

Filed for Record at Request of and  
Copy returned to:

Cle Elum's Sapphire Skies, LLC  
315 39th Ave SW #8  
Puyallup, WA 98937



DOCUMENT: Declaration of Covenants, Conditions and Restrictions

Reference numbers of related documents:  
Additional reference numbers on Volume:

Page:

GRANTOR(S):

1. Cle Elum's Sapphire Skies, LLC

GRANTEE(S):

1. The Public

LEGAL DESCRIPTION:

Lots 1 thru 12C of Section 1-19-14 as depicted on attached map as Exhibit B.

## COVENANTS, CONDITIONS AND RESTRICTIONS

This Declaration is made and entered by Cle Elum's Sapphire Skies, LLC, a Washington Limited Liability Company, referred to below as ("Declarant"). Declarant does hereby declare and set forth covenants, conditions and restrictions ("CC&R's") to run with all of the lands described below as provided by law, which covenants, conditions, restrictions, and reservations of easements shall be binding upon all parties and persons claiming an interest in any of the property described hereafter, and which covenants, conditions, restrictions, and reservations of easements shall be for the benefit of and limitations upon all future owners, and being for the purpose of keeping said real estate desirable, uniform and suitable in architectural design and use as specified herein.

The following disclosures and representations are made:

- A. The land affected by this Declaration, as of the date of execution of this Declaration, is legally described on Exhibit A attached hereto (the "Property").
- B. The current configuration of the lots (the "Lots") is as depicted on the map of the Property attached hereto as Exhibit B. The drawing is intended to indicate the current intended location and layout for the Property, and to provide a way to identify Lots and areas referred to in this Declaration. The current configuration of Lots is subject to change at the discretion of the Declarant, with regard to portions of the Property, which are then owned by the Declarant.
- C. Declarant intends by this document to impose upon the entire Property described herein, a mutually beneficial and enforceable common plan of reciprocal covenants, conditions and restrictions.

Therefore, Declarant hereby declares that the Property shall be held, conveyed, sold, and improved, subject to the following declarations, limitations, covenants, conditions and restrictions, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Property, and every part thereof, as residential recreational land. All of the limitations, covenants, conditions and restrictions shall constitute covenants and encumbrances which shall run with the land and shall be binding upon Declarant and its successors-in-interest and assigns for its term and all parties having or acquiring any right, title, or interest in or to any part of the Property.

### ARTICLE I

#### ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS

- 1.1 Organization of Association: An Association is or shall be incorporated as PIONEER TRAILS EASEMENT OWNERS ASSOCIATION (the "Association"), pursuant to the Washington Corporation Act.
- 1.2 Duties and Powers: The duties and powers of the Association are those set forth in this Declaration. The primary functions of the Association shall be the maintenance, operation and repair of the private road easements over and across the Property for the purpose of ingress and egress to the Lots. A map of such roads is attached hereto as Exhibit C (the "Easements"). A further purpose of the Association is the collection of Assessments and payment of common expenses to maintain, operate and repair the Easements (the "Common Expenses").
- 1.3 Membership: The Owner of a Lot shall automatically, upon becoming the Owner of that Lot, be a Member of the Association, and shall remain a Member thereof until such time as his or



her ownership ceases for any reason, at which time his or her membership in the Association shall automatically cease.

- 1.4 Transferred Membership: Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Lot to which it is appurtenant; and then Membership shall immediately transfer to the new Owner. Any attempt to make a prohibited transfer is void. When a Lot is transferred to a new Owner, the Association shall have the right to record the transfer of Membership upon its books, and thereupon the old membership outstanding in the name of the former Owner shall be null and void.
- 1.5 Classes of Membership; Voting Requirements: The Association shall have one class of voting membership. Each Lot owner will have one vote per lot.
- 1.6 Membership Meetings: There shall be one regular meeting of the Members of the Association each year, such special meetings of Members of the Association as determined by the Board of Trustees, or called for by at least twenty percent of the Members.
- 1.7 Board of Trustees: The day-to-day affairs of the Association shall be managed by a Board of Trustees comprised of three (3) members, to be elected annually by a majority vote of a quorum of the members then present and voting or present by way of a proxy. Members representing fifty percent (50%) of Lot ownership shall constitute a quorum.
- 1.8 Use of Agent: 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.

## ARTICLE 2

### RESIDENCE AND USE RESTRICTIONS

- 2.1 Land Use and Building Type: The Property is a rural residential community. A goal and objective of these Covenants, Conditions and Restrictions is to maintain a quality community appearance, insure compatible development of land and structures, and to protect and enhance real estate values. The Property is designed and intended to be a territorial view community, and all design and improvement guidelines, and all covenants, conditions, and restrictions contained herein shall be construed to further this intent that views from each parcel remain unobstructed.
  - (a) Minimum Dwelling Size: Each dwelling structure shall consist of a minimum of One Thousand Five Hundred (1,500) square feet, exclusive of basement, garages, patios, breezeways and detached storage rooms. For purposes of this provision, a dwelling with a daylight basement shall include the daylight basement area toward the total square footage. No mobile or manufactured homes shall be allowed.
  - (b) Roofs: All roofs and roof materials shall be fire retardant and as approved by applicable governmental authorities. Subject to governmental approval, the following roof materials are permitted: metal, tile, slate, or fire-retardant, dimensional shake shingles, architectural composition (Elk Prestique Plus 30-year or comparable) shingles, and comparable roofing materials. Untreated cedar shakes or shingles shall not be permitted. On at least 80% of roof, minimum roof pitch shall be 6/12.
  - (c) Construction: All homes constructed on each Lot shall be built of new materials, with the exception of "décor" items such as used brick, weathered planking, and similar items. No homes on any Lot shall consist, in whole or part, of a mobile home, nor of "factory built housing" (as that term is defined in RCW 43.22.450 as in effect at the time of



execution of this Declaration.) Siding shall be cement fiber board, logs or cedar. When accent material is used, such as rock, brick, stone, or EIFS, it shall be used for a minimum of 20% of the exterior surface area visible from the private roads serving the Property. Where accent materials abut corners, said corners shall be wrapped in the accent materials for a minimum distance of twenty-four (24) inches on each face. Windows and doors shall be fitted with a minimum of 3½" of trim both vertical and horizontal.

