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SNOHOMISH COUNTY, WASHINGTON

**DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
COPPER STATION**

Grantor:	<u>COPPER STATION RESIDENTIAL, LLC</u>
Grantee:	<u>PLAT OF COPPER STATION</u>
Legal Description (abbreviated):	<u>Portion of SW 1/4, Sec 17, T32N, R4E</u>
<input checked="" type="checkbox"/> Additional on:	<u>EXHIBIT A</u>
Assessor's Tax Parcel ID #:	<u>320417-003-009-00</u>
Reference Nos. of Documents Released or Assigned:	<u>N/A</u>

**DECLARATION
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FOR
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TABLE OF CONTENTS

	Page
ARTICLE 1. CREATION OF THE COMMUNITY	1
1.1. Purpose and Intent.....	1
1.2. Binding Effect.....	1
1.3. Governing Documents.....	1
ARTICLE 2. CONCEPTS AND DEFINITIONS	2
ARTICLE 3. USE AND CONDUCT.....	5
3.1. General Use Restrictions.....	5
3.2. Restricted Activities.....	5
3.4. Protection of Owners and Others.....	7
ARTICLE 4. IMPROVEMENTS AND LANDSCAPING.....	9
4.1. General.....	9
4.2. Design Review.....	9
4.3. Guidelines and Procedures.....	10
4.4. No Waiver of Future Approvals.....	12
4.5. Variances.....	12
4.6. Limitation of Liability.....	12
4.7. Certificate of Approval.....	13
ARTICLE 5. MAINTENANCE AND REPAIR.....	13
5.1. Maintenance of Common Areas.....	13
5.2. Maintenance of Units.....	13
5.3. Responsibility for Repair and Replacement.....	14
ARTICLE 6. THE ASSOCIATION AND ITS MEMBERS	14
6.1. Function of Association.....	14
6.2. Membership.....	14
6.3. Voting.....	15
ARTICLE 7. ASSOCIATION POWERS AND RESPONSIBILITIES	15
7.1. Acceptance and Control of Association Property.....	15

7.2.	Maintenance of Common Areas.....	15
7.3.	Insurance.....	16
7.4.	Compliance and Enforcement.....	19
7.5.	Implied Rights; Board Authority.....	21
7.6.	Indemnification of Officers, Directors and Others.....	21
7.7.	Security.....	21
7.8.	Provision of Services.....	22
7.9.	Relations with Other Properties.....	22
7.10.	Facilities and Services Open to the Public.....	22
7.11.	Native Growth Protection Areas.....	23
ARTICLE 8.	ASSOCIATION FINANCES.....	23
8.1.	Budgeting and Allocating Common Expenses.....	23
8.2.	Budgeting for Reserves.....	24
8.3.	Special Assessments.....	24
8.4.	Specific Assessments.....	24
8.5.	Authority to Assess Owners; Time of Payment.....	25
8.6.	Obligation for Assessments.....	25
8.7.	Lien for Assessments.....	26
8.8.	Exempt Property.....	27
8.9.	Capitalization of Association.....	27
ARTICLE 9.	EXPANSION OF THE COMMUNITY.....	27
9.1.	Expansion by the Association.....	27
9.2.	Additional Covenants and Easements.....	28
9.3.	Effect of Recording Supplemental Declaration.....	28
ARTICLE 10.	ADDITIONAL RIGHTS RESERVED TO DECLARANT.....	28
10.1.	Withdrawal of Property.....	28
10.2.	Marketing and Sales Activities.....	28
10.3.	Right to Develop.....	29
10.4.	Right to Approve Additional Covenants.....	29
10.5.	Right to Transfer or Assign Declarant Rights.....	29
10.6.	Easement to Inspect and Right to Correct.....	29
ARTICLE 11.	EASEMENTS AND RESTRICTIONS.....	30
11.1.	Easements in Common Areas.....	30
11.2.	Easements of Encroachment.....	31
11.3.	Easements for Utilities, etc.....	31
11.4.	Easements for Maintenance, Emergency and Enforcement.....	32
ARTICLE 12.	LIMITED COMMON AREAS.....	32
12.1.	Purpose.....	32
12.2.	Designation.....	32

