DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BARCLAY HEIGHTS FIRST ADDITION SUBDIVISION AND NOTICE
CONCERNING POTENTIAL FUTURE ADJOINING CITY PARK OUTDOOR
AMPHITHEATRE DEVELOPMENT

RECITALS

Declarants, Anthony and Lilian Bell, and Wilburn and Darlene Johnson, hereinafter
referred to as Developers, are the owners of certain real property located in the City of
McMinnville, County of Yamhill and State of Oregon, known as Barclay Heights First
Addition, a duly recorded plat, hereinafter sometimes jointly referred to as "development").

Developers desire to create therein a residential community.

Developers desire to declare of public record their intent to create certain restrictive
conditions and covenants to the ownership of said property (hereinafter CCRs).

THEREFORE, Developers do hereby establish and declare that the following CCRs
shall become and are hereby made a part of all conveyances of lots 29 through 32, inclusive,
and lots 50 through 90, inclusive, within the plat of Barclay Heights First Addition,
recorded 1996, in Volume 149, Page 2493, of the Plat Records of Yamhill County,
and the following CCRs shall become a part of any such conveyances and shall
apply thereto as fully and with the same effect as if set forth at large therein.

ARTICLE 1

Section 1. Initial Development. Developers hereby declare that all of the real
property described above is held and shall be held, conveyed, hypothecated, encumbered,
used, occupied and improved, subject to the following CCRs, which are adopted and stated
for the purpose of protecting the value and desirability of, and which shall run with, the real
property, and shall be binding on all parties having any right or title to, or interest, in the
above described properties, or any part thereof, their heirs, successors, and assigns, and
ensures to the benefit of each present and future owner thereof.

Section 2. Annexation of Subsequent Phases of Barclay Heights First Addition.
Developers may, but are not promising, from time to time to annex or add to Barclay
Heights First Addition any adjacent real property now or hereafter acquired by them. If
developers decide to do so, annexation or addition of such additional phases of Barclay
Heights First Addition shall be accomplished as follows:

a. Developers shall record a declaration which shall be executed by Developers, and shall, among other things, describe the real

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Recorded in Official Yamhill County Records
CHARLES STERN, COUNTY CLERK

199601494 09:24am 01/31/96
004 926325 10 04 000222
1 PO2 10.9 99.0 0.0 0.0 0.0 0.0
property to be annexed or added, establish any additional or different limitations, uses, restrictions, covenants and conditions which are intended to be applicable to such property, and declare that such property is held and shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to these covenants.

b. The property included by any such annexation shall thereby become a part of these covenants, and Developers shall accept and exercise administration of these covenants with respect to such property.

c. Notwithstanding any provision apparently to the contrary, a declaration with respect to any annexed area or added area may:

(i) Establish such new land classifications and such limitations, restrictions, uses, covenants and conditions with respect thereto as Developers may deem to be appropriate for the development of the annexed or added property.

(ii) With respect to existing land classifications, establish such additional or different limitations, uses, restrictions, covenants and conditions with respect thereto as Developers may deem to be appropriate for the development of such annexed or added property.

ARTICLE II
DEFINITIONS

Section 1. Lot. "Lot" shall mean and refer to one of the numbered parcels on the plats referred to in the description of the property above.

Section 2. Owner. "Owner" shall mean the record owner, or contract purchaser, whether one or more persons or entities, of a fee simple title to any lot, but notwithstanding any applicable theory of mortgage, shall not mean or refer to the mortgagor or beneficiary of a trust deed unless such mortgages or trust deed beneficiary has acquired title pursuant to foreclosure or any proceeding in legal foreclosure.

Section 3. Setback. "Setback" means the minimum distance between the dwelling house or other structure referred to and a given property line, unless otherwise indicated.

Section 4. Definitions. Other property terms shall be taken as defined in City of McMinnville Zoning Ordinance 3380, as contained in the city zoning ordinance, chapter 17.06.
ARTICLE III
DESIGN REVIEW COMMITTEE

Section 1. Number of Committee Members. Plans for all houses to be constructed on any lot to be purchased under this Declaration shall be submitted to a Design Review Committee with three (3) members.

Section 2. Term of Members. Each member of the Design Review Committee shall serve for a period of three (3) years and until a successor has been elected, except that Developer will appoint one of the initial members for a one (1) year term, one of the initial members for a two (2) year term, and the third for a three (3) year term, so as to achieve staggered terms among the three members of the Committee. Members elected to fill an unexpired term shall serve the balance of the term. It is the intention of this provision that one term on the design review committee shall expire each year.

Section 3. Election of Members: Annual Meeting. The Developer shall appoint the initial Design Review Committee and shall continue to make appointments to the Design Review Committee for a period of seven (7) years after the plat of the property has been filed, or until seventy percent (70%) of the lots within the property described herein have been sold, which ever first occurs. Thereafter, Design Review Committee members shall be elected by a majority vote of the lot owners voting in the election, provided a quorum of the owners of ten lots are present. An election will be held on the second Monday of January of each year, or at such other time during the month of January as may be specified by the Design Review Committee. If less than a quorum appears, those appearing shall have authority to adjourn and reschedule meetings until a quorum appears.

