

RESTRICTIONS DATED OCTOBER 30, 1990. Recorded as Doc 90-59829
DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

AFTON COMMONS III

This Declaration made this 1st day of Sept, 2000 by the HOMEOWNERS OF AFTON COMMONS III, hereinafter referred to as the "Owners".

WITNESSETH

WHEREAS, the Owners of all the real property in the Recorded Plat of AFTON COMMONS III SUBDIVISION, hereinafter referred to as the "Property," filed in the Plat Records, City of Durham, Washington County, Oregon, desire to maintain thereon a planned community with permanent roadways and utility installations as per the approved construction plans; and

The Owners desire to provide for the preservation and enhancement of the property values, amenities and opportunities in said community and for the maintenance of the property to the covenants, restrictions, and easements, hereinafter set forth, each and all of which is and are for the benefit of the Property and each Owner of any Lot thereof;

NOW, THEREFORE, the Owners declare that the "Property," AFTON COMMONS III SUBDIVISION, shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions and easements (sometimes referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1.0. "Owner", shall mean and refer to the record Homeowners of Afton Commons III, its successors or assigns, or any successor or assign to all remainder of their interest in the Property, whether one or more persons or entities of a fee simple title to any Lot which is a part of the Property, including contract buyers, but excluding those, including contract sellers, having such interest merely as security for the performance of an obligation.

Section 2.0. The "Property" shall mean and refer to all real property including Lots, together with such other real property as may from time to time be annexed thereto under the applicable laws and ordinances of the County of Washington, the State of Oregon, and the United States.

Section 3.0. "Lot" shall mean any numbered plot of land shown upon any recorded subdivision plat of the Property, which is not designated as a street or public area.

Section 4.0. "Street" means any highway or other thoroughfare as shown on a recorded plat of the Property.

Section 5.0. "Declaration" shall mean the covenants, conditions and restrictions and all other provisions herein set forth in this entire document.

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Return to:
Bob Arbini
7730 SW Chaucer Ct
Durham OR 97224

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Section 6.0. "Living Unit" shall mean and refer to any portion of a building situated upon the Property designed and intended for use and occupancy as a residence.

Section 7.0. "Occupant" shall mean and refer to the occupant of a Living Unit who shall be either the Owner, lessee, or any other person authorized by the Owner to occupy the premises.

Section 8.0. "Committee" shall mean Architectural Control Committee.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

Property. The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Washington County, Oregon, land is more particularly described in the approved construction plans and in the Plat of AFTON COMMONS III filed in the Plat Records, Washington County, Oregon.

ARTICLE III

GENERAL

Leases. Each Owner shall have the right to lease his lot and the improvements thereon. Any said lease shall be in writing and shall provide that its terms shall be subject in all respects to the provisions of this Declaration and that any failure by the lessee to comply with the provisions of said Declaration shall constitute a default under said lease. For purposes of this Section, the term "lease," shall mean without limitation, a month-to-month rental agreement.

ARTICLE IV

PARTY WALLS

Foundations, floors, beams, walls and other structural members or elements common to Living Units within a building which are built as part of the original construction, that are placed upon or straddle the dividing line between adjacent Lots, and actually support or protect adjacent Living Units, shall be regarded and treated as Party Walls.

Section 1.0. General Rules of Law to Apply. Each wall which is built as a part of the original construction of multi-family homes upon the Property and placed on the dividing line between the Lots shall constitute a Party Wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2.0. Maintenance and Repair. The cost of the repair and maintenance of a Party Wall shall be borne by the Owners sharing the Party Wall. If the need for any maintenance or repair work is caused through the willful or negligent act of an Owner or his or her family, guests, or invitees, the cost of such maintenance or repairs shall be borne by that owner alone.

Section 3.0. Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, any Owners who have used the wall must restore it to its original condition. The Owner repairing or reconstructing a Party Wall shall have the right of access over adjacent Owner's Lot to the extent reasonably necessary to effect the repair or reconstruction.