ARTICLE 13. PARTY WALLS AND OTHER SHARED STRUCTURES32

13.1. General Rules of Law to Apply.....32

13.2. Maintenance; Damage and Destruction.....33

13.3. Right to Contribution Runs with Land.....33

13.4. Disputes.....33

ARTICLE 14. DISPUTE RESOLUTION AND LIMITATION ON LITIGATION33

14.1. Consensus for Association Litigation.....33

ARTICLE 15. MORTGAGEE PROVISIONS36

ARTICLE 16. CHANGES IN OWNERSHIP OF UNITS37

ARTICLE 17. CHANGES IN COMMON AREAS.....37

17.1. Condemnation.....37

17.2. Partition.....38

17.3. Transfer or Dedication of Common Areas.38

ARTICLE 18. AMENDMENT OF DECLARATION38

18.1. By Declarant.....38

18.2. By Members.....38

18.3. Validity and Effective Date.39

ARTICLE 19. MISCELLANEOUS.....39

19.1. Duration.....39

19.2. Severability.....40

ARTICLE 20. REQUIRED MAINTENANCE; CHANGES TO COMMON AREAS.40

EXHIBIT A LAND INITIALLY SUBMITTED

EXHIBIT B INITIAL DESCRIPTION OF COMMON AREAS

EXHIBIT C NATIVE GROWTH PROTECTION AREA TRACTS

**DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
COPPER STATION**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is dated for reference purposes March 1, 2007 and is made by **COPPER STATION RESIDENTIAL, LLC**, a Washington limited liability company ("Declarant")

ARTICLE 1. CREATION OF THE COMMUNITY

1.1. Purpose and Intent.

Declarant, as the owner of the real property described in **EXHIBIT A**, intends by recording this Declaration to create a general plan of development for the residential community known as Copper Station. This Declaration provides for the overall development, administration, maintenance and preservation of the real property now and hereafter comprising the community. An integral part of the development plan is the creation of Copper Station Owners Association, an association comprised of all owners of residential real property in the community, to own, operate and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents described in this Declaration

Copper Station is situated within the City of Stanwood, Washington, and is subject to the codes and ordinances of the City together with all other applicable laws and regulations of other governmental jurisdictions

1.2. Binding Effect.

All property described in **EXHIBIT A** shall be owned, conveyed and used subject to all of the provisions of this Declaration, which shall run with the title to such property. Except as otherwise specifically provided, this Declaration shall be binding upon all Persons having any right, title or interest in any portion of the Property, their heirs, successors, successors-in-title and assigns.

1.3. Governing Documents.

The Governing Documents create a general plan of development for the Property. Nothing in this Section shall preclude any Supplemental Declaration or other recorded covenants applicable to any portion of the Property from containing additional

restrictions or provisions which are more restrictive than the provisions of this Declaration

All provisions of the Governing Documents shall apply to all Owners and to all occupants of their Units, as well as their respective tenants, guests and invitees. Any lease of a Unit shall provide that the lessee and all occupants of the leased Unit shall be bound by the terms of the Governing Documents

