

Oct. 2006

*Transcription of*  
Declaration  
And  
Covenants, conditions, restrictions, and reservations  
For  
Valley Faire II

*Now known as "The Ridge at Fairwood"*

This is a combination of the original covenants and modifications made in 1989 and 2002.

By: Bob Kelley-Wickemeyer  
Oct. 2006

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**Article 1. Definitions**

Section 1.1 Words Defined. For the purposes of this Declaration and any amendments hereto, the following terms shall have the following meanings:

- 1.1.1 "Articles" shall mean the articles of incorporation of the Association defined below.
- 1.1.2 "Association" shall mean the VALLEY FAIRE II ASSOCIATION OF LOT OWNERS described in Article 7.
- 1.1.3 "Board" shall mean the board of directors of the Association.
- 1.1.4 "Bylaws" shall mean the bylaws of the Association.
- 1.1.5 "Construction" and "Constructed" shall mean any construction, erection or alteration of an Improvement, except wholly interior alterations to a then existing building.
- 1.1.6 "Committee" shall mean the Architectural Control Committee described in Article 4.
- 1.1.7 "Common Areas" shall mean the tracts.
- 1.1.8 "Common Areas Facilities" shall mean common open space areas, the retention of trees within the screening easements and the protection of nature growth within the setbacks from water courses as such term is expanded pursuant to Section 6.3.
- 1.1.9 "Declarant" shall mean the VALLEY FAIRE DEVELOPMENTS PARTNERSHIP, a Washington corporation, and its successors and assigns.
- 1.1.10 "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions, and Reservations for Summerhill, as it may from time to time be amended.
- 1.1.11 "First Mortgage" and "First Mortgagee" shall mean, respectively, (a) a recorded Mortgage on a Lot that has legal priority over all other Mortgages thereon, and (b) the holder of a first mortgage. For the purpose of determining the percentage of First Mortgagees approving a proposed decision or course of action in cases where a Mortgagee holds first Mortgages on more than one lot, such Mortgagee shall be deemed a separate Mortgagee for each such First Mortgage so held.
- 1.1.12 "Institutional Holder" of a mortgage shall mean a Mortgagee which is a bank or savings and loan association or established mortgage company, or other entity chartered under federal or state laws, any corporation or insurance company, or any federal or state agency.
- 1.1.13 "Improvement" shall mean any building, outbuilding, garage, carport, wall, fence, sign, and any other structure of any kind, and any landscaping, placed or to be placed on or about a lot, including site work related thereto.
- 1.1.14 "Lot" shall mean a lot on the Plat of the Property.

- 1.1.15 "Managing Agent" shall mean the person designated by the Declarant under Section 9.2 or by the Board under Section 10.4.
- 1.1.16 "Mortgage" shall mean a recorded mortgage or deed of trust that creates a lien against a Lot and, except as otherwise herein set forth, shall also mean a real estate contract for the sale of a Lot.
- 1.1.17 "Mortgagee" shall mean the beneficial owner, or the designee of the beneficial owner, of an encumbrance on a Lot created by a mortgage or deed of trust and shall also mean the vendor, or the designee of a vendor, of a real estate contract for the sale of a Lot.
- 1.1.18 "Owner" shall mean the recorded owner of fee title to a Lot or the record vendee under a real estate contract relating to a Lot, in the Property, and anyone occupying or using a Lot by, through or under such holder or vendee, and shall also include the Declarant so long as Declarant has ownership interest in one or more Lots.
- 1.1.19 "Participating Builder" shall mean a person who acquires one or more Lots for the purpose of improving the same for resale to a future Owner(s).
- 1.1.20 "Person" shall mean an individual, corporation, partnership, association, trustee, or other legal entity.
- 1.1.21 "Property" shall mean the VALLEY FAIRE II, an addition to King County according to the Plat ("Plat") recorded as Instrument Number: 8506250842 in Volume 131 of Plats, pages 39 through 43, records of King County, Washington.
- 1.1.22 "Tracts" shall mean the portions of the Property outside the Lots and shown on the Plats as "Tract-A", and "Tract-B", except roadway dedicated to King County.
- 1.1.23 "Transition Date" is defined in Section 9.1.

