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“ADDENDUM TO BANKS ESTATES”

**DECLARATION OF PROTECTIVE
COVENANTS, CONDITIONS AND RESTRICTIONS,
ESTABLISHMENT OF A HOMEOWNERS ASSOCIATION,
DECLARATION OF INITIAL FEES**

**CREATION OF ADDITIONAL PHASES TO BE KNOWN AS:
“ARBOR VILLAGE”**

The subject property is a replat of Tract “C” of “Banks Estates” and a Parcel of Land located in the S.W. ¼ of Section 31, T.2N, R.3W., W.M., City of Banks, Washington County Oregon. Banks Estates is a plat recorded in Plat Book 116 and Pages 47-51, Document No 98027230 Washington County Deed Records. Arbor Village represents subsequent phases of the “Banks Estates” planned multi-phase development consisting of single family, multi-family owner and renter occupied development proposed for approximately 90 acres of land. ‘Banks Estates’ was phase one of the overall PUD henceforth to be known as ‘Arbor Village’.

This Declaration of Protective Covenants, Conditions and Restrictions; Establishment of a Homeowners Association and Initial Declaration of Homeowners Association Annual Fee is applicable to Arbor village lots 1-251 inclusive, Tracts A through G inclusive.

After Recording Return To:
West Hills Development Co.
14273 N.W. Science Park Drive
Portland, OR 97229

WHEREAS, All rights and obligations created in the “Declaration of Covenants, Conditions and Restriction, Establishment of Homeowners Association, Declaration of Initial Fees for Banks Estates” shall henceforth be responsibility of the herein established Arbor Village Homeowners Association.¹

WHEREAS, This document will apply to subsequent phases of Arbor Village, following City approval of said phases. The Declarant reserve the right to amend this document to reflect incorporation of additional land, additional and/or different provisions which reflect governmental, physical and market requirements as additional phases are approved and constructed in Arbor Village.

WHEREAS, West Hills Development Co., hereinafter referred to as Declarant, is owner in fee simple of the above described real property; and,

WHEREAS, Declarant declares its intention to develop, consistent with the City of Banks’ ordinances, additional property which is part of or adjacent to Arbor Village. Said additional property may contain structures other than single family detached residences, may be accessed in part across lot number ninety (90) and may become part of this Homeowners Association at Declarant, its successor or assigns sole option; and,

WHEREAS, Declarant declares of public record its intention to create a Homeowners Association for maintenance of structures, landscaping improvements, irrigation system(s), lighting system(s), certain fencing, street trees, buffer strips, median landscaping, pathways and entry monuments on Arbor Village; and,

WHEREAS, as used herein, only in the context of the Homeowners Association obligations, “maintenance” includes repair, replacement, upkeep of the common area(s), including without limitation, all structures, drainage systems, lighting systems, irrigation systems and pathways; all acts of maintenance and repair shall be held to the “as good as or better than the improvement which was initially constructed,” and all applicable governmental regulation standards; and,

1 In case of conflict between the terms of the herein created Arbor Village CCRs and Homeowners Association and the terms contained in the original ‘Banks Estates’ declaration, the ‘Banks Estates’ terms shall govern lots 1-89 inclusive and Tracts A through G, Banks Estates. In all other situations the terms of the herein created Arbor Village Homeowners Association and CC&Rs shall govern, including any increase in annual homeowners association fees, which may, pursuant to Homeowners Association bylaws become applicable to said lots 1-89 of Banks Estates.

WHEREAS, Tract “C” of Banks Estates was intended to serve as the location of a .55 acre open space for park purposes related to the requirements of Phase I, Banks Estates. Tract C was dedicated to the City of Banks and maintained by the City of Banks. Since that dedication, the City of Banks and Declarant have agreed to Deed Tract “C” Banks Estates back to Declarant and Declarant will dedicate other land to create Tract “A”, Arbor village to the City as a Park with maintenance to be the responsibility of the Arbor Village Homeowners Association as set forth herein. Housing will be allowed on Banks Estates Tract “C”; and,

WHEREAS, Declarant declares of public record its intention to create a Homeowners Association for maintenance of common area structures, landscaping improvements, certain fencing, street trees, buffer strips, and entry monuments on Arbor village; and,

WHEREAS, Declarant shall install landscaping in traffic/roadway medians and the Arbor Village Homeowners Association shall be obligated to maintain said median improvements; and,

WHEREAS, Declarant declares of public record that Tract A, also known as the 5 acre Central Park, will be dedicated to the City of Banks with normal, day to day maintenance of Tract A’s Declarant and or Homeowners Association installed improvements, to remain a responsibility of the Arbor Village Homeowners Association while maintenance of any City of Banks installed improvements in Tract “A” to be the responsibility of said City of Banks; and,

