



**RETURN ADDRESS:**

**BRIAN C. BALCH  
LAYMAN LAW FIRM, PLLP  
601 S. DIVISION STREET  
SPOKANE, WA 99202-1335**

**Reference No.:**

5488220

**Document Title:**

**AMENDED AND RESTATED DECLARATION ESTABLISHING COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR ELKRIDGE HEIGHTS**

**Grantor(s):**

1. D&J ELKRIDGE HEIGHTS, LLC
2. JOHN W. ASPLUND

Additional Grantors on page 2.

**Grantee(s):**

1. Same as Grantors

**Legal Description:**

All of ElkRidge Heights

**Parcel Numbers:**

44031.0740 - .0742	44031.0810	44031.0901 - .0903
44031.0912 - .0922	44031.1001 - .1014	44031.1101 - .1108
44035.1303	45344.0501 - .0511	45344.0601 - .0608
45344.0611 - .0619	45344.0621 - .0625	45344.0701 - .0715
45344.0716 - .0730	45344.0732 - .0748	45344.0801 - .0810
45344.0902 - .0912	45344.0923,	45344.1201 - .1202
45344.1301 - .1304	46344.0505	

**AMENDED AND RESTATED DECLARATION ESTABLISHING COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR ELKRIDGE HEIGHTS**

---

**THIS AMENDED AND RESTATED DECLARATION ESTABLISHING COVENANTS, CONDITIONS AND RESTRICTIONS** ("Restated Declaration") is made this 6<sup>th</sup> day of September 2011 by D&J ELKRIDGE HEIGHTS, LLC, a Washington limited liability company ("Declarant"); and JOHN W. ASPLUND and REBECCA J. ASPLUND, husband and wife; DAVID S. BOWER AND ELAINE S. BOWER, husband and wife; RICK BRADDOCK and BETTY BRADDOCK, husband and wife; FREDRICK TODD BROOKING and TAMI S. BROOKING, husband and wife; GORDON H. CAWTHRAY and DIANNE M. CAWTHRAY, husband and wife; NATE KOENIG, a married person as his sole and separate property; SALACHIAN PROPERTIES, LLC, a California limited liability company; ROBERT E. SLAVIK, Trustee of the ROBERT E. SLAVIK REVOCABLE TRUST; and CLARENCE H. WAGNER and LINDA H. WAGNER, husband and wife ("Additional Owners"). Declarant and Additional Owners are sometimes referred to below as "Grantors."

This Restated Declaration amends and supersedes, in entirety, the Declaration of Covenants, Conditions, Restrictions and Easements for ElkRidge Heights recorded January 23, 2007 in the Office of the Spokane County, Washington Auditor under Recording Number 5488220 ("Prior Declaration"). In place and stead of the Prior Declaration, this Restated Declaration provides as follows:

**RECITALS**

A. **WHEREAS**, Declarant is hereby designated by all Grantors as the successor to the original declarant ("Initial Declarant") specified in the Prior Declaration;

B. **WHEREAS**, Declarant and Additional Owners own the real property described on Exhibit "A" attached hereto, together with improvements to be made thereon, which real property and improvements are all part of a residential community commonly known as "ElkRidge Heights," and all of which are collectively referred to hereinafter as the "Property;"

C. **WHEREAS**, Grantors are executing this Restated Declaration for the benefit and protection of the Property, and to enhance its value and attractiveness as a desirable place to live, and with the covenants, conditions, restrictions and easements reserved created or confirmed herein to run with the land except to the extent otherwise expressly provided;

**NOW, THEREFORE**, Declarant and Additional Owners do hereby declare that the Property, and all portions thereof, are made subject to this Restated Declaration.

ARTICLE I: GENERAL PROVISIONS

1.1 Recitals Incorporated. The recitals stated above are substantive provisions in this Restated Declaration.

1.2 Development and Construction. Certain improvements intended in conjunction with development of the Property were completed by the Prior Declarant under the Prior Declaration. Declarant intends to further develop and complete some improvements upon and within the Property as part of a residential community for single-family home purposes. Nothing in this section shall be construed as requiring Declarant to assume or in any way being deemed to become responsible for any warranties, representations, promises or duties or obligation of the Initial Declarant under the Prior Declaration or in any way in connection with the Property.

1.3 Compliance With Restated Declaration Not Considered Government Approval. Any person or entity becoming an Owner of a Building Lot or other property interest within the Property acknowledges, by virtue of obtaining such ownership or interest, that said Building Lot or other portion of the Property is subject to zoning and subdivision ordinances and regulations and such other governmental laws, ordinances, regulations, approvals and legal requirements as may be in effect or as may from time to time be imposed. It shall be solely the obligation of such Owner, or other person or entity acquiring an interest in a portion of the Property, to become familiar with and comply with the same. No authorization, approval or provision of this Restated Declaration, or any action taken by the Association or any person or entity acting in conjunction with or on behalf of the Association shall be considered to constitute any representation or assurance of compliance with any of the foregoing.

ARTICLE II: DECLARATION

Grantors hereby declare that the Property, including each Building Lot or portion thereof, and all Common Areas and interests shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following terms, covenants, conditions, easements and restrictions, all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Property; and to enhance the value, desirability and attractiveness thereof. The terms, covenants, conditions, easements and restrictions set forth herein shall run with the land, and with each estate therein, and shall be binding upon all persons and entities having or acquiring any right, title or interest in the Property, or any portion thereof; shall inure to the benefit of and be binding upon Grantors, Grantors' successors in interest and each grantee or Owner and such grantee's or Owner's respective successors in interest, and, except to the extent expressly provided or limited below, may be enforced by Declarant, by the Association, any Owner or such Owner's successors in interest, against any other Owner, tenant, or occupant or interest holder of any part of the Property.

Notwithstanding the foregoing, no provision of this Restated Declaration shall be construed so as to prevent or limit Declarant's right to complete development of all portions of the Property and to construct improvements thereon and all such rights are reserved to Declarant. This reservation expressly includes the right reserved to Declarant to modify and adjust boundary lines among Building Lots, proposed roads and streets and Common Areas;

to add to or withdraw from any portion of the Common Areas; to modify and adjust the location, configuration, size and number of Building Lots; and to make other adjustments in the Property and any real property hereafter made part of the Property in any manner deemed advantageous to Declarant in order to promote development of the Property, and so long as Declarant has an ownership interest in the portions of the Property (other than any affected Common Areas) to be so modified or adjusted. Declarant's reserved rights hereunder also include the right to maintain model homes; construction, sales or leasing offices or similar facilities (temporary or otherwise); or to post signs, banners, flags and similar items that Declarant considers appropriate for construction, promotion, sales or leasing of all or any part of the Property.

**WARNING:** Spokane County has no responsibility to build, improve, or maintain or otherwise service the private roads and associated drainage facilities contained within or providing service to the Property. By accepting this development or subsequently by allowing a building permit to be issued for property on a private road, Spokane County assumes no obligation for said private road and the owners hereby acknowledge that the County has no obligation of any kind or nature whatsoever to establish, examine, survey, construct, alter, repair, improve, maintain, or provide drainage or snow removal on a private road or its associated drainage facilities.

### ARTICLE III: DEFINITIONS

3.1 "Architectural Committee" shall mean the committee created by Declarant or an Association pursuant to Article X hereof.

3.2 "Articles" shall mean the Articles of Incorporation of the Association or other organizational or charter documents of the Association.

3.3 "Assessments" shall mean those payments required of Owners or Association Members, including Regular, Special and Limited Assessments of the Association as further defined in this Restated Declaration.

3.4 "Association" shall mean the ElkRidge Heights Homeowners' Association, a Washington non-profit corporation, its successors and assigns, established by Declarant to exercise the powers and to carry out the duties set forth in this Restated Declaration or any amendment hereto.

3.5 "Board" shall mean the Board of Directors or other governing board or individual, if applicable, of the Association.

3.6 "Building Lot" shall mean each plot of land designated as such on the Plat, any tax parcel intended for improvement with a residence, as well as any tax parcel resulting from any adjustment or reconfiguration of any lots or portions of lots shown on any Plat. Building Lots do not include Common Area.

3.7 "Common Area" shall mean all real property in which the Association holds an interest or which is held or maintained, permanently or temporarily, for the common use, enjoyment and benefit of the Owners, and may include, without limitation, open space tracts, parks, recreational facilities, private roads, fences, entrance gates, walls, sidewalks, water features, drainage ponds and swales. Declarant may establish, add to, modify or withdraw

from Common Area from time to time on any portion of the Property by describing it on a Plat, by granting or reserving it in a deed or other instrument, or by designating it pursuant to this Restated Declaration or any Supplemental Declaration. A Common Area may include easement and/or license rights.

3.8 "Declarant" shall mean and refer to Declarant, D&J ELKRIDGE HEIGHTS, L.L.C., a Washington limited liability company, and any partial or total successors and assigns, who are designated as such in writing by Declarant to succeed to some or all of the duties and interests as Declarant, and who consent in writing to assume such designated duties and interests of the Declarant with respect to the Building Lots acquired by such successor, or such other matter affecting the Property, as applicable, in an Assignment of Declarant Rights that is recorded with the Spokane County, Washington Auditor.

3.9 "Grantors" shall mean Declarant, D&J ELKRIDGE HEIGHTS, LLC, a Washington limited liability company; and JOHN W. ASPLUND and REBECCA J. ASPLUND, husband and wife; DAVID S. BOWER AND ELAINE S. BOWER, husband and wife; RICK BRADDOCK and BETTY BRADDOCK, husband and wife; FREDRICK TODD BROOKING and TAMI S. BROOKING, husband and wife; GORDON H. CAWTHRAY and DIANNE M. CAWTHRAY, husband and wife; NATE KOENIG, a married person as his sole and separate property; SALACHIAN PROPERTIES, LLC, a California limited liability company; ROBERT E. SLAVIK, Trustee of the ROBERT E. SLAVIK REVOCABLE TRUST; and CLARENCE H. WAGNER and LINDA H. WAGNER, husband and wife ("Additional Owners").

