

AFTER RECORDING RETURN TO:

KB Home
320 120th Ave, NE, Suite 202
Bellevue, WA 98005
Attn: Jamie Aubrey

NOTE: Before recording, confirm the information at Exhibit A. If plat has been recorded, insert the recording number in the blank on the first page. When document is final, remove this note and DRAFT watermark before recording and uploading.

Document Title: Declaration of Covenants, Conditions, and Restrictions for West Magnolia, a “Plat Community” under the Washington Uniform Common Interest Ownership Act, Chapter 64.90 of the Revised Code of Washington

Grantor: KBHPNW LLC

Grantee: KBHPNW LLC

Abbreviated Legal Description: Ptn Tract 162, Sunnyside Five Acre Tracts, Snohomish County, WA, fully described at Exhibit A

Assessor’s Property Tax Parcel or Account Nos.: 005907-000-162-01 and 005907-000-162-02

PLAT RECORDING NUMBER (Snohomish County)

This Declaration may be recorded before the Plat, in which case the recording number for the Plat will not be available.

Table of Contents

1.	Purpose and Effect	1
1.1	Basic Declaration	1
1.2	WUCIOA; Plat.....	1
1.3	Running Covenant.....	1
1.4	Information on Exhibit A.....	1
2.	Definitions	1
3.	Use Restrictions.	3
3.1	Authority of Board	3
3.2	Effect of Use Restrictions; Remedies	3
3.3	Requirements and Limits	3
3.3.1	Allocations of Burdens and Benefits.....	3
3.3.2	Applicable Law	3
3.3.3	Household Composition	4
3.3.4	Household Occupations	4
3.3.5	Religious and Political Displays	4
3.3.6	Rights of Declarant.....	4
3.3.7	Similar Treatment	4
3.4	Initial Use Restrictions	4
3.4.1	Advertising and Signs.....	4
3.4.2	Animals	5
3.4.3	Antennas, Etc.....	5
3.4.4	Drainage.....	5
3.4.5	Fencing.....	5
3.4.6	Hazardous Activities, Materials, or Chemicals.....	5
3.4.7	Landscaping	6
3.4.8	Lot Contours	6
3.4.9	Mining or Drilling	6
3.4.10	No Annoying Lights, Sounds or Odors	6
3.4.11	Nuisances.....	6
3.4.12	One Dwelling.....	7
3.4.13	Prohibited Dumping.....	7
3.4.14	Residential Use	7
3.4.15	Temporary Structures; Construction Work; Unsightly Conditions	7
3.4.16	Timeshares.....	7
3.4.17	Trash, Etc.....	7
3.4.18	Underground Utilities	8
3.4.19	Use of Water	8
3.4.20	Vehicles.....	8
3.4.21	Wood Storage	9
4.	Architecture, Landscaping, and Design Review	9

4.1	General	9
4.2	Interest of Declarant; Rights of Declarant	9
4.3	Property Improvement Committee	9
4.4	Reviewer; Fees; Assistance by Others	10
4.5	Residential Design Guidelines.....	10
4.6	Review Procedures	10
4.7	Variances.....	11
4.8	No Waiver of Future Approval.....	11
4.9	Limitation of Liability	11
4.10	Certificate of Approval.....	12
4.11	Enforcement; Fines	12
5.	Lot Owner Maintenance and Repair	12
5.1	Maintenance Responsibility.....	12
5.1.1	Completion of Landscaping	12
5.1.2	Fencing, Etc.....	12
5.1.3	Certain Adjoining Areas	12
5.1.4	Repair and Replacement.....	12
5.2	Insurance	13
5.3	Failure to Maintain	13
5.4	Easements for Access, Drainage, Utilities, Retaining Walls, Etc.....	13
6.	Association Powers and Responsibilities.....	13
6.1	Acceptance and Control of Property	13
6.2	Common Elements; Maintenance	13
6.3	Private Road Operation and Maintenance.....	14
6.4	Water Management	14
6.5	Liability of Officers and Directors	14
6.6	Indemnification; Exculpation	14
6.7	Security	15
6.8	Dissolution of Association.....	15
6.9	Power and Authority Generally	15
6.10	Declarant Control; Period of Declarant Control	15
6.11	Number of Directors.....	16
7.	Association Finance.....	16
7.1	Budgeting and Assessments; Specially Allocated Assessments	16
7.2	Reserves; Reserve Study	17
7.3	Time of Payment; Enforcement; Hardship	17
8.	Development Rights.....	17
8.1	Reservation of Development Rights	17
8.2	Addition of Real Estate	17
8.3	Create Lots, etc.....	17
8.4	Subdivision, Combination, or Conversion.....	18
8.5	Withdrawal of Real Estate	18

8.6	Reallocation of Limited Common Elements	18
9.	Special Declarant Rights; Declarant Rights Generally; Transfer	18
9.1	Reservation; Duration.....	18
9.1.1	Improvements.....	18
9.1.2	Development Rights.....	18
9.1.3	Sales Offices, Etc	18
9.1.4	Easements Through Common Elements.....	18
9.1.5	Master Association	19
9.1.6	Merger and Consolidation	19
9.1.7	Declarant Control.....	19
9.1.8	Design Review Control.....	19
9.1.9	Meetings	19
9.1.10	Records	19
9.2	Other Declarant Rights	19
9.3	Transfer of Declarant Rights	19
10.	Easements; Shared Improvements	19
10.1	Encroachments	20
10.2	Local Jurisdiction.....	20
10.3	Association and Lot Owners	20
10.4	Shared Improvements	20
11.	Dispute Resolution.....	20
11.1	Mandatory Binding Arbitration; Exception for Claims by Association and Limited Warranty Disputes.	21
11.2	Dispute Resolution by and between Bound Parties	21
11.3	Arbitration Service	22
11.4	Applicable Law; Award	22
11.5	Costs.....	22
11.6	Proceedings Brought in Court.....	22
11.7	Resolution by Mediation or Negotiation	22
11.8	Waiver of Jury Trial	22
11.9	Involvement of Association in Individual Home Disputes	23
11.10	Declarant Consent Required.....	23
11.11	No Presumption of Unobserved Construction Defects	23
11.12	Required Vote to Make Claim.....	23
12.	Mortgagee Protection	23
12.1	Information Regarding Mortgagees.	23
12.2	Notices	23
12.3	Effect of Declaration Amendments	24
12.4	Records	24
12.5	Lien Priority.....	24
12.6	HUD or VA Approval	24
12.7	Rights under Act.....	24

13. General.....24
13.1 Notices 24
13.2 Amendments 25
13.3 Certain Terms..... 25
13.4 Headings; Sections; Recitals and Exhibits 25
13.5 Act Amended or Repealed 25
EXHIBIT A PROPERTY INFORMATION FOR WEST MAGNOLIA27

DRAFT

**DECLARATION
OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
WEST MAGNOLIA**

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (this “**Declaration**”) dated as of the date of recording, is made by KBHPNW LLC, a Delaware limited liability company, as **Declarant**.

1. Purpose and Effect

- 1.1 **Basic Declaration.** By this Declaration, the Declarant subjects the real estate commonly known as West Magnolia and legally described on **Exhibit A (“Property”)** to the following covenants, conditions and restrictions, and declares that the Property is a “Plat Community” under the Washington Uniform Common Interest Ownership Act, Chapter 64.90 of the Revised Code of Washington (“**WUCIOA**” or the “**Act**”).
- 1.2 **WUCIOA; Plat.** The Plat Community (“**Community**”) and its use and development will be governed by this Declaration and the Act. The Community and this Declaration are also subject to the Plat of West Magnolia recorded or to be recorded in Snohomish County, Washington (“**Plat**”). The Plat (also known in the Act as the “**Map**”) is subject to amendment from time to time upon exercise by Declarant of its Development Right to add or annex Real Estate, if any, as described in **Section 9.2**. In this Declaration, “**Community**” refers to the Property described on **Exhibit A**, together with any such added or annexed Real Estate, and “**Plat**” refers to the original recorded Plat, as it may be amended from time to time to reflect the addition or annexation of any such Real Estate. By accepting a conveyance of a Lot, each Lot Owner adopts and agrees to be bound by this Declaration.
- 1.3 **Running Covenant.** This Declaration will run with title to all elements of the Community, including Lots and Common Elements, and will be binding on and run to the benefit of the Declarant, the Association, and all Persons having any right, title, or interest in any portion of the Community, and their respective heirs, personal representatives, successors, and assigns.
- 1.4 **Information on Exhibit A.** In addition to the legal description of the Property, various other items of information specific to the Community are set forth on **Exhibit A**.

2. Definitions

In this Declaration, the terms below have the indicated meanings. Capitalized terms that are not defined in this **Section 2** or elsewhere in this Declaration have the meanings assigned in the Act.

“**Allocated Interests**” means (a) the fraction or percentage of the common expenses of the Association allocated to each Lot, as provided in **Section 8.1** and **Exhibit A**, and (b) one vote per Lot on all matters submitted by the Association, or subject under this Declaration to a vote of the Lot Owners; provided, however, that no votes will be allocated to Lots owned by the Association.

“**Association**” means West Magnolia Homeowners Association, a Washington nonprofit corporation. The Association is the Association for the Community under RCW 64.90.010(4).

“**Community-Wide Standard**” means the standard of conduct, maintenance or other activity generally prevailing in the Community. The Community-Wide Standard will have objective and subjective elements. The Community-Wide Standard will be established initially by Declarant. It

will evolve as development of the Community progresses and as the needs of the Community change.

“Critical Areas” means parcels in the Community designated in the Plat as “critical” or sensitive” areas, or similar designations. Critical Areas include any areas designated as Critical Areas on **Exhibit A**.

“Declarant” means the Person identified as Declarant in the title paragraph of this Declaration, and any other Person identified in RCW 64.90.010(17). The Declarant will have all the rights and powers that a Declarant may have under the Act, except to any extent limited by this Declaration.