WHEREAS, Declarant declares of public record that any maintenance or repair of Tract “A” improvements installed by Declarant and or the Homeowners Association, which is necessitated as a result of damage caused by the general public and/or City of Banks approved activities shall be the responsibility of the City of Banks pursuant to terms of a use permit granted by the City of Banks and approved by the Homeowners Association; and,

WHEREAS, The City of Banks shall hold the Homeowners Association harmless from any liability and defend any action brought against the Homeowners Association which arises out of a function permitted on Tract “A’ pursuant to a City issued use permit or resulting from use of Tract “A” by the public at large rather than the owner of property in Arbor village and or Banks Estates; and,

WHEREAS, Tract “B” of Arbor Village shall be open space, including a public pedestrian path to be maintained by the Homeowners Association in a manner to be consistent with the character of the area in which it is located; and,

WHEREAS, Declarant shall grant to the Unified Sewerage Agency (hereinafter USA) an easement on Tract “C” of Arbor village for the construction, operation and maintenance of the storm and surface water drainage and detention facility; Tract “C”

shall be owned by and maintained by the Homeowners Association subject to the terms of the USA easement; and,

WHEREAS, Tracts “D” and “G” of Arbor Village shall be dedicated to the Homeowners Association, subject to public pedestrian access easement over their entirety. Declarant shall install improvements within said Tracts D and G in accordance with standards approved by the City of Banks Engineer. Landscaping, street trees and other amenities in tracts D and G, if any, shall be maintained by the Arbor Village Homeowners Association; and,

WHEREAS, Tracts “E”, “F”, and “H”, of Arbor Village contain private streets shall be owned by the Homeowners Association but maintained by the adjacent property owners taking access from said individual tracts pursuant to maintenance agreements which attach to an run with ownership of that property taking access from said tracts. Said tracts shall be subject to a public access easement, public pedestrian and bicycle access easement, public storm drainage easement and public sanitary sewer easement to the USA of Washington County, public water line easement and public utility easement over their entirety; and,

WHEREAS, Declarant declares that Tract “H” shall be allowed to expand to accommodate all future lot owners who will take access there from until full build out of Arbor Village has occurred; and,

WHEREAS, Declarant reserves the right to impose upon any lot which is 40 feet or less in width, a landscape maintenance agreement which shall obligate said lot owner to participate financially in the maintenance of any Declarant installed landscaping associated with said lot (this potential obligation applies to currently numbered lots 1 through 13 along Elmhurst Place and currently numbered lots 98 through 118 along Ashton Drive); and,

WHEREAS, Declarant declares that a 6.0 foot wide public utility easement shall exist along the lot lines of lots 8-13, 27-30 and 119 abutting the private street tracts; and,

WHEREAS, Declarant declares a 1.50 foot wide public sidewalk easement shall exist along all lot and tract lines abutting public streets except on lots 1-7 abutting N.W. Trellis Way; and,

WHEREAS, Declarant declares a 4.50 foot wide public sidewalk easement shall exist along lot 1-7, 24-26, and 115-118; and,

NOW, THEREFORE, Declarant hereby declares that the subject property shall be held, sold and conveyed in accord with all applicable governmental ordinances and development agreements the preceding whereas obligations and the following restrictions, covenants and conditions (CC&Rs) and Homeowners Association Provisions (Provisions). The purpose of the CC&Rs and the Provisions is to maintain and protect the value and desirability of said real property. The terms of these CC&Rs and

Provisions shall insure to the benefit of each owner of property in Arbor village including its initial stage (Banks Estates) and shall be binding on all parties having any right, title or interest in the above described property or any portion thereof, their heirs, successors and assigns. These CC&Rs and Provisions shall run with and attach to the subject property and bind all the real property within this subdivision.

HOMEOWNERS ASSOCIATION PROVISIONS

Arbor Village Homeowners Association (Association) (formerly known as Banks Estates Homeowners Association) is intended to be a Deminimus Planned Community as established by the ORS 94.570 2(b), which states a deminimus planned community is one:

(b) For which the estimated total annual assessment against all lots in the planned community for maintenance and for the reserves required under ORS 94.595 does not exceed the greater of two percent of the estimated value of all lots against which the assessment will be levied or the product of \$360 multiplied by the total number of lots in the planned community. For the purposes of this paragraph, the estimated value includes the sewers, water systems and streets but not any structures. The assessment estimate under this paragraph:

- A. Shall include current costs for any services, which the Declarant will be providing at less than cost during the period the Declarant is marketing the lots and which the association will have to provide at cost after the Declarant no longer performs these services. Current costs shall be based on competitive current rates for alternative professional services for such items as landscape and pool maintenance.
- B. Shall include maintenance and reserve account estimates based on figures obtained from the department of the city, county or district which would normally perform or contract for services which instead are provided by the planned community.
- C. Shall be conclusively presumed to have been made in good faith if one year after the declarant no longer provides any services at less than cost, the total assessment for maintenance and reserves does not exceed three percent of the current assessed value of these lots not including structures on the lots.

