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DECLARATION OF

**COVENANTS, CONDITIONS, AND RESTRICTIONS
AND RESERVATIONS OF EASEMENTS**

FOR

HALF MOON LAKE ESTATES

SPOKANE COUNTY, WASHINGTON

Unofficial Document



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**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR**

**HALF MOON LAKE ESTATES
SPOKANE COUNTY, WASHINGTON**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, AND RESERVATION OF EASEMENTS ("Declaration"), is made on the date hereinafter set forth, by LOWELL S. MCKEE AND BETTY ANN MCKEE, husband and wife ("Declarant"), with reference to the following facts:

- A. Declarant is the owner of a certain tract of land located in Spokane County, Washington, which property is more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").**
- B. Declarant has improved or intends to improve the Property by constructing thereon certain residential improvements and related facilities, and to establish thereon a planned unit development, to be managed, operated, and maintained by an incorporated Association of Owners, for the benefit of all parts of the Property.**
- C. The development shall be hereinafter referred to as the "Project." The Owner of each Unit shall receive fee title to his individual Lot and the residential Dwelling thereon and all rights associated with membership in THE HALF MOON LAKE ESTATES HOMEOWNERS ASSOCIATION.**
- D. Declarant intends by this document to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all of the said Units and the Owners thereof.**

Declarant hereby declares that the Property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved, subject to the following declarations, limitations, covenants, conditions, restrictions, and easements all of which are for the purpose of enhancing and protecting the value and attractiveness of the Property, and the project, and every part thereof, in accordance with the plan for the improvement, sale, and operation of the Property as a planned unit development. All of the limitations, covenants, conditions, restrictions, and easements shall constitute covenants and encumbrances which shall run with the land and shall be perpetually binding upon Declarant and its successors-in-interest and assigns, and all parties having or acquiring any right, title, or interest in or to any part of the Property or the Project.

ARTICLE 1**DEFINITIONS**

Unless otherwise expressly provided, the following words and phrases, when used in this Declaration and in the Project Documents, shall have the following meanings:

1.1 **Architectural Committee:** the Architectural Committee created pursuant to Article 6 of the Declaration.

1.2 **Articles:** the Articles of Incorporation of the Association as amended from time to time.

1.3 **Assessment:** that portion of the costs of maintaining, improving, repairing, operating, and managing the Property which is to be paid by the Unit Owners as determined by the Association under this Declaration (or by a Sub-Association established according to this Declaration). Assessments may be designated as Regular Assessments, Extraordinary Assessments, or Special Assessments, as those terms are more specifically defined in Article 3 of this Declaration.

1.4 **Association:** THE HALF MOON LAKE ESTATES HOMEOWNERS ASSOCIATION, a Washington non-profit corporation, formed or to be formed by Declarant, the members of which shall be the Owners of Units in the Project.

1.5 **Board or Board of Trustees:** the governing body of the Association.

1.6 **Bylaws:** the Bylaws of the Association as amended from time to time. The initial Bylaws shall be adopted by the incorporating members of the Board of Trustees.

1.7 **Common Area:** all the real property and improvements located within the Project, other than the Lots, including the Landscaped Common Areas, and the Roads, all of which shall be owned by the Association for the common use and enjoyment of all Owners.

1.8 **Common Expenses:** means and includes the actual and estimated expenses of administration of the Association, and of the maintenance, repair, or replacement of those parts of the Project for which the Association is responsible, and any reasonable reserve for such purposes as found and determined by the Board and all sums designated common expenses by or pursuant to the Project Documents.

1.9 **Declarant:** LOWELL S. McKEE and BETTY ANN McKEE, husband and wife, and their successors-in-interest and assigns with respect to the Property, but shall not include members of the public purchasing completed Units.

1.10 Declaration: This Declaration of Covenants, Conditions, and Restrictions and Reservations of Easements, as it may be amended from time to time.

1.11 Dwelling: that portion of any building which is located on a single Lot and which is designed and intended for use and occupancy as a residence by a single-family unit.

1.12 Landscape Common Areas: those portions of the Common Area which consist of landscape and entrance areas, designated as such on the Plat Map for the Property, to be owned fee and maintained by the Association.

1.13 Lot: any residential Lot shown upon the recorded Plat Map of the Project, created for the construction of a private Dwelling. The term "Lot" does not include any portion of the Common Area.

1.14 Member: a person entitled to membership in the Association as provided herein.

1.15 Mortgage: includes a recorded mortgage, deed of trust, real estate contract, or other instrument creating a security interest in any Unit.

1.16 Mortgagee: includes a mortgagee, beneficiary or holder of a deed of trust, real estate contract vendor, or other holder of a mortgage on any Unit.