Section 1.2 Forms of Words.

The singular form of words shall include the plural and the plural shall include the singular. Masculine, feminine, and neuter pronouns shall be used interchangeably.

Section 1.3 Inflationary Increases in Dollar Limits.

The dollar amounts specified in Articles 10 and 11 may, in discretion of the Board, be increased proportionately by the Seattle- Everett area Housing Sub-index of the Consumer Price Index for all urban Consumers (the "CPI") prepared by the United States Department of Labor from the base period to adjust for any inflation in the value of the dollar. "Base period" shall be the CPI for February 1985.

**Article 2. Submission of the Property to the Act**

Declarant, being the sole owner of the Property, makes this Declaration for the purpose of submitting the Property to this Declaration. Declarant hereby

declares that (i) the Property shall be held, used, encumbered, transferred, sold, conveyed, leased and occupied subject to all the terms, covenants, conditions, and restrictions of this Declaration for a period of thirty (30) years from the date this Declaration is recorded subject to Article 19 herein, (ii) this Declaration shall run with the and bind each Lot within the Property as the servient tenement for the benefit of each and all other Lots in the Property as the dominate tenement, and (iii) this Declaration shall be a burden and benefit to Declarant, its successors, and assigns, and all persons who own or acquire an interest in the Property of any part thereof, and their grantees, successors, heirs, executors, administrators, and assigns. Notwithstanding the foregoing, however, the terms of this Declaration shall automatically extend for successive periods of ten (10) years unless an instrument terminating this Declaration, executed and acknowledged by a majority of the then recorded Owners of the Lots in the Property, is recorded.

### **Article 3. Application of law**

Notwithstanding anything herein set forth, any Improvement and the Construction of any Improvement shall comply with the more restrictive of either (i) the terms and conditions of this Declaration, or (ii) the laws, codes, ordinances, and regulations of any governmental entity having jurisdiction.

### **Article 4. Architectural Control Committee**

#### **Section 4.1 Initial Committee.**

The initial committee shall be composed of: (1) Patrick O'Boyle, (2) Rob Theissen, (3) Kolin Taylor. Subject to any specific requirements hereof, the Committee shall have authority to establish its operating rules and procedures. A majority of the Committee may designate one of its members as a representative to act for it. In the event of death or resignation of any member or members of the Committee, the remaining members or members shall have full authority to appoint successor member or members. Members of the Committee shall not be entitled to any compensation for services performed pursuant to this Declaration. Upon the Transition Date, and without further action by any person or persons, (i) the terms of the initial Committee members or their successors shall end, and (ii) the initial Committee members or their successors shall be released from any and all liability whatsoever for claims arising out of or in connection with the Declaration, excepting only claims arising prior to the Transition date.

#### **Section 4.2 Termination or Reduction of Committee's Powers and Duties.**

After the Transition Date, the then Owners of a majority of the Lots in the Property (and for this purpose each Lot shall have one (1) vote), shall have the power, through a written instrument duly recorded in the Office of the County Recorder, to restrict or eliminate, as to the Board, all or any of the powers and duties of the initial Committee as set forth in this Declaration.

### **Article 5. Construction on Lots and use of Lots**

#### **Section 5.1 Submission of plans**

Before coming Construction of any Improvement on any Lot, the Owner shall submit to the Committee two (2) complete sets of detailed building construction and a site plan showing the location of all proposed Improvements. (The plans, and site plans are individually

and collectively referred to herein as "Plans"). The Committee's approval or disapproval of Plans shall be in writing and approval shall be evidenced by written endorsement on such Plans, one copy of which shall be delivered to the Owner of the Lot upon which the Improvement is to be Constructed. If the Committee, or its designated representative, fails to approve or disapprove Plans within thirty (30) days of submission, then the Plans shall be deemed approved as submitted. In any Judicial action to enforce the Committee's decision the losing party shall pay the prevailing party's attorney fees and costs including those incurred in connection with any appeal.