“Declarant Control” means the Declarant’s rights to appoint and remove officers and members of the Board of the Association, and to veto or approve proposed action of the Board or Association, as provided in **Section 6.10** and RCW 64.90.415(1)(a).

“Development Rights” means those rights reserved to the Declarant under Section 8 of this Declaration, which rights are set forth in RCW 64.90.010(20)(a)-(e).

“First Mortgagee” means a Mortgagee holding a first-lien security interest on a Lot.

“Limited Common Elements” means those portions of the Common Elements allocated for the exclusive use of one or more (but not all) of the Lot Owners, as set forth on **Exhibit A**, as they may be created, amended or supplemented from time to time.

“Local Jurisdiction” means any governmental authority having jurisdiction over the Community for matters addressed by this Declaration or the Act. A Local Jurisdiction may include the state of Washington, a county, a city, or a local utility district. The City of Marysville is the Local Jurisdiction with most of the regulatory powers described in this Declaration.

“Lot” or **“Lots”** means “Unit” or “Units” as defined in the Act. “Lot” includes the Lot Owner’s interest in any private access or utilities tract, sole or joint ownership of which is conveyed to the Lot Owner.

“Lot Owner” means “Unit Owner” as defined in the Act.

“Mortgagee” means the holder of a Security Interest, as defined in the Act, on a Lot.

“Permits” means the permits, approvals, entitlements, preliminary plat approval conditions, and conditions on the face of the Plat, related to the subdivision of the Property, creation, ownership, and operation of the Community, and development and construction of improvements in the Community.

“PIC” means the Property Improvement Committee established in accordance with and described in this Declaration.

“Private Road” means a shared access facility, alley, or ingress/egress easement for vehicular access shown on the Plat and dedicated to the use by the owners of some or all Lots for vehicular access to such Lots, but excluding any roads or easements granted to the Local Jurisdiction, the public or to any property not within the Plat. The Private Roads on the Plat are Tracts 996, 997, and 998.

“Property” is defined in **Section 1.1**.

“Residential Design Guidelines” means the architectural, design, and construction standards and guidelines for the design and construction of improvements on Lots and modifications of those improvements, and accompanying review procedures, all as amended from time to time.

“Use Restrictions” means the use restrictions in **Section 3** governing the use of real and personal property and the conduct of Lot Owners and other Persons in the Community, as they may be amended, supplemented, or repealed from time to time. Use Restrictions are Rules within the meaning of the Act.

3. Use Restrictions.

- 3.1 **Authority of Board.** In addition to the initial Use Restrictions in this **Section 3**, the Board has the full power and authority to adopt Use Restrictions and other Rules under the Act. The Board will have the full power and authority to amend, modify, supplement, or repeal any Use Restrictions or other Rules from time to time. This power and authority is limited by RCW 64.90.510 and the express limits in this Declaration.
- 3.2 **Effect of Use Restrictions; Remedies.** Lot Owners understand and accept that Use Restrictions may affect, sometimes negatively, the use and enjoyment, value, and marketability of Lots, and that Use Restrictions may change from time to time. Use Restrictions may not necessarily be set forth in this Declaration or any supplements or amendments. A copy of all current Use Restrictions may be obtained from the Association. The Association may from time to time give notice to a Lot Owner of the violation of any Use Restrictions and, if the violation is not cured within a reasonable period of time, the Association may pursue any available remedy against the Lot Owner under the Act or other law. This includes bringing an action against the Lot Owner for an injunction or other equitable relief. A Lot Owner will be responsible for all reasonable costs, including reasonable attorneys’ fees, incurred by the Association in enforcing the Use Restrictions against a Lot Owner. The Association will have the same rights as to the collection of those costs as it has to collect assessments under this Declaration. In addition, in accordance with RCW 64.90.405(l), the Association may adopt and furnish to Lot Owners a schedule of reasonable fines that may be imposed for the violation of Use Restrictions, and may, to the extent permitted by applicable law, treat a fine imposed on a Lot Owner as an expense assessed against the Lot Owner alone, in accordance with **Section 7.1**. Any such system of fines will include provision for notice to a Lot Owner and a reasonable opportunity to dispute or seek a hardship waiver for a fine.
- 3.3 **Requirements and Limits.** All Use Restrictions must comply with this **Section 3.3**.
- 3.3.1 Allocations of Burdens and Benefits. No Use Restriction may alter the allocation of financial burdens among Lot Owners, or rights to use Common Elements, to the detriment of any Lot Owner over the Lot Owner’s objection. The foregoing will not prevent the Board from adopting reasonable Rules for the use of the Common Elements, including restrictions on use by Persons who abuse the Common Elements or violate those Rules or this Declaration.
- 3.3.2 Applicable Law. All Use Restrictions, including the initial Use Restrictions, will be subject to the Act and other applicable law. Without limiting the foregoing, any restriction on leasing of Lots or improvements must meet the requirements of RCW 64.90.510(9)(c).

- 3.3.3 Household Composition. No Use Restriction may interfere with the freedom of Lot Owners to determine the composition of their households, except Rules may be adopted to (i) require that all occupants be members of a single housekeeping unit, (ii) limit the total number of occupants in any dwelling on the basis of the size and facilities of the dwelling, or (iii) limit or prohibit the occupancy of dwellings by Persons who have been convicted of a crime for which continued supervision after conviction is imposed. The foregoing are subject to the restrictions and limitations of applicable federal, state, or local law in effect from time to time.
- 3.3.4 Household Occupations. No Use Restriction may interfere with the right of a Lot Owner or Person dwelling on the Lot to conduct business activities in the dwelling, if (i) the existence or operation of the business is not detectable by sight, sound, or smell from outside the dwelling, (ii) the business activity is not inconsistent with the residential character of the Community and does not constitute a nuisance or threat to the safety or security of residents in the Community, or materially increase vehicular or pedestrian traffic or parking in the Community, all as determined by the Board in its discretion, (iii) any goods, materials, or supplies of the business are stored inside the dwelling or other buildings on the Lot, (iv) the exterior of the dwelling on the Lot is not modified for the business, or (v) the use of the Lot for the business is permitted by applicable zoning and other laws.
- 3.3.5 Religious and Political Displays. Lot Owners' rights to display religious and holiday signs, symbols, and decorations of the kind typically found in dwellings in single-family residential neighborhoods may not be abridged except for reasonable time, place, and manner restrictions on displays visible from outside the dwelling on any Lot, and other restrictions consistent with federal, state, and local laws. No Use Restrictions may regulate the content of political signs; however, Rules may reasonably regulate the time, place, and manner of political signs, including design criteria, in a manner consistent with applicable federal, state, and local law.
- 3.3.6 Rights of Declarant. No Use Restriction may materially impede Declarant's right to develop the Community.
- 3.3.7 Similar Treatment. Similarly situated Lots and Lot Owners will be treated similarly in the adoption and implementation of Use Restrictions, except as otherwise provided in the Governing Documents, including Section 4.7 of this Declaration.
- 3.4 **Initial Use Restrictions**. The initial Use Restrictions are as follows.
- 3.4.1 Advertising and Signs. No advertising or signs shall be placed or maintained, other than a name plate of the occupant and a street number, and except for a "For Sale," "Open House," "For Rent" or security sign of not more than 5 square feet in area, posted only for the purpose of selling or renting a home or evidencing the existence of a security system on the Lot; and such other signs that have the prior written approval of the PIC or Board or are otherwise expressly permitted by law. Any such advertising or signs shall be subject to any and all rules and regulations adopted by the PIC and/or the Board. Notwithstanding the foregoing, the foregoing restrictions will not apply to the Declarant, and the Declarant may place or maintain any signs, advertising, or billboards without regard to any rules and regulations of the PIC or the Board.

- 3.4.2 Animals. No animals, horses, livestock, birds, poultry, reptiles, or insects of any kind shall be raised, bred, kept, or boarded in the Community; provided, however, that Lot Owners may keep a reasonable number of bona fide household pets (including dogs, cats, and other domestic animals), so long as such pets are not kept for any commercial purpose and are not kept in such number or in such manner as to create a nuisance to any resident of the Community. The Association shall have the authority to do the following as well as take such other action concerning animals as the Board may determine: set a maximum number of household pets; set a size or poundage limit to pets; regulate the types of animals that are permitted to be kept; determine that any dogs, cats, or pets are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance; determine that a Lot Owner is in violation of the leash laws of the Local Jurisdiction or other applicable law; or determine that a Lot Owner is otherwise in violation of any provision of the Governing Documents. If the Board determines that there is a violation of any of the foregoing, the Association may take any actions it determines. A Lot Owner's right to keep household pets is coupled with the responsibility to pay for any damage caused by such pets, as well as all costs incurred by the Association as a result of such pets, and all such costs and damages shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments as provided in this Declaration. This **Section 3.4.3** is subject to any federal, state, or local law governing service animals, and nothing in this Declaration shall be construed to restrict or prohibit the keeping or use of service animals in compliance with applicable law.
- 3.4.3 Antennas, Etc. Except as may otherwise be permitted in writing by the PIC or Board, no exterior radio antenna, television antenna, or other antenna, satellite dish, or audio or visual reception device shall be placed or maintained on any Lot, except inside a residence or otherwise concealed from view; provided, however, that any such devices may be erected or installed by the Declarant during its development, sales or construction of the Community. This subsection shall be subject to the Telecommunications Act of 1996 and applicable regulations.
- 3.4.4 Drainage. No stormwater or other drainage may be diverted from its natural course so as to discharge onto any public or private right-of-way or any neighboring Lot or Common Element.
- 3.4.5 Fencing. No fencing shall be permitted unless first approved in writing by the PIC, other than such fencing as may be constructed or installed by Declarant.
- 3.4.6 Hazardous Activities, Materials, or Chemicals. No activity shall be conducted on any Lot, or within Improvements on any Lot, that is unsafe or hazardous to any person or property. Without limiting the foregoing, no firearms shall be discharged upon any Lot; and no open fires shall be permitted on any Lot, except in a contained grilling unit or other outdoor cooking facility while attended and in use for cooking purposes, as may be permitted by the Local Jurisdiction, and subject to compliance with Rules; and no open fire or burning shall be permitted within a fireplace and/or fire pit, except such campfires or picnic fires on property that may be designated for such use by the Association. In addition, no hazardous materials or chemicals shall at any time be located, kept or stored in, on, or at any Lot except as may be contained in household products normally kept at homes for

use of the residents thereof and in such limited quantities so as to not constitute a hazard or danger to any person or property.