3.10 "CPI" shall mean the Consumer Price Index (CPI-U West Urban Consumers, Size B/C, 1982-84 = 100) published by the US Bureau of Labor Statistics, or should that index ever cease to be published, then an alternative and reasonably comparable index selected by the Declarant so long as the Declarant owns any Building Lot in the Property and thereafter by the Board of the Association.

3.11 "Limited Assessment" shall mean a charge against a particular Owner and such Owner's Building Lot, equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Restated Declaration or any Supplemental Declaration, together with daily Assessment amounts (Section 7.4) and interest thereon (Section 7.6) as provided in this Restated Declaration or a Supplemental Declaration.

3.12 "Member" shall mean each person or entity holding a membership in the Association.

3.13 "Owner" shall mean the person or other legal entity, including Grantors and Primary Builders, which acquires fee simple interest of record to a Building Lot that is covered by this Restated Declaration, as well as purchasers under real estate contracts, but excluding those having an interest merely as security for the performance of an obligation.

3.14 "Plat" shall mean any subdivision plat covering any portion of the Property as recorded at the office of the County Auditor, Spokane County, Washington, as the same may be amended by duly recorded amendments thereof.

3.15 "Primary Builder" shall mean a person or entity that purchases and becomes the Owner of more than one Building Lot held for the purpose of constructing dwellings

thereon for resale to consumers in the ordinary course of its business and whom is designated as such in a Designation of Primary Builder Rights recorded with the Spokane County, Washington Auditor. Any Building Lot leased to a third party or being advertised primarily for lease to a third party shall not be considered held for resale while leased or primarily advertised for lease. At such time, if ever, as any such Owner no longer holds at least one of its owned Building Lots for resale, such Owner's status as a Primary Builder shall automatically terminate.

3.16 "Regular Assessment" shall mean the Assessment levied against each Owner to pay for the costs and expenses incurred or expected to be incurred by the Association in performing its obligations under this Restated Declaration more particularly set forth in Section 7.2.1 below.

3.17 "Restated Declaration" as referred to below shall mean this Restated Declaration as it may be amended from time to time and, any reference to "Declaration" made after this Section 3.17 shall be considered to refer to this Restated Declaration.

3.18 "Special Assessment" shall mean the portion of the costs of the capital improvements or replacements, equipment purchases and replacements or shortages in Regular Assessments, which are authorized, and to be paid by each Owner to the Association, pursuant to Section 7.3 below.

#### ARTICLE IV: USE AND CONSTRUCTION RESTRICTIONS

4.1 Construction of, or Alteration to, any Improvements to Property. With the exception of Declarant's work and actions to further the completion of the Property including rights reserved to Declarant with respect to the Property as provided in this Restated Declaration, no residence, other structure, building, fence, wall, obstruction, balcony, screen patio, patio cover, tent, awning, carport, carport cover, or other improvement of any kind, shall be commenced, erected, placed or constructed in any part of the Property, nor shall any alteration or improvement of any kind be commenced or made thereto, until the plans for the same have been approved in writing by the Architectural Committee in the manner prescribed in Article IX below. Provided, no further permission or approval shall be required to rebuild, repaint or repair any building, structure, landscaping or improvement in accordance with the plans, including colors and finishes, previously approved by the Architectural Committee for that Building Lot.

4.2 Use of Individual Building Lots. No dwelling shall be constructed, occupied or used on any Building Lot except for a new, site-constructed single-family residence, not to exceed 2 stories in height inclusive of the main level containing the garage entrance for the dwelling, but excluding any basement levels below that.

No trade, business, profession, commercial or manufacturing enterprise or activity, other than rental of the dwelling pursuant to Section 4.9 or a home occupation, is permitted to be conducted from any Building Lot. As used in this paragraph, the term "home occupation" shall mean only an occupation, profession or craft, carried on within a dwelling by the owner, which activity does not change the residential character of the dwelling, and is conducted in such a manner as to not create any outward appearance indicating operation of a business in the ordinary meaning of the term, and as may be further defined

by Spokane County Regulations. This prohibition includes operation of a business that would generate more than occasional customer or client visits to the Building Lot and display of any signs at the Property, including any exterior signs and any interior signs that would be visible from outside any structure, advertising such business (except as permitted on business vehicles under Section 4.5). Provided, however, nothing in this Section shall prevent Declarant or any Primary Builder from using a dwelling on a Building Lot to conduct business and sell Building Lots and dwellings, on a temporary basis only, until the last Building Lot and dwelling are sold. This temporary right includes the ability to use any such dwellings as model homes and/or temporary site offices.

**4.3 Subdividing and Combining Building Lots.** Except with regard to rights reserved to Declarant, no Owner shall further divide or alter any Building Lot in any way that might create additional Building Lots or reconfigure any boundary lines for any Building Lots or other portions of the Property or combine any Building Lots into fewer Building Lots without the prior written consent of the Architectural Committee, which the Architectural Committee may approve, reject or condition in its discretion. It is anticipated that Declarant will combine certain Lots and combine portions of Lots with Common Areas or create Common Areas from some Lots, which will result in fewer Building Lots existing in the Property than exists as of the date this Amended Declaration is executed. Further, it is anticipated that Owners other than Declarant may be granted permission to aggregate and combine existing Building Lots or portions of existing Building Lots into other Lots during the two year period commencing with recordation of this Amended Declaration, which will also result in fewer Building Lots existing in the Property than exists as of the date this Amended Declaration is recorded. Building Lots eliminated by Declarant in its process of reconfiguring the Property or by Owners other than Declarant during the two year period commencing on the date this Amended Declaration is recorded will result in fewer Building Lots in the Property to share in the payment of Assessments. After said two year period, it is anticipated that any approval given to an Owner other than Declarant to combine Building Lots in any manner that will reduce the number of Building Lots in the Property will be conditioned on not reducing the obligation to pay any Assessments or share of Assessments that applied to such eliminated Building Lots prior to such permitted combination.

**4.4 Nuisances.** No noxious, illegal or offensive activities shall be carried on in any Building Lot or dwelling, or in any part of the Property, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the owners of his respective Building Lot, or that shall in any way increase any rate of insurance for any owner within the Property, or cause any insurance policy to be canceled or to cause a refusal to renew the same or otherwise conflict with the spirit of this Restated Declaration in establishing a peaceful, residential community within the Property.

In the interest of public health and sanitation, and so that all of the Property may be benefited by a decrease in the hazards of stream pollution and by the protection of water supplies, recreation, wildlife and other public uses thereof, no Owner will use such Owner's Building Lot or Building Lots for any purpose that would result in the pollution of any waterway, including any intermittent stream that flows through or is adjacent to such Building Lot by refuse, sewage or other material that might tend to pollute the waters of any such stream or streams, or otherwise impair the ecological balance of the Property. Any violation of this provision shall be considered a nuisance.

4.5 Vehicle and Equipment Restrictions. Campers, boats, personal watercraft, boat and personal watercraft trailers, recreational vehicles, commercial vehicles (other than vehicles that may be kept or stored by the Association in connection with its operations), or other types of non-passenger vehicles, equipment, implements, or accessories may not be kept or stored on any public or private streets within the Property or on any Building Lot, except as provided below:

(a) Campers, boats, personal watercraft, boat and personal watercraft trailers, recreational vehicles, recreational trailers, and other non-passenger vehicles, equipment, implements, or accessories may be stored or kept within an enclosed garage; or behind the mid-point of the dwelling on the side of the Building Lot or in the rear of the Building Lot, provided that it is fully screened from view by a screening structure or fencing approved by the Architectural Committee.

(b) Campers, boats, personal watercraft, boat and personal watercraft trailers, recreational vehicles, recreational trailers, and other non-passenger vehicles, equipment, implements, or accessories may occasionally be temporarily kept on the public or private streets within the Property or on a paved driveway located on a Building Lot for a period not to exceed twenty-four (24) hours and only for purposes of cleaning, preparation for use and unloading. Provided, upon prior written approval of the Association's Officers, in their discretion and under such terms and conditions as the Association's Officers may impose, an Owner's out-of-town guests may be permitted to keep any of such vehicles at an approved location at the Property for a period not to exceed ten (10) days in any calendar year, and only while visiting an Owner at their Building Lot.

(c) Except as provided above, no vehicles may be kept or parked on other than an occasional temporary basis on any of the public or private streets within the Property. Parking for purposes other than actual loading or unloading or preparation for use shall not be considered temporary. In any event, parking a vehicle for a period in excess of twenty-four (24) hours without removal shall not be considered temporary.

(d) No more than two passenger vehicles (automobiles, up to 3/4 ton pick-up trucks, passenger vans designed for not more than 8 passengers, and similar vehicles) may be kept or parked on a driveway on any Building Lot for more than an occasional temporary period of time, with parking a vehicle for a period in excess of 24 hours not being considered temporary.

(e) No inoperable vehicle and no vehicle which is not currently licensed or in is in an extreme state of disrepair, shall be permitted to remain upon any Building Lot, dedicated street or other area within the Property, other than temporarily for emergency repairs, unless placed or maintained within an enclosed garage. No noisy or smoky vehicle shall be operated on the Property. No off-road unlicensed motor vehicle shall be maintained or operated within the Property. No commercial vehicle shall be kept or stored within the Property except by Declaration or the Association in connection with performance of its rights or obligations under this Restated Declaration, or any workman while performing any work on any portion of the Property or improvement thereto. For purposes of this paragraph, commercial vehicles shall not include sedans, service vans or standard size pickup

trucks that are used for both business and personal use, provided that any signs or markings of a commercial nature on such vehicles shall be reasonably unobtrusive and inoffensive.