THE INITIAL ANNUAL FEE FOR THE HOMEOWNERS ASSOCIATION SHALL BE ONE HUNDRED (\$100) PER LOT. THE FIRST ANNUAL FEE AMOUNT IS PAYABLE TO THE DECLARANT ON BEHALF OF THE ARBOR VILLAGE HOMEOWNERS ASSOCIATION AT TIME OF CLOSING. ADDITIONAL ANNUAL FEES SHALL BE PAID TO DECLARANT ON BEHALF OF THE ARBOR VILLAGE HOMEOWNERS ASSOCIATION UNTIL THE ADMINISTRATION OF THE HOMEOWNERS ASSOCIATION IS TRANSFERRED TO THE INDIVIDUAL MEMBERS AS HEREIN SET FORTH.

- A. The method of determining voting rights, the liability of each single family lot for common expenses and right of each single family lot to any common profits of the Association shall be as follows (in the vent lot ninety (90) is converted to use as a roadway, street, driveway, etc. as herein allowed, it will cease to be considered a lot for the purposes of this document):
- 1) All owners and contract purchasers of lots shall be members of the Association. The allocation of votes to lots shall be one (1) vote per lot. Declarant reserves the right to incorporate future phases of Arbor Village into the Homeowners Association.
 - 2) Once activated, as set forth herein, or later modified by inclusion of other property, the Association shall be responsible for taxes, liability insurance and maintenance, repair and replacement of landscaping and fences on the common property, including the entry monuments and associated landscaping located within easements.
 - 3) All costs of maintenance, repair and replacement of all common property, landscaping, structures, pathways, fences, median strips and entry monuments shall be borne by the lot owners equally. Said costs shall be assessed annually by the Association unless a special assessment is necessary.
 - 4) Any lot owner failing to pay his or her proportionate share of costs assessed by the Association within thirty (30) days after it becomes due shall be liable for interest at the rate of 12% per annum and costs of collection of such assessment including attorney fees. All such unpaid amounts shall become a lien on the lot or lots to which such amounts are attributable. No assessment will be levied against lots while owned by Declarant.
 - 5) All common profits of the Association shall be allocated equally to each lot owners.
- B. Declarant shall install the initial improvements in the various Tracts consistent with City of Banks standards. Maintenance of the structures, landscaping, pathways and fencing in common areas and the entrance monuments and related landscaping in the non-private street Tracts shall be the responsibility of the Homeowners Association. Common area taxes and common area liability insurance shall become the responsibility of the Association upon activation of the Association as set forth herein. Liability insurance shall include Declarant as a named insured. The improvements in Tracts shall be maintained in a manner that will provide a uniform appearance throughout Arbor Village.
- C. There shall be no restrictions on the alienation of lots. A lot may not be divided but may be combined with other lots.
- D. The intended use of each lot is residential, with the exception that lot ninety (90) which may, in declarant's, its assigns or successors sole discretion, be used as a road, driveway or other form of access to adjacent property or future phases of Arbor Village.
- E. Common property deeds and easements will be held in escrow by Declarant until the Association is activated as herein provided. The Deed to Tract A shall be dedicated to the City of Banks.

- F. Any amendment of the declarations shall be by vote or agreement of the owners representing at least 75% of the total votes in the Association. However, in no event shall an amendment under this section limit or modify Declarant's, its' agents or assigns, rights regarding the Architectural Control Committee or access to utilities located in the common areas. No amendment shall change the boundaries of any lot or any uses to which any lot or tract is restricted unless the owners of the affected lots unanimously consent to the amendment. Amendments to declaration under this section shall be executed, recorded and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of such designation, by the President of the Board of Directors of the Association. Amendments to a declaration under this section shall be effective only upon recordation.
- G. Declarant reserves the right to an unspecified easement across, through and under any Tract or easement for connection to utility lines located in said Tract, easement or neighboring property.
- H. The date after which the right to withdraw property from the Association shall expire is the date upon which the Administration of the Arbor Village Homeowners Association is transferred to the members as herein provided.
- I. Upon activation of the Association the Bylaws for the Homeowners Association shall take effect and govern Association activities. Administration of the Homeowners Association shall be transferred from Declarant to the members no later than when homes on 75% of the proposed lots and buildings have been occupied. The Declarant shall call a meeting for the purpose of turning over administrative responsibility for the Homeowners Association and related property to the Association not more than 120 days after 75% of the lots and buildings have been occupied. The Declarant shall give notice of the meeting to each lot owner. At said meeting the members shall elect a homeowners Board of Directors in accordance with the Bylaws of the Association.

Following said turnover meeting, Declarant, its agents or assigns shall continue to have the right to use all of the roads within the subdivision and lot ninety (90) to develop and or build upon adjoining property and each owner of a lot agrees that he or she will not object to such use or to oppose Declarant's, its agents or assigns future development or building plans on said adjoining property.