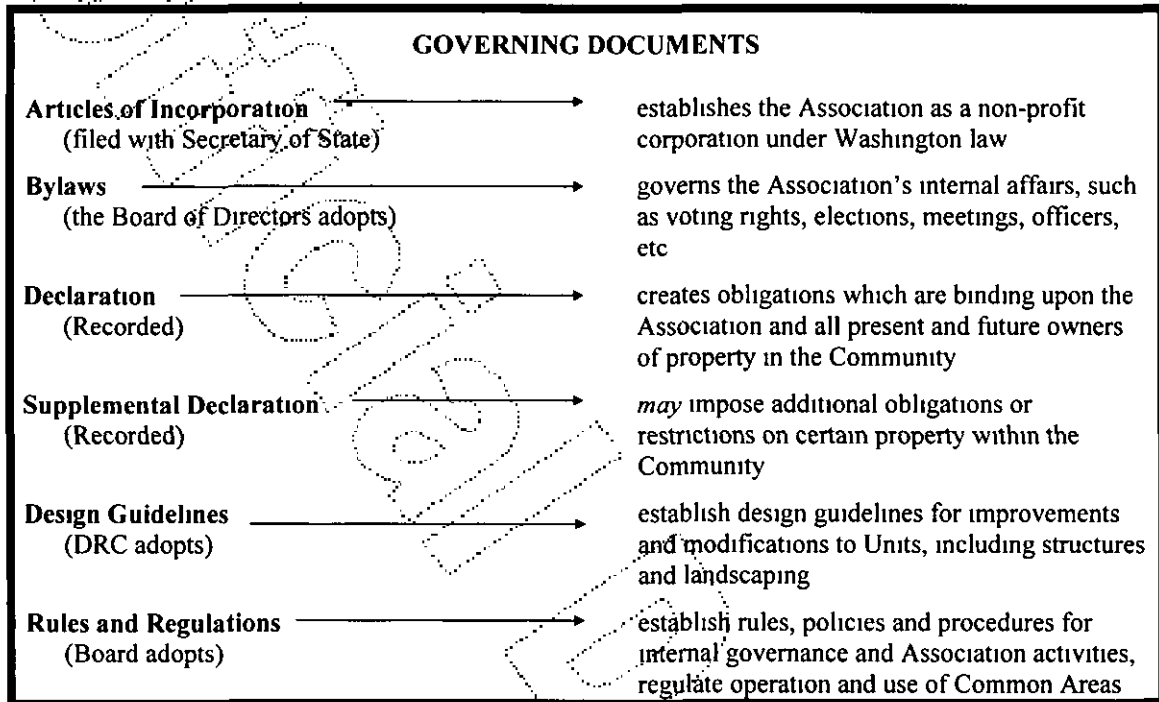


DIAGRAM 1 1, Governing Documents.

ARTICLE 2. CONCEPTS AND DEFINITIONS

The terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms are defined as follows

2.1. "Articles of Incorporation" or "Articles": The Articles of Incorporation of Copper Station Owners Association, as filed with the Washington Secretary of State

2.2. "Association": Copper Station Owners Association, a Washington nonprofit corporation, its successors or assigns

2.3. "Base Assessment": Assessments levied on all Units subject to assessment under Article 8 to fund Common Expenses for the general benefit of all Units, as determined in accordance with Section 8 1

2.4. **"Board of Directors" or "Board"**: The body responsible for administration of the Association, selected as provided in the Bylaws and serving as the board of directors under Washington corporate law

2.5. **"Bylaws"**: The Bylaws of Copper Station Owners Association

2.6. **"City of Stanwood"**: The Washington municipal corporation known as the City of Stanwood and any successor or assign of such municipality within which the Property is situated

2.7. **"Class B-Control Period"**: The period of time during which the Class B Member is entitled to appoint a majority of the members of the Board. The Class B Control Period expires upon the first to occur of the following:

- (a) when 90% of the total number of Units within the property described in EXHIBIT A have been conveyed to Class A Members,
- (b) December 31, 2012, or
- (c) when, in its discretion, the Class B Member so determines

2.8. **"Common Areas"**: All real and personal property, including easements, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners, including, without limitation, entrance tracts, open space, parks, surface water retention/detention facilities, landscape tracts and other tracts or parcels conveyed to the Association by Declarant including, without limitation, those areas and facilities described on the attached EXHIBIT B.

2.9. **"Common Expenses"**: The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents. Common Expenses shall not include any expenses incurred during the Class B Control Period for initial development or other original construction costs unless approved by Members representing a majority of the total Class A vote of the Association

2.10. **"Community-Wide Standard"**: The standard of conduct, maintenance or other activity generally prevailing throughout the Property. Such standard shall be established initially by Declarant and may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and demands of the Property change

2.11. **"Copper Station"**: The residential development comprised of all property subjected to this Declaration.

2.12. "Declarant": Copper Station Residential, LLC, a Washington limited liability company, or any successor or assign who takes title to any portion of the property described in EXHIBIT A for the purpose of development and/or sale and who is designated as Declarant in a recorded instrument executed by the immediately preceding Declarant, provided, upon such designation of such successor Declarant, all rights of the former Declarant in and to such status as "Declarant" under this Declaration shall cease, it being understood that as to all of the property described in EXHIBIT A, which is now or hereafter subjected to this Declaration, there shall be only one "Declaration" hereunder at any one point in time.

2.13. "Design Guidelines": The design guidelines and review procedures adopted pursuant to Article 4, as they may be amended.

