CELESTIAL HEIGHTS SUBDIVISION

These covenants and restrictions apply to the property known as “Celestial Heights Subdivision” in Yamhill County, Oregon, as further described in that certain subdivision plat number 200321402, recorded at 08-25-03, of the Plat Records of Yamhill County, Oregon. Each individual parcel within such subdivision shall be a “benefitted property.”

The undersigned owners of the properties located in said subdivision hereby adopt the following Covenants, Conditions and Restrictions for the purpose of enhancing and protecting the value, desirability and attractiveness of the benefitted property described above.

These Covenants, Conditions and Restrictions shall constitute the Covenants to run with the land and shall be binding upon all persons having or acquiring a right, title and interest in the property or an part of the property, and shall inure to each owner of the benefitted property area and that owner's heirs, successors and assigns.

1. GENERAL RESTRICTIONS

A. No building shall be constructed other than a single-family owner-occupied dwelling for private use, except as permitted herein; a building for agricultural uses, including equipment storage and shelter for livestock; and other out buildings having uses related to those uses, such as garages, carports, private greenhouses, a swimming pool or other types of home recreational facilities. Mobile homes may be temporarily occupied by the owner as a residence on the owner's property, provided that the mobile home shall be removed from the property within 30 days after occupancy of a permanent dwelling, and in no event for a period longer than 120 days. All outbuildings must be of good construction and of design compatible with the associated dwelling. No lot may contain more than one owner-occupied single-family dwelling and the necessary outbuildings for permitted uses. All buildings must be constructed no
closer to the roadway or the property line abutting another lot within the subdivision closer than allowed by County regulations. All construction of driveways, walkways and exterior finishing of all structures built shall be completed within 365 days from the beginning of construction.

B. An exception to the single family residence may be made in the case of a family member requiring special care is aged, infirm or who, for health-related reasons, is incapable of maintaining a complete separate residence. Any such temporary residence must be constructed within the confines of a permitted building, that is within the permitted single family residence or as a part of an out building such as a garage. The occupancy of such a unit shall only be allowed so long as the special care is required and in no event shall be contained in a manufactured home or other temporary structure. Any such use shall comply with all county ordinances governing the use of such temporary residences.

C. All residences, outbuildings and fences must be of earth tones in color. No building may be higher than two (2) stories above ground level. In addition, maximum height shall be no more than thirty-five (35) feet, measured from the ridge line of the roof to the uphill side grade level. A building may have a daylight basement so long as the building height from the floor of the ground floor to the ridge line of the roof does not exceed thirty-five (35) feet. The minimum ground floor areas for all dwellings, exclusive of garages, carports, outbuildings, covered walks and open porches, is TWO THOUSAND EIGHT HUNDRED (2,800) square feet. No outside toilets are permitted. All residences shall be erected on continuous concrete foundations. No dwelling shall be constructed with metal siding or T-111 type siding. Exterior antennas of greater than ten (10) feet; and satellite dishes of greater than three (3) feet in diameter and not attached to a building, are prohibited unless screened from view from the roadway and the other lots in the subdivision. Fences must not not contain barbed, razor or concertina type of topping unless completely screened from the view of other lots within the subdivision. Chain link metal fencing is permitted so long as it is covered with a plastic covering of an earth tone color. Any exterior lighting shall be installed and maintained such that it does not unreasonably shine into the windows of dwellings on or illuminate any of the other lots in the subdivision. Outdoor lighting of more than 60 watts or visible more than 50 feet from the source must be shielded to direct the light down on the ground and away from neighboring lots. All such lighting must be equipped with an “off-on” switch. Street light types of lighting on automatic switches are not permitted if the light they give off may be seen from any of the other lots in the subdivision.

D. When and if the roadway into Celestial Heights Subdivision is paved with
a hard surface such as asphallic cement, etc., all driveways taking access off the roadway shall have a minimum of ten (10) feet of similar surfacing where they join the roadway so as to minimize tracking of soil, gravel or rock upon the roadway. It shall be the responsibility of the lot owner to remove any such material tracked onto the roadway.

E. No outdoor overhead wire or service drop for the distribution of electric energy or for telecommunication purposes, nor any pole, tower, or any other structure supporting said overhead wires shall be erected, placed, or maintained within the lots except for temporary lines used prior to occupancy of the dwelling.