1.17 Mortgagor: includes a mortgagor, the trustier of a deed of trust, real estate contract vendee or other individual granting a security interest in any Unit.

1.18 Owner or Owners: the record holder or holders of title to or a contract vendee's interest in a Unit in the Project. This shall include any person having a fee simple title to any Unit, but shall exclude persons or entities having any interest merely as security for the performance of any obligation. Further, if a Unit is sold under a recorded contract of sale to a purchaser, the purchaser, rather than the fee owner, shall be considered the "Owner" and the fee owner would be considered as a mortgagee.

1.19 Person: any natural person, corporation, partnership, association, trustee, or legal entity.

1.20 Plat Map: the recorded map (and further maps relating to subsequent Phases) prepared by or for Declarant showing the surface of the Property and the division thereof into Lots and Common Area, and under further subdivision thereof into Landscape Common Areas and Roads.

1.21 Phase: a particular parcel of property which is or shall become part of the Project pursuant to the recordation of an appropriate Declaration of Annexation. The property described in Exhibit "A" to this Declaration shall be deemed to be the first Phase

of the Project and any parcel annexed to the property described in Exhibit "A" under a Declaration of Annexation shall be deemed to be a subsequent Phase of the Project.

1.22 Project Documents: this Declaration, the Plat Map, the Articles and Bylaws of the Association, and any architectural or other rules promulgated by the Declarant or the Association pursuant to this Declaration or the Articles or Bylaws, as each shall be amended from time to time.

1.23 Property or Project (synonymous): the real property covered by this Declaration (including subsequent Phases when properly annexed), all easements, rights and appurtenances belonging thereto, and all improvements erected or to be erected thereon.

1.24 Roads: those portions of the Common Area consisting of private streets and roadways providing access from the Lots to the public right of way, designated as such on the Plat Map for the Property to be owned in fee and maintained by the Association.

1.25 Wetlands: those portions of lots individually owned adjacent to Half Moon Lake, its tributaries and outlets. Subject to all Federal and Washington State regulations and ordinances. Wetlands are not part of the Common Area.

**END OF ARTICLE 1
DEFINITION**

ARTICLE 2**ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND
VOTING RIGHTS; SUB-ASSOCIATIONS****2.1 Organization of Association**

The Association is or shall be incorporated under the name of THE HALF MOON LAKE ESTATES HOMEOWNERS ASSOCIATION, pursuant to the Washington Non-profit Corporation Act.

2.2 Duties and Powers

The duties and powers of the Association are those set forth in this Declaration, the Articles and Bylaws, together with its general and implied powers of a non-profit corporation, generally to do any and all things that a corporation organized under the laws of the State of Washington may lawfully do which are necessary or proper in operating for the peace, health, comfort, safety and general welfare of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in this Declaration, the Articles and Bylaws.

2.3 Membership

The Owner of a Unit shall automatically, upon becoming the Owner of that Unit, be a Member of the Association, and shall remain a Member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership shall be in accordance with the Articles and the Bylaws of the Association.

2.4 Transferred Membership

Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer or ownership of the Unit to which it is appurtenant, and then only to the new Owner. Any attempt to make a prohibited transfer is void. In the event the Owner of any Unit should fail or refuse to transfer the membership registered in his name to the purchaser of his Unit, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void.

2.5 Classes of Membership

The Association shall have two (2) classes of voting membership established according to the following provisions:

2.5.1 Class A Membership: Class A Membership shall be that held by each Owner of a Unit other than Declarant, and each Class A Member shall be entitled to one (1) vote for each Unit owned. If a Unit is owned by more than one (1) person, each such person shall be a Member of the Association, but there shall be no more than one (1) vote for each Unit. Fractional voting with respect to a particular unit shall not be allowed, and if the Owners of a Unit present at a meeting of the Association, in person or by proxy, cannot agree on how their vote should be cast, no vote shall be cast with respect to that Unit.

2.5.2 Class B Membership: Class B Membership shall be that held by Declarant (or its successor-in-interest) who shall be entitled to three (3) votes for each Unit owned by Declarant; provided, that Class B Membership shall be converted to Class A Membership and shall forever cease to exist on the occurrence of whichever of the following is first in time:

(a) When the total outstanding voting power held by Class A Members in a particular Phase equals the total outstanding voting power (tripled as above) held by the Class B Member; provided, however, that Class B Membership shall thus terminate only with respect to that particular Phase; or

(b) On the tenth anniversary of the recordation of this Declaration or of the Declaration of Annexation for the most recently annexed Phase of the Project.

2.6 Voting Requirements

Except where otherwise expressly provided in this Declaration or the Bylaws, any action by the Association which must have the approval of the Association membership before being undertaken shall require the vote or written assent of the prescribed percentage of the total voting power (both classes) of the Association.