- (d) Antennae and Satellite Dishes: No antenna, satellite dish or other device for the transmission or reception of radio, television, satellite signals or other form of signal transmission or reception of any sort (except "mini dishes") shall be visible from community roads or the primary building site of any parcel.
  - (e) Fencing: All fences and fencing materials fronting community roads shall be primarily of wood, or wood grain composite, and shall be wood rail variety. No barbed wire may be used on the property perimeter. Fence height shall be a maximum of 8 feet from ground elevation.
  - (f) Outbuildings: All outbuildings (detached garages, etc.) must complement the dwelling in material and color and must be placed in an unobtrusive location within the main building site, and must be set back or even with the front of the house or set further from the private roads than the main building site. This requirement may be waived if an acceptable plan is submitted and approved in writing by a majority of the Members, provided the plan is compatible and will enhance the Property without materially impairing views from other Lots.
  - (g) Exterior Colors: Exterior colors of all buildings shall be of moderate hues and/or earth tones.
- 2.2 Recreational vehicles, boats, trailers, campers, etc. shall not be parked in the public right of way or on community roads for a period of time exceeding 18 hours, nor shall they be parked in the right of way on a daily or regular basis. All residents or guests staying more than 24 hours shall park their vehicles on private property.
- 2.3 Vegetation Restrictions: No vegetation, other than existing vegetation in excess of 72" high as of March 2003, shall be allowed to restrict the view from the primary dwelling on any existing lot or any lot created by future subdivision of existing lots. View shall be defined as the area within the following lines: a line at each end of the main face of the habitable portion of the main dwelling, parallel to a line perpendicular to the center of the main face, and that area within 30 degrees of the outside of each line (Exhibit E). This restriction shall be liberally construed so as to maintain views from the Lots. Mature timber and trees may be removed only for the following reasons: for the purpose of maintaining views as outlined above (section 2.3), as well as to provide access roads, clear building sites and surrounding yards and open space, or to remove diseased and dangerous trees, as certified diseased or dangerous by a licensed and or accredited arborist or forester.
- 2.4 Motorcycles snowmobiles and motorized ATVs and recreational vehicles: ATV's and motorcycles are permitted for ingress and egress along easement roads. Use is also permitted on Owner's Lot if said lot is 20 acres or larger.
- 2.5 Vehicle & Equipment Storage: All inoperable vehicles and equipment must be stored inside of an enclosed building. All stored recreational vehicles shall be placed behind the front elevation of the house, and must be screened from view.
- 2.6 Vacation Provisions. Any Lot may be used for vacation purposes and have a motor home or vacation trailer for a period of time not to exceed twelve weeks per calendar year. Said



recreational vehicles are not to be left on property unless otherwise permitted by these CC&R's.

- 2.7 Business Use Prohibited: No trade, craft, business, or commercial or manufacturing enterprise or activity of any kind, other than a professional business conducted from an office inside the home and which does not generate excessive customer traffic, shall be conducted or carried on upon any Lot within the Property. This Section is specifically intended to prohibit maintenance or operation of a day care, unless required to be permitted by law. In addition, no goods, equipment, vehicles, materials or supplies used in connection with any business or commercial activity shall be permitted, kept, parked, stored, dismantled, or repaired on any Lot or street within the Property, unless stored entirely within a structure permitted by these CC&R's.
- 2.8 Nuisance Prohibited: 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 or her respective Dwelling Lot, or which shall in any way increase the rate of insurance for the Property, or cause any insurance policy to be canceled or to cause a refusal to renew the same, or which will impair the structural integrity of any building. No Lot within the Property shall be used as a dump for trash or rubbish of any kind, and all garbage or other waste shall be kept in appropriate sanitary containers for proper disposal. No waste, including rocks, dirt, lawn, or shrubbery clippings shall be dumped anywhere on the Property. Mulching yard waste is permitted.
- 2.9 Temporary Structures: No structure of a temporary character, basement only, tent, shack, garage, barn, prefabricated structure or other outbuildings, or trailer shall be used as a residence, except on a temporary basis during the course of evident construction of the primary dwelling, but in no case longer than 14 months. No mobile homes are permitted on the property.
- 2.10 Time of Completion: Any Dwelling or structure erected or placed on any Lot in the Property shall be completed as to exterior appearance, including finished painting, within fourteen (14) months from the date of commencement of construction.
- 2.11 Utilities: All utilities to be installed, including cable, phone, power, and any other utilities shall be installed underground. No overhead utilities shall be allowed.
- 2.12 Animals: Animals include horses, dogs, cats, caged birds, fish in tanks, and other small household pets which shall be permitted on Lots. Dogs shall not be allowed to run at large or to create a disturbance for other Owners. Dogs are permitted within the Easements only when accompanied by their owners or their agents. Persons accompanying the dog shall scoop animal waste.
- Animals including horses, livestock and poultry can be raised for purpose of private use and enjoyment, provided they are not kept, bred or maintained for any commercial purpose. Pigs shall not be permitted. All animal enclosures must be kept in a neat, clean, and odor free condition at all times.
- 2.13 Signs: Professional appearing signs advertising Lots for sale or rent, including the temporary daytime display of signs advertising open houses, may be displayed on the appropriate Lot, provided that such signs shall be of reasonable and customary size, not to exceed five (5) square feet. Declarant, or its authorized agent may display one construction sign per Lot to advertise Lots for sale. Such signs shall not exceed 32 square feet.
- 2.14 Garbage and Refuse Material: No property shall be used or maintained as dumping ground for discarded equipment, rubbish, trash, garbage, or similar material. After initial



construction of the residence, all garbage and trash shall be kept in covered containers. No cans shall be visible until such day as designated for refuse pick up.

2.15 Mail Boxes: Mail boxes shall be at specified group locations as per U.S. Post Office requirements.

2.16 No Warranty of Enforceability: While Declarant has no reason to believe that any of the restrictive covenants contained in this Article 2 or elsewhere in this 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 Lot in the Property in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot agrees to hold Declarant harmless therefrom.

### ARTICLE 3

#### REPAIR AND MAINTENANCE

3.1 Owner's Maintenance Responsibilities: Each Owner shall have responsibility for maintaining the exterior of their residence and all other buildings and improvements located upon their Lot. Each parcel shall be maintained in a clean, sightly condition at all times and shall be kept free of litter, junk, trash, rubbish, garbage, debris, and excess building materials.

3.2 Repair and Maintenance Rights and Duties of Association: The Association shall maintain and repair the Easements, or shall contract for such maintenance and repair to assure maintenance of the Easements in good condition.

3.3 For the purpose of performing any maintenance or repair as authorized by this Article, or for purposes of making emergency repairs necessary to prevent damage to a portion the Property or the Easements, 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 Easement Property, and shall also have the irrevocable right after reasonable notice to the Owner, and at reasonable hours, to enter onto any Lot.

### ARTICLE 4

#### ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS

4.1 Creation of the Lien and Personal Obligation of Assessments: The Declarant for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed or contract therefore, 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 needed and in a manner prescribed by the Board:

- Regular Assessments;
- Extraordinary Assessments

All Assessments, together with interest, costs, and actual attorneys' fees, shall be a charge and a continuing lien upon the Lot against which each Assessment is made. However, such lien shall be subordinate to the lien of any first mortgage or construction loan. Such liens may be enforced or foreclosed according to law, with attorney's fees and costs to be charged against the party being foreclosed. 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 Lot at the time when the Assessment fell due. No Owner of a Lot may exempt himself or





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herself from liability for his or her contribution toward the Common Expenses by waiver of the use or enjoyment of the Easements or by the abandonment of his or her Lot.

