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**DECLARATION OF COVENANTS, CONDITIONS,
RESERVATIONS AND RESTRICTIONS
FOR WOODBERRY PUD PLAT**

TITLE OF DOCUMENT:	DECLARATION OF COVENANTS, CONDITIONS, RESERVATIONS AND RESTRICTIONS FOR WOODBERRY PUD PLAT
DECLARANT/GRANTOR/GRANTEE:	WOODBERRY LAND DEVELOPMENT, L.L.C.
LEGAL DESCRIPTION:	ELDRIDGE-MCCARTY'S FIRST ADD TO DRAYTON THAT PTN OF TR LY WLY OF SEMIAHMOO PKWY-TOG WI ALL VAC STREETS-ALLEYS AS PER CVL 39863-EXC PTN TO CITY OF BLAINE FOR STREET DESC AF 1491713-EXC S 248.16 FT
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ARTICLE I
INITIAL MATTERS

1.1. Name and Type of the Community and its Association.

The name of the Community is Woodberry PUD Plat. The Community is a Plat Community, as defined in the Governing Law. The Community's Association, described with greater particularity in Section 7.1 hereof, is a Washington Nonprofit Miscellaneous and Mutual Corporation known as Woodberry Community Association.

1.2. Identification of Declarant, Development Ordinance & Property Subject to Covenants.

1.2.1. Identification of Declarant. The Declarant is Woodberry Land Development, L.L.C., a Washington Limited Liability Company.

1.2.2. Reference to Development Ordinance. To create the Plat Community described above, the Declarant has submitted certain real property owned by the Declarant to the provisions of the City of Blaine Subdivision and Planned Unit Development ordinances.

1.3. Reference to Plat Map & Legal Description of Property Included in Community.

1.3.1. Legal Description of Real Property Included in the Plat. The real property included within the Plat is legally described on Exhibit "A".

1.4. Purposes of the Plat and the Covenants.

1.4.1. General Purpose of Plat. The Plat referenced in Section 1.3.1 hereof, when recorded, has the legal effect of creating the Lots, Common Elements and other interests in real property included in this Community. The Plat also contains covenants and conditions relating to ownership of the Lots and maintenance of the Common Elements of the Community; such covenants and conditions were imposed by the City of Blaine as a condition of approving the Plat, as described in greater detail in Section 3.1.1 hereof.

1.4.2. Covenants are Legally Binding – Common Plan of Development. This Declaration states covenants, conditions, restrictions and reservations intended by the Declarant to effect a common plan for the development of the real property within the Community mutually beneficial to all of the Lots within the Community, consistent with the covenants and conditions of the Plat. The covenants, conditions, restrictions, reservations and plan, including without limitation the statutory lien for Assessments described at Subsection 10.16 hereof, that may be foreclosed by the Association nonjudicially under the Power of Sale granted herein, are binding upon all real property within the Community and upon each such Lot created therein as a parcel of realty and upon its Owners and their heirs, personal representatives, family members and other Occupants, guests, invitees, tenants, licensees, successors and assigns, through all successive transfers of a Lot or of any other part of the Community, irrespective of

whether specifically referred to in deeds, contracts or security instruments, and regardless of any subsequent forfeitures, foreclosures, or sales of Lots under security instruments, or of any forfeitures, foreclosures, or sales instituted for nonpayment of government tax, levy or assessment of any kind.

1.4.3. Specific Purpose – Governance of Community for Benefit of Lot Owners. The specific purpose of this Declaration is two-fold: (1) to establish a flexible plan for the future development of the Community; and (2) to develop and maintain an effective governance structure for the Community, consistent with the terms of the Governing Law, to facilitate the perpetual existence of the Community so that goods and services essential to the Upkeep of Common Elements and to the well-being of the Occupants of the Community may be assured. The Community shall be governed in perpetuity by the community association described at Section 7.1 of this Declaration.

ARTICLE II DEFINITIONS

2.1 “Allocated Interest” means one twenty-ninth (1/29th) of the Common Expense Liability and Votes in the Association and Common Element undivided interest allocated to each Lot pursuant to RCW 64.90.235.

2.2 “Assessment” means all sums chargeable by the Association against a Lot including, without limitation: (a) regular and special Assessments for Common Expenses and Specially Allocated Assessments for other expenses, charges, or fines imposed and levied by the Association; (b) interest and late charges on any delinquent account; and (c) all costs of collection, including reasonable attorneys’ fees, incurred by the Association in connection with the collection of a delinquent Lot Owner’s account.

2.3 “Association” or “Lot Owners’ Association” means the property owners’ association that is described in Article VI.

2.4 “Board” means the board of directors of the Association, as provided in RCW 64.90.410(1).

2.5 “Bylaws” means the bylaws adopted by the Association.

2.6 “City” means the City of Blaine.

2.7 “Common Elements” means all portions of the Community other than the Lots, more particularly described in Article V.

2.8 “Common Expense” means any expense of the Association, including allocations to reserves, allocated to each Lot in accordance with Common Expense Liability.

2.9 “Common Expense Liability” means the liability for Common Expenses allocated to each Lot pursuant to the Governing Law and Article IX of this Declaration.

2.10 “Community” means all the Property, with all the improvements constructed therein, and all other institutions and things serving the Lots and Lot Owners therein governed by the Association, known as Woodberry Community Association. This Community is a Plat Community as defined in the Governing Law.

2.11 “Declarant” means Woodberry Land Development, L.L.C., or any Person who (a) reserves any Special Declarant Right under the Declaration or exercises Special Declarant Rights or (b) to whom Special Declarant Rights are transferred of Record, or (c) owns a fee interest in the Community and who is materially involved in the development of the Community, all as specifically defined as a Declarant at RCW 64.90.010(17).

2.12 “Declarant Control” means the right of the Declarant or Persons designated by the Declarant to appoint and remove officers and members of the Board or to veto or approve a proposed action of the Board or Association pursuant to section 7.1.1 and 3.5 and RCW 64.90.415(1)(a). Rights of Declarant Control are separate and distinct from Special Declarant Rights to control any construction, design review, or aesthetic standards committee or process.

2.13 “Declaration” means this document, which creates the Community by setting forth the information required by Governing Law, and any amendments to this document.

2.14 “Design Guidelines” means the standards developed by the Board of Directors or a Committee pursuant to sections 4.4 and 8.2 and any standards established by the Declarant. The Design Guidelines, if any, are separate and apart from the Master Plan.

2.15 “Development Rights” means any right or combination of rights described herein.

2.16 “Dwelling” means an improved portion of the Property designed for separate ownership or occupancy and intended to serve as a personal residence.

2.17 “Electronic transmission” or “electronically transmitted” means any electronic communication (a) not directly involving the physical transfer of a Record in a tangible medium and (b) that may be retained, retrieved, and reviewed by the sender and the recipient of the communication, and that may be directly reproduced in a tangible medium by a sender and recipient.

2.18 “Eligible Mortgagee” means the holder of a Security Interest on a Lot that has filed with the secretary of the Association a written request that it be given copies of Notices of any action by the Association that requires the consent of mortgagees.

2.19 “Foreclosure” means a statutory forfeiture or a judicial or nonjudicial foreclosure of a Security Interest or a deed or other conveyance in lieu of a Security Interest.

2.20 “Governing Documents” means this Declaration, the Plat Map, Bylaws, any Rules adopted by the Board, the Master Plan, and any amendments to any such instruments.

2.21 “Governing Law” means the Washington Uniform Common Interest Ownership Act (Chapter 64.90 RCW) or any successor statute, and any amendments thereto.

2.22 “Improvements” shall mean and include all Dwellings, buildings, structures and appurtenances thereto of every kind, constructed or located in the Community, whether above or below the land surface, including without limitation, any residences, buildings, out-buildings, brick monuments, driveways, parking areas, fencing, retaining walls, swimming pools, screening, walls, ornamentation, signs, stairs, decks, hedges, wind breaks, plantings, planted trees, shrubs, poles, lighting, hot tubs, trails, boardwalks, wetland mitigation, and any other structure or landscaping.

2.23 “Lot” means a physical portion of the Community that is created by a municipal subdivision process pursuant to RCW 58.17 and applicable Ordinance that is designated for the location and construction of a single-family residence, designated for separate ownership; the term “Lot” is intended to be coextensive with the term “Unit” as defined in the Governing Law, unless the context clearly evidences a different intent. Lots are identified by Arabic numerals on the Plat Map.

2.24 “Lot Owner” or “Owner” means the Declarant or any other Person who owns a Lot but does not include a Person who has an interest in a Lot solely as security for an obligation. “Lot Owner” means the vendee and not the vendor of a Lot under a real estate contract.

2.25 “Manager” or “Managing Agent” shall mean a natural person or business entity regularly engaged in the business of managing common interest communities.

2.26 “Master Plan” means the Woodberry Planned Unit Development Master Plan as approved by the Planning Commission on September 26, 2019 and as administratively amended on May 27, 2021, prepared by Cascade Engineering Group, which is a summary of the entire PUD, approved by the City and includes architectural and contractor standards and restrictions and landscaping regulations.

2.27 “Mortgage” means a mortgage, deed of trust or real estate contract.

2.28 “Notice” means a notice provided under the provisions of RCW 64.90.515.

2.29 “Occupant” means a natural Person lawfully occupying any portion of any Lot; the term includes without limitation Lot Owners, and family members, employees and tenants of Lot Owners.

2.30 “Ordinance” or “the Subdivision Ordinance” means the municipal law, ordinance or code provision authorizing the creation of this Community in the jurisdiction in which the Property is situated, along with any administrative regulations and decisions implementing same. The term includes any changes, revisions, substitutions and/or deletions in such law or regulations which may exist from time to time.

2.31 “Person” means an individual, corporation, business trust, estate, the trustee or beneficiary of a trust that is not a business trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental agency or instrumentality, or any other legal entity.

2.32 “Plat Map” means the Woodberry PUD Plat of the Property recorded with Whatcom County under Auditor’s File No. _____ and any subsequent amendments thereof.

2.33 “Property” or “the Property” means the real property legally described on the attached Exhibit “A.”

2.34 “Purchaser” means any Person, other than the Declarant or a dealer as defined in the Governing Law, who or which by means of a voluntary transfer acquires a legal or equitable interest in a Lot other than as security for an obligation.

2.35 “Qualified Financial Institution” means a bank, savings association, or credit union the deposits of which are insured by the federal government with a branch located in Whatcom County.

2.36 “Record,” used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

2.37 “Residential Purposes” means use for dwelling and human habitation, and for reasonable social, recreational or other uses normally incident to such purposes.

2.38 “Rule” means a policy, guideline, restriction, procedure, or regulation adopted by the Association, however denominated, that is not set forth in the Declaration and that governs the conduct of Persons or the use or appearance of the Property.

2.39 “Security Interest” means an interest in real estate or personal property, created by contract or conveyance that secures payment or performance of an obligation and includes a lien created by a mortgage, deed of trust, real estate contract, lease intended as security, assignment of lease or rents intended as security, and any other consensual lien or title retention contract intended as security for an obligation.

2.40 “Special Declarant Rights” means rights as defined in RCW 64.90.010(51). In this Community, Special Declarant Rights that have been reserved by the Declarant are described in section 3.5 hereof.

2.41 “Specially Allocated Expense” means any expense of the Association, including allocations to reserves, allocated to some or all of the Lot Owners and assessable against their respective Units pursuant to RCW 64.90.480(4) through (8).

2.42 “Specially Allocated Assessment” means an Assessment made or deemed to be made by the Association against Lots to which Specially Allocated Expenses are allocated under section 9.5 of this Declaration.

2.43 “Stormwater Facilities” mean those facilities used for the transmission, conveyance and treatment of stormwater, including but not limited to pipes, ditches, manholes and ponds constructed for the Property. The stormwater pond, which is part of the Stormwater Facilities for the Plat, is located on Tract B, north of Lot 6. Storm conveyance pipes are located within

Tract B and Tract E as well as within easements located on Lots 5, 6, 7, 16 and 17 as shown on the face of the Plat. Certain portions of the Stormwater Facilities may be shared by property adjoining the Woodberry PUD Plat pursuant to an easement.

2.44 “Transition Meeting” means the meeting of the Association held pursuant to RCW 64.90.415(4) to terminate any period of Declarant Control.

2.45 “Tract” means any parcel of real property within the boundaries of the Community not consisting of a Lot or real property dedicated to the City of Blaine.

2.46 “Upkeep” means any care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction that is necessary to maintain property in a decent, safe and sanitary condition, in keeping with standards established in the Governing Documents of the Community.

2.47 “Vote(s)” means the voting power equal to each Lot’s Allocated Interest set forth in section 2.2.

2.48 “Writing” and “written” means embodied in a tangible medium and does not include an electronic transmission.

ARTICLE III DEVELOPMENT PLAN

3.1 Development Plan.

3.1.1 Description of Conditions of Approval of Community. The Community has been developed in accordance with the conditions of approval for Woodberry PUD Plat imposed by the City.

3.1.2 Continued Consistency with Development Plan Required. All further use and development of the Property in this Community shall be consistent with the City of Blaine zoning and land use ordinances, and conditions of approval for Woodberry PUD Plat, as well as the Master Plan.

3.1.3 Semiahmoo Area. The Woodberry PUD Plat is located in the Semiahmoo area of the City of Blaine. A large portion of the Semiahmoo area is governed by and part of the Semiahmoo Resort Association. Plat Note 10 on the face of the Woodberry PUD Plat provides that the property is subject to covenants, conditions, and restrictions established for the Semiahmoo Resort Community under AF# 1492055, and subsequently amended or modified. It goes on to state that it is subject to covenants for future dues, charges, and assessments by Semiahmoo Resort Community, established under AF# 1492055. This Plat Note 10 comes directly from the subdivision

guarantee for the property provided by the title insurance company. The only reason Plat Note 10 is included is because Tract A of Woodberry PUD Plat is subject to the Semiahmoo Resort Association requirements. Tract A is, however, a small, undeveloped open space parcel, physically separated from the rest of the Woodberry Community. The firehall is intervening between Woodberry Community and Tract A. It is uncertain how Tract A was even included with the Woodberry property to begin with, as it is directly adjacent to the Sea Smoke project which is subject to Semiahmoo Resort Association jurisdiction. Tract A now effectively serves as an additional buffer to the Sea Smoke development from Semiahmoo Parkway. The time period for adding additional property to the Semiahmoo Resort Association has expired. The Semiahmoo Resort Association has no jurisdiction over the Woodberry Community, as the Declarant has elected for Woodberry to remain outside of the Semiahmoo Resort Association jurisdiction.

3.2 Community Attributes.

3.2.1 Project Type. This Community contains Lots generally designed for the construction of a single Dwelling to be used for Residential Purposes, as described with greater particularity in this Declaration.

3.2.2 Common Amenities. The principal common amenities include open space and utilities tracts, a trail, private access driveway, and stormwater facilities.

3.3 Marketing of Parcels by Declarant. In connection with Declarant's intended plan of development, Declarant reserves for itself or subsequent Lot Owners, the right to maintain a sales office on a Lot to be designated by the Declarant for the primary purpose of managing construction and/or selling or reselling Lots and/or use as management offices. The Declarant also reserves the right to post marketing signs advertising the availability of Lots. The Declarant shall have the rights reserved herein so long as the Declarant owns Lots or owns any portion of the Property.

3.4 Development Rights.

3.4.1 Description. Pursuant to RCW 64.90.225(1)(g), the Declarant reserves Development Rights that are personal to the Declarant and may be exercised, or not exercised, at the sole discretion of the Declarant, as follows:

3.4.1.1 The right to add infrastructure improvements to the Community.

3.4.1.2 The right to subdivide or combine Lots and/or relocate their common boundaries or convert Lots into Common Elements.