2.7 Membership Meetings

Regular and special meetings of the Members of the Association shall be held with the frequency, at the time and place, and in accordance with the provisions of the Bylaws of the Association.

2.8 Board of Trustees

The affairs of the Association shall be managed by a Board of Trustees, which shall be established and which shall conduct regular and special meetings according the provisions of the Bylaws of the Association.

The Board of Trustees, on behalf of the Association, may contract with a professional management agent for the performance of maintenance and repair and for conducting other activities on behalf of the Association, as may be determined by the Board.

**END OF ARTICLE 2
ASSOCIATION, ADMINISTRATION, MEMBERSHIP
AND VOTING RIGHTS; SUB-ASSOCIATIONS**

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ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS**3.1 Creation of the Lien and Personal Obligation of Assessments**

The Declarant, for each Unit owned within the Project, hereby covenants, and each Owner of any Unit by acceptance of a deed or contract therefor, whether or not it shall be so expressed in such deed or contract, is deemed to covenant and agree to pay to the Association the following Assessments, which shall be established and collected as provided herein and in the Bylaws of the Association:

- 3.1.1 Regular Assessments;
- 3.1.2 Extraordinary Assessments; and
- 3.1.3 Special Assessments

All Assessments, together with interest, costs, and actual attorneys' fees, shall be a charge and a continuing lien upon the Unit against which each Assessment is made. Each such Assessment, together with interest, costs and actual attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Unit at the time when the Assessment fell due. No Owner of a Unit may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Area or by the abandonment of his Unit.

3.2 Purpose of Assessments

The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the residents in the entire Project, for the improvement and maintenance of the Common Area, and for the common good of the Project. The Regular Assessments shall include an adequate reserve fund for maintenance, repair, and replacement of all such items which must be replaced on a periodic basis.

3.3 Regular Assessments

Until the end of the Association's fiscal year immediately following the closing of the sale of the first Unit in the Project, the annual maximum Regular Assessment per Unit shall be in the amount of \$100.00 as is set forth in the Project budget prepared by Declarant, payable in one yearly installment. Each Unit's share for the first fiscal year shall also be prorated based on the number of months remaining in that fiscal year. Thereafter, the Board shall determine and fix the amount of the maximum annual Regular Assessment against each Unit at least sixty (60) days in advance of the beginning of each fiscal year.

3.4 Extraordinary Assessments

In addition to the Regular Assessments authorized above, the Board may levy, in any fiscal year, an Extraordinary Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or of any component of any Dwelling for which the Association is responsible, to defray any unanticipated or underestimated expense not covered by the Regular Assessment (and, where necessary, for taxes assessed against the Common Area); provided, however, that the aggregate Extraordinary Assessments for any fiscal year shall not exceed twenty percent (20%) of the budgeted gross expenses of the Association (excluding reserves) for that fiscal year, without the vote or written assent of two-thirds of the voting power of each class of Members.

3.5 Special Assessments

In addition to the Regular and Extraordinary Assessments authorized above, the Board may levy Special Assessments (without limitation as to amount or frequency) against an individual Unit and its Owner to reimburse the Association for costs incurred in bringing that Owner and his Unit into compliance with the provisions of this Declaration and the Bylaws, including actual attorneys' fees and costs.

3.6 Allocation of Assessments; Limited Exemption of Declarant

Each Unit shall bear an equal share of each Regular and Extraordinary Assessment; provided, however, that any other Owner of a Lot which does not include a completed Dwelling shall be exempted from the payment of that portion of any Assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and use of such Dwelling. This exemption shall include, but shall not necessarily be limited to that portion of the Assessment attributable to sewer, domestic water, and other utilities supplied to completed Dwellings. This exemption shall be in effect only until a certificate of occupancy or its equivalent for the Dwelling has been issued or until one hundred twenty (120) days after the issuance of a building permit for the Dwelling, whichever first occurs.

3.7 Date of Commencement of Assessment; Due Dates

The Regular Assessments provided for herein shall commence as to all Units in the Project on the first day of the month following closing of the sale of the first Unit in the Project. The due date of the Assessment shall be the first day of the month following the closing of the sale of each Lot individually. Annual notices of such Assessments shall be required setting forth the amount of each thereafter Assessment as provided in 3.3 above.

3.8 Exempt Property

Notwithstanding any other provision included in Article 3 herein the following property, which is otherwise subject to this Declaration, shall be exempt from all Regular, Extraordinary and Special Assessments created herein.

