

94027276

ADA CO. RECORDER  
J. DAVID TAYLOR  
BOISE ID

SUPPLEMENTAL DECLARATION  
OF STEWART TITLE  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
BANBURY NO. 7 SUBDIVISION

2011 MAR 25 PM 10 43  
FEE 24.00  
RECORDED AT REQUEST OF

THIS SUPPLEMENTAL DECLARATION is made on the date hereinafter set forth  
by Hoff Companies, Inc., an Idaho corporation, hereinafter referred to as "Declarant";

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property situate in the City of  
Eagle, County of Ada, State of Idaho, which is particularly described as:

BanBury No. 7 Subdivision, according to the official plat thereof on file in  
the office of the County Recorder of Ada County, State of Idaho, in  
Book 64 of Plats at pages 6558 and 6559.

(which real property is hereinafter referred to as the "Property"); and

WHEREAS, Declarant has heretofore recorded a Declaration of Covenants,  
Conditions and Restrictions for BanBury No. 1 Subdivision, recorded as Instrument  
No. 8729275, records of Ada County, Idaho, on May 18, 1987, hereinafter the  
"Declaration," which Declaration was amended by instrument duly executed, and  
recorded April 18, 1989 as Instrument No. 8917170, records of Ada County, Idaho; and

WHEREAS, BanBury No. 7 Subdivision is being developed according to a master  
plan of development and is thereby related to BanBury No. 1 Subdivision, BanBury  
No. 2 Subdivision, BanBury No. 3 Subdivision, BanBury No. 4 Subdivision, BanBury

No. 5 Subdivision, and BanBury No. 6 Subdivision, and Declarant desires that the Property be subject to the same covenants, conditions and restrictions set forth in the Declaration (as the Declaration may be, from time to time, amended), and that owners of Lots or parcels within the boundaries of the Property be members of the BanBury Homeowners' Association, Inc.;

NOW, THEREFORE, Declarant hereby declares:

#### ARTICLE I

The Property shall be held, sold and conveyed subject to the easements, restrictions, covenants and conditions set forth in the Declaration, as amended, incorporated herein by this reference as if set forth in full, which easements, restrictions, covenants and conditions are for the purpose of protecting the value and desirability of, and which shall run with and bind, the Property and each and every part, parcel and Lot thereof, and be binding on all parties having any right, title or interest in the Property or any part, parcel or Lot thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

#### ARTICLE II

Pursuant to Article XI of the Declaration, the Declaration is hereby amended to include the Property, and the Property is hereby made subject to and the beneficiary of the rights, privileges, restrictions and covenants set forth in the Declaration.

#### ARTICLE III

Except for terms expressly defined herein, all capitalized terms shall have the same meaning as defined in the Declaration.

#### ARTICLE IV

Lots 51 and 54, Block 1 of BanBury No. 7 Subdivision shall be and are Common Area.

#### ARTICLE V

The Property shall be subject to the following additional or modified covenants, conditions and restrictions:

Section 1. Common Facilities. "Common Facilities" shall mean and refer to those physical improvements constructed by Declarant or the Association upon the Common Area or upon the utility easements over each Lot, including the Equestrian Trail, Pedestrian Trail, sidewalks, curbs and gutters, street lights (but excluding the entryway light required to be placed near the driveway entry to each Lot by the Owner of each Lot), the domestic water system and the irrigation water system, and shall include the storm water detention pond located north of Lot 52, Block 1, BanBury No. 7 Subdivision, upon a perpetual drainage easement area, such easement created by a Grant of Easement executed by Declarant in favor of the Association.

This provision shall supersede and replace Section 5 of Article I of the Declaration, as it affects the Property.

Section 2. Lot. "Lot" shall also mean and refer to all Lots within and shown upon the official recorded plat of BanBury No. 7 Subdivision, except the Common Area, and except for streets dedicated to the public, as shown upon the recorded plat.