3.4.1.3 All of the above-described Development Rights apply to all of the Property.

3.4.2 Time Limits and other Limitations on Development Rights. The Declarant may exercise the Development Rights described in subsection 3.4.1 within fifteen (15) years from the date of the conveyance by the Declarant of the first Lot to a Purchaser or until a date that is 180 days following the sale to Purchaser of the last Lot in the Community, whichever first occurs. Declarant may commence construction of any improvements relating to such Development Rights at any time prior thereto, under the Special Declarant Rights reserved in section 3.5.

3.4.3 Sequence of Exercise of Rights. The Development Rights described in subsection 3.4.1 may be exercised, at any time, at different times and in any order, without further assurances or limitation of any sort, either in all or in any portion of the Property subject to such rights.

3.5 Special Declarant Rights.

3.5.1 General Reservation of Special Declarant Rights. Pursuant to RCW 64.90.225(1)(g), the Declarant has reserved the Special Declarant Rights for the purpose of furthering and completing the development of the Community: To complete any improvements indicated on the Plat filed with the Declaration or the Public Offering Statement pursuant to RCW 64.90.610(1)(h); to exercise any Development Right under Section 3.4 hereof; to maintain sales offices, management offices, signs advertising the Community, and models within the Common Elements and unsold Lots, to use easements through the Common Elements for the purpose of making improvements within the Community; merge or consolidate the Community with another Community to control the construction, design review, and aesthetic standards committee or process; attend meetings of the Lot Owners and, except during an executive session, of the Board; have access to the records of the Association to the same extent as a Lot Owner; to exercise all rights associated with and during the period of Declarant Control; and to veto or approve a proposed action of the Board or Association during the Declarant Control Period. A failure by the Declarant to veto or approve any such proposed action within thirty (30) days after receipt of written Notice of the proposed action shall be deemed to constitute approval thereof by the Declarant. Such Special Declarant Rights are personal to the Declarant and may be exercised or not at the sole discretion of the Declarant. Described in RCW 64.90.010(51).

3.5.2 Time Limits on the Exercise of Special Declarant Rights. Except with respect to the right to exercise Development Rights, which is governed by section 3.4 hereof, or with respect to rights of Declarant Control of the Association which are governed by subsection 7.1, or with respect to rights of Architectural Control which are governed by section 8.2, Special Declarant Rights shall terminate

upon the sale to a Purchaser of the last Lot that may be created in the Community, or fifteen (15) years from the date of the conveyance of the first Lot in the Community to a Purchaser, whichever is earlier.

ARTICLE IV LOTS, ARCHITECTURAL AND DESIGN REVIEW

- 4.1 Number and Location of Lots. The Community consists of twenty-nine (29) Lots, four (4) open space and utilities Tracts and a private access driveway Tract. The locations and dimensions of the Lots and tracts are shown on the Plat Map.
- 4.2 Initial Construction of Improvements within Lots. The Declarant may sell unimproved Lots without Dwellings located thereon or the Declarant (or an affiliate of the Declarant), may construct Dwellings on individual Lots. Dwellings and other Improvements constructed within Lots will be constructed according to a common design scheme established by the Declarant. As provided in greater detail below, any addition, alteration or improvement upon any Lot shall be consistent with the Declarant's original scheme and shall be constructed in accordance with the building code and other ordinances of the City.
- 4.3 Subdivision and Combination of Lots.
- 4.3.1 Subdivision of Lots Prohibited. Subdivision of Lots is prohibited in this Community, except (a) when occurring through an exercise of Development Rights, or (b) when the Lot Owner of any Lot that has been previously combined with another Lot, or that has had its common boundary adjusted with another, later desires to cause such adjustment to be reversed with the consent of the Lot Owner(s) of any other Lot(s) affected thereby, in the manner provided in the Governing Law and the Subdivision Ordinance.
- 4.3.2 Combination of Lots. Two or more Lots may be combined into a lesser number of Lots upon application to the Association by the Lot Owners of those Lots and upon approval by the Board pursuant to this Section 4.3, followed by approval by the City pursuant to consolidation of Lots under Blaine Municipal Code 17.54. The application to the Board must include plans showing the relocated boundaries, a reallocation of the Allocated Interests of the Lots being combined among the Lots resulting from the combination, and such other information as the Board may require. Unless the Board determines, after receipt of all required information, that the reallocations are unreasonable or that the proposed boundary relocation does not comply with the Declaration, RCW 64.90.265 and other provisions of law, the Board shall approve the application, subject to approval by the City. Following receipt of approval by the City, the Board shall prepare any

amendments to the Declaration and Plat required under the requirements of Subsection 4.3.3.

- 4.3.3 Amendments to Declaration and Plat. In any circumstance permitted in this Section 4.3, the Association shall (i) prepare an amendment to the Declaration that identifies the Lot(s) involved, assigns an identifying number to each resulting Lot, is executed by those Lot Owners and the Association, contains words of conveyance between them, and reallocates the Allocated Interests for Common Expense Liability formerly allocated to the Lot from which a combination was derived to the new Lot or, if two or more Lots are derived from such combination, among the new Lots in any reasonable manner prescribed by such Lot Owners or on any other basis the Declaration requires; since voting rights are equally allocated among the Lots, each resulting combined Lot will have only one vote; see Section 7.4 hereof for further details. The Declaration Amendment shall be recorded in the name of the grantor, the grantee and the Association as appropriate and as required under RCW 64.90.285(3), in the Office of the County Auditor; and (ii) obtain and record the amendment to the Plat approved by the City, showing the altered boundaries between adjoining Lots and their dimensions and identifying numbers. The amendments are effective upon recording.
- 4.3.4 Costs to be assessed to affected Lot Owners. All costs, including reasonable attorneys' fees, incurred in preparing and recording amendments to the Governing Documents shall be paid to the Association by the Lot Owners of the affected Lots prior to recordation of the required amendments to the Governing Documents.
- 4.3.5 Payment of Other Fees or Charges. The Association may require payment to the Association of a one-time fee or charge, or continuing fees or charges, payable by the Lot Owners on whose behalf the boundaries are relocated, if reasonably necessary to protect the interests of the Association and its other Members.

4.4 Architectural and Design Review.

- 4.4.1 Design Guidelines. Design for Dwellings and Improvements constructed within the Lots within this Community shall be consistent with the theme of the Community established by the Declarant. All construction must be approved in writing in advance by the Architectural Review Committee ("ARC"), as provided in Sections 4.4.2 and 8.2 below.
- 4.4.2 Design Review. To preserve a harmonious architectural and aesthetic appearance of Dwellings and Improvements constructed within the Community, no new construction or Dwellings and Improvements of any nature whatsoever shall be constructed or placed on any Lot by any person

other than the Declarant or its successors and/or affiliate(s) until detailed plans depicting all such improvements have been reviewed and approved by the ARC, consistent with the Master Plan, including the architectural and contractor standards attached as Exhibit “E”, as well as this Declaration and any Design Guidelines. Two copies of such plans, specifications and related data must be submitted to the ARC, along with a Design Review fee of up to \$250.00. Upon approval, one set of plans shall be retained among the permanent records of the Association and one copy shall be returned to the Lot Owner, appropriately marked. The builder and/or Lot Owner are encouraged to submit plans to the ARC at the earliest possible date.

- 4.4.3 Time for Approval – No Construction Prior to Approval. The ARC shall approve or disapprove the construction plans, specifications, site plan, and details within the time described in section 8.2.

4.5 Construction on Lots.

- 4.5.1 No Deviation from Plans – Noncompliance Deemed a Nuisance. Any person obtaining approval of the ARC shall not deviate materially from the approved plans and specifications without the prior written consent of the ARC. Such person shall notify the ARC when the alterations or improvements are complete. Approval of any particular plans and specifications or design does not waive the right of the ARC to disapprove such plans and specifications, or any elements or features thereof, if such plans and specifications are subsequently submitted for use in any other instance or by any other person. Any addition, alteration or improvement upon any Lot existing in violation of the Governing Documents shall constitute a nuisance and shall be removed or altered to conform to the Governing Documents by the Lot’s Owner within thirty (30) days after delivery of notice of the violation to the Owner by the ARC at the Owner’s expense.
- 4.5.2 Governmental Permits. Approval by the Declarant or the ARC shall not relieve an Owner from the obligation to obtain any required governmental permits. The Owner shall deliver all approvals and permits required by law to the ARC prior to the commencement of any construction requiring such approval or permit. If any application to any governmental authority for a permit to make any such structural addition, alteration or improvement to any Lot or Improvement located on any Lot requires execution by the Association, and provided consent has been given by the ARC, then the application shall be executed on behalf of the Association, without incurring any liability on the part of the Association to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having a claim for personal injury or property damage arising therefrom.

- 4.5.3 Timing of Construction. Any person obtaining approval of the ARC for construction of Improvements on a Lot shall commence construction or alteration in accordance with plans and specifications approved within six (6) months after the date of approval and shall complete all construction or alteration within twelve (12) months after start of excavation/construction, or within such other period as specified in the approval. Construction shall not be deemed to be completed until the Improvement is finished, the Lot has been cleaned of construction debris and the Lot has been landscaped. Notwithstanding the foregoing, the ARC's approval may provide for a different period during which to commence or complete construction.
- 4.5.4 Height Restrictions. The height of structural Improvements erected on Lots shall be pursuant to the architectural and contractor standards contained in the Master Plan and attached hereto.
- 4.5.5 Minimum Building Size. Single-family dwellings shall have a minimum size as detailed in the architectural and contractor standards contained in the Master Plan and attached hereto, unless the ARC approves a variance. The ARC may approve a variance from the minimum building size standards in its sole discretion, taking into consideration the size of the Lot, amount of buildable land on the Lot, and exceptional architectural elements that mitigate the reduction in livable square footage.
- 4.5.6 Color. Colors for Improvements on Lots shall be consistent with the architectural and contractor standards contained in the Master Plan and attached hereto, unless different colors are approved by the ARC.
- 4.5.7 Landscaping. The front yard area from the street to the front of building(s) on each Lot shall be covered with lawns, landscaping, and solid surfaces within twelve (12) months of the date of commencement of construction of the Dwelling. All Lots within twelve (12) months after commencement of construction of other Improvements thereon shall be fully landscaped. All landscaping shall be subject to approval from the ARC. If the Owner of the Lot fails to properly maintain landscaping, or existing landscaping exceeds the height requirements set forth herein, then the Association may perform the work described in the approved landscaping plan or trim existing vegetation to maintain the height requirements herein and charge the Owner of the Lot for the cost of such work. The Association may collect this charge as an assessment pursuant to the authority in Section 9.3.3 of this Declaration. The Owner shall reimburse the Association as is appropriate within fourteen (14) days after receipt of a billing for the above-described work.

- 4.5.8 Garages. All houses shall have an attached garage capable of storing a minimum of two (2) cars.
- 4.5.9 Siding. All siding shall be consistent with the architectural and contractor standards contained in the Master Plan and attached hereto. In addition, no plywood or T-111 type siding shall be used on the exterior of any Dwelling or garage.
- 4.5.10 Roof. All roofs shall be approved by the ARC, consistent with the Architectural and Contractor Standards. Exterior faces of all roofs shall be finished with textured, 30-year or more, shingles, tiles, cedar shakes, or other roof materials approved by the ARC. The minimum roof pitch required is 4/12, unless an exception is granted by the ARC. The ARC may approve modern style homes in its discretion.
- 4.5.11 Driveways. All driveways shall be approved by the ARC and consistent with architectural and contractor standards contained in the Master Plan and attached hereto.
- 4.5.12 Mobile Home. No mobile homes or manufactured homes are allowed within the Community.
- 4.5.13 Construction Site Restrictions. During building construction, each Owner shall, in his or her sole expense, have the right and duty to maintain a clean and safe construction site. In no case shall building materials, equipment, or other items used or produced during construction block access to other Lots, be stored within streets or on sidewalks, or obstruct other public access facilities. The site shall be kept free of loose materials, garbage or construction debris. Allowable temporary structures include covered trash bins, temporary sea containers, job trailers, or other secure storage containers, but shall be removed upon completion of construction.

4.6 Upkeep of Lots.

- 4.6.1 Lot Owners' General Responsibility. Each Lot Owner, at his or her sole expense, shall have the right and the duty of Upkeep of their Lot and the Dwelling, along with landscaping, vegetation and any other improvements erected within the Lot, and any equipment, appliances, and fixtures contained therein in good order, condition and repair and shall do all interior and exterior maintenance, repair, and replacement at any time necessary to maintain the good appearance and condition of the Lot. The Landscaping on the Lot shall be maintained in a neat and orderly condition, and any lawn shall be regularly mowed. All portions of the Lot shall be maintained free of refuse, debris, or abandoned vehicles or any other unsightly conditions. Lot Owners shall remove

invasive species upon the request of the Association. This Section shall not be construed as permitting any interference with or damage to the structural integrity of either the Common Elements or of any other Lot(s), nor shall it be construed to limit the powers or obligations of the Association hereunder.

4.6.2 Upkeep by Association. If Upkeep to portions of a Lot for which the Owner is responsible, is reasonably necessary, in the opinion of the Board, to protect the Common Elements or to preserve the appearance and value of the Community, and the Owner of said Lot has failed or refused to perform said maintenance or repair as required by Section 4.6.1 of this Declaration, within a reasonable time after written notice of the necessity of said maintenance or repair has been delivered by the Board to the Owner, the Association may, but is not obligated, to perform such Upkeep, provided no breach of the peace is likely to ensue. The costs of such Upkeep shall constitute a Specially Allocated Assessment against such Lot, pursuant to Section 9.5 of this Declaration.

4.6.3 Association's Responsibility. Subject to the provisions of Section 7.3 and 9.5 hereof, the Association shall have primary responsibility to provide Upkeep to any portions of all the Lots in the Community that the Association, by resolution adopted by its members at a duly constituted Meeting, may hereafter elect to maintain, or as to which an individual Lot Owner may request from the Association.

4.7 Alterations of Dwellings and Lots.

Subject to the provisions of this Declaration and other provisions of law, a Lot Owner:

- (a) May make any lawful improvements or alterations to the interior portions of a Dwelling constructed within an Owner's Lot that do not directly affect any other Lot or the Common Elements;
- (b) May not change the exterior appearance of any structure constructed within the Lot, nor construct or erect any additional improvements within the Lot without permission of the ARC; and
- (c) Any reconstruction of the exterior portions of any structure constructed within a Lot, and the construction of additional improvements within the Lot which receives the permission of the ARC, shall be performed in a manner consistent with the provisions of this Declaration.

4.8 Damaged Improvements.

If a Dwelling or other major improvement located upon a Lot is damaged or destroyed, the Owner thereof shall restore the site either (i) by repairing or reconstructing such building or improvement or (ii) by clearing away the debris and restoring the site to an acceptable condition compatible with the remainder of the Community. Unless the Board of Directors permits a longer time period, such work must be commenced within four months after the casualty and be substantially completed within twelve (12) months after the casualty. The four-month period may be extended for a reasonable period thereafter in the event that repairs or reconstruction have not commenced because of factors beyond the control of the Owner, provided that the Owner has exercised and does thereafter continue to exercise due diligence in an effort to commence required work.