3.8.1 All lots or property owned by the Declarant which have not been improved with a residential structure for dwelling use;

3.8.2 All lots or properties dedicated to and accepted by a local public authority;

3.8.3 All lots owned by a building contractor where said contractor owns three (3) or more lots;

3.8.4 All common area.

3.9 Transfer of Unit by Sale or Foreclosure

The sale or transfer of any Unit shall not affect any Assessment lien, or relieve the Unit from any liability therefore, whether the lien pertains to payments becoming due prior or subsequent to such sale or transfer. Notwithstanding the foregoing, the sale or transfer or any unit pursuant to foreclosure or by deed in lieu of foreclosure of a recorded first mortgage given in good faith and for value shall extinguish the lien of all such Assessments as to payment which became due prior to such sale or transfer (except for Assessments liens arising prior to the recordation of the mortgage). Sale or transfer pursuant to mortgage foreclosure shall not, however, affect the personal liability of the Owner for unpaid Assessments. Any Assessments for which the liens are extinguished pursuant to this Paragraph shall be deemed to be Common Expenses collectible from all of the Units including the Unit for which the lien was extinguished. In a voluntary conveyance of a Unit, the grantee of the same shall be jointly and severally liable with the grantor for all unpaid Assessments by the Association against the latter up to the time of the grantor conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Board, setting forth the amount of the unpaid Assessments due the Association, and such grantee shall not be liable for, nor shall the Unit conveyed by subject to a lien for, any unpaid Assessments made by the Association against the grantor in excess of the amount set forth in the statement; provided, however, the grantee shall be liable for any such Assessment becoming due after the date of any such statement.

3.10 Enforcement of Assessment Obligation; Priorities; Discipline

If any part of any Assessment is not paid and received by the Association of its designated agent within thirty (30) days after the due date, such Assessment shall thereafter bear interest at the rate of twelve percent (12%) per annum until paid. Additionally, an automatic late charge of Ten Dollars (\$10.00) sums shall be assessed for

each month or fraction thereof from the due date until the Assessment and all late charges are paid. Further, the Association shall have the power to sever all utility services to the delinquent Unit if the Assessment is not paid within the thirty-day period, and to continue the severance until the Assessment (and all late charges) shall have been paid. Each unpaid Assessment shall constitute a lien on each respective Unit prior and superior to all other liens except (1) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (2) the lien or charges of any mortgage of record made in good faith and for value. Such lien, when delinquent, may be enforced by sale by the Association, its attorney or other person authorized by this Declaration or by law to make the sale, after failure of the Owner to pay such Assessment, in accordance with the provisions of Washington law applicable to the exercise of powers of sale in deeds of trust, or by judicial foreclosure as a mortgage, or in any other manner permitted by law. The Association, acting on behalf of the Unit Owners, shall have the power to bid for the Unit at the foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. The foreclosing party shall have the right to reduce or eliminate any redemption rights of the defaulting Owner as allowed by law. Suit to recover a money judgment for unpaid Assessments, rent and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. The Board may impose reasonable monetary penalties including actual attorneys' fees and costs and may temporarily suspend the Association membership rights of a Unit Owner who is in default in payment of any Assessment, after notice and hearing according to the Bylaws.

END OF ARTICLE 3
ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS

REPAIR AND MAINTENANCE**4.1 Repair and Maintenance Rights and Duties of Association**

Subject to provisions in this Declaration pertaining to eminent domain and destruction of improvements, the Association shall paint, maintain, repair and replace all parts of the Common Area (including Landscape Common Areas and Roads), or shall contract for such maintenance, repair and replacement to assure maintenance of such areas in good condition, reasonable wear and tear expected. However, the Association shall not be responsible for or obligated to perform those items of maintenance, repair or improvement which are the responsibility of the Owners as provided in Paragraph 4.2 below. In the event an Owner fails to maintain his Dwelling or Lot, or to provide other maintenance or repair as provided herein in a manner which the Board deems necessary to preserve the appearance and value of the Property, the Board may notify the Owner of the work required and request it be done within sixty (60) days, five (5) days for routine landscaping maintenance, from the giving of such notice. In the event the Owner fails to carry out such maintenance within such period, the Board may cause such work to be done and may specially assess the cost thereof to such Owner, and, if necessary, lien his Unit for the amount thereof.

For the purpose of performing any maintenance, repair or replacement as authorized by this Article, or for purposes of making emergency repairs necessary to prevent damage to the Project or to other Dwellings, or for any other purpose reasonably related to the performance by the Board of its responsibilities under this Declaration, the Association (and its agents and employees) shall have an irrevocable easement over and onto all portions of the Common Area, and shall also have the irrevocable right, after reasonable notice to the Owner, and at reasonable hours, to enter any Lot.