- 3.4.7 Landscaping. Each Lot Owner (other than Declarant) shall install landscaping on all of the Lot that is not covered by a building or other Improvement or landscaping installed by the Declarant, and landscaping areas between the sidewalk and street fronting the Lot, and shall thereafter maintain all landscaping in a neat and attractive condition, including periodic and horticulturally correct pruning, removal of weeds, and replacement of landscaping. Each Lot Owner (other than Declarant) shall install such landscaping as required by the Declarant or the Association on the Lot Owner's Lot within 6 months after closing of the Lot Owner's acquisition of the Lot, if closing of acquisition occurs between April 1 and October 1; otherwise, such landscaping shall be installed by such Owner by the following October 1. Landscaping plans and other required documents shall be professionally done and shall be submitted to the PIC for review and approval prior to the installation of landscaping, except where installed by the Declarant. If any Owner of a Lot does not install landscaping as required above, then the Association may (but is not obligated to), after giving reasonable advance written notice, enter upon the Lot Owner's Lot and install the landscaping. In addition, if any Lot Owner does not maintain landscaping as required hereunder, then the Association may (but is not obligated to), after giving reasonable advance written notice, enter upon the Lot Owner's Lot and perform the maintenance. All costs and expenses incurred by the Association in installing or maintaining landscaping, as provided in this subsection, shall be the personal obligation of the Lot Owner of the Lot, and shall be subject to all of the provisions applicable to assessments as provided in this Declaration, including interest, late charges, attorney's fees, and lien rights.
- 3.4.8 Lot Contours. The surface grade or elevation of a Lot may not be altered in any manner that would affect the relationship of the Lot with adjoining or nearby Lots, including the view from any Lot, would produce an effect out of harmony with the development of the immediate area, or would materially alter the flow of ground water, surface water, or storm water, all as determined by the Declarant, the PIC, or the Association in its discretion.
- 3.4.9 Mining or Drilling. No portion of the Community shall be used for mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, earth, or water. The foregoing is not intended to prohibit normal land development activities by Declarant, including grading, excavating, and exporting surplus soils.
- 3.4.10 No Annoying Lights, Sounds or Odors. No light shall be permitted to emit from any Lot that is unreasonably bright or causes unreasonable glare; no sound shall be permitted to emit from any Lot that is unreasonably loud or annoying; and no odor shall be permitted to emit from any Lot that is noxious or offensive to others. In addition, no annoying light, sound, or odor shall be permitted in any portion of the Community that may be seen, heard, or smelled from any other portion of the Community.
- 3.4.11 Nuisances. No nuisance shall be permitted that is visible within or otherwise affects the Community or any portion of the Community, nor any use, activity, or practice that

materially interferes with the peaceful enjoyment or possession and use of any Lots. The term "nuisance" includes any violation of the Governing Documents, but shall not include any activities of Declarant. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done or placed on any Lot that is or may become a nuisance or may reasonably cause embarrassment, disturbance, or annoyance to others.

- 3.4.12 One Dwelling. No more than one dwelling and, if permitted by the Local Jurisdiction and otherwise in compliance with this Declaration and other requirements promulgated by the Association, one detached or attached accessory dwelling unit may be built or maintained on any Lot. The foregoing will not apply to Declarant's sales or construction offices or models, or other similar temporary uses by Declarant.
- 3.4.13 Prohibited Dumping. The public or private storm water drainage system on each Lot and in the Community, including the portions on the surface and below the surface, must be kept free of all hazardous or damaging materials or materials that could have an adverse effect on the environment, the sensitive areas in the Community, or water quality. Without limiting this requirement, the following are prohibited from entering the drainage system in particular: (i) petroleum products including without limitation oil, gasoline, grease, fuel oil, and heating oil, (ii) trash and debris, (iii) sewerage, animal waste, or recreational vehicle waste (iv) chemicals, dyes, degreasers, solvents, antifreeze, and other automotive products, and paint or other coatings, (v) steam cleaning or power washing waste, dust or runoff, (vi) laundry waste or soaps, (vii) pesticides, herbicides, or fertilizers, except when applied to vegetation on the surface in accordance with laws and manufacturers' instructions, (viii) heated water, chlorinated water, or chlorine, (ix) lawn clippings, leaves, and branches, (x) animal carcasses, (xi) silt, and (xii) construction materials.
- 3.4.14 Residential Use. The Lots and Common Elements may be used only for Residential Purposes and purposes incidental to Residential Purposes.
- 3.4.15 Temporary Structures; Construction Work; Unsightly Conditions. No structure of a temporary character, including a house trailer, tent, shack, storage shed, or outbuilding, shall be placed or maintained on any Lot; provided, however, that during the actual construction, alteration, repair or remodeling of a structure or other Improvement, temporary structures for storage of materials may be placed and maintained. The work of constructing, altering, or remodeling any structure or other Improvement shall be prosecuted diligently from commencement until completion. No unsightly conditions, structures, facilities, equipment or objects shall be so located on any Lot as to be visible from a street or from any other Lot.
- 3.4.16 Timeshares. No time-sharing, fraction-sharing, or similar program whereby the right to use of a Lot rotates among program participants on a fixed or floating schedule is permitted.
- 3.4.17 Trash, Etc. No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate except inside the residence on any Lot, nor shall any such items be deposited on a street, unless placed in a suitable, tightly-covered container that is suitably located solely for the purpose of garbage pickup. In addition, no trash or similar materials shall be

permitted to accumulate in such a manner as to be visible from any other portion of the Community. All equipment for the storage or disposal of trash and other such materials shall be kept in a clean and sanitary condition. No garbage cans, trash cans, or other trash or recycling receptacles shall be maintained in an exposed or unsightly manner.

- 3.4.18 Underground Utilities. All utilities other than those constructed by or for Declarant must be underground.
- 3.4.19 Use of Water. No sprinkler or irrigation system or wells may be operated that draw water from ground or surface water in the Community or from any source other than the public system serving the Community or "rain barrels" or similar devices catching runoff from the dwelling.
- 3.4.20 Vehicles. A maximum of three vehicles may park on any driveway. No house trailer, camping trailer, boat trailer, hauling trailer, jet ski, boat, or accessories of any of the foregoing, truck (excluding pickup trucks that are 1 ton capacity or less), self-contained motorized recreational vehicle, or other type of recreational or commercial vehicle or equipment, may be parked or stored on a Lot unless such parking or storage is entirely within the garage area of any Lot or will be suitably screened from view in accordance with the requirements, and prior written approval of, the Board. A "commercial vehicle" means a vehicle that is used to transport cargo or passengers for profit or hire; or may (but is not required to) contain signage, advertising, or written information on the vehicle or extending from the vehicle; or is any vehicle registered with the Washington Department of Motor Vehicles as a "Commercial Vehicle"; or is any vehicle that is larger than 1 ton capacity. However, any such vehicle may be parked on a temporary basis for loading, delivery, or emergency. This restriction, however, shall not restrict trucks or other commercial vehicles that are necessary for construction or maintenance of any portion of the Community or any Improvements. "Recreational vehicle" includes motor homes, pick-up trucks with camper shells, trailers, self-contained recreational vehicles, motorcycles, motorbikes, snowmobiles, jet skis, all-terrain vehicles, and other apparatus intended for use on land, water, or in the air, and the trailers used for their transportation. A Lot Owner may seek permission from the PIC or Board for guests to park a recreational vehicle on the driveway of the Lot Owner's Lot for up to 72 hours, subject to a maximum of 21 days in any calendar year, and the PIC or Board will not unreasonably withhold that permission.

No abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked on any Lot or Tract. An "abandoned or inoperable vehicle" means any automobile, truck, motorcycle, or other similar vehicle, that has not been driven under its own propulsion for a period of 72 hours or longer, or that does not have an operable propulsion system installed, or that is not currently registered and licensed; provided, however, that otherwise permitted vehicles parked by Lot Owners while away from home for a maximum of 2 weeks or during a period of illness shall not be deemed to be abandoned.

If the Association determines that a vehicle is parked or stored in violation of this subsection, then a written notice describing the vehicle may be personally delivered to the owner thereof (if the owner can be reasonably ascertained) or may be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if

the vehicle is not removed within a reasonable time thereafter, as determined by the Board, the Association shall have the right to remove the vehicle at the sole expense of the owner.

No maintenance, repair, rebuilding, dismantling, repainting, or servicing of any vehicles, trailers, or boats, may be carried on in the Community unless within a completely enclosed structure that screens the sight and sound of the activity from the street and from adjoining property. The foregoing restriction shall not be deemed to prohibit the washing and polishing of any motor vehicle, boat, trailer, motorcycle, or other vehicle, and normally incidental activities, on a Lot.

3.4.21 Wood Storage. No wood piles or wood storage areas shall be so located as to be visible from a street, from the ground level of any Lot or from any Common Element.

4. Architecture, Landscaping, and Design Review

4.1 **General**. No structure or building may be installed, constructed, or placed on any Lot or any existing improvement on a Lot, no landscaping may be planted or removed, and no remodeling, renovation or similar work on the exterior of any existing home or improvement may be undertaken (any of the foregoing, "**Work**"), except in accordance with this **Section 4** and the Residential Design Guidelines.

4.2 **Interest of Declarant; Rights of Declarant**. The Declarant has an interest in ensuring that the Community and its improvements enhance Declarant's reputation as a developer and builder and do not impair Declarant's marketing and sale of homes. Consequently, no Work may be commenced by a Lot Owner (other than Declarant) without the prior written approval by Declarant. This is a Special Declarant Right under RCW 64.90.010(51).