4.9 Maximum Impervious Coverage.

Pursuant to the stormwater permit granted for the Community, there are maximum allowable impervious areas per Lot. In order to prevent stormwater runoff that exceeds Stormwater Facility design limitations, each Lot within the Community has been assigned a maximum allowable impervious area as shown on the attached Exhibit “B”. The combined area of all constructed impervious area per Lot, shall not exceed the total amount of allowable impervious surface shown on the attached Exhibit “B” as amended. The Declarant reserves the right to reallocate the allowable impervious surface area among Lots owned by the Declarant. To reallocate the maximum allowable impervious surface area, the Declarant will prepare, execute and record an amendment to the Declaration, specifically amending Exhibit “B” to show the new allocations to each Lot. The Declarant has no right to reallocate as to Lots that have been conveyed to a Purchaser. Individual Lot Owners also may reallocate the allowable impervious surface area between Lots owned by such Owners. This is especially the case for potential builders who would buy multiple Lots to construct Dwellings on. Any reallocation of the allowable impervious surface area must be approved by the City of Blaine and a covenant in the form of Exhibit “C” shall be executed by the Owners of the Lots to which the reallocation will occur, as well as be executed by the City of Blaine. A copy of such approved covenant shall be provided to the Association.

ARTICLE V COMMON ELEMENTS AND SPECIAL UPKEEP AND USE

5.1 Description of Common Elements. Common Elements of the Community consist of the following:

5.1.1 Tract A is an open space Tract.

5.1.2 Tract B is an open space Tract that includes significant portion of the Stormwater Facilities for the Plat, including the Stormwater Pond. There is also a public trail and bench located within Tract B. There is also a public trail and bench, along with an interpretive sign describing how the bioretention pond works, located within Tract B.

- 5.1.3 Tract C is an open space Tract that includes a landscape buffer adjacent to Semiahmoo Parkway.
- 5.1.4 Tract D is an open space Tract that includes a landscape buffer adjacent to Semiahmoo Parkway, as well as a landscape buffer adjacent to Lots 6 through 21.
- 5.1.5 Tract E is private street system known as Garibaldi Lane, Garibaldi Court and Garibaldi Way, and includes all street related improvements as defined in BMC 17.68.180.C. All street related improvements shall be maintained by the Association as described below. Tract E also contains entryway landscaping, which was required pursuant to the conditions of approval for the PUD. The entryway landscaping includes the following: native, drought tolerant vegetation, cobble ground cover, monument signage, irrigation and a gang mailbox structure.
- 5.1.6 Any other Common Elements shown on the Plat Map or may be created or added to the Community by the Declarant pursuant to Development Rights as described in Section 3.4.
- 5.2 Conveyance or Encumbrance. A conveyance or encumbrance of Common Elements by the Association pursuant to RCW 64.90.465 or other actions by the Association, shall not deprive any Lot its rights of access and support.
- 5.3 Common Element Ownership. The Common Elements are owned by the Association. Provided, the Declarant shall deed the Common Element Tracts to the Association upon completion of any work that the Declarant intends to do and such Tracts are at the discretion of the Declarant for other reasons. Provided, if the Declarant fails to record a deed, this Declaration shall constitute the conveyance as necessary.
- 5.4 Upkeep of Road Areas. The Association shall provide for the Upkeep, striping, and signage, along with leaf, litter, and snow removal services, for the private streets known as Garibaldi Way, Garibaldi Court and Garibaldi Lane, as well as all street related Improvements within Tract E, that is the primary access for the Community. Without limitation, the Association shall perform all necessary Structural Repair, Reactive Maintenance, Routine Maintenance and Shoulder Maintenance, as hereinafter defined:
 - 5.4.1 Structural Repair is defined as repairs or improvements necessitated by normal wear and tear and daily operation over the improved street surfaces, or those modifications required to provide adequate and efficient access to public thoroughfares. The private streets shall be maintained consistent with published

City standards for such private access streets and/or for signing and traffic control devices.

- 5.4.2 Reactive Maintenance is defined as Upkeep necessitated by unanticipated failures of road surfaces, loss of signs, trees fallen across the street, and the like. It also includes response and repair necessitated by true emergency conditions such as flooding, windstorms, snowstorms, earthquakes and/or volcanoes.
- 5.4.3 Routine Maintenance is defined as normal day-to-day activities that keep such private streets operational.
- 5.4.4 Shoulder Maintenance is defined as periodic Upkeep of any unimproved portions of private streets, which shall include properly and reasonably caring for useful vegetation located in such unimproved areas, and by cutting and/or removing and disposing of any brush, trees, and other debris that are not useful and/or which may interfere with normal use of the private streets.
- 5.4.5 Street related improvements are defined as in BMC 17.68.180.C, and includes but is not limited to, automobile travel lanes, parking areas, bicycle lanes, turnaround areas, sidewalks, or other pedestrian walkways, curbs, gutters, catch basins, or any other storm drainage facilities, streetlights, street signs, or pavement markings, medians, planting areas, or similar improvements. The street-related improvements also include the entryway landscaping described in Section 5.1.5 above.
- 5.4.6 If the Association or any individual Lot Owner fail to adequately maintain the private streets and related improvements, the City shall have the right to take any enforcement action necessary to ensure compliance with this Declaration, including, but not limited to, the right to impose any necessary charges, assessments, and liens. The City shall have the right to recover all costs, including attorney's fees, incurred in any enforcement action. Nothing herein, however, shall require the City to take an action on behalf of the Association or Lot Owner or other citizen to enforce this Declaration.

5.5 Maintenance, Repair and Replacement.

The Association is responsible for maintenance, repair, and replacement of the Common Elements. All Common Elements shall be kept in a clean, orderly condition, free from debris. The use and maintenance of any Common Elements shall be the responsibility of the Association and control of the Association shall be authorized to promulgate reasonable Rules not inconsistent herewith. The use of any Common Elements owned by the Association shall be subject to access and public and private utility easements from time to time granted, conveyed, or reserved by the Declarant or the Association; nothing in any way that alters any Common Element owned by the Association from its existing state shall be permitted, except as contemplated by this Declaration or approved by the Declarant or the Association; there shall be no use of the Common Element owned by the Association that

injures or damages the Common Element or the vegetation, increases the cost of maintenance, or causes unreasonable disturbance or annoyance to Lot Owners in their enjoyment of their Lots and Parcels, or in their enjoyment of their Common Element. All use of any Common Element owned by the Association shall be subject to the rules and regulations in effect from time to time.

5.6 Special Upkeep and Use.

5.6.1 Trails. There is a trail system through the Community that is available for use by the Owners and the general public. Declarant has granted an easement to all Owners in Article XV and the general public in a separate recorded trail easement described in Article XV. The trails are to be used for ingress, egress and passive recreation according to the terms of the trail easement. All trails are to be kept free of debris. The Association is responsible for all maintenance and Upkeep of the trail system.

5.6.2 Stormwater Facilities. The Association is responsible for all maintenance, upkeep and inspections of the Stormwater Facilities. The Association shall conduct a periodic inspection and certify the adequacy of the Stormwater Facilities, including treatment and conveyance systems located outside of the public right-of-way. Following the periodic inspection, a summary report shall be provided to the City of Blaine Public Works Department. Should the periodic inspections identify any deficiencies, an engineering professional shall identify measures required to rectify the deficiency in the report to the City of Blaine. Any required repair, maintenance, or restoration shall be the responsibility of the Association. The inspections and maintenance of the Stormwater Facilities shall be conducted in accordance with the requirements of the Woodberry PUD Stormwater Facilities Operation & Maintenance Manual dated August, 2021, as prepared by Cascade Engineering Group, P.S. ("Stormwater O&M Manual"), a copy of which is attached as Exhibit "D" and is available from the City of Blaine. As detailed in the Stormwater O&M Manual, there are certain conditions for determining if maintenance actions are required, as identified through inspection. Such maintenance must be conducted by a qualified and licensed maintenance contractor. The inspection of the Stormwater Facilities shall be conducted by a qualified and licensed person and the inspection will be as outlined in the Stormwater Manual. The results of any annual inspection, including recommendations for maintenance and certification shall be provided to the City of Blaine by December 31 of each year. Except as part of Stormwater Facilities Maintenance and/or repair or as otherwise approved by the City of Blaine, no construction, clearing, grading, filling, burning, or chemical maintenance of plants shall occur within any Stormwater Facilities. All costs associated with the Stormwater Facilities maintenance will be the responsibility of the Association to be assessed to the Owners. In the event the Association fails to maintain the Stormwater Facilities as outlined above, the City shall have the right to enter the site and inspect facilities, to make repairs and Improvements if deemed necessary by the City to prevent significant risk to public and private

facilities. The City shall have the right to collect the cost of said repairs or Improvements from the Owners in proportion to their Allocated Interests. The Declarant and/or Association shall have the right to enter the Stormwater Facilities to remove vegetation or other items that are inconsistent with the Stormwater Manual or interfere with the Stormwater Facilities. Drainage Facility Maintenance Covenant is required by the City to protect private and public property, private and public drainage infrastructure, natural resources, downstream property owners, and the general public. The Drainage Facility Maintenance Covenant is recorded at Whatcom County Auditor's File No. _____. Pursuant to this Declaration, the Association is completely responsible for the Stormwater Facilities, including as detailed in the Drainage Facilities Maintenance Covenant.

- 5.6.3 Landscaping and Buffer. The Community has a landscaping plan that must be abided by. The initial plantings will be installed by the Declarant. The Association is responsible for all maintenance and Upkeep of the landscaping as detailed in the landscaping plan and herein. The landscaping shall be kept in a neat and orderly condition by the Association. There is a 20-foot buffer around the entire Community. Of these 20 feet, 15 feet is to remain in its natural state and shall be kept free of yard debris and other items and the remaining 5 feet is to be landscaped pursuant to the landscaping plan. The entire buffer shall be the responsibility of the Association pursuant to the standards set forth herein and the landscaping plan. The five-foot buffer area that is landscaped shall be maintained by the Association according to the standard above.

5.6.3.1 Witness Markers. The Owners shall also maintain the witness markers located at the back edge of the Lots along the perimeter buffer boundary.

- 5.6.4 Street Landscaping and Entryway Landscaping. Instead of typical street trees, the landscaping plan for the Community approved naturalized tree groupings. These are tree groupings that have been reserved in landscape easements on the face of the plat. These areas and trees and landscaping are the responsibility of the Association. While not a Common Element of the Community, the Association shall treat the naturalized tree groupings and landscape easement areas as if they were a Common Element and shall be responsible for the maintenance or replacement of the landscaping and trees. Please reference the landscaping plan, including the planting plan for these tree groupings. The Association is responsible for all maintenance and upkeep of the street landscaping and entryway landscaping, which shall be maintained in a neat and orderly condition in accordance with any requirements of the City.

- 5.6.5 Recreational Amenity Furniture. Recreational amenity furniture (bench and stormwater pond signage) installed in Tract B is part of the Common Elements as described in Section 5.1.2 below. The Association is responsible for all maintenance, repair, or replacement of this time.

- 5.6.6 Prohibition against Dumping. The dumping of solvents, oil, concrete or concrete residue, or water that is heavily laden with sediments, is expressly prohibited anywhere in the Community.
- 5.6.7 Prohibition against Commercial Pesticides. The use of commercial pesticides is strictly prohibited. The use of fertilizers shall be limited.
- 5.6.8 Rights of City. If the Association and/or the individual Lot Owners fail to adequately maintain the landscaping, buffer areas, and open space areas, then the City shall have the right to take any enforcement action necessary to ensure compliance with this Declaration, including, but not limited, the right to impose any necessary charges, assessments, and liens. The City shall have the right to recover all costs, including attorney's fees, incurred in any enforcement action. Nothing herein, however, shall require the City to take any action on behalf of the Association or Lot Owner or other citizen to enforce this Declaration.
- 5.7 Rights of Use and Access. Subject to the other provisions of the Governing Documents, the Lot Owners have a right to use the Common Elements for the purposes for which the Common Elements were intended. Except as otherwise provided in the Governing Documents, no Owner shall make any private, exclusive, or proprietary use of any of the Common Elements, except as may be authorized by the Board.
- 5.8 No Interference with Common Elements. No Lot Owner shall obstruct any of the Common Elements and shall not place or cause or permit anything to be placed on or in any of the Common Elements (except those areas, if any, designated for storage by the Governing Documents) without the approval of the Board. Nothing shall be altered or constructed in or removed from the Common Elements, except with the prior written consent of the Board of Directors. No person shall engage or direct any employee or agent of the Association on any private business for the owner, or otherwise supervise, direct or attempt to assert control over such employee or agent during the time such employee or agent is working for the Association. In addition, no Lot Owner shall do anything to interfere with the proper functioning of or obstruct Stormwater Facilities.
- 5.9 Limited Common Element. The Community does not have any Limited Common Elements.

ARTICLE VI

LOT OWNERS ASSOCIATION

- 6.1 Name and Form of Association. The name of the Association shall be "Woodberry Community Association." The Association has been incorporated by the Declarant as a non-profit corporation under the laws of the State of Washington. The rights and duties of the members and the corporation shall be governed by the provisions

of the Governing Law and this Declaration. The Association shall remain organized as a nonprofit corporation. In case of any conflict between Chapter 24.06 RCW, the Nonprofit Miscellaneous and Mutual Corporations Act, and the Governing Law, the Governing Law shall control. The Association may not be dissolved, nor may it convey any Common Element property within Community without the express written approval of the City of Blaine City Council.

6.2 Powers & Duties of Association.

6.2.1 Duties & Responsibility of Association. The purposes for which the Association was formed are to maintain, repair, replace and manage the Common Elements of the Community, to provide necessary insurance coverage, and to enforce provisions of the Governing Documents, so as to protect the safety and well-being of Occupants of the Community and preserve the long-term value of the Lots, for the benefit of the Lot Owners. The Board shall consistently adopt Budgets for the Association for operations and reserves that are reasonably calculated to assure that these essential purposes are realized each year of its existence.

6.2.2 Statutory Powers Exercised by Board. Except for rights of Lot Owners explicitly reserved in the Governing Law or as elsewhere provided in the Governing Documents, the Board shall have the exclusive right and power to govern the Association and shall have all powers available to community associations under the Governing Law, Articles of Incorporation and Bylaws in order to do so.

6.2.3 Power Borrow and/or Assign Future Income. Without limiting the foregoing, the Association also shall have the power to borrow and/or assign its right to future income (including the right to collect and receive Common Expense Assessments), provided that any specific assignment is ratified in advance by the Lot Owners under the following procedures authorized by the Governing Law:

(a) The Board must provide Notice of the intent to borrow and/or assign its right to future income to all Lot Owners. The Notice must include the purpose and maximum amount of the loan, the estimated amount and term of any Assessments required to repay the loan, a reasonably detailed projection of how the money will be expended, and the interest rate and term of the loan.

(b) In the Notice, the Board must set a date for a meeting of the Lot Owners, which must not be less than fourteen and no more than sixty days after providing the Notice, to consider ratification of the borrowing.

(c) Unless at that meeting, whether or not a quorum is present, Lot Owners holding a majority of the Votes in the Association reject the proposal to borrow funds, the Association may proceed to borrow the funds in substantial accordance with the terms contained in the Notice.

6.3 Membership in Association. Membership in the Association is automatically associated with and appurtenant to the ownership of a Lot in the Community under the Governing Law. Except in the case of a termination of the Community, the membership of the Association at all times consists exclusively of all Lot Owners.

6.4 Voting.

6.4.1 Voting Process. The manner of voting shall be as prescribed in the Bylaws.

6.4.2 Allocated Interests for Voting. The Declarant has allocated to each Lot in the Community an equal vote in the Association that is known as the Lot's Allocated Interest for voting.

6.5 Bylaws of Association.

6.5.1 Bylaws – Consistent with RCW 64.90.410. Bylaws for the administration of the Association and for other purposes not inconsistent with this Declaration have been or will be adopted by the Association. Such Bylaws are designed to be consistent with the terms and conditions of the Governing Law including, but not limited to, RCW 64.90.410.

6.5.2 Hierarchy of Authority. If a conflict ever exists between the Declaration and the Bylaws, the Declaration prevails except to the extent the Declaration is inconsistent with the Governing Law.

