

Recording Requested by and Return To:

ATTN: CHRIS MELVILLE
CITY OF WEST WENDOVER
P.O. BOX 2825
WEST WENDOVER, NEVADA 89883

**“SECOND AMENDED” DECLARATION OF COVENANTS,
CONDITIONS
AND RESTRICTIONS FOR
CERTAIN LOTS IN VILLAGE I SUBDIVISION**

**THIS “SECOND AMENDED” DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS** (“Declaration”) is made as of the ____ day
of _____, 2008 by **CITY OF WEST WENDOVER**, a political
subdivision of the State of Nevada (hereinafter referred to as “Declarant”).

RECITALS

A. Declarant is the majority owner of certain real property (presently owning 15 of the 16 lots, lots 30 through 45, under the original and Amended CCRs) within Village I Phase II Subdivision in the City of West Wendover, County of Elko, State of Nevada, said subdivision map being recorded as Document No. 451638 on or about November 10, 1999 in the Elko County Recorder’s Office, Elko County, Nevada.

B. Declarant has caused a merger and re-subdivision of the lots described hereabove as shown on the Final Map Village I Phase II, being a Merger and Resubdivision of Village I, Phase II, Lots 30 through 45 as filed in the office of the Elko County Recorder of Elko County, Nevada on March 31, 2008 as File No. 593098. This merger and re-subdivision effects the real property subject to the “AMENDED” DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CERTAIN LOTS IN VILLAGE I SUBDIVISION as filed in the office of the Elko County Recorder of Elko County, Nevada on July 19, 2007 as Document No. 577756. By reason of said merger and re-subdivision, the real property of former Lots 30 through 45 of Village I Subdivision, Phase II are now Lots 1 through 13 of Village I Subdivision, Phase II, described on Exhibit “A” attached hereto and incorporated herein by reference (the “Property”).

C. It is the desire and intention of Declarant to require development and improvement of the Property as a detached single family home development and to impose on the Lots (as hereinafter defined) beneficial covenants, conditions and restrictions, as hereinafter set forth, under a general plan or scheme of improvements for the benefit of the Property and the Owners (as hereinafter defined) of the Property.

D. By this Declaration, the Property is not established as a common interest community and therefore the Property shall not be subject to the provisions of the Uniform Common Interest Ownership Act, codified in Chapter 116 of the Nevada Revised Statutes.

E. Declarant files this Second Amended Declaration of Covenants, Conditions and Restrictions pursuant to Article 4.05 of the original Declaration recorded as Document No. 541322 on or about October 3, 2005 in the Elko County Recorder's Office.

NOW, THEREFORE, Declarant hereby amends the Amended Declaration referenced in Section B hereabove and declares that all of the Property shall be held, sold and conveyed subject to the covenants, conditions and restrictions set forth herein, for the purpose of protecting the value and desirability of the Property. The covenants, conditions and restrictions created hereunder shall run with the Property, be binding on all the parties having any right, title or interest in the Property and such parties' heirs, successors and assigns, and shall inure to the benefit of each Owner.

For purposes of this amendment, the changes to the existing Amended Declaration referenced in Section B of the Recitals hereabove are shown as follows: text which is stricken is deleted, and text which is bold and underlined, except for section headings, is added.

ARTICLE I DEFINITIONS

1.01. "**Declarant**" shall mean and refer to the CITY OF WEST WENDOVER, a political subdivision of the State of Nevada, and its successors and assigns.

1.02. "**Improvements**" shall mean all structures and appurtenances thereto of every type and kind, including but not limited to residences, buildings, outbuildings, garages, carports, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks,

plantings, planted trees, shrubs, poles, signs, exterior air conditioning, water softeners, satellite dishes, antennae, fixtures or equipment.

1.03. “**Lot**” shall mean and refer to any lot shown upon any recorded subdivision map of the Property and any home or residence constructed thereon.

1.04. “**Owner**” shall mean and refer to the record owner, whether one or more persons or entities having such interest merely as a security for the performance of an obligation. Notwithstanding anything herein to the contrary, whenever Declarant contracts for the sale of a Lot, the contract purchaser shall be deemed the Owner thereof.