In exercising its review and approval right, Declarant owes no duty to any other Person, and may grant or withhold its approval in its absolute discretion. Declarant's rights under this **Section 4** will continue until Declarant owns no property in the Community, or until Declarant surrenders and terminates those rights in writing.

Declarant may from time to time designate one or more other Persons to exercise any of Declarant's rights under this **Section 4**. This designation will be in writing, and may be revoked by Declarant at any time in writing while it still has rights under this **Section 4**. In particular, Declarant may delegate any of its rights to the PIC established under **Section 4.3**. While Declarant has rights under this **Section 4.2**, it may in its absolute discretion veto any decision of the PIC or other Person designated to exercise approval rights.

4.3 **Property Improvement Committee**. To the extent delegated by Declarant to the PIC as provided in **Section 4.2**, or upon termination of Declarant's rights under **Section 4.2**, the PIC will have the right to approve all Work.

The Property Improvement Committee will consist of between 3 and 7 natural Persons, who will be appointed by and serve at the pleasure of the Board (or the Declarant, while the Declarant has rights under **Section 4.2**). At least 2 members of the Property Improvement Committee will be members of the Board. Members of the Property Improvement Committee may include architects, engineers, or similar professionals who are compensated in a manner determined by the Board.

The Property Improvement Committee may form one or more subcommittees to handle particular areas of review (for example, a new construction subcommittee, a modifications subcommittee, and a landscaping subcommittee). Any such subcommittee will have the same power and authority over its subject matter as the Property Improvement Committee itself.

Except for the veto rights of the Declarant described in **Section 4.2**, decisions of the Property Improvement Committee will be final and not subject to veto or reversal by the Association or any other Person.

For clarity, neither the PIC or the Board shall have authority over any public right-of-way or any other property not owned by the Association or the Lot Owners.

4.4 **Reviewer; Fees; Assistance by Others.** The Declarant, Property Improvement Committee or subcommittee, or other Person performing review of proposed Work (in any such case, “**Reviewer**”) may charge reasonable fees for the review of proposed Work, and may require that those fees be paid before the Reviewer commences its review. These fees may include the costs of having any proposed Work reviewed by architects, engineers, or similar professionals who are engaged by the Reviewer for that purpose. The Board may include the compensation of those professionals as a Common Expense in the budget.

4.5 **Residential Design Guidelines.** Declarant or the Property Improvement Committee may prepare Residential Design Guidelines (“**Guidelines**”), which when prepared will be adopted by the Association by rule without the need for notice to or consent of Lot Owners. The Guidelines may apply to the whole Community and may have provisions applicable only to portions of the Community. The Guidelines may exempt certain kinds of Work from the approval requirements, subject to any reasonable restrictions. The Guidelines will not be the only basis for approval or disapproval of proposed Work, and compliance with the Guidelines does not entitle a Lot Owner to approval of proposed Work.

Declarant and, if delegated by the Declarant or when the Declarant no longer has approval rights, the Property Improvement Committee, may amend the Guidelines in any respect consistent with this Declaration and all applicable Permits, and without notice to or consent of Lot Owners. Amendments may make the Guidelines more or less restrictive than the Guidelines previously in effect. Amendments will have prospective effect only and may not require modification or removal of Work previously approved once that Work has commenced on site in any material respect.

A copy of the current Guidelines will be available to any Lot Owner upon request. Declarant or the Reviewer may charge a reasonable fee for copies.

4.6 **Review Procedures.** Before commencing any Work, the Lot Owner must submit an application for review and approval to the Reviewer. The application will be in the form reasonably prescribed by the Reviewer, which may require plans and specifications, site plans, structural drawings, exterior elevations, exterior colors and materials, and landscaping, drainage, exterior lighting, irrigation, and other elements of the proposed Work as appropriate.

The Reviewer will respond to the application by notice. The notice may approve the proposed Work with or without conditions, approve the proposed Work in part and disapprove it in part, or disapprove the proposed Work. When disapproving proposed Work, the Reviewer will briefly

state the Guideline or other reason for disapproval. The Reviewer may but need not suggest changes to any disapproved Work.

The Reviewer will respond to the application within the time after submission of a complete application as specified in the Guidelines. If there are no Guidelines or they do not so specify, the Reviewer will respond within 30 days after the date a complete application is submitted and, if the Reviewer does not timely respond, the proposed Work may be considered approved as proposed, but only if the proposed Work does not conflict with any material express provision of the Guidelines. While the Declarant has approval rights under **Section 4.2**, the Reviewer will furnish Declarant with a copy of the complete application and its decision within 3 business days after its decision. To veto all or part of the decision, the Declarant must give notice to the Reviewer and the Lot Owner within 3 business days after receipt of the decision.

Work that has been approved must be commenced on site within one year after approval. Otherwise, the Lot Owner must re-apply before commencing the Work. Once it commences approved Work, the Lot Owner must diligently pursue it to completion and in any event must complete it within one year after commencement (or any longer time specified by the Reviewer). If approved Work is not completed within the required time then, unless an extension is given by the Reviewer in its discretion, the Work may be considered nonconforming and subject to enforcement action by the Board.

- 4.7 **Variances.** The Reviewer may grant variances from compliance with the Guidelines when in its judgment, based on such factors as topography, natural obstructions, hardship, aesthetic considerations, or environmental considerations, variance would be fair and equitable. However, the Work must remain in compliance with applicable law. Variances must be in writing. The grant of a variance will not prevent the Reviewer from denying a variance in other circumstances, even if similar.
- 4.8 **No Waiver of Future Approval.** It is recognized that the identity of the Reviewer and the Persons included in the Reviewer will change from time to time, and opinions on aesthetic matters and interpretation of the Guidelines will change from time to time. In addition, it may not always be possible or practicable for the Reviewer to identify objectionable features of proposed Work until that Work has been approved and completed. As a result, approval of any proposed Work will not entitle any Lot Owner to approval of the same or similar Work in the future.
- 4.9 **Limitation of Liability.** The provisions of this **Section 4** are intended as a mechanism to maintain and enhance the aesthetics of the Community. Review and approval of any proposed Work may be made on the basis of aesthetic considerations only. The Reviewer will have no responsibility for the structural integrity or soundness of any proposed Work, for any soil conditions, for any defects in plans and specifications, for the quality of workmanship or materials, or for the compliance of any proposed Work with any building codes, building permits, or other governmental requirement. The Reviewer will not be responsible to ensure uniformity or comparability of appearance, quality, or aesthetic character of the homes and other improvements in the Community.

The Reviewer will be entitled to defense and indemnification for loss, injury, and damages arising out of or in connection with any acts or omissions of the Reviewer, to the fullest possible extent under RCW 64.90.405(2)(n) and the Governing Documents.

- 4.10 **Certificate of Approval.** A Lot Owner may at any time request by written notice that the Reviewer issue a certificate to the effect that there are no known violations of this Declaration, any Guidelines, or the terms and conditions of any approval of Work on the Lot Owner's Lot. The Reviewer or the Association will either grant or deny the Lot Owner's request within 30 days after the notice, and may charge a reasonable fee for issuing any such certificate. Issuance of a certificate will prevent the Association from taking enforcement action concerning any condition as to which the Association had notice as of the date of the certificate.
- 4.11 **Enforcement; Fines.** The Association may pursue any available remedy against a Lot Owner for violation of this **Section 4** or the Guidelines. This includes bringing an action against the Lot Owner for an injunction or other equitable relief. A Lot Owner will be responsible for all reasonable costs, including reasonable attorneys' fees, incurred by the Association in enforcing this **Section 4** or the Guidelines. In addition, in accordance with RCW 64.90.405(2)(l), the Association may adopt and furnish to Lot Owners a schedule of reasonable fines that may be imposed for the violation of this **Section 4** or the Guidelines, and may, to the extent permitted by applicable law, treat a fine imposed on a Lot Owner as an expense assessed against the Lot Owner alone, in accordance with **Section 8.1**. Any such system of fines will include provision for notice to a Lot Owner and a reasonable opportunity to dispute or seek a hardship waiver for a fine.

5. Lot Owner Maintenance and Repair

- 5.1 **Maintenance Responsibility.** Each Lot Owner will maintain the Lot Owner's Lot and all improvements, landscaping and drainage elements in good condition and repair in accordance with this Declaration, the Community-Wide Standard, and the Governing Documents, and in the manner of a reasonably prudent homeowner. A Lot Owner will be relieved of that obligation only to the extent that the obligation has been assigned to or assumed by the Association.

Except to the extent maintenance has been assigned to or assumed by the Association, a Lot Owner's maintenance responsibility includes without limitation:

- 5.1.1 Completion of Landscaping. Completion of any landscaping that was not complete at the time the Lot was transferred by the Declarant or a Dealer, within 6 months after the transfer or as otherwise agreed by the Lot Owner.
- 5.1.2 Fencing, Drainage, Etc. Maintenance of fencing, drainage swales, catch basins, and underground drain lines on the Lot.
- 5.1.3 Certain Adjoining Areas. Maintenance of any landscaping on an adjoining Common Element or public right-of-way that is between the Lot and a fence, wall, curb, water's edge or similar dividing feature located on the Common Element or right-of-way (however, the Lot Owner will not remove any tree or other landscaping from any such area without Association approval). Specifically, and without limiting the generality of the foregoing, each Lot Owner shall maintain the landscaping between the sidewalk and the street immediately adjacent to the Lot.
- 5.1.4 Repair and Replacement. Prompt repair and replacement of any improvement or damaged element of any improvement, in accordance with the original plans and specifications, or other plans and specifications approved by a Reviewer under **Section 4**. In the alternative to repair and replacement of a damaged or destroyed dwelling unit, the

Lot Owner may clear the Lot and maintain it in a clean and attractive condition consistent with the Community-Wide Standard.