ARTICLE VII MANAGEMENT OF THE ASSOCIATION

7.1 Management by Declarant – Period of Declarant Control.

7.1.1 General Provisions for Declarant Control. Pursuant to RCW 64.90.415, the Declarant has reserved the rights to (a) appoint and remove the officers and members of the Board and (b) veto or approve a proposed action of the Board or the Association.

7.1.2 Statutory Limitations on Declarant Control. Declarant Control shall terminate as provided in RCW 64.90.415.

7.2 Authority of the Board.

- 7.2.1 General Authority. The Board, for the benefit of the Community and the Lot Owners, shall have the authority to manage the Community and enforce the provisions of the Governing Documents and Bylaws. The Board has all powers and authority granted to the Association under the Governing Law and this Declaration that are not expressly subject to the approval of Lot Owners.
- 7.2.2 Common Expenses. The Board shall acquire and shall pay for, as Common Expenses, all goods and services requisite for the proper functioning of the Community.
- 7.2.3 Liens or Encumbrances. The Board may also pay any amount necessary to discharge any lien or encumbrance that is claimed to constitute a lien against Common Elements or any portion thereof in violation of RCW 64.90.490(1). Where one or more Lot Owners are responsible for the existence of such lien, they shall be jointly and severally found to have committed willful misconduct or gross negligence and thus liable for the cost of discharging it, and any costs and expenses incurred by the Board by reason of such lien or liens shall constitute Specially Allocated Assessments against the Lots responsible, to the extent of their responsibility.
- 7.2.4 Acquisition of Property. The Board may acquire and hold in the name of the Association, for the benefit of the Lot Owners, tangible and intangible personal property and real property and interests therein and may dispose of the same by sale or otherwise. Except as may be otherwise required under the Governing Law, such property shall thereafter be held, sold, leased, rented, mortgaged or otherwise dealt with for the benefit of the Association as the Board may direct.
- 7.2.5 No Business Authority. Nothing herein contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all of the Lot Owners or any of them.
- 7.3 Right of Entry - Allocation of Responsibility for Damage to Lot upon Entry.
 - 7.3.1 Right of Entry - Notice Generally Required. The Board and its agents, contractors or employees may enter any Lot when necessary in connection with any maintenance, repair, landscaping or construction for which the Board is responsible, or in the event of a *bona fide* emergency. Except in the case of an emergency, reasonable advance Notice shall be given to the Lot Owner and, if applicable, to any lawful tenant in the Lot. Such entry shall be made with as little inconvenience to the Lot Owner and/or Occupant as practicable.

- 7.3.2 Allocation of Responsibility for Damage to Lot upon Entry. Any damage caused by such entry shall be repaired by the Association out of the Common Expense fund if the entry was due to an emergency (unless the emergency was caused by the Lot Owner or a lawful Occupant of the Lot entered, in which case the cost shall constitute a Specially Allocated Assessment against the Lot entered) or for the purpose of Upkeep to Common Elements where the repairs were undertaken by or under the direction or authority of the Board. If the Upkeep was necessitated by conditions within the Lot or performed at the request of its Lot Owner or its lawful Occupants, the costs thereof shall constitute a Specially Allocated Assessment against such Lot.
- 7.4 Board as Attorney in Fact. Each Lot Owner, by the act of becoming an Lot Owner of a Lot, shall be deemed to have irrevocably appointed the Board as his or her attorney-in-fact, with full power of substitution, to take such actions as are reasonably necessary to perform the duties of the Association and Board hereunder, including, but not limited to, the duties to maintain, repair and improve the Property, to deal with a Lot upon damage or destruction, to grant licenses and easements, and to secure and distribute condemnation awards and/or insurance proceeds.
- 7.5 Board's Authority Exclusive - Lot Owners May Not Direct Association Agents/Employees. The Board's authority with respect to the Common Elements and responsibilities as stated in Article V is exclusive. No Person shall attempt to engage or direct any employee, contractor or agent of the Association or its Manager on any private business of such Person, or to otherwise direct, supervise or in any manner attempt to assert control over such Person during the hours that such Person is working on behalf of the Association.
- 7.6 Board or Association as Trustee. With respect to a third person dealing with the Board or the Association in the Association's capacity as a trustee, the existence of trust powers and their proper exercise by the Association may be assumed without inquiry. A third Person is not bound to inquire whether the Association has power to act as trustee or is properly exercising trust powers. A third Person, without actual knowledge that the Association is exceeding or improperly exercising its powers, is fully protected in dealing with the Association as if it possessed and properly exercised the powers it purports to exercise. A third Person is not bound to assure the proper application of trust assets paid or delivered to the Association in its capacity as trustee.

ARTICLE VIII

PERMITTED USES, PROHIBITED USES AND ARCHITECTURAL CONTROL

- 8.1 Permitted and Prohibited Uses.

- 8.1.1 Residential Use. Residences constructed within Lots in this Community shall be used primarily for Residential Purposes and for common social, recreational or other reasonable uses normally incident to such purposes. Portions of a residence may also be used for a professional office or other low impact commercial use, provided that such use is consistent with all applicable laws, ordinances and regulations of any governmental authority with jurisdiction, and so long as such use does not generate any appreciable levels of client or customer traffic, bulk shipping or receiving, or create noise, odors, vibration or other unreasonable disturbance to other lawful Occupants of the Community.
- 8.1.2 Commercial Uses Restricted. Other than any commercial uses authorized in section 8.1.1 hereof, there shall be no commercial uses permitted within Lots or in the Common Elements.
- 8.1.3 Vehicle Parking and Use.
- 8.1.3.1 General Restrictions. The parking of up to two (2) vehicles in driveways shall be permitted. Driveway areas are restricted to use for parking of operable, properly registered automobiles, light trucks, and family vans; other items and equipment may be parked there only if expressly permitted by Rules and only in such areas, if any, as may be designated for such purpose by the Board of Directors. Garage parking spaces are restricted for parking of automobiles, motorcycles, light trucks, family vans, and other similar vehicles, and for storage of such other items that pose no unreasonable health, safety, or fire risk to personal property. Vehicle repairs other than ordinary light maintenance is not permitted in the Community. Partially wrecked vehicles, discarded vehicles, unlicensed vehicles or vehicles which are in a state of disrepair shall not be kept on any Lot nor shall they be maintained within the Community, unless fully enclosed in a garage.
- 8.1.3.2 Recreational Vehicles. There shall be no outside storage or parking upon any Lot or within any portion of the Common Areas (within areas provided therefore within the Common Areas) of any mobile home, trailer (either with or without wheels), motor home, tractor, truck (other than pickup trucks), commercial vehicles of any type, camper, motorized camper or trailer, boat or other watercraft, boat trailer, motorcycle, motorized bicycle, motorized go-cart, or any other related forms of transportation devices. Although not expressly prohibited hereby, the Board may at any time prohibit certain mobile homes, motor homes, campers, trailers of any kind, motorcycles, motorized bicycles, motorized go-carts and other similar vehicles or any of them, from being kept, placed, stored,

maintained, or operated upon any portion of the property if, in the opinion of the Board, any such vehicle is deemed excessively noisy or otherwise deemed a nuisance (excluding motorcycles, motorized bicycles, and motorized go-carts that are simply being stored, and not operated, in an Owner's garage).

- 8.1.3.3 Removal. The Board may require removal of any vehicle or equipment if not authorized by this Section; if it is not removed from the Property, the Board may cause its removal at the risk and expense of the Owner thereof, under such reasonable procedures as may be consistent with the provisions of RCW 46.55. Failure of an Owner or other occupant to remove such a vehicle or equipment from the Property may result in any or all the procedures and/or remedies available under the governing documents.
- 8.1.4 Noise. No Person shall cause any unreasonably loud noise anywhere in the Community.
- 8.1.5 Explosives. No firearms or explosives shall be discharged within the boundaries of the Community; provided, this shall not in any way limit the use of explosives as required for construction of the Community. Fireworks are allowed only of the type and during times they are permitted by the City, if any.
- 8.1.6 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for commercial purposes. The owner of any animal maintained on the Property shall exercise appropriate control over the animal and shall clean up after such animal and shall not permit deposits of fecal matter, urinary residue or foodstuffs from or for such animal to remain anywhere on the Common Elements. Any Lot Owner who keeps or maintains any animal upon any portion of the Property shall be deemed to have indemnified and agreed to hold the Association, each Lot Owner free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such animal within the Community. All animals shall be registered and inoculated as required by law. The Board of Directors may adopt rules and regulations regarding ownership of animals and establish reasonable fees not to exceed the additional costs incurred by the Association resulting from the presence of such animals. The Board may at any time require the removal of any animal which it finds is or has become an unreasonable source of annoyance and may exercise this authority for specific animals even though other animals are permitted to remain.

- 8.1.7 Signs. No signs or billboards shall be placed on any Lot, except that one identification sign bearing the Owner's name and address may be placed upon the Owner's Lot. Irrespective of the foregoing, the Declarant may display post signs, billboards or other advertising materials on or about any unsold Lot or Lots or the Common Elements until all Lots within the Community have been sold by Declarant. In addition, any Owner or such Owner's agent, may advertise any Lot for sale, and, furthermore, an Owner may display signs of a political nature, promoting a candidate or a political proposition, during periods of political campaigns. The Board may by resolution establish further policies regarding signs. The Board's judgment in such matters shall be conclusive. This provision is subject to the Governing Law.
- 8.1.8 Exterior Appearance, Clotheslines, and Playground Equipment. Perimeter fencing (except as defined in Subsection 8.1.13), and foil or reflective material used on windows, are not allowed on a Lot. In addition, no clotheslines are permitted on a Lot. Children's playground equipment is allowed but shall be located within the backyard of a Lot only and shall be maintained in a clean and respectable manner.
- 8.1.9 Exterior Appliances. No heating, air conditioning, or other mechanical appliances may be located on any roof, unless completely screened from view of other Lots. Heating, air conditioning units, and other appliances located outside of the house or structure shall be screened such that they are not visible, and sound generated by them does not reach neighboring Lots.
- 8.1.10 Outdoor Lighting. All outdoor lighting shall be directional and shall in all instances, be directed away from the street and neighboring Lots. Decorative holiday lighting shall be removed no later than thirty (30) days after the date of the holiday.
- 8.1.11 Garbage/Refuse. No Owner shall deposit or permit the accumulation of any trash, ashes, garbage or other refuse or debris on or about such Owner's Lot or any other property within the Community. All garbage and other waste shall be kept in appropriate sanitary containers located in appropriate areas concealed from view. Each Owner shall keep such Owner's Lot neat and orderly in appearance and shall not cause or permit any noxious or odorous conditions to exist, nor maintain any tangible objects which are unsightly in appearance to exist, on any Lot or Tract within the Community. Should any Lot Owner fail to comply with this covenant within ten (10) days following the date on which notice is mailed to him/her by the Association informing him/her of such violation, then the Association may have said trash removed and charge the expense of removal to said Lot Owner, which shall be collectible as a Special Assessment.

- 8.1.12 Antennas. No television or radio antenna of any kind which extends more than ten feet above the roof line of the residence on a Lot. Satellite TV dishes, no greater than twenty-four (24) inches in diameter may be installed within the lot. Larger satellite dishes and other types of reception or transmission antennas may be installed within a Lot only if completely screened from view from other Lots and the Common Elements, and such installation is approved in advance of installation by the Board of Directors. This provision is subject to state and federal law.
- 8.1.13 Fencing. Fences and walls are allowed as follows: walls such as retaining walls made of brick, rock, and other natural materials up to three feet in height may be permitted as part of the landscaping plan or development. Fencing shall be limited to three rails split rail fencing, no more than 48" in height, and may be used only within the backyard, and back portion of any side yard. Fencing must start a minimum of 20 feet back from the front corner of the residence. The Owner may at their discretion affix a light gauge, non-galvanized, welding wire fencing to the split rail fence to contain pets. Fencing of any other type, or any other location, is not allowed. All fencing is subject to the ARC approval.
- 8.1.14 Surface Water Run-Off. No Lot shall be improved in such a way as to cause excess surface water run-off that may damage or inconvenience other Lots or contiguous properties and the Owners thereof.
- 8.1.15 Damaged Improvements. No Improvement which has been partially or totally destroyed by fire, earthquake or any other cause shall be allowed to remain in a state of disrepair for a period in excess of six (6) months from the date of such partial or total destruction. Corrective construction or reconstruction shall be required to commence within such six-month period and shall be completed in accordance with the provisions of Article 4 hereof; provided, however, that six-month period shall be extended for a reasonable period thereafter in the event that corrective construction or reconstruction has not commenced as a result of factors beyond the control of the subject Owner and in the event that the subject Owner has exercised and does thereafter continue to exercise due diligence in an effort to eliminate such factors causing such delay in commencement.
- 8.1.16 Vacant Lots. Vacant Lots shall be kept free of unsightly debris and shall not be used for storage or parking or any other purpose until commencement of construction on the Lot. Vacant Lots shall be mowed regularly to keep tall grass and invasive species such as blackberries controlled. In addition, all young trees, shrubs, grasses and weeds will be kept at a height of eighteen inches or less. Notwithstanding any other provision, no Owner shall allow any condition of that Owner's Lot to constitute a fire hazard or encourage the proliferation of invasive plant species such as ivy or blackberries.

- 8.1.17 Offensive or Illegal Activity. No noxious, offensive, smelly or illegal activity shall be carried on in any Lot or the Common Elements, nor shall anything be done therein that is or may become an unreasonable source of annoyance (a nuisance) to other Lot Owners or other lawful Occupants of the Community.
- 8.1.18 Hazardous Substances. A Person shall maintain or store on or in the Property only such property and materials which may be legally possessed by such Person. No Person shall improperly store within or release from a Lot or into the Common Elements any petroleum distillates, liquid or aromatic hydrocarbons, medical wastes or infectious biological agents, acids, caustics, carcinogens, mutagens, heavy metals, or any other flammable, toxic, explosive, radioactive, or other type of substance which may be hazardous to either the Property or to the public health or safety, or the health or safety of any lawful Occupants of the Community.
- 8.1.19 Accessory or Temporary Structures. Temporary and permanent structures, such as children's playhouses, garden sheds, garages, dog runs, and fence enclosures are permissible with construction standards similar with the construction of the Community and consistent with the standards established herein. Accessory dwelling units are not allowed in the Community. The ARC must approve all such structures or improvements in advance, and the owner proposing such structure must provide all information requested by the ARC, where appropriate, that accurately describes the materials, colors, dimensions, and details of the proposed structure. The ARC shall review the drawings and notify the Owner of approval or rejection. The Declarant's or Committee's decision shall be final.
- 8.1.20 Restrictions on the Leasing or Short-term Occupancy of Lots. Any lease agreement shall provide that the terms of the lease shall be subject in all respects to the provisions of the Governing Documents and Bylaws, and that any failure by the lessee to comply with such provisions shall be a default under the lease, entitling the Association to enforce such provisions as a party to the lease. All leases shall be in writing, and the Association is entitled to receive a copy of any lease agreement from the Lot Owner or the tenant, and the Association is entitled to receive contact information for every tenant. A lease, as defined herein, shall include month-to-month rentals. Transient occupancy under any form of rental or license agreement for periods of less than thirty (30) days is not permitted. The Association may by resolution of the Board prohibit the leasing of any Lot for a period of less than six (6) months. Subleasing less than the entire Lot is not permitted.

8.1.21 Rules. The Association is hereby authorized and empowered to adopt Rules governing the use of the within the Community and the personal conduct of the Owners and their guests thereon, and to establish fines for violations thereof.

8.1.22 Effect on Insurance. Nothing shall be done or maintained in any Lot or in the Common Elements that will increase the rate of insurance on the Common Elements or Lots without the prior written consent of the Board. No Lot Owner or Occupant shall permit anything to be done or maintained in his or her Lot or in the Common Elements that will result in the cancellation of any policy of insurance maintained by the Association.