1.05. “**Property**” shall mean and refer to that certain real property found in Village I Phase II Subdivision and more particularly described on Exhibit “A” hereto.

1.06. “**Security Interest**” shall mean an interest in a Lot, held for the purpose of securing a debt, including any mortgage or deed of trust.

ARTICLE II USE RESTRICTIONS

2.01. **Residential Purposes**. All Lots shall be used for no purpose other than private, one-family residential purposes.

2.02. **Improvements**. The improvements constructed on each Lot shall comply with the following restrictions:

(a) **Structure and Minimum Size**. No structures whatsoever, other than one single-family private residence together with any ancillary buildings which are permitted by the applicable zoning laws of the City of West Wendover, may be erected or maintained on a Lot. Every residence shall be constructed on site and no manufactured or mobile homes are permitted. Every residence erected upon a Lot shall contain not less than 1,200 square feet of floor space, exclusive of porches, patios, garages, portions of unfinished basements and carports. Every Lot shall have at a minimum a two (2) car garage and two (2) on-site (off-street) parking spaces. No garage or carport shall be used for a living area or used for other purposes other than those uses normally attendant to a garage or carport. All lavatories and toilets shall be built indoors and connected with the sewer system. Maximum height limitations for Lots 30 through 45 inclusive, shall be 24 feet. Maximum height shall be measured by the difference between the curb high point and the high point of the roof. Two story or split

level homes shall be allowed under the maximum height restriction.

(b) **Limitations on Construction**. Once construction of the Improvements has begun upon a Lot, the construction shall be completed within twelve (12) months from the commencement of the construction. Construction of buildings shall be diligently and consistently pursued following commencement of construction. No accessory buildings shall occupy any Lot or parcel unless the main building exists on that Lot or parcel.

(c) **Materials**. The exterior of all structures upon the Property shall be finished in colors tending toward natural and earth tone colors using the following materials: exterior plaster (stucco) finish, vinyl siding, brick and concrete masonry, stone or painted concrete. Roofing shall be of tile, asphalt shingle, shake, decrabond, or rock and all colors shall be earth tones.

(d) **Ground Cover**. If Declarant has not provided a lawn, landscaping or other ground cover for a Lot, as required by the West Wendover City Code, then the Owner of that Lot shall completely install all landscaping consistent with the requirements of the West Wendover City Code. Nothing herein shall operate to prohibit the use of water-efficient landscaping.

(e) **Fences**. No fence shall exceed six (6) feet in height along side and rear property lines, excepting side line fences within the front setback, which fences shall not exceed three (3) feet in height. Fences along the front property line shall not exceed three (3) feet in height. Rear fences which abut the golf course shall not exceed four (4) feet in height.

2.03. **Compliance with Laws**. No Owner shall permit anything to be done or kept in his or her Lot or any Improvement thereon that violates any of the restrictions contained in this Declaration or any law, ordinance, statute, rule, or regulation of any local, county, state or federal body, including, without limitation, local ordinances relating to zoning and building codes.

2.04. **Maintenance**. Each Owner shall at all times maintain the Improvements located on such Owner's Lot in good and proper condition and appearance. No rubbish, brush, weeds, undergrowth, debris of any kind or character shall ever be placed or permitted to accumulate upon any Lot, or any portion thereof, so as to render it a fire hazard, unsanitary, unsightly, offensive or detrimental to any other Lot or the occupants of any other Lot. At no time shall any lot, parcel or part thereof be used for the storage of junk, salvaged material or equipment, auto parts, or other extraneous matter.

2.05. **Nuisances**. No noxious or offensive activity shall be carried on upon the Property nor shall anything be done thereon which may be or become an annoyance or a nuisance to the neighborhood. The activities of the Declarant during the construction and development of the Property shall not constitute a nuisance under this Section 2.05. Otherwise, without limitation, activities which produce objectionable amounts of noise, odor, smoke, dust, or glare are also expressly prohibited.