- 5.2 **Insurance.** Each Lot Owner will carry property insurance for the full replacement cost of all insurable improvements on the Lot, with a reasonable deductible. The Association may assume responsibility for obtaining certain insurance coverage for Lot Owners. The premiums for any such Association insurance will be included in the common expenses of the Association.
- 5.3 **Failure to Maintain.** The Association may give notice to any Lot Owner who does not comply with the maintenance responsibilities in this **Section 5**. The notice will state the action required for compliance. If the Lot Owner does not perform the required maintenance within 30 days after the notice, the Association will have the right (but not the obligation) to enter the Lot and perform the required maintenance for the Lot Owner. In addition, the Association may enter a Lot without prior notice (but with a reasonable effort under the circumstances to give contemporaneous notice) to conduct emergency repairs of conditions that in the judgment of the Association pose a substantial risk of injury or damage to property. The Association may levy an Assessment against the Lot Owner for all costs incurred by the Association in exercising its rights under this **Section 5.3**, as provided in RCW 64.90.480(4). This Assessment will be a lien on the Lot Owner's Lot, which may be collected and foreclosed upon in the same manner as other Assessments.
- 5.4 **Easements for Access, Drainage, Utilities, Etc.** The Plat provides that certain Lots and tracts are subject to easements for access, drainage, utilities, and other purposes, which easements may benefit other Lot Owners, the Association, utilities providers, the general public, and others. Such easements may describe maintenance responsibilities over the easement area, and the affected Lot Owner or the Association may be responsible for the costs of such maintenance. A summary of these easements and the affected Lots and tracts is located at **Exhibit A**.

Nothing in this **Section 5.4** or Exhibit A is intended to grant any rights or designate responsibilities not specifically provided for on the face of the Plat. In the event of any conflict between this **Section 5.4** or Exhibit A and the Plat, the provisions of the Plat shall control.

6. Association Powers and Responsibilities

- 6.1 **Acceptance and Control of Property.** The Association may acquire, hold, and dispose of real property and interests in Real Estate and tangible and intangible personal property, for the benefit of the Lot Owners and subject to the restrictions and obligation of any deed or other conveyance to such property or any appurtenance of such property.
- 6.2 **Common Elements; Maintenance.** The Association will maintain all Common Elements (other than Limited Common Elements for which maintenance is the responsibility of the Lot Owners sharing use of the Limited Common Element as provided in the Plat or this Declaration), as a Common Expense. The Common Elements are defined in RCW 64.90.010(7) and in any event include:
- 6.2.1 the Common Elements identified on the Plat including any landscaping thereon;
 - 6.2.2 entry features and landscaping on Real Estate owned by the Association or over which the Association has an easement;

- 6.2.3 irrigation facilities, storm water facilities, streets, street signs, sidewalks, street lighting, parking areas, transit shelters, trails, ponds, streams, wetlands, open spaces, native growth protection, conservation, sensitive, and buffer areas, recreational amenities, all to the extent not owned or maintained by the Local Jurisdiction or other governmental entity, and all improvements, signage, and equipment in all such areas;
- 6.2.4 planter strips, medians, and, to the extent not located on any Lot, and fences and hedges;
- 6.2.5 cluster mailbox units;
- 6.2.6 Private Roads within the Plat to the extent maintenance is allocated to the Association, subject to **Section 6.3** below;
- 6.2.7 The open space and storm drainage and detention area on Tract 999;
- 6.2.8 landscape buffer areas in public rights-of-way; and
- 6.2.9 such other improvements within or outside the Common Elements as may be described as Common Elements in this Declaration, on the Plat or in any contract or agreement entered into by or binding on Declarant or the Association.

The Association will use commercially reasonable efforts to maintain the Common Elements consistent with this Declaration, the Community-Wide Standard, and the Permits.

- 6.3 **Private Road Operation and Maintenance.** The Association shall provide for the operation and maintenance of the Private Roads, including, without limitation, road surfacing, installation and replacement of gates, stop signs, speed limit signs, road name signs, storm drainage facilities, vegetation control, towing of improperly parked vehicles, removal of obstructions, ensuring access for the local fire department, ensuring that necessary sight distances are maintained, and snow/ice removal. If the operation and maintenance of the Private Roads becomes the responsibility of any Local Jurisdiction, the Association's responsibilities to operate and maintain such road shall cease. Tracts 996, 997 and 998 shall be Limited Common Elements for the benefit of the Lots to which each Limited Common Element is assigned as set forth on **Exhibit A**, and the costs for the operation and maintenance of each Tract that is a Limited Common Element shall be specially assessed against the applicable benefitted Lots.
- 6.4 **Water Management.** The Association is specifically empowered, but is not obligated, to develop and to implement various programs and practices for water conservation and wastewater, surface water, ground water, rainwater and other water management activities. The Association shall have the authority to implement and enforce restrictions and standards that ensure that the quality and quantity of runoff, plant material absorption, and ground water recharge are as near their natural state as is feasible.
- 6.5 **Liability of Officers and Directors.** A director or officer is not liable to the Association or its members for conduct as a director or officer, except for acts or omissions that involve intentional misconduct or a knowing violation of the law, or as otherwise provided for by applicable law.
- 6.6 **Indemnification; Exculpation.** To the fullest extent permitted by Washington law, the Association will indemnify every officer, director, and committee and subcommittee member against all damages and expenses, including counsel fees and other defense costs, reasonably incurred in connection with any action, suit, proceeding, or in the settlement thereof if approved by the

Board, to which such Person may be a party by reason of being or having been an officer, director, or committee or subcommittee member.

The foregoing Persons will not be liable for any mistake of judgment, negligent or otherwise, except for their own willful misfeasance, malfeasance, misconduct or bad faith. Such Persons, in their indicated capacities, will have no personal liability under or with respect to any such contract, commitment, or action, as provided in the first paragraph of this **Section 6.6**.

The right to indemnification under this **Section 6.6** will not be exclusive of any other rights to which any such Person may be entitled, under the Governing Documents or otherwise.

The Association will maintain adequate general liability and officers' and directors' liability insurance coverage to cover its obligations under this **Section 6.6**, to the extent such insurance is reasonably available, and the cost of such insurance will be a Common Expense.

- 6.7 **Security.** No measures by Declarant or the Association to maintain or improve the safety and security of the Community will cause the Declarant or Association to be treated as insurers or guarantors of security in the Community, or make them liable for any loss or damage for any failure of security. No representation or warranty is made that any security systems or measures will be effective or prevent loss or crime. Each Lot Owner and other Person entering the Community assumes all risks of personal injury and property damage, including to the Lots and dwelling units and the contents thereof, due to the acts of third parties.
- 6.8 **Dissolution of Association.** If the Association is dissolved, beyond any opportunity to reinstate its status as a Washington non-profit corporation, the rights and duties of the Association and its interest under this Declaration and in the Common Elements and other assets, if any, will vest in the Lot Owners as an unincorporated association. Following any corporate dissolution of the Association, any Lot Owner may reinstate the Association as a nonprofit corporation, or create a new nonprofit corporation as a successor to the Association, by filing the required documents with the Washington Secretary of State, which documents may not be inconsistent with this Declaration. The reinstated or successor Association will have the same composition as the dissolved Association, with all Lot Owners as members and having the same voting and other rights as they had in the dissolved Association. The Governing Documents of the dissolved Association will be the Governing Documents of the reinstated or successor Association, to the maximum possible extent.
- 6.9 **Power and Authority Generally.** The Association will have the power and authority to provide services of any nature or description to Lot Owners, to enter into easements, covenants and other agreements and contracts with other associations and owners of other properties, to create, contribute to the costs of and/or enter into easements, covenants and other agreements and contracts with subsidiaries or other affiliated or unaffiliated organizations, including non-profit and tax-exempt organizations, to open portions of the Common Elements for the use and enjoyment of the public, and generally to have and to exercise all power and authority that an association may have under RCW 64.90.405(2). Any of the powers described in this **Section 6** or RCW 64.90.405 may be delegated to a master association as described, and subject to the provisions of, RCW 64.90.300.
- 6.10 **Declarant Control; Period of Declarant Control.** Notwithstanding any other provision of this Declaration, the Declarant, or Persons designated by the Declarant, will have the rights to (i)

appoint and remove the officers and members of the Board, and (ii) veto or approve any proposed action of the Board (including any committee of the Board) or Association, including without limitation any proposed Amendment of this Declaration or the Plat. These rights of Declarant Control will be subject to RCW 64.90.415. The period of Declarant Control will terminate when provided in RCW 64.90.415(2). It is understood that RCW 64.90.415(2) and (3) qualify the rights of Declarant Control by requiring that a certain number or percentage of members of the Board be elected by Lot Owners other than Declarant upon the conveyance of certain percentages of the maximum number of Lots that may be created in the Community (as set forth on **Exhibit A**) to Lot Owners other than a Declarant.

- 6.11 **Number of Directors.** Before the transition meeting following the period of Declarant Control, the Declarant shall cause the Board to have at least three and not more than five members.

7. Association Finance

- 7.1 **Budgeting and Assessments; Specially Allocated Assessments.** The Association will adopt budgets and make Assessments at least annually, in the manner provided in RCW 64.90.480 and RCW 64.90.525. The Association also may assess a working capital contribution for each Lot, as provided in RCW 64.90.480(2), and may impose special assessments as provided in RCW 67.90.525. Except as otherwise provided in this Declaration or in the Act, including the right of Declarant to delay commencement of certain common expenses under RCW 64.90.480(3)(1) and (2), all Lots that have been created will bear an equal Allocated Interest in all common expenses. The Association shall reconcile its accounts at least annually, and any surplus funds of the Association remaining after payment of or provision for Association expenses and any prepayment of or provision for reserves, shall be retained by the Association, and reflected in the budget for the following period.

The Association will allocate the expenses associated with any Limited Common Elements described in RCW 64.90.480(4)(a) against the Lots to which each Limited Common Element is assigned as set forth on **Exhibit A**, equally or in some other proportion that the Association determines, without an amendment of this Declaration. The Association may from time to time determine that other expenses benefit fewer than all the Lots, and allocate those expenses against the Lots benefitted, in proportion to their respective common expense liability, or in some other proportion that the Association determines, without an amendment of this Declaration.