#### Section 5.2 Construction

No Improvement shall be constructed or cause to be constructed on any Lot unless the plans for the Improvement have been approved in writing by the (Architectural Control) Committee. The Committee's review and approval or disapproval of plans on the basis of cost, aesthetic design, harmony with previously approved Improvements on or about other Lots in the Property and location, shall be absolute and enforceable in any court of competent jurisdiction. The Committee's approval of any plans, however, shall not constitute any warranty or representation whatsoever by the Committee or any of its members that such plans were examined or approved for engineering or structural integrity or sufficiency, and each owner hereby releases any and all claims or possible claims against the Committee or any of them, their heirs, successors and assigns, or any nature whatsoever, based upon engineering or structural integrity or sufficiency.

#### Section 5.3 Use restrictions – Single Family Residents Exclusively

All buildings allowed or erected on any residential site in the subdivision shall be for single family residences exclusively, all other use and occupancy of one immediate family and attendant bona fide domestic servants only, except that one other detached auxiliary building may be erected on each residential site occupied by a single family dwelling house. All garages, carports, storage areas, tool cabins, garden houses, etc., (other than one auxiliary building) must be constructed in such a manner so as to constitute the appearance of one continuous, connected, contiguous and architecturally compatible single structure. Any auxiliary building must be so designed and constructed as to be architecturally compatible in appearance and construction with the main building. Each single family dwelling house shall have not less than 2200 sq. ft. provided that in computing such minimum area none of the area of any garage or carport shall be included. More than one story: 2400 sq. ft.

5.3.1 Fireplaces. All fireplaces shall be masonry.

5.3.1a Roofs. Roofs on all buildings are to be finished with cedar shakes or tile. Said roofs may be repaired or replaced in-kind with no further action or approval by the Architectural Control Committee. Repair/replacement cedar shakes must have at least the same thickness and quality as the original cedar shakes. Alternative materials that have the appearance of cedar shakes or tile may be substituted for cedar shakes with



the approval of the Architectural Control Committee. See footnote for examples of acceptable alternatives in 2006.<sup>1</sup>

- 5.3.1b House Siding and Windows. Cedar siding and/or brick are approved materials. Wood windows and anodized bronze or painted anodized aluminum windows are approved.
- 5.3.2 See plat maps in this file folder for Native Growth Boundary descriptions and set back boundaries.
- 5.3.3 Easement area for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat and over the front seven (7) feet and the side two and one half (2.5) feet of each Lot. Within these easement areas, no Improvement, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation, operation or maintenance of the common areas or utilities, or which may change the direction of flow of drainage channels in the easement or common areas. The owner of each Lot shall maintain any easement area on or about the Lot and all Improvements in, on or about the easement area, except for those Improvements for which the Board, a public entity or a utility company is responsible.
- 5.3.4 The impervious surface area of each building Lot within the plat shall be no greater than 40% of the Lot areas. Easements, where applicable, shall be considered part of the Lot area for calculating impervious/pervious surface areas.
- 5.3.5 It shall be noted on the final plat that a 10 foot building set back from the screening easement line is required on all Lots where easements apply.
- 5.3.6 No noxious or offensive activity shall be carried on upon any Lot, trail, or right-of-way on or about the Property; nor shall anything be done thereon which may become an annoyance or nuisance to other Lot Owners.
- 5.3.7 No Improvement of a temporary nature, trailer, mobile home, basement, tent, shack, garage, barn or any outbuilding shall be used on any Lot at any time as a residence, either temporarily

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<sup>1</sup> (Examples of composition roofing that generally comply with the architectural criteria set forth above include the following:)

<b>Manufacturer</b>	<b>Product Name</b>	<b>Color</b>
ELK Premium Roofing	Prestique Plus	Sandalwood Shakewood
CertainTeed Corp.	High Sierra	Cypresswood Sage
Celotex Corp.	Presidential	Dark Brown Wood Tone
	Presidential TL	Autumn Blend Weathered Wood
GAF Matl's Corp.	Grand Sequoia	Cedar Blend