- 4.2 Purpose of Assessments: The Assessments levied by the Association shall be used exclusively for the normal maintenance, operation, insurance and repair of the Easements. The Board may elect to have Regular Assessments designed to establish an adequate reserve fund for maintenance, operation, insurance and repair of the Easements. The obligations of the Lot Owners as it relates to maintenance of the easement roads shall be based upon the definition of "normal maintenance" condition of such easement roads, which is "grading, filling of potholes, culvert and/or ditch repair, brush clearing, adding lost surface materials, and such other maintenance as reasonably necessary to provide a smooth road for ingress and egress for owners of Lots herein specified. The roads shall be snowplowed, at a minimum, 16 feet wide, upon 6 inches of snowfall. It is the intent of these standards to maintain the Roads passable by four-wheel drive vehicles. It shall be the responsibility of Lot owners to plow their own driveways. A majority of the Lot Owners served by a particular Road may approve, in advance, any additional snowplowing, which snowplowing shall be paid for by said Lot Owners.
- 4.3 Regular Assessments: If the Board so elects, it may establish Regular Assessments, initially in the amount of \$30 per month. If it chooses to do so, the Board shall determine and fix the amount of the Regular Assessment against each Lot at least sixty (60) days in advance of the start of each fiscal year; provided, however, that the Regular Assessment may not be increased by more than ten percent (10%) above the Regular Assessment for the immediately preceding fiscal year, without the vote or written assent of members representing ownership of two-thirds (2/3) or more of the Lots.
- 4.4 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 covering the actual cost of any reconstruction, repair or replacement of any Easements, due to damage or normal wear-and-tear, or to defray any unanticipated or underestimated expense not covered by the Regular Assessment.
- 4.5 Allocation of Assessments: Limited Exemption During Construction: Each Lot, including Lots owned by Declarant, shall bear an equal share of each Regular and Extraordinary Assessment. Except, Declarant shall be exempt from the payment of any Assessment on a Lot that does not include a completed Dwelling. 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 eighty (180) days after the issuance of a building permit for the Dwelling, whichever first occurs.
- 4.6 Date of Commencement of Assessments; Due Dates: Subject to the foregoing exemption pending construction, the Regular Assessments provided for herein shall commence as to all Lots in the Property on the first day of the month following the completion of the roads or closing of the sale of the first Lot in the Property, whichever occurs later. Due dates of Assessments shall be the first day of every calendar month. No notice of such Assessment shall be required other than an annual notice setting forth the amount of the monthly Assessment.
- 4.7 Payment of Taxes Assessed Against Easements or Personal Property of Association: In the event that any taxes are assessed against the Easements or the personal property of the Association, rather than against the Lots, said taxes shall be included in the Assessments made under the provisions of this Article, and, if necessary, an Extraordinary Assessment may be levied against the Lots in an amount equal to said taxes, (regardless of any limitation otherwise applicable to Extraordinary Assessments set forth in Paragraph 4.4 above), to be paid in two (2) semi-annual installments, thirty (30) days prior to the due date of each tax installment.





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- 4.8 Transfer of Lot by Sale or Foreclosure: The sale or transfer of any Lot shall not affect any Assessment lien, or relieve the Lot 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 of any Lot pursuant to foreclosure, or by deed in lieu of foreclosure, of a mortgage recorded prior to the recording of a Notice of Delinquent Assessment covering such Lot, and given in good faith and for value, shall extinguish the lien of all Assessments which become owing prior to such sale or transfer. 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 collectable from all of the Lots including the Lot for which the lien was extinguished.
- 4.9 In the case of any other conveyance of a Lot, 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 grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. 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 Lot 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 Assessment becoming due after the date of any such statement.
- 4.10 Enforcement of Assessment Obligation; Priorities; Discipline: If any part of any Assessment is not paid and received by the Association or its designated agent within thirty (30) days after the due date, such Assessment shall thereafter bear interest at eighteen percent (18%) interest until paid. Additionally, automatic late processing fees of Ten Dollars (\$10.00) per month shall be assessed for each month from the due date until the Assessment(s) and all late charges are paid. Each delinquent Assessment may be evidenced as a matter of public record by a Notice of Delinquent Assessment recorded by the Association or other party or parties entitled to enforce and/or receive the same, which recorded Notice of Delinquent Assessment shall provide notice to the public of the delinquency.

## ARTICLE 5

### EASEMENTS AND UTILITIES

- 5.1 Access, Use and Maintenance Easements: Declarant expressly reserves for the benefit of the Owners reciprocal, nonexclusive easements for access, ingress and egress, over and under all of the Easements. Declarant expressly reserves the right to install entry gates and move the location of the road and therefore the easement. Such changes at the determination of Declarant may be made only to meet grade, side slope, approach angles, base and surfacing requirements, cuts and fills, and radius requirements of county or municipal road standards for any future segregation. Any such change shall not cross the primary building site of a parcel, and shall be in approximately the same location, and as much as possible shall be located in the existing easement. In addition, in the Easements, the Owners of the Lots may install utilities, including but not limited to: sanitary sewer, water, electric, gas, television receiving, or telephone lines or connections, provided, however, such use of the Easements shall be reasonably necessary for use and enjoyment of a Lot in the Property and such use shall not infringe on any Lot Owner's use of the Easement for access, ingress and egress. Such Easements shall be appurtenant to, binding upon and shall pass with the title to, every Lot conveyed.
- 5.2 Owners' Rights and Duties With Respect to Utilities: The rights and duties of the Owners of Lots within the Property with respect to utilities shall be as follows:





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5.2.1 Whenever sanitary sewer, water, electric, gas, television receiving, or telephone lines or connections are located or installed within the Easements, which connections, or any portion thereof, lie in or upon or beneath Lots owned by other than the Owner of a Lot served by said connections, the Owners of any Lots served by said connections shall have the right, and are hereby granted an easement to the full extent necessary therefore, to enter upon the Lot or to have the utility companies enter upon the Lots 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.

5.2.2 In the event of a dispute between the Owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, then, 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 binding on the parties.

## ARTICLE 6

### INSURANCE

- 6.1 Insurance: The Board at its discretion shall be authorized to obtain and maintain the following policies of insurance:
- (a) Hazard Insurance: To the extent that there are improvements made to the Easements which may be insured against casualty loss, a "master" or "blanket" type of hazard insurance policy or policies may be maintained, protecting such improvements against loss or damage by fire and all other hazards that are normally covered by the standard extended coverage endorsement, and all other perils customarily covered for similar types of projects. The Board may enter into additional endorsements, provisions, and exceptions.
  - (b) Liability Insurance: A comprehensive general liability insurance policy covering the Easements. The liability policy shall provide coverage for bodily injury and property damage for any single occurrence, covering bodily injury and property damage resulting from the operation, maintenance, repair or use of the Easements, in such amounts as the Board may determine.
- 6.2 Waiver of Claim Against Association: As to all policies of insurance procured by the Association and maintained by or for the benefit of the Association and/or the Owners, the Association and the Owners hereby waive and release all claims against one another, the Board, and Declarant, and agree to limit their recovery to the extent of the Insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of said persons.
- 6.3 Insurance Premiums: Insurance premiums for any blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Board shall be a Common Expense to be included in the Regular Assessments levied by the Association and collected from the Owners. That portion of the Regular Assessments necessary for the required insurance premiums shall be separately accounted for by the Association in the reserve fund to be used solely for the payment of premiums of required insurance as such premiums become due.
- 6.4 Trustee for Policies: The Association, acting through its Board of Trustees, is hereby appointed and shall be deemed trustee of the interests of all named insureds under policies of insurance purchased and maintained by the Association. All insurance proceeds under any



such policies as provided for in this Article 6 shall be paid to the Board of Trustees and held in trust. The Board shall have full power to receive and to receipt for the proceeds and to deal therewith as provided herein. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried or otherwise disposed of as provided in this Declaration. The Board is hereby granted the authority to negotiate loss settlement with the appropriate insurance carriers, with participation, to the extent they desire, of mortgagees who have filed written requests within ten (10) days of receipt of notice of any damage or destruction as provided in this Declaration. Any two (2) Directors of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on all the named insureds.