4.2 Repair and Maintenance Rights and Duties of Owners

Except for those portions of the Property which the Association is required or elects to maintain and repair, each Unit Owner shall, at his sole cost and expense, maintain and repair all components of his Dwelling and Lot (including interior and exterior, structural and non-structural, and all landscaping), keeping the same in good condition, and shall repair all damage to the Common Area for which the Owner is responsible. Each Owner shall have the exclusive right to paint, plaster, panel, tile, wax, paper or otherwise refinish and decorate the interior of his Dwelling.

**END OF ARTICLE 4
REPAIR AND MAINTENANCE**

EASEMENTS AND UTILITIES**5.1 Access and Maintenance Easements**

Declarant expressly reserves for the benefit of the Owners reciprocal, nonexclusive easements for access, ingress and egress over all of the Common Area, and for the use and enjoyment thereof. Subject to the provisions of this Declaration governing use and enjoyment thereof, the easements may be used by Declarant, its successors, purchasers and all Owners, their guests, tenants and invitees, residing on or temporarily visiting the property, for walkways, vehicular access and such other purposes reasonably necessary for use and enjoyment of a Unit in the Project.

Declarant also expressly reserves for the benefit of the Board of Trustees and all agents, officers and employees of the Association, nonexclusive easements over the Common Area as necessary to maintain and repair the Common Area, and to perform all other tasks in accordance with the provisions of this Declaration. Such easements over the Common Area shall be appurtenant to, binding upon and shall pass with the title to, every Unit conveyed.

5.2 Encroachments; Maintenance and Utility Easements

Each Unit within the Property is hereby declared to have an easement over all adjoining Units and the Common Area for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of any building, or any other cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easements for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Unit agree that minor encroachments over adjoining Units of Common Area shall be permitted and that there shall be a valid easements for the maintenance of said encroachment so long as they shall exist.

Declarant also expressly reserves for the benefit of itself and its successor-in-interest and assigns, including the Association, easements over and under the entire Property (together with the right to grant and transfer the same) for the installation, repair, and maintenance of sanitary sewer, water, electric, gas and telephone lines and facilities, heating and air conditioning facilities, cable or master television antenna lines, drainage facilities, walkways and landscaping as may be hereafter required to serve the Property. Declarant expressly reserves the right to grant to Washington Water Power Company and/or Inland Power and Light, U.S. West Communications, and Cox Cable such written

easements as may be necessary for the installation, maintenance and repair of utility facilities.

5.3 Owner's Right and Duties With Respect to Utilities

The rights and duties of the owners within the Project with respect to utilities shall be as follows:

5.3.1 Whenever sanitary sewer, water, electric, gas, television receiving, or telephone lines or connections are located or installed within the Project, which connections, or any portion thereof, lie in or upon or beneath Lots or Dwellings owned by other than the Owner or a Dwelling served by said connections, the Owners of any Dwellings served by said connections shall have the right, and are hereby granted easement to the full extent necessary therefor, to enter upon the Dwellings or to have utility companies enter upon the Dwellings in or upon or below which said connections, or any portion thereof lie, to repair, replace and generally maintain said connections as and when necessary.

5.3.2 Whenever sanitary sewer, water, electric, gas, television receiving, or telephone lines or connections are located or installed within the Project, which connections serve more than one Dwelling, the Owner of each Dwelling served by said connection shall be entitled to the full use and enjoyment of such portions of said connections as service his Dwelling.

5.3.3 In the event of a dispute between Owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board, which shall decide the dispute, and the decision of the Board shall be final and conclusive on the parties.

**END OF ARTICLE 5
EASEMENTS AND UTILITIES; COMMON WALLS**

ARTICLE 6**ARCHITECTURAL CONTROL****6.1 Architectural Committee**

The Architectural Committee shall consist of three (3) members, all of which shall be appointed by the Declarant. The Declarant may at any time transfer the responsibility to appoint members of the Architectural Review Committee to the Association.

6.2 Prohibition of Alteration and Improvement

Subject to the exemption of Declarant hereunder, no structure, improvement, landscaping, or alteration of any kind (which will be visible from other units, the Common Area or any public right of way) shall be commenced, erected, painted or maintained upon the Property, until the same has been approved in writing by the Architectural Committee.

6.3 Plans and Approval

Plans and specifications showing the nature, kind, shape, color, size, materials and location of any such structure, improvement or alteration shall be submitted to the Committee for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. No permission or approval shall be required to rebuild in accordance with Declarant's original plans and specifications, or to rebuild in accordance with plans and specifications previously approved by the Committee.

The Committee shall consider and act upon any and all plans and specifications submitted for its approval under this Article and perform such other duties as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with plans approved by the Committee. Any application submitted to the Committee pursuant to this Article shall be deemed approved, unless written disapproval or a request for additional information or materials by the Committee shall have been transmitted to the applicant within forty-five (45) days after the date of receipt by the Committee of all required materials.