Section 3. Building Restrictions. Each Lot (except for Common Area Lots) shall be restricted to one single-family dwelling, and usual and appropriate out-buildings. No dwelling structure shall be erected upon any Lot which shall exceed thirty-two (32) feet in height above the natural surface elevation of the ground on which the structure is constructed, and no barn, animal shelter or similar out-buildings shall exceed sixteen (16) feet in height above the natural surface elevation of the ground on which the structure is constructed. Each structure constructed on any Lot shall be placed upon the Lot in such a manner as to minimize obstruction of the view of the Boise Front from other lots. All buildings shall be of frame, stone or brick construction and, if other than brick or stone, shall be finished, painted and kept in good repair. The size,

configuration, style and finish of each proposed building or structure on each Lot shall be subject to architectural and aesthetic control pursuant to Section 17 of Article V of the Declaration and pursuant to Article VIII of the Declaration. Said Property shall be used in such manner as to be inoffensive to any other property Owners in the Project.

This provision shall supersede and replace Section 1 of Article V of the Declaration, as it affects the Property.

Section 4. Building Location. Unless otherwise specifically approved in writing by the ~~Architectural~~ Control Committee, no dwelling structure or garage or any part thereof, or any other structure (exclusive of fences and similar structures) shall be placed nearer than forty (40) feet to the front or to the rear Lot line of the Lot on which it is located, or nearer than twenty (20) feet to any side Lot line of the Lot on which it is located. No structure used or to be used for sheltering animals shall be placed nearer than sixty (60) feet to any Lot line, provided that a dog kennel and/or dog shelter may be located within said sixty foot set back, but in no event nearer than twenty (20) feet to any side Lot line or forty (40) feet to the front or rear Lot line. For the purposes of this section, eaves, steps, chimneys and gutters shall not be considered as a part of the building; provided, however, that this shall not be construed to permit any eaves, steps, chimneys or gutters or any portion of the building on any Lot to encroach upon any other Lot. Open porches shall not be considered as a part of the building, but any open porch which would extend beyond the building lines as herein established shall, prior to construction, require the approval of the Architectural Control Committee.

This provision shall supersede and replace the provisions of Section 3, Article V of the Declaration, as it affects the Property.

Section 5. Fences; Hedges. No fence, wall, hedge or shrub planting with an elevation of more than three feet (3') above the adjacent ground shall be permitted to be placed or maintained between the front plane of the dwelling structure and the street without special written consent of the Architectural Control Committee.

This provision shall supersede and replace the provisions of Section 12, Article V of the Declaration, as it affects the Property.

Section 6. Noxious Use of Property. No portion of the Common Area, or any Lot or any structure thereon shall be used for the conduct of any trade or business or professional activities. The prohibition of use of any Lot or any structure thereon for the conduct of any trade or business or professional

activities includes and prohibits use of any Lot or any structure thereon for a "half-way house," treatment center, shelter home, school, day-care center or other similar use, including use for the care or the residence of unrelated physically or mentally handicapped persons (notwithstanding the provisions of Section 67-6530 and 67-6531, Idaho Code). The occupancy of a dwelling structure on a Lot shall be limited to one or more persons related by blood, adoption or marriage, living together as a single housekeeping unit, or not more than two persons, though not related by blood, adoption or marriage, living together as a single housekeeping unit, except that one (1) live-in housekeeper may be included in a single housekeeping unit. Noxious or undesirable acts or undesirable use of any portion of ~~the~~ Property including (but not limited to) acts or uses causing loud noise which interferes with the peaceable enjoyment of neighboring properties is prohibited and shall not be permitted or maintained; provided, however, that an office or model home for the purpose of the development, construction and sale of the Lots and homes in the Project may be maintained by Declarant.

This provision shall supersede and replace the provisions of Section 13, Article V of the Declaration, as it affects the Property.

Section 7. Landscaping. Prior to the beginning of construction of the dwelling structure upon any Lot, the Owner or his agent shall submit a landscaping plan to the Architectural Control Committee for approval. Each Lot shall be improved, weather permitting, within thirty (30) days of occupancy of the dwelling structure with the landscaping specified in the plan approved by the Architectural Control Committee.

The landscaping plan shall provide for the planting of street trees at fifty foot (50') intervals along the street. The trees shall be selected from a list of approved street trees provided by Declarant and shall be at least two and one-half (2½) inches caliper at the time of planting.

This provision shall supersede and replace Section 18 of Article V of the Declaration, as it affects the Property.

Section 8. Pasture Areas. Areas used for pasturing of animals shall be maintained in good condition and free of weeds, uncontrolled vegetation growth and refuse. Pasture areas shall be maintained in a clean and odor-free condition. Pasture areas shall not extend beyond the front plane of the dwelling structure on any Lot.