F. Each lot and its improvements shall be maintained in a clean and attractive condition, in good repair, and is such fashion as not to create a fire hazard or nuisance.

G. All garbage, trash, cuttings, refuse or garbage containers, fuel tanks, clothes drying apparatus or lines, and other service facilities shall be screened from view from neighboring lots and roads. No garbage, trash, cuttings or refuse may be allowed to accumulate or remain on the lot.

H. No offensive activity shall be carried on in any lot, nor shall anything be placed or constructed on any lot, or anything done on a lot that interferes with or jeopardizes the enjoyment of other lots or otherwise may become a nuisance or annoyance to the other occupants in the subdivision.

I. No commercial advertising signs or billboards shall be placed or kept on any lot, except such signs as are normally used in connection with the sale of real property may be placed upon any lot of any owner desiring to sell the lot.

J. No firearms shall be discharged on the property, except for control of rodents and crop damaging birds or animals.

K. It shall be permissible to raise animals except for pigs or hogs and turkeys. No commercial raising of animals of any kind is allowed. The care and maintenance of animals shall be conducted so as to not be a nuisance to owners of other lots.

L. No lot may be used solely as a parking or storage place for vehicles, trailers, truck campers, boats, boat trailers, snowmobiles, or motor homes or off-road vehicles; however, such may be stored provided they are parked in an orderly manner after a residence has been constructed on the lot. No such vehicles may be parked overnight on the roadway serving the property. No heavy equipment or semi-tractors or trailers or
flatbeds or any kind are allowed on the property, except as needed to construct buildings and improvements, or to conduct agricultural or silvacultural activities which are permitted by law and applicable covenants and restrictions.

M. There shall be no stored, parked or kept upon any lot in open and plain view any motor vehicle which is in a rusted, junked, partially dismantled, inoperative or abandoned condition. The owner of the vehicle shall remove it or store it in a building where it will not be visible from the roadway or other property.

N. All sites shall be equipped with closed containers for storage of garbage and other refuse between regular pickup dates. All containers shall be maintained in a clean, sanitary and animal-proof condition. No lot shall be used or maintained as a dumping ground for rubbish, trash, or garbage. All waste, rubbish, trash or garbage shall only be kept in closed containers for storage of such material.

O. Independent water wells and systems are permitted on any lot.

2. ENFORCEMENT

A. These restrictions shall be for the protection and benefit of each of the property owners or occupants of any portion of the benefitted property. Any such person shall have the right at law or in equity to enforce the restrictions. It is not implied nor at any time will Yamhill County be responsible for the enforcement of these restrictions.

B. These restrictions shall run with the land and shall be binding on the owner or tenant of any or all of the land and all persons claiming by, through or under them until 20 years from the recording of this document at which time these covenants and restrictions shall be automatically extended for successive periods of 10 years unless the then owners of a majority of the benefitted properties subsequently agree in writing to change these covenants in whole or part, and such agreement is duly recorded in the Yamhill County real property records. Each legally subdivided or partitioned portion of the benefitted property shall entitle its owners to one vote.

C. Invalidation of any of these covenants, restrictions or conditions by court order, judgment or decree shall in no way affect any of the remaining provisions which shall continue to remain in full force and effect.

D. If a suit or action (including an arbitration) is filed to enforce any of the terms of this agreement, the prevailing party shall be entitled to recover
from the other party, in addition to the costs and disbursements provided by statute, any sum which a court (or arbitration tribunal), including any appellate court, may adjudge reasonable as attorney fees. In addition, the prevailing party shall be entitled to such sum as a bankruptcy court may adjudge reasonable as attorney fees in connection with any federal bankruptcy proceedings, including without limitation, prosecution of a motion for relief from stay, proposal of a chapter plan, objection to a disclosure statement, or Chapter 11, 12 or 13 Plan, or objection to a proposed use, sale or lease of the property.

E. The declarants hereto shall not be liable to any owner, occupant or builder on account of any action, or failure to act, by the declarants for failing to enforce any covenant or restriction contained herein.

Dated this 25th day of August, 2003.

RAMON DUYN

CELESTE DUYN

STATES OF OREGON } ss.

County of Yamhill

Personally appeared the above-named Ramon Duyn and acknowledged the foregoing instrument as his voluntary act and deed this 25th day of August, 2003.

JENNIFER L. ROBERTSON

Notary Public for Oregon
My Commission Expires 8/26/05

STATE OF OREGON } ss.

