

**VOL: 2001 PAGE: 30001**  
**RECORDED DOCUMENT**

STATE OF OREGON  
COUNTY OF DESCHUTES



\*2001-30001 \* Vol-Page

Printed: 06/25/2001 11:08:21

**DO NOT REMOVE THIS CERTIFICATE**

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Jun. 25, 2001; 11:03 a.m.

RECEIPT NO: 37383

DOCUMENT TYPE: Deed

FEE PAID: \$206.00

NUMBER OF PAGES: 36

A handwritten signature in cursive script that reads "Mary Sue Penhollow".

MARY SUE PENHOLLOW  
DESCHUTES COUNTY CLERK

206 -  
WARRANTY DEED

2001-30001-1

BROOKS RESOURCES CORPORATION AS TO AN UNDIVIDED 1/2 INTEREST, AND MICHAEL J. TENNANT AS TO AN UNDIVIDED 1/2 INTEREST,  
Grantor(s) hereby grant, bargain, sell, warrant and convey to:  
MICHAEL J. TENNANT,  
Grantee(s) and grantee's heirs, successors and assigns the following described real property, free of encumbrances except as specifically set forth herein in the County of DESCHUTES and State of Oregon, to wit:

~~LOTS 83, 86, 87, 89, 130, 161, 164, 165, 166, 167, 168, 169, 170, 171, 172, 176, 177, 178, AND 185, AWBREY VILLAGE PHASE III, DESCHUTES COUNTY, OREGON~~

SUBJECT TO ATTACHED BYLAWS AND DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

The true and actual consideration for this conveyance is    .00.

Until a change is requested, all tax statements shall be sent to Grantee at the following address: 516 SW 13th, Suite A, Bend, OR 97702

Dated this 22nd day of June, 2001.

Recorded by AmeriTitle as an accommodation only. No liability is accepted for the condition of title or for the validity, sufficiency, or effect of this document.

BROOKS RESOURCES CORPORATION  
BY: [Signature]  
KIRK E. SCHUELER, PRESIDENT  
[Signature] P.O.A.  
MICHAEL J. TENNANT



State of Oregon  
County of DESCHUTES

This instrument was acknowledged before me on June 22, 2001 by BROOKS RESOURCES CORPORATION, BY KIRK E. SCHUELER, PRESIDENT AND MICHAEL J. TENNANT.

[Signature]  
(Notary Public for Oregon)  
My commission expires 4-20-2003

ESCROW NO. SB022506DS

Return to:  
MICHAEL J. TENNANT  
→ 516 SW 13th Ste A  
Bend

After recording, return to:  
AmeriTitle  
15 OREGON AVENUE, BEN

**BYLAWS  
OF  
AWBREY VILLAGE PHASES III THROUGH VI HOMEOWNERS ASSOCIATION,  
INC.**

The following bylaws have been adopted at the organization meeting of Awbrey Village Homeowners Association, Inc., a homeowners association formed pursuant to ORS 94.625. This applies to the real property in the City of Bend, Deschutes County, State of Oregon, described as Awbrey Village Phase III through VI as recorded in the Deschutes County Records, and incorporated by reference herein.

**ARTICLE I  
Definitions**

As used in these bylaws, the terms set forth below shall have the following meanings:

Section 1. "Awbrey Village" means the property subject to the Declaration referred to in Section 4 and as described as Awbrey Village Phase III through VI as recorded in the Deschutes County Records, and incorporated by reference herein.

Section 2. "Corporation" means Awbrey Village Homeowners Association, Inc.

Section 3. "Declarant" means Michael Tennant, an individual, and Brooks Resources, Inc., any person who succeeds to any special Declarant right and to whom all of the Declarant's ownership interest in Awbrey Village is transferred, or any person, other than the Corporation, to whom the Declarant has transferred, for purposes of resale, all of Declarant's ownership interest in Awbrey Village.

Section 4. "Declaration" means the Declaration of Covenants, Conditions, and Restrictions for Awbrey Village dated June 20, 2001 and all other subsequent phases of Awbrey Village.

Section 5. "Homesite" means a platted or legal partitioned lot within Awbrey Village or any property so designated in any Supplemental Declaration annexing such property to Awbrey Village but not including any Declarant Area as defined in the Declaration.

Section 6. "Owner" means the person or persons owning any Homesite, including any vendee under a recorded land sales contract to whom possession has passed, but excluding any vendor under a recorded land sales contract who has given up possession.

**ARTICLE II  
Offices**

The principal office of the Corporation in the state of Oregon shall be located in the city of Bend, county of Deschutes. The Corporation may have other offices, either within or outside

of the state of Oregon, as the board of directors may determine or as the affairs of the Corporation may require.

The Corporation shall have and maintain in the state of Oregon a registered office and a registered agent whose office is identical with the registered office, as required by the Oregon Nonprofit Corporation Act. The registered office may be, but need not be, identical with the principal office in the state of Oregon, and the address of the registered office may be changed from time to time by the board of directors.

### ARTICLE III Members

Section 1. Class of Members. The Corporation shall have two classes of members. The designation of the classes and the qualifications and rights of the members of the classes shall be as hereinafter set forth.

Section 2. Membership. Every Owner of one or more Homesites within Awbrey Village shall, during the entire period of such Owner's ownership of one or more Homesites within Awbrey Village, be a member of the Corporation. Such membership shall commence, exist, and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

Section 3. Voting Rights. Voting rights within the Corporation shall be allocated as follows:

- (a) Homesites. Except as provided in Section 3(b) with respect to Class B members, Homesites shall be allocated one vote per Homesite.
- (b) Classes of Voting Membership. The Corporation shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant (except that beginning on the date on which the Class B membership is converted to Class A membership, and thereafter, Class A members shall be all Owners including the Declarant). Class A members shall be entitled to voting rights for each Homesite owned computed in accordance with Section 3(a) above. When more than one person holds an interest in any Homesite, all such persons shall be members. The vote for such Homesite shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Homesite.

Class B. The Class B member shall be Declarant and shall be entitled to nine times the voting rights computed under Section 3(b) for each Homesite owned by Declarant. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (i) When seventy-five percent (75%) of the Homesites in the final phase of development of Awbrey Village have been sold and conveyed to Owners other than Declarant; or
- (ii) At such earlier time as Declarant may elect in writing to terminate Class B membership.

Section 4. Suspension of Voting Rights. Voting rights may be suspended in the event of a default in the payment of assessments as provided in the Declaration.

#### ARTICLE IV Meetings of Members

Section 1. Annual Meeting. An annual meeting of the members shall be held at a time designated by the President in each year, beginning with the year 2003, for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the state of Oregon, the meeting shall be held on the next succeeding business day. If the election of directors shall not be held on the day designated here for any annual meeting, or at any adjournment of the annual meeting, the board of directors shall cause the election to be held at a special meeting of the members as soon after as is convenient.

Section 2. Special Meetings. Special meetings of the members may be called by the President, a majority of the board of Directors, or members having not less than one-tenth of the total voting rights.

Section 3. Place of Meeting. The board of directors may designate any place within the state of Oregon as the place of meeting for any annual meeting or for any special meeting called by the board of directors. If no designation is made or if a special meeting be otherwise called, the place of meeting shall be the principal office of the Corporation in the state of Oregon.

Section 4. Notice of Meetings. Written or printed notice stating the place, day, and hour of the annual meeting of members shall be delivered, either personally or by mail, to each member entitled to vote at such meeting, not less than ten nor more than 50 days before the date of such meeting, by or at the direction of the president, or the Secretary, or the officers or persons calling the meeting. Each notice shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration by bylaws, any budget changes, or any proposal to remove a director or officer. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the Corporation, with postage thereon prepaid. Notice shall also be given to all mortgagees requesting such notice. Mortgagees may designate a representative to attend a meeting called under this section.

Section 5. Informal Action by Members. Any action required by law to be taken at a meeting of the members, or any required by law to be taken at a meeting of members, may be taken without a meeting if a consent in writing, setting out the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter of the action.

Section 6. Quorum. The members holding 25 percent of the votes which may be cast at any meeting shall constitute a quorum at such meeting. If a quorum is not present at any meeting of members, a majority of the members present may adjourn the meeting without further notice.

Section 7. Proxies. At any meeting of members, a member entitled to vote may vote by proxy executed in writing by the member or by his authorized attorney in fact. No proxy shall be valid after 11 months from the date of its execution, unless otherwise provided in the proxy.

Section 8. Voting by Mail. Where directors or officers are to be elected by members or any class or classes of members the election may be conducted by mail in the manner provided in the Oregon Nonprofit Corporation Act.