2.14. "Design Review Committee" or "DRC": The committee of the Association appointed by Declarant during the Class B Control Period and the Board thereafter to adopt the Design Guidelines, to accept and review applications from owners for improvements to be constructed within the Property and to fulfill those functions set forth in this Declaration

2.15. "Governing Documents": A collective term referring to this Declaration and any applicable Supplemental Declaration, the Bylaws, the Articles, the Design Guidelines and the Rules and Regulations, as each may be amended

2.16. "Limited Common Area": A portion of the Common Areas primarily benefiting one or more, but less than all, Units

2.17. "Member": A Person subject to membership in the Association pursuant to Section 6.2.

2.18. "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit. A "Mortgagee" shall refer to a beneficiary or holder of a Mortgage

2.19. "Owner": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner

2.20. "Person": A natural person, a corporation, a partnership, a trustee or any other legal entity

2.21. "Property": The real property described in EXHIBIT A

2.22. **“Rules and Regulations”**: Board-adopted Rules and Regulations which establish administrative procedures for internal Association governance and operating procedures for use of the Common Areas.

2.23. **“Special Assessment”**: An assessment levied in accordance with Section 8.3.

2.24. **“Specific Assessment”**: An assessment levied in accordance with Section 8.4.

2.25. **“Supplemental Declaration”**: An instrument recorded pursuant to Article 9 which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

2.26. **“Unit”**: A portion of the Property, whether improved or unimproved, which may be independently owned and is intended for development, use and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. In the case of a building within a condominium or other structure containing multiple dwellings, each dwelling shall be deemed to be a separate Unit.

ARTICLE 3. USE AND CONDUCT

3.1. General Use Restrictions.

The Property shall be used only for residential, recreational and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for Declarant or the Association consistent with this Declaration and any Supplemental Declaration).

3.2. Restricted Activities.

The following activities are prohibited within the Property unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board

(a) **Parking**. Parking of commercial vehicles (even if owned by the Owner or occupant of the Unit), recreational vehicles, mobile homes, boats or other watercraft, or other oversized vehicles, stored vehicles, or inoperable vehicles in places other than enclosed garages, provided that such operable vehicles may be parked outside for a reasonable period between 7:00 a.m. and 9:00 p.m. for purposes of loading and unloading. Guest recreational vehicles may be parked outside for up to 48 hours if registered with the Association in accordance with rules adopted by the Board. This provision shall not restrict the parking of police or other emergency vehicles or van pool or similar ride-sharing vehicles.

(b) **Vehicle Repair.** Storing, repairing, or maintaining vehicles, equipment of any type on any part of a Unit except in an enclosed garage

(c) **Wildlife.** Capturing, trapping, injuring, or killing of wildlife within the Property, except in circumstances posing an imminent threat to the safety of persons using the Property or except as required or permitted by any applicable governmental authority. Chasing, injuring, or killing of wildlife within the Property by pets of Owners or occupants of Units within the Property is prohibited

(d) **Pets.** Raising, breeding, or keeping of animals, livestock, or poultry of any kind, except that not more than two dogs and cats (i.e., two dogs or two cats or one dog and one cat) may be permitted in a Unit. However, those pets which are permitted to roam free, or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon the Board's request. If the pet owner fails to honor such request, the Board may remove the pet. Pets shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling and Owners shall pick up after their pets.

(e) **Drainage Flows.** Obstruction or rechanneling of drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right with written approval from the City of Stanwood, provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent

(f) **Timesharing.** Operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years

(g) **Garage Sales.** Any garage sale, moving sale, rummage sale, or similar activity, except in accordance with Rules and Regulations the Board may adopt.

(h) **Design Guidelines.** Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article 4 of this Declaration. This shall include, without limitation, signs, swing sets and similar sports and play equipment, clotheslines, fountains, lawn statuary, flagpoles, above-ground swimming pools and spas, dog runs, or fences of any kind

(i) **Satellite Dishes.** Satellite dishes and antennas, provided, however, that standard TV antennas and satellite dishes one meter in diameter or less shall be permitted. Any such permitted over-the-air reception devices shall comply with the Design Guidelines or other applicable use restrictions adopted by Declarant or the Association pertaining to the means, method and location of their installation. Declarant

and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish or other apparatus for a master antenna, cable or other communication system for the benefit of all or a portion of the Property, should any master system or systems be utilized by the Association and require such exterior apparatus

(j) **Outside Storage** Storage of items outside of an Owner's dwelling or enclosed garage, including portable play equipment and temporary storage bins

(k) **Commercial Activities** Commercial or business activities within the Unit unless in compliance with the conditions set forth in Section 3 4(e)

(l) **Garbage.** Garbage and recycling containers kept outside of the garage of the Unit except on the day of collection.

