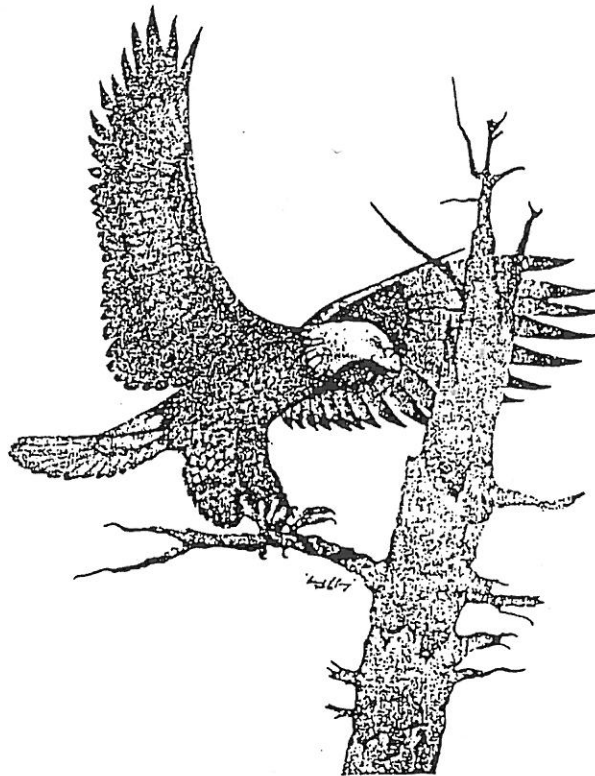


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SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
EAGLE CREST, DIVISION 2

A PLANNED RESIDENTIAL DEVELOPMENT IN OAK HARBOR, WASHINGTON

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BY

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5-30-94

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THIS DECLARATION, made by Robert P. Fakkema and Susan M. Fakkema, his wife, hereinafter called "The Declarant";

WHEREAS, Declarant is the owner of the real property described in Article 2 of this declaration and desires to create thereon a planned residential community; and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities in said community and for the preservation, protection and maintenance of open spaces and other common facilities described herein; and, to this end, desires to subject the real property described in Article 2 together with such additions as may hereafter be made thereto (as provided in Article 2) to the covenants, restrictions, easements, conservation agreements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has incorporated under the laws of the State of Washington, as non-profit corporations, the EAGLE CREST COMMUNITY ASSOCIATION and the TALON COURT COMMUNITY ASSOCIATION, for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, the Declarant declares that the real property described in Article 2, and such additions thereto as may hereafter be made pursuant to Article 2 hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, conservation agreements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE 1

DEFINITIONS

1.1 The following words when used in this Declaration or any supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

1.1.1 "The Association" shall mean and refer to the Eagle Crest Community Association, Inc. as described above.

1.1.2 "The Talon Court Association" shall mean and refer to the Talon Court Community Association, Inc., as referenced above.

1.1.3 "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this

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Declaration or any Supplemental Declaration under the provisions of Article 2 hereof.

1.1.4 "Common Properties" shall mean and refer to those areas of land shown on the recorded plat of the Properties and intended to be devoted to the common use and enjoyment of the Owners of the Properties, more specifically described as Tracts A and B as shown on the plat of Eagle Crest, Division 1, and Tracts D and E, Eagle Crest, Division 2.

1.1.5 "Limited Common Properties" shall mean and refer to areas of land shown on the recorded plat of the Properties and intended to be devoted to the common use and enjoyment of the Owners of Lots 20 through 29, more specifically described as tract C as shown on the plat of Eagle Crest, Division 1.

1.1.6 "Lot" shall mean and refer to those plots of land shown upon the recorded plat of the Properties intended as homesites and numbered from 1 through 83, together with additional properties added under the provisions of Section 2.2 hereof.

1.1.7 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon the Properties but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

1.1.8 "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article 3 hereof.

1.1.9 "Talon Court Member" shall mean and refer to all those Owners who are members of the Talon Court Association as referenced herein.

1.1.10 "PURD Plan" shall mean and refer to the Final P.U.R.D. of Eagle Crest, a plan on file with the Director of Planning for the City of Oak Harbor, approved in accordance with OHCC 19.30, a copy of which is available to the public for review. A simplified, reduced copy of said plan is incorporated herein as Exhibit A and titled "Eagle Crest PURD".

1.1.11 "The Plat" shall refer to the Final Plat of Eagle Crest, Division No. 2, as approved by the City of Oak Harbor and recorded in Plats, records of Island County, Washington.

1.1.12 "Board" shall mean the Board of Directors of the Association as provided herein.

ARTICLE 2

PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS THERETO

2.1 Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is located in the City of Oak Harbor, Island County,

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Washington, and is more particularly described as that portion of the Southeast 1/4 of the Northwest 1/4 and of Government Lot 2, in Section 10, Township 32 North, Range 1 East W.M., as shown upon the recorded Plat.

2.2 Additions to Existing Property. Additional lands may become subject to this Declaration in the following manner:

2.2.1 Additions in Accordance with the Approved PURD Plan. The Declarant, his heirs and assigns, shall have the right to bring within the scheme of this Declaration additional properties in future stages of the development, provided that such additions are in accord with the PURD Plan, or approved revisions thereof. No Owner, Board member or any person or entity governed by this Declaration shall prohibit, object or bring action to prevent the orderly continuation of the development of those additional properties shown upon the PURD Plan.

The additions authorized under this and the succeeding subsection, shall be made by filing of record a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the scheme of the covenants and restrictions of the Declaration to such property.

Such Supplementary Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplementary Declaration revoke, modify or add to the covenants established by this Declaration within the Existing property.

2.2.2 Other Additions. Upon approval in writing of the Association pursuant to a vote of its members as provided in its Articles of Incorporation, the owner of any property who desires to add it to the scheme of the Declaration and to subject it to the jurisdiction of the Association, may file of record a Supplementary Declaration of Covenants and Restrictions, as described in Section 2.2.1 hereof.

2.2.3 Mergers. Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Existing Property together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration within the Existing Property except as hereinafter provided.

ARTICLE 3

ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

3.1 Form of Association. The Association shall be an incorporated association. The rights and duties of the Members and the corporation shall be governed by the provisions of the Articles, Bylaws and this Declaration.

3.2 Membership Qualification. Each Owner (including Declarant) shall be a Member of the Association and shall be entitled to one membership for each Lot so owned; provided, that if a Lot has been sold on contract, the contract purchaser shall exercise the rights of the Owner for purposes of the Association, this Declaration and the Bylaws, except as hereinafter limited, and shall be the voting representative for the Lot unless otherwise specified. Ownership of the Lot shall be the sole and exclusive qualification for membership in the Association.

3.3 Transfer of Membership. The Association membership of each Owner (including Declarant) shall be appurtenant to the Lot giving rise to such membership, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon the transfer of title to said Lot and then only to the transferee of title to such Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership of the Association appurtenant to the Lot to the new Owner thereof.

3.4 Voting Rights in the Association. The Association shall have two classes of voting membership:

3.4.1 Class A Members shall be all those Owners, as defined in Section 1.1 hereof and in the Articles of Incorporation, with the exception of the Declarant. Class A Members shall be entitled to one vote for each Lot in which they hold the interests required for membership. When more than one person holds such interest or interests in any Lot all such persons shall be Members, and the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such lot (see Section 3.6).

3.4.2 Class B Members shall be the Declarant. The Class B Member shall be entitled to three votes for each lot in which he holds the interest required for membership by Section 3.2, provided that the Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership. From and after this happening the Class B Member shall be deemed a Class A Member entitled to one vote for each lot in which he holds the interest required for membership.

3.5 Joint Owner Disputes. The vote for a Lot must be cast as a single vote and fractional votes shall not be allowed. In the event that joint owners are unable to agree among themselves as to how their vote shall be cast, the majority of said joint Owners shall prevail and the vote allocated to such Lot shall be cast accordingly. In the event more than one (1) vote is cast for a particular Lot, none of said votes

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shall be counted and said votes shall be deemed valid.

3.6 Pledged Votes. In the event the record Owner has pledged in writing his vote regarding specified matters to a mortgagee under a duly recorded mortgage, or to the vendor under a duly recorded real estate contract, only the vote of such mortgagee or vendor shall be recognized in regard to the specific matters upon which the vote is so pledged, and only during a period of foreclosure involving a mortgage and only during a period of forfeiture involving a real estate contract and only if a copy of the Instrument with this pledge has been filed with the Board. Amendments to this subsection shall only be effective upon the written consent of all the voting owners and their respective mortgagees and vendors, if any.