(f) The Association's Officers shall have the right to adopt and implement rules, subject to receipt of approval by the Board, governing de-icing and snow removal, including the conditions and circumstances under which de-icing and snow removal will be conducted. To the extent provided in any such rule or any notice given in connection therewith, no vehicle shall be parked or left on any private streets or roads within the Property. Any vehicle left after the time permitted in accordance with any rule or pursuant to any notice given by the Association's Officers, or their designee, may be towed by the Association's designee, and the Owner of the Building Lot responsible for such vehicle and such Owner's Building Lot shall be subject to a Limited Assessment for all costs and expenses incurred in connection therewith.

4.6 Signs and Displays. Except signs permitted to be placed and maintained by Declarant or a Primary Builder, no signs shall be displayed to the public view on any Building Lots or on any portion of the Property. "For Sale" or "For Rent" signs shall be allowed, provided they do not exceed five (5) square feet in size.

In addition, the Association's Officers may adopt rules governing the display of decorations for holidays and special events, which rules may include provisions governing the earliest dates when installation will be permitted and the latest dates by which removal of displays will be required. Provided, however, no such rules shall be deemed enforceable to the extent they might violate any federal or state laws, rules or regulations prohibiting discrimination. The foregoing restrictions shall not be deemed to prohibit the display of (a) political signs no more than ninety (90) days in advance of the election to which they pertain and fifteen (15) days after the election or (b) the flag of the United States by an Owner or occupant of a Lot if the flag is displayed in a manner consistent with federal and state flag display laws, 4 U.S.C. § 1 et seq. and RCW 64.38.055.

4.7 Animals. No animals, livestock, poultry or birds of any kind shall be raised, bred or kept in any Building Lot or dwelling, or on any portion of the Property; except that no more than two (2) usual and ordinary household pets, such as dogs, cats, or birds may be kept outdoors, provided that they are not kept, bred or maintained for any commercial purposes, and that they are kept under reasonable control at all times. Keeping dogs under reasonable control shall include keeping dogs contained within the Owner's Building Lot when not on a leash, either by sufficient fencing, an "invisible fence" type restraint system, or other equally effective means of containing the dog within the Building Lot. Outside an Owner's Building Lot, all dogs must be restrained on leashes.

Owners shall keep their dogs from barking excessively in any area where such barking can be heard from outside the Building Lot. Continued barking after receipt of three warnings from the Association's Officers, or their designee, shall be considered excessive barking and a nuisance, entitling the Association's Officers to take appropriate action to assure that such excessive barking is eliminated. Barking no more than occasionally to alert the Owners of the need to let the dog into a house, to warn of strangers coming to the Building Lot, and the like shall be permitted. Leaving a dog outside the dwelling for prolonged periods while the dog is frequently barking will be also be considered excessive.

**NO PIT BULLDOGS, ROTTWEILERS, DOBERMAN PINSCHERS, WOLVES AND WOLF-CROSSES, CROSSES OF ANY OF THE FOREGOING AND DOG BREEDS DETERMINED BY THE ASSOCIATION'S OFFICERS TO HAVE SIMILAR REPUTATIONS FOR AGGRESSIVE TENDENCIES SHALL BE PERMITTED ANYWHERE ON THE PROPERTY BY ANY PERSON FOR ANY REASON AT ANY TIME. For purposes of this provision, PIT BULLDOG is defined as including the American Stafford Shire Terrier as identified by the American Kennel Club and the Stafford Shire Bull Terrier as identified by the A.K.C., and the American Pit Bull Terrier as identified by the United Kennel Club.**

Notwithstanding anything above in this Restated Declaration to the contrary, service animals or other similar designation for animals as may hereafter be enacted by laws regarding disabilities and/or handicapping conditions, shall not be considered in interpreting or enforcing this Section, but shall be permitted within the Property to the full extent permitted or required under applicable law, rule, regulation or legal requirement.

4.8 Garbage and Refuse Disposal. All rubbish, trash and garbage shall be regularly removed from each Building Lot at each Owner's expense, and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers. All equipment, garbage cans, woodpiles, or storage piles shall be kept screened and concealed from view from the dedicated streets, except garbage cans may be placed curbside commencing at 6:00 p.m. on the day before pickup, and must be removed from curbside no later than 8:00 p.m. on the day of pickup.

4.9 Right to Lease. Except for a dwelling in possession of a lender following a default in a first mortgage, a foreclosure proceeding, or any deed or other arrangement in lieu of foreclosure, dwellings on Building Lots shall not be rented by the Owners thereof for transient or hotel purposes, which shall be defined as (a) rental for any period less than thirty (30) days, or (b) any rental if the occupants of the dwelling are provided customary hotel service such as room service for food and beverage, maid service, furnishing laundry and linen, and bellboy service. Subject to the foregoing restrictions and any subsequent amendments to this Section that may hereafter be adopted, Owners of Building Lots shall have the absolute right to rent out the dwellings (but not less than the entire dwelling) provided that the rental agreement is made subject to the covenants, conditions, restrictions, limitations and uses contained in this Restated Declaration. Any failure on the part of any tenant to comply with this Restated Declaration shall constitute a default under the terms of such rental agreement and a violation of this Restated Declaration by the Owner of the Building Lot. Notwithstanding anything above in this Section to the contrary, it is Grantors' intention that the Property primarily consist of Owner-occupied dwellings at full development. Should the Declarant, during the Initial Development Period described in Section 5.1, or the requisite number of Owners required to amend this Restated Declaration thereafter, decide to limit, restrict or otherwise regulate leasing of dwellings and/or Building Lots, such change shall be permitted so long as it does not operate to impair any existing lease or rental agreement covering any dwelling on any Building Lot.

4.10 Building Lots to be Kept in Good Repair. Each Owner shall keep all improvements on their Building Lots, including all buildings, fences, structures and landscaping in good order and repair. This obligation shall include but not be limited to proper maintenance of any septic or other sewage disposal systems and all related

equipment and apparatus; and the painting and/or other appropriate external care of all buildings, fences, structures and other improvements; all in a manner and with such frequency as is consistent with good property management. All Owners shall be responsible for maintaining any portion of drainage improvements, including drainage swales, located within their Building Lots in accordance with all applicable legal requirements and any approved design requirements and in accordance with applicable requirements, plans and specifications and in good operating condition.

Responsibility for maintenance of landscaping required by the preceding paragraph shall include responsibility for fertilizing and watering the same as needed to maintain them in a healthy condition, free from weeds and other noxious plant materials, and not permitting lawn grasses to exceed six inches (6") in height (which shall not be construed to apply to newly seeded lawns not yet appropriate for mowing, ornamental grasses in planting beds, or similar grasses on the steeper sloped areas, as may have been approved by the Architectural Committee). It shall also include responsibility for removal and replacement of dead, diseased or damaged trees, shrubs and other landscaping, subject to obtaining a tree removal permit if required by municipal ordinances.

If any Owner fails to properly perform his or her maintenance responsibility, the Association may, but is not obligated to, perform such maintenance responsibilities on behalf of such Owner and assess the Owner for a Limited Assessment; provided, however, that except when entry is required due to an emergency situation, the Association shall provide the Owner with reasonable notice and an opportunity to cure the problem prior to exercising this remedy.

**ARTICLE V: ELKRIDGE HEIGHTS  
HOMEOWNERS' ASSOCIATION**

5.1 Organization of ElkRidge Heights Homeowners' Association. ElkRidge Heights Homeowners' Association, the "Association", shall be initially organized by Declarant as a Washington non-profit corporation under the provisions of the Washington Code relating to non-profit miscellaneous and mutual corporations (RCW Ch. 24.06) and shall be charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws and this Restated Declaration. Notwithstanding anything in this Restated Declaration to the contrary, so long as any Declarant owns any Building Lot in the Property (the "Initial Development Period"), Declarant shall have the right to appoint the members of the Architectural Committee and to perform all functions of the Architectural Committee under this Restated Declaration, and no amendment shall be made to this Section without Declarant's prior written consent. This right and the Initial Development Period shall continue, except to the extent Declarant sooner gives written notice that it is relinquishes some or all of this right, until such date as Declarant has sold all Building Lots in the Property to Owners other than Declarant.

5.2 Membership. Each Owner, by virtue of being an Owner and for so long as such ownership is maintained, shall be a Member of the Association. Memberships in the Association shall be appurtenant to the Building Lot owned by such Owner. No membership in the Association shall be transferred, pledged, assigned or alienated in any way, voluntarily or involuntarily, except upon the transfer of an Owner's ownership in a Building Lot, and then membership appurtenant to such Building Lot shall immediately transfer to and vest in the new

Owner. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association.

5.3 Voting. Voting in the Association shall be carried out by Members, including Grantors and Primary Builders, who shall have the right to cast the votes attributable to the Building Lots they own. The number of votes such Member may cast on any issue is determined by the number of Building Lots the Member owns. Each Owner, including each of the Grantors, shall have one vote for each Building Lot owned. When more than one person or entity holds an interest in any Building Lot, all such persons/entities shall share the vote attributable to the Building Lot, but fractional voting will not be allowed. The right to vote may not be severed or separated from the ownership of the Building Lot, to which it is appurtenant, except that any Owner may give a revocable proxy to any person.

5.4 Power and Duties of the Association. The Association shall have the powers of a corporation organized under the corporation laws of the State of Washington applicable to non-profit miscellaneous and mutual corporations, governed by RCW Chapter 24.06, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws, and this Restated Declaration. The Association shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under Washington law and under this Restated Declaration, and the Articles and Bylaws, and to do and perform any and all acts which may be necessary to, proper for, or incidental to the proper management and operation of the Common Area and the Association's other assets, and the affairs and the performance of the other responsibilities herein assigned, including without limitation:

5.4.1 Assessments. The power to levy Assessments on any Owner or any portion of the Property and to force payment of such Assessments, all in accordance with the provisions of this Restated Declaration.