3.3. Prohibited Conditions The following shall be prohibited within the Property

(a) **Noxious Plants, etc** Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Property

(b) **Dilapidated Items** Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair.

(c) **Withdrawal of Ground or Surface Water.** Sprinkler or irrigation systems or wells of any type which draw upon water from creeks, streams, ponds, wetlands or other ground or surface waters within the Property

(d) **Wood-Burning Fireplaces** Open-air burning or use of wood-burning fireplaces or stoves, provided, that outdoor cooking facilities, such as barbecues, are permissible subject to rules, regulations and ordinances of the City of Stanwood, if any

3.4. Protection of Owners and Others.

Use restrictions set forth in this Declaration or in any amendment and all Rules and Regulations shall comply with the following provisions

(a) **Similar Treatment.** Similarly situated Owners shall be treated similarly.

(b) **Displays.** The rights of Owners to display religious and holiday signs, symbols and decorations inside structures on their Units of the kinds normally displayed in dwellings located in single-family residential neighborhoods shall not be abridged, except that such shall be consistent with local ordinances. The Association

may adopt time, place and manner restrictions with respect to any displays visible from outside the dwelling. No use restrictions shall regulate the content of political signs, however, subject to applicable law, rules may regulate the time, place and manner of posting such signs

(c) **Household Composition.** No use restriction shall interfere with the freedom of Owners to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Unit on the basis of the size and facilities of the Unit and its fair use of the Common Areas and on the basis of compliance with applicable City of Stanwood ordinances

(d) **Activities Within Dwellings.** No use restriction shall interfere with the activities carried on within the confines of dwellings, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance

(e) **Household Occupations.** No use restriction may interfere with the rights of an Owner or occupant residing in a Unit to conduct business activities within the Unit so long as (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit, (ii) the business activity is consistent with the residential character of the Property and does not constitute a nuisance or a hazardous or offensive use or threaten the security or safety of other residents of the Property, as may be determined in the Board's sole discretion, (iii) it is allowed by City of Stanwood ordinances, (iv) the business activity does not result in more than three commercial vehicles visiting the Unit per week; and (v) the business activity does not involve the use of more than 25% of the Unit's total residential floor area

(f) **Allocation of Burdens and Benefits.** No use restriction shall alter the allocation of financial burdens among the various Units or rights to use the Common Areas to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Areas available, from adopting generally applicable Rules and Regulations for use of Common Areas, or from denying use privileges to those who abuse the Common Areas or violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided in Article 8.

(g) **Alienation.** No use restriction shall prohibit leasing or transfer of any Unit, or require consent of the Association or Board for leasing or transfer of any Unit. The Association may require that Owners use lease forms approved by the Association, but shall not impose any fee on the lease or transfer of any Unit greater than

an amount reasonably based on the costs to the Association of administering that lease or transfer

(h) **Reasonable Rights to Develop.** No use restriction, Rule or Regulation or action by the Association or Board shall unreasonably impede Declarant's right to develop Copper Station

ARTICLE 4. IMPROVEMENTS AND LANDSCAPING

4.1. General.

No structure or thing shall be placed, erected or installed upon any Unit within the Property and no improvements or other work (including staking, clearing, excavation, grading and other site work, exterior alterations of existing improvements or planting or removal of landscaping) shall take place within the Property, except in compliance with this Article and the Design Guidelines.

No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint or redecorate the interior of such Owner's Unit without approval. However, modifications to the interior of screened porches, patios and similar portions of a Unit visible from outside the structure and modifications to enclose garages as living space shall be subject to approval.

All dwellings constructed on any portion of the Property shall be designed by and built in accordance with the plans and specifications of a licensed architect or licensed building designer unless otherwise approved by Declarant or its designee in its sole discretion.

This Article 4 shall not apply to Declarant's activities, nor to the Association's activities during the Class B Control Period.

4.2. Design Review.

(a) **Purpose of Review.** Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the Property, acknowledges that Declarant has a substantial interest in ensuring that the improvements within the Property enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell or lease its property. Therefore, each Owner agrees that no activity within the scope of this Article ("Work") shall be commenced on such Owner's Unit unless and until the Design Review Committee ("DRC") has given its prior written approval for such Work, which approval may be granted or withheld in the DRC's sole discretion. In addition, any such Work shall comply with all codes and ordinances of the City of Stanwood and any other applicable jurisdiction.