At the turnover meeting the Declarant shall turn over to the Association the responsibility for the administration of the Association and said Association shall accept the administrative responsibility. The Declarant shall deliver, if they exist:

- 1) The original or a photocopy of the recorded declaration and copies of the Bylaws of the Association and any supplements and amendments thereto;
- 2) A deed to the common property in Banks Estates;
- 3) The minute books, including all existing minutes and other books and records of the Association and the Board of Directors;
- 4) All rules and regulations adopted by the Declarant;
- 5) All funds, if any, of the Association and control of the funds;
- 6) All tangible personal property and an inventory thereof belonging to the Association, if any;

- 7) Records of all property tax payments for the common property to be administered by the Association;
 - 8) Copies of any income tax returns filed by the Declarant in the name of the Association and supporting records of the returns, if any;
 - 9) All bank signature cards, if any;
 - 10) An operating budget for the portion of the Association property turned over to Association administration and a budget for replacement and maintenance of the common property, as applicable;
 - 11) A copy of 'as built' architectural, structural, engineering, mechanical, electrical and plumbing plans, if available;
 - 12) The plans for underground site service, including television service, site grading, site drainage and landscaping, to the extent those are available and are not official records kept at Washington county;
 - 13) Any other plans and information relevant to future repair or maintenance of the Association property;
 - 14) A list of the general contractor and the electrical, masonry, landscaping and plumbing contractors responsibility for construction or installation of common property improvements;
 - 15) Insurance policies;
 - 16) Any permits issued by governmental bodies applicable to the Association property in force or issued within one year before the date on which the owners assume administrative responsibility;
 - 17) A list of any written warranties on the Association property that are in effect and the names of the contractor, subcontractor or supplies who made the installation for which the warranty is in effect;
 - 18) A roster of owners and their addresses and telephone numbers, if known, as shown on the records of the declarant;
 - 19) Employment or service contracts in which the Association is a contracting party of service contracts in which the Association or the owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person performing the service; and
 - 20) Any other contracts to which the Association is a party.
- J. In order to facilitate an orderly transition during the three month period following the turnover meeting, the Declarant or an informed representative shall be available, if needed, to meet with the Board of Directors on no more than three mutually acceptable dates to review the documents covered above.
- K. Upon the transfer of administration of the Homeowners Association to the members by the declarant as herein set forth the Association Board of Directors shall establish a reserve account for replacement of all items of common property which will normally require replacement in whole or in part, in more than three and less than thirty years. Said account shall be funded by assessments against the individual lots for maintenance items for which the reserves are established.

The reserve account shall be established in the name of the Homeowners Association. The Association shall be responsibility for administering the account, for

making periodic payments into it, and for adjusting the amount of the payments at regular intervals to reflect changes in current replacement costs over time.

The account may be used only for replacement of common property and is to be kept separate from assessments for maintenance. However, after the individual lot owners have assumed responsibility for administration of the Association, the Board of Directors may borrow funds from the reserve account to meet high seasonal demands on the regular operating funds or to meet other temporary expenses. Funds borrowed to meet temporary expenses under this subsection must be paid later from special assessments or maintenance fees.

Following the second year after the Association has assumed administrative responsibility for the Association, if owners of lots representing 75% of the votes of the Association agree to the action they may vote to increase, reduce, or eliminate future assessments for the account.

Assessments paid into the reserve account are the property of the Association and are not refundable to sellers or owners of lots. The sellers or owners of lots may treat their outstanding share of the reserve account as a separate item.

The Association may not sell, convey or subject to a security interest any portion of the common property. This prohibition does not apply to granting of easements for public utilities or other public purposes consistent with the intended use of the common property.

The Association shall enter into an agreement with the City of Banks governing the use of Tract A (Central Park) for events, which encompass more than the activities of the owners of lots in Arbor Village. A copy of a sample Park Permit procedures document "use permit" which will govern the use of Central Park (Tract "A") has been developed by the City of Banks and is, by this reference incorporated herein for guidance. The terms of that permit procedure document can be modified by the Homeowners Association with City of Banks approval. The intention of declarant is that the Homeowners Association shall include a position for City of Banks liaison person(s), i.e. a member of City Council or a person selected by Mayor of City of Banks and confirmed by City Council, to accomplish the purposes for which Tract "A" (Central Park) was created. It is further Declarant's intention that the City of Banks shall be responsible for the organization, policing, and replacement of any improvements damaged by activities which the City approves for use of Tract "A" by the general public.

ARCHITECTURAL AND CONSTRUCTION STANDARDS,
RESIDENTIAL COVENANT

The rights of the Association with respect to the common property or the rights of a single-family individual lot owner with respect to a lot or improvements on a lot, shall be restricted as follows. The following covenants, conditions and restrictions are in addition to the ordinances, rules and regulations of City of Banks or Washington County, Oregon. The CC&Rs for future phases, common wall and multi-family structures may differ from the following. In case of conflict between the following covenants, conditions and restrictions and the ordinances, rules and regulations of the City of Banks or Washington County, Oregon, the ordinances, rules and regulations of the City of Banks or Washington County shall control.

