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ARBOR VILLAGE NO. 2
Amendment to Declaration of: “ARBOR VILLAGE”
(Banks Estates)
Covenants, Conditions and Restrictions and
Homeowners Association Provisions and Fees
Creation of the “Carriage Collection”

The subject property is a replat of Tract “C” of ‘Banks Estates’, A replat of a portion of Tract “I” First Addition to Banks and a Parcel of Land located in the SW ¼ and NW 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 108, Pages 48-52, Document No. 97002544 Washington County Deed Records. Arbor Village is a plat recorded in Plat Book 116, Pages 47-51, Document No. 98027230, Washington County Deed Records. Arbor Village No. 2 is a plat recorded in Plat Book 122, Pages 22-27, Document No. 99017916. Both Arbor Village and Arbor Village No. 2 represent subsequent phases of the “Banks Estates” planned multi-phase development consisting of single family, multi-family owner and renter occupied development on approximately 90 acres of land. ‘Banks Estates’ is phase one of the overall PUD, which has become known as ‘Arbor Village’. The original documents found by reference to the above document number have been amended by subsequent acts of Declarant, which have also been memorialized in Document No. 98027232.2. This amendment shall impact and alter all previously recorded documents where those documents are inconsistent with the following. If any inconsistency between this document and other relevant documents is, upon review, determined to exist, it is Declarant’s intent that the contents of this document shall control.

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

WHEREAS, West Hills Development Co., heretofore referred to as Declarant, is part of the South Banks Joint Venture and said joint venture is the record owner in fee simple of the above described real property; upon recordation of this document South Banks Joint Venture shall be known as Declarant in the herein referenced documents; and,

WHEREAS: Declarant, in the “Declaration”, reserved the right to amend the “Declaration” to reflect incorporation of additional land, additional and/or different provisions which reflect governmental, physical and market requirements as in Arbor Village; and,

WHEREAS, This document will apply to subsequent phases of Arbor Village, following City approval of said phases. The Declarant reserves 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: Declarant, by this document, declares that the “Declaration” shall again be amended to include the herein contained terms including the “Whereas” clauses; and,

WHEREAS, as used herein, only in the context of the Homeowners Association obligations, “maintenance” includes repair, replacement, and upkeep of the common area(s), including without limitation, all structures, landscaping, 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 regulations standard; and,

WHEREAS, Tracts “I”, “L”, “N”, “O”, “V”, “W”, and “X” of Arbor Village shall be dedicated to the Homeowners Association, subject to public pedestrian easements over their entirety. Declarant shall install improvements within said Tracts in accordance with standards approved by the City of Banks Engineer. Landscaping, trees and other amenities in Tracts “I”, “L”, “N”, “O”, “V”, “W”, and “X” if any, shall be maintained by the Arbor Village Homeowners Association; 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 restrictions, covenants and conditions (CC&Rs) and Homeowners Association Provisions (provisions) as amended by this document. The terms of the CC&Rs and Provisions as herein amended create new obligations and privileges, which inure 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.

LANDSCAPING and MAINTENANCE

Each Owner and Occupant shall maintain at all times such Owner or Occupant's lot and improvements in an attractive, neat and good condition as provided herein, at such Owner or Occupant's expense. Required maintenance and repair shall include without limitation: 1) maintenance of all parking areas, private drives, curbs, and walkways in a clean and safe condition, including cleaning and repairing as often as is necessary; 2) maintenance of landscaping in an attractive, neat, orderly, trimmed and cut condition at all times, free of brush, weeds, and debris and in compliance with the Street Landscaping Plan, to the extent such a plan is applicable, including sidewalks and street trees (this provision includes the area between the property line of any lot and nearest curb); 3) cleaning maintenance, and replacement of any external lighting fixtures and bulbs; and, 4) maintenance, repair and/or replacement and care in an attractive and neat condition of exterior building surfaces, their paint and/or stain, roofs, gutters, and downspouts.

