

Washington County, Oregon 2006-097701
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D-RIBAM Cnt#3 Str#6 J GREGORY
\$20.00 \$10.00 \$6.00 \$11.00 - Total = \$47.00

10/23/06



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I, Richard Hobernicht, Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and recorded in the book of records of said county.
Richard W. Hobernicht
Richard W. Hobernicht, Director of Assessment and Taxation, Ex-Officio County Clerk



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AFTER RECORDING, RETURN TO:
Arbor Roses LLC
C/O West Hills Development
15500 SW Jay St.
Beaverton, OR 97006

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, AND ANNEXATION TO ARBOR ROSES (To Annex Phase 7)

THIS AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF ARBOR ROSES AND ANNEXATION (to annex ARBOR ROSES No. 7) ("Amendment") is made as of this 2nd day of August, 2006, by ARBOR ROSES, LLC, an Oregon limited liability company ("Declarant").

Recitals

- A. Declarant is the Declarant under the Declaration of Covenants, Conditions and Restrictions for Arbor Roses recorded in the Records of Washington County, Oregon, as Document No. 2004-009331 (the "Declaration"). Declarant also caused that certain "Amendment to Declaration of Covenants, Conditions, Restrictions, and Annexation to Arbor Roses" (to annex Phase 2) recorded as Document No. 2004-081094, that certain "Amendment to Declaration of Covenants, Conditions, Restrictions, and Annexation to Arbor Roses" (to annex Phase 3) recorded as Document No. 2004-146239, that certain "Amendment to Declaration of Covenants, Conditions, Restrictions, and Annexation to Arbor Roses" (to annex Phase 4) recorded as Document No. 2005-049960, and that certain "Amendment to Declaration of Covenants, Conditions, Restrictions, and Annexation to Arbor Roses" (to annex Phase 5) recorded as Document No. 2005-117184, and that certain "Amendment to Declaration of Covenants, Conditions, Restrictions and Annexation to Arbor Roses" (to annex Phase 6) recorded as Document No. 2005-157244, all in the Records of Washington County, Oregon.
- B. Declarant has recorded the "Plat of Arbor Roses" as Document No. 2004-009327, the "Plat of Arbor Roses No. 2" as Document No. 2004-081093, the "Plat of Arbor Roses No. 3" as Document No. 2004-146238, the "Plat of Arbor Roses No. 4" as Document No. 2005-049959, the "Plat of Arbor Roses No. 5" as Document No. 2005-117183, and the "Plat of Arbor Roses No. 6" as Document No. 2005-157241, in the Records of Washington County, Oregon.
- C. Pursuant to Section 11.6 and 11.9 of the "Declaration", Declarant wishes to amend above referenced Declaration for the purpose of annexation of the Arbor Roses Phase 7 Lots, and subject all Lots in Arbor Roses to the Amended Declaration provisions contained herein, and, pursuant to Section 2.2 of Declaration, annex Arbor Roses No. 7 to Arbor Roses, and subject the same and

all previous Lots in Arbor Roses to the Declaration, the previous Amendments, Annexations and the provisions contained herein.

NOW, THEREFORE, Declarant hereby declares as follows:

I. AMENDMENTS TO DECLARATION.

- (a) Article 1, Section 1.8, lines 6 and 7 are amended and shall now read as follows: "...The Tracts so designated as Common Areas include, but are not limited to Tracts C, G, H, M, T, Y, BB, CC, FF, GG, II, NN, QQ, RR, XX, YY, ZZ, BBB, DDD, EEE, FFF, GGG, HHH, KKK, OOO, PPP, and QQQ (private streets), and Tracts A, B, D, E, F, I, J, K, L, N, O, P, Q, R, S, U, V, W, X, Z, AA, DD, EE, HH, JJ, KK, LL, MM, OO, PP, SS, TT, UU, VV, WW, AAA, CCC, III, JJJ, LLL, MMM, NNN and SSS (open space)." The remainder of this section remains unchanged as contained in the original Declaration and all Amendments.
- (b) Article 3, Section 3.5 (k) (i) through (iii) shall read as amended previously, and shall also include (iv) Tract RRR and Tract TTT are subject to access easements for the benefit of the adjacent property owners, per the Plat for Arbor Roses No. 7. Tract RRR and TTT shall be owned by the Declarant its successors and/or assigns.
- (c) Article 3, Section 3.5 (l) (i) through (iii) shall read as amended previously, and shall also include (iv) A six (6) foot wide public utility easement shall exist along the frontage of all Lots and Tracts within Arbor Roses No. 7, abutting public streets.
- (d) Article 3, Section 3.5 (m), the first three sentences, shall read as in the original Declaration and as amended in previous annexation Declarations, and apply as per the Plat notes of all Arbor Roses Plats, and shall now include Tract SSS, and subject it to a public pedestrian and bicycle access easement over its entirety.
- (e) Article 3, Section 3.5 (m), the fourth sentence, shall read as in the original Declaration and as amended in previous annexation Declarations, and shall also include sub-section (i), as added in the Declaration of Annexation of Arbor Roses No. 4, and sub-section (i) shall be amended and added to sub-section (i), as per the Arbor Roses No. 7 Plat notes, as follows:
- "(i) Lots 485 through 499, Lots 528 through 541, Lots 577-586, and Lots 587-614 are subject to a 3.5-foot wide private maintenance easement along each of the common side Lot lines with the adjacent Lots, for the benefit of the adjacent Lots. This easement shall be kept clear of structures or any other object from the ground