A. RESIDENTIAL COVENANTS

1. **Land Use and Building Type** – No lot shall be used except for residential purposes. The foregoing provisions shall not exclude construction of a private greenhouse, storage unit, private swimming pool or a shelter for the protection of such swimming pool provided the location of such structure is in conformity with the applicable municipal regulations, the structure is compatible in design and decoration with the residence constructed on such lot and the structure and its location has been approved by the Architectural Control Committee (Committee). The provisions of this section shall not be deemed to prohibit the right of any home builder to construct a residence on any lot, to store construction materials and equipment on said lots in the normal course of construction and to use any single family residence as a sales office or model home for purposes of sale in this subdivision. There shall be no construction, landscaping, clearing, grading, tree cutting or land filing on a lot without the approval of the Architectural Control Committee. There is a right to repair or restore improvements on the lot at the owner's discretion in the event of damages or destruction; however, at all times such improvements must comply with these CC&Rs and the rules and regulations of the Architectural Control Committee. Nothing in this paragraph or this document as a whole shall be interpreted to prohibit declarant, its assigns or successors, at its or their sole discretion from using lot number ninety (90) as a street, roadway or other means of access to property adjacent to Arbor Village or future phases of Arbor Village.
2. **Dwelling Size** – The floor area of a dwelling exclusive of open porches and garages, shall not be less than 1200 square feet. The Declarant must approve, in writing, any exceptions to these standards.
3. **Easements and Setbacks** – Easements as shown on the subdivision plat shall be preserved by the respective lot owners with the exception of the landscaping and monument easements which must be maintained by the Association. Site improvements shall not be placed so as to interfere with the maintenance of any easement. The owner of any lots, which has an easement shall maintain the easement area at his or her expense, except for improvements for which the Association or a public authority or utility is responsible.

In addition to the requirement that all set backs must, at a minimum, meet the ordinances, rules and regulations of the governing authority the following minimum standards shall be met:

- A. Front yard set backs for lot sizes of 5,000 square feet or larger shall be 20 feet.
- B. Front yard set backs for lot sizes smaller than 5,000 square feet shall be 15 feet.
- C. Side yard set backs for lot sizes 5,000 square feet or larger shall be 5 feet; if the lot is a corner lot is the side yard facing the street shall be 10 feet.
- D. Side yard set backs for lot sizes smaller than 5,000 square feet shall be as follows:
 - a. Alternative Plan 1: zero on one side and 6 feet on the other;
 - b. Alternative Plan 2: 3 feet on each side;
 - c. Alternative Plan 3: zero on one side and 6 feet on the other;
 - d. If a corner lot the side facing the street for any of the alternative plans shall be 10 feet.
- E. Rear yard set backs shall be 15 feet.

Side yards shall be maintained as open areas generally free from obstructions. There shall be no building projections, i.e., chimneys, in the 3 foot side yards proposed for alternative plan number 2.

Declarant reserves the right to impose more restrictive front, rear and side yard set backs as necessary to protect and enhance the character of Arbor Village.

- 4. **Offensive Activities** - No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done, grown or placed upon any lot, which interferes with or jeopardizes the enjoyment of other lots owners within this subdivision.
- 5. **Animals** – No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that a reasonable number of dogs, cats, or other household pets may be kept provided that they are not kept, bred or maintained for commercial purposes and are reasonably controlled so as not to be a nuisance.
- 6. **Signs** – No signs shall be erected or maintained on any lot (excluding entry monument signs) except that not more than one “For Sale” sign placed by the owner, Declarant or by a licensed real estate agent, consistent with controlling governmental ordinances, may be temporarily displayed on any lot. This restriction shall not prohibit the temporary placement of “political” signs on any lot by an owner.
- 7. **Parking** – Parking of boats, trailers, motor homes, motorcycles, trucks, truck-campers and like equipment shall not be allowed forward of the front building elevation set back of any lot. An applicant for a building permit must show that space for vehicle storage can be provided on the lot outside the front yard set back whether or not such storage space will be constructed. Parking or boats, trailers, motor homes, motorcycles, trucks, truck-campers and like equipment shall not be allowed on a lot, on public streets, common property, or alleys without approval of the Architectural Control Committee. Permission for parking of such equipment, if allowed, shall be screened from view in a manner acceptable, in writing, to the Architectural Control

Committee. Each dwelling unit on a lot with greater than forty foot width must have off street parking spaces for at least four vehicles. Garage bays may be counted for the purpose of meeting this requirement. Lots with fewer than forty feet of width shall have off street parking spaces for two vehicles. Single car garages on said narrower lots may be allowed upon approval by the Architectural Control Committee.

No owner shall permit any vehicle of any kind including without limitation, boats, trailers, motor homes, motorcycles, trucks, truck-campers, etc. to be abandoned or to remain parked upon any lot (except as approved pursuant to these CC&Rs), the common property, alley or street for a period in excess of twenty four hours.