2.06. **Repair of Improvements**. No Improvement on any Lot shall be permitted to fall into disrepair and all Improvements shall be kept at all times in good condition and repair and, if appropriate, painted or otherwise finished.

2.07. **Animals**. No animals or fowl, other than commonly recognized household pets, shall be kept or maintained on a Lot or any portion thereof; no animal shall be kept, bred or maintained for any commercial purpose; and no animals or fowl, including household pets, which are determined to be dangerous, may be kept or maintained on any Lot. The number of dogs, cats and birds shall be limited to two (2) each.

2.08. **Vehicles, Boats**. No disabled vehicle, mobile home, golf cart, truck over one ton, commercial van or similar vehicle, or recreational vehicle, including but not limited to boats, trailers, campers or motor homes, may be parked within the Property at any time unless such vehicles are parked within a completely enclosed garage or otherwise screened from the view of neighboring Lots; provided, however, that the foregoing shall not be deemed to exclude parking for temporary deliveries, loading, repairs, landscaping maintenance, and similar purposes. Further, no automobile, boat, truck, trailer, recreational vehicle or similar vehicle shall be used as a living area.

2.09. **Signs**. No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than one (1) square foot, one sign of not more than five (5) square feet advertising the property for sale or rent, or construction and sales period. All signs shall conform to current City or County ordinances.

2.10. **Declarant's Exceptions**. Notwithstanding any provision to the contrary contained in this Article III, Declarant (its employees, sales agents and representatives) shall have the right to maintain signs, offices for sales and management and models on any Lot which is owned by Declarant. No provision contained in this Article II shall be applicable to or prohibit any acts or activities by Declarant (its employees, agents, suppliers, contractors and representatives) in

connection with or incidental to Declarant's improvements and development of the Property.

2.11. **Security Interest Liens.** Breach of any of the covenants in this Article II shall not defeat or render invalid the lien of any first position Security Interest made in good faith and for value as to a Lot, but such provisions, restrictions or covenants shall be binding upon any Owner whose title is acquired by foreclosure.

ARTICLE III GOLF COURSE DISCLAIMER

Golf Course Disclosure. Declarant hereby discloses the following matters which relate to the existence of a golf course, which includes a clubhouse, driving range and other facilities now or hereafter constructed (collectively, the "Golf Course Facilities"), adjacent to and/or near the Property. The Golf Course Facilities are not owned or operated by Declarant and Declarant makes no representations or warranties regarding the Golf Course Facilities. It shall be the sole responsibility of each Owner to notify all assigns and successors in interest of a Lot of the following disclosures and the exact rights and concerns of each Owner with respect to such matters.

(a) **No Right to use Golf Course Facilities.** Each Owner acknowledges that the purchase of Lot by an Owner does not confer upon an Owner the right to use the Golf Course Facilities or grant to such Owner, by virtue of ownership of a Lot, a right of access, entry or other use of the Golf Course Facilities or any right to join or become a member of any membership club established in connection with the Golf Course Facilities. Furthermore, ownership of a Lot shall not confer upon any Owner any right to claim or require that the Golf Course Facilities continue to be used as a golf course by any person or entity that the Golf Course Facilities be maintained to certain standards.

(b) **Irrigation.** Declarant discloses that the Golf Course Facilities are or may be irrigated with reclaimed effluent water. Such irrigation is not under the control of the Declarant.

(c) **Waiver of Liability for Errant Golf Balls.** Due to the proximity of the Property to the Golf Course Facilities, it is possible that errant golf balls will come upon and may damage improvements located upon a Lot. Such errant golf balls are not the responsibility of Declarant. By acceptance of a deed or lease to a Lot, each Owner, for himself and on behalf of his family, guests and tenants, releases Declarant and its respective agents, employees, directors, members, managers, officers, shareholders, partners and contractors, from all claims,

demands, expenses, damages, costs, causes of action, obligations and liabilities, including, without limitation, damages to his residence and damages for personal injury or death, which in any way arise from or relate to the impact of a golf ball which enters upon a Lot from the Golf Course Facilities, whether or not the golf ball is struck in a negligent manner.