3.7 Annual Meetings, Audits. There shall be an annual meeting of the Owners in the first quarter of each fiscal year at such reasonable place and time as may be designated by written notice of the Board delivered to the Owner no less than ten (10) days nor more than thirty (30) days prior to the date fixed for said meeting. At the annual meeting, there shall be presented an audit of the common expenses, itemizing receipts and disbursements for the preceding fiscal year, and the allocation thereof to each owner, and the estimated common expenses for the coming fiscal year. The Board at any time, or at the written request of Owners having at least forty percent (40%) of the total votes, may require that an audit of the Association and management books be presented at a special meeting. An Owner, at his own expense, may at any reasonable time make an audit of the books of the Board and Association. The annual audit of common expenses to be presented at the annual meeting shall be conducted by a person or entity outside of and removed from the Association as selected by the Board.

3.8 Special Meetings. Special meetings of the Owners may be called at any time for the purpose of considering matters which by the terms of this Declaration require the approval of all or some of the Owners, or for any other reasonable purpose. Such meetings shall be called by written notice of the president, or other request signed by a majority of the Board, or by written request by Owners having at least forty percent (40%) of the total votes, which notice shall be delivered not less than ten (10) days nor more than thirty (30) days prior to the date fixed for said meeting. The notice shall specify the date, time and place of the meeting, and the matters to be considered. No business other than that set forth in the notice shall be transacted at the meeting.

3.9 Adoption of Bylaws. Bylaws for the administration of the Association and the Properties, and for other purposes not inconsistent with the intent of this Declaration, shall be adopted at the first regular meeting of the Owners, or at a special meeting of the Owners called for that purpose, upon the vote of Owners holding at least sixty percent (60%) of the total voting power as set forth in Sections 3.2 and 3.4. Amendments to the Bylaws may be adopted in the same manner as provided for the original adoption of the Bylaws by the Owners pursuant to this Section 3.10. Declarant may adopt initial Bylaws.

3.10 Bylaw Provisions. The Bylaws may contain provisions identical to those provided in this Article 3, and may contain supplementary, not inconsistent, provisions regarding the operation of

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the planned unit development and administration of the Properties. The Bylaws shall establish such provisions for quorum, ordering of meeting and details regarding the giving of notice as may be required for the proper administration of the Association and the Properties.

3.11 Membership and Voting Rights In the Talon Court Association. All membership and voting rights in the Talon Court Association are defined and established within the Articles and By-Laws of said Talon Court Association and are further explained within the Covenants, Conditions and Restrictions governing Lots 20 through 29 of the Plat as recorded with the Island County Auditor. Each Member of the Talon Court Association shall also be a Member of the Association as defined herein.

3.12 Management by Declarant. Until a date five (5) years from the date of recording this Declaration, or the date on which Declarant shall have closed the sales of thirty one (30) (see Section 3.4.2) Lots, or the date on which Declarant elects to permanently relinquish all of its authority under this Section 3.12 by written notice to all Owners, whichever date first occurs, the property shall be managed and the Association organized as follows, in the exercise of the sole discretion of Declarant:

3.12.1 So long as no temporary Board is then entitled to exercise management authority under Section 3.12.2, Declarant, or a managing agent selected by Declarant, shall have the power and authority to exercise all the rights, duties and functions of the Board, including but not limited to enacting reasonable administrative rules, contracting for required services, property and insurance, and collecting and expending all assessments and Association funds. Declarant, or any such managing agent, shall have the exclusive right to contract for all goods and services, payment for which is to be made from any common or maintenance funds.

3.12.2 Declarant may at such times as Declarant deems appropriate select as a temporary Board three (3) to seven (7) persons who own or are purchasers of Lots, or are officers of corporations, trusts, partnerships or other entities owning or purchasing such Lots. This temporary Board shall have full authority and all rights, responsibilities, privileges and duties to manage the planned unit development under this Declaration and the Bylaws, and shall be subject to all provisions of this Declaration and the Bylaws; provided, that after selecting any such temporary Board, Declarant, in the exercise of its sole discretion, may at any time terminate such temporary Board, and reassume its management authority under Section 3.12.1 hereof or select a new temporary Board under this Section 3.12.2 hereof.

3.12.3 These requirements and covenants are made in order to assure that the Properties and the planned unit development will be adequately administered in the initial phases of development, and to assure an orderly transition to Association operation.

3.13 Management by Board. At the expiration of Declarant's management authority under Section 3.13 hereof, administrative power and authority shall vest in a Board of five (5) directors, four (4) of

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which are elected from among the Owners. The fifth director shall be a member of the Talon Court Association and shall be appointed by the Talon Court Board of Directors. The Board may delegate all or any portion of its administrative duties to a manager, managing agent, or officer of the Association, or in such manner as may be provided by the Bylaws.

3.13.1 Elections. Upon the expiration of the Declarant's management authority the Declarant shall give notice of a special meeting, in accordance with Section 3.9, which said special meeting may coincide with the annual meeting, for the purpose of electing directors to the Board. Directors' terms shall be for a period of three (3) years, except that the Initial Board shall elect one (1) member to a one (1) year term, two (2) members, including the Talon Court representative, to a two (2) year term, and two (2) members to a three (3) year term. Thereafter expired terms and vacancies shall be elected or re-elected in accordance with the Bylaws. Following the election the Board shall elect its own officers in accordance with the Bylaws.

3.14 Authority of the Board. The Board (or Declarant or Declarant's managing agent as provided in Section 3.13 hereof), for the benefit of the planned unit development and the Owners, shall enforce the provisions of this Declaration and of the Bylaws, shall have the duties, powers, authority and responsibility set forth under this Declaration and the Bylaws; and shall acquire and pay for out of the common expense fund hereinafter provided for all goods and services requisite to the proper functioning of the planned unit development including but not limited to the following:

3.14.1 Water and other necessary utility services as required for the Common Areas.

3.14.2 Policies of insurance or bonds providing coverage for fire and other hazards, liability for personal injury and property damage, and for the fidelity of Association officers and other employees, as the same are more fully required in the Bylaws.

3.14.3 The services of persons or firms as required to properly manage the affairs of the planned unit development to the extent deemed advisable by the Board as well as such other personnel as the Board shall determine are necessary; such personnel are employed directly by the Board or are furnished by the manager or management firm or agent.

3.14.4 Legal and accounting services necessary or proper to the operation of the Association's affairs, administration of the Common Areas, or the enforcement of this Declaration.

3.14.5 Painting, maintenance, repair and all landscaping and gardening work for the Common Areas, and such furnishings and equipment for the Common Areas as the Board shall determine are necessary and proper, and the Board shall have the exclusive right and duty to acquire the same for the Common Areas.

3.14.6 Any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, tax or assessments which the Board is required to secure by law, or which

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in its opinion shall be necessary or proper for the operation of the Common Areas or for the enforcement of this Declaration.

3.14.7 Maintenance and repair of the exterior of any building including the roof, windows and doors, and maintenance of landscaping, as described in Article 9 hereof.

3.14.8 Maintenance, repair and replacement, including pruning, of the decorative trees planted within Easement Number 6 as referenced within Section 10.2.8 hereof and as described in Sections 6.7 and 7.10 hereof.

3.14.9 Maintenance, repair and replacement of the community sign and related landscaping located within Easement Number 8 as referenced within Section 10.2.8 hereof.

3.14.10 Care, maintenance and repair of storm drainage facilities, including detention pond and related drain lines, both within the Properties, as shown upon the PURD Plan, and outside the plan boundaries, as referenced within Section 5.2.3 hereof.

3.14.11 The Board and its agents or employees may enter any Lot, Common Area or Limited Common Area when necessary in connection with the maintenance, landscaping or construction for which the Board is responsible or in the event of emergency. Such entry shall be made with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaid by the Board out of the common expense fund if the entry was due to any emergency or for the purpose of maintenance or repairs. If the repairs or maintenance were necessitated by or for the Lot entered or its Owner, or requested by its Owner, the costs thereof shall be specially charged to such Lot.

3.14.12 The Board shall have the right to make minor changes and/or waive various use restrictions as recommended by the Architectural Committee, provided that these changes or waivers shall not detract from the intent of the restrictions.

ARTICLE 4

PROPERTY RIGHTS IN THE COMMON PROPERTIES

4.1 Members' Easements of Enjoyment. Subject to the provisions of Section 4.3 hereof, every Member shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title to every Lot.

4.2 Title to Common Properties. The Declarant may retain the legal title to the Common Properties until such time as he has completed improvements thereon and until such time as, in the opinion of the Declarant, the Association is able to maintain the same but, notwithstanding any provision herein, the Declarant hereby covenants, for himself, his heirs and assigns that he shall convey the Common Properties to the Association, free and clear of all incumbrances, except as described herein, following the completion of development of the Properties and additions thereto, as described under Article 2.