The Homeowners Association or Declarant may give written notice to anyone violating these parking conditions. If not corrective action is taken within 24 hours after the second notice is left on the offending vehicle the Homeowners Association or Declarant may cause the offending vehicle to be towed at the expense of the owner.

8. **Private Streets or Alleys** – All private driveways, streets or alleys shall be separated from public rights of way and common property tracts by standard driveway approaches.
9. **Rubbish and Trash** – No lot, open space, common property, street or alley shall be used as a dumping ground for trash or rubbish of any kind. All garbage or other waste shall be kept in appropriate sanitary containers for proper disposal and out of public view. Yard rakings, debris and dirt resulting from landscaping work shall not be dumped onto streets, open space, common property, alleys, any lot or adjacent property.
10. **Temporary Structures** – No structure of a temporary character, trailer, motor home, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence.
11. **Utilities** – No outdoor overhead wire or service drop for the distribution of electric energy or for telecommunication purposes, nor any pole, tower, or other structure supporting said overhead wire shall be erected, placed or maintained within this subdivision. All owners of lots within this subdivision, their heirs successors and assigns shall use underground wire to connect their premises and the structures built thereon to the underground electric, T.V. cable, or telephone utility facilities provided.
12. **Completion of Construction** – The construction of any building on any lot, including private lot drainage, painting and all exterior finish shall be completed within eight (8) months from the beginning of construction so as to present a finished appearance when viewed from any angle. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval from the Architectural Control Committee.
13. **Landscape Completion** – All front, rear and side yard and the area between streets and sidewalk, landscaping must be completed pursuant to a landscaping plan approved by the Architectural Control Committee. The landscaping on all front yards, corner lots side yards and the area between street and sidewalk must be installed upon substantial completion of the residence. All remaining landscaping must be completed within 6 months of occupancy of the dwelling. In the event of undue hardship due to weather conditions, this provision may be extended for a

reasonable time, but only after written application is made to the Architectural Control Committee and the Committee's approval is obtained. Landscaping plans, which include vinyl clad cyclone fencing, shall incorporate plant materials designed to buffer or soften said fencing from exposure to any street or common area.

The area between the sidewalks and curbs along any street in Arbor Village shall be planted in lawn and street trees by the owner of the lot adjacent thereto and the maintenance of said lawn and street trees shall be the responsibility of the owner of the lot adjacent thereto.

14. **Fences and Hedges** – No fence or hedge shall be erected without prior written approval of the Architectural Control Committee as to design, size color, location and materials. All fences, if approved, shall be of the wood capped cedar good neighbor style and shall be a maximum of six (6) feet in height. No fence or hedge may be placed forward of the dwelling's front elevation building footprint. In addition to the foregoing the City of Banks code regulates all fence heights depending on individual lot configuration to assure that proper sight and visibility goals are achieved. City standards are subject to change but at the time of recordation of this document the City regulations require that Corner lots greater than 40 feet wide may not place a six foot high fence or hedge within 10 feet of the side property line facing the street. A three and one-half (3'6") foot high fence or hedge is allowed within 10 foot of the side property line facing a street under City Code. Corner lots less than or equal to 40 feet wide (currently lots 1 through and including 13) may not place a fence or hedge within ten (10) feet of the side property line facing a street. A three and one-half (3'6") fence or hedge may be allowed, under current City code, within ten (10) feet of the side property line facing a street. The City of Banks must approve any changes or exceptions to its standards. If lot 90 is used by declarant as the location for access to adjacent land or future phases lots 89 and 91 will become subject to these standards referencing limitations on fences or hedges on corner lots.
15. **Antennas or Service Facilities** – No exterior antennas or aerials of any kind shall be permitted unless required for reception and then only as approved by the Committee. Clotheslines and other service equipment shall be screened so as not to be viewed from any street. A satellite dish may be allowed, if it can be situated on the lot so as not to be visible from any other lot or roadway in or around the subject lot. Approval for a satellite dish and any associated screening must be obtained from the Committee prior to installation.
16. **Exterior Materials** – Exterior materials must be approved for use by the Architectural Control Committee in accordance with any provisions contained in a purchase agreement for any lot within this subdivision. All Roofing material must be approved by the Architectural Control Committee. Exterior Siding must be approved by the Architectural Control Committee. Dwellings shall be Double Wall construction on any elevation facing a street. T-111 or other pressed wood sheet siding may be permitted on elevations not facing a public street if approved by the Architectural Control Committee. Windows shall be wood, vinyl clad wood or vinyl with sight lines equivalent to wood. In appropriate circumstances the Architectural Control Committee can approve other materials if necessary to facilitate design provided they are in keeping with the character of Arbor Village.

