



Return Name and Address:

Orchard Hills #1 Homeowners Association
P. O. Box 323
Richland WA 99352

Document Title: Restated Covenants, Conditions and Restrictions for Orchard Hills #1 Homeowners' Association
Grantor: Orchard Hills #1 Homeowners' Association
Grantee: Public
Legal Description: Lots 1-10, Block 1; Lots 1-17, Block 2; Lots 1-10, Block 3; Lots 1-18, Block 4; Lots 1-13, Block 5; and Tract A, Block 6, Plat of Orchard Hills No. 1, as recorded December 12, 1974, Volume 9 of Plats, page 14, Auditor's No. 673718, records of Benton County, Washington.
Reference Number: Not Applicable
Assessor's Property Tax Parcel/Account Numbers: 1-3598-104-0001-001 Thru -010 1-3598-104-0002-001 Thru -017 1-3598-104-0003-001 Thru -010 1-3598-104-0004-001 Thru -018 1-3598-104-0005-001 Thru -013 1-3598-104-0006-000
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**RESTATED
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
ORCHARD HILLS #1 HOMEOWNER'S ASSOCIATION**

The purpose of these Restated Covenants, Conditions and Restrictions for Orchard Hills #1 is to amend, restate and combine all declarations applicable to the real property hereafter described. Accordingly, these restated declarations are intended to supersede those Covenants, Conditions and Restriction of Orchard Hills #1 recorded under Benton County Auditor's File No. 675758. The undersigned certify that as of 01/07/2000 these amended and restated declarations were duly approved by at least seventy five percent (75%) of the Lot Owners of record as of that date.

**ARTICLE I
DEFINITIONS**

Section 1.1 Association. The term "Association" shall mean Orchard Hills #1 Homeowners Association, a Washington nonprofit corporation, and/or its successors and assigns.

Section 1.2 Common Area. The term "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the members of the Association, as hereinafter described.

Section 1.3 Lot. The term "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the Common Area.

Section 1.4 Member. The term "Member" shall mean and refer to every person or entity who holds membership in the Association.



Section 1.5 Member in Good Standing. The term "Member in Good Standing" shall mean and refer to every person or entity who is current in the payment of any and all assessments within 90 days of date the assessments become due.

Section 1.6 Owner. The term "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the property, including contract sellers, but excluding those having such interests merely as security for the performance of an obligation.

Section 1.7 Properties. The term "Properties" shall refer to the certain real property herein after described.

ARTICLE II
PROPERTY AFFECTED BY THESE COVENANTS

The real property which is and shall be, held, transferred, sold, conveyed, and occupied subject to this declaration is legally described as follows:

Lots 1 - 10, Block 1; Lots 1 - 17, Block 2; Lots 1 - 10, Block 3; Lots 1 - 18, Block 4; and Lots 1 - 13 Block 5, Plat of Orchard Hills No. 1, as recorded December 12, 1974, Volume 9 of Plats, page 14, Auditor's No. 673718, records of Benton County, Washington.

Also known as Orchard Hills #1.

ARTICLE III
MEMBERSHIP IN THE ASSOCIATION

Section 3.1 Purpose of Homeowners' Association. Orchard Hills #1 Homeowners' Association is, and has been created for the purpose of fixing and collecting assessments as hereafter established, regulating the use of and improving and maintaining the common area, administering matters related to exterior appearance, and otherwise administering and enforcing these covenants for the benefit of the membership as a whole.

Section 3.2 Membership. All persons owning or acquiring a lot in Orchard Hills #1 shall automatically become members in Orchard Hills #1 Homeowners' Association, a Washington nonprofit corporation. Such ownership shall be the sole qualification for membership. Membership is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be

appurtenant to and may not be separated from ownership of a Lot in Orchard Hills #1. Upon transfer of a fee interest to, or upon execution and delivery of a real estate contract for the sale of any lot, the membership in the Association shall be deemed transferred to the grantee, contract purchasers or new contract purchaser, as the case may be. When more than one person holds an interest in any lot, all such persons shall be members.