## ARTICLE 7

### DESTRUCTION; CONDEMNATION

- 7.1 **Damage to Easements:** In the event of any destruction of any portion of the Easements, the repair or replacement of which is the responsibility of the Association, it shall be the duty of the Association to restore and repair the same to its former condition, as promptly as practical. The proceeds of any insurance maintained pursuant to Article 6 for reconstruction or repair of the Easements shall be used for such purpose, unless otherwise provided herein. The Easements shall be reconstructed or rebuilt substantially in accordance with the original construction plans. If the amount available from the proceeds of such insurance policies for such restoration and repair is inadequate to complete the restoration and repair, the Board shall levy an Extraordinary Assessment for the deficiency and proceed with such restoration and repair.
- 7.2 **Damage to Dwellings:** In the event of any destruction of any Dwelling or Dwellings, it shall be the duty of the Owner(s) of the Dwelling or Dwellings to A) restore and repair the same to its/their former condition, as promptly as practical. The Dwelling or Dwellings shall be reconstructed or rebuilt substantially in accordance with the original construction plans, or in accordance with the rules set forth herein or B) clear all debris and return property to its natural state as promptly as possible.
- 7.3 **Alternate Plans for Restoration and Repair:** Notwithstanding the provisions of Paragraphs 7.1 and 7.2, the Association shall have the right, by a vote of Members representing two-thirds (2/3) or more of the Lots, to make alternate arrangements respecting the repair, restoration or demolition of any damaged portion of the Easements. The alternate plan may provide for special allocation of insurance proceeds, modification of design, or special allocation of any necessary Assessments. Any plan adopted pursuant to this Paragraph shall be adopted within sixty (60) days of the damage or destruction.
- 7.4 **Condemnation:** The taking or partial taking of any portion of the Easements by condemnation or threat thereof shall be negotiated by the Owner of the portion of the Property subject to such taking. Any award shall be that of the Owner, provided, however, that if such taking has the effect of taking the only route of access of any Owner of any Lot, the award shall be deposited in the general funds of the Association for the purpose of securing alternate access for such landlocked Owner, with any remainder to the Owner of the Lot being condemned.

## ARTICLE 8

### DECLARANT'S RIGHTS AND RESERVATIONS

- 8.1 Declarant is undertaking the work of construction of certain improvements to the Property. Completion of that work and the sale or other disposition of the Lots is beneficial to the





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Property. In order that said work may be completed and said Property be established as a rural residential community, nothing in this Declaration shall be understood or construed to:

- (a) Prevent Declarant, any builder or their contractors or subcontractors from doing on the Property whatever is reasonably necessary or advisable in connection with the completion of the work including improving the Easements; or
  - (b) Prevent Declarant, or any builder or their 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 their business of completing said work and establishing said Property as a rural residential community and disposing of the same in parcels by sale or other disposition; or
  - (c) Prevent Declarant or any builder from maintaining such sign or signs on any of the Property as may be necessary for the sale or disposition thereof.
- 8.2 So long as Declarant, or any builder or their successors in-interest and assigns, owns one or more of the Lots established and described in this Declaration and except as otherwise specifically provided herein, Declarant and all builders, and their successors and assigns, shall be subject to the provisions of this Declaration.
- 8.3 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.

## ARTICLE 9

### DURATION AND AMENDMENT

- 9.1 Duration: This Declaration shall continue in full force and effect for a period of ten (10) years from the date hereof, after which time the same shall be automatically renewed for successive terms of ten (10) years each, unless a Declaration of Termination is recorded, meeting the requirements for an amendment as set forth hereafter. All Lots within the Property shall continue to be subject to this Declaration during the term hereof regardless of sale, conveyance or encumbrance.
- 9.2 Amendments: This Declaration may only be amended after written approval of two-thirds (2/3) of the Members representing 2/3 or more of the Lots. Provided, however, that so long as Declarant owns any Lots in the Property, no amendment shall be approved without Declarant's express written consent. Notwithstanding the foregoing, any amendment made to this Declaration shall have no force or effect on the interest of an existing mortgagee, the beneficiary of a deed of trust, or a contract vendor, which interest is recorded prior to such amendment unless or until their written consent thereto has been obtained.
- 9.3 Home Owner's Association: The Owners may form a Home Owner's Association ("HOA") to enforce these CC&Rs by written approval of fifty percent plus 1 of the Members. Provided, however, that so long as Declarant owns any Lots in the Property, no HOA shall be formed without Declarant's express written consent. Any such HOA shall replace the Association and shall have the enforcement rights set for in Paragraph 10.1 below, as well as the powers and responsibilities set forth in Exhibit D attached hereto.

ARTICLE 10

GENERAL PROVISIONS

10.1 Enforcement: Any Owner, and any governmental or quasi-governmental agency or municipality having jurisdiction over the Property shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by this Declaration, and in such action shall be entitled to recover costs and reasonable attorneys' fees as are ordered by the Court. The Board may enforce any right any provisions contained herein relating to the maintenance, insurance, operation and repair of the Easements. Failure by any such person or entity to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter.

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

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

EXHIBITS

- Exhibit "A" - Legal Description
- Exhibit "B" - Map depicting Lot configuration
- Exhibit "C" - Map of roads
- Exhibit "D" - Supplemental Articles for future Home Owners Association
- Exhibit "E" - Main face diagram as defined in 2.3



Declarant:

CLE ELUM'S SAPPHIRE SKIES, LLC

By: The Herbrand Company, Inc., Its Managing Member

By:

James E. Wood  
James E. Wood, Vice President

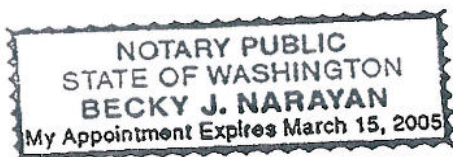
Development

STATE OF WASHINGTON )

COUNTY OF Pierce ) ss.

On this day personally appeared before me, James E. Wood, to me known to be the Vice President of The Herbrand company and the Managing Member of Cle Elum's Sapphire Skies, LLC, and on oath stated his is authorized to execute said instrument as the free and voluntary act and deed of said LLC, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed this 30 day of April, 2003



Becky J. Narayan  
NOTARY PUBLIC for Washington State  
Residing at Puyallup  
My Commission Expires: 3-15-05  
Name Printed: Becky Narayan



**EXHIBIT A**  
**LEGAL DESCRIPTION**

Lots 1 thru 12C of Section 1-19-14, auditor's file number  
200210310025, book 28, page 59, as depicted on map attached as  
Exhibit B.