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4.3 Extent of Members' Easements to the Common Properties. The rights and easements of enjoyment created hereby shall be subject to the following:

4.3.1, the right of the Association, as provided in its Articles and By-laws, to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and

4.3.2, the right of the Association to charge reasonable admission and other fees for the use of the Common Properties; and

4.3.3, the restrictions, conditions and management requirements contained within the Bald Eagle Territory Management Agreement entered into between the Declarant and the Washington State Department of Wildlife. The intent of the plan is to:

4.3.3.1, recognize the presence of an existing eagle nest, the location of which is shown upon the PURD plan as the center of Tract B, and create site-specific management procedures that maintain a productive eagle nest territory. It is the intent of the Declarant and the Management Agreement that Tract B, the eagle nest territory, be maintained in its natural state and that care be taken to preserve the existing natural features. The Association may, in the future, apply to the Washington Department of Wildlife and the City of Oak Harbor for approval to construct nature trails, picnic areas or other such improvements. Final authority to construct such improvements must be secured from the above agencies. In the event that the resident eagle pair abandon their nest and the Department of Wildlife terminates the Management Plan the Association shall be entitled to treat Tract B as a community park;

4.3.3.2, minimize residential impacts which are not compatible with the eagle's nesting habits;

4.3.3.3, encourage the Members, their guests and the general public to police themselves in such a manner that the resident eagle pair will continue to maintain the nest; and

4.3.3.4, show particular concern during the nesting season, normally extending from December 31 to July 15. Note. The Management Plan restricts and prohibits Lot development (i.e., clearing, lot preparation and building erection) on Lots 10 - 15 and 55 - 63 during this period (see Section 7.11). Copies of the complete Management Plan are available from the Director of Planning, City of Oak Harbor. Also

4.3.4, the right of the Declarant, the City of Oak Harbor and those certain utilities referenced within those easements contained within the Plat, provided that the Declarant reserves the right to grant additional utility easements within the Common Properties as may be required for the benefit of the Owners; and

4.3.5, the right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer,

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determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of the Members has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least ninety (90) days in advance of any action taken.

4.4 Members' Easements of Enjoyment and Title to the Limited Common Properties. Subject to the provisions of the Covenants, Conditions and Restrictions governing Lots 20 through 29, the Talon Court Members shall have the exclusive right and easement of enjoyment to the Limited Common Properties and such easement shall be appurtenant to and shall pass with the title to those Lots numbered 20 through 29.

ARTICLE 5

COVENANT AND MAINTENANCE ASSESSMENTS

5.1 Creation of Lien and Personal Obligation of Assessments. The developer for each Lot owned by him within the Properties hereby covenants and each Owner of any Lot by acceptance of a deed or document of purchase therefor, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to pay to the Association: (1), annual assessments or charges; (2), special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person or entity who was the Owner of such property at the time when the assessment fell due.

5.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Properties and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and of the homes situated upon the Properties, including, but not limited to, the payment of taxes and insurance thereon and repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof. Specific purposes include, but are not limited to:

5.2.1 The care, maintenance and replacement of the community sign(s) referenced within Section 10.2.4;

5.2.2 The care, maintenance and improvement of the Common Properties;

5.2.3 The care and maintenance of the detention pond, shown upon the PURD Plan (Exhibit A) and Plat as Tract D, together with

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the maintenance and repair of its related drain lines and facilities (see Section 3.15.10).

5.3 Basis and Maximum of Annual Assessments. Beginning July 1, 1994, the annual assessment shall be Sixty (\$60.00) per Lot (\$30.00 for 1994 for Lots 41 - 63). From and after January 1, 1995, the annual assessment may be increased by vote of the Members, as hereinafter provided, for the next succeeding two (2) years and at the end of each such period of two (2) years for each succeeding period of two (2) years.

The Board may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount.

5.4 Special Assessments for Capital Improvements. In addition to the annual assessments authorized by Section 5.3 hereof, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance setting forth the purpose of the meeting.

5.5 Change in Basis and Maximum of Annual Assessments. Subject to the limitations of Section 5.3 hereof, and for the periods therein specified, the Association may change the maximum and basis of the assessments fixed by Section 5.3 hereof prospectively for any such period provided that any such change shall have the assent of two-thirds of the votes of the Members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting, provided further that the limitations of Section 5.3 hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation and under Section 2.2 hereof.

5.6 Quorum for Any Action Authorized Under Sections 5.4 and 5.5. The quorum required for any action authorized by Sections 5.4 and 5.5 hereof shall be as follows:

At the first meeting called, as provided in Sections 5.4 and 5.5 hereof, the presence at the meeting of Members, or of proxies, entitled to cast sixty (60) percent of all the votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 5.4 and 5.5 hereof, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

5.7 Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence on the date

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(which shall be the first day of a month) fixed by the Board to be the date of commencement.

The first annual assessments shall be made for the balance of the calendar year and shall become due and payable on the day fixed for commencement. The assessments for any year, after the first year, shall become due and payable on the first day of March of said year.

The amount of the annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship of the annual assessment provided for in Section 5.3 hereof as the remaining number of months in that year bear to twelve. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereafter added to the properties now subject to assessment at a time other than the beginning of any assessment period.

The due date of any special assessment under Section 5.4 hereof shall be fixed in the resolution authorizing said assessment.

5.8 Duties of the Board. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period of at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessments shall thereupon be sent to every Owner subject thereto.

The Association shall, upon demand at any time, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

5.9 Effect of Non-Payment of Assessment; The Personal Obligation of the Owner; the Lien; Remedies of Association. If the assessments are not paid on the date when due (being the date specified in Section 5.7 hereof, then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of twelve (12) percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgement is obtained, such judgement shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

5.10 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall

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apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

5.11 Lender's Authorization. Lenders of first mortgages are authorized to inspect the Association's books and records, receive copies of the Annual Audit and budgets, receive notices of meetings and attend meetings, if desired.

5.12 Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Properties and Limited Common Properties as defined in Section 1.1 hereof; (c) all properties exempted from taxation by the laws of the State of Washington, upon the terms and to the extent of such legal exemption.

5.13 Liability and Maintenance for Common Properties. The Association shall pay the real estate taxes, if assessed, and provide for maintenance of all Common Properties and shall enforce all rules and regulations established for use of those Common Properties. Additionally, the Association shall provide adequate liability insurance coverage to protect the Association from liability based upon the use of said Common Properties.

5.14 Assessments on Unsold Lots. Because few, if any, of the regular services of the Association are utilized by unoccupied lots, the Declarant's liability for assessment will be ten (10) percent of the regular assessment.

5.15 Assessments by the Talon Court Association. The Talon Court Members may be assessed fees, dues, costs, etc., over and above those assessments by the Association, by the Talon Court Association in accordance with and subject to the Articles and By-Laws of said Talon Court Association and the Covenants, Conditions and Restrictions governing Lots 20 through 29.

ARTICLE 6

ARCHITECTURAL CONTROL COMMITTEE AND DEVELOPMENT STANDARDS

6.1 Review by Committee. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, EXCEPT Lots 20 through 29, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, colors and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or

disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

6.2 Committee Membership. The Architectural Committee as established by the Incorporation of Eagle Crest Community Association is composed of three (3) members, appointed by the Declarant. These members will serve until such time as the management of the Association is turned over to the Association Members in accordance with Article 3.

After transfer of the Architectural Committee to the Association the members of the Committee will serve at the pleasure of the Board of Directors of the Association and may be removed and replaced without cause at the discretion of such board.

6.3 Meetings. A majority of the members of the committee shall have the power to act on behalf of the committee without the necessity of a meeting and without the necessity of consulting the remaining member or members of the committee. The committee shall act only upon written instruments setting forth the action taken, which instruments shall be signed by the members of the committee consenting to the action and present thereat. The Committee shall have thirty (30) days to approve or reject the proposed improvement. Failure of the committee to act within such thirty (30) days shall provide for the proposal to have been deemed approved.

6.4 Inspection. Upon completion of any improvement, the property owner shall notify the Committee in writing. The Committee shall have thirty (30) days in which to inspect and examine the improvement for compliance with the architectural and site plans as approved by the Committee. Should the Committee fail to act within such thirty (30) days, the improvement will be deemed to conform and have been approved. In the event the improvement does not comply, the Committee shall give the owner written notice of same and shall require compliance or removal of the improvement within thirty (30) days.

6.5 Temporary Structures. Temporary structures are subject to Committee approval and require an application in the same manner as permanent structures. Temporary structures will only be authorized during the course of building the permanent residence.

6.6 Building Plans. Prior to any new construction, modifications or additions, the plans, specifications and site plan must be submitted to the Architectural Committee for approval. Architectural guidelines which govern the Committee's approval consist of: minimum square footage, number of stories, roof heights, exterior design, harmony, proportion, color, material, workmanship, compatibility and topography. Site plans, drawn accurately to scale, shall include setbacks and drainage plans. The Landscape Plan, as required under Section 6.7 hereof, may be incorporated into the site plan.