## ARTICLE V Transition

Section 1. Interim Board; Turnover Meeting. Declarant shall have the right to appoint an interim board of three directors or more, who shall serve as the board of directors of the Corporation until replaced by Declarant or their successors have been elected by the members at the turnover meeting described in this section. Declarant shall call a meeting by giving notice to each member as provided in these bylaws for the purpose of turning over administrative responsibility for Awbrey Village to the Corporation not later than one hundred eighty (180) days after Homesites representing seventy-five percent (75%) of the votes in all phases of Awbrey Village computed in accordance with Article III Section 3(a) above have been sold and conveyed to members other than Declarant. If Declarant does not call a meeting required by this section within the required time, the Transitional Advisory Committee described in Section 2 below or any member may call a meeting and give notice as required in this section. At the turnover meeting, the interim directors shall resign and their successors shall be elected by the members and Declarant as provided in the Declaration and these bylaws.

Section 2. Transitional Advisory Committee. Declarant or the members shall form a transitional advisory committee (the "Transitional Advisory Committee") to provide for the transition from administrative responsibility by Declarant of Awbrey Village to administrative responsibility by the Corporation. Not later than the ninetieth (90<sup>th</sup>) day after the Declarant has conveyed to members other than Declarant Homesites representing sixty-seven percent (67%) of the votes of all phases in Awbrey Village computed in accordance with Article III Section 3(a) above, Declarant shall call a meeting of members for the purpose of selecting the Transitional Advisory Committee. The Transitional Advisory Committee shall consist of three or more persons. The members, other than Declarant, shall select two or more members. Declarant may select no more than one committee member which may be the Declarant. The Transitional Advisory Committee shall have reasonable access to all information and documents which Declarant is required to turn over to the Corporation under ORS 94.616.

- (a) Declarant Failure to Call Meeting. A member may call a meeting of members to select the Transitional Advisory Committee if the Declarant fails to do so as provided above.

- (b) Members' Failure to Select Committee Members. Notwithstanding the foregoing, if the members do not select members for the Transitional Advisory Committee as described above, Declarant shall have no further obligation to form the Transitional Advisory Committee.
- (c) Turnover Meeting. The requirement for formation of a Transitional Advisory Committee shall not apply once the turnover meeting specified in Section 1 above has been held.

Section 3. Declarant Control After Turnover. After the turnover meeting described in Section 1 above, Declarant shall continue to have the voting rights described in Article III Section 3(b). In addition, a majority of the board of directors of the Corporation shall be elected by Declarant, as Class B member, with the balance of the board of directors elected by the Class A members. After termination of Class B membership, all directors shall be elected by the Class A members.

## ARTICLE VI Board of Directors

Section 1. General Powers. The affairs of the Corporation shall be managed by its board of directors. Except for directors appointed by Declarant, directors shall be members of the Corporation.

Section 2. Number, Tenure and Qualifications. The number of directors shall be three. Each director shall hold office until the next annual meeting of members and until his successor shall have been elected and qualified.

Section 3. Regular Meetings. A regular annual meeting of the board of directors shall be held without other notice than this bylaw, immediately after, and at the same place as, the annual meeting of members. The board of directors may provide by resolution the time and place, within the state of Oregon, for the holding of additional regular meetings of the board without other notice than the resolution. All regular and special meetings of the board of directors shall be open to members.

Section 4. Special Meetings. Special meetings of the board of directors may be called by or at the request of the President or any two directors. The persons authorized to call special meetings of the board may fix any place within the state of Oregon as the place for holding any special meeting of the board called by them.

Section 5. Notice. Notice of any special meeting of the board of directors shall be given at least three days previously by written notice delivered personally or sent by mail or other electronic communications to each director at the director's address as shown by the records of the Corporation. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage prepaid. If notice be given by telegram, it shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director may waive notice of any meeting. The attendance of a such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction

of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board need be specified in the notice by law or by these bylaws. For other than emergency meetings, notice of board of directors meetings shall be posted in a place or places within Awbrey Village at least three days prior to the meeting, or notice shall be provided by a method otherwise reasonably calculated to inform lot owners of such meetings.

Section 6. Quorum. A majority of the board of directors shall constitute a quorum for the transaction of business at any meeting of the board; but if less than a majority of the directors are present at the meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

Section 7. Manner of Acting. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by law or by these bylaws.

Section 8. Vacancies. Any vacancy occurring in the board of directors and any directorship to be filled by reason of an increase in the number of directors, shall be filled by the board of directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

Section 9. Compensation. Directors as such shall not receive any stated salaries for their services.

Section 10. Informal Action by Directors. Any action required by law to be taken at a meeting of directors, or any action which may be taken at a meeting of directors, may be taken without a meeting if a consent in writing, setting out the action so taken, shall be signed by all of the directors.

Section 11. Emergency Meetings. Emergency meetings of the board of directors may be held without notice if the reason for the emergency is stated in the minutes of the meeting. Only emergency meetings of the board of directors may be conducted by telephonic communication.

Section 12. Power and Responsibility. The board of directors shall have all of the powers and responsibilities of the board of directors of a homeowners association under Chapter 94 of Oregon Revised Statutes, as amended from time to time.

## ARTICLE VII Officers

Section 1. Officers. The officers of the Corporation shall be a President, one or more Vice Presidents (the number to be determined by the board of directors), a Secretary, a Treasurer, and such other officers as may be elected in accordance with the provisions of this Article VII. The board of directors may elect or appoint the other officers, including one or more assistant secretaries and one or more assistant treasurers, as it shall deem desirable, to have the authority



and perform the duties prescribed by the board of directors. Any two or more offices may be held by the same person.

Section 2. Election and Term of Office. The officers of the Corporation shall be elected annually by the board of directors at the regular annual meeting of the board of directors. If the election of officers shall not be held at such meeting, it shall be held as soon thereafter as is convenient. New offices may be created and filled at any meeting of the board of directors. Each officer shall hold office until his successor shall have been elected and shall have qualified.

Section 3. Removal. Any officer elected or appointed by the board of directors may be removed by the board of directors whenever in its judgment the best interests of the Corporation would be served by his or her removal, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed.

Section 4. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by the board of directors for the unexpired portion of the term.

Section 5. President. The President shall be the principal executive officer of the Corporation and shall in general supervise and control all of the business and affairs of the Corporation. He or she shall preside at all meetings of the members and of the board of directors. He or she may sign, with the secretary or any other proper officer of the Corporation authorized by the board of directors, any contracts or other instruments which the board of directors has authorized to be executed, except in cases where the signing and execution shall be expressly delegated by the board of directors or by these bylaws or by statute to some other officer or agent of the Corporation; and in general he shall perform all duties incident to the office of President and such other duties as may be prescribed by the board of directors.

Section 6. Vice President. In the absence of the President or in the event of his inability or refusal to act, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in the order of their election) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any Vice President shall perform such other duties as may be assigned to him by the President or by the board of directors.

Section 7. Treasurer. If required by the board of directors, the treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety as the board of directors shall determine. He shall have charge and custody of and be responsible for all funds and securities of the Corporation; receive and give receipts for moneys due and payable to the Corporation from any source, and deposit all such moneys in the name of the Corporation in such banks or other depositories as shall be selected in accordance with the provisions of Article VIII of these bylaw; and in general perform all the duties incident to the office of treasurer and such other duties as may be assigned to him by the President or by the board of directors.

Section 8. Secretary. The secretary shall keep the minutes of the meetings of the members and of the board of directors in books provided for that purpose; see that all notices are

given in accordance with the provisions of these bylaw or as required by law; be custodian of the corporate records of the Corporation; keep a register of the post office address of each member which shall be furnished to the Secretary by the member; and in general perform all duties incident to the office of Secretary and such other duties as may be assigned by the President or by the board of directors.

Section 9. Assistant Treasurers and Assistant Secretaries. If required by the board of directors, the assistant treasurers shall give bonds for the faithful discharge of their duties in such sums and with such sureties as the board of directors shall determine. The assistant treasurers and assistant secretaries, in general, shall perform the duties assigned to them by the Treasurer or the Secretary or by the President or the board of directors.

Section 10. Release of Liability. In consideration for each officer or member of the Board of Directors consent to serve the Awbrey Village Home Owners Association, the owners, their successors and assigns, hereby release and forever acquit each officer and member of the board from all acts and omissions performed in their capacity as officers or board members. This release includes both ministerial and discretionary acts, omissions, and decisions. No officer or member of the board shall be liable at law or in equity for their individual acts or omissions or the acts, omissions or decisions of the officers or board as a whole.