5.4.2 Right of Enforcement. The power and authority from time to time in its own name, on its own behalf, or on behalf of any Owner who consents thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Restated Declaration or the Articles or the Bylaws, including the Association Rules adopted pursuant to this Restated Declaration, and to enforce by injunction or otherwise, all provisions hereof.

5.4.3 Delegation of Powers. The authority to delegate its power and duties to committees, provided any such committee shall contain at least two Directors of the Association; and to contract for the maintenance, repair, replacement and operation of the Common Area.

5.4.4 Licenses, Easements and Rights-of-Way. The power to grant and convey to any third party such licenses, easements and rights-of-way in, on or under the Common Area as may be necessary or appropriate for the orderly maintenance, preservation and enjoyment of the Common Area, and for the preservation of the health, safety, convenience and the welfare of the Owners, for the purpose of constructing, erecting, operating or maintaining:

5.4.4.1 Lines, cables, wires, conduits or other devices for the transmission or provision of electricity or electronic signals for lighting, heating, power, telephone, television, communications or other purposes;

5.4.4.2 Sewers, storm drains, underground irrigation pipes, water drains and pipes, water supply systems, sprinkling systems, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities; and

5.4.4.3 Mailboxes and sidewalk abutments around such mailboxes or any service facility, berm, fencing and landscaping abutting common areas, streets or land conveyed for any public or quasi-public purpose including, but not limited to, bicycle pathways.

The right to grant such licenses, easements and rights-of-way are hereby expressly reserved to the Association and may be granted at any time prior to twenty-one (21) years following execution of this Restated Declaration.

5.4.5 Operation, Maintenance and Improvement of Common Area. Operate, maintain, and otherwise manage or provide for the operation, maintenance and management of the Common Area, including the repair and replacement of all improvements within any portion of the Common Area. In addition, upon approval of Declarant, so long as Declarant is the Owner of any Building Lot, as well as approval of Owners of at least 75% of the Building Lots other than Declarant's Building Lots, the Association shall also have the authority to improve and add additional improvements or amenities to the Common Area. It is intended that this provision will bar the Association from attempting to construct substantial capital improvements such as tennis courts, pools, community buildings and the like without the super majority approval required above. This Section shall in no way limit or impair Declarant's right and authority to complete, add to, modify, or develop the Common Areas as provided for elsewhere in this Amended Declaration.

5.4.6 Reserve Account. Establish and fund a reserve account with a reputable banking institution or savings and loan association, which reserve account shall be dedicated to the costs of repair, replacement, maintenance and improvement of the Common Area.

5.4.7 Taxes and Assessments. Pay all real and personal property taxes and assessments separately levied against the Common Area or against the Association and/or any other property owned by the Association. Such taxes and assessments may be contested or compromised by the Association, in its discretion.

5.4.8 Water and Other Utilities. Acquire, provide and/or pay for water, garbage disposal, refuse and rubbish collection, electrical, telephone and gas and other necessary services for the Common Area, and to manage all domestic, irrigation and amenity water rights and rights to receive water held by the Association, whether such rights are evidenced by license, permit, claim, stock ownership or otherwise.

5.4.9 Insurance. Obtain insurance from reputable insurance companies authorized to do business in the State of Washington, and maintain in effect any

insurance policy the Board, in its discretion, deems necessary or advisable, including, without limitation fire and casualty insurance, public liability insurance, directors' and officers' liability insurance, and such other insurance, including motor vehicle insurance and Worker's Compensation insurance, to the extent necessary to comply with all applicable laws and indemnity, faithful performance, fidelity and other bonds as the Board shall deem necessary or required to carry out the Association functions or to insure the Association against any loss from malfeasance or dishonesty of any employee or other person charged with the management or possession of any Association funds or other property.

5.4.10 Architectural Committee. To the extent the Declarant's right to perform all functions of the Architectural Committee during the Initial Development Period as defined in Section 5.1 is terminated, such authority and responsibility shall pass to and be assumed by an Architectural Committee appointed by the Board of the Association. Provided, any Architectural Committee appointed by the Association's Board shall include at least two Directors of the Association at all times.

5.4.11 Enforcement of Restrictions and Rules. Perform such other acts, whether or not expressly authorized by this Restated Declaration, as may be reasonably advisable or necessary to enforce any of the provisions of this Restated Declaration, or of the Articles or Bylaws, including, without limitation, the recordation of any claim of lien with the Spokane County Auditor, as more fully provided herein.

5.5 Personal Liability. To the fullest extent permitted by law, no Member of the Board, member of any committee of the Association, member of the Architectural Committee, officer of the Association, representative of the Declarant, the Declarant, or the manager, if any, shall be personally liable to any Owner or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of such person or entity unless due to the willful misconduct or bad faith of such person or entity, and then liability of any such person may only attach to the extent such person knowingly and actively participated in such willful misconduct or bad faith action. Any such person or entity released from liability shall be indemnified and held harmless by the Association from and against any damage, loss or prejudice aforesaid, including actual defense costs and attorney fees.

## ARTICLE VI: RIGHTS TO COMMON AREAS

6.1 Use of Common Area. Subject to the rights reserved to Declarant to alter, add to, withdraw from, reconfigure or otherwise adjust any existing or planned Common Area(s), each Owner shall have a right to use the Common Area in common with all other Owners, which right shall be appurtenant to and shall pass with the ownership of each Building Lot. Reasonable, non-destructive use of the Common Areas is permitted. However, improper use or tampering with any portion of the Common Area or any improvements thereon, including any such activities that create a risk of injury or damage to any person or property, including the Common Area and improvements thereon, is strictly prohibited. Violation of this restriction shall be considered a nuisance under Section 4.4 of this Declaration.

The Common Area cannot be mortgaged or conveyed without the consent of Declarant while Declarant is an Owner of any Building Lot, plus the Owners of at least two-

thirds (2/3) of the Building Lots, excluding Declarant. If ingress or egress to any residence is through the Common Area, any conveyance or encumbrance of such portion of the Common Area will be subject to such Building Lot Owner's easement. In furtherance of the development plan for the Property, Declarant and the Association shall have the right to create easements and construct improvements on the Common Area, including but not limited to providing utility and private drainfield or drainfield access, crossings, walkways, trails, open space, and other improvements deemed desirable by the Association and/or Declarant.

6.2 Drainage Facilities. The initial Common Areas include private roads and drainage facilities within the private roads and Common Area tracts, as shown on the face of the Plat or to be shown on Plats of subsequent phases of development of the Property. Construction of the private roads, drainage facilities and drainage tracts within the Property (the "Road and Drainage Improvements") have been required to be completed in conformance with plans approved by the Spokane County Engineer's Office. The Association shall be responsible for maintaining the Road and Drainage Improvements, including paying the cost thereof, through Assessments imposed on all Building Lots presently within or hereafter annexed into the Property. Maintenance of the Road and Drainage Improvements constitutes an obligation running with all portions of the Property, including any additional real property subsequently annexed. Notwithstanding anything in this Restated Declaration to the contrary, provisions regarding maintenance of the Road and Drainage Improvements imposed hereunder, by any separate covenants required by Spokane County, or pursuant to the Operation & Maintenance Manual prepared for the Property by Inland Northwest Consultants, dated October 13, 2006, shall not be subject to amendment or modification without the approval of Spokane County.

## ARTICLE VII: ASSESSMENTS

7.1 Covenant to Pay Assessments. By becoming an Owner of any Building Lot or other portion of the Property, and except as provided below in this Section 7.1, each Owner of such portion of the Property hereby covenants and agrees to pay when due all Assessments or charges made against the Association, including all Regular, Special and Limited Assessments and charges made against such Owner and/or Building Lot pursuant to the provisions of this Restated Declaration or other applicable instrument. Should the Association engage a third party manager to assist in operation of the Association's business and performance of functions related to the Property, the Association may also require that an Owner purchasing a Building Lot pay a fee to be transferred to such manager, in an amount approved by the Board, associated with establishing an account for such incoming Owner and transferring Association membership from the previous Owner.

Notwithstanding the foregoing and recognizing Declarant's obligation to provide funds to cover shortfalls in Regular and Special Assessment obligations through 2016, Declarant shall not be obligated to pay any Regular or Special Assessments made by the Association, including Regular or Special Assessments with regard to any portion of the Property, including Building Lots, owned by Declarant through 2016 (which applies to Building Lots owned by Declarant at the time of recording this Amended Declaration, as well as any Building Lots that may become owned by Declarant by any means after recording of this Amended Declaration). After 2016, Declarant shall pay one-half of the scheduled amounts of any Regular or Special Assessments for each Building Lot owned by Declarant. Further, any Primary Builder owning one or more Building Lots in the Property, shall, with regard to each Building Lot held for

resale, be exempt from payment of any Regular or Special Assessments during the first year the Primary Builder owns such Building Lot; shall be responsible for an amount equal to 75% of the scheduled Regular and Limited Assessments otherwise applicable to such Building Lot during the second year such Primary Builder is an Owner of such Building Lot, if applicable; and be responsible for the full amount of all applicable Assessments with regard to such Building Lot should the Primary Builder continue to be an Owner thereafter. There is no exemption for Building Lots owned by a Primary Builder that are not held for resale.

7.1.1 Assessment Constitutes Lien. Such Assessments and charges together with interest, costs and reasonable attorney fees which may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon the property against which each such Assessment or charge is made.

7.1.2 Assessment is Personal Obligation. Each such Assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the Owner of such portion of the Property beginning with the time when the Assessment falls due. The personal obligation for delinquent Assessments shall not pass to such Owner's successors in title to the extent they acquired ownership in good faith reliance on an Estoppel Certificate under Section 7.7, and shall remain such Owner's personal obligation regardless of whether he or she remains an Owner or whether an Estoppel Certificate may have failed to disclose all Assessment obligations owing and shall also remain a lien against the affected Building Lot(s) except to the extent expressly provided herein. It is expected that all delinquent Assessments will be fully paid and brought current at any time ownership of a Building Lot is transferred.