County of Yamhill

Personally appeared the above-named Celeste Duyn and acknowledged the foregoing instrument as her voluntary act and deed this 25th day of August, 2003.

JENNIFER L. ROBERTSON

Notary Public for Oregon
My Commission Expires 8/26/05
ROADWAY CONSTRUCTION AND MAINTENANCE AGREEMENT

The following is to provide for the construction and maintenance of a roadway within a dedicated right of way for access and utilities that has been granted by an exchange of deeds and the platting of Celestial Heights Subdivision to be recorded contemporaneously with this Agreement, and located on that property described in Exhibit “A.”

Construction - The costs of the initial construction of the roadway shall be born by the owner of Celestial Heights Subdivision, as described herein.

Maintenance - The goal of this agreement is to assess against each parcel within Celestial Heights Subdivision, as well as those abutting the roadway and making use of it, the cost of maintenance in proportion to the use each parcel makes of the roadway and to charge each parcel only for maintenance for those segments of the roadway which the parcel owner uses. Following the construction of the roadway and except as otherwise stated herein, each of the parcels should share in the cost of maintaining the new roadway by dividing the cost of such maintenance by the use of a fraction made up of the denominator consisting of the total linear footage of each parcel’s use of such roadway, divided by the number of parcels using the roadway and the cost of maintenance of that segment of the roadway being the numerator. The result would then be the cost to be paid by each of the parcel owners. For illustrative purposes assume the total length of the roadway is 1080 feet from Orchard View Road to the cul-de-sac at the terminus of the roadway. Further assuming that each parcel used the following amounts of the roadway: Wheeler’s successor uses 380 feet and Lots 1 through 5 of Celestial Heights Subdivision each use the full 1080 feet in order to access their parcels. Thus, there would be a total of 5870 feet of usage of the roadway. Wheeler's successor would pay for 7% of the cost of the maintenance for the portion of the roadway utilized by his parcel and the five parcels of Celestial Heights would each pay for 18.6% of the cost of the road maintenance for that portion of the road. For the remaining portion serving the Subdivision, each parcel in the Subdivision would pay 20% of the cost. This assumes that the abutting, but non-accessing, parcel to the West of the initial 380 feet of roadway and Burton would pay nothing for the normal maintenance costs. However, in the event that either parcel owner or their successors, access the roadway for any more than incidental use, the denominator would increase by the footage of their usage and the percentages would be reallocated. Wheeler will not be subject to the maintenance costs so long as they own their original home site.
Once they no longer own their original home site and in the event that any additional dwellings are built upon Wheeler’s property, the distance between the access to Orchard View Road and the original home site access and any new access to the roadway created hereby would be added to the denominator and the percentages would be reallocated, it being the intent of this agreement that every owner of a dwelling using the roadway, unless otherwise exempted herein, shall pay their proportional share of the cost of the maintenance. Except for Wheeler, so long as they own their original home site, any user of the roadway, including the abutting, non-accessing parcel and Burton, will be responsible for payment of any damage to the roadway as a result of the placing of an extraordinary load upon the roadway or misuse thereof.

**Conduct of Repairs.** All repairs and maintenance shall be made promptly after the decision that such repairs and maintenance are needed. All parties shall be informed in advance of any work to be done in any section of the right of way serving their respective properties.

Decisions as to the condition of the roadway at any given time, the necessity of repairs or maintenance work, the existence of disproportionate damage other than ordinary wear and tear and the cause of such damage, the length of time in which to make repairs and the decision as to who is to perform such repairs and maintenance shall be as agreed by the parties hereto. The owner of the Burton property shall have voting authority only for those decisions affecting the strip along the west boundary of the Burton property. If the parties cannot agree within thirty (30) days of the request of one party, the matter shall be submitted to binding arbitration pursuant to the procedures adopted by the court system of the State of Oregon or pursuant to such other procedures as the parties may agree upon. Nothing herein shall prevent the parties from seeking mediation of the dispute and the 30 day period described herein shall be tolled during any such mediation attempt.

The new roadway is intended for residential use only and any extraordinary use by the parcel owners, their agents, employees and any person or entity coming upon their parcel causing more than ordinary wear and tear would be the responsibility of the owner, owners, or purchasers of that parcel. It is further understood that any damage to or deterioration of the roadway caused by truck and other traffic associated with the construction on and improvement of the parcels served by the roadway is not “ordinary wear and tear” and the owner of the parcel causing such traffic shall be responsible for the cost of restoring the roadway to its pre-construction condition.