Section 3.3 Management. The Association shall be managed by a Board of Directors acting in accordance with the corporation's Articles and Bylaws, a true and accurate copy of which will be maintained in the office of the Association's registered agent.

Section 3.4 Voting. Each Member in Good Standing shall be entitled to one vote on all matters coming before the Association. The vote for any Lot owned by more than one person shall be exercised as they which among themselves shall determine, but in no event shall more than one vote be cast with respect to any Lot.

Section 3.5 Liability. Neither the Association, the Board of Directors nor any member thereof shall be liable to any owner, occupant, builder or other party for any damages, loss or prejudice suffered or claim on account of any action or failure to act of the Association or a member thereof, provided only that the member has, in accordance with the actual knowledge possessed by him, acted in good faith. The Association shall obtain liability insurance coverage appropriate to the function set forth herein.

ARTICLE IV **COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 4.1 Creation of Lien and Personal Obligation for Assessments. Each owner or contract purchaser of any Lot within Orchard Hills #1, by acceptance of a deed or real estate contract herein, whether or not it shall be so expressed in such deed or other conveyance, is deemed to covenant and agrees to pay to the Association monthly assessments and special assessments for the purposes hereafter set forth.

All assessments, together with interest and collection costs (including reasonable attorney fees) shall be a continuing lien upon the property against which such assessment is made. The date of the priority of said continuing lien shall be as of the date of the assessment. Each assessment together with such interest and costs of collection thereof (including reasonable attorney fees) shall also be the personal obligation of the person who was the owner or contract purchaser of such property at the time when the assessment fell due. The personal obligation shall not pass to a successor in title unless expressly assumed by them; provided however, that in the case of a sale or a contract for the sale of any lot

which is charged with the payment of an assessment or assessments payable in installments, the person or entity who is the owner or contract purchaser immediately prior to the date of any such sale, contract or assignment of contract, shall be personally liable only for the amount of the installments prior to said date. The new owner or contract purchaser shall be personally liable for installments which become due on or after said date.

Section 4.2 Purpose of Assessment. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the properties, including, without limitation, the construction, establishment, improvements, repair, and maintenance of the common properties and services and facilities related to the use and enjoyment of the common properties.

Section 4.3 Amount of Monthly Assessments. The amount of the monthly assessments shall be as follows: Each owner or contract purchaser shall pay the amount of \$12.00 per month per lot. The sum shall be payable to the Association. The monthly assessments may, from time to time, be increased or decreased by the Board of Directors as necessary to fulfill the purposes set forth at Section 4.2 above, provided, the monthly assessment may not be increased by more than twenty percent (20%) in any calendar year without an affirmative vote of at least two thirds (2/3) of the Members in Good Standing.

Section 4.4 Special Assessments for Capital Improvements In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purposes of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common areas, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds of the votes of members in good standing who are voting in person or by proxy at a meeting duly called for this purpose.

Section 4.5 Date of Commencement of Monthly Assessments - Due Dates. The liability for the monthly assessments provided for in paragraph 4.3 shall begin on the first day of the calendar month following ownership of the premises. Said assessment shall be due and payable on such date and on the first day of each calendar month thereafter. The due date of any special assessment under paragraph 4.4 of this Article shall be fixed by the resolution authorizing such assessments.

Section 4.6 Effect of Nonpayment of Assessments- Remedies. If any assessment is not paid within thirty (30) days after it was first due and payable, the assessment shall bear

interest from the date on which it was due at the rate of eight percent (8%) per annum and the Association may bring an action at law against the one personally obligated to pay the same and/or foreclose the lien against the property. Interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment and all such sums shall be included in any judgment or decree entered in such suit. No owner or contract purchaser shall be relieved of liability for the assessments provided for herein by non-use of the common properties or abandonment of his lot.