- or permanently, except for a construction shack used by an Owner's construction contractor during the Construction period.
- 5.3.8 Any Improvement constructed on any Lot in the Property shall be completed as to external appearance, including finish painting, within nine (9) months of the commencement of Construction except for Acts of God in which case a longer period may be permitted.
- 5.3.9 No signs of any kind shall be visible from the exterior of any Improvement on a Lot except (i) one professional sign of not more than one square foot, (ii) one sign of not more than five square feet advertising the Lot for sale or rent, or (iii) signs used by a builder to advertise a Lot for sale during the Construction period.
- 5.3.10 No animal, livestock or poultry of any kind shall be raised, bred or kept on any Lot or in any Improvement thereon except that dogs, cats or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose.
- 5.3.11 No Lot shall be used or maintained as a dumping ground for solid waste; no Owner shall keep solid waste on any Lot or public right-of-way adjacent thereto except in sanitary containers except materials of a biodegradable nature may be left on a Lot if it is not visible from streets or adjacent Lots. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.
- 5.3.12 No Lots may be subdivided, but Lots may be joined. Joined Lots may be subsequently subdivided only into the Lots originally joined.
- 5.3.13 The following items of personal property shall not be parked or stored on any Lot whereas said property shall be visible from streets or adjacent Lots. Said personal property shall consist of but not be limited to: boats, trailers, motor coaches except vans, trucks greater than 9000 pounds gross weight, construction equipment and vehicles in a state of disrepair. However, in the case of boats, trailers or motor coaches, they may be parked on any Lot for a period not to exceed 10 days per calendar year, visible for the purposes of maintenance or provisioning. In addition, in the case of trailers and motor coaches, such vehicles of out of town guests may be parked on any Lot in a visible state up to a maximum period of 15 days per calendar year.
- 5.3.14 No fences shall be constructed within the screening easements. Fences constructed outside the screening easements shall be of wood only and shall not exceed six (6) feet in height, except between the house line and any street no fence shall exceed four (4) feet in height and be maintained in good repair. No side fence shall extend closer to the front property line than closest point of residence structure to the front property line.

- 5.3.15 No vegetation shall be removed from any screening easements. No living, native evergreen plant shall be removed from the setback areas as listed in Section 5.3.2 of this Declaration, except for the minimum clearing necessary for the installation of required driveways, trails and utilities.
- 5.3.16 The exterior of any house on a Lot shall be Constructed only be a duly licensed building contractor or as approved by the Architectural Control Committee. Owners shall be permitted to complete interior finishing of any Improvement.
- 5.3.17 All driveways shall be constructed of brushed concrete or exposed aggregate and shall be maintained in good repair.
- 5.3.18 Front yard landscaping shall be installed within thirty (30) days of occupancy of any house or within thirty (30) days of closing if non-owner occupied, weather permitting. If landscaping is delayed by weather, it shall be completed within thirty (30) days of such time as the weather would allow. Landscaping shall be considered to include the following: Lawns as to color, height of grass and neatness of edges; planting areas relative to content and elimination of weeds; and sidewalks adjacent to each Lot in terms of accumulation of debris. Overall maintenance of landscaping is deemed necessary to the protection of all property values and the enjoyment of the area by all Lot Owners. Authority and responsibility for the maintenance of reasonable standards shall rest with the Architectural Control Committee or a sub-committee thereof. Should any notice of non-compliance be made to a Lot Owner by said Committee, the Lot Owner shall have 30 days to achieve the minimum standard established by said Committee. If said compliance is not done within 30 days the Association through its designated Committee shall contract for such services to bring the Lot Owner within minimum compliance. Lot Owner will be billed contract services plus a 10% Association servicing fee. If not paid within 30 days said bill will become a lien against the Lot in accordance with Section 12 and sub-section thereof. Certain landscaping materials such as bark, soil, and etc. may be stored in a visible state on Lots for a period of time not to exceed 30 days. Thereafter, said materials may not be visible from streets or adjacent Lots in accordance with the provisions of Section 5.3.13.
- 5.3.19 Curtains, blinds or window shades shall be installed on all windows facing or visible from public roadways. No newspaper, bedsheets or other makeshift window coverings will be visible from roadways on the Property.
- 5.3.20 Painting. The Architectural Control Committee, or a sub-committee thereof, shall have the authority and responsibility that exterior painted surfaces are maintained to a standard that does not offend the reasonable sensibilities of the members of the Association. The Committee shall also approve all color changes in advance. Such approval shall not be unreasonably withheld.