**ARTICLE VIII  
Contracts, Checks, Deposits, and Funds**

Section 1. Contracts. The board of directors may authorize any officer or officers, agent or agents of the Corporation, in addition to the officers so authorized by these bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 2. Checks, Drafts, Etc. All checks, drafts, vouchers, or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation, shall be signed by those officers or agents of the Corporation and in a manner as shall be determined by resolution of the board of directors. In the absence of this determination by the board of directors, the instruments shall be signed by the Treasurer or an Assistant Treasurer and countersigned by the President or a Vice President of the Corporation.

Section 3. Deposits. All funds of the Corporation shall be deposited to the credit of the Corporation in the banks or other depositories as the board of directors may select.

Section 4. Gifts. The board of directors may accept on behalf of the Corporation any contribution, gift, bequest, or device for the general purposes or for any special purpose of the Corporation.

**ARTICLE IX  
Books and Records**

Section 1. Maintenance of Books and Records. The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its

members, board of directors, and committees having any of the authority of the board of directors, and shall keep at the registered or principal office and record giving the names and addresses of the members entitled to vote. All books and records of the Corporation may be inspected by any member, or his agent or attorney or the mortgagee of any Homesite of any proper purpose at any reasonable time.

Section 2. Distribution of Financial Statements. Within 90 days after the end of each fiscal year, the board of directors shall distribute to each member and, upon written request, any mortgagee of a Homesite, a copy of the annual financial statement for the Corporation consisting of a balance sheet and income and expense statement for the preceding fiscal year.

**ARTICLE X  
Fiscal Year**

The fiscal year of the Corporation shall begin on the first day of January and end on the last day of December in each year.

**ARTICLE XI  
Assessments**

The Corporation shall have the authority to impose and collect assessments as provided in the CC&Rs.

**ARTICLE XII  
Maintenance**

The Corporation, through the board of directors, shall be responsible for maintenance within Awbrey Village as provided in the CC&R's. The cost of maintenance shall be paid through assessments provided for in the CC&R's. The board of directors shall have authority to employ personnel at the expense of the Corporation necessary for the maintenance, upkeep, and repair of improvements provided by Declarant.

**ARTICLE XIII  
Insurance**

The board of directors shall obtain insurance as required or as allowed under Chapter 94 of Oregon Revised Statutes. The amount of insurance coverage shall be determined by the board of directors. Members shall not be required to obtain any particular insurance coverage and shall not be precluded from obtaining any particular insurance coverage. Insurance coverage obtained and maintained by the board of directors may not be brought into contribution with insurance obtained by members or their mortgagees.

**ARTICLE XIV  
Rules and Regulations**

Rules and regulations permitted pursuant to Section 7.10 of the declaration may be adopted by majority vote of the board of directors after notice to the members as required by Article VI Section 5.

**ARTICLE XV  
Additional Property**

If additional property is annexed to Awbrey Village during a fiscal year, common expenses will be apportioned as provided in the Declaration on the basis of the remaining fraction of the fiscal year during which the property annexed is incorporated into Awbrey Village.

**ARTICLE XVI  
Waiver of Notice**

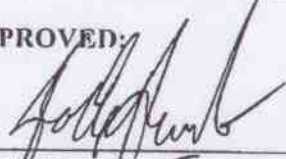
Whenever any notice is required to be given under the provisions of the Oregon Nonprofit Corporation Act or under the provisions of the articles of incorporation or by the bylaws of the Corporation, a waiver in writing signed by the persons entitled to the notice, whether before or after the time stated there, shall be deemed equivalent to the giving of notice.


**ARTICLE XVII  
Amendments to Bylaws**

These bylaws may be altered, amended, or repealed and new bylaws may be adopted by a majority vote of the members; provided that no rights of Declarant under these bylaws may be restricted or terminated without Declarant's written consent.

Dated this 20 day of JUNE, 2001

APPROVED:

  
\_\_\_\_\_  
Director ROBERT TOMCHO

  
\_\_\_\_\_  
Director DEAN WISE

2001.30001-12

**DECLARATION OF  
COVENANTS, CONDITIONS & RESTRICTIONS  
FOR AWBREY VILLAGE PHASES III THROUGH VI**

Please return to:  
Tennant Developments  
516 SW 13th St., Ste A  
Bend, OR 97702

2001.30001.13

COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR AWBREY VILLAGE PHASES III THROUGH VI

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DOCUMENT ILLEGIBLE/POOR QUALITY AT TIME OF RECORDING.

*Heading unclear*

2001-30001-14

### DECLARATION

These Covenants, Conditions and Restrictions are made this 20<sup>th</sup> day of June, 2001 by MICHAEL J. TENNANT and BROOKS RESOURCES CORPORATION, hereinafter referred to as "Declarant", as sole owners and developers of the real property in the City of Bend, Deschutes County, State of Oregon, described as all lots of the plats for AWBREY VILLAGE PHASES III THROUGH VI as recorded in Deschutes County Records.

The property described above is hereby subject to these Covenants, Conditions and Restrictions and will be known as AWBREY VILLAGE Subdivision, hereinafter referred to as AWBREY VILLAGE Subdivision.

AWBREY VILLAGE Subdivision is being developed as a residential community. Except where this Declaration for AWBREY VILLAGE Subdivision conflicts with any applicable government municipal regulations, this Declaration shall be binding upon all property subject to this Declaration and its Owners and their successors in interest as set forth herein. In the event of any of the development standards or use restrictions of this Declaration should conflict with a more restrictive standard or requirement set by an applicable zoning ordinance of the City of Bend, the more restrictive standard or requirement of the applicable City of Bend ordinance shall apply.

<b>SECTION 1, DEFINITIONS</b>
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- 1.1 AWBREY VILLAGE Subdivision**  
The term "AWBREY VILLAGE Subdivision" shall mean all of the real property now or hereinafter made subject to this Declaration.
- 1.2 Initial Development**  
The term Initial Development means the property referred to in Section 2.1.
- 1.3 AWBREY VILLAGE- Vision Concept**  
Awbrey Village development goal is to create the feeling of the developments in early Bend between 1910 and 1940. When complete, the neighborhood will convey a sense of an established community, which has been in place for years.
- The period between 1910 and 1940 was characterized by homes in a variety of styles including; Craftsman Bungalows, English Tudors, Colonial Revivals, and American Four Square, among several others. Awbrey Village development will strongly encourage a wide variety of home plan designs and styles of this era.
- Awbrey Village will build on the theme of an old-fashioned neighborhood with a neighborhood park, inviting distinctive entrances, and garages at the rear of the lot with alley access where viable.
- 1.4 Declarant**  
The term "Declarant" shall mean Michael J. Tennant and Brooks Resources Corporation or their successors in interest.
- 1.5 Architectural Review Committee (ARC)**  
The term ARC shall mean the group of individuals responsible for implementing, interpreting, and enforcing the Architectural Rules and Guidelines and the Conditions, Covenants, and Restrictions. (see Section 11).
- 1.6 Association**  
The nonprofit corporation to be formed to serve as the association of Owners as provided in Section 7 hereof, and its successors and assigns.
- 1.5 Alley**  
Paved access easements maintained by the Homeowner's Association.
- 1.8 Lot**  
The term "Lot" shall mean each lot described on a subdivision plat or partition map or any alteration thereof as may be made by a valid lot line adjustment.



DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR AWBREY VILLAGE PHASE III THROUGH VI

- 1.9 Declaration**  
The term "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for AWBREY VILLAGE PHASE III THROUGH VI and all subsequent declarations annexing property into the AWBREY VILLAGE Subdivision.
- 1.10 Homesite**  
The term "Homesite" shall mean a Lot as defined herein.
- 1.11 Owner**  
The term "Owner" shall mean and refer to all holders of fee title to any Lot.
- 1.12 Improvements**  
The term "Improvements" shall include, but not be limited to any buildings, outbuildings, private roads, driveways, parking areas, walkways, fences and barriers, retaining walls and stairs, decks, hedges, windbreaks, planting, planted trees and shrubs, park strip (if any), signs, storage areas and all other structures or exterior landscaping, vegetation or ground cover of every type and every kind above the land surface.
- 1.13 Assessments**  
Assessments to cover the operating and reserve fund for replacements pursuant to Section 9.2.
- 1.14 Streets**  
The term "Streets" shall mean any street, highway or other thoroughfare within or adjacent to AWBREY VILLAGE Subdivision and shown on any recorded subdivision or partition map, or survey map of record, whether designated thereon as street, boulevard, place, drive, road, terrace, way, lane, circle or otherwise.
- 1.15 Park Strip**  
The term "Park Strip" shall mean the area between the curb and the property line excluding any sidewalk.
- 1.16 Fence**  
The term "fence" shall mean a structural barrier which separates one space from another; is used to define property boundaries, or which is constructed for ornamental purposes.
- 1.17 Supplemental Declaration**  
An instrument annexing additional property to AWBREY VILLAGE Subdivision.
- 1.18 Accessory Dwellings**  
Accessory dwellings are small units with a kitchen located on a single-family lot.

