DECLARATION OF COVENANTS, CONDITIONS FOR BARCLAY HEIGHTS SECOND ADDITION SUBDIVISION

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, Second 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 CC and Rs).

THEREFORE, Developers do hereby certify that the following C C and Rs shall become and are hereby made a part of all conveyances of lots 33 through 49 and lots 91 through 94, inclusive, within the plat of Barclay Heights, Second Addition recorded__,1997, in Volume__,Page__, of the Plat Records of Yamhill County, and the following C C and Rs shall become a part of any such conveyances and shall apply thereto as fully and with the same effect as is set forth at large therein.

ARTICLE 1

Section 1. 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 C C and Rs, 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 enure to the benefit of each present and future owner thereof.

1. DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BARCLAY HEIGHTS SECOND ADDITION SUBDIVISION

Recorded in Yamhill County, Oregon
CHARLES STERN, COUNTY CLERK

199721118 3:27pm 12/18/97
ARTICLE II

USE OF PROPERTY AND DESIGN STANDARD

Section 1. Manufactured Homes. No mobile or factory-constructed homes shall be permitted in this development. However, sections of homes such as walls, or bathrooms may be assembled off site and subsequently erected on site within Barclay Heights Second Addition.


a. 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 on the street side of the structure.

b. Roof pitch (slope) shall not be less than 5 feet high for every 12 feet of horizontal run (5 in 12).

c. The total number of driveways which serve those lots located West of Meadows Drive shall not exceed four and the siting of homes and garages on the lots shall not require vehicles to back onto Meadows Drive - see Exhibit A for a sketch of proposed driveway plan for each duplex-townhouse unit on each A & B lot.

d. All garages except those for the commonwall lots, 91A&B, 92A&B, 93A&B and lots 94A&B shall be double car garages. No carpots instead of garages shall be constructed on any lot in Barclay Heights Second Addition.

ARTICLE III

SPECIAL PROVISIONS CONCERNING RECIPROCAL DRIEWAY EASEMENTS FOR LOTS 91A AND 91B THROUGH 94A AND 94B

Section 1. Applicability. The following covenants apply only to lots 91A & 91B through 94A & 94B.

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 driveways are created by these covenants. The rights are created over the burdened lots in favor of the benefitted lots as specified below.

2. DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BARCLAY HEIGHTS SECOND ADDITION SUBDIVISION

The B lots will be burdened to benefit the immediately adjacent A lots and the A lots will be burdened to benefit the immediately adjacent B lots.
The B lots will be burdened to benefit the immediately adjacent A lots and the A lots will be burdened to benefit the immediately adjacent B lots.

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 and attached to these CC&Rs as Exhibit "A." On the exhibit, the driveway area of a representative lot is indicated by the following diagonal markings: /\///\ and that area is primarily for ingress and egress only. Parking on an owners lot driveway shall not impede the use or unduly hinder the ability of benefitted property owners or users to drive motor vehicles on burdened driveways.

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 such 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 agree, 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 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 to the Small Claims Court for resolution without requesting a jury trial.

ARTICLE IV

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, or any lot owner or owners.

3. DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BARCLAY HEIGHTS SECOND ADDITION SUBDIVISION
Section 2. Binding Effects. The provisions contained in this Declaration shall bind and inure to the benefit of, or be enforceable by, the Developer, 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 any of the property owners or their respective legal representatives, heirs, successors or assigns at any time to enforce any of the C C and Rs herein contained, shall not be a waiver of the right to do so at any time in the future.

Section 3. Legal Enforcement Notice. Should the owner or occupant of any lot be in violation of any of the provisions of these C C and Rs, then, in addition to all other remedies available at law or in equity, or otherwise, the Developer, 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.

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 a above, then the Developer, or any owner shall have the right to enforce, by any proceeding available, at law or in equity, or otherwise, all C C and Rs, reservations and liens now or hereafter imposed by reason of this Declaration or actions taken thereunder. Failure by the Developer, or by any owner to enforce any C C and Rs herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Attorney Fees. In the event any suit, action, 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 C C and Rs 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, or lot owner any right of reversion or re-entry for breach or violation of any one or more of the provisions hereof.

4. DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
   FOR BARCLAY HEIGHTS SECOND ADDITION SUBDIVISION
ARTICLE V

GENERAL PROVISIONS

Section 1. Severability. Invalidation of any one of or part of these C C and Rs 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 C C and Rs 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 at any time upon the written approval signed by the majority of the lot owners. 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. 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.

IN WITNESS WHEREOF, Developers have executed these C C and Rs this 18th day of December, 1997.

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

Subscribed and sworn to before me this 18th day of Dec., 1997

Sandra E. Davis
Notary Public for Oregon
My Commission Expires: 6-22-01

5. DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BARCLAY HEIGHTS SECOND ADDITION SUBDIVISION
Applies to Barclay Heights 2nd Addition, Lots 91 A & B, through 94 A & B

Note: for lots 91 A and 94B, E = 12'

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Planting Strip

Meadows Drive 44' 5' 8'

Exhibit A 60'

100' 12'

%6 Curb
CLARIFICATION OF DECLARATION OF COVENANTS, CONDITIONS
FOR BARCLAY HEIGHTS SECOND ADDITION SUBDIVISION

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, Second Addition a duly recorded plat, with recorded CC & Rs.