The Design Review Committee shall notify all lot owners of the time and place of a meeting for the purpose of filling a vacancy at least thirty (30) days prior to the election. Each lot owner shall have one (1) vote for every lot owned, except that where more than one person holds an ownership interest in a lot, only one (1) vote for such lot shall be cast, as the owners thereof among themselves determine.

When an even number of persons have an ownership interest in a lot, and they are evenly split as to how a vote should be cast, then said lot owners shall not be entitled to cast any vote on such matter, but shall be counted for quorum purposes only. Notice of elections shall be given by first class mail to the lot owner(s) listed on the property tax records of Yamhill County at the time notice is sent. Notices shall be mailed to the property address and if different from the property address, the address listed on the property tax records of Yamhill County at the time the notice is sent.

Section 4. Review of Plans. No construction will be permitted nor a building permit obtained without prior approval in writing of the Design Review Committee. Lot owners shall submit to the Design Review Committee the following:

a. Plans. The following plans must be furnished:
(i) Plot plan;
(ii) Foundation plan;
(iii) General floor plan and floor space area;
(iv) Plan elevation;
(v) Roof layout and materials specifications, including peak height above curb;
(vi) Landscape plan, including fence plans, if any, disclosing landscaping of the entire lot; and
(vii) Exterior color swatch(es).

b. Specifications. A description of building materials and supplies to be used in construction equivalent in detail to the Uniform Building Code.

Section 5. Standard of Review. The Design Review Committee shall, before giving its approval, verify that the proposed residence complies with the general characteristics outlined below in ARTICLE IV and is, in the judgement of the Committee, compatible with other homes in Barclay Heights First Addition, either existing or proposed. The Design Review Committee shall interpret the improvement and design standards set forth in ARTICLE IV and in the event any section or portion is found invalid, the remaining sections shall remain in full force and effect.

Section 6. Compliance with Governmental Regulations. Approval by the Design Review Committee shall not excuse compliance with any other governmental rule, ordinance, code or regulation applicable to any lot or other property within Barclay Heights First Addition.

Section 7. Scope of Review; Committee Discretion. The Design Review Committee may withhold approval of plans and specifications because of their non-compliance with any of the specific CCRs contained in this Declaration, but also because of the dissatisfaction of the Committee with any or all other matters or things which, in the judgement of the Committee, would render the proposed structure inharmonious with the general plan of improvement of Barclay Heights First Addition. The Committee may place reasonable conditions upon its approval.

Section 8. Deadline for Opinion. The Design Review Committee shall issue its opinion or notify the lot owner of its objections within twenty-one (21) days from the date of a complete submission of all plans and specifications by the lot owner. If the Committee fails to issue an opinion or notify the lot owner of its objections within the required time, the plans and specifications as submitted shall be deemed to be approved by the Committee.

Section 9. Entry for Inspection. Any member(s) of the Design Review Committee may at any reasonable hour or hours, after reasonable notice, enter in and inspect any lot and improvement thereon for the purpose of determining compliance with the approved plans and specifications or compliance with other CCRs provided herein, and such member(s) shall not thereby be deemed guilty of any manner of trespass for such entry to
inspection. The Design Review Committee may issue a certificate of compliance as to any property so inspected.

Section 10. Communications to Committee. All communications to the Design Review Committee shall be delivered to the Developer at its office in McMinnville, Oregon, until such time as the Developer’s interest is terminated (see ARTICLE VII, Section 4), at which time all communications shall be delivered to the Chair of the Design Review Committee at his or her mailing address, as shall be known at the annual meeting described in ARTICLE III, Section 3 above.

Section 11. Architectural Checklist. The Developer and the Design Review Committee may maintain and make available an architectural checklist. Such checklist may be modified from time to time.

Section 12. Liability. Neither the Design Review 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 of the Committee or a member thereof, provided that the member has, in accordance with the actual knowledge possessed by him, acted in good faith.

ARTICLE IV
USE OF PROPERTY AND DESIGN STANDARDS

Section 1. Residential Purpose. No lot shall be used for any purpose other than residential purposes. To the extent permitted by the zoning and other governmental regulations, occupants of any home may give instruction in the arts and such similar activities such as music, as long as such activities do not detract from the nature of Barclay Heights First Addition as a high quality residential neighborhood.

Section 2. Size, Height and Materials.

a. Except on designated common wall lots 50 through 64, no building shall be erected, altered, placed or permitted to remain on any lot other than one (1) single-family dwelling not more than two (2) stories in height, including the main floor level used for living, and not more than thirty-five (35) feet in height, unless permission is granted by the Design Review Committee. Dwellings may contain a basement, in addition to the two stories in height referred to above. Every dwelling house, depending on lot number, as detailed of 1,000, 1,400 or 1,500 square feet of living space, exclusive of garage area, if a single level home, or at least 800 square feet of living space exclusive of garage area on the ground floor of a two-story residence with a total minimum living space, exclusive of garage of 1,000, 1,400 or 1,500 square feet (exclusive of basement, if any), depending on lot number.