**SECTION 2, PROPERTY SUBJECT TO THE COVENANTS, CONDITIONS, AND RESTRICTIONS FOR AWBREY VILLAGE SUBDIVISION**

**2.1 Initial Development**

Declarant hereby declares that all the real property located in Deschutes County, Oregon, known as AWBREY VILLAGE PHASE III THROUGH VI as recorded on June 20, 2001, shall be encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part subject to this Declaration. All of said Restrictions are declared and agreed to be established with the purpose of protecting the desirability and attractiveness of said real property and every part thereof. All of the Covenants, Conditions, and Restrictions of AWBREY VILLAGE Subdivision run with all of said real property, including any additions thereto, for all purposes and shall be binding upon and inure to the benefit of Declarant and all Owners and their successors in interest set forth in this Declaration.

**2.2 Annexation of Additional Property.**

Declarant may at its sole discretion annex to Awbrey Village any adjacent real property now or hereafter acquired by it. The annexation of such real property shall be accomplished as follows:

- (a) Supplemental Declaration. Declarant shall record a Supplemental Declaration which shall be executed by or bear the approval of Declarant and
- (b) shall, among other things, describe the real property to be annexed, establish any additional 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 this Declaration.
- (c) Provisions of Supplemental Declaration. Notwithstanding any provision apparently to the contrary, a Supplemental Declaration with respect to any annexed property may:
  - (i) Establish such new land classification and such limitations, uses, restrictions, covenants, and conditions with respect thereto as Declarant may deem to be appropriate for the development of the annexed property.
  - (ii) With respect to existing land classifications: establish additional or different limitations, uses, restrictions, covenants, and conditions with respect thereto as Declarant may deem to be appropriate for the development of such annexed property.
- (d) Effect of Annexation. The property included in any such annexation shall thereby become a part of AWBREY VILLAGE Subdivision and the Declarant and the Association shall have and shall accept and exercise administration of this Declaration with respect to such property.

AWBREY VILLAGE SUBDIVISION, COMMUNITY DEVELOPMENT DECLARATION  
 FOR A LIMITED PERIOD OF TIME, PHASES 1 THROUGH 6

- (e) No limitation on Annexation. There is no limitation on annexation.
- (f) Voting Rights. Upon annexation, additional Homesites so annexed shall be entitled to voting rights as set forth in Section 7 below.
- (g) Adjustment of Association Expenses. The formula to be used for reallocating the common expenses, if any, for the additional Homesites are annexed and the manner of reapportioning the common expenses if additional Homesites are annexed during a fiscal year are set forth in Section 9.

**2.3 Withdrawal of Property**

Declarant may withdraw property from AWBREY VILLAGE Subdivision, including any Common Area property, only by duly adopted amendment to this Declaration, except that Declarant may withdraw all or a portion of any property annexed pursuant to a declaration described in Section 2.2 above at any time prior to the sale of the first Homesite in the property annexed by such declaration. Such withdrawal shall be by a declaration executed by Declarant and recorded in the official records of Deschutes County. If a portion of the property is so withdrawn, all voting rights otherwise allocated to Homesites being withdrawn shall be eliminated, and the common expenses shall be reallocated as provided in Section 9. The right of Declarant to withdraw property hereunder shall not expire until the first Homesite in the last phase of Awbrey Village Subdivision has been sold.

**Section 3, ARCHITECTURAL CONTROL**

**3.1 Approval Required**

No improvement, as defined in Section 1.12 above, shall be erected, placed, altered, maintained, or permitted to remain on any land subject to this Declaration until final plans and specifications have been submitted to and approved in writing by the Architectural Review Committee (ARC).

**3.2 Procedure**

Any owner proposing to construct any improvements within the AWBREY VILLAGE Subdivision (including any exterior alteration, addition, destruction, or modification to any such improvements) shall follow the procedures and shall be subject to the approvals required by paragraphs 3.3 through 3.7 below. Failure to follow such procedures or obtain such approvals as required by paragraphs 3.3 through 3.7 below shall be deemed a breach of this Declaration.

**3.3 Required Documents**

Any owner proposing to utilize, improve and/or develop real property within the AWBREY VILLAGE Subdivision shall submit the following items for review:

AWBREY VILLAGE SUBDIVISION DEVELOPMENT CONCEPT DECLARATION  
AWBREY VILLAGE SUBDIVISION DEVELOPMENT CONCEPT DECLARATION

- (a) A site plan showing the location, size, configuration, and layout of any building, structure, or improvement (or, where applicable, any alteration, addition, modification, or destruction thereto) including appurtenant facilities for parking, storage, and fences. The scale of plans shall be 1 inch = 10 feet or larger.
- (b) Architectural plans and drawings showing the nature, style, and dimensions of any building, structure, fence, wall, barrier or deck (or, where applicable, any alteration, addition, modification or destruction thereof), including the exterior material types, colors, and appearance. The scale of plans shall be 1/4 inch = 1 foot or larger.
- (c) Please refer to the Architectural Rules and Guidelines for fees and additional documents and conditions that may be required.

#### 3.4 Review

All plans and drawings identified in paragraph 3.3 above shall be submitted to the ARC for review prior to the performance of any proposed work. Such plans and drawings shall be accompanied with a check payable to Awbrey Village Home Owners Association (AVHOA) in an amount to be determined by AVHOA from time to time. No plans shall be reviewed until the architectural review fee is paid in full and ALL items noted on the Plan Review Checklist have been submitted and addressed by the applicant. The ARC shall review the plans and shall inform the owner in writing whether the plans conform to the development concept for AWBREY VILLAGE Subdivision. In the event any of the plans do not conform to the AWBREY VILLAGE Subdivision development concept, the owner shall resubmit those non-conforming portions of the plans for review in accordance with the procedures outlined in paragraph 3.3 above, and this paragraph. No work may be performed relating to any improvement unless and until all aspects of all plans required under paragraph 3.3 above have been approved by the ARC.

#### 3.5 Architectural Guidelines

The ARC in accordance with applicable statutes, ordinances, regulations, zoning and other governmental land use controls, shall determine the development concept for the AWBREY VILLAGE Subdivision. Architectural guidelines setting forth various aspects of the development concept, in addition to this Declaration, may be published and revised from time to time by the ARC, but the ARC shall not be required to do so. The ARC shall have the right to alter, rescind or amend any published guidelines without prior notice to any given party; provided however, that once approval has been given pursuant to paragraph 3.4 above, work may proceed in accordance with the approved plans and drawings notwithstanding any changes in the development concept. All such guidelines shall be in conformity with this Declaration.

DECLARATION OF ASSOCIATION OF HOMEOWNERS AND ARCHITECTS  
FOR THE AWBREY VILLAGE SUBDIVISION

- 3.6 Inspection**  
All work related to any building, structure or improvement or any landscaping, vegetation, ground cover or other improvements within the AWBREY VILLAGE Subdivision shall be performed in strict conformity with the plans and drawings approved under paragraph 3.4 above. The ARC shall have the right to stop all work if it believes that any such work is non-conforming. In the event that it is determined by the ARC that certain work is non-conforming, a stop work notice may be issued, without necessity of court order, which shall require the owner to correct all non-conforming work specified in the notice before the remainder of the proposed work may be completed. Continued work without correction of any such non-conforming items shall be deemed a breach of this Declaration. The ARC or officer, director, employee, agent or servant of the ARC shall not be responsible for any damages, loss, delay, cost or legal expense incurred as a result of a stop work notice, even if it is ultimately determined that such work was in conformity with the approved plans and drawings, this Declaration, and the Awbrey Village Rules and Guidelines.
- 3.7 Waiver**  
The ARC in its exclusive discretion may waive any condition or provision of paragraph 3.2 through 3.6 above. Any waiver shall be in general conformity with the development concept and development standards for the AWBREY VILLAGE Subdivision. Any such waiver shall not be deemed a general waiver of any aspect of the development concept or the required procedures and approvals specified under paragraphs 3.2 through 3.6. The granting of a waiver as to one owner shall not automatically entitle any other owner to the waiver of the same or similar conditions or provisions. No waiver shall be valid unless it is in writing, signed by an authorized representative of the ARC and delivered to the party claiming the benefit of such waiver.
- 3.8 Appeals Board**  
Any decision made, after the turnover meeting (see Section 7.6) may be appealed to an Appeals Board. The Appeals Board shall be appointed by the President of the Association and shall include at least one member of the Architectural Review Committee. The decision of the Appeals Board shall be final. Any appeal of a decision of the ARC must be in writing and must be delivered to the President of the association within ten days after the decision to which the appeal relates. The Board of Directors may impose a reasonable fee to cover the cost of any appeal.
- 3.9 Antennas**  
All television antenna, radio antenna, satellite antenna and all other receiving or transmission device(s) are subject to review and written approval by the ARC prior to their installation/erection.
- 3.10 Appearance**  
All garbage, trash, cuttings, refuse, garbage and refuse containers, clothes drying apparatus, heat pumps, air conditioners, solar heating systems, and other service

REQUIREMENTS, CONDITIONS & RESTRICTIONS  
FOR AWBREY VILLAGE PHASES B THROUGH VI

facilities located on the Lot shall be screened from view of front streets and, are subject to review and written approval by the Architectural Review Committee.