Developers desire to clarify the issue of driveways that serve those lots located West of Meadows Drive. The limitation on the total number of driveways, described in ARTICLE II, section 2.c. dealing with "Architectural Design and Material," shall not apply to the single family lots 47, 48 and 49, which shall be allowed to have the usual double car garage driveways connecting the dwellings on each of lots 47, 48 and 49 to the street (Meadows Drive).

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

THEREFORE, Developers do hereby certify that the above modifications to the previously recorded CC and Rs shall become and are hereby made a part of all conveyances of lots 33 through 49 and lots 91 through 94, inclusive, within the plat of Barclay Heights, Second Addition and are recorded **1998, in Volume ** of the Plat Records of Yamhill County.

IN WITNESS WHEREOF, Developers have executed this modification of the previously recorded CC and Rs for Barclay Heights Second Addition this 9th day of JANUARY, 1998.

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

Subscribed and sworn to before me this 9th day of JANUARY, '98.

Notary Public for Oregon
My Commission Expires: J-6-98

Recorded in Official Yamhill County Records
CHARLES STERN, COUNTY CLERK

19980495 11:36am 01/12/98
081 000321.10 04 000232
2 0 Dec 15.00 10.00 5.00 0.00 0.00 0.00
BARCLAY HEIGHTS
AN R-2, P.D. SUBDIVISION
IN THE NORTHWEST 1/4 OF SECTION 19, TOWNSHIP 14 S, RANGE 4 W, IN THE SALMON BRADY DONATION, LAND CLAIM No. 56,
CITY OF MCINTYRE, TAMMALL COUNTY, IOWA.
OCTOBER 10, 1994
SHEET 2 OF 2

HARRIET - MARGARET - IRENE DEAN, LAND DONATION

DESTRUCTION

IN THE STATE OF IOWA, AS SUBSURFACE OR SIGHT SURVEYOR, IN THE CITY OF MCINTYRE, TAMMALL COUNTY, IOWA, IN THE NAME OF THE BARCLAY HEIGHTS SUBDIVISION

SURVEYOR CERTIFICATE

COUNTY OF TAMMALL
STATE OF IOWA

I, JOHN P. FOGGERS, A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF IOWA, HERETOFORTH AND BY THESE PRESENTS, DO HEREBY CERTIFY THAT I HAVE SUCCESSFULLY COMPLETED THE SURVEY OF THE BARCLAY HEIGHTS SUBDIVISION IN THE CITY OF MCINTYRE, TAMMALL COUNTY, IOWA, TO THE BEST OF MY KNOWLEDGE, AND THAT THE SURVEY WAS PERFORMED TO THE SATISFACTION OF THE ATTORNEY GENERAL OF THE STATE OF IOWA, AS REQUIRED BY LAW.

THE ATTACHED SURVEY MAPS AND DESCRIPTIONS SHOWN HEREBY ARE TRUE AND CORRECT REPRESENTATIONS OF THE LAND SURVEYED AND DESCRIPTED, AND ARE SUBJECT TO NO ENCUMBRANCES OR CLAIMS.

ACKNOWLEDGMENT

COUNTY OF TAMMALL
STATE OF IOWA

ON THIS 10TH DAY OF OCTOBER, 1994, BEFORE ME, AN ATTORNEY AT LAW IN AND FOR SAID COUNTY, I, JOHN P. FOGGERS, A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF IOWA, HERETOFORTH AND BY THESE PRESENTS, DO HEREBY CERTIFY THAT I HAVE SUCCESSFULLY COMPLETED THE SURVEY OF THE BARCLAY HEIGHTS SUBDIVISION IN THE CITY OF MCINTYRE, TAMMALL COUNTY, IOWA, TO THE BEST OF MY KNOWLEDGE, AND THAT THE SURVEY WAS PERFORMED TO THE SATISFACTION OF THE ATTORNEY GENERAL OF THE STATE OF IOWA, AS REQUIRED BY LAW.

APPROVALS

DEBRA AXENA
TAMMALL COUNTY COMMISSIONER

TAMMALL COUNTY COMMISSIONER

LINDA A. STEGEMANN
CITY OF MCINTYRE, TAMLASS

AFFIDAVIT

ON THIS 23RD DAY OF MARCH, 1995, BEFORE ME, AN ATTORNEY AT LAW IN AND FOR SAID COUNTY, I, JOHN P. FOGGERS, A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF IOWA, HERETOFORTH AND BY THESE PRESENTS, DO HEREBY CERTIFY THAT I HAVE SUCCESSFULLY COMPLETED THE SURVEY OF THE BARCLAY HEIGHTS SUBDIVISION IN THE CITY OF MCINTYRE, TAMMALL COUNTY, IOWA, TO THE BEST OF MY KNOWLEDGE, AND THAT THE SURVEY WAS PERFORMED TO THE SATISFACTION OF THE ATTORNEY GENERAL OF THE STATE OF IOWA.