6.4 Committee May Adopt Rules

The Architectural Review Committee by majority vote of its members, may adopt or revise rules and regulations regarding the nature, kind, shape, color, size, materials and location of structures or improvements within the Property.

6.5 Non-Liability of Committee Members

Neither the Architectural Committee nor any member thereof shall be liable to the Association, or to any Owner for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties hereunder unless due to the willful misconduct or bad faith of the Committee or member. The Committee shall review and approve or disapprove all plans submitted to it for any proposed structure, improvement or alteration, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and the Project generally, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

6.6 Contractor

No home may be constructed on any Lot other than by a contractor licensed as general contractor under the statutes of the State of Washington without the prior approval of the Committee.

**END OF ARTICLE 6
ARCHITECTURAL CONTROL**

ARTICLE 7**RESIDENCE AND USE RESTRICTIONS**

In addition to all of the covenants contained herein, the use of the Property and each Unit therein is subject to the following:

7.1 Use of Individual Lots

No commercial structure or building or any kind shall be erected on any Lot other than a single family dwelling for single family residential occupancy only, not to exceed two stories in height. All houses will have a minimum two (2) car garage. In addition, outbuildings that compliment the exterior of homes are acceptable.

7.2 Business Use Prohibited

No trade, craft, business, profession, commercial or manufacturing enterprise or business or commercial activity of any kind shall be conducted or carried on upon any Lot, or within any Dwelling located on a Lot, nor shall any goods, equipment, vehicles, including buses, trucks and trailers of any description, or materials or supplies used in connection with any trade, service or business, wherever the same may be conducted, or any vehicles in excess of 20,000 pounds gross weight (including buses, trucks, and trailers of any description) used for private purposes, be kept, parked, stored, dismantled or repaired outside of any Lot, or on any of the Roads. Home occupations may be permitted with the specific written approval of the Architectural Review Committee.

7.3 Temporary Structures

No trailer, basement, tent, shack, garage, barn or other outbuilding or any structure of a temporary character erected or placed on the Property shall at any time be used as a residence permanently.

7.4 Minimum Dwelling Size

The ground floor of the main structure of a Dwelling, exclusive of open porches, decks, and garages, shall not be less than fifteen hundred(1,500) square feet for a one story Dwelling, nor less than one thousand two hundred (1,200) square feet for the ground floor area of a Dwelling of more than one story. For purposes of this provision, a Dwelling with a daylight basement shall be considered a Dwelling of more than one story.

7.5 Completion of Construction

Any Dwelling erected or placed on any Lot shall be completed as to external appearance, including finished painting, within nine (9) months from the date of

commencement of construction. Each lot owner shall be required to clean up the lot of all cut or fallen trees, bushes, shrubs, etc. (clearing and grubbing) within two (2) months after the clearing and grubbing activity begins and to haul or burn the debris away from the subdivision. Each Owner shall also be required to clean up the lot within ten (10) days of completing construction or when deemed necessary by the architectural committee to present a neat and tidy appearance to each Lot during the building process.

7.6 Building Set-Back and Fence Requirements; Wetland Buffers

No Dwelling or structure shall be located nearer to the side street line than the building set-back lines hereinafter provided. No structure shall be located on any Lot nearer than fifty (50) feet to the front Lot line, nor nearer than an average of thirty (30) feet to any side line. Fences shall be well constructed of suitable fencing materials and shall be artistic in design and shall not detract from the appearance of the Dwelling located on the Lot or in the opinion of the Architectural Committee be offensive to the other Owners within the Project, and shall be approved by the Architectural Committee. Fences, walls or shrubs are permitted to delineate the Lot lines of each Lot, subject to a determination whether such fences, walls, or shrubs would interfere with utility easements reflected on the face of the Plat and other easements elsewhere recorded.

Buffers in the wetland area shall consist of a seventy-five (75) foot structural set-back from the edge of wetlands as delineated on the Plat except in areas where slopes exceed twenty-five percent (25%) which will increase the structural set-back buffer to one hundred (100) feet. No fences may be erected in or near the designated wetlands.

7.7 Nuisances

No noxious, illegal, or offensive activities shall be carried on in any 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 Dwelling, or which shall be in any way increase the rate of insurance for the Project, or cause any insurance policy to be canceled or to cause as refusal to renew the same, or which will impair the structural integrity of any building.

7.8 Signs

Signs advertising Units for sale or rent may be displayed on the appropriate Lot without prior approval of the Board of the Architectural Committee, provided that such signs shall be of reasonable and customary size, not to exceed five (5) square feet. Except as expressly permitted by this Paragraph, no signs shall be displayed to the public view on any Dwellings or on any portion of the Property, unless first approved by the Board or the Architectural Committee.