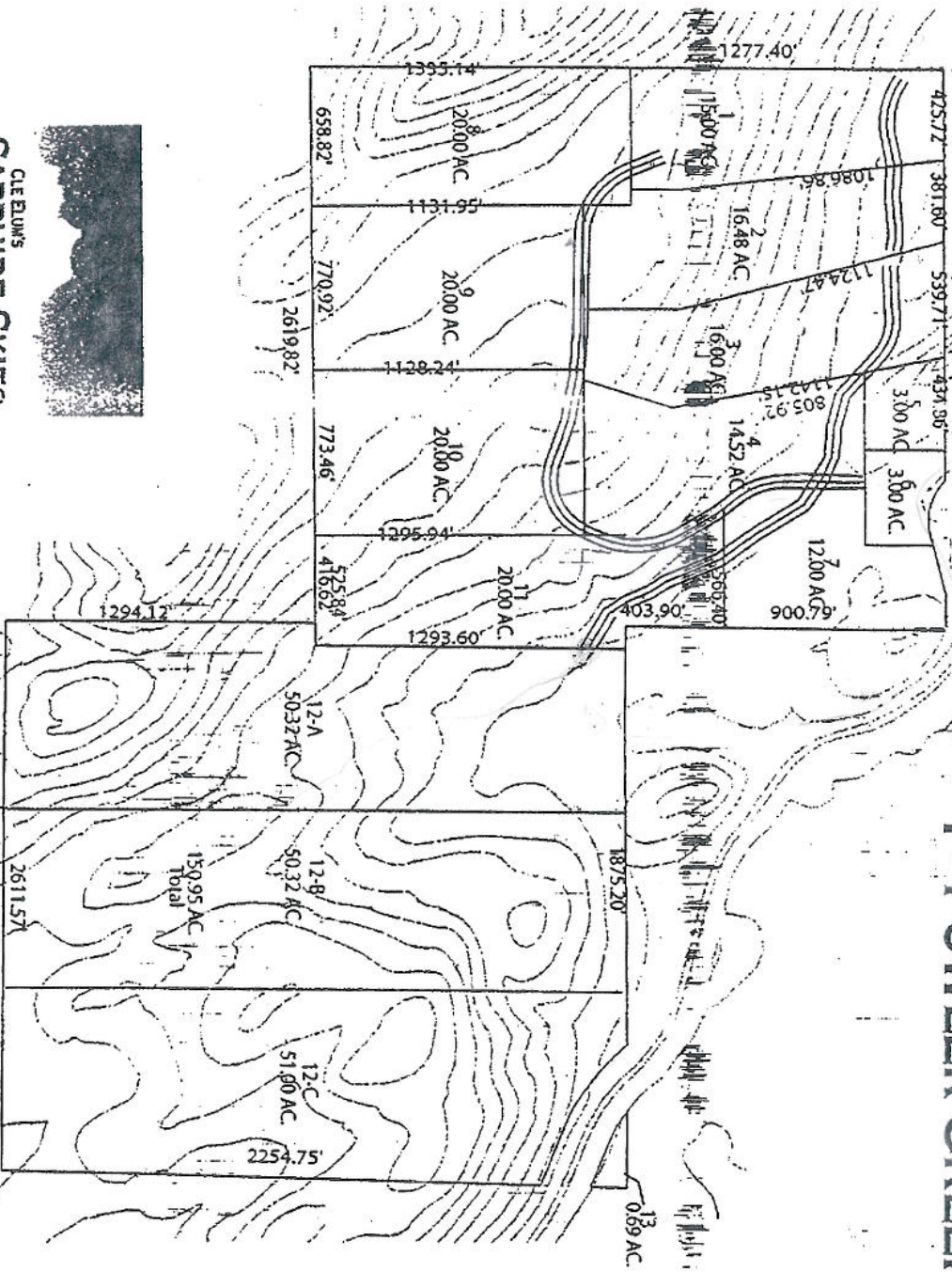


# 1 - WESTSIDE

## EXHIBIT B - LOT CONFIGURATION

SECTION 1, TOWNSHIP 19 NORTH, RANGE 14 EAST, W.M.  
KITITAS COUNTY, WASHINGTON

# 1 - FOWLER CREEK



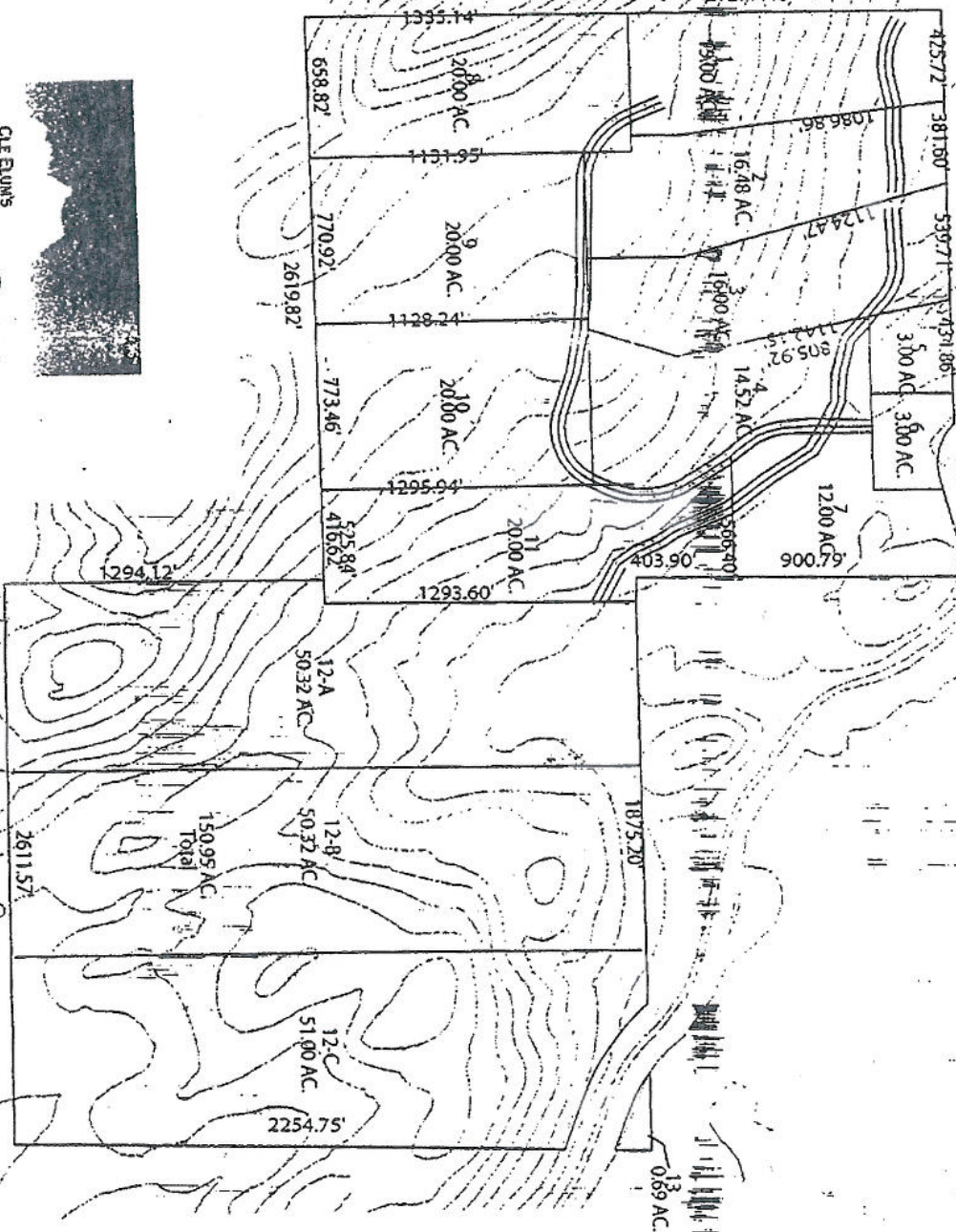
CLE ELUM'S  
SAPPHIRE SKIES



# 1 - WESTSIDE

## EXHIBIT C - MAP OF ROADS SECTION 1, TOWNSHIP 19 NORTH, RANGE 14 EAST, W.M. KITITAS COUNTY, WASHINGTON

### 1 - FOWLER CREEK



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## EXHIBIT D SUPPLEMENTAL COVENANTS, CONDITIONS & RESTRICTIONS

Upon the affirmative vote pursuant to Section 9.3 of the CC&R's to form a homeowner's association, the following Supplemental Covenants, Conditions & Restrictions shall apply, and the CC&Rs shall be revised as follows:

1. The designated sections of Article 1 of the CC&Rs shall be revised as follows:

### "ARTICLE 1

#### ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS

- 1.1 Organization of Association: Pursuant to the Washington Nonprofit Corporation Act, a new association shall be incorporated, or the existing articles of incorporation for the EASEMENT OWNERS ASSOCIATION shall be amended to create the Homeowners Association, a Washington corporation (hereinafter the "Association"). The Association shall adopt new and/or amend existing articles and bylaws consistent with the original CC&R's, as modified by these Supplemental Covenants, Conditions & Restrictions. Adoption of same shall require the vote of Members representing fifty percent plus one of the Lots.
- 1.2 Duties and Powers: The duties and powers of the Association are those set forth in this Declaration, the Articles and Bylaws adopted by the Association, together with its general and implied powers of a nonprofit 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. Without limiting the generality of the foregoing, the primary functions of the Association shall be enforcement of the covenants, the maintenance, operation and repair and insurance of the entry statement, private road easements over and across the Property for the purpose of ingress and egress to the Lots (A map of such roads is attached to the CC&R's as Exhibit C (the "Easements"), drainage system, common drainage and retention system and any other common amenities or elements which may be constructed and/or transferred to the Association. A further purpose of the Association is the collection of Assessments and payment of common expenses to maintain, operate, insure and repair the Easements and the other common amenities (the "Common Expenses").
- 1.3 Membership: The Owner of a Lot shall automatically, upon becoming the Owner of that Lot, be a Member of the Association, and shall remain a Member thereof until such time as his or her 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 Bylaws adopted by the Association.
- 1.4 Transferred Membership: Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Lot to which it is appurtenant; and then Membership shall immediately transfer to the new Owner. Any attempt to make a prohibited transfer is void. When a Lot is transferred to a new Owner, the Association shall have the right to record the transfer of Membership upon its books, and thereupon the old membership outstanding in the name of the former Owner shall be null and void.





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- 1.5 Classes of Membership; Voting Requirements: The Association shall have one class of voting membership. Each Lot owner will have one vote and voting procedures shall be set forth in the Articles and Bylaws adopted by the Association; provided, however, that no action of the members shall be taken without a quorum of Members participating directly or by proxy. A quorum shall be defined in the Articles and/or Bylaws but shall not be less than one-half of all Lot Owners.