Section 9. Maximum Annual Assessment. The current maximum annual assessment is Five Hundred Forty Dollars (\$540.00) per Lot. The annual

assessment may be made payable (by action of the Board of Directors of the Association) on a monthly basis, one-twelfth per month, or on a quarterly basis, one-fourth per quarter, in advance. Increases in the amount of the annual assessment shall be limited as follows:

- (a) The maximum annual assessment may be increased annually by action of the Board of Directors of the Association without a vote of the membership, by an amount of not more than fifteen percent (15%) above the prior year's assessment.
- (b) ~~The~~ maximum annual assessment may be increased more than fifteen percent (15%) above the prior year's assessment only by an affirmative vote of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

This provision shall supersede and replace Section 3 of Article VII of the Declaration, as it affects the Property.

Section 10. Architectural Review Fee. Upon submission of plans and specifications to the Architectural Control Committee for review, the submitting Owner shall pay an Architectural review fee of Five Hundred Dollars (\$500). No submission for approval shall be considered complete until such fee has been paid. Four Hundred Dollars (\$400) of said fee shall be refunded to the submitting Owner upon satisfactory completion of improvements to the Owner's Lot (including landscaping) as specified by the approved plans and specifications. Satisfactory completion of improvements shall include and require repair of any damage to Common Area or Common Facilities occurring in the course of construction on the Owner's Lot. The Architectural review fee may be utilized by the Architectural Control Committee to obtain and pay for the costs of such repairs if the Owner fails to promptly obtain such repairs. Notwithstanding the deposit of the Architectural review fee, each Owner shall be liable for all costs of repair to damaged Common Area or Common Facilities occurring in the course of construction on the Owner's Lot.

This provision shall supersede and replace Section 4 of Article VIII of the Declaration, as it affects the Property.

Section 11. Limitations on Use of Domestic Water System. No Owner, nor any person claiming right under any Owner, shall use water from the Domestic Water System to water a lawn, pasture, landscaped area or other similar areas (provided that each Owner may use water from the Domestic Water System to water an area not to exceed a total of sixteen thousand (16,000)

square feet), nor shall water from the Domestic Water System be used to supply an exterior decorative pond, or heat exchange system or any other similar use or system, except for a swimming pool, without the prior written approval of each such use by the Architectural Control Committee. No Owner, nor any other person claiming right under any Owner, shall cause or allow to be caused any connection between the Domestic Water System and the Irrigation System.

This provision shall supersede and replace Section 2 of Article X of the Declaration, as it affects the Property.

Section 12. Locust Grove Road Fence. An easement shall be and is hereby reserved for the benefit of the Association for the placement and maintenance of a fence along the westerly five (5) feet of each Lot in BanBury No. 7 Subdivision lying adjacent to Locust Grove Road. Said fence shall be maintained by the Association as a Common Facility.

Section 13. Septic Tanks. All septic tanks in this Subdivision shall be placed between the street and the front of the house on each Lot. No septic tank or drain field shall be installed within seventy-five feet (75') of the edge of the bench on Lots 45, 46, 47, 48, 49, 50 and 52, Block 1, BanBury No. 7 Subdivision.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereto set its hand and seal this 23<sup>rd</sup> day of March, 1994.



HOFF COMPANIES, INC., an Idaho corporation

By *Lawrence B. Hoff*  
President

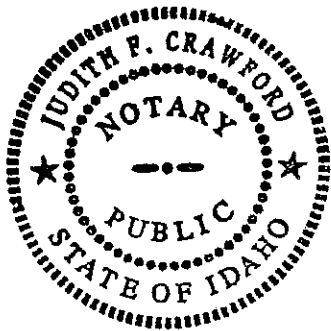
ATTEST:

*M. D. Amstrong*  
ss. Secretary

STATE OF IDAHO                    )  
  ) ss.  
County of Ada                    )

On this 23<sup>rd</sup> day of March, 1994, before me, JUDITH F. CRAWFORD a Notary Public in and for said State, personally appeared Harvey B. Hoff and M. D. Armstrong, Jr., known or identified to me to be the President and V.P. - CFO, respectively, of HOFF COMPANIES, INC., the corporation that executed the within instrument or the persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Judith F. Crawford  
Notary Public for Idaho  
Residing at Boise, Idaho  
My commission expires 12/9, 1998