To the extent Declarant has delayed the commencement of assessments for common expenses or specially allocated expenses upon the initial sale of a Lot to a purchaser (as defined in the Act), then Declarant shall pay all such expenses that have been delayed. However, to the extent the Association assesses a working capital contribution as provided in this Section 7.1, it may use the working capital to pay (or reimburse Declarant for) common expenses of the Association, even if assessments for such expenses have been so delayed. This use of working capital shall be limited based on the percentage of the total Lots in the Community (as set forth on **Exhibit B**) that have been sold to purchasers (as defined in the Act). By way of example and not limitation, if 70% of the Lots have been sold to purchasers, the Association may use working capital to pay (or reimburse Declarant for) 70% of any common expense of the Association; Declarant shall pay the remainder of such common expense.

To the extent that any expense is caused by the willful misconduct, gross negligence, or ordinary negligence of any Lot Owner or that Lot Owner's tenant, guest, invitee, or occupant, the Association may assess that expense against the Lot Owner's Lot, after notice and an opportunity to be heard, even if the Association maintains insurance for that damage or expense. To the extent the subject expense is caused by ordinary negligence only, however, the assessment to that Lot Owner will be only to the extent of the Association's deductible under that insurance or the extent to which the expense or damage is not covered by that insurance.

- 7.2 **Reserves; Reserve Study.** Unless an exemption under RCW 64.90.545(2) applies, the Association will prepare and update a reserve study, and budget for and maintain reserves, in the manner provided in RCW 64.90.525(2)(d) and RCW 64.90.545-560.
- 7.3 **Time of Payment; Enforcement; Hardship.** Assessments will be payable monthly or quarterly, or at such other intervals as are determined by the Board from time to time, but in any event assessments must be payable at least annually. The Association will have all rights and remedies against a Lot Owner and a Lot for unpaid assessments that are available under applicable law, including without limitation (i) the statutory lien on the Lot under RCW 64.90.485, and (ii) the right to deny the Lot Owner access to any recreational amenities during any delinquency. The Board may review and grant extensions based on Lot Owner hardship and other conditions.

8. Development Rights

- 8.1 **Reservation of Development Rights.** Declarant reserves to itself or its successor the Development Rights set forth in RCW 64.90.010(20)(a)-(e). Except as may be provided otherwise in this Declaration or the Act, Declarant may exercise these Development Rights in Declarant's sole subjective discretion. To exercise any Development Right, Declarant will execute and record amendments to this Declaration and the Plat and comply with the other applicable requirements of RCW 64.90.250.
- 8.2 **Addition of Real Estate.** Declarant may add or annex Real Estate or improvements to the Community. Such Real Estate need not be contiguous to the Property. When so added or annexed, the subject Real Estate or improvements will become part of the Property under this Declaration. The boundaries of the Real Estate that Declarant may add or annex to the Community are not fixed, unless otherwise provided in this **Section 8.2** or in **Exhibit A**. Declarant may but will not be required to add or annex parcels of Real Estate at different times, in such order as Declarant determines. No assurances are made that Declarant will or will not add Real Estate to the Community, nor that Declarant will develop all of the Property or all of the Real Estate against which this Declaration is of record. Except as may otherwise be provided in **Exhibit A**, this Development Right will continue until Declarant owns no Real Estate in the Community, or until Declarant surrenders and terminates this right in writing. While this Development Right is in effect, any addition of Real Estate to the Community by the Association by amendment of this Declaration will require the approval of Declarant. In addition to Declarant's Development Rights hereunder, Declarant may amend this Declaration to add property to the Community in accordance with RCW 64.90.315, which right will continue until Declarant owns no Real Estate in the Community, or until Declarant surrenders and terminates this right in writing.
- 8.3 **Create Lots, etc.** Declarant may create Lots, Common Elements, and Limited Common Elements within the Community, including without limitation in any real estate added to the Property under

Section 8.2. This Development Right will continue until Declarant owns no Real Estate in the Community, or until Declarant surrenders and terminates this right in writing.

- 8.4 **Subdivision, Combination, or Conversion.** Declarant may subdivide or combine Lots, or convert Lots into Common Elements. Any such subdivision, combination, or conversion will be accompanied by a re-allocation of Allocated Interests as required by RCW 64.90.250(3)(a) or (b), or RCW 64.90.250(5). This Development Right will continue until Declarant owns no Real Estate in the Community, or until Declarant surrenders and terminates this right in writing.
- 8.5 **Withdrawal of Real Estate.** Declarant may withdraw Real Estate from the Community. When so withdrawn, that Real Estate will no longer be subject to this Declaration. All Real Estate in the Community is subject to this right of withdrawal; provided, however, that once a Lot has been conveyed to a purchaser, as defined in the Act, the right of withdrawal with respect to the entire Property, or to any portion of the Property described in the Plat as being subject to a separate right of withdrawal and containing that Lot, will terminate, unless the Lot Owner and the holder of any security interest in that Lot have consented to any such withdrawal. Subject to that termination, this development right will continue until Declarant owns no property in the Community, or until Declarant surrenders and terminates this right in writing.
- 8.6 **Reallocation of Limited Common Elements.** Declarant may reallocate Limited Common Elements with respect to Lots that have not yet been conveyed by Declarant.

9. Special Declarant Rights; Declarant Rights Generally; Transfer

- 9.1 **Reservation; Duration.** Declarant reserves the Special Declarant Rights set forth in this **Section 9.1**. Except as otherwise provided in this Declaration or in the Act, the Special Declarant Rights may be exercised until the first to occur of: (i) 10 years after the recordation of this Declaration; or (ii) recordation by Declarant of a statement that all sales activity has ceased.
- 9.1.1 **Improvements.** Declarant has the right to complete any infrastructure improvements or other improvements indicated on the Plat or described in this Declaration or in the public offering statement for the Community as described in RCW 64.90.610(1)(h). These improvements include without limitation utilities of all kinds, to be owned by the Association or by public or private utility service providers.
- 9.1.2 **Development Rights.** Declarant has the Development Rights described or referenced in **Section 8**.
- 9.1.3 **Sales Offices, Etc.** Declarant has the right to maintain, on Common Elements or on Lots, sales offices, management offices, and signs advertising the Community, and the right to maintain model homes on Lots, all as provided in RCW 64.90.275. Subject to any applicable law to the contrary, this right will continue until Declarant is no longer engaged in marketing or sale of homes in the Community or in nearby communities owned by Declarant or any of its affiliates.
- 9.1.4 **Easements Through Common Elements.** Declarant has the right to use easements through the Common Elements, hereby granted and/or granted on the Plat or elsewhere in this Declaration, for the purpose of making improvements in the Community, including in real estate added to the Community, as described in RCW 64.90.280 and **Section 9.1.1**. To the

extent reasonably necessary for that purpose, Declarant also has an easement, hereby granted, over and across any Lot, but not over, under, or through any dwelling unit.

- 9.1.5 Master Association. Declarant has the right to make the Community subject to a master association, as described in **Section 6.9** and RCW 64.90.300.
 - 9.1.6 Merger and Consolidation. Declarant may merge or consolidate the Community with another plat community under the Act.
 - 9.1.7 Declarant Control. Declarant has the rights of Declarant Control as described in **Section 6.10**.
 - 9.1.8 Design Review Control. Declarant has the right to control the Property Improvement Committee, act as the Reviewer, and otherwise exercise the rights related to design review described in **Section 4**.
 - 9.1.9 Meetings. During the period of Declarant Control, Declarant has the right to attend meetings of the Lot Owners, and of the Board (except during any duly called executive session) or any committee of the Association.
 - 9.1.10 Records. Declarant has the right of access to the records of the Association to the same extent as any Lot Owner.
- 9.2 **Other Declarant Rights**. It is the intent of this Declaration that Declarant has any right granted or permitted by applicable law to be held by a Declarant as defined in the Act, subject to any contrary provision of this Declaration. Without limiting the foregoing, (a) during the period of Declarant Control, Declarant has the right to approve any easement, covenant, declaration, or similar instrument affecting the Community, and no such instrument will be recorded without the Declarant's prior written consent, and any such recordation without the Declarant's prior written consent will be void; (b) while Declarant owns or has the right or option to acquire, or controls any Real Estate in the Community, Declarant has the right to convey Lots to governmental agencies and municipalities, and may re-acquire any property that has been transferred to any entity other than the Association; (c) so long as Declarant owns Real Estate in the Community or that may become subject to this Declaration, no amendment or modification of any Use Restrictions or Design Guidelines will be effective without the prior written consent of Declarant; (d) no person may make any claim or demand or institute any litigation or arbitration concerning the design or construction of any structures or improvements in the Community unless Declarant (or any Dealer involved in the design or construction) has first been given written notice of the claim or demand and given the opportunity to meet with the Lot Owner or other such Person to discuss the Person's concerns, and conduct Declarant's (or the Dealer's) own inspection; and (e) if the Community is a gated community, then while Declarant is engaged in the sale of homes or using model homes in the Community, the Declarant may keep the gates open during business hours.
- 9.3 **Transfer of Declarant Rights**. Any or all Special Declarant Rights or other rights or obligations in this Declaration or other Governing Documents may be transferred to another Person or Persons; any such transfer of Special Declarant Rights will be governed by and have the effect set forth in RCW 64.90.425.

10. Easements; Shared Improvements

In addition to the easements declared for the benefit of Declarant on the Plat, in **Section 9.1.4**, and granted to Declarant and Lot Owners in in RCW 64.90.280, the easements in this **Section 1010** are hereby declared by Declarant.