7.9 Animals

No animals or birds of any kind shall be raised, bred, or kept in any Dwelling, or on any portion of the Property, except that no more than three (3) usual and ordinary household pets such as dogs and cats may be kept, provided that they are not kept, bred, or maintained for any commercial purposes, and that they are kept under reasonable control at all times. Any such dogs shall be kept on a leash at all times that the dog is in the Common Area. Owners shall prevent their pets from soiling all portions of the Common Area and in the event a pet does soil a portion of the Common Area, the Owner or person in control of such pet shall immediately clean up after the pet. The Board may enact reasonable rules respecting the keeping of animals within the Project and may designate certain areas in which animals may not be taken or kept, or may require that specific animals not be allowed on any part of the Property.

7.10 Pathways

All walks, Roads, bike paths located within the Common Area are for the use of Association Members on an equal basis, subject to reasonable rules and regulations promulgated in writing by the Association.

7.11 Garbage and Refuse Disposal

All rubbish, trash and garbage shall be regularly removed from the Property, 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, wood piles, or storage piles shall be kept screened and concealed from view of other Dwellings, streets and the Common Area, except on such days designated for garbage collection.

7.12 Radio and Television Antennas

No Owner may be permitted to construct, use, or operate his own external radio or other electronic antenna without the consent of the Board.

7.13 Clothes Lines

No exterior clothes lines shall be erected or maintained without the consent of the Architectural Review Committee.

7.14 Power Equipment and Car Maintenance

No power equipment, work shops, or car maintenance of any nature whatsoever (other than minor repairs requiring no more than twenty-four(24) hours work) shall be permitted on the Property except with prior written approval of the Board. In deciding whether to grant approval, the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar objections.

7.15 Parking

Parking of boats, trailers, motorcycles, trucks, truck/campers and like equipment shall be allowed on the individual Lots if parked in such a way as being fully screened from public view. If any of the provisions of this Section are violated, the Board of the Association may employ a tow truck to remove the vehicle after prior written notice to the Owner and the Owner of the vehicle shall be responsible for any charges arising therefrom.

7.16 No Warranty of Enforceability

While Declarant has no reason to believe that any of the restrictive covenants contained in this Article 7 or elsewhere in the Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Unit in the Project in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and, by acquiring the Unit agrees to hold Declarant harmless therefrom.

7.17 No Shooting Area

At direction of Declarant, the entire development of HALF MOON LAKE ESTATES is a no shooting area.

7.18 Timber Harvesting

Clearing of timber for the sole purpose of building structures, landscaping, and roads is allowed. There shall be no harvesting of marketable timber on any Lot for commercial profit.

**END OF ARTICLE 7
RESIDENCE AND USE RESTRICTIONS**

GENERAL PROVISIONS**8.1 Enforcement**

The Association, or an Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages. The prevailing party in any such proceeding shall be entitled to an award of attorneys' fees and costs. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

8.2 Invalidity of Any Provision

Should any provision of this Declaration be declared invalid or in conflict with any law of the jurisdiction where the Project is situated, the validity of all other provisions shall remain unaffected and in full force and effect.

8.3 Conflict of Project Documents

If there is any conflict among or between the Project Documents, the provisions of this Declaration shall prevail; thereafter, priority shall be given to Project Documents in the following order: Plat Map, Articles; Bylaws; and rules and regulations of the Association. Notwithstanding the foregoing, any provision in any of the Project Documents which is for the protection of mortgagees shall have priority over any inconsistent provision in that document or in any other Project Document.

**END OF ARTICLE 8
GENERAL PROVISIONS**

ARTICLE 9**DURATION AND AMENDMENT****9.1 Duration**

The covenants and restrictions of this Declaration shall run with and bind the land, for a term of fifty (50) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

9.2 Amendment

This Declaration may be amended at any time by a seventy-five percent (75%) affirmative vote of Association Members as provided in Article 2. No such waiver, termination, or modification shall be effective until a proper instrument in writing shall be executed by the Association and recorded in the office of the Auditor of the County of Spokane, State of Washington.

9.3 Exceptions

Exceptions to any of the above-listed covenants and restrictions shall be granted by the Board of Directors when and only when two-thirds (2/3) of the Board determine such exception is in the best interest of the Association and the purposes of these covenants and restrictions.

9.3.1 Any amendment which affects or purports to affect the validity or priority of encumbrances or the rights or protection granted to encumbrancers as provided herein.

9.3.2 Any amendment which would require a mortgagee after it has acquired a Unit through foreclosure to pay more than its proportionate share of any unpaid Assessment or Assessments accruing after such foreclosure.