Lots 50 through 64 are designated common wall townhouse lots that may be used either as two-family or one-family homes. As such, each of the two dwellings in the common wall buildings may be sold on a fee-simple basis. If used as a two-family dwelling, each of the
living units on the sub-lots, A and B, shall have a minimum of 1,000 square feet of living space, exclusive of garage area.

Lots 50 through 64 shall have a minimum of a double car garage for each of the component lots, A and B. If a one-family dwelling only is constructed on one of the townhouse lots instead of two possible dwellings then the single family dwelling shall have a minimum floor area of 1,400 square feet.

Lots 65, 66, 67, 78, 79, 80 and 86 shall have a minimum of 1,400 square feet of living area, exclusive of the garage area. Except for lots 50 through 64 and lots 65, 66, 67, 78, 79, 80 and 86, every dwelling house constructed in Barclay Heights First Addition shall have a minimum of 1,500 square feet of living space, exclusive of garage area. Each single family dwelling house in Barclay Heights First Addition shall have a private two (2) or three (3) car enclosed garage as part of, or attached to, the house, except as provided otherwise above for certain uses of common wall lots. The garages shall not be used for dwelling purposes and shall conform generally in architectural design, exterior materials and finish to the dwelling house to which it is appurtenant. No carports shall be allowed or constructed on any lot. Outbuildings, sheds or similar structures may be placed, erected, maintained or constructed only with the written approval of the Design Review Committee and shall in no event be used for dwelling purposes.

b. Every building, fence, wall, or other structure placed on any part of any lot shall be constructed of new material unless the use of other than new material shall have been reviewed and shall have received the written approval of the Design Review Committee.

c. Roofs shall be cedar, tile or, if approved by the Design Review Committee, an architectural grade of composition roofing. Roof pitches shall be a minimum of 5 in 12, unless the Design Review Committee approves a less restrictive pitch.

d. All buildings shall have siding materials on all sides of every structure or improvement placed on the premises; however, under no circumstances shall plywood, T-111-303, or any other panel-type siding be used. Brick, stucco and lap siding of any kind may be used, including "LP."

Section 3. Temporary Occupancy. No building shall be in any manner occupied while in the course of original construction or until it complies with all CCRs stated herein. The construction or remodeling of any building or structure shall be prosecuted with reasonable diligence continuously from the time of commencement until fully completed.

Section 4. Temporary Structures: Recreational Vehicles. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently. No campers, motor homes, boats, boat trailers, utility trailers, tents, or nonoperable vehicles shall be permitted to be left where they shall be visible from the street or from contiguous property within Barclay Heights, for a period in excess of seven (7) days. If any such
structure, vehicle, or boat is permanently stored on the premises, it shall be stored either inside a garage or detached structure or shall be physically obscured from view from the street or contiguous parcels by means of a fence or hedge-type landscaping. No vehicle of the type described herein shall be kept on the street for any longer period than permitted by the ordinances of the City of McMinnville.

Section 5. Fences.

a. Any fence constructed, erected, placed or maintained on a lot will be governed by all city ordinances. In addition, hedges or sight obscuring fences on any lot shall not exceed two and one-half (2-1/2) feet in height in the front yard, or on the side yard forward of the building line with the greatest set back on the lot, or on corner lots on the side abutting either street. Other fences shall not exceed six (6) feet in height. All fences shall be constructed of suitable fencing material and shall not detract from the appearance of the dwelling located on the lot or on adjacent lots or be offensive to the owners or occupants thereof. The location, materials and design of any proposed fence shall be approved by the Design Review committee prior to construction.

b. Notwithstanding subsection a. above, and subject to the approval of the McMinnville City Planning Director, with regard to any lot which abuts on more than one street, hedges or sight obscuring fences on said lot in a street side yard or back yard may be constructed up to six (6) feet in height, provided any such plantings or fence exceeding two and one-half (2-1/2) in height shall be set back a minimum of twenty (20) feet from the property line. The owner of said lot shall landscape and maintain the area between such fence and the curb.

c. All walls and fences constructed by Developer shall be maintained by the owner of the nearest lot adjacent thereto as to the portion of said wall or fence which is within the boundaries of said lot or would be within such boundaries if they were extended in a straight line to an intersection with said wall or fence.

Section 6. Exterior Colors. Exterior colors of any dwelling house, garage, shed, outbuilding or other structure must be approved by the Design Review committee.

Section 7. Commercial Vehicles. No commercial vehicles shall be permitted to be parked on any of the streets of the development for periods longer than those permitted by the ordinances of the City of McMinnville.

Section 8. Telecommunication Devices. No satellite dishes, visible from the street or adjacent lots, will be permitted on any lot. No television or radio aerials or rotary beams shall be erected or placed on any lot where any part of such device is more than six (6) feet in height above the highest point (exclusive of chimneys) on the building or structure on which it is erected.