ENFORCEMENT OF CC&Rs

- A. **Right of Entry**. Declarant, the Association, the Architectural Control Committee, and any representative of any of the foregoing shall have the right to enter upon any Lot (i) to clean or maintain landscaping, parking areas, driveways, exterior lighting fixtures, and buildings; (ii) to inspect any Lot prior to, during, or upon the completion of construction of improvements thereon; (iii) to remove, demolish, replace, alter, repair, or otherwise correct any improvement which is placed on any lot without the prior approval of the Architectural Control Committee pursuant to and in accordance with all of the applicable Covenants, Conditions and Restrictions (CC&Rs) or which is constructed or installed in a manner inconsistent with the terms of the Architectural Control Committee approval therefore pursuant to the applicable CC&Rs; (iv) to enforce the applicable provisions of the CC&Rs if the owner of the Lot in question does not do so as required by the Declaration; or (v) for any other purpose permitted under or necessary to enforce the provisions of this Declaration. The owner of any lot shall reimburse the Association for any expenses incurred in connection with any action described herein in clauses (i), (iii), or (iv) promptly upon billing of the same. If the Owner fails to reimburse the Association within ten (10) days after such billing, the Association may impose a lien against the subject lot as provided elsewhere in the Declaration. No entry of any Lot pursuant to this Declaration shall be deemed a trespass or otherwise create any right of action in the Owner or Occupant of such lot.
- B. **Stop Work Order**. The Association shall have the right, acting through the Architectural Control Committee, to issue an order to any person, including any Owner or Occupant, requiring such person to cease construction of and, if necessary, to improve any improvement which previously has not been approved by the Architectural Control Committee pursuant to the terms of the Declaration or which violates the Declaration. The Association shall also have the right to seek enforcement of any such order through the proper legal channels.

- C. **Fines.** The Association shall have the right, acting through the Architectural Control Committee, to fine any person who fails to comply with or violates any provision of the Declaration. Such fine shall be a personal obligation of the Owner. The Board shall determine the general circumstances in which fines may be imposed and the amount thereof for different types of violations or failures of compliance. If any fine is not paid within ten (10) days after notice thereof to the Owner or Occupant, the Association may impose a lien against such Lot as set forth in the Declaration.

CARRIAGE COLLECTION LOTS AND HOMES

Lots 1-13, 98-118, 172-211 and 213-252 are declared an area of special concern which shall in addition to the privileges and obligations heretofore established for all property in Arbor Village in the original and amended "Declaration", be subject to privileges and obligations unique to said lots 1-13, 98-118, 172-211 and 213-252. Those "unique" privileges and obligations create the *Carriage Collection* homes and lots and are as follows.

- A. All front yards and side yards facing any street shall be subject to a landscape installation and maintenance easement over their entirety. Declarant shall install landscaping, street trees, and irrigation system(s) with water meter(s) dedicated solely to the irrigation of the herein created front and side yards facing any street landscaping. The herein identified landscaping improvements shall be maintained by the Arbor Village Homeowners Association pursuant to a separate source and application of funds accounting system.
- B. **Declarant hereby declares that in addition to the general Arbor Village Homeowners Association annual fee for each lot within the Arbor Village development, which by this amendment is being raised to ____. Owners of lots 1-13, 98-118, 172-211 and 213-252 inclusive shall pay an annual Carriage Collection landscape maintenance fee of ____.** Said additional Carriage Collection landscape maintenance fee shall be subject to the same regulations as the Homeowners Association standard fee with the exception that it shall be managed and expended solely for the maintenance of the front and side yard improvements on the Carriage Collections Lots.
- C. Each dwelling unit with a two-car garage must have off street parking spaces for at least four vehicles. Lots with single care garages shall have off street parking spaces for at least 3 vehicles. Garage bays may be counted for the purpose of meeting this requirement.
- No home in the Carriage Collection shall have in excess of one vehicle parked outside its respective garage on an extended or consistent basis. That single vehicle may be parked in a driveway but under no circumstances may it be parked off of a paved surface intended for vehicle travel or storage. The intent is to have at least one off-street parking space available at all times at each home for 'drop by' visitor's vehicles. Vehicles may not be used for storage of materials for more than forty-eight (48) hours without prior written approval from the Architectural

Control Committee.