**3.11 Driveways and Walkways**

Allowed materials for driveways include concrete, asphalt and masonry. All driveways shall be finished prior to occupancy. Exceptions may be allowed with specific written ARC approval. Builders and Builder/Owners are responsible for repair of all driveway cuts, concrete breakage of curbs, sidewalks or sidewalk aprons. The Developer and ARC representative will monitor and provide written documentation to the offending Owner. All repairs must be completed within seven (7) working days from receipt of written notification from the Developer or ARC representative.

**3.12 Exterior Colors and Materials**

All exterior colors and materials including those for trim around windows and doors are subject to approval by the ARC. Clearly indicate on submitted plans locations of all proposed exterior colors. Samples may be standard manufacturer's paint chip samples. Use of muted, earth related tones such as brown, green, dark red, blue or yellow which are appropriate to the historical style of the building are encouraged. Simple color schemes were typical of the early Bend neighborhoods.

All exposed exterior metals, PVC vents and plumbing pipes must be painted to match or blend with exterior house colors or roofing. This includes the gas furnace and gas fireplace exhausts. These metals should be located on roof areas away from view at the main front street. All exterior mechanical equipment shall be centralized and screened from view.

Prohibited materials include the following: plain concrete block, corrugated metal, unarticulated panel siding (e.g., T-1-11, plain plywood, sheet pressboard) and similar quality, non-durable materials.

Exposed horizontal seams are prohibited.

**3.13 Exterior Lighting**

All exterior lighting must be indirect and/or shielded and is subject to ARC review and written approval.

**3.14 Fences and Walls**

All fences within the Awbrey Village Subdivision shall have a maximum height of five (5) feet and are subject to ARC review and written approval. The intent is to create good neighbor fences and make the alleys "people friendly". This allows the homeowners to view any activities in the alley and not create a dark box-like rear entry to garages.

**3.15 Front Entrance**

Front entrances are required essential elements in creating a sense of neighborhood; as a welcoming gesture. This element to the neighborhood may be a large columnar porch, classical portal, a loggia or other architectural feature appropriate to the style of the building.

**3.16 Garages**

All Lots with alley access (except lots 81, 82, and 83) are required to site garages and access at the rear of the lot. Lots along Mt. Washington require ARC approval to minimize the visual impact of garages. Lots without alley access are required to recess garages and add enhanced architectural elements to minimize visual impact on road. The intent is to build an environment suited to people by reducing the impact of the automobile on the street, not to build homes for cars. Carports or RV parking may be approved by ARC if the design elements are consistent with the house style, do not adversely impact adjoining lots, and is not visually noticeable from the street. All designs shall be subject to ARC approval.

All single family lots must have at least a two-car garage. Any conversion of garage space must be replaced with additional garage space to meet the minimum two-car garage requirement and must be approved by ARC.

**3.17 Garbage and Recycling Pickup**

Garbage and recycling pickup is anticipated to be adjacent to paving in the alley for those homes with alley access. Curbside will be in the street for those homes without alleys. However, the disposal company shall have the final right to determine where pickup will be.

**3.18 Accessory Dwellings**

Accessory dwellings may be allowed with ARC written approval and must conform to the conditions outlined in the Rules and Guidelines.

**3.19 House Plan Design**

The use of the same house front exterior elevation is not allowed on the same block. The intent of this rule is to avoid the repetitive, exterior sameness that results from building the same plan side-by-side or on the same block.

**3.20 Improvements**

Each Lot within Awbrey Village Subdivision shall be maintained in a clean and attractive condition, in good repair and in such a fashion as not to create a fire hazard. Builders shall not disturb adjoining lots without permission. Each residence shall contain a minimum of 1400 square feet (not to include garage, storage, or accessory dwellings).

**3.21 Landscaping**

All disruption of the natural landscape must be restored within 90 days of occupancy. Restoration includes:

SECTION 3.22 LOT AREA, 3.23 NUISANCES, 3.24 BUILDABLE AREA,  
3.25 ROOFING, 3.26 FENCES, WALLS AND HEDGES, 3.27 LANDSCAPING

- Planting native plant material
- Spreading mulch/pine needles/duff, covering raw earth
- Feathering transitions between truly native areas to the newly restored areas

During the winter, a 60-day extension may be granted. On unimproved lots, areas that have been disturbed and are highly visible or that constitute a dust problem may require corrective action as determined by the ARC.

The front and side yards shall be covered with a minimum of 30% grass (sod). Excellent advice can be gained from the local nurseries and landscaping professionals. All landscape design is subject to review and written approval by the ARC.

### 3.22 Lot Area

No Lot shall be further partitioned or subdivided, except by the Declarant.

### 3.23 Nuisances

Boundary fences, walls or hedges must be kept in good condition and repair. Lawns must be cut sufficiently and maintained year round so that they do not become eyesores and detrimental to the values of other properties. Trees and shrubs that encroach on any other lot and are a nuisance to neighbor(s) shall be trimmed and pruned.

### 3.24 Buildable Area

All Improvements shall be erected, placed, altered and maintained in accordance with all applicable City of Bend setbacks, building height limitations, solar setbacks, building codes and the ARC guidelines for AWBREY VILLAGE Subdivision. The lots are listed in the Rules and Guidelines with their respective maximum building elevation.

### 3.25 Roofing

All roofs and roofing materials shall be reviewed and have written approval of the ARC. No wood, shake-shingle or other highly combustible roof materials will be allowed. Roof materials shall be of earth related colors. Colors shall not be bright and outstanding.

## Section 4, RESTRICTIONS

### 4.1 Access to Property

No private properties may be used for access without the Owner's written permission with the exception of recorded access and alley easements.

### 4.2 Alley Easements

Some Lots are encumbered by recorded access and alley easements.



AWBREY VILLAGE HOME SITES, CC&RS III, RESTRICTIONS  
SECTION 4.3 - LIVESTOCK, POULTRY & PETS**4.3 Livestock, Poultry and Pets**

No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats or other common household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes and/or do not otherwise constitute a nuisance. Doghouses shall be limited to two, and only allowed in the backyard. Owners are responsible to clean up their dog's excrement.

All AWBREY VILLAGE homesites are within the City limits of Bend and resident animals are subject to the City of Bend leash laws. Animal nuisance ordinances are also in effect for barking and trash strewing dogs. If any dog is off the owner's homesite, it must be on a leash. Please contact the City of Bend Police Department to report violations. The City of Bend is best equipped to deal with these problems and can enforce stringent fines.

**4.4 Occupancy**

No occupancy will be allowed before:

(a) Final inspection approval by all governmental agencies.

(b) Removal of all construction debris, materials and portable toilet.

(c) Completion of exterior painting and landscaping (exceptions may be allowed during winter months).

No owner shall occupy, use or permit his Lot or any part thereof to be used for any purpose other than a private residence for the Owner, their family or their guests, except that each Owner shall be permitted to rent the unit when he is not in occupancy. The rental period shall not be less than one month. Home occupations will be allowed as under the current City of Bend Zoning Ordinance.

**4.5 Outside Fixtures**

Recreational equipment i.e., basketball hoops, play structures, or similar items are allowed only in alleys or backyards.

**4.6 Parking**

No parking on any street shall be allowed of any horse trailer, travel trailer, 18 wheel tractor, boat trailer, camper or incapacitated motor vehicle. Boats, trailers, buses, motor homes, commercial vehicles, trucks larger than one (1) ton, recreational vehicles, disabled vehicles or other similar vehicles shall not be parked or stored on any Lot in a position whereby said vehicles will be visible from the street. No unit shall exceed 25 feet in length. Owners must provide improved parking areas of asphalt, concrete or gravel pads.

No parking whatsoever shall be allowed in access and alley easements; it is each owner's responsibility to see that their guests, invitees, and lessees abide by this condition. No vehicles shall be parked in the street for more than 24 hours at a

DECLARANT'S OBLIGATIONS, COVENANTS, CONDITIONS & RESTRICTIONS  
 FOR LOT 14 OF THE VACANT LOTS AND LOTS 15-17

time. Parking is allowed on street except where posted or curbs are painted indicating "No Parking" zones.