Section 9. Sidewalks and Driveways.
Sidewalks and paved or concrete driveways are required to be installed and maintained (on all lots) by lot owners at the lot owners' expense in conjunction with the completion of the dwelling. Sidewalks, 5' in width, shall be constructed one foot from the property line, creating a park strip between the sidewalk and the back of the curb a minimum of 5'6" in width.

Section 10, Landscaping Requirements. All yard areas on each lot, exclusive of buildings, shall be landscaped, except that rear yard may remain unlandscaped if fenced. All landscaping shall be installed in accordance with a landscaping plan approved by the Design Review Committee. Landscaping shall present a complete and finished look to the entire lot. The nature, kind of materials, and topography of the landscaping and its maintenance shall be consistent with the quality generally maintained in the neighborhood. All unbuilt yard areas shall have their initial landscaping installed within nine (9) months from the date of building construction completion in accordance with the plans submitted to and approved by the Design Review Committee. Under unusual circumstances, the Design Review Committee may grant reasonable time extensions for completion of landscaping. Front street tree-planting strip shall be maintained by homeowner of lot and an in-ground sprinkler system shall be installed for front yard and for the street-tree planting strip.

Developer will plant arborvitae coniferous trees along the East and a portion of the North sides of the property lines of the Walnut City Bonneville Power Administration substation (BPASS). Owners of lots 65, 66 and 67 shall be responsible for arborvitae tree maintenance, and replacement of dead trees, immediately opposite the front of their lots. Owners of lot 64A shall be responsible for tree maintenance and replacement of dead trees along the North side of the BPASS.

The street-tree planting strip between the curb and the sidewalk shall be planted with grass and shall contain an in-ground sprinkler system to water the grass and street trees. Both grass and trees in the planting strip shall be maintained by the lot owner. A limited section of concrete or brick, no more than 10 feet long, may be installed between the curb and sidewalk within the planting strip to enable auto passengers to disembark without having to walk on the grass. Trees shall not be removed from the planting strip by the lot owner and shall be replaced with the same tree species, at the lot owner's expense, if trees die.

Section 11, Completion of Construction. All construction on any lot must be completed and the occupancy permit issued within 365 days from the date of the issuance of the building permit.

Section 12, Animals. No animals or fowl shall be raised, kept or permitted upon any lot or any part thereof except domestic dogs, cats, and caged pets kept within the dwelling house, provided said dogs, cats and caged pets are not kept, bred or raised for commercial purposes, or are kept in an unreasonable number so as to constitute a nuisance to the immediate neighbors.

Section 13, Nuisance. No activity shall be carried on upon any lot, or on the public streets or rights-of-way within or adjacent to any lot, nor shall anything be done or
maintained thereon which may be or become a nuisance to the neighborhood or detract from its value as a high-class residential district.

Section 14. Vacant lots. Until such time as any lot owner constructs a residence on said lot, the lot owner shall maintain the lot in such a manner as to keep the lot free from weeds, briars, and other types of vegetation which would infiltrate lawns of other lot owners. Lot owners shall also keep vacant lots free from debris. Vacant lots shall also be subject to all other CCRs set forth herein, including, but not limited to, those conditions involving temporary structures, recreational vehicles and commercial vehicles. If a lot owner fails to perform the lot owner's obligations under this Section, the developer or the architectural committee may, but is not required, to hire someone to perform those obligations. In such instances, the cost of hiring the person to perform the owner's obligation shall constitute a lien against owner's property. It may be enforced in accordance with then applicable Oregon law in addition to the right to proceed directly against the owner.

Section 15. Easements.

a. Easements for access to City parks and for installation and maintenance of utilities and drainage facilities are shown on the Barcley Heights First Addition Plat, as is the BPA power line easement. Within said easements, no structure, planting or other material shall be placed or permitted to remain which may damage, interfere with, or change the direction of flow of drainage facilities located within such easements. The easement area of each lot and all improvements therein shall be continuously maintained by the lot owner, except for improvements for which a public authority or utility company is responsible to maintain.

b. Roof and footing storm drains on the rear of lots 50A, 50B, 51A, 51B, 52A, 52B, 53A, 53B and lots 29, 30, 31, and 31 and also along portions of the sides of lot 31 of Barcley Heights First Addition shall be maintained at the expense of the property owners of the above lots, as directed by the City of McMinnville. These drains shall be inspected at least once every five years, at the joint expense of the affected lot owners and in the event that a section of the drain requires repair or cleaning, the property owners of the above lots shall bear the expense of cleaning which shall be carried out no later than three months after the need for repair or cleanout has been identified by the lot owners or the City of McMinnville.

c. No dwelling unit or other structure of any kind shall be built, erected or maintained on any such easement or right-of-way, and such easement of right-of-way shall at all times be open and accessible to public and quasi-public utility corporations, their employees and contractors, and shall also be open and accessible to the Developer, its successors and assigns, all of whom shall have the right and privilege of doing whatever may be necessary in, on or under such easements to carry on any other purposes for which the easements or rights-of-way are reserved.