8.2 Architectural Control.

8.2.1 General Authority of Declarant and Board of Directors. To assure the health, safety and enjoyment of persons lawfully using any portion of this Community, and to promote visual harmony within the Community, the Architectural Review Coordinator ("ARC") shall have the power to enforce architectural control over the Improvements constructed within the Community on all Lots. Initially, as provided in section 4.4, 4.5 hereof and section 8.2 below, the Declarant shall constitute or designate the ARC to perform such architectural control, and may regulate the external design, signage, appearance, construction, use and Upkeep of the Property in accordance with the Master Plan and any Design Guidelines adopted for this purpose. The ARC has full authority over the architectural and contract standards detailed in the Master Plan, as well as the landscaping standards in the landscaping plan. as contained in the Master Plan. The architectural and contracts standards, along with the landscaping plan are attached hereto as Exhibit "E". Provided, the Master Plan is subject to change with the City approval and people should reach out to the Association or City for the current version. The Master Plan and landscaping plan are incorporated herein by this reference. To ensure consistency of architectural design during the process of development, the Declarant shall retain such rights during the entire period of development. However, the Declarant also reserves the right, in a Record provided to the Board at an earlier date, to permit the Board of Directors to promulgate or modify Design Guidelines for the Community and to perform architectural control, in whole or in part, as permitted in this Declaration, PROVIDED that construction and development activities on a Lot or Parcel conducted by the Declarant or its Affiliates after such early transfer of architectural control to the Association shall not be affected by any such new or modified Design Guidelines or be subject to architectural review by the Association. The Board of Directors shall have the power to impose reasonable application fees to evaluate any additions or changes to a Dwelling proposed by a Lot or Parcel Owner; such fees shall constitute a Specially Allocated Assessment against the affected Lot or Parcel Owner.

- 8.2.2 Authority to Perform or Delegate Functions of ARC. The Declarant or its designees shall initially serve as the ARC for the Association. After the Declarant has ceased performing architectural control as described above, the Board of Directors may directly perform the activities of the ARC, or the Board may designate an individual to be the ARC, or it may establish an Architectural Review Committee (also to be known as the “ARC”), to coordinate compliance with any Design Guidelines of the Community, and perform such additional functions as may be delegated to it in the Bylaws or in a resolution of the Board adopted for such purpose.
- 8.2.3 Time for Approval – No Construction Prior to Approval. The ARC shall approve or disapprove plans, specifications, and details within six weeks of receipt thereof. Upon a failure to respond within such period, then the plans shall be deemed approved. No construction activity by Persons other than the Declarant may commence prior to such approval. By regulation, the Board may establish more specific timeframes for the granting of approval following the termination of the Declarant Control Period.
- 8.2.4 Status of Master Plan and Design Guidelines. The Master Plan, as well as any future Design Guidelines approved by the Declarant or by the Board shall be enforceable as if set forth in full herein as covenants.
- 8.2.5 Authority to Grant Variances. The ARC shall have the authority, either by act or omission, to waive enforcement of or grant variances from any written Design Guidelines without a specific finding that enforcement of such guidelines would impose an unfair burden on such Lot Owner but describing the variance and the reasons therefor in a written instrument which shall be part of the records of the Association. ARC precedent shall be deemed useful, but not conclusively binding. Upon such written approval of any specific variance or exception from the requirements of any Design Guidelines, all development conforming to such variance or exception shall be deemed lawful.
- 8.2.6 No Liability for Architectural Review. Neither the Declarant nor the Association nor any permitted designee shall be liable to any party for any good faith action or failure to act under the provisions of this Declaration, with respect to elements of architectural control or as to scenic views, or otherwise.
- 8.2.7 Transfer. The Declarant will transfer control of the ARC to the Association by the time the last sale of a Lot in the Community. Provided, the Declarant may transfer control at a time at its sole discretion. Until that point of transfer, the Declarant retains exclusive control of the ARC. Upon transfer of control of the ARC, the ARC shall consist of three (3) members to be

appointed by the Board. A two-thirds (2/3) affirmative vote of the ARC is required before the ARC shall grant written approval.

ARTICLE IX
COMMON EXPENSES AND ASSESSMENTS

9.1 Annual Budget for the Association.

9.1.1 General Provisions for the Annual Budget. At such time as may be deemed necessary or desirable by the Board of Directors of the Association's Manager or accountant, but more than thirty (30) days' prior to a meeting called for such a purpose, the Board shall prepare an annual budget that shall estimate the Common Expenses to be paid during such year. Specially Allocated Expenses assessable under Section 9.5 shall be budgeted in such fashion that they will be properly apportioned and assessed against only the affected Lots. The budget shall make provision for creating, funding and maintaining reserves required by section 9.2, and shall take into account any expected income and any surplus determined to be available under the reconciliation required under RCW 64.90.475 from the prior year's operating fund. The Declarant or the Board may at any suitable time establish the first budget. If deemed necessary by the Board any budget may be revised prior to the end of its budget year in compliance with RCW 64.90.525. The Board's proposed budget must be adopted and ratified as required by RCW 64.90.525.

9.2 Reserves for Major Repairs, Replacements, & Insurance Deductibles.

9.2.1 Establishment of Reserves – Status and Uses of Reserve Funds. The Board of Directors should establish and maintain reasonable reserves for major repairs and replacements unless the Association is exempt from preparing a reserve study under RCW 64.90.545. If a reserve study is required, the Board should have a reserve study prepared that is in compliance with RCW 64.90.550. Reserves should also be established for the deductible under insurance policies obtained pursuant to Article X hereof, exclusive of earthquake, flood and/or similar coverages. The budget of the Association should always contain provisions for such reserves. The Board may also establish and maintain reserve funds for operations, capital improvements and for such other purposes as may appear advisable. All reserves shall be identified and segregated on the books of the Association. The portions of the Lots' Assessments paid into such reserves shall be conclusively deemed to be non-refundable contributions to the capital of the Association by the Lot Owners. Such reserves may be expended only for the purposes for which they were established unless the Lot Owners, at a duly constituted meeting of the Association, otherwise decide. The Association shall maintain all

reserve accounts consistent with the requirements of RCW 64.90.535 and .540.

- 9.2.2 Working Capital Fund. To facilitate project approval by institutional lenders, upon closing of conveyances of each Lot to a Purchaser, the Association may assess and collect a working capital contribution for such Lot, in such amount equal to two hundred fifty dollars (\$250) per Lot. Such payments do not constitute advance payments of regular Assessments and working capital contributions may not be used to defray expenses that are the obligation of the Declarant. When unsold Lots are sold, the Declarant may use funds collected at closing to reimburse itself for funds it may have paid the Association for such unsold Lots' shares of the working capital fund.

9.3 Assessments against Lots.

- 9.3.1 Liability of Lots. Assessments for Common Expenses must be made at least annually based on a budget adopted in the manner described in sections 9.1 and 9.2 hereof. The total amount of the estimated funds required to pay the Common Expenses of the Association set forth in the annual budget adopted by the Board of Directors for the fiscal year shall be assessed equally against the Lots, provided that the Association may, by resolutions supported by greater than fifty percent (50%) of the votes in the Association, require that any Common Expense or portion thereof benefitting fewer than all of the Lots shall be assessed exclusively against the Lots benefited; such an assessment may be termed a "Special Common Expense," and may be established as a special assessment. Upon a Lot receiving an occupancy permit from the City, the Board may immediately assess a full share of the annual Assessment to these Lots based on the then current budget. In the event the amounts collected from Assessments are greater than the current budget, the overages may be transferred to reserves.
- 9.3.2 Assessments in Proportion to Common Expense Liability. All Common Expenses must be assessed against all the Lots in accordance with their allocated Common Expense upon conveyance of the first Lot to a Purchaser, subject to the right of the Declarant to delay commencement of certain Common Expenses under subsection 9.4 below.
- 9.3.3 Special Assessments. The Board has the power of special assessments for any purpose the Board deems necessary to fulfill the Association's purpose. Special assessments may be allocated to some, but not all of the Lots, if the special assessment is caused by the act or omission of the Lot Owner of a particular Lot or if the purpose of the special assessment is to benefit some but not all of the Lot Owners. The Board at any time may propose a special assessment pursuant to RCW 64.90.525(3).

- 9.4 Payable in Installments. Unless otherwise determined by the Board, the annual Assessment against each Lot for its proportionate share of the Common Expenses shall be payable in twelve (12) equal, monthly installments, and each installment shall be payable in advance by the first day of the month.
- 9.5 Option of Declarant to Pay Some or All Expenses of Association. Pursuant to RCW 64.90.480(1)(b), the Declarant may cause the Association to delay commencement of Assessments for some or all Common Expenses or Specially Allocated Expenses, in which event the Declarant must pay to the Association all of the Common Expenses or Specially Allocated Expenses that have been delayed. If the Declarant intends to exercise its statutory option to cause the Association to delay the payment of Assessments, the Declarant shall so state in the Public Offering Statement for the Community, and therein shall specify the timing and other conditions associated with the Declarant's obligation to fulfill its obligation to the Association to pay the Assessments so deferred.
- 9.6 Specially Allocated Assessments. The items included below in this subsection, constitute Specially Allocated Expenses that are not subject to inclusion in the Association's Annual Budget:
- (a) Costs of services provided to or expenses incurred on behalf of one or more Lot Owners on a one-time or irregular basis, reasonable charges for the preparation and recordation of amendments to the Declaration benefitting particular Lot Owners, resale certificates, lender questionnaires, or statements of unpaid Assessments, fines imposed by the Board, the costs and attorney's fees described in RCW 64.90.485(19), or that may be imposed pursuant to the Bylaws, and interest on any delinquent account.
 - (b) To the extent that any expense of the Association is caused by the negligence of any Lot Owner or that Lot Owner's tenant, guest, invitee, or Occupant, the Association may assess that expense against the Lot Owner's Lot after Notice and an opportunity to be heard as provided in the Bylaws, to the extent of the Association's deductible and any expenses not covered under an insurance policy issued to the Association. See Section 12.2 hereof.
 - (c) To the extent that any expense of the Association is caused by willful misconduct or gross negligence of any Lot Owner or that Lot Owner's tenant, guest, invitee, or Occupant, the Association may assess that expense against the Lot Owner's Lot after Notice and an opportunity to be heard as provided in the Bylaws, even if the Association maintains

insurance with respect to that damage or Common Expense. See Section 13.2 hereof.

9.7 Accounts; Commingling Prohibited – Funds generally maintained in Washington.

9.7.1 General Principles Associated with Association Accounts. The Association must keep all funds of the Association in the name of the Association with a bank, savings association or credit union, the deposits of which are insured by the federal government. The funds must not be commingled with the funds of any other association or with the funds of any Managing Agent of the Association or any other Person or be kept in any trust account or custodial account in the name of any trustee or custodian.

9.7.2 Obligations of Managing Agents. A Managing Agent who accepts or receives funds belonging to the association must promptly deposit all such funds into an account maintained by the association in compliance with Subsections 10.6.1 hereof, as appropriate. Accounts in the name of the Association over which a Managing Agent has any control must be maintained in a financial institution located in the State of Washington.

9.8 Surplus Funds. Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of reserves must either be paid annually to the Lot Owners in proportion to their Common Expense liabilities or credited to them to reduce their future Common Expense Assessments, at the Board's discretion.

9.9 Lien for Assessments and Power of Sale. Each and every Lot Owner of any Lot in the Community, by virtue of his or her acquisition by any means of title to such Lot, shall take such title subject to the Association's lien for Assessments. Pursuant to RCW 64.90.485(13)(b), the Declarant as "Grantor" does hereby grant, bargain, sell and convey to Whatcom Land Title Company as "Trustee" in trust WITH POWER OF SALE, the Lots and all other real property in the Community which property is not used principally for agricultural purposes, together with all tenements, hereditaments, and appurtenances now or hereafter thereunto belonging or in any manner appertaining, and the rents, issues and profits thereof, to secure the obligations of the Lot Owners to the Association, as "Beneficiary," for the payment of any Assessments lawfully levied under this Declaration. Each and every Lot Owner shall be deemed for all purposes, as of the time of his or her acquisition of title to any Lot in the Community, to have joined as an additional "Grantor" in the conveyance in trust above described, and to have at that time granted, bargained, sold and conveyed his or her Lot, to such Trustee, to secure all obligations imposed by this Declaration on such Lot Owner to pay Assessments to the Association. The Power of Sale provided and granted herein shall be operative in the case of a default in the obligation to pay Assessments; upon default by such Lot Owner in the payment of any indebtedness secured hereby, all sums secured hereby shall

immediately become due and payable at the option of the Beneficiary. In such event and upon written request of Beneficiary, the Trustee shall sell the Lot as trust property, in accordance with the Deed of Trust Act of the State of Washington, at public auction to the highest bidder. Any Person except Trustee may bid at Trustee's sale. The Trustee shall apply the proceeds of the sale as follows: (1) to the expenses of sale, including a reasonable trustee's fee and attorney's fee; (2) to the obligations secured by this Declaration; (3) the surplus, if any, shall be distributed to the Persons entitled thereto.

- 9.10 Automatic Perfection of Lien. Recording of this Declaration constitutes record notice and perfection of the Association's statutory lien. Further notice or recordation of any claim of lien for Assessments is not required but is not prohibited. The Board may thus record a Notice of Claim of Lien for delinquent Assessments in the real property records of any county in which the Community is located.
- 9.11 Priority of Lien. The Association's statutory lien shall be prior to all other liens and encumbrances on a Lot except: (a) Liens and encumbrances recorded before the recordation of this Declaration; (b) Except as otherwise provided below, a security interest on the Lot recorded before the date on which the unpaid Assessment became due; and (c) liens for real property taxes and other governmental assessments or charges against the Lot.
- 9.12 Rent Payable to Association Upon Default of Lot Owner. (a) If a Lot is rented or leased by its Lot Owner, and if the Lot Owner becomes delinquent in the payment of Assessments for more than 90 days, the Association may collect the delinquent amount from the tenant, who shall pay over to the Association so much of the rent for such Lot as is required to pay such delinquency, plus interest, attorneys' fees and other costs of collection. In order to avail itself of the remedy contained in this subsection, the Association shall first send a Notice jointly to the Lot Owner and the tenant by First Class U.S. Mail, advising both parties [i] of the Lot Owner's delinquency in Assessments, [ii] of the tenant's obligations under this subsection of the Declaration, and [iii] notifying both parties that if such delinquency is not cured within ten (10) days of mailing, the tenant must commence paying rent to the Association until the delinquency has been cured. The tenant shall not have the right to question payment to the Association, and such payment shall discharge both the tenant's duty to pay rent to the Lot Owner and the Lot Owner's obligation to pay Assessments, *pro tanto*. (b) **Every Lot Owner, by virtue of taking title to a Lot in this Community and subsequently renting the Lot, shall be deemed for all purpose to have consented in advance to the Association giving the Notice described in this subsection to an Lot Owners' tenant. No additional consent or authorization from any Lot Owner shall be required in advance of the Association providing such a Notice.**
- 9.13 Remedies Cumulative. The remedies provided herein are cumulative and the Board may pursue them concurrently, along with any other remedies that may be available

under the law although not expressed herein. Suit to recover a personal judgment for any delinquent Assessment is maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

ARTICLE X
INSURANCE, DESTRUCTION, RESTORATION & DISTRIBUTION

10.1 Authority, General Provisions, Name of Insured.

10.1.1 General Provisions. Commencing not later than the time of the first conveyance of a Lot to a Person other than the Declarant, the Board of Directors shall obtain and maintain for the Association: property insurance, commercial general liability insurance, fidelity insurance and other insurance described in greater detail below in this Article X, under such terms and for such amounts as shall be deemed necessary or desirable by the Board. Levels of coverage and deductibles from coverage shall be determined annually by the Board with assistance from the agent of the insurance company or companies affording such coverage. Unless not reasonably available, such coverage shall follow the terms, conditions and amounts required by Section 10.2 hereof.