5.3.21 Antennas. No visible exterior antennas of any type shall be allowed on any Lot.

5.3.22 Garage Sales. There shall be no garage or yard sales conducted on any Lot.

Section 5.4 Injunctive action.

Every Owner shall be entitled to restraint by injunction of the violation, or attempted violation of any term or provision of this Declaration, or to a decree specifically enforcing any term or provision of this Declaration. In any action for damages or to enforce any provision of this Declaration, the losing party shall pay the prevailing party's attorney's fees and costs including those incurred in connection with any appeal.

Section 5.5 Invalidity.

The invalidity or unenforceability of any particular provision of this Declaration shall not affect the other provisions hereof, and the Declaration shall be construed in all respects as if such invalid or unenforceable provision were omitted.

**Article 6. Ownership and use of common areas and facilities**

Section 6.1 Ownership of Common Areas

Each Lot Owner shall have an undivided 1/37<sup>th</sup> interest in the fee simple in and to the Common Areas and the Common Area Facilities. No Lot Owner shall by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas and the Common Area Facilities and no Lot Owner or other person shall have the right to have partitioned or divided (the granting of easements for public utilities or other public purposes consistent with the intended use of the Common Areas and the Common Area Facilities by the Lot Owners shall not be deemed a partition or division).

Section 6.2 Effect on Insurance.

Nothing shall be done or kept in any Common Areas which will increase the rate of insurance of the Common Areas or other Lots or Improvements without the prior written consent of the Board. Nothing shall be done or kept in any Common Areas which will result in the cancellation of insurance on any part of the Common Areas, or which would be in violation of any laws.

Section 6.3 Alteration of Common Areas.

Nothing shall be altered or constructed in or removed from any Common Areas and the Common Area Facilities except upon the prior written consent of the Board.

Section 6.4 Signs.

No signs of any kind shall be displayed to the public view on or from any Common Areas except upon the prior written consent of the Board

**Article 7. Homeowner's association**

Section 7.1 Form of Association.

The Owners of Lots shall constitute the Homeowner's Association. The Association will be a nonprofit corporation formed under the laws of the State of Washington; provided, that from and after the formation of such nonprofit corporation, the rights and duties of the members

and of the corporation shall continue to be governed by the provisions of this Declaration.

**Section 7.2 Qualifications for Membership.**

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

**Section 7.3 Transfer of Membership.**

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

**Section 7.4 Number of Votes.**

The total voting power of all Owners shall be 37 votes and the total number of votes available to the Owner of any one Lot shall be one (1). If a Person (including the Declarant) owns more than one Lot, he or she shall have the votes appertaining to each Lot owned.

**Section 7.5 Voting Representative.**

A Lot Owner may, by written notice to the Board, designate a voting representative for the Lot. The designated voting representative need not be an Owner. The designation may be revoked at any time by written notice to the Board from the person having Ownership interest in the Lot, or by actual notice to the Board of the death or judicially declared incompetence of any Person with Ownership interest in the Lot, except in cases in which the Person designated is a Mortgagee of the Lot. This power of designation and revocation may be exercised by the guardian of the Lot Owner, and the administrator or executor of an Owner's estate. If no designation has been made, or if a designation has been revoked and no new designation has been made, the voting representative of each Lot shall be the group composed of all its Owners. If a Lot is owned by husband and wife and only one of them is at a meeting, the one who is present will represent the marital community.