As with all covenants, the purpose of the architectural guidelines is to promote and maintain the best appearance possible of the community and enhance and retain property values through reasonable restriction, with freedom for innovation and variety of architectural style.

The construction of all buildings, including the main residence, patios and auxiliary buildings, shall be prosecuted diligently and continuously until completed. All exterior work must be completed,

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including exterior painting, within four (4) months of start. All construction must be in compliance with the Oak Harbor Building Code and with required permits.

6.7 Landscape Plan. In addition to building plans described in Section 6.6 hereof, the owner shall submit to the Committee a detailed Landscape Plan, drawn accurately to scale, including specifications, for those portions of the Lot not covered by building(s) and driveways. Landscape guidelines which govern the Committee's approval consist of: plant materials, location of plantings, ground cover, grading, proposed hard surfaces (walkways, patios, etc.), types of irrigation systems, statuary, artificial features, color, harmony and compatibility with neighborhood yards. Plans shall include the common names for all plantings. The preparation of plans by a Landscape Architect is not required but the Owner is encouraged to consult with local landscape professionals experienced with northwest landscape practices.

As with buildings, the intent of landscape guidelines is to promote an attractive community which provides pleasure and a source of pride to both the owners and the visiting public driving through our neighborhood. The Committee, therefore, shall concentrate their efforts in landscape review for those areas readily viewed from the street and sidewalk, especially the front yards. Back yard areas, out of view from the street, may be left in a natural state.

In order to promote color and landscape uniformity throughout the community a master street planting plan (Exhibit C) has been developed and incorporated herein. The plan addresses the types and typical locations of flowering trees to be planted adjacent to all streets. Each owner is required to plant the number of trees as specified within said plan, or as near thereto as is practicable, and shall incorporate said plantings within the Landscape Plan. The main responsibility for the maintenance of these specific trees shall abide with the Association, and the Directors of which shall provide for the replacement of any tree lost due to disease, vandalism, accident or other such calamity. The Owner shall maintain the tree area in a careful and proper manner so as to provide for the health and long life of the tree, including the provision of irrigation.

In addition to the review of landscape design the Committee shall give careful consideration to provisions for landscape maintenance. The Owner shall include, as part of the design, an adequate irrigation system to insure that all plantings, including the trees referenced above, be kept healthy and look attractive.

The grading for and the installation of landscape features shall be prosecuted diligently and shall be completed within sixty (60) days of occupancy of the residence. The Committee may grant extensions for completion based upon weather conditions.

6.8 Review of Lots 20 Through 29. The single family attached homes on Lots 20 through 29 are controlled and governed by the Covenants, Conditions and Restrictions for said Lots. These CC&R's contain their own Architectural Committee review process with the Directors of the Talon Court Association being responsible for all plan approvals. Any construction or alteration of the exterior of homes constructed on said Lots, in addition to receiving approval by said Directors, shall also be submitted to the Association Architectural Committee. The Committee shall act in an advisory capacity and review said plans, making recommendations to the said Directors for their consideration in granting approval.

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ARTICLE 7

USE RESTRICTIONS

7.1 Care and Use of Premises. Property owners shall maintain the grounds and improvements in a neat and attractive manner, keeping grass and weeds cut and shrubbery pruned and not allowing the accumulation of debris. In the event the Architectural Committee, after giving reasonable notice to the owner of the violation of this section, shall have the authority to make the necessary correction and submit billings for the cost to the owner. Such charges will become a lien against the property and shall be treated as a special assessment under Article 5.

7.2 Fences. No fence or hedge shall be erected or maintained which shall unreasonably restrict the view of an adjoining Lot or impair the general landscaping plan of the community.

Rear and side yard fences are limited to six (6) feet in height or as limited by the City of Oak Harbor regulations. Fences are restricted from any point closer than twenty (20) feet from the street right-of-way.

All plans for fencing must be submitted to the Architectural Committee for approval prior to installation.

7.3 Pets. No animals, which term includes livestock, domestic animals, poultry, reptiles or living creatures of any kind, shall be raised, bred or kept on any lot, Limited Common Area or Common Area, whether as pets or otherwise, except subject to the rules and regulations adopted by the Board or Bylaws adopted by the Association. The Board may at any time require the removal of any animal which it finds is dangerous or is disturbing other owners unreasonably, in the Board's determination, and may exercise this authority for specific animals even though other animals are permitted to remain. No savage or dangerous animal shall be kept at any time. No pets may be permitted to run loose upon the Properties and any owner who causes any animal to be brought or kept upon the Properties shall indemnify the Association and hold it harmless from and against any loss, damage or liability which the Association may sustain as a result of the acts or presence of such animal whether or not the Association has given its permission therefor.

7.4 View. It is important that property owners restrict the height of improvements, including trees, to the end that the view of other Owners shall be preserved to the greatest extent reasonably practical. The Architectural Committee shall have the responsibility of determining whether the view of other properties is being unreasonably restricted. The Committee shall give notice, in writing, of such violation to the Owner. If after thirty (30) days the correction has not been made to eliminate the problem of restricted view by the Owner, the Committee may cause the correction to be made at the expense of the offending Owner. This restriction is to be primarily applied to future additions and/or alterations, together with growth of vegetation. Site topography is such that very little, if any, action can be taken in limiting height or location of homes upon the Lots in order to preserve views.

7.5 Antennas. Underground TV cable service has been provided to

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all Lots. TV antennas and dishes are permitted, provided that they are kept from view. All such antennas and dishes shall be housed within the residence.

Pole type antennas for radios are allowed in back yards only, away from the street, and shall be disguised as a flag pole or some other comparable disguise.

7.6 Vehicle Storage on Premises. The purpose of the parking and storage restrictions is to maintain a desirable community appearance. The parking of dump trucks, large vans or similarly large commercial vehicles detracts from the general community appearance. Restrictions applying to specific vehicles are:

7.6.1 Recreational vehicles, including boats, are permitted on off-street parking spaces for a period of up to 24 hours.

7.6.2 Immobilized vehicles shall be removed from the premises within 5 days or kept within the garage.

7.6.3 Commercially licensed vehicles of the pick up and light van type are permitted on off-street spaces.

7.6.4 Dump trucks, large vans or other heavy construction type vehicles are not permitted.

7.7 Parking. Each Owner is required to provide and maintain four (4) off-street parking spaces, including two (2) in the garage and two (2) on the driveway. On-street parking is reserved for guests and emergency purposes only.

Talon Court is restricted to on-street parking abutting the sidewalk only. Fire regulations require that no parking be allowed on the side of the street opposite the sidewalk.

7.8 Minimum Dwelling Size. The minimum size of the interior floor space, exclusive of breezeway, patios, porches and decks, shall be one thousand five hundred (1,500) square feet. A two story house must have a minimum of nine hundred (900) square feet of living area on the ground floor.

7.9 Garages. All homes are required to have a minimum of a two car enclosed garage. Carports are prohibited.

7.10 Maintenance of Street Landscaping. Following home construction, lot owners shall be required to landscape and maintain yards, in particular and of major concern, the twenty (20) feet of yard abutting the street. The appearance of these areas have a major impact upon the appearance of the entire community, giving each Owner an interest in his neighbor's willingness to maintain an attractive yard (see Section 6.7). In the event an Owner fails to adequately maintain this area the Architectural Committee shall give reasonable notice to the offending Owner, in writing. If the violation has not been corrected within thirty (30) days of receipt of notice, the Committee shall have the authority to make the necessary correction and submit billings for the cost to the Owner.

7.11 Construction Timing Restrictions. Lots 10 Through 15 and 55 Through 63. As referenced in Section 4.3.3, Lots 10 through 15 are restricted from exterior construction during the period December 31 to July 15. Construction may not be started on these lots during this period. Exterior construction will be deemed complete if all roof trusses are in place as of December 31. If trusses are complete, construction may continue, provided that due care is taken to minimize

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noise and disruptions which could have an adverse impact upon the eagle pair.

7.12 Commercial Uses. No commercial enterprises of any nature are to be engaged in on any Owner's premises (an office in a home which does not involve regular clients in daily visits is permitted). No manufacturing or storage of commercial materials of any kind is permitted.

7.13 Obnoxious Noises. Obnoxious noises from vehicles, radios, TVs and other sound systems are not permitted.

7.14 Renting or Leasing. Owners may rent or lease their homes upon obtaining from tenant a signed statement that he or she has received a copy of this Declaration and the Rules and Regulations and his or her agreement to abide by the Rules and Regulations. The Owner renting or leasing is in no way released from his obligations for assessments and compliance with this Declaration.