**4.7 Sidewalks**

All lots shall provide a front walk a minimum of 3 feet in width, which accesses the front of the house from the sidewalk or street, exceptions approved by ARC. Owners are responsible for clearing street sidewalks of snow and debris

**4.8 Sight Distance at Intersection**

Sight distance at intersections shall conform to City of Bend ordinance.

**4.9 Signs**

A maximum of two signs may be installed on a homesite during construction. See Rules and Guidelines for requirements.

After construction and home is occupied, no sign of any kind shall be displayed to public view on or from any Lot without the ARC's written consent.

Each owner/occupant may display not more than one (1) "for sale" sign or one (1) "for rent" sign per homesite. Said signs shall be limited in size to not more than four (4) square feet.

**4.10 Structures and Out Buildings**

No house trailer, manufactured home, modular home, mobile home, tent, shack, barn or other similar outbuilding or structure, whether permanent or temporary, shall be erected or placed on any Lot. No portable storage units shall be allowed. Any improvement, prior to its erection or placement, must be submitted to the ARC for review and written approval.

Only earth tone (brown, gray, etc.) colored tarps and covers shall be allowed.

**4.11 Model/Offices**

Declarant may have a model/office.

**4.12 Utilities**

No above ground utilities, pipes or wires shall be used to connect improvements with supplying facilities.

**4.13 Vacant Lot.**

The Owner of a vacant Lot shall maintain the Lot year round in a groomed and attractive manner so that the Lot does not become a fire hazard or eyesore.

**4.14 Water and Sewer Supply.**

No individual water supply system or sewage disposal system shall be permitted on any Lot.

SECTION 4. COVENANTS, CONDITIONS AND RESTRICTIONS  
AWBREY VILLAGE SUBDIVISION (THROUGH JEM)

**4.15 Nuisances**

No offensive activity shall be carried on any Homesite, which may be an annoyance to the owners. No firearms, air pistols, archery, sling shots, fireworks, other weapons, or similar items shall be used within AWBREY VILLAGE Subdivision.

**Section 5, DECLARANT'S IMMUNITY**

The Declarant has a non-exclusive right and power to enforce these Covenants, Conditions, and Restrictions, but the Declarant does not have the legal obligation to enforce or attempt to enforce the provisions hereof. In the event the Declarant refuses, neglects, fails or is negligent in enforcing or attempting to enforce these Covenants, Conditions and Restrictions there shall not exist or be created any cause of action or claim against Declarant, and each owner or any person or entity claiming by, through or from said owner hereby releases Declarant from and against any claim arising in connection with the development of Awbrey Village or related to Declarant's acts or omissions in preparing, filing or enforcing these Covenants, Conditions and Restrictions and shall be stopped from making or enforcing any such claim.

**Section 6, DURATION AND AMENDMENT OF THIS DECLARATION**

**6.1 Duration**

The Covenants, Conditions and Restrictions of AWBREY VILLAGE Subdivision shall remain in full force and effect at all times with respect to all property, and each part thereof, now or hereafter made subject thereto (subject however, to the right to amend and repeal as provided for herein) for a period of thirty (30) years from the date this Declaration is recorded. However, unless within one (1) year from the date of said termination, there shall be recorded an instrument directing the termination of this Declaration signed by the Owners of not less than seventy-five percent (75%) of the Lots then subject to this Declaration, this Declaration, as in effect immediately prior to the expiration date, shall be continued automatically without further notice for an additional period of ten (10) years and thereafter for successive periods of ten (10) years unless within one (1) year prior to the expiration of such period the Covenants, Conditions, and Restrictions for AWBREY VILLAGE Subdivision are terminated as set forth above in this section.

**6.2 Amendment**

This Declaration or any provision thereof, or any Covenant, Condition or Restriction contained herein, may be terminated, extended, modified, or amended, as to the whole of said property or any part thereof with written consent of the Owners of seventy-five (75%) of the Lots subject to these Restrictions.

Any amendment, deletion or repeal of this Declaration shall become effective after recorded in the Official Records of Deschutes County, Oregon.

<b>Section 7, ASSOCIATION</b>
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Declarant shall organize an association of all of the Owners within Awbrey Village. Such Association, its successors, and assigns, shall be organized under the name "Awbrey Village Homeowners Association, Corporation" or such similar name as Declarant shall designate, and shall have such property, powers, and obligations as are set forth in this Declaration for the benefit of Awbrey Village and all Owners of property located therein.

**7.1 Organization**

Declarant shall, before the first Homesite is conveyed to an Owner, organize the Association as a nonprofit mutual benefit corporation under the Oregon nonprofit Corporation Act.

**7.2 Membership**

Every Owner of a Homesite(s) within Awbrey Village Subdivision shall, immediately upon creation of the Association and thereafter during the entire period of such Owner's ownership of a Homesite(s) within Awbrey Village, be a member of the Association. Such membership shall commence, exist, and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

**7.3 Voting Rights**

Voting rights within the Association shall be allocated as follows:

Homesites. Except as provided in Section 7.3(b) with respect to Class B members, Homesites shall be allocated one vote per Homesite.

Classes of Voting Membership. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant (except that beginning on the date on which the Class B membership is converted to Class A membership, and thereafter, Class A members shall be all Owners including the Declarant). Class A members shall be entitled to voting rights for each Homesite owned computed in accordance with Section 7.3(a) above. When more than one person holds an interest in any Homesite, all such persons shall be members. The vote for such Homesite shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Homesite.

Class B. The Class B member shall be Declarant and shall be entitled to nine times the voting rights computed under Section 7.3(a) for each Homesite owned by Declarant. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier: When seventy-five percent (75%) of the Homesites in the final phase of

DECLARATION OF HOMEOWNERS' RIGHTS AND RESTRICTIONS  
FOR OWNERS OF AWBREY VILLAGE PHASE 1 AND 2

development of Awbrey Village, as indicated on approved Master Plan, have been sold and conveyed to Owners other than Declarant; or

At such earlier time as Declarant may elect in writing to terminate Class B membership.

#### 7.4 Powers and Obligations

The Association shall have, exercise, and perform all of the following powers, duties, and obligations;

Declaration. The powers, duties, and obligations granted to the Association by this Declaration.

Statutory Powers. The powers, duties, and obligations of a mutual benefit nonprofit corporation pursuant to the Oregon Nonprofit Corporation Act and of a homeowner's association of a planned community pursuant to the Oregon Planned Community Act, as either or both may be amended from time to time.

General. Any additional or different powers, duties, and obligations necessary or desirable for the purpose of carrying out the functions of the

Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners within Awbrey Village. The powers and obligations of the Association may from time to time be amended, repealed, enlarged, or restricted by changes in this Declaration made in accordance with the provisions herein, accompanied by changes in the Articles of Incorporation or Bylaws of the Association made in accordance with such instruments and with the Oregon Nonprofit Corporation Act.

#### 7.5 Liability

In consideration for each officer or member of the Board of Directors consent to serve the Awbrey Village Homeowner's Association, the owners, their successors and assigns, hereby release and forever acquit each officer and member of the board from all acts and omissions performed in their capacity as officers or board members. This release includes both ministerial and discretionary acts, omissions, and decisions. No officer or member of the board shall be liable at law or in equity for their individual acts or omissions or the acts, omissions or decisions of the officers or board as a whole.

#### 7.6 Interim Board; Turnover Meeting

Declarant shall have the right, but not the obligation, to appoint an interim board of three directors or more, who shall serve as the Board of Directors of the Association until replaced by Declarant or the successors have been elected by the Owners at the turnover meeting described in this Section. Declarant shall call a meeting by giving notice to each owner as provided in the Bylaws of the Association for the purpose of turning over administrative responsibility for Awbrey Village to the Association not later than one hundred eighty (180) days after Homesites

DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS  
FOR AWBREY VILLAGE PHASES III THROUGH VI

representing seventy-five percent (75%) of the votes in all phases of Awbrey Village, as indicated on approved Master Plan, and computed in accordance with Section 7.3(a) above have been sold and conveyed to Owners other than Declarant. If Declarant does not call a meeting required by this Section within the required time, the Transitional Advisory Committee described in Section 7.7 below or any Owner may call a meeting and give notice as required in this Section. At the turnover meeting the interim directors shall resign and their successors shall be elected by the Owners and Declarant as provided in this Declaration and the Bylaws of the Association.