Section 4.7 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust issued by an institutional lender and to any lien of a second mortgage given to secure payment of the purchase price. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to foreclosure proceedings, either judicial or nonjudicial, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No such sale or transfer shall relieve such lot from liability for any assessment thereafter becoming due.

Section 4.8 Exempt Property. The following property shall be exempt from the assessments created herein:

- (a) All common properties;
- (b) All properties dedicated to and accepted by a local public authority.

Section 4.9 Rate of Assessment Assessments must be fixed at a uniform rate for all Lots.

ARTICLE V

PROPERTY RIGHTS IN THE COMMON AREAS

Section 5.1 Member's Easements of Enjoyment Every member shall have a right and easement of enjoyment in and to the Common Areas and such easement shall be appurtenant to and shall pass with this title to, or contract purchaser's interest in, every assessed lot, subject to the following provisions:

- (a) The right of the Association to limit the number of guests of members;
- (b) The right of the Association to charge its members reasonable admission and other fees for the use of any recreational facility situated upon the common

property;

- (c) The right of the Association to take such steps as are reasonably necessary to protect any such mortgaged property against foreclosures, including, but not limited to, the right to charge admission by the members and, if necessary, to open the enjoyment of such properties to the public, to the extent allowed by the ordinances of the City of Richland; and,
- (d) The right of the Association to suspend the voting rights and rights to use of the recreational facilities by a member for any period during which any assessment against his lot remains unpaid and for a period not to exceed thirty days for any infraction of the Association's published rules and regulations;
- (e) The right of the Association, to dedicate or transfer all or any part of the Common Areas to any governmental unit or public agency or authority or public utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds of the members in good standing has been recorded agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than thirty (30) days nor more than sixty (60) days in advance.

Section 5.2 Delegation of Use Any member may delegate, in accordance with the By-Laws, his right of enjoyment to the common properties and facilities to the members of his family, or his tenants, who reside on the property, and, subject to regulation by the Association, to his temporary guests.

Section 5.3 Common Areas The Common Areas referred to herein are more particularly described as follows:

Tract A, Orchard Hills #1, according to plat thereof recorded in Volume 9 of Plats, page 14, records of Benton County, Washington, under Auditor's File No. 673718.

ARTICLE VI
ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained

upon the properties, nor shall any exterior addition to, change or alteration therein be made that is not in harmony relative to surrounding structures and topography. Any issues concerning such harmony shall be resolved by the Board of Directors, in accordance with good taste and the following restrictions:

Height: No family dwelling as viewed from the street shall exceed a height of 2 ½ stories.

Fences: All fences shall be in conformance with City of Richland ordinances pertaining hereto.

Signs: No signs shall be erected or maintained on any residential lot in the tract except that not more than one approved "FOR SALE" or "FOR RENT" sign placed by the owner or by a licensed real estate broker may be displayed on any lot.

Zoning Requirements: All family dwellings and additions to or remodeling of family residences must conform to the City of Richland zoning requirements.

ARTICLE VII

USE RESTRICTIONS

Section 7.1 Enjoyment of Property. Owners shall use their respective properties to their enjoyment in such a manner so as not to offend or detract from other owner's enjoyment of their own respective properties.

Section 7.2 In Derogation of Law. No owner shall carry on any activity of any nature whatsoever on his property that is in derogation or in violation of the laws and statutes of the State of Washington.

Section 7.3 Pets. Owners shall observe and obey the laws applicable to the residents of the City of Richland pertaining to care, control and husbandry of animals and pets.

Section 7.4 Home Business Activities. Owners shall use their respective properties for residential uses, with the exception that home business occupations are permitted provided they are incidental and secondary to residential purposes. The home business activity shall comply with all City of Richland home occupation business license regulations limiting the extent of business activities permitted to occur in residentially zoned areas.

Section 7.5 Temporary Structures. No structure of a temporary character, such as a trailer, motor home, camper, or a shack or other outbuildings shall be used on any lot at any time as a residence.