7.2 Regular Assessments. Except as provided above with regard to Grantors, and except for the limitations made for the benefit of Primary Builders stated above, all Owners are obligated to pay Regular Assessments to the treasurer of the Association on a schedule of payments established by the Board. An Owner acquiring a Building Lot during a calendar year will pay a prorated share of then imposed Assessments for that year at the time of acquisition, together with any initial fee as provided in the first paragraph of Section 7.1.

7.2.1 Purpose of Regular Assessments. The proceeds from Regular Assessments are to be used to pay for all costs and expenses incurred by the Association, including legal and attorney fees and other professional fees, for the conduct of its affairs, including without limitation the costs and expenses of construction, improvement, protection, maintenance, repair, management and operation of the Common Areas, including all improvements located on such areas owned and/or managed and maintained by the Association, amounts incurred as a result of violations of this Restated Declaration, to the extent for any reason they are not recovered in Limited Assessment payments, and an amount allocated to an adequate reserve fund to be used for repairs, replacement, maintenance and improvement of those elements for the Common Area, or other property of the Association that must be replaced and maintained on a regular basis (collectively "Expense").

7.2.2 Computation of Regular Assessments. The Regular Assessment for calendar years 2011 through 2012 shall be \$600.00 per year per Building Lot owned by Owners other than Declarant and any Primary Builder entitled to any exemption or partial exemption. Thereafter through 2016 the amount of the annual Regular

Assessment shall be subject to upward annual adjustment based on the greater of increases in the CPI, as defined in Section 3.10, or the net anticipated increase in anticipated items of expense included in the budget for the upcoming year as compared to the actual expense for same items during the year then ending. Through the end of 2016, Declarant shall pay any shortfall in meeting actual amounts required in connection with obligations to be paid by Regular Assessments, without provision for any reserve fund accumulation. For calendar years after 2016, the Association shall compute the amount of its expenses on an annual basis based on anticipated needs and obligations of the Association. The computation of Regular Assessments for 2017 and thereafter shall take place not less than thirty (30) or more than sixty (60) days before the beginning of each fiscal year of the Association. Provided, in the event Regular Assessment amount computations are not made for any year, the amount computed for the immediately preceding year shall continue to apply. Regular Assessments for 2011 shall be prorated for 2011, to commence on the first day of the month following recordation of this Amended Declaration and with a schedule for payment of such prorated amount of the Regular Assessment to be paid on a schedule determined by the Association's Board.

**7.2.3 Amounts Paid by Owners.** The Board can require, in its discretion or as provided in the Articles or Bylaws, payment of Regular Assessments in monthly, quarterly, semi-annual or annual installments. The Regular Assessment to be paid by any particular Owner, for any given fiscal year after 2016 shall be computed as follows: the total Regular Assessment amount shall be based on the Association's total advanced estimate of expenses required for the applicable fiscal year; and that total shall then be allocated equally among each category of Building Lots then subject to Regular Assessments in the Property; taking into account any discounted Assessment amount to which the Declarant and any Primary Builder may then be entitled in connection with each Building Lot owned by it; and also taking into account any Building Lots owned by Owners obligated to pay any Assessments, but expected to default in making such payments.

**7.3 Special Assessments.**

**7.3.1 Purpose and Procedure.** Pursuant to the obligation of Declarant in Section 7.2.2 to cover Assessment requirements above the amount specified for other Owners, there shall be no Special Assessments required of any Owners through the end of 2016. In the event that the Board shall determine that the Regular Assessment amount for a given calendar year after 2016 is or will be inadequate to meet the expenses of the Association for any reason, including but not limited to costs of construction, reconstruction, unexpected repairs or replacement of improvements on the Common Area, shortfalls caused by failure of any Owner(s) to pay any Assessments, attorney fees and/or litigation costs, other professional fees, or for any other reason, the Board shall determine the approximate amount necessary to defray such additional expenses and levy a Special Assessment against the Property. The Special Assessment amount shall be allocated among the Building Lots in the same manner as Regular Assessments. No Special Assessment shall be levied that exceeds twenty percent (20%) of the budgeted gross expenses of the Association for the fiscal year for Regular Assessments, without the vote or written assent of the Owners representing a majority of the votes of the Members of the Association. The

Board shall, in its discretion, determine the schedule under which any Special Assessment will be paid.

7.3.2 Consistent Basis of Assessment. Every Special Assessment levied by and for the Association shall be levied and paid upon the same basis as that prescribed for the levying and payment of Regular Assessments for the Association.

7.4 Limited Assessments. Notwithstanding the above provisions with respect to Regular and Special Assessments, the Board may levy a Limited Assessment against a Member as a remedy to reimburse the Association for costs incurred in bringing the Member and/or such Member's Building Lot into compliance with the provisions of the governing instruments for the Property, including any actual costs, consultant charges and attorney fees. This shall expressly include the authority to levy Assessments against any Building Lot Owner in violation of any of the requirements imposed on such Building Lot Owner under this Restated Declaration which is above and beyond actual out-of-pocket fees, costs and expenses incurred by the Association. Such additional Assessment amount may be imposed in an amount up to fifty dollars (\$50.00) per day (or its equivalent value as compared with January 1, 2011 dollars, as adjusted periodically based on changes in the CPI as defined in Section 3.10), for each violation which remains uncorrected after thirty (30) days' written notice given to such Owner from the Association. Notwithstanding anything above to the contrary, the Board shall have discretion to shorten or eliminate the thirty (30) day notice provision in the case of repeated violations of the same or similar provisions within this Restated Declaration before imposing any additional Assessment amount. Further, a Limited Assessment may also be assessed against an Owner for damage to any Building Lot or portion of the Common Area within the Property caused by reason of the negligence or willful misconduct of such Owner, such Owner's resident tenant, or such Owner's family or guests, both minor and adult.

7.5 Assessment Period. Unless otherwise provided in the Articles or Bylaws, the Assessment period for Regular and Special Assessments, the "fiscal year," shall commence on January 1 of each year and terminate December 31 of such year. The first Assessment shall be pro-rated according to the number of months remaining in the fiscal year and shall be payable in advance.

7.6 Notice and Assessment Due Date. Ten (10) days prior written notice of Regular, Special and any Limited Assessments shall be sent to the Owner of every Building Lot subject thereto, and to any person in possession of such Building Lot based on the last known addresses on record with the Association. The date of sending notice of any Assessment shall be the date of its levy. The due dates for installment payment of Regular Assessments and Special Assessments shall be the first day of each month or other applicable period unless some other due date is established by the Board. Each periodic installment of each Regular Assessment or Special Assessment shall become delinquent if not paid within ten (10) days after the due date. Each Limited Assessment shall be delinquent if not paid within ten (10) days of levy thereof. There shall accrue with each delinquent Assessment installment payment a late charge equal to ten percent (10%) of the delinquent installment. In addition, each Assessment payment which is delinquent for more than twenty (20) days shall accrue interest at twelve percent (12%) per annum calculated the date of delinquency to and including the date full payment is received by the Association. The Association may bring an action against the delinquent Owner and may foreclose the lien against such Owner's Building Lot as more fully provided herein. Each Owner is personally liable for Assessments, together with all interest, costs and attorney fees, and no Owner may

exempt such Owner or their Building Lot(s) from such liability by a waiver of the use and enjoyment of the Common Areas, or by lease or abandonment of such Owner's Building Lot.

7.7 Estoppel Certificate. The Association, upon at least five (5) days prior written request, shall execute, acknowledge and deliver to the party making such request, a statement in writing stating whether or not, to the knowledge of the Association, a particular Building Lot is in default under the provisions of this Restated Declaration, and further stating the dates to which any Assessments have been paid by the Owner. Any such certificate delivered pursuant to this paragraph may be relied upon by any prospective purchaser or mortgagee of the Owner's Building Lot.

#### ARTICLE VIII: ENFORCEMENT OF ASSESSMENTS; LIENS; PROCEEDINGS

8.1 Right to Enforce. The Association has the right to collect and enforce its Assessments pursuant to the provisions hereof. Each Owner of a Building Lot, upon becoming an Owner of such Building Lot, shall be deemed to covenant and agree to pay each and every Assessment provided for in this Restated Declaration and agrees to the enforcement of all Assessments in the manner herein specified. In the event an attorney or attorneys are employed for the collection of any Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Restated Declaration, each Owner agrees to pay reasonable attorney fees in addition to any other relief or remedy obtained against such Owner. The Association's Officers, or their authorized representative, may enforce the obligations of the Owners to pay such Assessments by commencement and maintenance of a suit pursuant to paragraph 8.3 to enforce the liens created hereby. A suit to recover a money judgment for an unpaid Assessment shall be maintainable without foreclosing or waiving the lien hereinafter provided.

#### 8.2 Assessment Liens.

8.2.1 Creation. There is hereby created a claim of lien with power of sale on each and every Building Lot to secure payment of any and all Assessments levied against such Building Lot pursuant to this Restated Declaration together with interest thereon at the maximum rate permitted by law and all costs of collection which may be paid or incurred by the Association making the Assessment in connection therewith, including costs and reasonable attorney fees incurred. All sums assessed in accordance with the provisions of this Restated Declaration shall constitute a lien on each such Building Lot.

8.2.2 Claim of Lien. Upon default of any Owner in the payment of any Regular, Special or Limited Assessment issued hereunder, the Association may cause to be recorded in the office of the Spokane County Auditor a claim of lien. The claim of lien shall state the amount of such delinquent sums and other authorized charges (including the cost of recording such notice), a sufficient description of the Building Lot(s) against which the same have been assessed, and the name of the record Owner thereof. Each delinquency shall constitute a separate basis for a notice and claim of lien. Upon payment to the Association of such delinquent sums and charges in connection therewith or other satisfaction thereof, the Association shall cause to be recorded a further notice stating the satisfaction or relief of such delinquent sums and

charges. The Association may demand and receive the cost of preparing and recording such release before recording the same.