Section 16. Signs. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than three (3) feet by two (2) feet which
adVERTISES THE PROPERTY FOR SALE OR RENT. SUCH SIGN SHALL BE REMOVED IMMEDIATELY UPON COMPLETION OF THE SALE OR RENTAL ADVERTISED. THIS PROHIBITION SHALL NOT APPLY TO POLITICAL LAWN SIGNS NEARLY ERECTED AND MAINTAINED ON THE OWNER'S LOT. POLITICAL SIGNS RELATING TO AN ELECTION SHALL BE REMOVED NO LATER THAN ONE (1) WEEK FOLLOWING ELECTION.

SECTION 17. NO MOBILE HOMES, MANUFACTURED DWELLINGS OR MODULAR HOMES.

NO MANUFACTURED DWELLING OR MOBILE HOME (WHICH INCLUDE BUT ARE NOT LIMITED TO TRAVEL TRAILERS, RECREATIONAL VEHICLES, RESIDENTIAL TRAILERS, MOBILE HOMES AND MANUFACTURED DWELLINGS AS ARE PRESENTLY DEFINED IN ORS 446.003), NOR ANY MODULAR HOMES (MEANING DWELLINGS WITH MAJOR COMPONENT PARTS, OTHER THAN TRUSSES AND WALLS, PRODUCED OR MANUFACTURED OFF-SITE), NOR ANY IMPROVEMENTS THAT WOULD MEET ONE OF THESE DEFINITIONS, EVEN IF SUCH IMPROVEMENT IS DECLARED TO BE OR MADE REAL PROPERTY THROUGH A STATUTORY PROCEDURE OR OTHERWISE, SHALL BE PLACED, USED OCCUPIED OR LOCATED, ON OR WITHIN THE PROPERTY.

AN OWNER OF A PERMITTED RESIDENCE ON THE PROPERTY MAY STORE OR KEEP THE OWNER'S TRAVEL TRAILERS OR RECREATIONAL VEHICLE ON THE LOT WHERE THE PERMITTED DWELLING IS LOCATED, HOWEVER, SO LONG AS THE TRAVEL TRAILER OR RECREATIONAL VEHICLE IS NOT USED FOR OVERNIGHT SLEEPING PURPOSES ON THE LOT FOR MORE THAN TEN CONSECUTIVE DAYS OR TWENTY DAYS IN ANY CALENDAR YEAR AND IS STORED IN CONFORMANCE WITH THE OTHER REQUIREMENTS OF THE CCRS. THIS PROVISION ALSO DOES NOT PROHIBIT THE LOCATION OF A TEMPORARY CONSTRUCTION TRAILER OR OFFICE ON THE PROPERTY AS REQUIRED DURING CONSTRUCTION, SO LONG AS SUCH IS USED ONLY FOR CONSTRUCTION PURPOSES.

ARTICLE V
REQUIREMENTS FOR MAINTENANCE

SECTION 1. STRUCTURES. IT SHALL BE THE DUTY OF THE OWNER AND OCCUPANT OF ANY LOT TO MAINTAIN ALL IMPROVEMENTS THEREON IN GOOD ORDER AND REPAIR AND IN AN ATTRACTIVE AND NEAT CONDITION, INCLUDING, BUT NOT LIMITED TO ROOFS, GUTTERS, DOWNSPOUTS, AND EXTERNAL BUILDING SURFACES.

SECTION 2. SITE MAINTENANCE.

A. IT SHALL BE THE DUTY OF THE OWNER AND OCCUPANT OF EACH LOT TO MAINTAIN THE ENTIRE SITE THEREON IN AN ATTRACTIVE AND NEAT CONDITION, INCLUDING, BUT NOT LIMITED TO:

(I) YARDS, WHICH SHALL BE ATTRACTIVELY LANDSCAPED AND MAINTAINED IN A NEAT AND ORDERLY MANNER FREE OF WEEDS AND DEBRIS;

(II) DRIVEWAYS AND SIDEWALKS, WHICH SHALL BE MAINTAINED IN A GOOD, WEED-FREE CONDITION AND REPAIR;

(III) GRASS ON IMPROVED LOTS, WHICH SHALL BE CUT DURING THE GROWING SEASON AT LEAST ONCE EVERY THREE (3) WEEKS.

(IV) TREES AND SHRUBS, WHICH SHALL BE TRIMMED WHEN NECESSARY FOR THE PLANT'S APPEARANCE AND AS NECESSARY TO AVOID INTERFERENCE WITH PEDESTRIAN TRAFFIC AND TO MAINTAIN SAFE SIGHT LINES FOR VEHICULAR TRAFFIC ON OR ONTO THE
adjoining street or streets.

ARTICLE VI
COMMON WALL MAINTENANCE

Section 1. Applicability. This section applies to all common wall construction between lots in Barclay Heights First Addition.