- 1.6 Membership Meetings: Regular and special meeting of Members of the Association shall be held with the frequency, at the time and place, and in accordance with the provisions as set forth in the bylaws. Special meetings may be called by the Board of Trustees or Members holding at least twenty-percent of the voting power of the Members.
- 1.7 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 to the provisions as set forth in the Articles and Bylaws.
- 1.8 Use of Agent: 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.
- 1.9 Architectural Control Committee: The Board shall form an Architectural Control Committee (hereinafter "ACC"). The ACC shall consist of three (3) members. The members shall be designated by the Board and shall serve such terms as are defined in the Bylaws adopted by the Association.
- 1.10 Prohibition of Alteration and Improvement: Subject to the exemption of Declarant hereunder, no structure, improvement, or alteration of any kind which will be visible from other Dwellings, private roadways serving the Property 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 ACC.
- 1.11 Plans and Approval: The ACC shall base decisions to approve or deny proposals on the quality of the proposed workmanship and the materials to be used, the harmony of the proposal to the external design and existing structures, and as to location with respect to topography and finished grade elevation. The ACC shall also have the authority to develop and make available to all Owners within the Property, a set of rules and guidelines to assist Owners in preparing plans under this section. The rules and guidelines shall not be binding upon the Declarants or ACC, but shall set forth general criteria to be considered by the ACC in evaluating a particular application for architectural approval. The ACC 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 ACC. The ACC may also take into account proposed exterior colors and materials in review of an application. Any application submitted to the ACC pursuant to this Article shall be deemed approved unless written disapproval or a request for additional information or materials by the ACC shall have been transmitted to the applicant within thirty (30) days after the date of receipt by the ACC of all required materials.
- 1.12 Non-Liability of ACC Members: Neither the ACC or Declarant, 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 ACC's duties hereunder unless due to the willful misconduct or bad faith of the ACC or member. The ACC shall review and approve or disapprove all plans submitted to it for any proposed structure, improvement or alteration, solely on the basis of the criteria established in this Declaration, aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and the Property generally. The ACC shall not be responsible for reviewing, nor shall





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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, zoning or other codes.

1.13 Minimum Standards: The minimum standards stated in Article 2 shall be binding upon the ACC unless and until this Declaration may be amended as provided below.

1.14 Member Review of Decisions: Notwithstanding the foregoing, any actions taken by the Board or the ACC pursuant to these Supplemental Covenants, Conditions & Restrictions may be reversed by the vote of an absolute majority of the members at a meeting properly called.

2. Section 2.1(f) shall be amended in its entirety by the following:

"(f) Outbuildings: All outbuildings (detached garages, etc.) must complement the dwelling in material, color and design and must be placed in an unobtrusive location within the primary building site, and must be set back or even with the front of the house. The ACC, at its discretion, may waive these requirements and the location requirement if an acceptable plan is submitted that is compatible and will enhance the property without overly restricting views from other Lots in the subdivision."