8.3 Method of Foreclosure. Such lien may be foreclosed by appropriate action in court or by sale by the Association establishing the Assessment, its attorney or other person authorized to make the sale. Such sale, if not conducted by foreclosure through court action, shall be conducted in accordance with the provisions of the Washington Code applicable to the exercise of powers of sale permitted by law, as though the Association were a beneficiary designated under a deed of trust executed on Deed of Trust form LPB #22, as in effect as of the date of recording this Restated Declaration. The Officers of the Association are hereby authorized to appoint any attorney or title company authorized to do business in Washington as trustee for the purpose of conducting such sale or foreclosure.

8.4 Required Notice. Notwithstanding anything contained in this Restated Declaration to the contrary, no action may be brought to foreclose the lien created hereunder, whether judicially, by power of sale or otherwise, until the expiration of thirty (30) days after both of the following have been completed: a copy of such claim of lien has been deposited in the United States mail, certified or registered, postage prepaid to the Owner of the Building Lot(s) described in such notice of delinquency and claim of lien, and to the person in possession of such Building Lot(s), with notice to be sent to the address for the Building Lot, the address for the owner and taxpayer as shown in the Spokane County Assessor's computer data base, and any other last known address in the possession of the Association's manager, if applicable; and such claim of lien has been recorded by the Association in the Office of the Spokane County Auditor.

8.5 Subordination to Certain Trust Deeds and Mortgages. The lien for the Assessments provided for herein in connection with a given Building Lot shall be subordinate to the lien of a deed of trust or mortgage in favor of any deed of trust beneficiary or mortgagee that relied on an estoppel pursuant to Section 7.7 and which deed of trust or mortgage is filed of record as an encumbrance against an Owner's Building Lot prior to the recordation of a claim of lien for any Assessments. Except as provided in this paragraph with respect to a trustee or mortgagee who acquires title to or a security interest in a Building Lot, the sale or transfer of any Building Lot shall not affect the Assessment lien provided for herein, nor the creation thereof by the recordation of a claim of lien, on account of the Assessments becoming due whether before, on, or after the date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent Assessments as provided for in this Restated Declaration. No mortgagee or beneficiary under a deed of trust will be required to collect Assessments. Nothing in this Restated Declaration makes failure to pay any Assessment a default under any mortgage.

#### ARTICLE IX: ARCHITECTURAL COMMITTEE

9.1 Creation and Appointment of Architectural Committee Members. While Declarant is the Owner of any Building Lot within the Property and except to the extent Declarant sooner relinquishes this right (the Initial Development Period pursuant to Section 5.1), Declarant shall have all right and authority to appoint all members of the Architectural Committee and to perform all functions of the Architectural Committee hereunder. Declarant may, however, elect to sooner relinquish all or any part of such authority to the Association in a written document signed by Declarant. Declarant's right to partially relinquish its authority

includes the right to relinquish performance of certain functions to members of an Architectural Committee appointed by the Board of the Association and to retain others. For example, the Declarant could elect to retain right and authority to appoint Architectural Committee members for purposes of reviewing and considering proposals for initial construction of dwellings and improvements on Building Lots and to elect to delegate to the Association responsibility for appointing an Architectural Committee having responsibility for reviewing and considering proposals for alterations of existing improvements, addition of outbuildings and similar items. Any relinquishment of Declarant's right and authority to appoint members of the Architectural Committee while Declarant owns any Building Lot in the Property may be made conditional and may be made subject to Declarant's right to revoke any such delegation in Declarant's discretion. Any Architectural Committee appointed by the Board shall have three members, at least two of whom shall be members of the Board.

9.2 Submittal for Review of Proposed Construction. Upon receipt of submittal of complete requests for Architectural Committee review and approval as provided in this Restated Declaration, the Architectural Committee shall consider and act upon such request pursuant to this Restated Declaration, and perform such other duties as from time to time shall be assigned to it by Declarant or the Board, as applicable, including the inspection of construction in progress to assure its conformance with plans approved by the Architectural Committee.

At a minimum, any submittal for Architectural Committee approval must include:

- (a) a completed application with a completed checklist utilizing the then current form developed by the Architectural Committee for this purpose;
- (b) a site plan at a scale no less than 1" = 20' on a 24" x 36" or a 30" x 42" sheet showing boundaries and dimensions, a north arrow, the boundaries and dimensions of all other proposed structures and buildings, distances in all directions from proposed structures to nearest property lines, and the exact location and dimension of the proposed driveway.
- (c) roof plan and floor plans at no less than 1/8" = 1' 0". Roof plans should show areas of flat and sloped roofs and any proposed skylights, roof mounted equipment, such as solar collectors, etc.
- (d) Exterior elevations of all sides of the dwelling at the same scale as the floor plans, with accurate existing and proposed grade lines shown, and with all exterior materials noted. Heights of all parapets and roof ridge lines shall be shown.
- (e) Samples of all exterior materials and colors. Exterior paint color samples for each exterior color, properly identified, must be included. Pictures of proposed roofing or brick, masonry, stone, cultured stone or similar materials, with color and type identified, may be substituted in lieu of an actual sample. These should be mounted on an 18" x 24" board clearly marked with Owner's name, filing date, and homesite number, and identified with manufacturer's name, color, and/or number.
- (f) a complete landscape plan of the same scale as the site plan (minimum 1" = 20') showing the entire Building Lot and indicating: all areas to be irrigated; location, size and species of all trees and other perennial plants to be added; all

exterior walks, drives, patios and other decorative features including exterior lighting; and any driveway entry column details. Any trees to be cut are to be flagged with red flagging and all trees, whether to be cut or to be retained, shall be shown on the landscape plan and identified as being planned for removal or retention.

9.3 Completion of Dwelling and Yard Landscaping. The Owner of any Building Lot, other than Declarant and any Owners of multiple Building Lots at the time of adoption of this Restated Declaration, shall commence construction of a dwelling therein with 18 months of becoming an Owner of such Building Lot. The exterior of each dwelling, including the garage, shall be completed within 12 months of the commence of construction thereon. For purposes of this provision, commencement of construction shall be considered to have started when a building permit is issued by applicable government authorities. Commencement of construction may be extended for either commencement of construction or completion of construction in the discretion of the Architectural Committee for reasonable periods of time that the Architectural Committee determines justify such extension, including weather considerations and market considerations (such as anticipated or actual absorption rates for new homes with respect to a Primary Builder).

In addition to the above, at the time of completion of construction of the exterior of each dwelling, landscaping of the front yard and any side yard or rear yard fronting a flanking street shall be also be completed by the Owner in conformity with plans approved by the Architectural Committee. Thereafter, no later than the first to occur of the date one year following transfer of ownership of a Building Lot by a Primary Builder or three years of completion of the exterior of the dwelling on a Building Lot, the remaining portions of the yard on such Building Lot shall be landscaped in substantial conformity and harmony with the landscaping required in the front yard and in accordance with plans submitted to and approved by the Architectural Committee.

In addition to other landscaping, all front and side yards abutting streets or roads within the Property may be required to incorporate trees adjacent to such streets or roads by the Architectural Committee. It is anticipated that, except where existing trees and/or drainage or other improvements might make installation undesirable or unattractive, as determined by the Architectural Committee in its discretion, trees determined to be suitable by the Architectural Committee may be required to be placed and maintained adjacent to streets and roads and parking strips, spaced at intervals to create a reasonably uniform appearance along some or all of such streets and roads.

9.4 Minimum Standards. The following minimum standards for buildings and other improvements shall apply (with the right being reserved to the Architectural Committee to impose greater requirements and/or restrictions on Building Lots where the Architectural Committee determines in its discretion that alternate requirements are appropriate):

9.4.1 Dwelling Size and Garage. No dwelling shall have less than 1,200 square feet on the main floor for a single-story home; 1,000 square feet on the main floor for a one and one-half or two story home; or 1,200 on the bottom two living levels of a split-entry or four-level home. Areas refer to living areas and do not include garages, porches, patios and similar areas. The main floor shall be considered the level closest to grade facing the street from which primary access is provided. No dwelling shall have more than two stories above grade. Each dwelling shall include an attached garage designed to accommodate at least two passenger automobiles.

9.4.2 Roofs and Walls. Roofs and exterior walls shall be constructed of such materials and have such quality, colors and specifications as may be imposed by the Architectural Committee. While the Architectural Committee may approve or reject other materials, or may hereafter disallow any of the following determined by the Architectural Committee to be unsuitable at the time of adopting this Restated Declaration: exterior walls may be finished with Hardiplank, cedar, brick, stone, cultured stone and similar materials meeting any quality standards adopted by the Architectural Committee; and roofs may be constructed of 30-year rated architectural shingles, tile and similar materials meeting any quality standards adopted by the Architectural Committee. Walls facing streets shall utilize "double-wall" construction unless otherwise approved by the Architectural Committee. Roofs shall all have a pitch of not less than 5:12 and not more than 9:12. The Architectural Committee shall have the authority, in its discretion, to condition approval of exterior wall materials for any dwelling or other approved building on installation and placement of a certain amount of exterior brick, rock, cultured stone or other material.

9.4.3 Detached Garages and Outbuildings. In addition to the dwelling and its attached garage, and so long as the Architectural Committee determines that a particular Building Lot is suitable, up to one detached garage and/or one additional outbuilding may be approved on a Building Lot, not to exceed one story above grade. Any garage or permitted outbuilding shall, as nearly as practicable, match the design, colors, and siding and roofing materials of the dwelling.