**Section 7.6 Joint Owner Disputes**

The vote for a Lot must be cast as a single vote, and fractional votes shall not be allowed. If joint Owners are unable to agree among themselves how their vote shall be cast, they shall lose their right to vote on the matter in question.

**Section 7.7 Pledged Votes.**

A Lot Owner may, but is not obligated to, pledge his vote on all issues or certain specific issues to a Mortgagee; provided, however, that if an Owner is in default under a Mortgage on his Lot for 90 consecutive days or more, such Owner's Mortgagee shall automatically be

authorized to declare at any time thereafter that such Lot Owner has pledged his vote on all issues to the Mortgagee during the continuance of the default. If the Board has been notified of any such pledge to a Mortgagee, only the vote of the Mortgagee will be recognized on the issues that are subject to the pledge.

Section 7.8 Annual and Special Meetings.

There shall be an annual meeting of the members of the Association in the first quarter of each fiscal year at such reasonable place and time as may be designated by written notice from the Board delivered to the Owners no less than 30 days before the meeting. Special meetings of the members of the Association may be called at any time in the manner provided in the Bylaws, for the purpose of considering matters which require the approval of all or some of the Owners, or for any other reasonable purpose. Any First Mortgagee of a Lot may attend or designate a representative to attend the meetings of the Association.

Section 7.9 Audits.

At the annual meeting there shall be presented an audit, prepared within 60 days following the end of the preceding fiscal year by an audit Committee, appointed by the Board, that shall consist of three members of good standing who are not officers of the Association. Said report shall verify all receipts and expenditures for the preceding year. The preparation of the current year budget is not a part of the audit Committee's responsibility. The Board at any time, or persons having 35% of the voting power of the Association, may require that an audit of the Association and management books be presented at any special meeting. A Lot Owner, at his expense, may at any reasonable time conduct an audit of the books of the Board and Association.

Section 7.10 Books and Records

The Board shall cause to be kept complete, detailed, and accurate books and records of receipts and expenditures of the Association, in a form that complies with generally accepted accounting principles. The books and records, authorizations for payments of expenditures, and all contracts, documents, papers, and other records of the Association shall be available for examination by the Lot Owners, Lot Mortgagees, and the agents or attorneys of either of them, during normal business hours and at any reasonable time or times.

Section 7.11 Articles and Bylaws

Before the Transition Date Declarant will adopt Articles of Incorporation and, under its authority to act as the Board of the Association, will adopt Bylaws to supplement this Declaration and to provide for the administration of the Association and the Property and for other purposes not inconsistent with the Act or this Declaration. Declarant may, without the necessity of obtaining the consent of any Owner, amend the Articles and Bylaws from time to time until the Transition Date. After the Transition Date the Bylaws may be amended by an affirmative vote of 60% of the voting power at any duly called regular or special meeting of the Association. However, no material amendment of the Articles or Bylaws may be made without

prior approval of 75% of the Institutional Holders of First Mortgage liens on Lots.

**Article 8. Notices for all purposes**

Section 8.1 Form and Delivery of Notice.

All notices given under the provisions of the Declaration or the Bylaws or rules or regulations of the Association shall be in writing and may be delivered either personally, by electronic mail (commonly referred to as e-mail), or by the United States Postal Service (USPS) mail. If delivery is made by E-mail, the notice shall be deemed to have been delivered when the addressee replies to the originator confirming receipt of the notice (notification by personal contact or USPS mail must be made if no reply is received within five business days after the notice is transmitted.) If delivery is made by mail, the notice shall be deemed to have been delivered on the third day of regular mail delivery after a copy has been deposited in the United States mail, first class, postage paid, addressed to the Person entitled to such notice at the most recent address known to the Board. Notice to the Owner of any Lot shall be sufficient if mailed to the Lot if no other mailing address has been given to the Board. Notices to the Board shall be given to the Declarant until the Transition Date and thereafter shall be given to the President or Secretary of the Association.