10.1.2 Name of Insured - Certain Insuring Arrangements Prohibited. The name of the insured under each required policy shall be stated as follows: "Woodberry Community Association." The Association must be the First Named Insured under each policy. Having the Association named as an "additional insured" or "additional named insured" in a pooled insurance program or agreement maintained by a Managing Agent or other third party, which provides coverage to unrelated projects, does NOT satisfy this requirement.

10.1.3 General Insuring Scheme - Limited Coverage for Owners and Tenants. The Association is not a guarantor of the health, safety or property of the Lot Owners, tenants, or other Occupants of the Community. The Association's policy does not and cannot provide coverage for the Dwelling on the Lot or other real property or personal property owned by or belonging to any Lot Owner, tenant, or other Occupant of a Lot, nor will the Association's policy provide coverage for liability for harm arising within a Lot. Further, the property coverage provided under the Association's policy will always include a "deductible," with the result that no loss to common property will be completely covered under the Association's policy.

10.1.4 Owners and Tenants Responsible for Acquiring their Own Insurance. Because of the limitations in coverage afforded under the Association's

policy, Lot Owners and tenants must acquire their own insurance coverage in order to be protected.

10.2 Association's Policies and Coverage.

10.2.1 Property Insurance. Any insurable portions of the Common Elements in this Community, along with any real property that must become Common Elements, shall be insured against casualty or physical damage in an amount equal to the maximum insurable replacement value thereof (i.e., 100% of replacement costs based upon the value of replacing all such insurable improvements in the Community exclusive of land, excavations and foundations, utilizing contemporary building materials and technology. Such coverage shall afford protection against loss or damage by fire, vandalism, malicious mischief, windstorm, and other hazards covered by the standard "broad form" and/or "special" extended coverage endorsements or their equivalent, and such other perils customarily covered by insurance for similar projects. The policy shall also cover other Common property including fixtures, building service equipment and common personal property and supplies owned by the Association or included in the Common Elements. It is intended that insurance coverage obtained by the Board be the most comprehensive insurance that is currently available for projects similar in age and size to this Community.

10.2.2 Liability Coverage. The Association's policy shall provide coverage for liability for death, personal injury and property damage arising from the use, ownership, or maintenance of any of the Common Elements, along with medical payments insurance. Such liability insurance should also cover any commercial spaces that are owned by the Association, even if they are leased to others. Coverage should be afforded under a commercial general liability policy for the entire Community, including all areas under the supervision of the Association. Limits of liability shall in no event be less than \$1,000,000 with respect to any single occurrence.

10.2.3 Fidelity Insurance. The Association must also obtain blanket fidelity insurance for any person who either handles (or is responsible for) funds that he or she holds or administers, whether or not that individual receives compensation for services; such a policy should name the Association as the insured and include a provision that calls for at least thirty days' written notice to the Association before the policy can be canceled or substantially modified for any reason. The policy should cover the maximum funds that will be in the custody of the Association or its Manager at any time while the policy is in force. A Manager that handles funds for the Association shall be named either as an employee or as a designated agent under the Association's fidelity policy, or an endorsement thereto, as appropriate.

10.2.4 Directors' and Officers' Insurance. Unless not reasonably available, the Board shall acquire Directors' and Officers' errors and omissions insurance to satisfy the Association's indemnification obligations under the Bylaws of the Association.

10.2.5 Miscellaneous Coverage. The Board may obtain coverage for earthquake and/or flood damage, and other forms of coverage reasonably available in the insurance marketplace that may appear necessary or desirable from time to time.

10.3 Certificates of Insurance Coverage.

An insurer that has issued an insurance policy to the Association must issue certificates or memoranda of insurance to the Association and, upon a request made in a Record, to any Lot Owner or holder of a security interest. The insurer issuing the policy may not modify the amount or the extent of the coverage of the policy or cancel or refuse to renew the policy unless the insurer has complied with all applicable provisions of chapter 48.18 RCW pertaining to the cancellation or nonrenewal of contracts of insurance. The insurer may not modify the amount or the extent of the coverage of the policy or cancel or refuse to renew the policy without complying with this Article X.

10.4 Owners' and Tenants' Policies.

10.4.1 Owners must acquire their own Insurance. Each Lot Owner should obtain, at such Owner's expense, a homeowner's insurance policy, to insure against loss or damage to the Dwelling and other improvements on the Lot, and to personal property used in or incidental to the occupancy of the Lot. Such coverage shall afford protection against:

(a) loss or damage by fire, vandalism, malicious mischief, windstorm, and other hazards covered by the standard "broad form" and/or "special" extended coverage endorsements or their equivalent, and such other perils customarily covered by insurance for Dwellings in similar projects.

(b) liability for death, personal injury and property damage arising from the use, ownership or maintenance of any part of the Lot., additional living expense, loss of rent, vandalism or malicious mischief, theft, personal liability, loss assessment coverage, and the like.

10.4.2 Tenants must acquire their own Insurance. Tenants may be held liable to the Association under circumstances described in detail in Section 12.4 hereof, and to other third parties under general principles of law. As a result, any tenant must obtain an HO-4 insurance policy, or equivalent, to protect the tenant from liability for death, personal injury and property damage arising

from the use, occupancy or maintenance of any part of the Lot, along with loss to personal property, additional living expense, vandalism or malicious mischief, theft and the like.

- 10.4.3 Board has no Obligation to Monitor Lot Owners' Insurance. The Association has no insurable interest in the Lots, the Dwellings or personal property owned by Lot Owners, tenants, or other Occupants. The Board of Directors is not obligated to monitor the existence or nonexistence of any insurance required under this Article X; such responsibility, and the risks to the Owner or tenant arising from a failure to have proper insurance are to be borne solely by the Lot Owner or tenant. An Owner or tenant who fails to maintain such insurance shall be deemed to have made an election to self-insure for the risks described in Section 10.4 and for any other risks for which coverage is readily available under HO-3 or HO-4 policies. A failure by the Owner or tenant to maintain such insurance or to make a claim under an existing policy, which failure results in an inability of such person to reimburse the Association for any form of economic loss, damage or other harm to the Association caused by such person shall constitute willful misconduct or gross negligence on the person's part.

10.5 Reconstruction Following Casualty Loss.

- 10.5.1 Duty to Reconstruct. Any portion of the Community for which insurance is required under this Section and for which the Board of Directors has the responsibility of repair that is damaged or destroyed shall be repaired or replaced as required by RCW 64.90.470(8).
- 10.5.2 Manner of Reconstruction. If destroyed or damaged property is to be reconstructed or repaired, the reconstruction or repair thereof shall be accomplished as nearly as practicable to the character of the building or improvement existing immediately prior to such casualty. Any reconstruction or repair shall be done in accordance with then prevailing Building Code requirements and may be done with contemporary building materials and achieved by utilizing updated construction systems and technology.

ARTICLE XI
CONDEMNATION

Provisions dealing with the effect of condemnation proceedings affecting this Community appear in RCW 64.90.030 and are otherwise not set forth herein.

ARTICLE XII
COMPLIANCE WITH LAW AND COVENANTS

- 12.1 Compliance by Lot Owners and Occupants. Each Lot Owner, tenant or other Occupant of a Lot shall comply strictly with the provisions of the Governing Law and the Governing Documents and Bylaws. All remedies provided to the Association in this Article may be enforced against any tenant or other Occupant of a Lot.
- 12.2 Liability for Conduct Causing Common Expense.
- 12.2.1 Liability for Negligence. Any expense of the Association caused by the negligence of any Lot Owner or that Lot Owner's tenant, guest, invitee or Occupant may be assessed against the Lot Owner's Lot after notice and an opportunity to be heard, to the extent of the Association's deductible and any expenses not covered under an insurance policy issued to the Association. Such liability shall include any increase in insurance rates occasioned by use, misuse, occupancy or abandonment of any Lot or its appurtenances. See Section 9.5 hereof.
- 12.2.2 Liability for Gross Negligence or Willful Misconduct. To the extent that any expense of the Association is caused by willful misconduct or gross negligence of any Lot Owner or that Lot Owner's tenant, guest, invitee, or Occupant may be assessed against the Lot Owner's Lot after notice and an opportunity to be heard, even if the Association maintains insurance with respect to that damage or Common Expense. Such liability shall include any increase in insurance rates occasioned by use, misuse, occupancy or abandonment of any Lot or its appurtenances. See Section 9.5 hereof.
- 12.2.3 Hearing to Determine Owner's Liability. An Owner whose conduct appears to justify imposition of a Specially Allocated Assessment pursuant to Subsections 12.2.1 through 12.2.2 above shall be first provided with Notice of the Board's intentions and an opportunity to be heard, in the manner provided in the bylaws for hearings regarding the imposition of sanctions against an Owner.
- 12.3 Enforcement by Association. The Board shall have primary responsibility for maintaining and enforcing compliance with the Governing Documents and Bylaws.
- 12.4 Tenants and Other Occupants Subject to Rights and Responsibilities of Lot Owners.
- 12.4.1 General Principles. Any Tenant or other Occupant of a Lot shall be deemed to be bound by all portions of the Governing Documents and Bylaws that are binding upon the Lot Owner thereof, other than the direct obligation to pay Common Expense Assessments to the Association. All

rights, remedies, and procedures available to the Association when dealing with Lot Owners under the Governing Documents or Bylaws shall be available to the Association when dealing with any tenant or other Occupant of a Lot Owner.

12.4.2 Remedies against Tenants. If a tenant of a Lot Owner violates the Governing Documents, in addition to exercising any of its powers against the Lot Owner, the Association may:

(a) Exercise directly against the tenant the powers described in RCW 64.90.405(2)(l);

(b) After giving Notice to the tenant and the Lot Owner and an opportunity to be heard, levy reasonable fines against the tenant and the Lot Owner for the violation; and

(c) Enforce any other rights against the tenant for the violation that the Lot Owner as the landlord could lawfully have exercised under the lease or that the Association could lawfully have exercised directly against the Lot Owner, or both. The rights referred to in this subsection may be exercised only if the tenant or Lot Owner fails to cure the violation within ten days after the Association notifies the tenant and Lot Owner of that violation.

12.5 Association's Rights under Leases. The Association shall have the right (but not the obligation) to terminate the lease of a tenant who, following a hearing held under provisions of the bylaws regarding the imposition of sanctions, has been found to have violated the Governing Documents; the Association shall be deemed a "real party in interest" in any legal proceeding brought to enforce this right. Unless a lease otherwise provides, the provisions of Subsection 12.4.2 above do not: (a) affect rights that the Lot Owner has to enforce the lease or that the Association has under other law; or (b) permit the Association to enforce a lease to which it is not a party in the absence of a violation of the Governing Documents.

12.6 Board's Discretion regarding Enforcement. The Board may determine whether to take enforcement action by exercising the Association's power to impose sanctions or commencing an action for a violation of the Governing Documents, including whether to compromise any claim for unpaid Assessments or other claim made by or against it.

12.7 Enforcement. The Declarant and each Lot Owner shall have the right to enforce, by any proceedings at law or in equity, all covenants, conditions, restrictions and reservations, now or hereafter imposed by this Declaration. The failure of the Declarant or of any Lot Owner to enforce any rights hereunder shall not be deemed to constitute a waiver of the right to do so thereafter. The prevailing party in any litigation involving the enforcement of any provision of this Declaration shall be

entitled to a judgment for the reasonable attorney's fees and costs incurred in such litigation by such prevailing party.

ARTICLE XIII LIMITATION OF LIABILITY

- 13.1 Liability of Directors and Officers. In the performance of their duties, officers and board members must exercise the degree of care and loyalty to the Association required of an officer or director of a corporation organized and are subject to the conflict-of-interest rules governing directors and officers, under chapter 24.06 RCW.
- 13.2 Indemnification of Officers and Directors. The Association shall indemnify and hold harmless each of the directors and officers of the Association from and against all contractual liability to others arising out of contracts made by the Board 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 or Bylaws. 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 a 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, against amounts paid in settlement incurred by him/her in connection with such action, suit or proceeding if she/he acted in good faith and in a manner she/he reasonably believed to be in, or not opposed to, the best interests of the Community or the Association, to the fullest extent authorized by RCW 23B.08.510, .520, .530, and .570, and any amendments thereto.

ARTICLE XIV MORTGAGEE PROTECTION

- 14.1 Rights Available only to Eligible Mortgagees. With respect to any action requiring the consent of a specified number or percentage of holders of Security Interests, the consent of only Eligible Mortgagees holding a first lien Security Interest need be obtained and the percentage must be based upon the votes attributable to Lots with respect to which Eligible Mortgagees have an interest.
- 14.2 Implied Approval by Mortgagee. The failure of an Eligible Mortgagee to respond within sixty (60) days to a written request from the Association delivered by certified or registered mail to such Eligible Mortgagee, "return receipt requested," seeking approval of [i] an amendment to the Community Declaration or the Articles of Incorporation or Bylaws of the Association, or [ii] any other proposed action of the Association as to which the approval of Eligible Mortgagees is required, shall

constitute an implied approval by such Eligible Mortgagee of such amendment or other action.

14.3 Rights of Secured Lenders – Specific Provisions.

14.3.1 Lenders entitled to Notice of Certain Actions.

The Association shall give prompt written Notice to each Eligible Mortgagee of, and each Lot Owner hereby consents to, and authorizes the giving of Notice of:

(a) Any condemnation loss or any casualty loss that affects a material portion of the Community or any Lot in which there is a first Mortgage held, insured, or guaranteed by such Eligible Mortgagee;

(b) Any delinquency in the payment of Common Expense Assessments owed by a Lot Owner whose Lot is subject to a first Mortgage held, insured, or guaranteed, by such Eligible Mortgagee;

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) Any proposed action that would require the consent of a specified percentage of Eligible Mortgagees as specified in section 14.4 below (in which case, Notice shall be provided by certified or registered mail, "return receipt requested"); and

(e) Any judgment rendered against the Association in excess of \$5,000.00 that is not covered by insurance.

14.4 Notice and Consent Required for Certain Actions.

14.4.1 Document Changes. Notwithstanding any lower requirement permitted by this Declaration or the Governing Law, no amendment of any material provision of the Governing Documents by the Association described in this subsection, the effect of which in the opinion of the Board would have a material adverse effect on lenders, may be effective without Notice to all Eligible Mortgagees, and the approval by Owners of Lots to which at least 67% (or any greater Lot Owner vote required in this Declaration or the Governing Law) of the votes in the Association are allocated, and approval in writing by Eligible Mortgagees who represent at least 67% (or any greater Eligible Mortgagee approval required by this Declaration) of the votes attributable to Lots with respect to which Eligible Mortgagees have an interest.

14.4.2 Specific Actions. Notwithstanding any lower requirement permitted by this Declaration or the Governing Law, the Association may not take any action

that, in the opinion of the Board, would have a material adverse effect on lenders, without Notice to all Eligible Mortgagees, approval by Owners of Lots to which at least 67% (or the indicated percentage, if different) of the votes in the Association are allocated, and approval in writing by Eligible Mortgagees who represent at least 67% (or the percentage indicated below, if different,) of the votes attributable to Lots with respect to which Eligible Mortgagees have an interest; the following (other than those taken pursuant to rights reserved by the Declarant as Development Rights) could be viewed as holding the potential for a material adverse effect on lenders:

- (a) Any action to abandon or terminate the legal status of the Community for reasons other than substantial destruction or condemnation, as to which a sixty-seven percent (67%) Eligible Mortgagee approval is required.
- (b) Abandon, partition, subdivide, encumber, sell, transfer or convey the Common Elements or any portion thereof, as to which the approval of Lot Owners to which at least eighty percent (80%) of the votes in the Association are allocated is required, and the procedures specified in subsection 14.4.2 hereof must be followed. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Association will not be deemed a transfer within the meaning of this clause;
- (c) The assignment of the future income of the Association, including its right to receive Common Expense Assessments.
- (d) The restoration or repair of the Property after hazard damage, as to which the approval of Lot Owners to which at least eighty percent (80%) of the votes in the Association are allocated is required, or after a partial condemnation, in a manner other than specified in the Governing Documents.
- (e) The merger of the Community with any other common interest community.