- 10.1 **Encroachments.** The Association and Lot Owners are granted reciprocal appurtenant easements of encroachment, and for the maintenance and use of encroachments between any Lot and any adjacent Common Element and between any Lot and any adjacent Lot, due to the inadvertent placement, settling, or shifting of any improvements, including without limitation fences, walkways, walls, and roof overhangs. No such easement will exceed a distance of three feet measured perpendicularly from the common boundary. No such easement will exist, however, if the encroachment was the result of intentional and knowing conduct on the part of the encroaching party. No easement under this **Section 10.1** will give rise to or ripen into any adverse possession, and any such easement will terminate upon the removal of the encroaching improvement.
- 10.2 **Local Jurisdiction.** An easement is declared and granted for the benefit of the Local Jurisdiction over the Community as necessary for the Local Jurisdiction to fulfill its maintenance responsibilities under applicable law. This easement includes the right of the Local Jurisdiction to come upon any Lot for inspection, safety and security purposes, including in an emergency. Except in an emergency, entry onto a Lot under this easement will only be after reasonable advance notice to the Lot Owner.
- 10.3 **Association and Lot Owners.** The Association and each Lot Owner have an easement over the Common Elements, Limited Common Elements, and Lots to the extent reasonably necessary for the Association or each Lot Owner, as applicable, to fulfill their maintenance, repair obligations and inspection obligations. Without limiting the foregoing, this easement will be for the purposes in RCW 64.90.440(1) and (2) and will be subject to RCW 64.90.440(3).
- 10.4 **Shared Improvements.** Each wall, fence, driveway, utility line or equipment, or similar improvement or structure built as part of the original construction of the Lots and that serves and/or separates more than one Lot and is not designated as a Limited Common Element on the Plat is a “Shared Improvement” under this Declaration. Any tract providing access to more than one Lot and ownership of which is shared by those Units is also a Shared Improvement. Subject to any inconsistent provision of this **Section 10.310.4** or this Declaration, the general rules of law regarding party walls, tenancy in common and liability for property damage for negligence or willful acts or omissions will apply to Shared Improvements. The cost of reasonable maintenance and repair of any Shared Improvement will be shared equally by the Lot Owners who make use of the Shared Improvement. If a Shared Improvement is damaged or destroyed by casualty, then to the extent the Shared Improvement is not repaired by proceeds of insurance, any such Lot Owner may repair the Shared Improvement. Other Lot Owners who use the repaired Shared Improvement will be responsible to contribute to the cost of repair in equal shares, subject to any different allocation of responsibility under applicable law because of the negligent or willful acts or omissions of any Lot Owner. The contribution right and obligation under this **Section 10.4** will run with the land and bind and benefit the Lot Owners and their successors and assigns. Additional provisions concerning specific Shared Improvements may be set forth on **Exhibit A**.

11. Dispute Resolution

11.1 **Mandatory Binding Arbitration; Exception for Claims by Association and Limited Warranty Disputes.** To the fullest extent permitted by applicable law, all claims by a Lot Owner or the Association against (i) Declarant (or any affiliate, agent, employee, executing officer, manager, or owner of Declarant), (ii) a contractor (including general contractors, subcontractors, engaged for the construction of the initial Improvements on the Lots or Common Elements), or (iii) a Design Consultant (including architects, engineers and similar design professionals engaged in the design of the initial Improvements on the Lots or Common Elements) (“**Applicable Party**”), or any affiliate, agent, employee, executing officer, manager, or owner of an Applicable Party, which a Lot Owner, or the Association or any other Person may have arising from or in any way related to the sale, design, or construction of any Lot or the Improvements on any Lot, or any Common Element, or the operation and management of the Association (a “**Dispute**”) shall be submitted to final and binding arbitration. The provisions of this **Section 11** are the sole method for resolving Disputes between an Applicable Party and any Owner, the Association and/or any other Person, or any of them.

Notwithstanding the foregoing, (i) in accordance with RCW 64.90.405(3), the Association will not be limited in its power to institute litigation, mediation, or any administrative proceeding against any Person, except (A) construction defect claims by the Association will be subject to the procedures in Chapter 64.50 RCW; (B) Disputes between the Association and Lot Owner(s) or between two or more Lot Owners regarding the Community (other than those governed by Chapter 64.50 RCW), shall be submitted to nonbinding alternative dispute resolution (1) if agreed to in accordance with **Section 11.7** or so ordered by an arbitrator, or (2) as a prerequisite to commencement of a judicial proceeding; and (C) any Dispute arising under any written limited warranty provided to a Lot Owner (or its predecessor) by Declarant or any Dealer (“**Limited Warranty**”) will be subject to the arbitration and dispute resolution provisions of the Limited Warranty and not this Declaration. If any Lot Owner is not (or its predecessor was not) issued a Limited Warranty, all Disputes that would otherwise be subject to a Limited Warranty will be resolved by mandatory arbitration under this **Section 11**.

Disputes subject to binding arbitration in accordance with this **Section 11** include but are not limited to:

- 11.1.1 Any disagreement, claim, or action that a condition of any Lot, the Improvements on any Lot or of the Common Elements is a construction defect;
- 11.1.2 Any alleged violations of consumer protection, unfair trade practice, or other statutes;
- 11.1.3 Any allegation of negligence, strict liability, fraud, and/or breach of duty of good faith, and all other claims arising in equity or from common law;
- 11.1.4 Any disputes concerning the issues that should be submitted to binding arbitration;
- 11.1.5 Any disputes as to the payment or reimbursement of any arbitration filing fee;
- 11.1.6 Any other claim arising out of or relating to the sale, design, or construction of any Lot and/or the Improvements on any Lot, or the Common Elements, including any claim arising out of, relating to, or based on any implied warranty or claim for negligence or strict liability.

11.2 **Dispute Resolution by and between Bound Parties.** The Declarant, the Association (including its officers, directors, and committee members, and subject to the provisions of **Section 11.1**),

Applicable Parties, and all Lot Owners (a “**Bound Party**”) agree to submit all Disputes between or among them to the following procedures for binding arbitration in lieu of litigation. No Dispute may be initiated after the date when institution of legal or equitable proceedings based on the Dispute would be barred by the applicable statute of limitation or statute of repose.

- 11.3 **Arbitration Service.** The arbitration shall be conducted by Judicial Dispute Resolution Service (JDR), Judicial Arbitration Mediation Service (JAMS) in Seattle Washington, or such other reputable arbitrator or arbitration service agreed to by the Bound Parties. The rules and procedures of the designated arbitration service that are in effect at the time the request for arbitration is submitted will be followed.
- 11.4 **Applicable Law; Award.** The arbitration will be governed by and shall be specifically enforceable under the applicable arbitration law of the State of Washington. The arbitration award (the “**Award**”) shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of Washington.
- 11.5 **Costs.** To the extent not prohibited by law, the Bound Parties will pay a pro rata share (based on the number of Parties) of the costs and expense of the arbitrator. The payment will be made to the Person responsible for collecting such costs and expenses on behalf of the arbitrator prior to the applicable alternative dispute resolution process. Each Bound Party will bear its own costs (including expert costs), expenses, and attorneys' fees incurred in the arbitration.
- 11.6 **Proceedings Brought in Court.** If any Owner, the Association, or the Declarant files a proceeding in any court to resolve any Dispute, such action will not constitute a waiver of the right of such party or affect the right of any other party to seek arbitration of that or any other Dispute, and the Court will, upon motion of any party to the proceeding, direct that such Dispute be arbitrated in accordance with this Declaration, and will award reasonable costs and attorney’s fees to a party that successfully moves to have the Dispute resolved by arbitration.
- 11.7 **Resolution by Mediation or Negotiation.** In accordance with RCW 64.90.685(2), any Bound parties to a Dispute may agree at any time to resolve the Dispute by any form of binding or non-binding alternative dispute resolution. If the Bound Parties resolve any Dispute through negotiation or mediation, and any such Bound Party thereafter does not abide by the terms of the agreement, or if any Bound Party does not comply with the Award, then any other Bound Party may file suit or initiate administrative proceedings to enforce such agreement or Award without need to comply with the provisions of this Article. In that event, the party taking action to enforce the agreement or Award will be entitled to recover from the non-complying party (or if more than one non-complying party, from all those parties pro rata) all costs incurred in enforcing the agreement or Award, including attorney’s fees and costs.
- 11.8 **Waiver of Jury Trial. THE LOT OWNERS, ASSOCIATION, AND DECLARANT WAIVE ANY RIGHTS TO JURY TRIAL FOR DISPUTES EVEN IF THE ABOVE-DESCRIBED ALTERNATIVE DISPUTE RESOLUTION PROCEDURES AND PROVISIONS ARE OTHERWISE FOUND UNENFORCEABLE. BY DELIVERY AND ACCEPTANCE OF A DEED TO A LOT, EACH LOT OWNER AND DECLARANT MAKE THIS WAIVER KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY, AND ACKNOWLEDGE THAT NO ONE HAS MADE ANY REPRESENTATION OF FACT TO INDUCE THEM TO MAKE THIS WAIVER OR IN ANY MANNER OR IN ANY WAY TO MODIFY OR NULLIFY ITS EFFECT AND SUCH PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE HAD THE OPPORTUNITY TO BE ADVISED BY INDEPENDENT LEGAL COUNSEL IN CONNECTION WITH THIS DECLARATION AND IN MAKING THIS WAIVER.**

EACH LOT OWNER, ASSOCIATION, AND THE DECLARANT ACKNOWLEDGE HAVING READ AND UNDERSTOOD THE MEANING AND RAMIFICATIONS OF THIS JURY WAIVER, AND INTEND THIS JURY WAIVER BE READ AS BROADLY AS POSSIBLE AND EXTEND TO ALL DISPUTES.