Section 4.0. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the Party Wall to be exposed to the elements shall bear the whole costs of furnishing the necessary protection against such elements.

Section 5.0. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6.0. Alteration. Each Owner with a Party Wall shall have the right, at its sole expense, to drill, to cut into, or otherwise gain access to the interior of a Party Wall for the purpose of maintaining, repairing, or restoring it, and, upon the prior written consent of the Owner of the adjoining Living Unit, for the purpose of remodeling or altering water, utility, soundproofing, or other services or amenities to the Living Unit, subject to an obligation to restore the Party Wall to the same condition it was in immediately before such act, and to indemnify the Owner of the adjoining Living Unit for any damages caused thereby.

Section 7.0. Consent. Except as set forth in Section 6.0, no Owner with a Party Wall may make any changes to or alterations of a Party Wall without the prior written consent of the Owner of the Living Unit adjoining the Party Wall, interior decoration excepted.

Section 8.0. Easement. Appurtenant to each Lot with a Party Wall located thereon shall be an easement over the adjoining Lot sharing the Party Wall for the purpose of accommodating any encroachment by buildings or structures on the Lot due to engineering errors, errors in original construction, or the settling or shifting of such building or structures. If any Living Unit is partially or totally destroyed and then repaired and rebuilt substantially in accordance with the original plans and specifications, there shall also be appurtenant to the Lot an easement to accommodate minor encroachments by the successor structure from similar causes.

Section 9.0. Performance by Adjoining Living Unit. If an Owner fails to perform its obligations under this Article, including, without limitation, the obligation to pay its share of the costs of maintenance, repair, or restoration of a Party Wall, the Owner of the adjoining Living Unit may perform such action or make such payment. The defaulting Living Unit shall promptly reimburse the adjoining Living Unit Owner for all costs and expenses incurred by the adjoining Living Unit Owner, with interest thereon at twelve percent (12%) per annum until paid.

Section 10.0. Arbitration. In the event of any dispute arising concerning a Party Wall, or under the provisions of this Article, that cannot be resolved through small claims court or mediation, each party then shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the dispute shall be arbitrated by the arbitrators so designated, in accordance with the rules of the American Arbitrators Association. The decision shall be by a majority of all of the arbitrators and shall be binding on all parties thereto, their heirs and assigns. The prevailing party shall be entitled to such arbitration fees from the losing party, including fees in any appellate proceeding.

ARTICLE V

USE RESTRICTION AND ARCHITECTURAL CONTROLS

Section 1.0 City of Durham Restrictions. All uses, occupancy, construction and other activities conducted on any Lot shall conform with and be subject to applicable zoning, use restrictions, construction and building codes of the City of Durham, and further to the restrictions of all other applicable public authorities and to the extent the following restrictions may be in conflict therewith, the same shall be deemed modified thereby.

Section 2.0 Creation of Architectural Control Committee. In order to insure harmonious external design, maintenance and repairs of Afton Commons III, and to govern the relationship of the Owners, it is in the mutual best interest of all Owners that the Architectural Control Committee be established for the purpose set forth herein. The Architectural Control Committee shall have concurrent review authority and enforcement rights over the Owners' exterior Living Units and Lots.

Section 2.1 Elections by Owners. The Owners will elect three (3) Owners to serve on the Architectural Control Committee member board. One (1) Architectural Control Committee member shall be an owner of a single-family Living Unit. A simple majority will elect the three (3) Architectural Control Committee members. Voting for Architectural Control Committee members shall be conducted on an at-large basis.

Section 2.2 Majority Action. A majority of the members of the Architectural Control Committee shall have the power to act on behalf of the Architectural Control Committee without the necessity of a meeting, provided that all members of the Architectural Control Committee have been delivered prior written notice of the proposed action. The Architectural Control Committee may render its decision only by written instrument setting forth the action taken by the member consenting thereto.