7.15 Signs. No signs of any kind shall be exhibited in any way on or about the Properties without the written approval of the Declarant or the Association, except: one (1) professional sales sign of not more than five (5) square feet, advertising the property for sale. This restriction shall not apply to signs of the Declarant's marketing agent, builders or the Association, used as sales aids, direction, or the like in connection with the marketing, development and community purposes for the Properties.

7.16 Lighting. Area, flood and ornamental lighting must be of a subdued nature and must be approved by the Architectural Committee. Each Owner is required to provide one (1) outside globe light on top of a brick column, consisting of new-used brick, measuring 16" square (2 bricks) and a minimum of 42" high. The column shall be located one (1) foot behind the sidewalk or, in those lots without sidewalks, two (2) feet behind the curb, and shall be so placed to give uniform lighting to the area in coordination with the neighboring lights. The column shall also provide an iron bar for the attachment of house numbers.

The intent of the light columns is to provide a subdued source of lighting for the community in conjunction with the installed street lights. The style is intended to conform to the columns presently installed within the adjoining neighborhood to the North of the Properties.

7.17 Building Uses. All uses of the residential structure, with exception of a home office as authorized in Section 7.12, must be those normal to residential occupancy.

7.18 Common Areas Alterations. Nothing shall be altered or constructed in or removed from the Common Areas except upon the written consent of the Board and pursuant to procedures required herein or by law.

ARTICLE 8

RULES AND REGULATIONS

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8.1 The following Rules and Regulations have been adopted by the Board and may be amended from time to time as deemed necessary by the Board:

- 8.1.1 Trash and garbage, properly bagged or boxed, may be permitted at street curb on night before or on pick up days only.
- 8.1.2 Owners desiring to rent or lease their premises must comply with Section 7.14.
- 8.1.3 Dogs must be on leash when away from Owner's premises. This rule applies equally to all Common and Limited Common Properties.
- 8.1.4 Unreasonably loud or obnoxious noises are prohibited.
- 8.1.5 A landscape professional, horticulturist, or other such expert in the care and maintenance of trees and plants, shall be retained by the Association annually to inspect and care for those flowering trees under the responsibility of the Association and as referenced within Exhibit B and Sections, 6.7, 7.10 and 10.2.3 hereof.

ARTICLE 9

EXTERIOR MAINTENANCE

9.1 Exterior Maintenance. In addition to maintenance upon the Common Properties, the Association may, at the request of the Owner, provide exterior maintenance upon each Lot and living unit which is subject to assessment under ARTICLE 5 hereof, as follows: paint, repair, replace, and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements, including the cleaning of vacant lots.

9.2 Assessment of Cost. The cost of such exterior maintenance shall be assessed against the Lot upon which such maintenance is done and shall be added to and become part of the annual maintenance assessment or charge to which such Lot is subject under ARTICLE 5 hereof. As part of such annual assessment or charge, it shall be a lien and obligation of the Owner and shall become due and payable in all respects as provided in ARTICLE 5 hereof. Provided that the Board of Directors of the Association, when establishing the annual assessment against each Lot for any assessment year as required under ARTICLE 5 hereof, may add thereto the estimated cost of the exterior maintenance for that year but shall, thereafter, make such adjustment with the Owner as is necessary to reflect the actual cost thereof.

9.3 Access at Reasonable Hours. For the purpose solely of performing the exterior maintenance required (authorized) by this Article, the Association, through its duly authorized agents or employees shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours on any day except Saturday or Sunday.

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ARTICLE 10

DEFINITIONS AND DESCRIPTIONS OF EASEMENTS

10.1 Intent of Conveyance. The Properties reference, upon the face of the Plat and the PUD Plan, various easements of different widths, in different locations and for different uses and purposes. The Plat Easement Reservations grants and conveys these easements to various utility companies, the City of Oak Harbor and the public. In addition the Declarant reserves these easements to himself and or his future assigns as deemed appropriate by the Declarant. It is the intent of the Easement Reservation to convey the described uses to their respective grantees as referenced therein upon the acceptance and recording of the plat with the Island County Auditor, subject to Section 10.2 hereof.

10.2 Definitions and Descriptions. The following easements, as shown by reference upon the Plat, are more particularly described as follows:

10.2.1 Utility Easement 1. Utilities, including gas, water, cable T.V. and telephone, are located within the front 10 feet abutting the street for all lots. These utilities include meters as well as pads for power facilities, etc. Owners will be obliged to protect these facilities and incorporate their existence within proposed landscaping, driveways, etc., and maintain ready access to them for normal operation and maintenance. In the event a particular utility is repaired and landscaping is disturbed, the responsible utility is obliged to repair and/or replace to original condition.

In addition to these underground utilities, the Postal Department has installed community mail boxes at various locations within the properties. Owners shall maintain landscaping such that access to both the front and rear of the boxes is available.

The easement also contains a drain line, located typically just behind the sidewalk, for the benefit of Owners to bring drain waters from roof drains and footing drains as well as surface drainage. All such drainage plans shall be approved by the Architectural Review Committee (See ARTICLE 6).

10.2.2 Utility Easement 2. The South 5 feet of the East 30 feet of Lot 49 and the North 15 feet of the East 30 feet of Tract E has been reserved to the Declarant and granted to the City of Oak Harbor for the installation, maintenance, repair and replacement of a sanitary sewer pumping station. This station is a temporary facility and will no longer be used at the time the street and sewer lines are extended to the South. The easement created herein will be automatically terminated upon said extension and abandonment of the pumping facilities.

10.2.3 Landscape Easement 6. It is the intent of the Declarant that the community install and maintain certain types of trees adjacent to the streets (see Sections 6.7 and 7.10 and Exhibit C). These trees will provide color and a higher quality of living environment to the overall community, provided that these trees are maintained and kept attractive. The intent of this easement is for the Association, and therefore the entire community, to have control over these trees and guarantee that they will be maintained and, in the

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event a tree dies or is destroyed, replace said tree in a timely manner. The easement gives the Association control over those trees designated upon the approved lot landscape plan only and not over other landscaping or improvements. The easement extends over the 20 feet abutting the street as referenced upon the Plat.

10.2.4 Sign Easement 8. The Northerly portion of Tract E, abutting the Northwest corner of Lot 54, is reserved for a community "Eagle Crest" sign. The maintenance of the sign shall be the responsibility of the Association. Landscaping around the sign and within 10 feet of the sign shall be considered part of the Association sign maintenance, provided that the Association will cooperate with the owner of Lot 54 so that the sign complex, including landscaping, will enhance the entire yard appearance in as much as is practicable. The owner of Lot 54 shall also cooperate with the Association and shall design and maintain the yard area so as to enhance the appearance of the sign.

10.2.5 Drainage Easement 5. Tract E is designed both for the purpose of providing play and recreation area to the children of the community and storm water detention. The City of Oak Harbor is hereby granted an easement over and across Tract E for the purpose of maintaining the tract as a detention site. No construction shall be allowed thereon which will interfere with normal drainage as constructed or with the normal maintenance of drainage facilities.

10.2.6 Utility Easement 6. An easement affecting Lots 41 and 42 as well as 44 and 45, as shown upon the Plat, are herein reserved for and granted to the adjoining property owners, all of which are described within that certain Utility Easement Agreement recorded under Auditor's File No. 93026941, records of Island County, Washington, together with Cascade Natural Gas Company. The purpose of the easement is to provide water service from water meters installed along Capital Street and gas service from Capital Street to the adjoining properties herein referenced. Included within said reservation and grant is the ability to enter the respective Lots for the purpose of maintenance, repair or replacement, provided that any such activity will require the repair of any landscaping, fences or other improvements to the condition prior to such activity. It is further understood that these utility services are temporary in nature and will automatically extinguish upon the abandonment of the utility installed.

ARTICLE 11

GENERAL PROVISIONS

11.1 Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns for a term of fifteen (15) years from the date this Declaration is recorded, after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then-Owners of two-thirds (2/3) of the Lots has been recorded, agreeing to change said covenants and restrictions in whole or in part.

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Provided, however, that no such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

11.2 Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

11.3 Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or 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.

11.4 No Waiver of Strict Performance. The failure of the Board in any one or more instances to insist upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or of the Bylaws, or to exercise any right or option contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force or effect. The receipt by the Board of any assessment from an Owner, with knowledge of any such breach shall not be deemed a waiver of such breach, and no waiver by the Board or any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board. This section also extends to the Declarant or Declarant's managing agent, exercising the Powers of the Board during the initial period of operation of the Association and the planned unit development.

11.5 Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no wise affect any other provision which shall remain in full force and effect.