- 14.5 Rights of Association Lenders. A lender who has extended credit to the Association secured by an assignment of income or an encumbrance on the Common Elements may enforce its security agreement in accordance with its terms, subject to the requirements of the Governing Law and other law. A requirement that the Association must deposit its periodic common charges before default with the lender to which the Association's income has been assigned, or increase its common charges at the lender's direction by amounts reasonably necessary to amortize the loan in accordance with its terms, does not violate the prohibitions on lender approval contained in RCW 64.90.295(1), but lender requirements for deposits of Association income must be consistent with the provisions of RCW 64.90.530(3).

ARTICLE XV
EASEMENTS

15.1 Easements for Lots, Lot Owners and Association Functions.

15.1.1 Easement of Lots. Each Lot has an unrestricted, perpetual easement in and through each other Lot and the Common Elements for support and for utilities and, subject to the provisions of RCW 64.90.405(2)(f) and 64.90.465, each Lot Owner has an unrestricted perpetual right of ingress to and egress from his or her Lot over the Common Elements.

15.1.2 Easements for Association Functions. There is hereby granted, reserved, and declared to the Association, for its duly authorized agents and representatives, such easements (i.e., Upkeep of Lots and Common Elements and facilities, rights of entry and access, emergency access, regulatory responsibilities, utilities and roads, trail maintenance) as described below, and as are necessary to perform the duties and obligations of the Association as are set forth in the Governing Documents and Bylaws, including but not limited to the right of Upkeep by the Association in Section 4.6.2.

15.1.3 Utility Easements. Non-exclusive easements for utilities (including drainage, sewers, water pipes, utility facilities and services, water supply, electricity, gas, telephone, communications, and television) are hereby reserved over, under, upon, in and through all roadways, alleyways, private lanes, walkways, and over, under, upon, in and through those certain portions of Lots in which they are and/or shall be installed, laid, constructed, repaired and renewed, operated, maintained and inspected. This reservation of easements is for the benefit of the Declarant and its successors or assigns, as well as granted for the benefit of the Association, City, Puget Sound Energy, Cascade Natural Gas Company, Verizon, Comcast, and any other purveyors of such services as herein before described, as well as any of their successors in interest. To the extent there is a utilities conflict, the City shall have priority.

15.1.4 Easement for Emergency Access. A non-exclusive perpetual easement is hereby granted on, over, under and across the Common Elements to all police, fire, ambulance, and other rescue personnel for the lawful performance of their functions during bona fide emergencies as set forth on the Plat Map.

15.1.5 Right of Access. The Association, and City and their respective agents shall have a perpetual and nonexclusive easement and right, without any liability to the Lot Owner, for ingress/egress through any Lot (other than any portion thereof upon which a structure has been erected) for the purpose of maintaining any and all Common Elements, and exercising their rights

hereunder, including, but not limited, to easements for utilities, sanitary sewer, storm sewer, power, water, telephone service, cable television and gas, owned by or given for the benefit of the Association, or City, and for the purpose of enforcing any restrictions contained in this Declaration, as applicable.

15.1.6 Trail Easement. The Declarant hereby grants, reserves, and conveys to all Owners a non-exclusive, perpetual easement for pedestrian and bicycle access over and across the trail system located in Tract B, as well as specifically shown on the Plat Map. In addition, a separate trail easement is also established in favor of the general public and the Association pursuant to the recorded trail easement at Whatcom County Auditor's File No. _____. This trail easement is for the benefit of all Lots in the Property and the general public, and shall be part of the Common Elements. The Association shall be responsible for the maintenance and Upkeep of the trail, as provided in this Declaration. The Association may establish and maintain signs along the trail as may be approved by the City for the purposes of identifying and protecting open space and stormwater facilities. The trail easement granted herein is "as built" (meaning the easement is granted over the entire Tract but the easement itself is limited to the area that the trail is actually located), as the trail has not been precisely located. The trail easement is limited to the constructed trail and bench only and does not extend to any other real property within the Property. The Association may record an updated survey showing the exact location of the trail within the easement area and shall supply the City in writing of the results of said survey, including the record of survey. Any portion of the trail easement shall not be relocated without prior review and approval of the City.

15.2 Easements for Declarant. The Declarant, pursuant to the Governing Law, hereby reserves easements through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or for exercising Special Declarant Rights, whether arising under the Governing Law or reserved in this Declaration. Without limiting the generality of the foregoing, such easements include the following:

15.2.1 General Reservation of Easements. Declarant hereby reserves non-exclusive easements for ingress, egress, and utilities over and across all Common Elements.

15.2.2 Specific Rights. The easements reserved under this Section 15.2 shall entitle the Declarant and its affiliates, successors, devisees and transferees, for the development to tie into water, sewer, storm sewer, electrical, gas, telephone or other utility conduits, lines, pipes, culverts or other facilities of any nature or description whatsoever, and to travel

over and connect with roadways, driveways, walkways, open areas or utility systems developed and employed in any portion of the Community. The Declarant also reserves the right to grant easements to public utility companies and to convey to such company's utility lines, pipes, wires, ducts, conduits and/or other facilities in furtherance of such grants.

- 15.2.3 Easements for Regulatory Responsibilities. Easements necessary for the Declarant and Association as necessary to complete all obligations and responsibilities related to the Community imposed by any local, state or federal jurisdiction or regulatory agency, including but not limited to obligations or responsibility in the Stormwater Maintenance Manual are hereby reserved over, under, upon, in and through Tracts and Lots, as necessary.
- 15.3 Easements Shown on Plat Map. The easements shown on the Plat Map are for the benefit of the Lot Owners and Occupants of Lots, for utility providers, access, and for the City as noted on the Plat Map. These easements are non-exclusive easements and are subject to Rules established by the Association.
- 15.4 Stormwater Easement. A stormwater easement has been recorded at Whatcom County Auditor's File No. _____, which allows certain adjoining property to the Woodberry PUD Plat to utilize certain portions of the Stormwater Facilities at a future time. Please reference the stormwater easement for more details.

ARTICLE XVI AMENDMENT OF DECLARATION

- 16.1 Procedure for Amendment of Declaration. Amendments to the Declaration are governed by RCW 64.90.285.
- 16.2 Amendments affecting Easements. No amendment or termination of this Declaration shall affect, change or terminate any of the easements described in Sections 15.1.2, 15.1.3, 15.5, 15.7, 15.9, 15.10 of this Declaration, the Stormwater Facilities, without the consent of the City of Blaine and all benefited Lots to the easements.

ARTICLE XVII TERMINATION OF COMMUNITY

The Lot Owners may elect to terminate the legal status of the Property only in accordance with the provisions of RCW 64.90.290, with the requisite approval of Eligible Mortgagees and other lienholders as may be required by law, or by Article XIV hereof, provided that City of Blaine must also consent to such action before it may become effective.

ARTICLE XVIII
MISCELLANEOUS

- 18.1 Notice. Notice shall be given as required under RCW 64.90.515.
- 18.2 Severability. All provisions of the Governing Documents are severable. If any provision of a governing document, or its application to any Person or circumstances, is held invalid, the remainder of the governing document, or application to other Persons or circumstances is not affected.
- 18.3 No Right of First Refusal. There is no right of first refusal in the Association limiting or restricting the right of any Lot Owner to sell, transfer or convey his or her Lot.
- 18.4 No Discrimination. The Association shall not discriminate on the basis of race, color, religion, national origin, familial status, handicap or other protected class. The Association shall make reasonable accommodations in its policies and procedures and permit reasonable modifications of premises where necessary or appropriate to comply with law.
- 18.5 Obligation of Good Faith. Every duty governed under this Declaration or the Governing Law imposes an obligation of good faith in its performance or enforcement.
- 18.6 Effective Date. This Declaration shall take effect upon recording.

DATED this _____ day of _____, 2021.

WOODBERRY LAND DEVELOPMENT, L.L.C.

By: Brady Mayson
Its: Managing Member

STATE OF WASHINGTON)
 : ss.
COUNTY OF WHATCOM)

On this _____ day of _____, 2021, before me personally appeared Brady Mayson, to me known to be the Managing Member of the company that

executed the within and foregoing instrument to be the free and voluntary act and deed of said company for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

PRINTED NAME: _____
Notary Public in and for the State of Washington,
residing at _____, Washington.
My Commission Expires: _____.

ARTICLE XVIII
MISCELLANEOUS

- 18.1 Notice. Notice shall be given as required under RCW 64.90.515.
- 18.2 Severability. All provisions of the Governing Documents are severable. If any provision of a governing document, or its application to any Person or circumstances, is held invalid, the remainder of the governing document, or application to other Persons or circumstances is not affected.
- 18.3 No Right of First Refusal. There is no right of first refusal in the Association limiting or restricting the right of any Lot Owner to sell, transfer or convey his or her Lot.
- 18.4 No Discrimination. The Association shall not discriminate on the basis of race, color, religion, national origin, familial status, handicap or other protected class. The Association shall make reasonable accommodations in its policies and procedures and permit reasonable modifications of premises where necessary or appropriate to comply with law.
- 18.5 Obligation of Good Faith. Every duty governed under this Declaration or the Governing Law imposes an obligation of good faith in its performance or enforcement.
- 18.6 Effective Date. This Declaration shall take effect upon recording.

DATED this _____ day of _____, 2021.

WOODBERRY LAND DEVELOPMENT, L.L.C.

By: Brady Mayson
Its: Managing Member

STATE OF WASHINGTON)

: ss.

COUNTY OF WHATCOM)

On this _____ day of _____, 2021, before me personally appeared Brady Mayson, to me known to be the Managing Member of the company that executed the within and foregoing instrument to be the free and voluntary act and deed of said company for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

PRINTED NAME: _____

Notary Public in and for the State of Washington,
residing at _____, Washington.

My Commission Expires: _____.

LIST OF EXHIBITS

Exhibit "A"	Legal Description
Exhibit "B"	Impervious Surface Allocation
Exhibit "C"	Impervious Surface Covenant
Exhibit "D"	Stormwater Operation and Maintenance Manual
Exhibit "E"	Architectural and Contractor Standards

Exhibit "A"

Legal Description

THAT PORTION OF THE PLAT OF ELDRIDGE AND MCCARTY'S FIRST ADDITION TO DRAYTON, WASHINGTON, WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 3 OF PLATS, PAGE 2, RECORDS OF WHATCOM COUNTY, WASHINGTON, LYING WESTERLY OF THE RIGHT-OF- WAY FOR SEMIAHMOO PARKWAY. TOGETHER WITH THE VACATED STREETS AND ALLEYWAYS WITHIN SAID PLAT; EXCEPT THAT PORTION THEREOF CONVEYED FOR SEMIAHMOO PARKWAY BY DEED RECORDED OCTOBER 16, 1984, UNDER AUDITOR'S FILE NO. 1491713, RECORDS OF WHATCOM COUNTY, WASHINGTON;

ALSO, EXCEPT THE SOUTH 248.16 FEET OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 40 NORTH, RANGE 1 WEST OF W.M., LYING WESTERLY OF THE RIGHT-OF-WAY OF SEMIAHMOO PARKWAY;

ALSO EXCEPT THAT PORTION OF SAID PLAT LYING WITHIN SECTION 14, TOWNSHIP 40 NORTH, RANGE 1 WEST OF W.M.;

ALSO EXCEPT PORTION LYING WITHIN SEMIAHMOO FIREHALL SHORT PLAT, RECORDED UNDER AUDITOR'S FILE NO. 910605122.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

Exhibit "B"

Woodberry PUD
Distribution of Allowable Impervious Surfaces

Lot #	Lot Size (S.F.)	Allowed Impervious Surface (S.F.)
Lot 1	10,492	4,172
Lot 2	9,316	4,146
Lot 3	8,417	4,662
Lot 4	8,163	3,975
Lot 5	11,220	4,532
Lot 6	13,119	6,637
Lot 7	8,443	3,930
Lot 8	8,208	4,394
Lot 9	8,360	4,039
Lot 10	8,372	4,620
Lot 11	8,372	4,168
Lot 12	8,372	4,266
Lot 13	8,372	3,970
Lot 14	8,336	4,203
Lot 15	10,099	5,345
Lot 16	8,503	4,200
Lot 17	8,477	4,168
Lot 18	8,450	4,123
Lot 19	8,369	4,588
Lot 20	8,341	3,842
Lot 21	13,082	5,052
Lot 22	9,206	4,010
Lot 23	10,236	4,514
Lot 24	8,893	4,304
Lot 25	8,693	4,494
Lot 26	9,324	4,512
Lot 27	9,393	4,040
Lot 28	10,504	4,294
Lot 29	11,223	4,505
	270,355	127,708

Exhibit C

STORMWATER COVENANT

SAMPLE

WHEN RECORDED RETURN TO:

Document Title: Stormwater Covenant
Grantor/borrower:
Abbreviated Legal Description:
Full Legal Description:
Tax Parcel:

STORMWATER COVENANT

This Stormwater Covenant ("Covenant") is made effective the ____ day of _____,
____ by _____ ("Owner").

RECITALS:

A. Owner is the owner of those certain lots ("Lots") legally described on Exhibit "A" hereto and by this reference incorporated herein. The Lots are located within Woodberry PUD Plat recorded at Whatcom County Auditor's File No. _____ and subject to the Declaration of Covenants, Conditions, Reservations and Restrictions for Woodberry PUD Plat recorded at Whatcom County Auditor's File No. _____ ("Declaration").

B. In order to prevent stormwater runoff that exceeds the stormwater facility design limitations for Woodberry PUD Plat, each Lot has been assigned an "Allowable Impervious Area" attached as Exhibit "B" to the Declaration.

C. Owner wishes to reallocate the Allowable Impervious Area among the Lots, without exceeding the total Allowable Impervious Area for all of the Lots combined, as set forth on Exhibit "B" hereto and by this reference incorporated herein.

COVENANT

NOW, THEREFORE, in consideration of the mutual benefits and responsibilities established herein, Owner hereby imposes the following covenant on the Lots.

EXHIBIT “A”

LEGAL DESCRIPTION OF LOTS

(TO BE COMPLETED WITH
STORMWATER COVENANT)

EXHIBIT “B”

ALLOWABLE IMPERVIOUS AREA

(TO BE COMPLETED WITH
STORMWATER COVENANT)

Exhibit “D”

STORMWATER OPERATION AND MAINTENANCE MANUAL

WOODBURY PUD

BLAINE, WASHINGTON

STORMWATER FACILITIES OPERATIONS & MAINTENANCE MANUAL

Prepared for:
Woodberry Land Development, LLC.
PO Box 438
Custer, WA 98240

Prepared by:
CASCADE ENGINEERING GROUP, P.S., INC
119 Grand Avenue, Suite D
Bellingham, WA 98225
(360) 306-8161

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1.0 INTRODUCTION

This plan has been prepared for use by the system operator, the Woodberry Homeowners Association (WHA), for the operation and maintenance of the site's stormwater facilities. The WHA shall be responsible for the operation and maintenance of the entire private stormwater system. This manual describes each of the stormwater system components, how they are intended to operate, and what maintenance activities shall be followed. The main components are the stormwater conveyance system and the water quality treatment bioretention area. Each component is designed to operate with a minimum of maintenance; however some maintenance will be required.

