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After Recording Return to:  
Vial Fotheringham, LLP  
7000 SW Varns Street  
Portland, OR 97223

Clackamas County Official Records  
Sherry Hall, County Clerk

2009-049977



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LAWYERS 09-4592 (14)

**SECOND AMENDMENT TO  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS AND  
GENERAL DESCRIPTION OF PLAN OF DEVELOPMENT  
FOR  
BARRINGTON HEIGHTS 9**

This Second Amendment to Declaration of Covenants, Conditions and Restrictions and General Description of Plan of Development for Barrington Heights 9 is made this 7<sup>th</sup> day of July, 2009, by Barrington Heights Association of Homeowners, an Oregon nonprofit corporation ("Association").

**RECITALS**

A. Barrington Heights is a planned community, located in the City of West Linn, Clackamas County, Oregon, comprised of the owners of lots located in the following described subdivision and owners in certain other subdivisions in the general proximity:

**BARRINGTON HEIGHTS 9**, recorded October 24, 1996, as Plat No. 3282, Plat Records of Clackamas County, Oregon ("**Barrington Heights 9**").

B. Association is the association of owners of lots in Barrington Heights, established to govern, maintain and administer the affairs of Barrington Heights, including the administration of declarations of covenants, conditions and restrictions as provided in the documents set forth in Recitals C and D below. The Association is incorporated as a nonprofit corporation under the Oregon Nonprofit Corporation Act, ORS Chapter 65.

C. By Declaration of Annexation of Protective Covenants, Conditions and Restrictions for Barrington Heights 9, recorded November 4, 1996, as Document No. 96-081733, Records of Clackamas County, Oregon, Barrington Heights 9 was subjected to the following:

Declaration of Covenants, Conditions and Restrictions and General Description of Plan of Development for Barrington Heights VIII (the "**Declaration**"), recorded July 12, 1993, as Document No. 93-48615, Records of Clackamas County, Oregon.

D. By First Amendment to the Declaration of Covenants, Conditions and Restrictions and General Description of Plan of Development for Barrington Heights IX (the "**First Amendment to Declaration**"), recorded June 4, 2002, as Document 2002-052655, Records of Clackamas County, Oregon, certain provisions of the Declaration were amended and new provisions were added (relating solely to and affecting only Barrington Heights 9 and not Barrington Heights VIII) and Barrington Heights 9 was subjected to the jurisdiction of the Association as provided under the amendment.

E. The Association is governed by Bylaws of Barrington Heights Association of Homeowners, recorded October 19, 1989, as Document No. 89-46792, Records of Clackamas County, Oregon, the Oregon Planned Community Act, ORS 94.550 to 94.783, to the extent provided under ORS 94.572, and the Oregon Nonprofit Corporation Act.

F. The Association and owners in Barrington Heights 9 wish to amend certain provisions of the Declaration and the First Amendment to Declaration.

**NOW, THEREFORE**, pursuant to the Declaration, as amended by Section 3 of the First Amendment to Declaration, and ORS 94.590, with the approval of owners in Barrington Heights 9 representing at least seventy-five percent (75%) of the votes, Association hereby amends the Declaration (relating solely to and affecting only Phase 9 and not Barrington Heights VIII) and the First Amendment to Declaration in the manner set forth below.

**I. AMENDMENTS TO THE DECLARATION (AFFECTING ONLY PHASE 9).**

**1.1 Amendments to Existing Sections.** The following existing sections of the Declaration, as solely relating to and affecting only Phase 9, not Barrington Heights VIII, are amended to read:

**LAND USE AND BUILDING TYPE**

(a) No residence may be constructed or maintained on any lot or building site other than one single family dwelling, not to exceed two stories in height, together with an attached garage for not less than two cars.

(b) No residence may have a total floor space of less than 2000 sq. ft., exclusive of garages, if the residence consists of one story. Residences having two stories or daylight basements shall have not less than 2200 sq. ft. total square footage. Split level residences, (i.e., tri-level) shall be considered a one story dwelling within the meaning of this covenant.

(c) Each residence shall have a minimum of two off-street parking spaces.

(d) Each lot shall have a 20' front yard set back and a 5' side yard set back.

#### **ROOF, SIDING AND WINDOW TYPE**

(a) All residences must have a wood shake roof or a roof comprised of other material (including tile or composite) authorized by Design Guidelines adopted by the Architectural Review Committee.