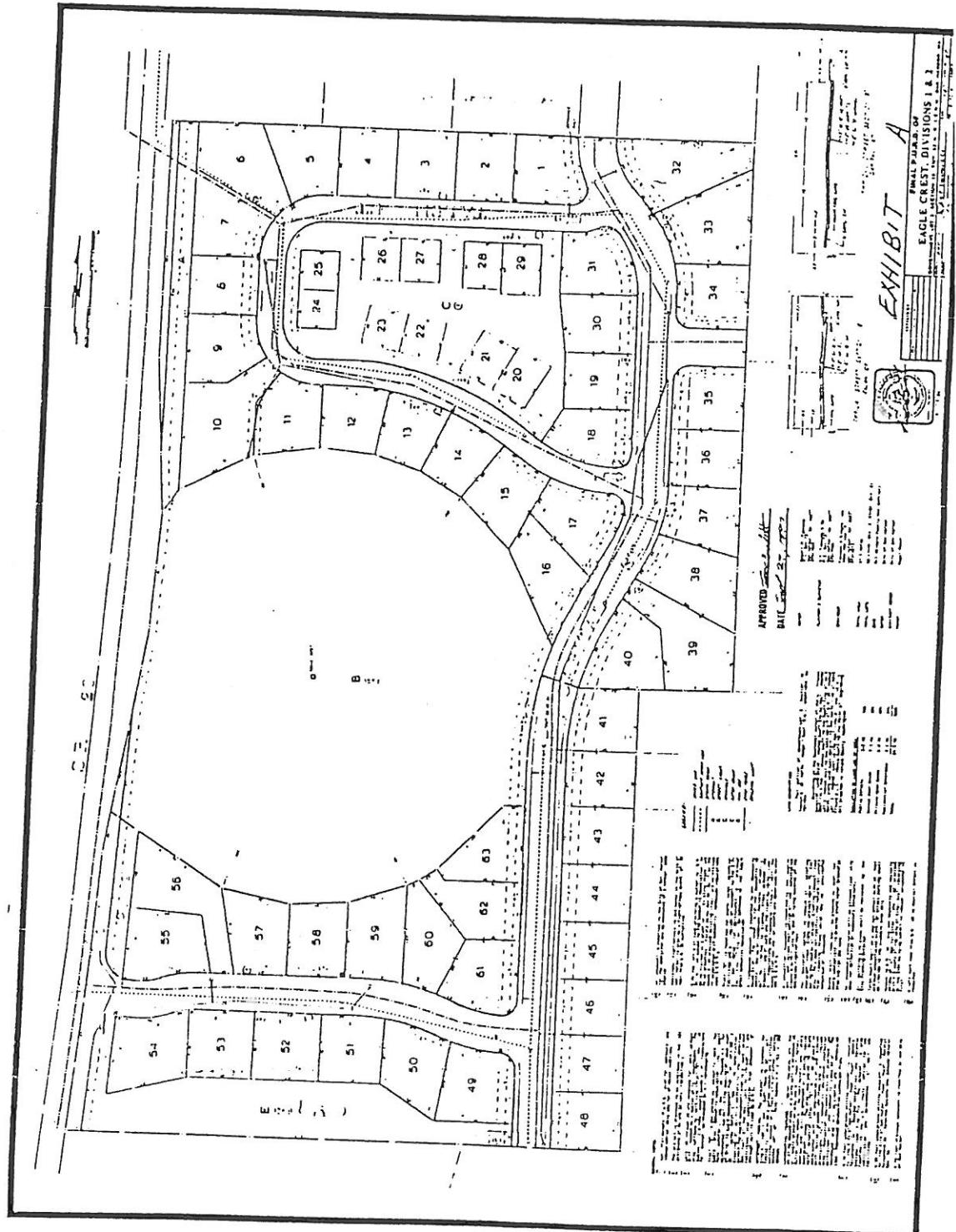
11.6 Amendment. This Declaration may be amended at any annual or special meeting called for that purpose by the approving vote of not less two-thirds (2/3) of the Members voting in person or by proxy at any duly called meeting, subject to Section 11.1 hereof.

11.7 Dedication. All public streets shown upon the Plat, together with the ten (10) foot strip of land abutting S.R. 20, shown upon the Plat as "public right-of-way", are herewith dedicated to the City of Oak Harbor.

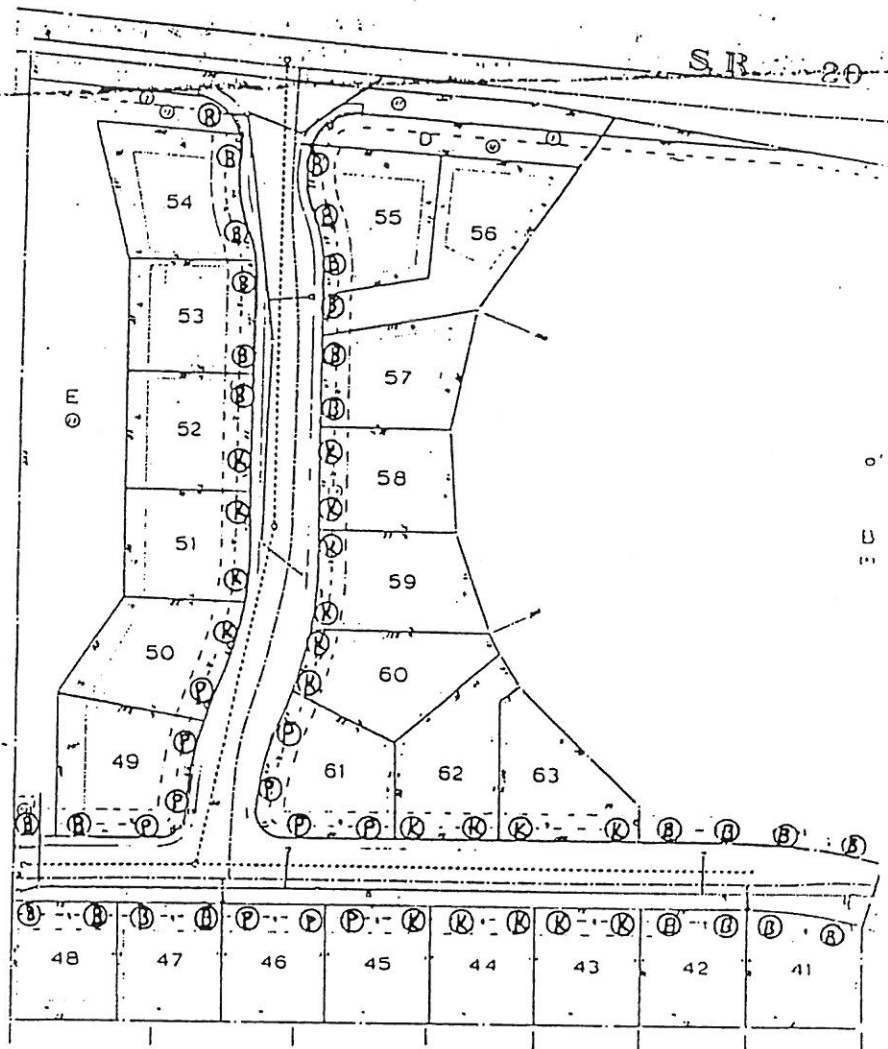
11.8 Reference to Plat. The Plat referred to herein was filed with the Auditor of Island County, Washington, simultaneously with the recording of this Declaration, in Volume 12 of Plats, page 107 & 108, under File No. 24011633.

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46-02-5



- Ⓟ THUNDER CLOUD PLUM
- Ⓟ BRADFORD PEAR
- Ⓟ KWANZAN CHERRY

EAGLE CREST, DIV. 2

REVISIONS:



R.P. Fakkema & Co.
Land Surveyors & Planners
P.O. Box 137
Oak Harbor, WA 98281

EXHIBIT C

MAILED 1991

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Return Address
Eagle Crest Community Assoc.
P.O. Box 1336
Oak Harbor, WA 98277

#98 013787 TYPE: 'R' \$10.00
BK 758 PG 919 7/8/98 2:10:52 PM
ISLAND COUNTY AUDITOR
DEPUTY: cs REQUESTED BY:
EAGLE CREST COMMUNITY ASSN

Please print or type information

Document Title(s) (or transactions contained therein):

1. First Amendment to Declaration of Covenants, Conditions and Restrictions
Eagle Crest, Divisions 1 and 2
- 2.
- 3.
- 4.

Reference Number(s) of Documents - (recording number of document being assigned, released, re-recorded, etc.)

Grantor(s)

1. Eagle Crest Community Association, Inc.
- 2.
- 3.
- 4.
5. ☐ Additional names on page ____ of document.

Grantee(s)

1. The public
- 2.
- 3.
- 4.
5. ☐ Additional names on page ____ of document.

Legal description (abbreviated: i.e. lot/block/plat or section/township/range/quarter quarter)
Eagle Crest, Divisions 1 and 2

☐ Additional legal is on page ____ of document.

