, Pinecrest may, or Pinecrest's specifically authorized successors or assigns (collectively "Pinecrest") may, pursuant to such authorization, give Davis 20 days written notice to comply with such requirements. Should Davis fail to cure the default, Pinecrest may do so and place a lien upon the Property until paid. Any amount so incurred shall bear interest at the rate of 9% per annum from the date expended by Pinecrest and shall be payable on demand.
6. **Gates.** Gates may be included in said fence only on Whitmore Street and Driscoll Street and shall contain locks.
7. **Access.** Davis, Davis's successors, and emergency vehicles may use Whitmore Street and Driscoll Street and such gates, but only infrequently and only as necessary for the purpose of accessing the Property by non-commercial vehicles and emergency vehicles.

8. **Repairs.** Davis and Davis's heirs, successors, and assigns, shall be responsible for paying the cost of repairing any damage to Whitmore Street or Driscoll Street caused by vehicles legally accessing the Property either at Davis's and Davis's successors' request or approval or in any emergency.

9. **Enforcement.** Only Pinecrest and Pinecrest's specifically authorized successors or assigns, pursuant to such authorization, and Davis and Davis's successors or assigns, and each of them, to whose benefit this Declaration inures, may proceed at law or in equity to prevent the occurrence or continuing violation of any provisions in this Declaration. These rights must be enforced in a court of competent jurisdiction and the prevailing party shall be awarded its reasonable costs, disbursements and attorney's fees incurred. Failure of Pinecrest, Pinecrest's assigns and Davis, to enforce any condition, covenant or restriction contained herein, shall in no event be deemed a waiver of their rights to do so, thereafter, or cause said parties' failure to enforce these conditions, covenants, and restrictions liable therefor.

10. **Miscellaneous.**

10.1 Amendments. This Agreement may be amended only by an instrument in writing executed by Pinecrest or its specifically authorized successors or assigns, pursuant to such authorization, and Davis and Davis's successors or assigns.

10.2 Binding Effect/Survival. This Agreement shall survive closing and will be binding on and inure to the benefit of the parties and their respective heirs, personal representatives, successors, and permitted assigns.

10.3 Counterparts. This Agreement may be executed in counterparts, each of which will be considered an original and all of which together will constitute one and the same agreement.

10.4 Further Assurances. Each party agrees (a) to execute and deliver such other documents and (b) to do and perform such other acts and things, as any other party may reasonably request, to carry out the intent and accomplish the purposes of this Agreement.

10.5 Waiver. Any provision or condition of this Agreement may be waived at any time, in writing, by the party entitled to the benefit of such provision or condition. Waiver of any breach of any provision will not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

10.6 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the state of Oregon, without regard to conflict-of-laws principles.

10.7 Attorney Fees. If any arbitration, suit, or action is instituted to interpret or enforce the provisions of this Agreement, to rescind this Agreement, or otherwise with respect to the subject matter of this Agreement, the party prevailing on an issue will be entitled to recover with respect to such issue, in addition to costs, reasonable attorney fees incurred in the preparation, prosecution, or defense of such arbitration, suit, or action as determined by the arbitrator or trial court, and if any appeal is taken from such decision, reasonable attorney fees as determined on appeal.

10.8 Injunctive and Other Equitable Relief. The parties agree that the remedy at law for any breach or threatened breach by a party may, by its nature, be inadequate, and that the other parties will be entitled, in addition to damages, to a restraining order, temporary and permanent injunctive relief, specific performance, and other appropriate equitable relief, without showing or proving that any monetary damage has been sustained.

10.9 Exhibits. The exhibits referenced in this Agreement are part of this Agreement as if fully set forth in this Agreement.

10.10 Severability. If any provision of this Agreement is invalid or unenforceable in any respect for any reason, the validity and enforceability of such provision in any other respect and of the remaining provisions of this Agreement will not be in any way impaired.

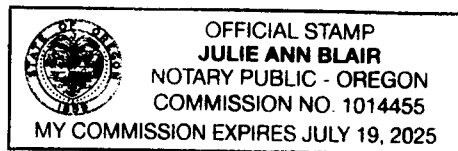
PINECREST ESTATES, INC.

Richard S. Jeweler
By: Richard S. Jeweler
Its: President

Margaret Davis
Margaret Davis

STATE OF OREGON)
County of Klamath) ss.

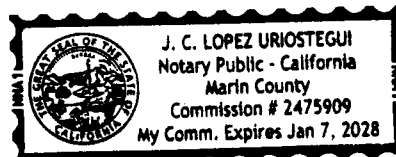
Personally appeared before me this 8th day of January, 2024, the above-named Margaret Davis, and acknowledged the foregoing instrument to be her voluntary act. Before me:



Julie Blair
Notary Public for Oregon
My Commission expires: 07/19/2025

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California County of MARIN)ss.
On 01/15/2024 before me, J. C. LOPEZ URIOSTEGUI, Notary Public,
personally appeared RICHARD S. JEWELER
who proved to me on the basis of satisfactory evidence to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument. I certify under PENALTY OF
PERJURY under the laws of the State of California that the foregoing paragraph is true
and correct. WITNESS my hand and official seal.



[Signature]