During the Class B Control Period, Declarant may, in its sole discretion, designate those Persons who shall serve as members of the DRC in reviewing applications hereunder. Members of the DRC appointed by Declarant may include architects, engineers or other persons who may or may not be Members of the Association. Any such appointment shall be in writing, specifying the scope of responsibilities delegated, and shall be subject to Declarant's right to revoke such appointment at any time.

(b) **Board-Appointed DRC.** Upon expiration or termination of Declarant's rights under this Article to appoint the DRC, the Association, acting through the DRC, shall assume jurisdiction over matters described in this Article 4. The DRC, when appointed by the Board, shall consist of at least three, but not more than seven, persons who shall serve and may be removed and replaced in the Board's discretion. The members of the DRC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board. The DRC may be broken into or may form subcommittees to preside over particular areas of review (e.g., a new construction subcommittee and a modifications subcommittee). Any reference herein to the DRC should be deemed to include a reference to any such subcommittee.

(c) **DRC Fees; Assistance.** DRC may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. Declarant and the Association may employ architects, engineers or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget as a Common Expense.

4.3. Guidelines and Procedures.

(a) **Design Guidelines.** The Declarant-appointed DRC shall prepare initial Design Guidelines, which may contain general provisions applicable to all of the Property as well as specific provisions which vary from neighborhood to neighborhood. The Design Guidelines are not the exclusive basis for decisions of the DRC and compliance with the Design Guidelines does not guarantee approval of any application.

(b) **Amendment of Design Guidelines.** The Declarant-appointed DRC shall have sole and full authority to amend the Design Guidelines as long as Declarant owns any portion of the Property or has a right to expand the Property pursuant to Section 9.1. Upon termination or delegation of Declarant's right to appoint the DRC, the Board-appointed DRC shall have the authority to amend the Design Guidelines only with the consent of the Board. Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall

be no limitation on the scope of amendments to the Design Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive.

(c) **Plans.** No Work shall commence on any portion of the Property until an application for approval has been submitted to and approved by the DRC. Such application shall include plans and specifications ("Plans") showing site layout, structure design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation and other features of proposed construction, as applicable. The Design Guidelines and the DRC may require the submission of such additional information as may be reasonably necessary to consider any application.

(d) **DRC Considerations.** In reviewing each submission, the DRC may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements.

(e) **Response.** The DRC shall respond in writing to the applicant at the address specified in the application. The response may (i) approve the application, with or without conditions, (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application. The DRC may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

In the event that the DRC fails to respond in a timely manner (as provided in the Design Guidelines), approval shall be deemed to have been given, subject to Declarant's right to veto approval by the DRC pursuant to this Section. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a differing design proposal has been approved pursuant to Section 4.5. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U.S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

(f) **Notice to Declarant.** Until expiration of Declarant's rights under this Article, the DRC shall notify Declarant in writing within 3 business days after the DRC has approved any application relating to proposed Work within the scope of matters delegated to the DRC by Declarant. The notice shall be accompanied by a copy of the application and any additional information which Declarant may require. Declarant shall have 10 days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the DRC and the applicant.

(g) **Delay in Commencement of Construction.** If construction does not commence on a project for which Plans have been approved within one year after the

date of approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing the proposed Work. Once construction is commenced, it shall be diligently pursued to completion. All Work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the DRC grants an extension in writing, which it shall not be obligated to do. If approved Work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant or any aggrieved Owner.

(h) **Exemption.** The DRC may, by resolution, exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

4.4. No Waiver of Future Approvals.

Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Work until the Work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the DRC may refuse to approve similar proposals in the future. Approval of applications or Plans for any Work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, Plans, or other matters subsequently or additionally submitted for approval.

4.5. Variances.

The DRC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration, or (c) estop the DRC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit or the terms of any financing shall not be considered a hardship warranting a variance.