**7.7 Transitional Advisory Committee**

In the event Declarant intends to appoint an interim board per Section 7.6, the Declarant or Owners may form a transitional advisory committee (the "Transitional Advisory Committee") to provide for the transition from administrative responsibility by Declarant of Awbrey Village to administrative responsibility by the Association. Not later than the ninetieth (90<sup>th</sup>) day after the Declarant has conveyed to Owners other than Declarant's Homesite(s) representing seventy-five percent (75%) of the votes of all phases in Awbrey Village, as indicated on approved Master Plan, and computed in accordance with Section 7.3(a) above, Declarant may call a meeting of Owners for the purpose of selecting the Transitional Advisory Committee. The Transitional Advisory Committee shall consist of at least three members. The Owners, other than Declarant, shall select two or more members. Declarant may select no more than one member, which may be the Declarant. The Transitional Advisory Committee shall have reasonable access to all information and documents, which Declarant is required to turn over to the Association under ORS 94.616.

Declarant Failure to Call Meeting. An Owner may call a meeting of Owners to select the Transitional Advisory Committee if the Declarant fails to do so as provided above.

Owners' Failure to Select Members. Notwithstanding the foregoing, if the Owners do not select members for the Transitional Advisory Committee as described above, Declarant shall have no further obligation to form the Transitional Advisory Committee.

Turnover Meeting. The requirement for formation of a Transitional Advisory Committee shall not apply after the turnover meeting specified in Section 7.6 above has been held.

**7.8 Declarant Control After Turnover**

After the turnover meeting described in Section 7.6 above, Declarant shall continue to have the voting rights described in Section 7.3(b) above. In addition, a majority of the Board of Directors of the Association shall be elected by Declarant, as Class B member, with the balance of the Board of Directors elected by the Class A members. After termination of Class B membership, all directors shall be elected by the Class A members.

DECLARATION OF COMMON INTERESTS FOR THE TRACTS  
OF AWBREY VILLAGE PHASE 3-6 HOMEOWNER'S ASSOCIATION

**7.9 Subassociations**

Nothing in this Declaration shall be construed as prohibiting the formation of subassociations within Awbrey Village Subdivision.

**7.10 Association Rules and Regulations**

The Association from time to time may adopt, modify, or revoke such rules and regulations governing the conduct of persons and the operation and use of Homesites and the Common Areas as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the property within Awbrey Village. A copy of the rules and regulations, upon adoption, and a copy of each amendment, modification or revocation thereof, shall be delivered by the Association Board of Directors promptly to each Owner and shall be binding upon all Owners and Occupants of all Homesites upon the date of delivery. The method of adoption of such rules shall be as provided in the Bylaws of the Association.

**SECTION 8, MAINTENANCE, LIGHTING, AND SERVICES**

**8.1 Maintenance and Lighting**

The Association shall perform all maintenance upon Pedestrian Paths, Access and Alley Easements (including snow removal), 25' natural landscape easement along Mt. Washington, and landscaped areas designated by Declarant. The Association shall also incur expenses for the water for these landscaped areas. The Association shall control and regulate all aspects of these landscaped areas. Only improvements by the Association are allowed in the 25' natural landscape easement along Mt. Washington.

**SECTION 9, ASSESSMENTS**

**9.1 Annual Budgets**

The Association Board of Directors shall from time to time and at least annually prepare an operating budget for the Association, taking into account the current costs of maintenance, services, capital improvements, and other future needs of the Association, and previous overassessment, if any, and any common profits of the Association. The budget shall provide for such reserve or contingency funds as the Board deems necessary or desirable or as may be required by law. The method of adoption of the budget shall be as provided in the Bylaws.

**9.2 Assessments**

All Homesites shall be assessed equally for operation costs. The amount of the assessment per Homesite shall be determined by dividing the annual budget by the total number of Homesites. Assessments exceeding 10% increases annually require approval of the majority of members as described in Article IV, Section 6 of the Bylaws of Awbrey Village Phase 3-6 Homeowner's Association. The first annual assessment will be for the year 2002. Annual assessments will be due January 10 of each year.

DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS  
FOR AWBREY VILLAGE PHASE 2 SUBDIVISION

**9.3 Assessments Upon Annexation**

Newly platted Homesites shall be subject to assessment on the next calendar January 10 following the platting of such Homesites to Awbrey Village, in accordance with the provisions of Section 9.2.

**9.4 Payment of Assessments**

The Association shall, not less than annually, provide notice to the Owner of each Homesite of the amount of the assessments for such Homesite. Assessments shall be due and payable on or before a date set forth in the notice which shall be not less than thirty (30) days from the date the notice is mailed or at such other time or times set in accordance with this Declaration or the Bylaws as the Association may specify in the notice.

**9.5 Creation of Lien and Personal Obligation of Assessments**

Declarant for each Homesite owned by it, within Awbrey Village, does hereby covenant, and each Owner of any Homesite by acceptance of a conveyance thereof, whether or not so expressed in any such conveyance, shall be deemed to covenant to pay to the Association all assessments or other charges as may be fixed, established, and collected from time to time in the manner provided in this Declaration or the Association Bylaws. Such assessments and charges, together with any interest, expenses or attorney fees imposed pursuant to Section 10.6, shall be a charge on the land and a continuing lien upon the Homesite against which each such assessment or charge is made. Such assessments, charges, and other costs shall also be the personal obligations of the person who was the Owner of such Homesite at the time when the assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth in Article 10.

**Section 10, ENFORCEMENT**

**10.1 Provision Violations**

In the event any Owner, agent, tenant or the invitee of any Owner shall violate any provision of this Declaration, the Bylaws of the Association or any rules or regulations adopted by the Association governing the use of Homesites, then the Association, acting through its Board of Directors, may notify the Owner in writing that the violation(s) exist and that such owner is responsible for it(them), and may, after sixty (60) days from the date of the notice, do any or all of the following: (a) suspend the Owner's voting rights for the period that the violations remain unabated, or for any period not to exceed sixty (60) days for any infraction of its rules and regulations, (b) bring suit or action against such Owner to enforce this Declaration, (c) impose fines as provided in Section 10.5, or (d) any other action authorized by law.



- 10.2 Nonqualifying Improvements and Violation of General Protective Covenants**  
In the event any Owner constructs or permits to be constructed on such Owner's Homesite and Improvement contrary to the provisions of this Declaration, or causes or permits any Improvement, activity, condition or nuisance contrary to the provisions of this Declaration to remain uncorrected or unabated on such Owner's Homesite, then the Association acting through its Board of Directors may notify the Owner in writing of any such specific violations of this Declaration and may require the Owner to remedy or abate the same in order to bring the Owner's Homesite, the Improvements thereon, and the Owner's use thereof, into conformance with this Declaration. If the Owner is unable, unwilling, or refuses to comply with the Association's specific directives or remedy or abatement, or the Owner and the Association cannot agree to a mutually acceptable solution within the framework and intent of this Declaration, after written notice to the Owner, then the Association acting through its Board of Directors, shall have, in addition to any other rights or remedies provided in this declaration, at law or inequity, the right to do any or all of the following:

Remove Cause of Violation. Enter onto the offending Homesite, without being subject to any trespass, conversion or any other claim for damages, and remove the cause of such violation, or alter, repair or change the item which is in violation of the Declaration in such a manner as to make it conform thereto, in which case the Association may assess such Owner for the entire cost of the work done.

Suit or Action. Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration.

Fines. Impose one or more fines as provided in Section 10.5.

**10.3 Default in Payment of Assessments; Enforcement of Lien**

If an assessment, fine, or other charge levied under this Declaration is not paid within thirty (30) days of its due date, such assessment or charge shall become delinquent and shall bear interest from the due date until paid at the rate set forth below and, in addition, the Association may exercise any or all of the following remedies:

Suspend of Rights; Acceleration. The Association may suspend such Owner's voting rights until such amounts, plus other charges under this Declaration, are paid in full and may declare all remaining periodic installments of any annual assessment or any other amounts owed by such Owner to the Association immediately due and payable.

Lien. The Association shall have a lien against each Homesite and improvements thereon for any assessment levied and any fines or other charges imposed under this Declaration or the Bylaws against the Owner of the Homesite from the date on which the assessment, fine or charge is due. The provisions regarding the attachment, notice, recordation, duration and foreclosure of liens established on real property under ORS 94.709 et. seq. shall apply to the Association's lien. The lien shall be foreclosed in accordance with the provisions regarding the foreclosure

DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS  
FOR AWBERRY VILLAGE PHASES III THROUGH VI

of liens under such statutes. The Association, its duly authorized agents, may bid on the Homesites at such foreclosure sale, and may acquire and hold, lease, mortgage, and convey the Homesite. If any assessment is payable in installments, the full amount of the assessment is a lien from the date the first installment of the assessment becomes due.