Section 2.3 Liability. Neither Owners, the Architectural Control Committee, nor any member thereof, shall be liable to anyone submitting plans to the Architectural Control Committee, for approval, or to any Owner by reason of mistake in judgment, negligence or disapproval or failure to approve plans, or for any other action taken by the Architectural Control committee in accordance with this Declaration. Every person who submits plans to the Architectural Control Committee for approval agrees, by submission of such plans, and every Owner by acquiring title to their Lot or interest therein agrees, that they will not bring any action or suit against the Architectural Control Committee, or any member thereof, to recover damages of any nature. The Architectural Control Committee's review and approval or disapproval of plans and specifications shall not be relied upon by the applicant as an indication of sufficiency, structural soundness or in any other way, such review having been made solely to assure that the improvements contemplated would be aesthetically compatible with the existing and planned Living Units in Afton Commons III. The scope of the Architectural Control Committee's review is not intended to include any review or analysis of structural, geophysical, engineering or other similar considerations, nor of any compliance with applicable building codes, rules, laws or ordinances.

Section 2.4 Non-Waiver. Consent by the Architectural Control Committee to any matter proposed to it or within its jurisdiction shall not be deemed to constitute a precedent or waiver impairing its right to withhold approval or to take other action as to any similar matter thereafter proposed or submitted to it for consent or action.

Section 3.0 Affirmative Duty of Maintenance. Each Owner shall be responsible for maintaining, painting or staining, and generally keeping in good order and repair, the exterior of any improvements and pavement areas and fencing on any of the Property owned by such Owner and such Owner shall be responsible for trimming and maintaining the lawns, shrubbery, plantings, trees and other landscaping thereon in a neat and proper condition consistent with good horticultural practices, it being the intention of this provision that the Property and improvements thereon shall be maintained by the Owners thereof to provide for the preservation and enhancement of the property values of said community.

Section 4.0 Uniformity of Exterior Color and Decor. In order to maintain uniformity of exterior color and decor, the color of paint/stain, and types of roofing and siding materials placed by an Owner on any structure or improvement shall be of the same color, (Sherwin Williams TC 4428 or equivalent), decor and materials as used on such structure when it was originally constructed, except as may be approved by the Architectural Control Committee. The Architectural Control Committee may provide owners with a list/samples of pre-approved exterior colors, decor and materials for their consideration. Other colors, decor, and materials must be submitted to the Architectural Committee for approval.

Section 5.0. Land Use and Architectural Control. No Lot shall be used except for residential purposes.

Section 5.1. No Building, fence, wall or other structure shall be commenced, erected, or maintained upon the Property, nor shall any exterior addition or change for alteration therein, be made until the plans and specifications showing the nature, kind, shape, height, materials, colors, and locations of the same shall have been submitted to and approved in writing as to the harmony of external design and location to surrounding structures and topography by the Architectural Control Committee.

Section 6.0. Use Restrictions. The following restrictions shall be applicable to the use of any of the Property subject to this Declaration and each Owner is responsible hereunder with respect to any portion of the Property owned by such Owner:

Section 6.1. No animals or fowls shall be raised, kept or permitted upon the Property or any part thereof, excepting only domestic dogs and cats and excepting caged pet birds kept within the Living Unit, provided said dogs, cats and pet birds are not permitted to run at large and are not kept, bred or raised for commercial purposes or in unreasonable numbers.

Section 6.2. No noxious or offensive activity shall be carried on upon the Property or any part thereof, nor shall anything be done or maintained thereon which may be or become an annoyance or nuisance to the neighborhood or detract from its value as a high-class residential district, including permitting the landscaping on any Lot to become overgrown or permitting any structure on any Lot to become unsightly.