17. **Exterior Finish** – The exterior finish of all construction on any lot shall be designed, built and maintained in such a manner as to blend in with the existing structures and landscaping within this subdivision. Exterior colors must be approved by the Architectural Control Committee. Exterior trim, fences, doors, railings, decks, eaves, gutters, exhaust pipes and exterior finish of garages and other accessory buildings shall be designed, built and maintained to be compatible with exterior of the structures they adjoin.
18. **Window Coverings** – Window coverings, curtains, shutters, drapes or blinds, other than those of commercially produced quality, shall not be permitted to be visible from any public or private street at any time after occupancy of the dwelling.
19. **Business and Commercial Activities** – No trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any lot, nor shall any goods, equipment, vehicles, materials, or supplies used in connection with any trade, service or business be kept or stored on any lot. Excepted from this general rule is the right of any homebuilder and the Declarant to construct residences on any lot, to store construction equipment and material on said lots in the normal course of construction and to use any single family residence as a sales office or model home for purposes of sales in this subdivision. In addition, the Declarant shall be permitted to maintain a sales trailer on any unsold lot until all lots have been sold. This provision shall not be construed to prevent or prohibit an owner from maintaining his or her professional personal library, keeping his or her personal business or professional records of accounts, handling his or her personal business or professional telephone calls, or conferring with business or professional associates, clients customers in his or her home. This later provision is intended to recognize the right of an owner to conduct a business based upon electronic communication devices or other non-intrusive processes provided such as business does not rely upon or cause increased traffic to or from the home site and does not involve use of on-site employees.
20. **Mail and Paper Delivery Boxes** – Mailboxes and newspaper receptacles placed in front of any lot shall be included in a single structure of a design approved by the Architectural Control Committee unless otherwise dictated by the U.S. Postal Service.
21. **Swimming Pools** – The location of a swimming pool on any lot must be approved by the Architectural Control Committee. Adequate and Committee approved safety fencing must be installed and properly maintained around swimming pools.
22. **Damage to Roads or Curbs During Construction** – Any damage to roads, sidewalks, or curbs, which occur during the course of construction of any kind on a lot, shall be the responsibility of that lot owner. Repair of such damage, if not undertaken by the lot owner within 30 days of notice to correct may, at their option, be undertaken by the Declarant or the Association if it has been activated. The cost of such repair shall be billed to and borne by the lot owner and shall be payable within 30 days after it becomes due. Failure to pay for any repair billed shall cause the lot owner to be liable for interest at the rate of 15% per annum and costs of collection including attorney fees and such unpaid amounts shall become a lien on the lot owned by the lot owner.
23. **Sidewalks and driveways** – All driveways shall extend from the edge of the finished surface of streets to the surface of the garage floor and shall be constructed of

concrete and/or materials acceptable to the Committee such as brick or cobblestones. No asphalt driveways will be permitted. Sidewalks shall be installed by the owner of each lot in compliance with the standards of the governing political authority.

B. ARCHITECTURAL CONTROL COMMITTEE

- 1) **Architectural Review** – No structure, including storage shelters, shall be commenced, erected, placed or altered on any lot until construction plans and specifications and a plat showing the nature, shape, heights, materials, colors and proposed location of the structure or alteration have been submitted to and approved in writing by the Architectural Control Committee (Committee). It is the intention and purpose of this covenant to assure quality of workmanship and materials, harmony of external design with the existing structures as to location, topography and finished grade elevations, to avoid plan repetition and to protect views from adjacent lots. In all cases the Architectural Control Committees’ consent is required.
 - a. **Major Construction**

In the case of initial or substantial additional construction of a dwelling the lot owner shall prepare and submit to the Architectural Control Committee such plans and specifications for the proposed work as the Committee may require. Materials required by the Committee may include, but not necessarily be limited to the following:

 1. A plan indicating location of all improvements including private drainage.
 2. A drawing showing elevations, exterior materials and exterior color schemes of all improvements, including the mailbox / newspaper structure and fencing;
 3. A drawing showing yard landscape design and location including a description of plant materials in all front, side yards facing a street and the area between the street and sidewalk.
 - b. **Minor Construction**

In the case of minor additions or remodeling, change of existing exterior color schemes or exterior materials, green house, swimming pool construction, or any other work on referred to in a. above, the owner shall submit to the Committee such plans and specifications for the proposed work as the Committee determines to be necessary to enable it to evaluate the proposal.
 - c. **Time for Rendering a Decision**

The Architectural Control Committee shall render its decision with respect to the proposed work within 10 days after it received all required materials.
- 2) **Architectural Control Committee Decisions** – The Committee may, at its sole discretion, withhold consent to any proposed work if the Committee finds that the proposed work would be inappropriate for the particular lot or incompatible with the design standards that Declarant intends for the subdivision. Considerations

such as site, shape, size, color, design, height, and impairment of the view from other lots within this subdivision or other factors, which the Committee reasonable believes to be relevant, may be taken into account by the Committee in determining whether or not to consent to any proposed work.