4.6. Limitation of Liability.

The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Property, they do not create any duty to any Person. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the DRC shall not

bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwelling are of comparable quality, value or size or of similar design

Declarant, the Association, the Board, any committee or member of any of the foregoing shall not be held liable for soil conditions, drainage or other general site work, any defects in plans revised or approved hereunder, or any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Unit. In all matters, the Board, the DRC and any members thereof shall be defended and indemnified by the Association as provided in Section 7 6

4.7. Certificate of Approval.

Any Owner may request that the DRC issue a certificate of approval certifying that there are no known violations on such Owner's Unit of this Article or the Design Guidelines. The Association shall either grant or deny such request within 30 days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate shall estop the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of such certificate.

ARTICLE 5. MAINTENANCE AND REPAIR

5.1. Maintenance of Common Areas.

The Association shall maintain the Common Areas as described in Section 7 2

5.2. Maintenance of Units.

Each Owner shall maintain the Owner's Unit and all landscaping and improvements comprising the Unit in a manner consistent with the Governing Documents, the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to any Supplemental Declaration. Unless performed by the Association pursuant to Section 5 3 below, each Owner shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Areas or public right-of-way lying between the Unit boundary and any wall, fence, curb or water's edge located on the Common Areas or public right-of-way adjacent to the Unit boundary, provided, there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article 4 and any required approvals from the City of Stanwood

5.3. Responsibility for Repair and Replacement.

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary to maintain the property to a level consistent with the Community-Wide Standard. Repair and replacement may include improvement if necessary to comply with applicable building codes or other regulations or if otherwise deemed appropriate, in the Board's reasonable discretion.

By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on the Owner's Unit, less a reasonable deductible.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising such Owner's Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article 4. Alternatively, the Owner shall clear the Unit and maintain it in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

ARTICLE 6. THE ASSOCIATION AND ITS MEMBERS

6.1. Function of Association.

The Association is the entity responsible for management, maintenance, operation and control of the Common Areas. The Association also is the primary entity responsible for enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents, applicable City of Stanwood ordinances and Washington law.

6.2. Membership.

Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3(c) and in the Bylaws; and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

6.3. Voting.

The Association shall have two classes of membership, Class A and Class B

(a) **Class A.** Class A Members shall be all Owners except the Class B Member, if any. Class A Members shall have one equal vote for each Unit in which they hold the interest required for membership under Section 6.2, except that there shall be only one vote per Unit and no vote shall be exercised for any property which is exempt from assessment under Section 8.8

(b) **Class B.** The sole Class B Member shall be Declarant. The Class B Member may appoint a majority of the members of the Board of Directors during the Class B Control Period, as specified in the Bylaws. Additional rights of the Class B Member are specified in the relevant sections of the Governing Documents. Upon termination of the Class B Control Period, Declarant shall be a Class A Member entitled to Class A votes for each Unit which it owns

(c) **Exercise of Voting Rights.** Members may exercise voting rights as set forth in the Bylaws. If there is more than one Owner of such Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it

ARTICLE 7. ASSOCIATION POWERS AND RESPONSIBILITIES

7.1. Acceptance and Control of Association Property.

The Association, through action of its Board, may acquire, hold and dispose of tangible and intangible personal property and real property. Declarant and its designees may convey to the Association personal property and fee title, leasehold or other property interests in any real property, improved or unimproved, described in EXHIBIT A. The Association shall accept and maintain such property at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association and any obligations or conditions appurtenant to such property. Upon Declarant's written request, the Association shall reconvey to Declarant any unimproved portions of the Property originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines

7.2. Maintenance of Common Areas.

The Association shall maintain, in accordance with the Community-Wide Standard, the Common Areas as well as:

(a) supplemental landscaping, maintenance and repairs to property dedicated or conveyed to City of Stanwood or other public entities (to the extent consistent with any conditions imposed by such entities) and which may include public rights-of-way within or abutting the Property, public parks and play areas, public trails, drainage areas and storm water facilities,

(b) such portions of any additional property included within the Common Areas as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association,

(c) any ponds located within the Property including those which serve as part of the storm water drainage system for the Property, including improvements and equipment installed therein or used in connection therewith, and

The Association shall maintain the facilities and equipment within the Common Areas in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members representing 75% of the Class A votes in the Association and the Class B Member, if any, agree in writing to discontinue such operation. Any such discontinuance must comply with the codes and ordinances of the City of Stanwood and any other applicable jurisdiction.

Except as provided above, the Common Areas shall not be reduced by amendment of this Declaration or any other means except with Declarant's prior written approval as long as Declarant owns any property described in EXHIBIT A.