- 11.9 **Involvement of Association in Individual Home Disputes.** Notwithstanding anything to the contrary in this Declaration, the Association may not sue any Person or arbitrate claims on behalf of one or more Lot Owners with respect to any claims or issues on individual homes, including construction and warranty claims.
- 11.10 **Declarant Consent Required.** Notwithstanding anything to the contrary in this **Section 11** or elsewhere in this Declaration, this **Section 11** may not be amended, modified, or repealed without the prior written consent of the Declarant.
- 11.11 **No Presumption of Unobserved Construction Defects.** The Declarant, the Association and all Lot Owners agree that if the Association or any Lot Owner alleges that any Common Element, Lot, or Lots or any improvements thereon are subject to or alleged to be subject to a construction defect, then in any arbitration, mediation, or other proceeding regarding such matters, there shall be no presumption that an alleged construction defect is prevalent or consistently present in other Lots or other portions of the Common Elements. where such alleged construction defect has not been observed.
- 11.12 **Required Vote to Make Claim.** Prior to filing a claim pursuant to the provisions in this **Section 11**, the Association must obtain the vote or written consent of Owners who represent not less than 75% of the Association's voting power (excluding the voting power of the Declarant). The foregoing is subject to any inconsistent provision of applicable law, including without limitation any lower maximum percentage.

12. Mortgagee Protection

- 12.1 **Information Regarding Mortgagees.** Each Lot Owner shall, within 20 days of encumbering such Member's Lot with a Security Interest in favor of a Mortgagee, and at other times upon request of the Association, provide the Association with the name and address of the Mortgagee, a copy of the instrument creating the Security Interest, including the loan number or other identifying number of the Security Interest and the address of the Mortgagee for notice purposes under this Declaration. Within 20 days after any change in the name or address of the Mortgagee, and at other times upon request of the Association, the Lot Owner will give notice to the Association of the changed information. The Lot Owner or Mortgagee may give notice to the Association of change in the information provided to the Association at any time, and provide a concurrent copy of the notice to the Mortgagee or Lot Owner, as the case may be. The address of the Mortgagee provided to the Association under this **Section 12.1** will be the Mortgagee's address for notice purposes under this Declaration. To the extent of any inconsistency between the Mortgagee's address provided by the Mortgagee and the Mortgagee's address provided by the Lot Owner, the address provided by the Mortgagee will prevail.
- 12.2 **Notices.** The Association will provide to any First Mortgagee that has requested the same or the address of whom has been provided to the Association as provided in **Section 12.1**, written notice of (i) casualty or condemnation affecting any Common Elements or the Lot on which the Mortgagee holds a security interest, (ii) the Lot Owner's failure for more than 30 days to meet any obligation under the Governing Documents, (iii) lapse of insurance, and (iv) any proposed action

by the Association or Board that requires the consent of a specified percentage of mortgagees. Any First Mortgagee that has requested the same will be entitled to receive notice of all meetings of the Association on the same basis as notice to Lot Owners, and be permitted to designate a representative to attend all such meetings.

- 12.3 **Effect of Declaration Amendments.** No amendment to this Declaration shall have any effect on any rights expressly conferred on First Mortgagees in this Declaration with respect to any First Mortgage unless the amendment has been consented to in writing by the First Mortgagee. Any provisions of this Declaration conferring rights upon First Mortgagees that are inconsistent with any other provisions of this Declaration shall control over such inconsistent provisions, but only to the extent those provisions are consistent with the Act, including without limitation RCW 64.90.295(1).
- 12.4 **Records.** Mortgagees will have the right to examine and copy records required to be maintained by the Association to the extent provided in RCW 64.90.495. First Mortgagees will have the same right to examine and copy records of the Association and to receive financial statements of the Association as are conferred upon Lot Owners by RCW 64.90.495 and this Declaration or the Governing Documents.
- 12.5 **Lien Priority.** The lien of the deed of trust, mortgage, or other security interest in a Lot held by a Mortgagee shall enjoy priority over the statutory lien on the Lot for unpaid Assessments under RCW 64.90.485, to the extent provided and subject to the limitations in RCW 64.90.485. A First Mortgagee that obtains title to a Lot by judicial or non-judicial foreclosure or by deed in lieu of foreclosure will take title to the Lot free and clear of any claims for unpaid Assessments against the Lot that accrued prior to date of acquisition of title by the First Mortgagee. The Association may elect to treat any such unpaid Assessments as a common expense of the Association and assessed against all Lots (including the subject Lot) by Allocated Interest. In the event of such a reallocation, the Association may continue to treat the unpaid Assessments as a personal obligation of the owner of the subject Lot who was indebted to the First Mortgagee.
- 12.6 **HUD or VA Approval.** During the period of Declarant Control, the following actions shall require the prior approval of HUD or VA if, at the time any such action is taken, HUD has insurance or VA has any guarantees on any First Mortgages, and HUD or VA require such approval: (a) amendment of this Declaration, except (i) amendments for the purpose of complying with the requirements, standards, or guidelines of GNMA, FNMA, FHLMC, HUD, or VA, or similar governmental or non-governmental agency or entity, (ii) corrective amendments or supplements under RCW 64.90.285(10), or (iii) amendments in connection with the exercise of any Development Right or Special Declarant Right; (b) termination of the Community; or (c) merger or consolidation of the Association, except as provided in **Section 10.1.6**.
- 12.7 **Rights under Act.** The provisions of this **Section 12** are in addition to any rights or benefits conferred on Mortgagees by the Act.

13. General

- 13.1 **Notices.** Notices to Lot Owners, the Association, the Board, Board members, or Declarant under this Declaration will be governed by RCW 64.90.515. The Association will designate in the

Governing Documents an address, location, or system to which notices may be electronically transmitted.

- 13.2 **Amendments.** This Declaration may be amended or supplemented in the manner provided in RCW 64.90.285, and as provided in **Section 8.1.**
- 13.3 **Certain Terms.** In this Declaration, (i) “include” “including” and related terms will be interpreted to include “without limitation;” and (ii) “will” has the same meaning as “shall.”
- 13.4 **Headings; Sections; Recitals and Exhibits.** Section and subsection headings in this Declaration are for convenience of reference only and do not define or limit the scope or intent of this Declaration or any of its provisions. References to “Sections” without reference to another document or instrument means Sections of this Declaration.
- 13.5 **Act Amended or Repealed.** In the event that the Act is amended, all RCW section references in this Declaration shall refer to such section as amended or, if such section is moved or replaced, then each reference shall refer to such different or replaced section. In the event the Act is repealed and replaced with a new act governing plat communities, then section references in this Declaration shall refer to the Act in its form immediately prior to its repeal

Any Recitals in this Declaration and any Exhibits attached to this Declaration are incorporated into and made a part of this Declaration.

[continued next page]

EXECUTED as of the date first written on Page 1 of this Declaration

DECLARANT

KBHPNW LLC, a Delaware limited liability company

By _____
Name _____
Title _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of KBHPNW LLC, a Delaware limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 20__.

(print _____ or _____ type _____ name)
NOTARY PUBLIC in and for the State of Washington,
residing at _____
My Commission expires: _____

[stamp or seal]

**EXHIBIT A
PROPERTY INFORMATION
FOR
WEST MAGNOLIA**

LEGAL DESCRIPTION OF PROPERTY:

PARCEL A:

ALL THAT PORTION OF TRACT 162, SUNNYSIDE FIVE ACRE TRACTS, ACCORDING TO PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGE 19, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID TRACT 162;
THENCE WEST ALONG THE NORTH LINE THEREOF 360 FEET;
THENCE SOUTH PARALLEL TO THE EAST LINE OF SAID TRACT 162 TO THE SOUTH LINE OF SAID TRACT;
THENCE ALONG SAID SOUTH LINE TO THE SOUTHEAST CORNER OF SAID TRACT 162;
THENCE NORTH ALONG THE EAST LINE OF SAID TRACT 162 TO THE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

PARCEL B:

TRACT 162 OF SUNNYSIDE FIVE ACRE TRACTS, AS PER PLAT RECORDED IN VOLUME 7 OF PLATS ON PAGE 19, RECORDS OF SNOHOMISH COUNTY;

EXCEPT THE EAST 360 FEET AS MEASURED ALONG THE NORTH LINE AND PARALLEL TO THE EAST LINE.

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

NUMBER OF LOTS IN COMMUNITY 27

MAXIMUM NUMBER OF LOTS THAT MAY BE ADDED TO COMMUNITY 0

ALLOCATED INTEREST OF EACH LOT Each Lot holds 1/27 of the total interest in the Community, and one vote is assigned to each Lot.

RESTRICTIONS ON ALIENATION OF LOTS IMPOSED BY THIS DECLARATION None.

LIMITED COMMON ELEMENTS AND ASSIGNED UNITS:

Tract Nos. or other designation	Assigned to Lots
Tract 996 (Access / Utilities / Stormwater Facilities)	12 and 13
Tract 997 (Access / Utilities / Stormwater Facilities)	24, 25, 26, and 27
Tract 998 (Access / Utilities / Stormwater Facilities)	20 and 21
Tract 999 (Open Space / Storm Detention / Utilities)	

CERTAIN EASEMENTS AND MAINTENANCE RESPONSIBILITIES:

The Plat describes various easements affecting certain Lots and tracts. Certain easements allocate access rights and maintenance responsibilities among the Lot Owners, the Association, and others. The full details of such easements are set forth on the Plat, but are summarized below.

Plat Easement Provision (See "Easement Notes")	Purpose	Affected Lots/Tracts	Benefitted Parties
1	10 foot wide public access and utilities easement	All Lots	Any utility purveyors and their successors and assigns
2	Public access and utilities easement	All Tracts	Any utility purveyors and their successors and assigns
3	10 foot private drainage easement	All Lots	Lot Owners
4	Private storm drainage easement	Lots 14 and 15	Owners of Lots 13 and 14
5	Private storm drainage easement	Lots 16 and 17	Owners of Lots 17 and 18
6	Private storm drainage easement	Lot 27	Lot 26
7	Public sewer easement	Tracts 996, 997 and as otherwise shown on Plat	City of Marysville
8	Drainage easements	As shown on Plat	City of Marysville
9	Emergency stormwater maintenance easement	Tracts 996, 997, and 998	City of Marysville
10	Emergency and routine maintenance easement	Tract 999	City of Marysville