Section 6.3. No inoperable vehicle (including automobiles, motorcycles, trucks, recreational vehicles, etc.) and no operable recreational vehicle (including motor homes, trailers, boats, campers, ATVs etc.) shall be left in the open on a street, or on an Owners lot in excess forty-eight (48) hours. All permanent storage for the items outlined above shall be provided by permanent garage, carport or suitable screened area, approved by the Architectural Control Committee.

Section 6.4. No trash, garbage, ashes, or other refuse, junk vehicles, underbrush or other unsightly growths or objects, shall be thrown, dumped or allowed to accumulate on any portion of the Property.

Section 6.5. No exterior clotheslines are allowed that can be seen from any streets or adjacent lot.

Section 6.6. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporary or permanent.

Section 6.7. No fence or screening structure shall be erected on any Lot without the prior written approval of the Architectural Control Committee. In no event shall side yard fences project beyond the front of any dwelling or accessory building or garage as previously defined. In no event shall any fence exceed six (6) feet in height from the finished Lot grade. Rear and side lot fences referred to herein above may only be erected with written approval of the Architectural Control Committee.

Section 6.8. No front yard will be allowed to remain without landscaping for a period to exceed six (6) months from the date of occupancy.

Section 6.9. No sign shall be displayed to public view on any Lot except for one (1) sign not larger than five (5) square feet advertising the property for sale or rental, or for one (1) political sign.

Section 6.10. Each Owner shall provide draperies or other appropriate window coverings at all windows, which shall be lined with materials sufficiently opaque so as to conceal the color of the interior portion of such window coverings.

Section 6.11. All outside television and radio aerials and antennas are absolutely prohibited; except that, satellite dish receivers not to exceed 24 inch diameter may be installed subject to prior approval of the Architectural Control Committee. No outdoor overhead wire or service drop for the distribution of electric energy or for telecommunication purposes nor any pole, tower or other structure supporting said outdoor overhead wires shall be erected, placed or maintained within the subdivision.

ARTICLE VI

OBLIGATION TO REBUILD

Section 1.0. Damage and Destruction Affecting Residences: Duty to Rebuild. If all or any part portion of any residence is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of said residence to rebuild, repair, or reconstruct said residence, in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty.

Section 2.0. Time Limitation. The Owner or Owners of any damaged residence shall be obliged to proceed with all due diligence hereunder and shall commence reconstruction within six (6) months after the damage occurs and complete reconstruction within nine (9) months after the damage occurs, unless prevented by causes beyond their reasonable control.

ARTICLE VII

EASEMENTS

Section 1.0. Utility Easement. There is an eight (8) foot public utility easement on all Lot lines abutting public streets.

Section 2.0. Public Easement. There is a public easement of 15 feet, shared equally (7.5 feet each) by Lot 53 and Lot 54 along the common side lot line, which is a pedestrian access and storm drain easement. There is another public easement of 15 feet shared equally (7.5 feet each) by lot 45 and Lot 46 along the common side lot line which is a public sanitary and storm drain easement.

ARTICLE VIII

GENERAL PROVISIONS

Section 1.0. Duration. The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable to the Owner of a Lot or Living Unit subject to this Declaration, their respective legal representative, heirs, successors and assigns for a term of twenty (20) years from the date this Declaration is recorded. After such term such covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument fully executed by the then Owners of not less than sixty percent (60%) of the Lots and Living Units has been recorded agreeing to change said covenants and restrictions in whole or in part. Any provision of the covenants and restrictions of this Declaration may be amended except Article IV, Party Walls (see below) by an instrument fully executed by the Owners of not less than sixty percent (60%) of the Lots and

Living Units. The standards and specifications that are established for the Party Wall (Article IV) are irrevocable and shall in no case be amended to reduce the specified fire protection. Any amendment must be properly recorded.

Section 2.0. Lessees and Other Invitees. Lessees, invitees, contractors, family members and other persons entering the Property under the rights derived from an Owner shall comply with all of the provisions of these Declaration of Restrictions restricting or regulating the Owner's use and enjoyment of the Property and shall be liable to an Owner under Section 3 hereof as though an Owner. The Owner shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by such Owner.