Section 2. Cost. The cost of reasonable repair and maintenance to each common wall shall be shared equally by the owners whose lots abut the wall, except that damage other than ordinary wear and tear which is caused by the owner (or persons on the property with permission of or for the benefit of the owner of the lot) shall be paid for by the owner of the lot causing the damage or with whose permission or for whose benefit the party causing the damage was on the property.

Section 3. Color and Style. Exterior wall and trim colors, as well as gutter and roof materials, shall be the same on both sides of the common wall unit and as agreed upon by the owners of both lots. If the owners cannot agree upon colors of paint or style or colors of gutter and roofing, color and/or style shall be substantially the same as the existing color or style.

Section 4. Repair and Maintenance. The cost of reasonable repair and maintenance of each common wall shall be shared equally by the owners whose lots abut the wall.

Section 5. Destruction. If a common wall is destroyed or damaged by fire or other casualty, an owner who used the wall may restore it, and if another owner thereafter makes use of the wall, that other owner shall contribute to the cost of restoration in proportion to the use without prejudice, however, to the right of either owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions. An owner who by negligent or willful act has caused the common wall to be exposed to the elements shall bear the entire cost of furnishing the necessary protection against the elements. (An owner is also responsible for the actions of persons on the owner’s lot and with the owner’s permission or for the benefit of the owner.) The right of an owner to contribution from another owner and the obligation of an owner to contribute to another owner shall be apportioned to the land and shall pass to successors in title. Any dispute concerning a common wall which owners are unable to settle shall first be mediated, but if mediation is not successful, shall be arbitrated. If they cannot agree on a single arbitrator to decide the issue, each of the owners shall choose an arbitrator, and the two arbitrators so chosen shall choose a third arbitrator, and the decision of a majority of the arbitrators shall be binding on the parties.

ARTICLE VII
SPECIAL PROVISIONS CONCERNING DRIVEWAY ACCESS
AND UTILITY EASEMENT
FOR LOTS 61A, 61B, 62A AND 62B

Section 1. Applicability. This section applies to lots 61A, 61B, 62A and 62B and to Tracts A and B.

Section 2. Nature of Interest. Title to Tracts A and B is, as noted on the plat, held as tenants in common, each as to an undivided 1/4 interest by the owners of lots 61A, 61B, 62A and 62B, subject to and together with reciprocal easements for driveway access and utility purposes in favor of all four lots. Conveyance of lot 61A, 61B, 62A or 62B also constitutes conveyance of the lot owner's undivided 1/4 interest in Tracts A and B subject to and together with matters of record concerning the undivided 1/4 interest, which include but are not limited to the reciprocal non-exclusive driveway access and utility easement as noted on the plat. Conveyance in the undivided 1/4 interest in Tracts A and B with any of the four lots which are the subject of this section also so conveys the non-exclusive driveway access and utility easement across Tract C created by the plat. Ownership of each lot and its undivided interest in Tracts A and B (including but not limited to the reciprocal easements for access and utility over Tracts A and B, and the easement over Tract C) shall not be severed.

Section 3. Use of easement. Tracts A and B and the easement over Tract C shall be used for driveway access and utility purposes. No owner shall use Tracts A and B or the easement over Tract C for parking, storage or any other use inconsistent with driveway access and utility use. The owners may, however, mutually agree upon and maintain landscaping in the area so long as it does not interfere with driveway access and utility uses.

Section 4. Maintenance. Maintenance expense of Tracts A and B and the easement over Tract C shall be shared equally, with one share for each of the four affected lots, 61A, 61B, 62A, and 62B. Notwithstanding the foregoing, should the roadway or associated storm drain outlet be damaged more than ordinary wear and tear, the owner causing the damage, for whose benefit the damage is caused or whose agents, employees, invitees (or anyone using or affecting the easement with the permission of or for the benefit of that owner) shall bear the total cost of repairs necessitated by such damage. The roadway portion of the easement shall be maintained to the quality and condition to which it is initially installed or subsequently upgraded. Any landscaping agreed upon by all easement owners shall be maintained to the quality and condition to which it is initially installed or subsequently upgraded. If the owners desire from time to time to upgrade the quality and condition of all or a portion of the easement (roadway or landscaping) after the initial installation, the expense shall be apportioned equally. However, if less than all owners wish to upgrade the quality or condition of all or a portion of the easement (roadway or landscaping) after the initial installation, the owner or owners wishing to upgrade shall pay the entire expense of the upgrading of the easements, surface of the roadway or landscaping. Thereafter, the roadway shall be maintained in the upgraded condition under the equal shares formula. Landscaping maintenance necessitated by improvements to which all lot owners have not agreed shall be paid for by the lot owner or owners who have upgraded the landscaping. Nothing in this provision shall be interpreted to mean that lot owners may change the quality

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or extent of landscaping after its initial installation without the approval of all other lot owners. All maintenance and repair shall be made promptly after the decision that such repairs and maintenance are needed. Decisions as to the condition of the roadway at any given time, the necessity of repairs and 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 agreed by the owners. If the owners cannot agree, majority vote controlling, within fourteen days (14) of the request by one owner, the matter shall be submitted to binding arbitration, pursuant to the procedures of either the American Arbitration Association or the Arbitration Service of Portland, Inc. Nothing in these maintenance provisions shall be interpreted as or constitute a waiver of any lot owner’s right against third parties (including, but not limited to persons using Tract C) who wrongfully damage property or improvements covered by this section. In addition, if the dollar amount of the dispute is within the jurisdiction of the Small Claims Court, the parties agree to submit the dispute to the Small Claims Court for resolution without requesting a jury trial.