9.4.4 Fences. No fence may extend on the front yard side on any Building Lot further than the midpoint line of the dwelling measured front to back as approved or constructed. Fences shall be constructed of materials and with colors approved by the Architectural Committee. While the Architectural Committee may approve other materials or withdraw from any approved list any material it may hereafter determine in its discretion to be unsuitable, at the time of adopting this Restated Declaration: fences may be constructed of good quality vinyl and sight-obscuring plantings (such as hedges using plants approved by the Architectural Committee). For purposes of this Section, any wall, hedge or mass planting that operates as a sight-obscuring line will be considered a fence. However, nothing in this Section shall prevent or condition Declarant's erection of any perimeter fence Declarant may elect to permit or construct along any or all of the perimeter of the Property; nor the erection of a necessary retaining wall or placement of a fence on a side yard facing a street by Declarant, the Association, or an Owner other than Declarant. In addition, a cyclone fence for purposes for constructing a dog run, or similar enclosure, may be permitted so long as the same is screened from view from outside the Building Lot by permitted fencing, sight-obscuring landscaping, or similar screening approved by the Architectural Committee.

9.4.5 Colors. Colors are to be natural earth tone colors such as brown, beige, muted green, and similar colors approved by the Architectural Committee. Bright, avante garde and iridescent colors shall not be permitted.

9.4.6 Height and Placement Restrictions. Some Building Lots have views that the Architectural Committee may protect. Some Building Lots may have such proximity to entry areas, streets and other views from outside the Building Lot that

structures and locations for structures permitted for any Building Lot or Lots may not be considered appropriate for others. Accordingly, the Architectural Committee has the authority to condition approval of any structure, landscaping or other improvement not exceeding or being permitted to exceed specified height limitations; or on placement, site-obscuring, size limits and other criteria that the Architectural Committee deems appropriate with respect to any Building Lot or Lots.

9.4.7 Restriction Against Raising Height of Grade. Neither the Owner nor any person or persons claiming under the Owner shall or will at any time raise the grade of any Building Lot or Building Lots herein conveyed above the grade established or to be established by Declarant unless approved by the Declarant or Architectural Committee, as applicable.

9.4.8 Antennas and Dishes. No radio, citizens band, or other communication antenna shall be erected upon any Building Lot or dwelling except for standard television antennas and/or dishes that are reasonably unobtrusive and inoffensive or as may be required to be permitted by law. With regard to the foregoing, each Owner shall have the right to install a "Protected Antenna" (as defined by the provisions of 47 C.F.R. § 1.4000 (FCC Rule) as it now exists or is hereafter amended or replaced, or any other federal, state or local law, code, rule or regulation that preempts, prohibits or limits restrictions on, or conditions to, the installation, maintenance or repair of telecommunications equipment desired by an Owner. Otherwise, the Association shall have the right to regulate other kinds of antennas, dishes or receiving devices and to approve, condition or deny requests therefore.

9.4.9 Temporary Structures. No trailer, basement, tent, shack, garage, barn, camper or other outbuilding or any structure of a temporary character erected or placed on any Building Lot shall at any time be used as a residence.

9.4.10 Exterior Lighting. All exterior lighting shall be non-glare and approved by the Architectural Committee prior to installation.

9.4.11 Design. The Architectural Committee shall have the authority to reject designs that it considers architecturally unacceptable from an aesthetic standpoint, as determined by the Architectural Committee in its sole discretion. Without limiting the foregoing, exterior walls on fronts or backs of dwellings with unbroken horizontal planes in excess of 20 feet will not be permitted.

9.5 Architectural Committee Decisions. Decisions of the Architectural Committee and the reasons therefore shall be transmitted by the Architectural Committee to the Applicant at the address set forth in the application for approval within thirty (30) calendar days after filing all materials required by the Architectural Committee, failing which, the application shall be considered approved. Provided, no approval will be considered given with respect to any required for which all submittals required by Section 9.2 have not been filed with the Architectural Committee.

9.6 No Waiver of Future Approvals. The approval of the Architectural Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Architectural

Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matter whatever subsequently or additionally submitted for approval or consent. The decision of the Architectural Committee shall be final.

9.7 Architectural Approval not Equivalent of Government Approval. Each Owner acknowledges that approval of any item or matter by the Architectural Committee is not the equivalent of receipt of any applicable governmental approval, or evidence of compliance with any laws, ordinances, or other legal requirements. Each Owner shall be and remain solely responsible for complying with all such governmental requirements, including obtaining and fulfilling obligations under appropriate permits for construction, alteration, and remodeling of any improvements on their Building Lot.

9.8 Right to Adopt Design Guidelines. The right is reserved to the Architectural Committee to adopt and revise, from time to time, design guidelines, consistent with the use and construction restrictions stated in Article IV and this Article IX, and providing further detail and specification regarding colors, materials, landscape specifications, and similar matters. Any person acquiring ownership of a Building Lot shall have a right to receive a copy of any current design guidelines, if any are adopted, at the time of acquisition of their Building Lot. Any person acquiring ownership of any such Building Lot shall be entitled to rely upon the provisions in the design guidelines received on the date of their acquisition of such Building Lot, so long as such dwelling and initial landscaping are completed within the time limits specified under Section 9.3. Thereafter, design guideline changes will govern and control further modifications or additional construction of improvements on such Building Lot; provided, no modification shall prevent repair or reconstruction of any improvement which complied with design guidelines at the time of original installation.

9.9 Non-Liability of Architectural Committee Members. Neither the Architectural Committee nor any member thereof, nor any authorized Architectural Committee representative, shall be liable to the Association or to any Owner or Grantee for any loss, damage or injury arising out of or in any way connected with the performance of the Architectural Committee, and then liability may only attach to any Architectural Committee member or authorized representative that knowingly and actively participated in such willful misconduct or bad faith action. Any such person or entity released from liability shall be indemnified and held harmless by the Association from and against any damage, loss or prejudice aforesaid, including actual defense costs and attorney fees.

9.10 Existing Improvements on any Building Lot. Notwithstanding anything above in this Restated Declaration to the contrary, visible elements of all dwellings and other structures, and all improvements currently existing, on any of the Building Lots are considered approved and in compliance with this Article in their present condition. This approval shall not, however, apply to exempt future modifications, including changes in the color, of any improvement; or any proposed additional improvements on any Building Lot from the requirements of this Restated Declaration, nor to exempt any Building Lot or improvements from other obligations imposed under this Restated Declaration. Additionally, this approval shall not apply to any currently existing landscaping that is not maintained in accordance with the requirements of this Restated Declaration.

## ARTICLE X: ANNEXATION OF ADDITIONAL PROPERTIES

10.1 By Declarant. Declarant may, in Declarant's sole discretion, deem it desirable to annex additional real property to the Property. Additional real property may be annexed to the Property and brought within the provisions of this Restated Declaration as provided herein by Declarant, at any time, and from time to time, without the approval of any other Owner or the Association, and so long as Declarant is the Owner of any Building Lot or other portion of the Property.

10.2 By the Association. In addition to the provisions concerning annexations by Declarant specified in Section 10.1 above, after Declarant no longer owns any Building Lot or other portion of the Property, additional real property may be annexed to the Property, upon the vote or written agreement of Members holding at least two-thirds (2/3) of the votes of the Association.

10.3 Rights and Obligations of Owners of Annexed Property. Subject to the provisions hereof, upon recording of a Supplemental Declaration as to any additional real property, all provisions contained in this Restated Declaration shall apply to the additional real property in the same manner as if it were part of the Property originally covered by this Restated Declaration.

10.4 Method of Annexation. The addition of additional real property to the Property authorized under Sections 10.1 and 10.2 shall be made by filing of record a Supplemental Declaration or other similar instrument annexing such annexed property into the Property, which Supplemental Declaration shall be executed by Declarant or two officers of the Association, as applicable, as well as the Owner thereof.

10.5 Deannexation. Declarant may delete any portion of the Property described on Exhibit "A," or any previously annexed real property, from the Property and from coverage of this Restated Declaration and jurisdiction of the Association, so long as Declarant is the Owner of the portion of the Property to be deleted, and provided that a Supplemental Declaration of Deletion of Property is recorded in the Office of the Spokane County Auditor in the same manner as a Supplemental Declaration of Annexation. Members other than Declarant as described above shall not be entitled to deannex all or any portion of the Property except on the favorable vote or written agreement of Members holding at least two-thirds (2/3) of the votes of the Association and so long as Declarant owns any portion of the Property (including any areas that have been annexed), by written approval of Declarant.

10.6 In the event there is ever a separate class of membership held by Declarant, such as a "Class B" membership, then notwithstanding anything in this Restated Declaration to the contrary, annexation of additional properties, dedication of Common Area, and amendment of this Restated Declaration will require prior approval of the United States Department of Housing and Urban Development and the Veterans Administration.

## ARTICLE XI: EASEMENTS

11.1 Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Building Lot and such portion or portions of the

Common Area adjacent thereto or as between adjacent Building Lots due to minor unintentional wrongful placement or settling or shifting of the improvements including but not limited to structures, walkways, paths, sidewalks and driveways constructed, reconstructed or altered thereon in accordance with the terms of this Restated Declaration. Easements of encroachment shall be valid only so long as they exist, and the rights and obligations of Owners shall not be altered in any way because of encroachments, settling or shifting of the improvements. Provided, however, in no event shall a valid easement for encroachment occur due to the willful act or acts of an Owner. In the event a structure on any Building Lot is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Building Lot agree that minor encroachments over adjoining Building Lots that existed prior to the encroachment may be reconstructed pursuant to the easement granted by this paragraph.

11.2 Easements of Access. All Owners of Building Lots will have a perpetual easement for access, ingress and egress over the Common Areas that may be designated as pathways, trails, or other routes created for access or travel. This easement shall run with the land. Such easements may be used by Declarant, and by all Owners, their guests, tenants and invitees, residing on or temporarily visiting the Property, for pedestrian walkways, and such other purposes reasonably necessary for the use and enjoyment of a Building Lot or Common Area.