Section 3.0. Remedy for Violation of Covenants and Restrictions. An Owner may file a complaint in writing with the Architectural Control Committee should Owner have cause to believe that an Owner has failed to adhere to the requirements of this Declaration. The Architectural Control Committee may likewise file a complaint on its own behalf. Such complaint must be filed within thirty (30) days from the date the complainants knew or should have known of the alleged violation. Such complaint shall be taken up by the Architectural Control Committee within thirty (30) calendar days. If the Architectural Control Committee agrees that a violation has occurred, it will send written notice to the owner requesting that the violation be corrected. The Owner shall have thirty (30) days to correct the violation, or provide information to the Architectural Control Committee as to how and when the violation will be remedied. In the event the Owner fails to respond, or if the response is inadequate, the matter may be referred to final and binding arbitration pursuant to Article IV, Section 10.

Section 4.0. Preexisting Conditions. Effective with this Revision of the Covenants and Restrictions and the formation of an Architectural Control Committee, those Living Units that have additions to the Building, or other exterior structures, or changes in exterior paint and/or trim colors, those changes shall be grand fathered and no Owner may pursue by any legal means to have such items removed or changed. Effective with this 11/1/2000 (date) of the revised Covenants and Restrictions all such actions must be reviewed and approved by the Architectural Control Committee.

IN WITNESS WHEREOF, the Owners of Afton Commons III Subdivision agree to the aforementioned revised Covenants and Restrictions.

<u>Alton T. Hawen</u> Name	<u>16834 SW Cambridge Dr</u> Address	<u>7/14/00</u> Date
<u>Robert Perkins</u> Name	<u>7730 SW Chaucer Ct</u> Address	<u>7/14/00</u> Date
<u>Paula Arhivi</u> Name	<u>7692 SW Chaucer Ct</u> Address	<u>7/19/00</u> Date
<u>Robert Rice</u> Name	<u>7668 S.W. CHAUCER CT</u> Address	<u>7/19/00</u> Date
<u>Jack Leithner</u> Name	<u>7668 S.W. Chaucer Ct</u> Address	<u>7/19/00</u> Date
<u>John D. Jinks</u> Name	<u>7712 SW Chaucer Ct</u> Address	<u>7/20/00</u> Date
<u>John Donnelly</u> Name	<u>7756 SW CHAUCER CT</u> Address	<u>7/21/00</u> Date
<u>Felicia Donnelly</u> Name	<u>7756 SW CHAUCER CT</u> Address	<u>7/21/00</u> Date
<u>John Donnelly</u> Name	<u>7756 SW CHAUCER CT</u> Address	<u>7/21/00</u> Date
<u>John</u> Name	<u>16873 SW Cambridge Dr.</u> Address	<u>7/24/00</u> Date
<u>AD Shaw</u> Name	<u>16845 SW Cambridge</u> Address	<u>7/24/00</u> Date
<u>Ronald L. Moran</u> Name	<u>16778 SW Cambridge Dr</u> Address	<u>7/24/00</u> Date
<u>Lee Marsden</u> Name	<u>7665 SW Chaucer Ct</u> Address	<u>8-1-00</u> Date
<u>Dorothy M. Gray</u> Name	<u>22250 SW Taylor Dr</u> Address	<u>8-1-00</u> Date
	<u>Qualatish Dr.</u> Address	

Virginia R. Deacon
Susan Deacon

7743 SW Chaucer *8-3-00*

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Address

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WITNESS OF SIGNATURES LISTED:

Wilson Sawyer
WILSON SAWYER

Robert Arbini
ROBERT ARBINI

James H. Talbot
JAMES H. TALBOT
Notary Public, Oregon
My Commission Expires December 31, 2005

Linda L. Grill

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