Assessor's Property Tax Parcel/Account Number

☐ Additional legal is on page ____ of document.

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

Chapter 19.46

FENCES AND HEDGES

19.46.050 Fences and Hedges

- (1) Fences and hedges a maximum of six feet in height may be placed and maintained on the side and rear lot line, and across the front of the property line even with the front of the building on the lot but not closer to the street right-of-way than the required setback. On corner lots the setback shall apply to both streets.

Within the setback area a fence not more than three feet in height may be constructed provided that it is not sight-obscuring (50 percent of the area of the fence is open.)

Within the setback area a solid hedge may be planted not to exceed a height of more than three feet.

On a corner lot there may be placed and maintained:

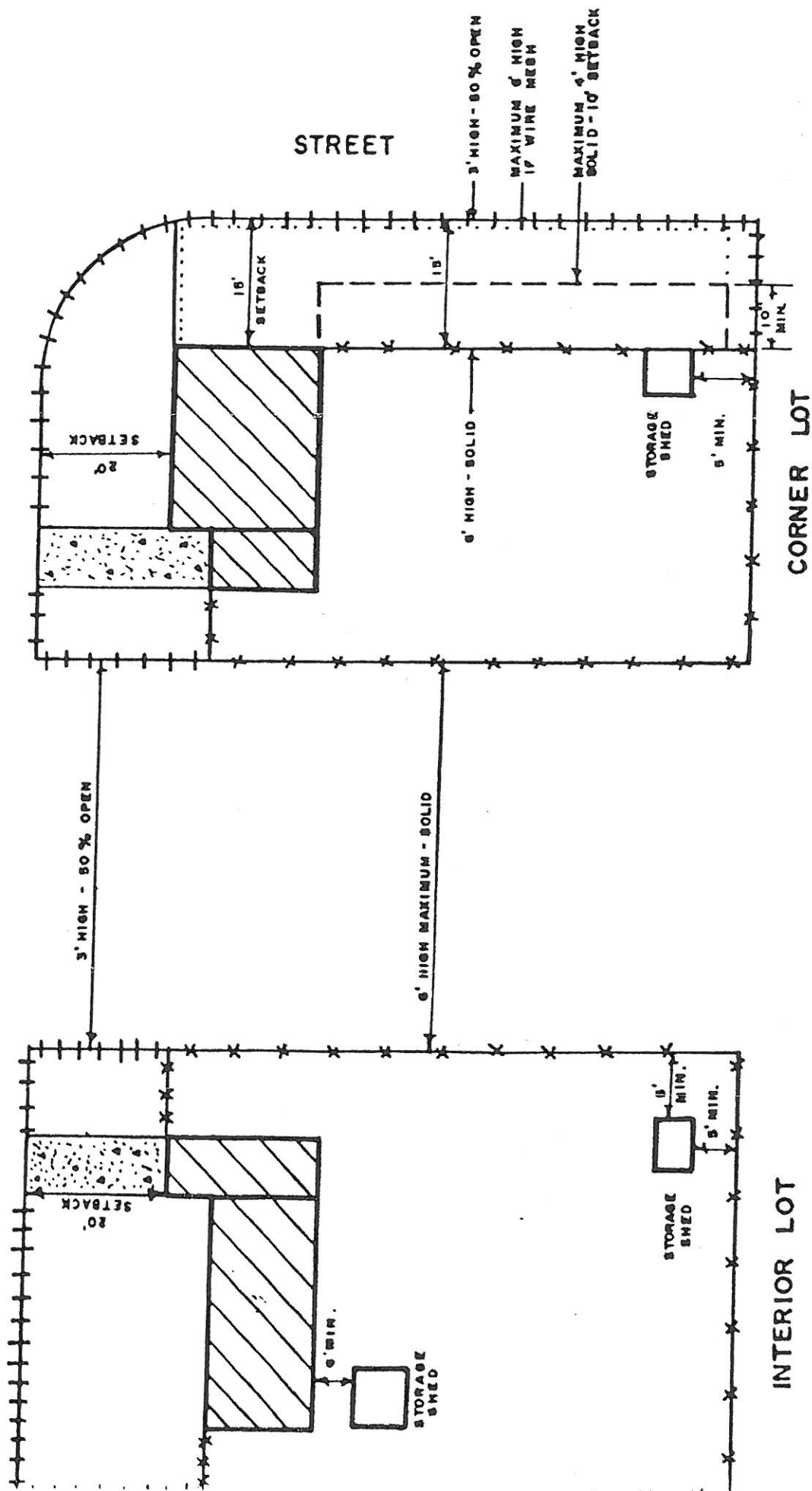
- (a) A fence or hedge not more than three feet in height provided that it is not sight-obstructing (50 percent of the area of the fence or hedge is open);
 - (b) A six-foot high open wire fence along the property line facing the side street; provided, that it does not come closer to the street right-of-way on the front of the lot than the required building setback;
 - (c) A four-foot-high solid fence or hedge parallel to the property line facing the side street; provided, it is 10 feet back from the side street and provided that it does not come closer to the street on the front of the lot than the rear of the house.
- (2) In commercial zones, no fence or hedge may be placed on the front yard setback except where required to screen the property from the adjacent lot, then the screen shall extend to the street right-of-way.
- (3) Fence and hedge limits in the various zones are as follows:

Residential zones:	Front yard	3 feet maximum
	Side yard	6 feet maximum
	Rear yard	6 feet maximum
Commercial zones:	Front yard	0 feet maximum
	Side yard	6 feet maximum
	Rear yard	6 feet maximum
Industrial zones:	Front yard	8 feet maximum
	Side yard	8 feet maximum
	Rear yard	8 feet maximum

STREET

STREET

STREET



RESIDENTIAL FENCE RESTRICTIONS

RETURN TO:

Eagle Crest Community Association, Inc.
P.O. Box 1336
Oak Harbor, WA 98277

**FIRST AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
EAGLE CREST, DIVISIONS 1 AND 2**

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR EAGLE CREST, DIVISIONS 1 AND 2 ("Amendment") is made this 25th day of February, 1998, by the Eagle Crest Community Association, Inc., a Washington corporation ("Association").

RECITALS:

WHEREAS, the Declarant, Robert P. Fakkema and Susan M. Fakkema, previously recorded that Declaration of Covenants, Conditions, and Restrictions for Eagle Crest, Division 1, dated March 22, 1993, and recorded under Auditor's File No. 93005108, records of Island County, Washington, and subsequently recorded that Supplemental Declaration of Covenants, Conditions and Restrictions for Eagle Crest, Division 2, dated May 5, 1994 ("Declaration"), and recorded under Auditor's File No. 94011634, records of said Island County; and

WHEREAS, in accordance with Section 3.12 of the Declaration, the Members of the Association have taken over the management of the Association and the Declarant no longer has management authority; and

WHEREAS, the membership, at the 1998 annual meeting, considered an amendment to the Declaration, and voted on said amendment, with the result being that at least a 2/3 majority, in accordance with Section 11.6 of the Declaration, voted in favor of said amendment.

AMENDMENT:

NOW THEREFORE, pursuant to the amendment rights set forth in the Declaration, the Association does hereby amend the Declaration as follows:

Section 7.7 is amended by the addition of the following section 7.7.1:

7.7.1 Driveways and walkways should be harmonious with the surrounding environment. Material required for all new construction of drives and walkways shall be exposed aggregate as used in over 84% of existing homes in Eagle Crest. If any non-exposed aggregate existing driveway or walkway has to be replaced, said areas shall be replaced by exposed aggregate similar to existing exposed aggregate within the community.

GENERAL:

1. Unless the context otherwise requires, all capitalized terms used but not otherwise defined in this Amendment shall have the meanings ascribed to them in the Declaration.
2. In the event of any conflict or inconsistency between the terms and provisions of the Declaration and this Amendment, the terms of this Amendment shall govern and be controlling.
3. Except as modified by the provisions of this Amendment, the Declaration and all of the terms and conditions thereof shall remain unmodified and in full force and effect, and are hereby ratified and confirmed.
4. Association hereby declares that all of the Properties shall be held, sold, transferred, used, conveyed, improved, occupied and mortgaged or otherwise encumbered subject to the Declaration as amended by this Amendment, and all of the terms and provisions of the Declaration as amended by this Amendment shall run with the title to the Properties and shall be binding upon all persons having any right, title or interest in any portion of the Properties and their respective heirs, legal representatives, successors, successors-in-title and assigns. The provisions of this Amendment shall be binding upon the Association in accordance with the terms of the Declaration.

IN WITNESS WHEREOF, the Association has caused this Amendment to be duly executed on this 6th day of July, 1998.