- 3) **Membership: Appointment and Removal** – The Architectural Control Committee shall consist of as many persons as the Declarant may from time to time appoint. The Declarant shall keep on file at its principal office a list of names and addresses of Committee members. A member of the Committee shall not be entitled to any compensation for services performed pursuant to these covenants. The powers and duties of such Committee shall cease six (6) months after completion of construction of all dwellings on all building sites within this project and the sale of said dwellings to the initial owner / occupants. The Homeowners Association may assume the role of the Committee only upon the termination of the Committees' powers and duties as set forth in this paragraph.
- 4) **Liability** – Neither the Committee nor any member thereof shall be liable to any owner, occupant, builder or developer for any damage, loss, or prejudice suffered or claimed on account of any action or failure to act by the Committee or a member thereof, provided that the member has in accordance with actual knowledge possessed by him acted in good faith.
- 5) **Action** – Except as otherwise provided herein, any one member of the Committee shall have power to act on behalf of the Committee without the necessity of consulting the remaining members of the Committee. The Committee may render its decisions only by written instrument setting forth the action taken by the members consenting thereto.
- 6) **Non-waiver** – Consent by the Committee to any matter proposed to it within its jurisdiction under these covenants shall not be deemed to constitute a precedent or waiver impairing its rights to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.
- 7) **Effective Period of Consent** – The Committee's consent to any proposed work shall automatically be revoked one year after issuance unless construction of work has commenced or the owner has applied for and received an extension of time from the Committee.
- 8) **Term and Amendment** – These covenants shall run with and bind all the property within this subdivision for a term of twenty five (25) years from the date this declaration is recorded, after which time they shall automatically be extended for successive periods of ten (10) years. This declaration or parts thereof can be terminated, revoked or amended only by duly recording an instrument which contains the amendment or the order of revocation or termination and which is signed by the owners of seventy five percent (75%) of the platted lots except that the Declarant shall retain the authority to make amendments until the last lot is constructed upon. **Note:** because the Declarant agreed that the Homeowners Association would maintain Tract A in perpetuity as part of development approval conditions for Arbor Village, the Homeowners Association responsibility of maintaining Tract A shall continue in perpetuity, notwithstanding any limitation of term contained in this paragraph.

- 9) **Enforcement** – In the event of any violation of any of the provisions of this declaration, the Declarant, the Association once it controls the CC&Rs as set forth herein or any other person or persons owning real property within Banks Estates, Phase I may, at their option, exercise the right to enforce these covenants by prosecuting any proceeding at law or in equity necessary to prevent the violation or to recover damages sustained by reason of such violation. Failure by any part to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In any action successfully prosecuted to abate or recover damages for violation of the provision of this declaration, the prevailing party shall be entitled to recover all costs including reasonable attorney fees incurred in such enforcement.
- 10) **Severability** – Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.
- 11) **Limitation of Liability of Declarant** – Neither Declarant nor any officer or director thereof shall be liable to any owner on account of action or failure to act by Declarant in performing its duties or rights as herein set forth provided that the Declarant has, in accordance with actual knowledge possessed by it, acted in good faith.

CITY OF BANKS DISCLAIMER STATEMENT

Pursuant to a requirement of the City of Banks, the following statement is included: These covenants constitute a private agreement among the owners of lots within Arbor Village (and lots previously known as Banks Estates) and will not be enforced by the City of Banks. These covenants have not been approved or disapproved by the City and do not restrict the City's authority to adopt or amend its development regulations. The City will limit its review of a development application and the issuance of permits to the requirements of its regulations and any condition approval. It is the duty of every person engaged in development within Arbor Village to know the requirements of these covenants. In the event there is a conflict between a City regulation and these covenants, any question regarding these deed restrictions should be directed to the Architectural Control Committee. Any question regard the City Ordinances should be directed to the City Recorder. The City will not be liable for any approvals or permits which are granted in compliance with City regulations, but which are not in compliance with these covenants.

Due to the Tract A maintenance obligations placed upon the Homeowners Association no part of this document dealing with Tract A maintenance may be amended or altered without the express written consent of the City of Banks. Furthermore, the Homeowner Association may not be dissolved without the written consent of the City of Banks.

IN WITNESS WHEREOF, the undersigned, being Declarant herein, has hereunto set its hand the 11th day of March, 1998.

WEST HILLS DEVELOPMENT COMPANY

By _____
DENNIS E. SACKOFF, PRESIDENT

By _____
WALTER E. REMMERS, VICE-PRESIDENT

State of Oregon

County of Multnomah

I Terry P. Kinney a Notary Public for the State of Oregon certify that on the 11th day of March, 1998, personally appeared before me Dennis E. Sackoff and Walter E. Remmers who, being first duly sworn, did say that they are the officers herein named and do hereby acknowledge said instrument to be their free and voluntary act on behalf of West Hills Development Company, an Oregon Corporation.

Notary Public
My Commission Expires _____