3. Section 2.1(g) shall be amended in its entirety by the following:

"(g) Exterior Colors: Exterior colors of all buildings shall be of moderate hues and/or earth tones and shall be approved by the ACC."

4. Section 2.11 shall be amended in its entirety by the following:

"2.11 Time of Completion: Any Dwelling or structure erected or placed on any Lot in the Property shall be completed as to exterior appearance, including finished painting, within fourteen (14) months from the date of commencement of construction. Provided, the ACC may extend the time requirement for completion on behalf of any Owner upon a showing of good cause, at the sole discretion of the ACC."

5. Section 2.13 shall be amended in its entirety by the following:

"2.13 Animals: Animals include horses, dogs, cats, caged birds, fish in tanks, and other small household pets which shall be permitted on Lots. Dogs shall not be allowed to run at large or to create a disturbance for other Owners. Leashed dogs are permitted within the Easements only when accompanied by their owners or their agents. Persons accompanying the dog shall scoop animal waste. The Board may enact as becomes necessary reasonable rules respecting the use of common areas by Owners walking their pets."

Animals including horses, livestock and poultry can be raised for purpose of private use and enjoyment, provided they are not kept, bred or maintained for any commercial purpose. Pigs shall not be permitted. All animal enclosures must be kept in a neat, clean, and odor free condition at all times. The Declarant or HOA may at any time require the removal of any pet or animal which it finds disturbing other Owners unreasonably, in the HOA's determination, and may exercise this authority for specific pets or animals even though other pets or animals are permitted to remain."

6. Section 2.14 shall be amended in its entirety by the following:

"2.14 Signs: Professional appearing signs advertising Lots for sale or rent, including the temporary daytime display of signs advertising open houses, may be displayed on the appropriate Lot without prior approval of the Board or the ACC, provided that such signs shall be of reasonable and customary size, not to exceed five (5) square feet. Declarant, or its





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authorized agent may display one construction sign per Lot to advertise Lots for sale. Such signs shall not exceed 32 square feet."

8. Article 4 shall be amended in its entirety as follows:

#### ARTICLE 4

#### ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS

- 4.1 Creation of the Lien and Personal Obligation of Assessments: The Declarant, for each Lot, not including vacant Lots, owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed or contract therefore, 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:

- Regular Assessments;
- Extraordinary Assessments; and
- Special Assessments

All Assessments, together with interest, costs, and actual attorneys' fees, shall be a charge and a continuing lien upon the Lot against which each Assessment is made. However, such lien shall be subordinate to the lien of any first mortgage or construction loan. Such liens may be enforced or foreclosed according to law, with attorney's fees and costs to be charged against the party being foreclosed. 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 Lot at the time when the Assessment fell due. No Owner of a Lot may exempt himself or herself from liability for his or her contribution toward the Common Expenses by waiver of the use or enjoyment of the Easements or by the abandonment of his or her Lot.

- 4.2 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 Property, for the improvement, maintenance, operation, insurance and repair of the Easements, any common drainage and retention system, and any agreed upon community landscaping, for the payment of utility bills associated with the common areas and entry statement, and for the common good of the Property. The Regular Assessments shall include an adequate reserve fund for maintenance and repair of the Easements and replacement of any items that must be replaced on a periodic basis.
- 4.3 Regular Assessments: Until the end of the Association's fiscal year immediately following the closing of the sale of the first Lot in the Property, the annual maximum Regular Assessment per Lot shall be such amount as set forth in the Property budget prepared by the Declarant, payable in monthly installments. Each Lot'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 annual Regular Assessment against each Lot at least sixty (60) days in advance of the start of each fiscal year; provided, however, that the annual Regular Assessment may not be increased by more than ten percent (10%) above the maximum Regular Assessment for the immediately preceding fiscal year, without the vote or written assent of a two-thirds (2/3) of the total voting power as identified in the Articles and bylaws. The Regular Assessment for 2003 is hereby set at \$360.00, payable in monthly installments of \$30.00 each month.
- 4.4 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 covering the actual cost of any reconstruction, repair or replacement of any





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Easement, entry statement, common drainage and retention system or roadways, including fixtures and personal property related thereto, or to defray any unanticipated or underestimated expense not covered by the Regular Assessment and, where necessary, for taxes assessed against the Drainage System or Infiltration System(s).

- 4.5 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 and without requiring a vote of Owners) against an individual Lot and its Owner for violations of any provisions within this Declaration, including the right of the Association to receive reimbursement for costs incurred in bringing that Owner and his or her Lot into compliance with the provisions of this Declaration and the bylaws, including actual attorneys' fees and costs.
- 4.6 Allocation of Assessments: Limited Exemption During Construction: Each Lot, including Lots owned by Declarant, shall bear an equal share of each Regular and Extraordinary Assessment. Except, Declarant shall be exempt from the payment of any Assessment on a Lot, which does not include a completed Dwelling. 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 eighty (180) days after the issuance of a building permit for the Dwelling, whichever first occurs.
- 4.7 Date of Commencement of Assessments; Due Dates: Subject to the foregoing exemption pending construction, or pursuant to Declarant subsidy, the Regular Assessments provided for herein shall commence as to all Lots in the Property on the first day of the month following closing of the sale of the first Lot in the Property. Due dates of Assessments shall be the first day of every calendar month. No notice of such Assessment shall be required other than an annual notice setting forth the amount of the monthly Assessment.
- 4.8 Payment of Taxes Assessed Against Easements or Personal Property of Association: In the event that any taxes are assessed against the Easements or the personal property of the Association, rather than against the Lots, said taxes shall be included in the Assessments made under the provisions of this Article, and, if necessary, an Extraordinary Assessment may be levied against the Lots in an amount equal to said taxes, (regardless of any limitation otherwise applicable to Extraordinary Assessments set forth in Paragraph 4.4 above), to be paid in two (2) semi-annual installments, thirty (30) days prior to the due date of each tax installment.
- 4.9 Transfer of Lot by Sale or Foreclosure: The sale or transfer of any Lot shall not affect any Assessment lien, or relieve the Lot 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 of any Lot pursuant to foreclosure, or by deed in lieu of foreclosure, of a mortgage recorded prior to the recording of a Notice of Delinquent Assessment covering such Lot, and given in good faith and for value, shall extinguish the lien of all Assessments which become owing prior to such sale or transfer. 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 collectable from all of the Lots including the Lot for which the lien was extinguished.
- 4.10 In the case of any other conveyance of a Lot, 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 grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. 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 Lot conveyed by subject to a lien for, any unpaid Assessments made by the Association against



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the grantor in excess of the amount set forth in the statement. Provided, however, the grantee shall be liable for any Assessment becoming due after the date of any such statement.

4.11 Enforcement of Assessment Obligation; Priorities; Discipline: If any part of any Assessment is not paid and received by the Association or its designated agent within thirty (30) days after the due date, such Assessment shall thereafter bear interest at eighteen percent (18%) interest until paid. Additionally, automatic late processing fees of Ten Dollars (\$10.00) per month shall be assessed for each month from the due date until the Assessment(s) and all late charges are paid. Each delinquent Assessment may be evidenced as a matter of public record by a Notice of Delinquent Assessment recorded by the Association or other party or parties entitled to enforce and/or receive the same, which recorded Notice of Delinquent Assessment shall provide notice to the public of the delinquency."