Suit or Action. The Association may bring an action to recover a money judgment for unpaid assessments and charges under this Declaration without foreclosing or waiving the lien described in paragraph 10.3(b) above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

Other Remedies. The Association shall have any other remedy available to it by law or in equity.

**10.4 Interest, Expenses, and Attorney Fees**

Any amount not paid to the Association when due in accordance with this Declaration shall bear interest from the due date until paid at the rate of twelve percent (12%) per annum. A late charge may be charged for each delinquent assessment in an amount established from time to time by resolution of the Board of Directors of the Association not to exceed ten percent (10%) of such assessment. In the event the Association shall file a notice of lien, the lien amount shall also include the recording fees associated with filing the notice, and a fee for preparing the notice of lien established from time to time by resolution of the Board of Directors of the Association. In the event the Association shall bring any suit or action to enforce this Declaration, or to collect any money due hereunder or to foreclose a lien, the Owner-defendant shall pay to the Association all costs and expenses incurred by it in connection with such suit or action, including a foreclosure title report, and the prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable as attorney fees at trial and upon any appeal or petition for review thereof or in any bankruptcy proceeding.

**10.5 Fines**

The Board of Directors may establish a schedule of fines applicable to violations of this Declaration or rules and regulations established pursuant to this Declaration. Fines may be imposed by the Board of Directors after giving the alleged violator notice of the proposed fine and an opportunity to be heard. Fines shall be payable within ten days after receipt of written notice of the imposition of the fine. All fines shall be deposited in the Association's operating account.

**10.6 Nonexclusiveness and Accumulation of Remedies.**

An election by the Association to pursue any remedy provided for violation of this Declaration shall not prevent concurrent or subsequent exercise of another remedy permitted hereunder. The remedies provided in this Declaration are not exclusive but shall be in addition to all other remedies, including actions for damages and suits for injunctions and specific performance, available under applicable law to the

DECLARATION OF THE BOARD OF HOMEOWNERS TO ESTABLISH  
 THE AWBREY VILLAGE COMMONS DEVELOPMENT AGREEMENT

Association. In addition, any aggrieved Owner may bring an action against another Owner or the Association to recover damages or to enjoin, abate, or remedy any violation of this Declaration by appropriate legal proceedings.

**10.7 Severability**

Invalidation of any 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.

**Section 11, ARCHITECTURAL REVIEW COMMITTEE**

**11.1 Responsibility**

There shall be an Architectural Review Committee (ARC). The committee shall be responsible for implementation, interpretation and enforcement of the Architectural Rules and Guidelines. The committee or any of its members have the right to enforce the Awbrey Village Conditions, Covenants, and Restrictions. Each decision of the ARC made in conjunction with its responsibilities shall be conclusive, determinative, and binding upon the owners and their agents.

The ARC may enforce the Architectural Rules and Guidelines in the same manner and are subject to the same requirements, restrictions and effects as set forth in Section 10 hereof.

**11.2 Liability**

In consideration for each committee member's consent to serve on the committee, the owners, their successors and assigns, hereby release and forever acquit each member of the committee from all acts and omissions performed in their capacity as committee members. This release includes both ministerial and discretionary acts, omissions, and decisions. No member of the committee shall be liable at law or in equity for their individual acts or omissions or the acts, omissions or decisions of the committee as a whole. The scope of Declarant's or the Architectural Review Committee's review is not intended to include any review or analysis of structural, geophysical, engineering, building or zoning code compliance, or other similar consideration.

**11.3 Non-waiver**

The guidelines shall generally set forth the procedures owners are to follow for the approval, construction and maintenance of any improvement, landscaping and the like on any Lot within Awbrey Village Subdivision.

**11.4 Membership**

The ARC shall initially consist of three members appointed by the Declarant. A majority of the ARC may designate a representative to act for it. In case of death or resignation of any member, the Declarant may appoint a successor. Neither the members of the ARC nor its designated representative shall be entitled to any

ARTICLE IV. COVENANTS, CONDITIONS & RESTRICTIONS  
 FOR AWBREY VILLAGE SUBDIVISION (THROUGHOUT)

compensation for services performed by said members. In the event of the death(s) or resignation(s) of all member(s) of the ARC occurs without a successor(s) having been appointed, the Declarant shall appoint the successor(s).

At the Turnover Meeting, the majority of the owners may elect the members of the ARC. In case of death or resignation of any member, the remaining member or members shall appoint a successor.

**11.5 Decisions**

Except as otherwise provided herein, a majority of the Architectural Review Committee shall have the power to act on behalf of the committee without the necessity of a meeting and without the necessity of consulting the remaining members of the committee. The committee shall render its decisions in writing, copies of which shall be sent or delivered to the owner involved.

**11.6 Approvals**

The ARC shall approve or disapprove plans within a reasonable time after the same has been submitted to it in writing. The ARC will not commence reviews of an applicant's submittal until all items noted on the Plan Review Checklist have been submitted and addressed by the applicant. There shall be no construction or disturbance of any vegetation on any lot prior to written ARC approval obtained by the owner.

Approval by the ARC of any matter proposed to it shall not be deemed a waiver or a precedent impairing the ARC's right to withhold approval as to any similar matter thereafter submitted to it.

**Section 12, EFFECT OF DECLARATION**

The Covenants, Conditions and Restrictions of this Declaration shall run with the land included in AWBREY VILLAGE Subdivision and shall bind, benefit and burden each Lot in AWBREY VILLAGE Subdivision, including any annexations thereto. The terms of this Declaration shall inure to the benefit of the Owners of any Lot in AWBREY VILLAGE Subdivision, their successors, assigns, heirs, administrators, executors, mortgagees, invitees, or any other party claiming or deriving any right, title, or interest or use in or to any real property in AWBREY VILLAGE Subdivision. The restrictions set forth herein shall be binding upon all Owners, lessees, licensees, occupants, and users of the property known as AWBREY VILLAGE Subdivision and their successors in interest, including any person who holds such interest as security for the payment of any obligation including any mortgagee or other security holder in actual possession of any Lot by foreclosure or otherwise and any other person taking title from such security holder.

DECLARATION OF INTERESTS, CAPTIONS & RESTRICTIONS  
AND SIGNATURES TO BE PLACED IN INSTRUMENT

IN WITNESS WHEREOF, the Declarant has executed this Declaration this [20]th day  
of [June], 2001

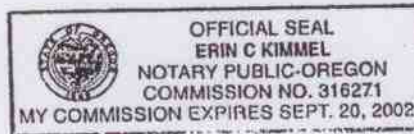
By [Signature]  
Kirk E. Schueler, President  
Brooks Resources Corporation

The named Kirk E. Schueler and Michael J. Tennant personally appeared before me and acknowledged the forgoing instrument as his voluntary act.

By [Signature] By [Signature] P.O.A.  
Michael J. Tennant By [Signature] P.O.A.

Before Me: [Signature]  
NOTARY PUBLIC FOR OREGON  
My commission expires: 9/20/02

STATE OF OREGON, County of Deschutes, ss.





DESCHUTES COUNTY OFFICIAL RECORDS  
MARY SUE PENHOLLOW, COUNTY CLERK

2002-54483



\$36.00

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# DESCHUTES COUNTY CLERK

## CERTIFICATE PAGE



**This page must be included  
if document is re-recorded.  
Do Not remove from original document.**





**Awbrey Village Phases 3-6 Home Owners Association  
PO Box 7002  
A Non-profit Mutual Benefit Corporation**

Proposed Amendment to Bylaws

**ARTICLE VI  
Board of Directors**

Present Language:

Section 1. General Powers. The affairs of the Corporation shall be managed by its board of directors. Except for directors appointed by Declarant, directors shall be members of the Corporation.

Section 2. Number, Tenure and Qualifications. The number of directors shall be three. Each director shall hold office until the next annual meeting of members and until his successor shall have been elected and qualified.

Sections 3. through 12. (No changes.)

Proposed Language:

Section 1. (No change.)

Section 2. Number, Tenure, and Qualifications. The number of directors shall be three and their terms shall be three years and staggered so that approximately one-third of the directors will be elected at each annual meeting to provide greater continuity in the management of the Association's affairs. At the annual meeting on Saturday, September 15, 2007, the director receiving the largest majority of votes will be elected to a three-year term; the director receiving the next largest majority of votes will be elected to a two-year term; and the director receiving the third largest majority of votes will be elected to a one-year term. Each director shall hold office until the appropriate annual meeting that follows and until their successor shall have been elected and qualified. At subsequent annual meetings, all regular terms for directors shall be three years. Directors whose terms expire may be re-elected.

Sections 3. through 12. (No changes.)