The site includes 29 single family lots with their associated access road and underground utilities. The stormwater conveyance directly captures runoff from the building roofs and the access road and routes it to the bioretention area. Driveway runoff sheets flows to the road where it is also captured by this system. The bioretention area treats the runoff by passing it through a filter layer of amended soils (bioretention soil mix). The treated runoff is captured in a perforated pipe under the treatment layer, which is then routed to a collection catch basin. The collection catch basin also contains an open grate cover to capture any overflow from the infrequent large storm events. Runoff from the catch basin is routed to the Semiahmoo Drive roadside ditch, which will convey the runoff to Semiahmoo Bay.

The attached construction drawings (Attachment 1) provide information on the stormwater conveyance system and the bioretention area.

2.0 STORMWATER CONVEYANCE SYSTEM

2.1 Piping System, Catch Basins, and Discharge Facilities

Description

Runoff from the roads is routed to a catch basin and stormwater conveyance system located along the edge of the road. Roof drains are connected to conveyance pipe, located along the back of the sidewalk, which discharge into the catch basins. The site is graded such that driveways are sloped to the road.

Operation

There are no operational needs for this system other than the maintenance functions listed below.

Maintenance:

Annual inspections are initially proposed. Based on a few years of experience, the maintenance schedule may be adjusted to more frequent inspections and/or cleaning if required.

Catch Basins:

Catch basins shall be visually inspected each year. The covers shall be removed, and a light directed at the pipe invert and catch basin and manhole sumps. Any debris shall be removed. Any large build-up of sediment in the sump areas shall also be removed.

Storm Piping:

Storm conveyance pipes shall be inspected at the same time as the catch basins. Careful attention shall be given to the build-up of sediment and debris within the invert (bottom) of the pipe. If more than one-inch of sediment is observed, then the sediments shall be removed through cleaning. Any line flushing to remove sediment or debris shall only be done during periods of dry weather. This is to avoid the potential of sediment laden cleaning water from entering the downstream system and diminishing the function of the stormwater treatment or detention facilities.

Pipe Outfalls:

Pipe outfalls into the bioretention area and the site's outfall onto the riprap apron along the Semiahmoo Parkway ditch shall be visually inspected a minimum of twice per year, with one of these inspections occurring in September or October, prior to the beginning of the rainy season. Any debris shall be removed. Any large buildup of sediment (four to six inches) surrounding the end of the pipe shall also be removed. Quarry spall depth shall be confirmed to be in accordance with the construction details and repairs shall be made as required.

Perform additional maintenance as required and described in the Department of Ecology (DOE) *BMP Maintenance Tables*, from Volume V, Appendix A of the 2019 DOE Manual – see Attachment 2.

3.0 STORMWATER TREATMENT SYSTEM

3.1 Bioretention

Description

Bioretention areas are shallow landscaped depressions, with a designed soil mix (the bioretention soil mix) and plants adapted to the local climate and soil moisture conditions that receive stormwater from a contributing area. Bioretention uses the imported bioretention soil mix as a treatment medium. The pollutant removal mechanisms include filtration, adsorption, and biological action. For additional information, see BMP T7.30, *Bioretention*, in Volume V of the Department of Ecology's 2019 *Stormwater Management Manual for Western Washington*.

Bioretention areas require annual plant, soil, and mulch layer maintenance to ensure optimum infiltration, storage, and pollutant removal capabilities. In general, bioretention maintenance requirements are typical landscape care procedures and include:

- Watering: Plants should be selected to be drought tolerant and not require watering after establishment (2 to 3 years). Watering may be required during prolonged dry periods after plants are established.
- Erosion control: Inspect flow entrances, ponding area, and surface overflow areas periodically, and replace soil, plant material, and/or mulch layer in areas if erosion has occurred. Properly designed facilities with appropriate flow velocities should not have erosion problems except perhaps in extreme events. If erosion problems occur the following should be reassessed:

- (1) flow volumes from contributing areas and bioretention cell sizing;
- (2) flow velocities and gradients within the cell; and
- (3) flow dissipation and erosion protection strategies in the pretreatment area and flow entrance.

If sediment is deposited in the bioretention area, immediately determine the source within the contributing area, stabilize, and remove excess surface deposits.

- Sediment removal: Follow the maintenance plan schedule for visual inspection and remove sediment if the volume of the ponding area has been compromised.
- Plant material: Depending on aesthetic requirements, occasional pruning and removing dead plant material may be necessary. Replace all dead plants and if specific plants have a high mortality rate, assess the cause and replace with appropriate species. Periodic weeding is necessary until plants are established.
 1. Weeding: Invasive or nuisance plants should be removed regularly and not allowed to accumulate and exclude planted species. At a minimum, schedule weeding with inspections to coincide with important horticultural cycles (e.g., prior to major weed varieties dispersing seeds). Weeding should be done manually and without herbicide applications. The weeding schedule should become less frequent if the appropriate plant species and planting density are used and the selected plants grow to capture the site and exclude undesirable weeds.
 2. Nutrient and pesticides: The soil mix and plants are selected for optimum fertility, plant establishment, and growth. Nutrient and pesticide inputs should not be required and may degrade the pollutant processing capability of the bioretention area, as well as contribute pollutant loads to receiving waters. By design, bioretention facilities are located in areas where phosphorous and nitrogen levels may be elevated and these should not be limiting nutrients. If in question, have soil analyzed for fertility.
 3. Mulch: In residential settings or other areas where metals or other pollutant loads are not anticipated to be high, replace or add mulch as needed (likely 3 to 5 years) to maintain a 2 to 3 inch depth.
 4. Soil: Soil mixes for bioretention facilities are designed to maintain long-term fertility and pollutant processing capability. Estimates from metal attenuation research suggest that metal accumulation should not present an environmental concern for at least 20 years in bioretention systems, but this will vary according to pollutant load. Replacing mulch media in bioretention facilities where heavy metal deposition is likely provides an additional level of protection for prolonged performance. If in question, have soil analyzed for fertility and pollutant levels.

Perform additional maintenance as required and described in the Department of Ecology (DOE) *BMP Maintenance Tables*, from Volume V, Appendix A of the 2019 DOE Manual – see Attachment 2. A Maintenance Log form is also included as an attachment.

ATTACHMENTS

1. Reference sheets from *Woodbury PUD Construction Plans*, Cascade Engineering Group, August 20, 2021 (not attached):
 - C7 – Utility Overview
 - C8 – Woodberry Lane, Street and Storm (plan & profile)
 - C9 – Woodberry Place, Street and Storm (plan & profile)
 - C10 – Woodberry Lane, Street and Storm (plan & profile)
 - C11 – Woodberry Lane Entrance, Street and Storm (plan & profile)
 - C16 – Site Storm (Bioretention Area)
 - C17 – Stormwater Bioretention Cell Details
 - C18 – Pond Details (bioretention details)
 - C20- - Pond Landscape (bioretention landscape plan)
 - C22 – Storm Details (catch basin and drain details)
2. WDOE Section V-A *BMP Maintenance Tables* (5 pages)
3. Woodberry Development Stormwater Facility Maintenance Log Sheet (2 pages)

Refer to the *Woodbury PUD Stormwater Site Plan* for additional figures and information.

WOODBERRY PUD

O&M MAINTENANCE STANDARDS

Maintenance of the stormwater facilities shall be provide in accordance with the Best Management Practices (BMPs) maintenance standards as stated in the Washington State Department of Ecology Stormwater Management Manual for Western Washington, latest edition. These standards, current as of August 2021, are from the 2019 manual, Volume V, Appendix V-A, Maintenance Standards, and included the following standards:

- Table V-A.5: Maintenance Standards – Catch Basins
- Table V-A.21: Maintenance Standards – Bioretention Facilities

WOODBERRY DEVELOPMENT

STORMWATER FACILITY MAINTENANCE LOG SHEET

DATE: _____

TIME: _____

WEATHER CONDITIONS: _____ CHECKED BY: _____

SYSTEM COMPONENT	CONDITION	FOLLOW-UP ACTION	DATE ACTION COMPLETED
STORMWATER CONVEYANCE SYSTEM			
Catch Basins			
Pipes			
Pipe Outfalls			

Notes:

WOODBERRY DEVELOPMENT

STORMWATER FACILITY MAINTENANCE LOG SHEET

SYSTEM COMPONENT	CONDITION	FOLLOW-UP ACTION	DATE ACTION COMPLETED
BIORETENTION CELL			
Sediment Level			
Bioretention Plants			
Nuisance Plants			
Debris			
Side Slope Ground Cover			
Emergency Overflow Weir			
Overflow Catch Basin Structure (interior and exterior)			
Inflow and Outflow Pipes			
Underdrain Pipes			

Exhibit “E”

ARCHITECTURAL and CONTRACTOR STANDARDS

ARCHITECTURAL and CONTRACTOR STANDARDS. Outline of Architectural Standards and Restrictions.

The following is an outline of the architectural portion of the Woodberry Home Owners Association Declarations of Covenants, Conditions and Restrictions (commonly referred to as the CC&Rs) as provided to the property owner upon purchase. The purpose of the CC&Rs is to preserve the natural beauty of the Woodberry Plat; to establish and preserve a harmonious and aesthetically pleasing design for the development; and to protect and promote the overall value of Woodberry and surrounding neighborhoods.

1. **Setback and Height Limits:** No home shall exceed 35 feet in height from the average lot grade to the peak of the roof. All construction of improvements within a parcel shall be set back from the boundaries of each parcel a minimum of 10 feet for rear yards, 5-feet for side yards, and 10- feet for front yards for non-garage portions of the home and 20-feet for garages.
2. **Minimum Living Space:** All homes shall be a minimum of 1,200 sq. ft. of living space.
3. **Roof Pitch:** 4:12 minimum, 12:12 maximum.
4. **Roofing material(s):** Approved materials shall include natural cedar shingles or shakes, tile or a 30-year architectural composition.
5. **Roof Plan:** Should not exceed 35% flat. No rooftop mechanical devices except flues and vents. Solar collectors and/or skylights mounted on roof plane should not exceed 20% of total roof area.
6. **Siding & Accent Material(s):** The primary siding material shall be wood, wood shingle, concrete composite lap or brick and it must appear on all elevations. The accent material(s) shall be wood shingles, concrete composite, stone, brick, stucco, etc. Alternatives may be approved by the Woodberry Architectural Standards Committee (WASC). Accent materials shall cover between 10 and 30 percent of the street facing façade(s).
7. **Exterior Color Scheme:** Exterior finish shall be of earth tone hues acceptable to WASC. (Usually, your exterior colors should vary from your immediate neighbors' exterior colors.)
8. **Window Sash:** Permitted materials include: wood, aluminum and vinyl in acceptable colors.
Natural aluminum is not permitted.
9. **Foundation Exposure:** Above grade foundation exposure is not to exceed twelve (12) inches.
 - 9.1. Exposures greater than twelve inches *may be allowed in limited circumstances,*

and can be treated with a siding veneer, a rock veneer, sandblasting, or other remedy pre-approved by WASC.

10. **Driveway:** Allowed materials include: asphalt, concrete, brick, or Cementous pavers.
11. **Service Yards:** Should be screened from view and contiguous with lines of house. Screening fence or landscaping shall be at least 6' high.
12. **Exterior Appearance:** Exterior elements not allowed include: outside clotheslines, tarps, perimeter fencing (except as may otherwise be allowed by the CC&Rs) and foil or reflective material used on windows.
13. **Utility and Service Connections** (gas and electric meters, telephone and security system boxes, etc.): must be located in an obscure location and clearly shown on plans; must be screened from view; and must be painted to match the house if located too high on the wall to be screened with landscaping.
14. **Exterior Lighting:** Type and placement of exterior lighting devices must be approved by WASC. All proposed exterior fixtures must be indicated on the exterior elevation plans. The objective is to eliminate glare and annoyance to adjacent property owners and passersby. Although indirect lighting (defined below) is preferred, limited direct lighting (defined below) may be acceptable. Direct lighting is to be used for decoration and accent only and must not be used for safety purposes. Acceptable Indirect Safety Lighting fixture types include: recessed can or pot lights; below-ground, up lighting; low-louvered, landscape lights; and wall-mounted, shielded up/down lights. Direct Decorative Lighting fixtures will be assessed by the WASC on a case-by-case basis. Under no circumstances will clear or colored glass or bulbs be allowed, and in no case may the total wattage per fixture exceed 25 watts. Security Lighting: Any direct lighting over 25 watts must be switched by motion detector only. Detection range is limited to your property.
15. **Mail Boxes:** A group mailbox will be provided within the entryway.
16. **Signs:** One approved sign with owner's last name permitted.
17. **Antennas:** No radio receivers or antennas are permitted outside the house. Satellite dishes 18" in diameter or less may be allowed, if unobtrusive, so as to blend with the surroundings.
18. **Pets:** Dog kennels, when authorized, must be screened and constructed matching the home exterior.
19. **Completion:** The home exterior and landscaping must be completed within one year after the construction has begun.
20. **Landscaping:** All landscaping must be completed within ninety days of occupancy or

substantial completion of the construction. Also see Tree guidelines.

21. **Excavating:** Please exercise care when excavating; excavation may not encroach upon neighboring lots. Do not push dirt against trees.
22. **Brushing/Clearing:** Hillside lots should not be severely cleared too far in advance of building start, for erosion control.
23. **Gate Use and Gate Codes:** Contractors may call the Woodberry Architectural Standards Committee office for a temporary gate code. This code may be given to subcontractors and suppliers. Contact WASC when construction is complete.
24. **Construction Debris:**
 - 24.1. **A trash receptacle must be on-site at all times.** A thorough clean up must be conducted at the end of each day of all personal and construction debris. Dumpster must be emptied as needed to maintain an orderly site.
 - 24.2. **Streets are to be kept free of dirt and debris.** Building materials must be neatly maintained at all times.
 - 24.3. **Construction vehicles are to be parked on site.** Or, adjacent to site on one side of the street only, and are to be removed (except for large construction equipment) every night.
 - 24.4. **Drainage patterns are to be checked closely during construction** to avoid erosion onto neighboring lots and into storm drains. Under no circumstance will the physical impact of construction on the adjacent properties be allowed without specific written permission of the affected property owners.
25. **Job Trailer:** One trailer, or “job shack”, per site is allowed, and it must be kept unobtrusive. The unit shall be small in size, as far off the road as possible, maintained neatly, and removed when construction is substantially complete.
26. **Temporary Sanitary Facilities:** The door should be turned away from the street and neighbors, and be located well onto the property.
27. **Common Courtesy:** The impact of any construction on nearby neighbors should be kept to an absolute minimum. Concerns include: parking and noise outside of normal working hours or workdays.
28. **Street and Pathway Repairs:** Streets, gutters and/or pathways which are disturbed during construction must be repaired to original condition.
29. **Crawl Space Access Covers and Roof Vents:** Crawl space access covers must either match the exterior of the home, or be painted to match the exterior of the home (if a galvanized cover is used). Plastic and metal roof vents must blend with roofing (i.e. painted to blend with the roofing).

LANDSCAPE AND TREE GUIDELINES

1. Landscape Plan

WASC does not dictate a style of landscaping to Woodberry homeowners. Each lot is unique. In order to maintain the aesthetic quality of the Woodberry Community, the landscape plan must be tailored to the needs of each lot. A landscape plan shall be submitted to WASC and those most likely to be approved shall include the following;

- Plants and trees placed in locations appropriate for their size and growth patterns.
- A greater quantity of conifers and indigenous trees and a lesser quantity of ornamental trees.
- A blending of landscape features with adjacent lots and common areas.
- A limited amount of unplanted or sparsely planted bark areas.
- Care shall be given to include landscape screening between adjoining properties.
- Plans can be drawn by the owner they need not be drawn by designer