EAGLE CREST COMMUNITY ASSOCIATION, INC.

Norma R. Anders
Norma Anders, Vice-President

STATE OF WASHINGTON }
 }
County of Island }

I certify that I know or have satisfactory evidence that Norma R. Anders is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute and acknowledged it as the Vice-President of Eagle Crest Community Association, Inc., to be the free and voluntary act of said corporation for the uses and purposes mentioned in the instrument.

Dated: 7/6/98

Melissa D. McCumber
Notary Public in and for the State of Washington
My appointment expires 4-29-99



ISLAND COUNTY AUDITOR

AMD

AFTER RECORDING RETURN TO:
Eagle Crest Community Association, Inc.
P O Box 1336
Oak Harbor WA 98277

SECOND AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
EAGLE CREST, DIVISIONS 1 AND 2

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR EAGLE CREST, DIVISIONS 1 AND 2 ("AMENDMENT") IS MADE ON THIS 19th day of April, 2006, by the Eagle Crest Community Association, Inc., a Washington corporation ("Association").

RECITALS:

WHEREAS, the Declarant, Robert P. Fakkema and Susan M. Fakkema, previously recorded that Declaration of Covenants, Conditions, and Restrictions for Eagle Crest, Division 1, dated March 22, 1993, and recorded under Auditor's File No. 93005108, records of Island County, Washington and subsequently recorded that Supplemental Declaration of Covenants, Conditions and Restrictions for Eagle Crest, Division 2, dated May 5, 1994 ("Declaration"), and recorded under Auditor's File No. 94011634, First Amendment recorded at Auditor's File Nos. 98014715 and 98013787, records of said Island County: and

WHEREAS, in accordance with Section 3.12 of the Declaration, the Members of the Association have taken over the management of the Association and the Declarant no longer has management authority: and

WHEREAS, the membership, at the 2006 annual meeting, considered an amendment to the Declaration, and voted on said amendment, with the result being that at least a 2/3 majority, in accordance with Section 11.6 of the Declaration, voted in favor of said amendment.

AMENDMENT:

NOW THEREFORE, pursuant to the amendment rights set forth in the Declaration, the Association does hereby amend the Declarations as follows:

1. Update Index to reflect the following additions:

Article 12 COMPLIANCE WITH LAW AND COVENANTS

12.1 Compliance by Owners and Occupants

12.2 Enforcement by Association

2. Article 5.2.3 Correct a reference made in that paragraph from "(see Section 3.15.10) to "(see Section 3.14.10)".
3. Article 5.9 Effect of non-payment of Assessment: Replace all with "See Section 12.2.3."
4. Article 7.3 Pets. Add to end of paragraph, "All animals shall be registered and inoculated as required and follow regulations in Chapter 7 of the Oak Harbor Municipal Code."
5. Article 7.5 Antennas. Replace Section with "Satellite TV antennas/dishes approximately 24 inches or less in diameter may be installed within a lot. Ham radio and citizen band antennas (located in back yards, away from the street) may be used for transmission purposes only so long as they do not cause interference with electronic equipment of neighboring property owner. No reception or transmission devices may be located within the Common Area unless expressly permitted by the board of Directors."
6. Article 8.1.1. Trash and Garbage. Add to Section "Trash and recycle containers shall otherwise be hidden from street view."
7. Article 11.3 Enforcement. Replace entire Section with new Section titled "Article 11.3 Liability of Officers and Directors, Indemnification. The Directors and Officers shall exercise ordinary and reasonable care in discharging their responsibilities and shall not be liable to the Association or to the Lot Owners for mistakes of judgment or for negligence not amounting to gross negligence, willful misconduct or bad faith. The Lot Owner shall indemnify and hold harmless each of the Directors and Officers from and against all contractual liability to others arising out of contracts made by the Board of Directors or Officers on behalf of the Association or the Lot Owners unless such contract was made in bad faith or contrary to the provisions of the Governing Documents. The Directors and Officers shall not be personally liable for contracts made by them on behalf of the Association. The Association shall indemnify any person who was or is a party or is threatened to be made party to any threatened, pending or completed action suit or proceeding by reason of the fact that (s)he is or was a Director or Officer of the Association, against amounts paid in settlement incurred by him/her in connection with such action, suit or proceeding if (s)he acted in good faith and in a manner (s)he reasonably believed to be in or not opposed to, the best interests of the community of the Association to the fullest extent authorized by RCW 23B.08.510, 520, 530, and 570, and any amendments thereto whether or not the Association is incorporated under RCW 23B."
8. Add the following Article and Sections:



ARTICLE 12

COMPLIANCE WITH LAW AND CONVENANTS

12.1 Compliance by Owners and Occupants. Each Owner and occupant of a Lot shall comply strictly with the provisions of the Oak Harbor Municipal Code, this Declaration, the Bylaws and any Rules and Regulations properly adopted by the Board of Directors and/or the Association, as the same may be lawfully amended from time to time.

12.2 Enforcement by Association.

12.2.1 Legal Proceedings. Failure to comply with any of the terms of the Governing Documents shall be grounds for legal relief, including without limitation, actions to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of Assessments, any other relief provided for in the Bylaws or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association, the Board of Directors, the Managing Agent or, if appropriate, by any aggrieved Lot Owner, and shall not constitute an election of remedies.

12.2.2 Costs and Attorney's Fees. The Association shall be entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent Assessments, whether or not such collection activities result in suit being commenced or persecuted to judgment. In addition, the Association shall be entitled to recover costs and reasonable attorneys' fees if it prevails on appeal, or in the enforcement of a judgment. In any other proceeding arising out of an alleged default by a Lot Owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be determined by the court. In the event that the prevailing party is the Association, the costs and attorney's fees so awarded shall constitute a Special Assessment against the Owner's Lot.

12.2.3 Late Charges and Interest. The Board may impose and collect reasonable late charges to encourage prompt payment of Assessments. Until changed by resolution of the Board with advice of counsel, the Board may collect a late charge: (a) when any Assessment or installment thereof is received by the Association more than thirty (30) days beyond the due date of such Assessment or installment; (b) in an amount of ten percent (10%) of the amount of said Assessment or installment. Delinquent Assessments shall bear interest from the date of delinquency at the rate of 12% per annum, or the maximum rate permitted under RCW 19.52.020 on the date on which the Assessments became delinquent.

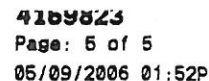
12.2.4 Fines. The Board may impose and collect reasonable fines against Lot Owners for violations of the Ordinance or the Governing Documents. PROVIDED, however, that no fine may be levied unless (1) the Board has by resolution established a schedule of fines which has been furnished to all Lot Owners prior to the alleged violation, and (2) the allegedly offending Owner has been provided with notice of and an opportunity to be heard at a hearing to be conducted pursuant to provisions of the Bylaws. Until changed by resolution of the Board with advice of counsel, the amount of any fine so assessed shall not exceed fifty dollars for a single offense or ten dollars per diem for any offense of a continuing nature, and shall constitute a Special Assessment against such Lot Owner's Lot.

12.2.5 Liability for Conduct Causing Common Expense. Each Lot Owner shall be liable for the cost of all maintenance, repair or replacement rendered necessary by his or her act, neglect or carelessness, or the act, neglect or carelessness of any member of his or her family or his or her employees, agents, tenants or licensees, but only to the extent that such cost is not covered by the proceeds of insurance carried by the Board of Directors. Such liability shall include any increase in insurance rates occasioned by use, misuse, occupancy or abandonment of any Lot or its appurtenances. To the extent that any Common Expense is caused by the misconduct of any Lot Owner, the Association may specially assess that expense against the Owner's Lot, PROVIDED that no such Special Assessment may be levied unless the allegedly offending Owner has been provide with notice of and an opportunity to be heard at a hearing to be conducted pursuant to provisions of the Bylaws.

12.2.6 Alternative Forms of Dispute Resolution Authorized. In addition to the rights, remedies and procedures above, the Association may, with the consent of an affected Lot Owner and/or any other interested party, agree to resolve any dispute through mediation, binding or non-binding arbitration, or such other alternative dispute resolutions mechanism as may be deemed appropriate, at the discretion of the Board.

GENERAL:

1. Unless the context otherwise requires, all capitalized terms used but not otherwise defined in this Amendment shall have the meanings ascribed to them in the Declaration.
2. In the event of any conflict or inconsistency between the terms and provisions of the Declaration and this Amendment, the terms of this Amendment shall govern and be controlling.
3. Except as modified by the provisions of the Amendment, the Declaration and all of the terms and conditions thereof shall remain unmodified and in full force and effect, and are hereby ratified and confirmed.
4. Association hereby declares that all of the Properties shall be held, sold, transferred, used, conveyed, improved, occupied and mortgaged or otherwise



AMD