9.3.3 Any amendment which would or could result in an encumbrance being canceled by forfeiture, or in the individual Unit not being separately assessed for tax purposes.

9.3.4 Any amendment which would or could result in termination or abandonment of the Property, or in the partition or subdivision of a Unit, in any manner inconsistent with the provisions of this Declaration.

9.3.5 Any amendment which would subject any Owner to a right of first refusal or other such restriction in favor of the Association, if such Owner exercises his right to sell, transfer or otherwise convey his Unit.

A certificate, signed and sworn to by two (2) officers of the Association, that the required number of Owners and/or mortgagees have either voted for or consented in writing to any amendment adopted as provided above, when recorded, shall be conclusive evidence of that fact.

9.4 Protection of Declarant

Notwithstanding any other provision of this Declaration, the prior written approval of Declarant, as developer of the Property, will be required before any amendment which would impair or diminish the rights of Declarant to complete the Property or sell or otherwise dispose of units therein in accordance with this Declaration shall become effective.

**END OF ARTICLE 9
DURATION AND AMENDMENT**

Unofficial Document

ARTICLE 10**DECLARANT'S RIGHTS AND RESERVATIONS**

10.1 Declarant is undertaking the work of construction of the Project and the creation of the development of the Property. *The completion of that work and the sale or other disposition of the Units is essential to the establishment and welfare of the Property as a residential community. In order that said work may be completed and said Property be established as a fully residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

10.1.1 Prevent Declarant, its contractors, or subcontractors from doing on the Property, whatever is reasonably necessary or advisable in connection with the completion of the work; or

10.1.2 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 necessary for the conduct of its business of completing said work and establishing said Property as a residential community and disposing of the same in parcels by sale or other disposition; or

10.1.3 Prevent Declarant from maintaining such sign or signs on any of the Property as may be necessary for the sale or disposition thereof.

So long as Declarant, its successors-in-interest and assigns, owns one or more of the Units established and described in this Declaration and except as otherwise specifically provided herein, Declarant, its successors and assigns, shall be subject to the provisions of this Declarations.

10.2 Termination of Any Responsibility of Declarant

In the event Declarant shall convey all of its right, title and interest in and to the Property to any partnership, individual or individuals, corporation or corporations, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Declarant.

***Such construction and development includes hard surfacing of public & private roads at Declarant's expense and installation of utilities to include gas, electric and telephone. A Fire Suppression System (when available at Perry Road) will be installed through participation in a R.I.D. from all Lot Owners at their expense.**

**END OF ARTICLE 10
DECLARANT'S RIGHT AND RESERVATION**

DECLARATION OF COVENANT

In consideration of the approval by Spokane County of HALF MOON LAKE ESTATES (hereinafter referred to as the "Development"), the undersigned covenants and agrees that:

1. The subdivider/sponsor will construct the private roads and associated drainage facilities in conformance with the approved plans on file in the County Engineer's Office.
2. A lot is served by the private road when: (a) the only road frontage for the lot in the Development is on the private road; or (b) a lot having frontage on more than one road (public or private) constructs an approach to the private road.
3. THE HALF MOON LAKE ESTATES HOMEOWNERS ASSOCIATION or their successors in interest shall maintain the private roads and associated drainage facilities in conformance with the approved plans on file in the county Engineer's office.
4. The owner(s) of any lot created by the Development or alteration thereof and served by a private road shall be responsible for financing the maintenance of said private road including associated drainage facilities.
5. Maintenance financing of the private roads and associated drainage facilities shall be in a manner determined by THE HALF MOON LAKE ESTATES HOMEOWNERS ASSOCIATION or their successors in interest.
6. Should THE HALF MOON LAKE ESTATES HOMEOWNERS ASSOCIATION be terminated for any reasons, the successors in interest shall be the individual lot owners, or their successors in interest, who are members of THE HALF MOON LAKE ESTATES HOMEOWNERS ASSOCIATION at the time of said termination.
7. In the event such private road including associated drainage facilities is improved to Spokane County standards for public streets, and the County is willing to accept the dedication of such road and drainage facilities, each lot owner shall execute any documents necessary to accomplish such dedication.
8. Owners of lots within the Development who are served by such road, may sue and recover damages and attorneys' fees from any owner of any lot within the Development which is similarly served who refuses to participate in the road and drainage facilities construction, financing, and maintenance.
9. Prior to the issuance of a building permit for each Lot within the Project, a private well shall be development at the Lot Owner's expense.

FILED OR RECORDED

REQUEST OF _____

AUG 23 12 30 PM '95

WILLIAM E. DONAHUE
AUDITOR
SPOKANE COUNTY WASH.
DEPUTY

Lowell McKee

124 Rhea Ln.

Colbert Wash.

99005