ARTICLE VIII
SPECIAL PROVISION CONCERNING RECIPROCAL DRIVEWAY EASEMENTS
FOR LOTS 50A AND 50B THROUGH 60A AND 60B
PLUS 63A, 63B, 64A AND 64B

Section 1 Applicability. The following covenants apply only to lots 50A and B through 60A and 60B, inclusive, plus 63A, 63B, 64A and 64B.

Section 2 Lots Benefitted and Burdened. In order to provide the opportunity for affected lot owners and occupants to drive motor vehicles from their garages onto Meadows Drive without backing into traffic on Meadows Drive, the following rights and restrictions concerning the use of driveway areas are created by these covenants. The rights are created over the burdened lots in favor of the benefitted lots as specified below.

<table>
<thead>
<tr>
<th>Burdened Lots</th>
<th>In favor of Benefitted Lots</th>
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<tbody>
<tr>
<td>50A, 51B</td>
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<td>50B, 51B</td>
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<td>55B, 55A, 56B</td>
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<td>55A, 56A, 57B</td>
<td>56B</td>
</tr>
<tr>
<td>57B, 56B, 55A</td>
<td>56A</td>
</tr>
</tbody>
</table>
Section 3. Easement use and parking. The owner of each benefitted lot shall be entitled to use the driveway portion of the burdened property as shown on the site plan showing driveway layout along Meadows Drive approved by the City of McMinnville, and attached to these Covenants, Conditions and Restrictions as Exhibit "A". On the Exhibit, the driveway area of a representative lot is indicated by the following diagonal markings: [///]. These marks are added for purposes of clarity in this Exhibit. The right to use is for ingress and egress, only. The owner of the burdened property, only, is allowed to park motor vehicles within a portion of the easement area on that particular property. The parking area is only, however, within the 7' x 20' parking area indicated on Exhibit "A". The parking area is so labeled and is indicated by the symbol of [XXXXXXX]. This parking area is part of the easement area but is subject to the right of the owner of the burdened property to park or allow parking in that area. Owners of benefitted property are not allowed to park or authorize parking at any time on any of the burdened property. It is the intention of this covenant that the parking allowed shall be in the parking area, only, and shall not prevent or unduly hinder the ability of benefitted property owners or users to drive motor vehicles on the driveway between the vehicle parked in the parking area and the structure on the burdened property.

Section 4. Maintenance. Driveway maintenance expense shall be the responsibility of the owner of the burdened property except that if the driveway is damaged more than ordinary wear and tear, the owner of the benefitted property causing the damage, for whose benefit the damage is caused or whose agents, employees, invitees (or anyone using or affecting the easement with the permission of or for the benefit of that owner) shall bear the total cost of repairs necessitated by such damage. Decisions as to 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 owners of the affected lots. If the affected owners cannot all agree, within fourteen (14) days of the request by one owner, the matter shall be submitted to binding arbitration, pursuant to the procedures of either the American Arbitration Association or the Arbitration Service of Portland, Inc. Nothing in these maintenance provisions shall be interpreted as or constitute a waiver of any lot owner's right against third parties (including the parties who wrongfully damage property or improvements covered by this section). In addition, if the dollar amount of the dispute is
within the jurisdiction of the Small Claims Court, the parties agree to submit the dispute to the Small Claims Court for resolution without requesting a jury trial.

ARTICLE IX
ENFORCEMENT OF PROVISIONS

Section 1. Enforcement. Enforcement of the provisions hereof shall be by action at law or suit in equity against any persons or persons violating or attempting to violate any provision or provisions hereof brought by the Developer, the Design Review Committee, or any lot owner or owners.

Section 2. Binding Effect. The provisions contained in this Declaration shall bind and inure to the benefit of, or be enforceable by, the Developer, the Design Review Committee, and the owner or owners of any portion of said property and each of their respective legal representatives, successors, heirs and assigns. Failure by the Developer or by the Design Review Committee or by any of the property owners or their respective legal representatives heirs, successors or assigns at any time to enforce any of the CCRs herein contained, shall not be a waiver of the right to do so at any time in the future.