**ADDITIONAL MATTERS:**

Driveways, improvements and utilities in the right-of-way must remain substantially where existing roads are currently located.

The owner of the Burton property will apply to Yamhill County for a permit of operations covering the 17', more or less, strip along the West property line of the
Burton property that will be dedicated to the required 50 feet right-of-way. The parties hereto served by the right-of-way will support and in no way impede Burton's acquisition or continued claim to this permit of operations.

In the event of legal action being taken by one parcel owner against another for enforcement of the provisions of this Roadway Construction and Maintenance Agreement, the prevailing party shall be entitled to recover a reasonable attorney fee and costs and disbursements at trial and upon any appeal therefrom.

This Agreement shall run with the land and be binding upon the undersigned who are the legal owners of the real property described in the attached Exhibit A and shall bind their heirs, successors, assigns of the interest in the land, their legal representatives and all owners and occupiers of land benefitting from the use of the roadway.

If any term or terms of this Agreement are found to be invalid the remaining terms shall remain in full force.

Owners of Celestial Heights Subdivision:

Ramon Duyn

Celeste Duyn

Other Parties:

Norman D. Wheeler

Edna Wheeler

David Burton

STATE OF OREGON   )
ss.
County of Yamhill   )

Personally appeared the above-named Ramon Duyn and acknowledged the foregoing instrument as his voluntary act and deed this 17th day of June, 2003.

Notary Public for Oregon
My Commission Expires 7-2-04
STATE OF OREGON )
County of Yamhill ) ss.

Personally appeared the above-named Celeste Duyn and acknowledged the
foregoing instrument as her voluntary act and deed this 25 day of August,
2003.

[Official Seal]
JEAN HANTZE
NOTARY PUBLIC - OREGON
COMMISSION NO. 346787
MY COMMISSION EXPIRES JUNE 13, 2005

[Signature]
Notary Public for Oregon
My Commission Expires

STATE OF OREGON )
County of Yamhill ) ss.

Personally appeared the above-named RAMON DUYN and acknowledged
the foregoing instrument as his voluntary act and deed this 25 day of August,
2003.

[Official Seal]
JEAN HANTZE
NOTARY PUBLIC - OREGON
COMMISSION NO. 346787
MY COMMISSION EXPIRES JUNE 13, 2005

[Signature]
Notary Public for Oregon
My Commission Expires

STATE OF OREGON )
County of Yamhill ) ss.

Personally appeared the above-named Edna Wheeler and acknowledged the
foregoing instrument as her voluntary act and deed this 17 day of August,
2003.

[Official Seal]
ROBIN COOK
NOTARY PUBLIC - OREGON
COMMISSION NO. 359834
MY COMMISSION EXPIRES JULY 28, 2008

[Signature]
Notary Public for Oregon
My Commission Expires 7-28-06

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STATE OF OREGON  ss.
County of Yamhill  ss.

Personally appeared the above-named David L. Burton and acknowledged the foregoing instrument as his voluntary act and deed this 23rd day of June, 2003.

Notary Public for Oregon
My Commission Expires 7-28-03

EXHIBIT A
LEGAL DESCRIPTIONS

ROADWAY: See attached Exhibit A-1

CELESTIAL HEIGHTS SUBDIVISION: Celestial Heights Subdivision plat as recorded as Book _____, Page ______, Yamhill County Plat Records.
Inst. No. 200321402,

WHEELER: As described in that deed between H.L. Cummins and Ethel Cummins, husband and wife, Grantors, and Norman D. Wheeler and Edna Wheeler, husband and wife, Grantees, dated June 26, 1967 and recorded June 30, 1967, at Film Volume 61, Page 200, Deed and Mortgage Records, Yamhill County, Oregon.

BURTON: As described in that deed between Betty Jean Mosiman, Grantor, and David L. Burton and Shari Shuen Burton, husband and wife, Grantees, dated July 11, 1986, and recorded July 11, 1986, at Film Volume 204, Page 1769, Deed and Mortgage Records, Yamhill County, Oregon.

NOTE: The actual legal descriptions will be altered slightly to take into consideration some cross-deeding of property needed to create the necessary area for the roadway.