11.3 Drainage and Utility Easements (and Maintenance Obligations). Grantors expressly reserve for the benefit of all the Property reciprocal easements of access, ingress and egress for all Owners to and from their respective Building Lots for installation and repair of utility services, for drainage of water over, across and upon adjacent Building Lots, and Common Areas, resulting from the normal use of adjoining Building Lots or Common Areas, and for necessary maintenance and repair of any improvement including fencing, retaining walls, lighting facilities, mailboxes and sidewalk abutments, trees and landscaping. Notwithstanding anything expressly or impliedly contained herein to the contrary, this Restated Declaration shall be subject to all easements heretofore or hereafter granted by Declarant for the installation and maintenance of utilities and drainage facilities that are required for the development of the Property. In addition, Grantors hereby reserve for the benefit of the Association the right to grant additional easements and rights-of-way over the Property, as appropriate, to utility companies and public agencies as necessary or expedient for the proper development of the Property until close of escrow for the sale of the last Building Lot in the Property to an Owner other than any of Grantors.

The Owners of Building Lots are hereby restricted and enjoined from constructing any improvements upon any drainage or utility easement areas as shown on the Plat of the Property or otherwise designated in any recorded document which would interfere with or prevent the easement from being used for such purpose. Provided, however that the Owner of such Building Lots and Declarant, the Association or designated entity with regard to the landscaping easement described in this Article, shall be entitled to install and maintain landscaping on such easement areas, and also shall be entitled to build and maintain fencing on such easement areas subject to approval by the Architectural Committee, so long as the same would not interfere with or prevent the easement areas from being used for their intended purposes. Provided further, that any damage sustained to improvements on the easement areas as a result of legitimate use of the easement area shall be the sole and exclusive obligation of the Owner of the Building Lot whose improvements were so damaged. Finally, the Owners of Building Lots within which portions of drainage facilities or improvements are located, including drainage swales, shall cause such items to be maintained

in accordance with all applicable legal and approved design requirements and in good operating condition.

## ARTICLE XII: MISCELLANEOUS

12.1 Term. The easements created hereunder shall be perpetual, subject only to extinguishment by the holders of such easements as provided by law. The covenants, conditions, restrictions and equitable servitudes of this Restated Declaration shall run for a term of twenty (20) years from the date this Restated Declaration is recorded, unless amended as herein provided. Thereafter, such covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each. Nothing in this Section limits the ability to amend this Restated Declaration at any time as provided in Section 12.2.

12.2 Amendment. Except where a greater percentage is required by express provision in this Restated Declaration, the provisions in this Restated Declaration may be amended at any time by an instrument in writing signed and acknowledged by the president and secretary of the Association certifying and attesting that such amendment has been approved by the vote or written consent of Owners representing more than two-thirds (2/3) of the votes of Owners of Building Lots, together with approval as required below in this Section 12.2. Any amendment of this Restated Declaration shall also require the consent of Declarant, so long as Declarant, Owner or any Primary Builder is an Owner of any Building Lot. Further, any amendment of this Restated Declaration shall also require the written consent of each Primary Builder that then is an Owner of at least three Building Lots held for resale. Any such amendment, once being fully executed by an authorized representative of the Declarant, if applicable, and two officers of the Association confirming that the requisite approval stated above has been obtained, shall be effective upon its recordation with the Spokane County Auditor.

12.3 Notices. Any notices permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association, as provided in this paragraph.

### 12.4 Enforcement and Non-Waiver.

12.4.1 Right of Enforcement. Each Owner of any Building Lot (including Declarant of any Primary Building) and the Association shall have the right to enforce any or all of the provisions of this Amended Declaration as it relates to any portion of the Property and/or any Owner. Provided, only the Association shall have the right and authority to impose, enforce and collect Assessments.

12.4.2 Violations and Nuisances. The failure of any Owner of a Building Lot to comply with any provision hereof, or with any provision of the Articles or Bylaws of the Association, is hereby declared a nuisance and will give rise to a cause of action by the Association or any Owner of a Building Lot within the Property for recovery of

damages or for negative or affirmative injunctive relief or both. However, any other provision to the contrary notwithstanding, only Declarant or the Association acting through its Officers, or a duly authorized agent of either of them, may enforce by self-help any of the provisions hereof, and then only if such self-help is preceded by reasonable notice to the Owner.

12.4.3 Violation of Law. Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of this Restated Declaration and subject to any or all of the enforcement procedures set forth in this Restated Declaration and any or all enforcement procedures in law or equity.

12.4.4 Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

12.4.5 Non-Waiver. The failure to enforce any of the provisions herein at any time shall not constitute a waiver of the right to enforce any such provision.

12.5 Limitation of Restrictions on Declarant. Notwithstanding anything in this Restated Declaration to the contrary, the complete right, authority and discretion are reserved to Declarant to perform Declarant's intended work in connection with improvements, development and marketing of the Property and the construction of the improvements thereon. The completion of that work in the sale of Building Lots is recognized as beneficial to the establishment and enhancement of the Property as a residential community. In order that Declarant's work may be completed in an expeditious and cost-effective manner, nothing in this Restated Declaration will be interpreted to:

12.5.1 prevent Declarant, its contractors, or subcontractors, from doing on the Property or any Building Lot, whatever is reasonably necessary or advisable in connection with completion of Declarant's intended work; or

12.5.2 prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Property, such structures as may be reasonable and appropriate for the conduct of Declarant's business in completing its work, establishing the Property as a residential community, and marketing and disposing of the same in Building Lots by sale, lease or otherwise; or

12.5.3 prevent Declarant from maintaining such sign or signs on any portions of the Property as may be necessary or appropriate, in Declarant's reasonable discretion, for the sale, lease or disposition of the Property or any portion thereof.

12.6 Rights of Primary Builders. Notwithstanding anything in this Restated Declaration to the contrary, each Primary Builder shall have the rights set forth in this Section 12.6:

12.6.1 A Primary Builder shall have the right to maintain and conduct customary and appropriate facilities and activities at or adjacent to their Building Lots within the Property in connection with the construction or sale of homes and Building Lots within the Property. This shall include, but not be limited to maintenance of business and construction offices within homes or garages, signs, banners, billboards,

flags, model units and sales offices within homes or garages on one or more of their Building Lots. Provided, the nature and placement of such items shall be requested of and be subject to approval by the Architectural Committee in its discretion. Further, the Architectural Committee, in its discretion, shall have the right and authority to grant each prior builder easements over the Common Area for access to and from Building Lots and for use of such facilities at no charge. Provided, should any work or activity performed by or under a Primary Builder in any portion of the Common Area damage or disrupt any improvements upon or features within such portion of the Common Area, the Primary Builder shall be and remain solely responsible for all actions and expenses associated with restoring the same as nearly as practicable to the condition it was in prior to commencement of such work or other activity.

12.6.2 To the extent provided in Article VII, Primary Builders have limited exemptions from Regular Assessments and Special Assessments. Primary Builders will not be exempt from Limited Assessments.

12.6.3 A Primary Builder may obtain advance approval for any building plan proposed for construction, or for any landscaping proposed for installation, on any Building Lot(s). If granted, a Primary Builder shall not thereafter be required to resubmit any such pre-approved plans for proposed construction of a dwelling or proposed installation of landscaping on any Building Lot or seek further plan approval from the Architectural Committee, the Declarant or any of the other Grantors. Otherwise, a Primary Builder is not exempt from the approval requirements or other provisions in this Restated Declaration related to construction of improvements within the Property.

12.7 Interpretation. The provisions of this Restated Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Property. This Restated Declaration shall be construed and governed under the laws of the State of Washington.

12.8 Restrictions Severable. Notwithstanding the provisions of the foregoing paragraph, each of the provisions of this Restated Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision herein.

//  
//  
//  
//  
//  
//  
//

IN WITNESS WHEREOF the parties have hereunto set their hands and seals this 6<sup>th</sup> day of September 2011.

ELKRIDGE HEIGHTS HOMEOWNERS' ASSOCIATION

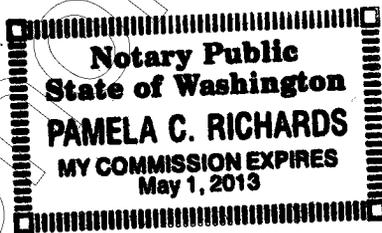
By: *Gordon H. Cawthray*  
Printed Name: GORDON H. CAWTHRAY  
Title: President

By: *Richard L. Richards*  
Printed Name: RICHARD L. RICHARDS  
Title: Secretary

STATE OF WASHINGTON )  
 )ss.  
COUNTY OF SPOKANE )

On this 6<sup>th</sup> day of September 2011 before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Gordon H. Cawthray to me known to be the President of ELKRIDGE HEIGHTS HOMEOWNERS' ASSOCIATION, a Washington nonprofit corporation, the corporation that executed the foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of the corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the instrument.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

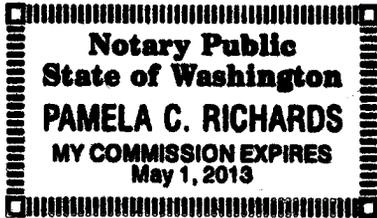


*Pamela C Richards*  
NOTARY PUBLIC in and for the State  
of Washington, residing at Spokane  
My commission expires: May 1, 2013  
Pamela C Richards  
Printed Name

STATE OF WASHINGTON )  
 )ss.  
COUNTY OF SPOKANE )

On this 6<sup>th</sup> day of September 2011 before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Richard L. Braddock to me known to be the Secretary of ELKRIDGE HEIGHTS HOMEOWNERS' ASSOCIATION, a Washington nonprofit corporation, the corporation that executed the foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of the corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the instrument.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



Pamela C. Richards  
NOTARY PUBLIC in and for the State  
of Washington, residing at Spokane  
My commission expires: May 1, 2013  
Pamela C. Richards  
Printed Name

Unofficial Document

**EXHIBIT "A"****LEGAL DESCRIPTION OF PROPERTY**

All of ElkRidge Heights, as per plat recorded in Volume 33 of Plats, pages 96 – 103;  
Situate in Spokane County, Washington.

Unofficial Document