(d) **Constructive Notice and Acceptance**. Every Owner and any other person who owns, occupies or acquires any right, title, estate or interest in or to any Lot shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition and covenant contained in this Article III and else where in this Declaration, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in the Lot.

ARTICLE IV GENERAL PROVISIONS

4.01. **Right to Enforce Declaration**. Any Owner, including Declarant and the City of West Wendover, shall have the right to enforce, by any proceeding at law or in equity, all conditions, covenants and restrictions now or hereafter imposed by this Declaration. Failure by any Owner or the City of West Wendover to enforce any covenants, conditions or restrictions shall in no event be deemed a waiver of the right to do so thereafter.

4.02. **Violation of Declaration**. The violation of any covenant, condition or restriction created by this Declaration is hereby declared to be a nuisance, and any Owner or the City of West Wendover shall have the right to seek equitable relief against such nuisance. All costs incurred in such enforcement, including a reasonable fee for counsel, shall be paid by the Owner of such Lot or Lots.

4.03. **No Waiver**. No delay or omission on the part of any Owner, including the Declarant, in exercising any rights, 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. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the Declarant for or on account of its failure to bring any action on account of any breach of these covenants, conditions or reservations, or for imposing restrictions herein which may be unenforceable by the Declarant.

4.04. **Covenants Run with Land**. The covenants, conditions and restrictions created by this Declaration shall run with and bind every Lot for a period of thirty (30) years from the date this Declaration is recorded, after which

time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the current Owners of at least a majority of the Lots has been recorded, agreeing to change the Declaration in whole or in part.

4.05. **Amendments**. Except as otherwise provided herein, any amendment must be consented to by Owners of no less than fifty-one percent (51%) of the lots. Any amendment to this Declaration shall be invalid if it would tend to defeat the priority position of a mortgagee with respect to said mortgagee's lien or would make any mortgage illegal under then applicable governmental regulations, unless consent is obtained in writing from such mortgagee. Any amendment to this Declaration must be recorded.

4.06. **Governmental Rights**. the Property shall be subject to any and all rights and privileges which the City of West Wendover and/or the County of Elko, Nevada may have acquired through dedication or the filing or recording of maps or plats of such premises.

4.07. **Remedies Cumulative**. The remedies provided herein are cumulative, and no such remedy shall be construed as exclusive of any other remedy herein, or of any right, option, election or remedy provided by law.

4.08. **Partial Invalidity**. The invalidation of any one of the covenants, conditions or restrictions created hereunder, or any application thereof by judgment or court order, shall in no manner affect any other covenant, condition or restriction created hereunder or any application thereof.

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IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto executed these covenants, conditions and restrictions this ____ day of _____, 2008.

DECLARANT:

**CITY OF WEST WENDOVER, a
political subdivision of the State of
Nevada**

By:

Title: Mayor

STATE OF NEVADA)
) ss.
COUNTY OF ELKO)

This instrument was acknowledged before me on _____,
2008 by _____ as
_____ on behalf of the City of West
Wendover.

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NOTARY PUBLIC

My Commission Expires:

I have read the foregoing Second Amended Declaration of Covenants, Conditions and Restrictions consisting of ten (10) pages, including this page and Exhibit "A", and agree to comply with each and every and all enclosed covenants, conditions and restrictions.

LOT PURCHASED: _____

—

Signature of Buyer

—

Printed Name of Buyer

—

Date

—

Signature of Buyer

—

Printed Name of Buyer

—

Date

EXHIBIT “A”

Lots 1 through 13, inclusive, as shown on the Final Map, Village I, Phase II Subdivision, being a Merger and Re-subdivision of Village I Phase II, Lots 30 through 45 as filed in the Office of the Elko County Recorder of Elko County, Nevada on March 31, 2008 as File No. 593098.

EXCEPTING THEREFROM all minerals lying in and under said land as reserved by the United States of America in Patent recorded August 4, 1966 in Book 71, Page 532, Official Records, Elko County, Nevada.

TOGETHER WITH all tenements, hereditaments and appurtenances, including easements and water rights, if any, thereto belonging or appertaining, and any reversions, remainders, rents, issues or profits thereof.