Section 7.6 Nuisances. No noxious or offensive activities shall be carried on upon any properties, nor shall anything be done thereon which may become a nuisance as such as defined in the laws of the State of Washington or the ordinances of the City of Richland, Washington..

Section 7.7 Animals, Livestock and Poultry. No animals or livestock or poultry of any kind shall be raised, bred or kept on any lot except according to the provisions of Section 8.3 above.

Section 7.8 Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish or trash and all trash, garbage or other waste shall be kept only in sanitary containers.

Section 7.9 Storage or Accumulation of Certain Materials Prohibited. No machinery or scrap equipment, implements, scrap automobiles or conspicuous parts of such equipment may be stored or accumulated on the property.

Section 7.10 Property in Street. House trailers, campers, trailers, boats and unmounted campers will not be allowed to sit on the streets. In addition, junk and inoperative automobiles will not be allowed on the streets.

Section 7.11 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot.

Section 7.12 Water Supply. No individual water supply system shall be permitted on any lot.

Section 7.13 Distance Between Buildings. In all cases there shall be a distance of ten feet between buildings, and a given distance of ten feet from all existing public roads occupied by vehicular traffic. In all cases, the setback requirements for a front yard, rear yard and side yard shall not be in derogation of the City of Richland standards, and practices for developments of this type, except as designated in City of Richland Ordinance 23.21 (R-1M, Use District).

ARTICLE VIII
EASEMENTS

Section 8.1 Utilities. All property, both private and the common areas, shall be subject to an easement for public utilities of all types.

Section 8.2 Association Easement for Exterior Maintenance. In the event the owners of any lot shall fail to maintain the premises and improvements situated thereon in a manner satisfactory to the Association, the Association shall have the right, through its agents and employees, to enter upon said lot and repair, maintain, restore the lot and the exterior of the buildings and other improvements thereon. The cost of said exterior maintenance shall be added to and become part of the assessment to which such lot is subject.

Section 8.3 Individual Easements for Maintenance. The right of any owner to an easement over another owner's property for the purposes of maintenance of one's own property shall be appurtenant to the land and shall pass to such holder's successors in title.

ARTICLE IX GENERAL PROVISIONS

Section 9.1 Enforcement. The Association, or any owner, shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens and charges not or hereafter imposed by the provisions of these covenants. In such action the prevailing party shall be entitled to recover reasonable attorney fees and costs.

Section 9.2 Waiver. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 9.3 Severability. Invalidation of any one of these or restrictions by judgment or court order, shall in no way affect any other provisions which shall remain in full force and effect.

Section 9.4 Amendment. The covenants and restrictions of this declaration shall run with, and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the owner of any lot or unit subject to this declaration, their respective legal representative, heirs, successors, and assigns. The conditions, covenants and restrictions of this declaration may be amended by an instrument signed by not less than seventy-five (75) percent of the lot owners therein. Failure of an absentee owner to respond within sixty (60) days to a written request for a signature of consent, receipt of said request having been verified, shall be recorded as an authorizing signature approving the proposed amendments. All amendments shall be binding upon recording with the Benton County Auditor.

ORCHARD HILLS #1 HOMEOWNER'S ASSOCIATION
A Washington Nonprofit Corporation

Dated this 7th day of JANUARY, 2000.

By: [Signature]
President

STATE OF WASHINGTON)
)ss.
COUNTY OF BENTON)

On this 7th day of January, 2000, personally appeared before me
Ralph A. Hains to me known to be the President of Orchard Hills Homeowner's
Association, the individual that executed the within and foregoing instrument, and
acknowledged the said instrument to be the free and voluntary act and deed of said Orchard
Hills #1 for the uses and purposes therein mentioned.

IN WITNESS WHEREOF have hereunto set my hand and affixed my official seal the day
and year first sworn above written.

STATE OF WASHINGTON
HOLLY K. HOVLAND
NOTARY PUBLIC
COMMISSION EXPIRES
APRIL 29, 2002

[Signature]
Notary Public in and for the State of
Washington, residing at: Pasco
My commission expires: 4-29-2002