(b) All residences must be double constructed (beveled) with wood cedar siding, siding comprised of other material authorized by Design Guidelines adopted by the Architectural Review Committee, or brick or stone authorized by Design Guidelines adopted by the Architectural Review Committee. High-quality synthetic brick or stone may also be used if approved by the Architectural Review Committee or the Board. No T-1-11 siding is allowed.

(c) Wood windows or equivalent vinyl-clad or comparable quality windows authorized by Design Guidelines adopted by the Architectural Review Committee are required on all windows visible from the street.

(d) Skylights forward of roof ridge line must be approved by the Architectural Review Committee.

**1.2 New Section. The following new section, as solely relating to and affecting Phase 9 and not Barrington Heights VIII, is added to the Declaration:**

#### **LANDSCAPE**

(a) Each lot shall have at least two (2) street trees (2"-3" caliper or larger) planted between the curb and the sidewalk at no greater than 50' intervals. The trees shall be of the same species, as approved by the Architectural Review Committee.

(b) In addition to the street trees, grass or evergreen vegetation that provides solid/contiguous ground cover, such as ivy, approved by the Architectural Review Committee, must be planted and maintained between the curb and the sidewalk. No other planting, ground cover, or landscaping shall be allowed in this space.

II. **AMENDMENTS TO THE FIRST AMENDMENT TO DECLARATION.** The following provisions are added to Section 2 (Architectural Committee) of the First Amendment to Declaration:

**Appeal.**

(a) Any owner adversely impacted by action of the Architectural Review Committee may appeal the action to the Board of Directors.

(b) Appeals must be made in writing within ten (10) days of the Architectural Review Committee's action and must contain specific objections or mitigating circumstances justifying the appeal. A final, conclusive decision must be made by the Board of Directors within thirty (30) calendar days after receipt of the appeal. The determination of the Board is final.

**Nonwaiver, Precedent and Estoppel.** Approval or disapproval by the Architectural Review Committee of any matter proposed to it or within its jurisdiction may not be deemed to constitute precedent, waiver or estoppel impairing its right to withhold approval or grant approval as to any similar matter thereafter proposed or submitted to it.


**BARRINGTON HEIGHTS  
ASSOCIATION OF HOMEOWNERS,  
an Oregon nonprofit corporation**

By: Margaret E. Juarez  
Margaret E. Juarez, President

By: Johann Olivier  
Johann Olivier, Secretary

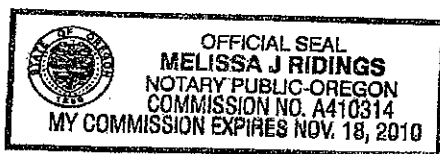
## CERTIFICATION

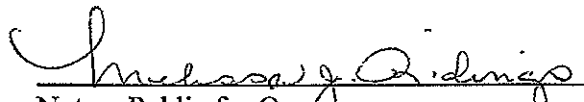
The undersigned President and Secretary of Barrington Heights Association of Homeowners, an Oregon nonprofit corporation, hereby certify that the within Second Amendment to Declaration of Covenants, Conditions and Restrictions and General Description of Plan of Development for Barrington Heights 9, relating solely to and affecting only Phase 9 and not Barrington Heights VIII, has been approved by owners as provided in the Declaration, as amended by the First Amendment to Declaration, and ORS 94.590.


  
Margaret E. Juarez, President  
Barrington Heights Association of Home-  
owners, an Oregon nonprofit corporation

STATE OF OREGON           )  
  ) ss.  
County of Washington )

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of July, 2009, by Margaret E. Juarez, President of Barrington Heights Association of Homeowners, an Oregon nonprofit corporation, on its behalf.

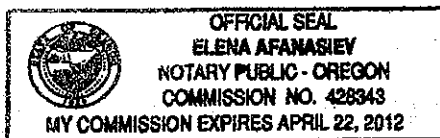


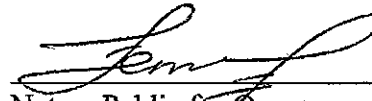
  
Notary Public for Oregon  
My Commission Expires: 11/18/10

  
Johann Olivier, Secretary  
Barrington Heights Association of Home-  
owners, an Oregon nonprofit corporation

STATE OF OREGON           )  
  ) ss.  
County of Clackamas )

The foregoing instrument was acknowledged before me this 7 day of July, 2009, by Johann Olivier, Secretary of Barrington Heights Association of Homeowners, an Oregon nonprofit corporation, on its behalf.



  
Notary Public for Oregon  
My Commission Expires: April 22, 2012