Section 3. Notice. Should the owner or occupant of any lot be in violation of any of the provisions of these CCRs, then, in addition to all other remedies available at law or in equity, or otherwise, the Developer, the Design Review Committee, or any lot owner shall have the right to proceed as follows:

a. A written notice setting forth with specificity the nature of the violation shall be mailed or delivered to the owner or occupant of the property. Delivery of this written notice shall be sufficient if it is sent by regular mail, postage prepaid; or hand delivered to an occupant of the property of the age of fourteen (14) years of age or older; or in the event the premises are unoccupied, by affixing the written notice to the front door of the home and mailing a copy to the owner as determined by the records of the County Tax Collector. A copy shall be mailed to the address of the property and to the address listed on the property tax statement, if different.

b. In the event the violation is not cured by the owner or the occupant of the premises within thirty (30) days of the date written notice is mailed, delivered or posted and mailed, as provided in subsection 3a above, then Section 4 and/or 5 below may be followed.

Section 4. Right of Entry for Correction of Violations. After the procedures set forth in Section 3 above, the Design Review Committee shall have the right to engage agents, employees or independent contractors to enter upon the parcel and to repair, maintain and
restore the lot and/or the exterior of the building or any other improvements erected thereon to the condition appropriate to remedy the violation.

Section 5. Legal Enforcement. After the procedure set forth in Section 3 above, or after Sections 3 and 4 have been followed where Section 4 is applied, the Developer, the Design Review Committee, or any owner shall have the right to enforce, by any proceeding available, at law or in equity, or otherwise, all CCRs, reservations and liens now or hereafter imposed by reason of this Declaration or actions taken thereunder. Failure by the Developer, the Design Review Committee, or by any owner to enforce any CCRs herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 6. Attorney Fees. In the event any suit, action, arbitration, mediation or other proceeding is brought to enforce the provisions of this Declaration or any lien filed pursuant hereto, or on account of any violation hereof, the prevailing party shall be entitled to recover, as a part of the costs and disbursements incurred in such suit, action or other proceeding, the reasonable pre-litigation costs of enforcing these CCRs and a reasonable attorney's fee as may be fixed by the court, arbitrator, or mediator at such trial or other proceeding and on appeal for attorney's fees incurred both prior to and in said litigation. Proceedings to enforce or restrain a violation may be legal or equitable or otherwise. All charges and attorney fees shall constitute a lien on the whole building site with respect to which they were incurred and to all improvements thereon. However, nothing contained in this Declaration shall be deemed to vest or reserve in the Developer, the Design Review Committee, or lot owner any right of reversion or re-entry for breach or violation of any one or more of the provisions hereof.

ARTICLE X
GENERAL PROVISIONS

Section 1. Severability. Invalidation of any one of or part of these CCRs by judgment or court order shall in no way affect the validity or enforcement of any of the other provisions, which shall remain in full force and effect.

Section 2. Amendment. The CCRs of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall automatically extend for successive periods of ten (10) years, unless terminated as provided herein. This Declaration may be amended or terminated as provided herein. This Declaration may be amended or terminated at any time upon the written approval signed by the owners of 60% of the lots. Such properly signed amendment, repeal or addition shall become effective only upon its being recorded in the Records of Deeds of Yamhill County, Oregon.

Section 3. Construction. In construing this Declaration, or any part thereof, stipulations which are necessary to make this Declaration, or any of its terms or provisions reasonable, are implied.

Section 4. Termination of Developer's Interest. Unless otherwise specified herein,
once seventy percent (70%) of all lots have been sold, Developer shall be relieved of all responsibility under these Declarations, except it shall retain its rights and obligations as a lot owner for any lots which Developer may thereafter own.

Section 5. Limitation of Liability of Developer. Developer shall not be liable to any owner on account of any action or failure to act of Developer in performing his duties or rights hereunder, provided that Developer, in accordance with the actual knowledge possessed by him, acted in good faith.

Section 6. Right of Rejection for Initial Buyers and Notification Concerning City Park Amphitheatre.

Potential buyers of lots in Barclay Heights First Addition are granted a three-day right of rejection, beginning when they sign an earnest money offer to purchase. Initial buyers of lots in Barclay Heights First Addition must sign a statement that they are aware of the fact that the adjoining property to Barclay Heights First Addition is a city-owned park which is scheduled to be an outdoor amphitheater when funds are eventually available to the McMinnville City Park Department for construction of the amphitheater. Such development is planned but not guaranteed.

IN WITNESS WHEREOF, Developers have executed these CCRs this 30

day of 3rd, 1996.

Anthony E. Bell, Developer
Lilian A. Bell, Developer
Wilburn Johnson, Developer
Darlene Johnson, Developer

Subscribed and sworn to before me this 30 day of 3rd, 1996

Sheryl Lutz
Notary Public for Oregon
My Commission Expires: 2-6-98

PAGE 17/ DECLARATION FOR BARCLAY HEIGHTS FIRST ADDITION
Barclay Heights Townhouses
Site Plan Showing Driveway Layout along Meadows Drive
McMinnville, Oregon

Site Plan

Meadows Drive

EXHIBIT A