9. The first sentence of Section 6.1(b) shall be amended in its entirety as follows:

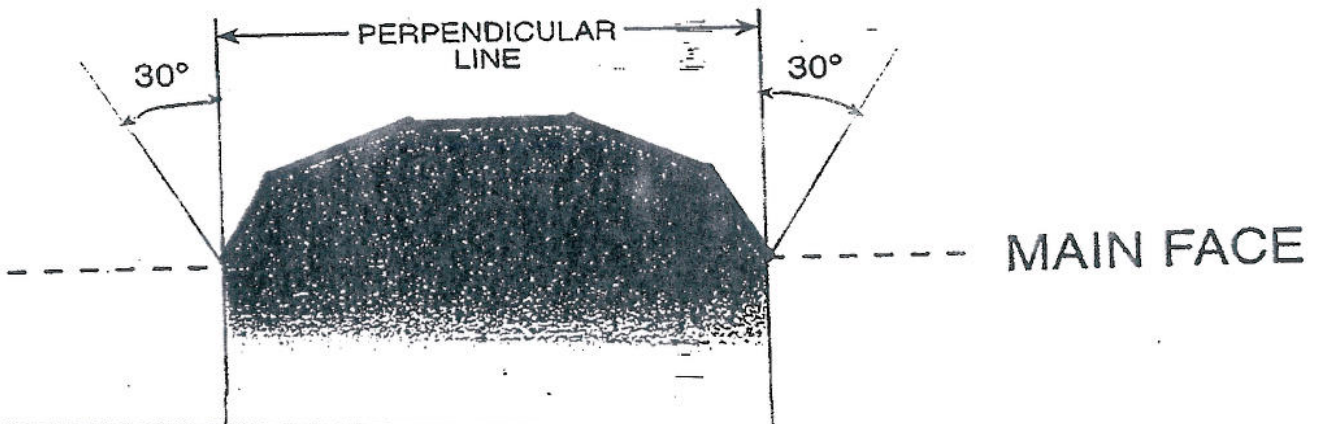
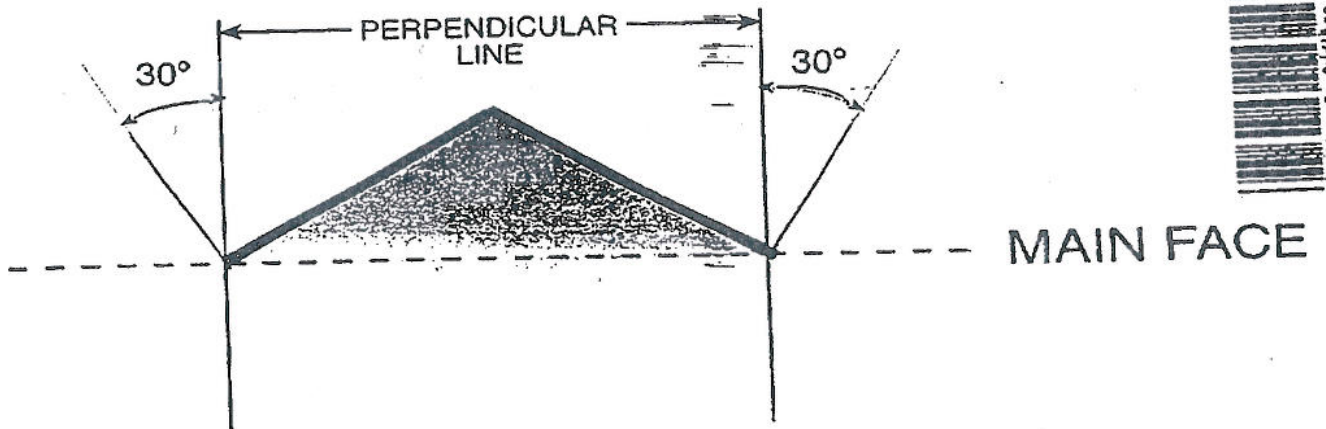
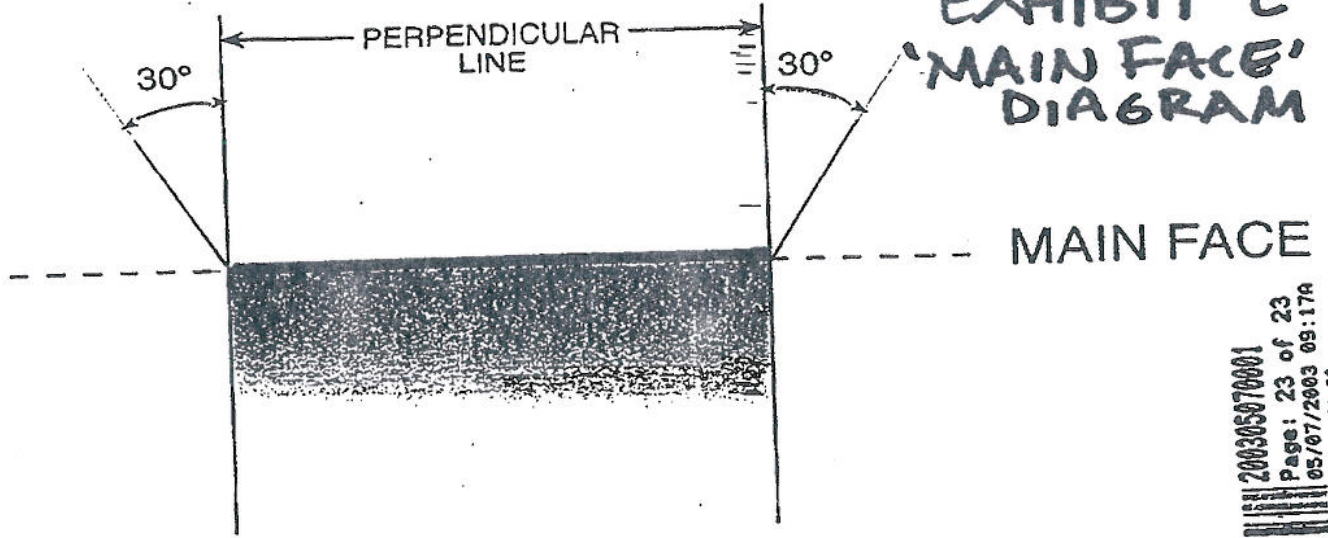
"(b) Liability Insurance: A comprehensive general liability insurance policy covering the Easements and any common drainage and retention system, and all public ways and other areas that are under the supervision of the Association."

10. Section 10.1 shall be amended in its entirety as follows

"10.1 Enforcement: The Board, any Owner, and any governmental or quasi-governmental agency or municipality having jurisdiction over the Property shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by this Declaration, and in such action shall be entitled to recover costs and reasonable attorneys' fees as are ordered by the Court. Failure by any such person or entity to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter."



EXHIBIT E  
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