Parking of boats, trailers, motor homes, motorcycles, trucks, truck-campers and like equipment shall not be allowed on any part of the property nor on public streets, common property, or alleys adjacent thereto excepting only within the confines of an enclosed garage or screen as approved 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, the common property, alley or street for a period in excess of forty-eight (48) hours.

The appointed agent of the Homeowners Association or Declarant may give written notice to anyone violating these parking conditions. If no 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.

- D. There is hereby created a cross-easement along the side yard of each lot's house to allow occupant access to the rear yard of their individual lot. The description of the cross easement shall be on each lot the first 21 inches in from the common property line, thus creating a 3 ½ foot wide pathway centered between houses. It shall be the responsibility of each property owner to maintain their portion of the easement area surface and keep the cross easement area clear of obstructions, which in any manner hinder access to rear yards. Any disputes arising from issues relating to the cross easement area shall be settled by the Homeowners Association Board of Directors.
- E. No fencing or gates shall be allowed in side yard setbacks of Carriage Collection lots. Elsewhere within the Carriage collection, fence locations and styles have been pre-approved by the Architectural Control Committee. Each homeowner is responsible for the maintenance of the fence on his or her individual lot. The Architectural Control Committee shall allow no fence(s) in a location different from that originally approved. In the case that fence must be replaced, it shall be replaced in the same location, be made of the same material and be of the style as the original.
- F. The floor area of a dwelling exclusive of open porches and garages shall not be less than 1000 square feet. The Declarant must approve, in writing, any exceptions to these standards.

ARBOR VILLAGE HOMEOWNERS ASSOCIATION PROVISIONS shall be amended by the addition of the following language:

The Board of Directors or, if no Board of Directors has yet been chosen, the Declarant, shall have the authority, without first submitting the question to owners, to increase, by no more than ten percent (10%), the annual general Homeowners Association fee assessment. The amount of each annual assessment shall be established and justified at the Board's annual meeting or if the Board of Directors has yet to be established pursuant to the Declaration. The amount of increase shall be based upon actual expenses

experienced by Declarant. In no event, however, shall the annual general Homeowners Association fee assessment for any lot be increased by more than ten percent (10%) in any one year or an accumulated increase of more than fifty percent (50%) from the relevant initial annual Homeowners Association fee assessment without a vote of the affected owners as set forth elsewhere in the Homeowners Association Provisions. The expenses referenced herein shall be borne by the lot owners equally with 1/382nd of the total being the responsibility of each lot owner(s) for the general Homeowners Association fee and 1/114 for the Carriage Collection lots as herein established.

The Annual General Homeowners Association fee is hereby increased and shall from this point forward until changed, as herein established, be the sum of \$177.00.

The Homeowners Association shall hold the City of Banks harmless from any liability and defend any claim alleging improper maintenance or mismanagement of Tract "A" and Declarant or Homeowners Association installed improvements in Tract "A", resulting in injury to a person during other than City "permitted use" functions.

IN WITNESS WHEREOF, the undersigned, being Declarant herein, has hereunto set its hand the 26th day of January, 1999.

SOUTH BANKS JOINT VENTURE

WEST HILLS DEVELOPMENT COMPANY

By _____
DENNIS E. SACKOFF, PRESIDENT

By _____
WALTER E. REMMERS, VICE-PRESIDENT

KARL WALTER

By _____
KARL H. WALTER

State of Oregon
County of Washington

I, Terry P. Kinney, a Notary Public for the State of Oregon certify that on the 25th day of January, 1999 personally appeared before me Dennis E. Sackhoff 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

Terry P. Kinney