upward, which could physically preclude access to the easement and the adjacent buildings.”

(f) Article 4, Section 4.5, add sub-section (e) as follows: “Tract and SSS shall be maintained by the Association, its successors or assigns.”

(g) Article 3, Section 3.5, add sub-section (p) as follows: “Retaining Walls. Retaining walls may have been constructed within the Property (the “Retaining Walls”). The Retaining Walls are not in all cases located on a Lot or Tract line. The location of a Retaining Wall (or the construction by an Owner of any improvements on or near the Retaining Wall) shall not constitute evidence of the intended location of a Lot line, or provide grounds for any claim of adverse possession or prescriptive easement. Each Lot upon which any portion of a Retaining Wall is located shall be subject to an easement, for the benefit of all other Lots, for the purposes of support by and natural drainage from such Retaining Wall. Retaining Walls may or may not have been designed by a professional engineer, and no Owner shall take any action to add, construct or place any improvement on the Lot so that it may, in the judgment of the Association: result in disturbance of, weakening of, or damage to the Retaining Walls; increase any engineered load or alter design criteria; or cause damage to the wall and surrounding properties. Any improvements on Lot will need prior approval of Architectural Review Committee. Regardless of such approval, any Lot Owner who takes such action shall be responsible for all resulting costs of repair and restoration of the Retaining Wall. Otherwise, neither the Association nor any other Owner shall have any affirmative obligation to maintain or repair the Retaining Walls. However, should they elect to do so, the Association, any Owner whose Lot is adjacent to a Retaining Wall, and their duly authorized agents and representatives, shall have the right to enter the property upon which any portion of a Retaining Wall is located for the purpose of making any necessary repair to or maintenance of the Retaining Wall.

2. PROPERTY ANNEXED. Declarant hereby declares that all of the property described below (the “Additional Property”) shall be annexed to Arbor Roses and the Declaration and any previous Amendments to the Declaration, and that such property is held and shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to the Declaration and any previously recorded Amendments:

All real property within that certain plat entitled “Arbor Roses No. 7” filed in the Plat Records of Washington County, Oregon.

3. LAND CLASSIFICATIONS. All of the land within the Additional Property annexed hereby is included in one or another of the following classifications:

- (a) Building Lots, which shall consist of Lots 577 through 614 as shown on the Plat of the Additional Property.
- (b) Common Area Tract, which shall be Tract SSS.

4. EASEMENTS. The Common Area and Lots are subject to the easements and rights of way show on, or noted, on the plat of Arbor Roses No. 7. These include, but are not limited to, the following:

- (a) A three and a half (3½) foot retaining wall and storm drain easement is reserved along the rear property line of Lots 577 through 586; and
- (b) An additional three and a half (3½) foot retaining wall and storm drain easement is reserved along the west property line of Lot 577.

The Owners of each Lot affected by said easement areas, shall be responsible for all maintenance required therein.

IN WITNESS WHEREOF, Declarant has executed this Declaration of Annexation as of the day first written above.

ARBOR ROSES, LLC
an Oregon limited liability company

By ARBOR HOLDINGS CORP SOLE MEMBER
Its [Signature]

STATE OF OREGON)
)ss.
County of Washington)

The foregoing instrument was acknowledged before me this 2nd day of August, 2006, by WALTER PERMON, the VICE PRESIDENT of **ARBOR HOLDING CORP, Sole member of ARBOR ROSES, LLC, an Oregon limited liability company.



[Signature]
NOTARY PUBLIC FOR OREGON
My commission expires: March 7, 2007