The costs associated with maintenance, repair, monitoring and replacement of the Common Areas shall be a Common Expense, provided, the Association may seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Common Areas pursuant to this Declaration, other recorded covenants or agreements. Maintenance, repair and replacement of Limited Common Areas shall be assessed to the Units which the Limited Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder

7.3. Insurance.

(a) **Required Coverages.** The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available

(i) Property insurance covering the full replacement cost all insurable improvements under current building ordinances and codes on the Common

Areas to the extent that Association has assumed responsibility in the event of a casualty, regardless of ownership,

(ii) Commercial general liability insurance insuring the Association and its Members with limits of (if generally available at reasonable cost, including primary and any umbrella coverage) at least \$1,000,000 00 per occurrence with respect to bodily injury, personal injury and property damage or such additional coverage and higher limits which a reasonably prudent person would obtain,

(iii) Workers' compensation insurance and employer's liability insurance, if and to the extent required by law,

(iv) Directors' and officers' liability coverage,

(v) Fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment; and

(vi) Such additional insurance as the Board, in its business judgment, determines advisable

(b) **Policy Requirements.** The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in Washington which satisfies the requirements of any secondary mortgage market agencies or federal agencies as the Board deems appropriate,

(ii) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and its Members

(iii) not be brought into contribution with insurance purchased by Owners, occupants or their Mortgagees individually,

(iv) contain an inflation guard endorsement,

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause,

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Areas as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Areas other than that of a Member),

(vii) provide a waiver of subrogation under the policy against any Owner or household member of a Owner,

(viii) include an endorsement precluding cancellation, invalidation, suspension or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure, and

(ix) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Board shall use reasonable efforts to secure insurance policies which provide

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees and its manager, the Owners and their tenants, servants, agents and guests;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal; and

(iv) a cross-liability provision

(c) **Restoring Damaged Improvements.** In the event of damage to or destruction of Common Areas or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and

obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes

Damaged improvements on the Common Areas shall be repaired or reconstructed in a timely manner unless Members representing at least 75% of the total Class A votes in the Association, and the Class B Member, if any, decide not to repair or reconstruct. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Areas shall be repaired or reconstructed. If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members or the Persons entitled to use the damaged or destroyed property, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

7.4. Compliance and Enforcement.

Every Owner and occupant of a Unit shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in the Bylaws. Such sanctions may include, without limitation:

- (a) imposing reasonable monetary fines which shall constitute a lien upon the violator's Unit. (In the event that any occupant, guest or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board),
- (b) suspending an Owner's right to vote;
- (c) suspending any Person's right to use any Common Areas, provided, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit,
- (d) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association,

(e) exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation,

(f) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Unit in violation of Article 4 and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass,

(g) without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article 4 and the Design Guidelines from continuing or performing any further activities in the Property, and

(h) levying Specific Assessments to cover costs incurred by the Association to bring a Unit into compliance with the Governing Documents

In addition to any other enforcement rights, if an Owner fails properly to perform the Owner's maintenance responsibility, the Association may record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner as a Specific Assessment. Except in an emergency situation, the Association shall provide the Owner reasonable notice and an opportunity to cure the problem prior to taking such enforcement action

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action

The Association shall not be obligated to take any action if the Board reasonably determines that the Association's position is not strong enough to justify taking such action that the covenant, use restriction, or Rule and Regulation being enforced is, or is likely to be construed as, inconsistent with applicable law, or that it is not in the Association's interest, based upon hardship, expenses, or other reasonable criteria to pursue enforcement action. Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or estop the Association from enforcing any other covenant, use restriction, or Rule and Regulation.

While conducting the Association's business affairs, the Board shall act within the scope of the Governing Documents and in good faith to further the legitimate interests of the Association and its Members. In fulfilling its governance responsibilities, the Board's actions shall be governed and tested by the rule of reasonableness. The Board shall

exercise its power in a fair and nondiscriminatory manner and shall adhere to the procedures established in the Governing Documents

7.5. Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

The Board may institute, defend, settle or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Common Areas, enforcement of the Governing Documents, or any other civil claim or action. However, the Governing Documents shall not be construed as creating any independent legal duty to institute litigation on behalf of or in the name of the Association or its members

7.6. Indemnification of Officers, Directors and Others.

Subject to Washington law, the Association shall indemnify every officer, director and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and Washington law

The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment, or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

7.7. Security.

The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than they otherwise