Section 8.2 Notice to Mortgagees.

Any Mortgagee of a Lot may file with the Secretary of the Board a written request that it be given copies of notices. Until such time thereafter as the Mortgagee withdraws the request and satisfies the Mortgage of record, the Board will send the requesting Mortgagees a copy of (1) all notices of meetings of the Association; (2) all other notices sent to the Owner of the Lot covered by the Mortgagees Mortgage; (3) audited financial statements prepared pursuant to Section 7.2; (4) prompt notice of any default in a Lot Owner's obligation under this Declaration, or its rules and regulations, that is not cured within 30 days of the date of default.

**Article 9. Administration of property; rights retained by Declarant**

Section 9.1 Transition Date

The "Transition Date" shall be the date control of the Common Areas and the Common Area Facilities passes from the Declarant to the Homeowner's Association. The Transition Date will be the later of either (1) the date designated by Declarant in a written notice to the Lot Owners, which date may be Declarant's election be any date after this Declaration has been recorded; or (2) the 120<sup>th</sup> day after Declarant has transferred title to purchasers of Lots representing 75% of the total voting power of all Lot Owners in the Association; or (3) three years from the recording of this Declaration. For the purpose of the foregoing clause (2) however, transfer of title to a Lot by Declarant to any Participating Builder shall not be deemed transferred for the purposes of determining the Transition Date until the Lot is further transferred by Participating Builder to a purchaser who is not either a Participating Builder or Declarant.

Section 9.2 Declarant's Powers until Transition Date.

Until the Transition Date, Declarant shall have the full power and authority to exercise all of the rights, duties, and functions of the Board of Directors and the officers of the Association, including but not limited to the adoption of rules and regulations, contracting for the purchase of goods and services, buying insurance, and collecting and expending all assessments and other Associations funds. Declarant shall have the power to contract with an experienced professional managing agent and delegate to the Managing Agent all of the powers and duties of the Board that the Board is authorized to delegate under Section 10.4. All such management contracts made by Declarant shall be subject to the same requirements as are set forth in Section 10.4 for management contracts made by the Board. Declarant may at such times as it deems appropriate select and from time to time replace an interim board of three to five directors, who need not be Lot Owners or purchasers, who shall have all the powers, duties, and functions of the Board of Directors. Any contract made by Declarant, its Managing Agent, or the interim board (including management contracts) that would otherwise extend beyond the Transition Date shall be terminable by the Board after the Transition Date upon 30 days' notice.

Section 9.3 Transfer of Administration

On the Transition Date the authority and responsibility to administer and manage the Association and the Common Areas and Common Area Facilities, subject to this Declaration and Bylaws, shall pass to the Association. The Association shall be governed by a Board of not fewer than three nor more than seven directors elected from among the Lot Owners. The initial Board (that is, the first Board elected by the Owners) will have five directors. Declarant, its Managing Agent, or interim board of directors will call a meeting of the Association to be held before the Transition Date for the purpose of electing the initial Board.

**Article 10. Authority of the Board**

Section 10.1 Adoption of Rules and Regulations

The Board is empowered to adopt, amend, and revoke on behalf of the Association detailed administrative rules and regulations necessary or convenient from time to time to insure compliance with the general guidelines of this Declaration and to promote the comfortable use and enjoyment of the Common Areas and Common Area Facilities. The rules and regulations of the Association shall be binding upon all Lot Owners and occupants and all other Persons claiming any interest in a Lot.

Section 10.2 Enforcement of Declaration, etc.

The Board (or Declarant, or Declarant's managing agent, or the interim board of directors until the Transition Date) shall have the power and duty to enforce the provisions of this Declaration, the Articles, the Bylaws, and the rules and regulations of the Association for the benefit of the Association.

Section 10.3 Goods and Services

The Board shall acquire and pay for as common expenses of the Lot Owners all goods and services reasonably necessary or convenient for



the efficient and orderly functioning of the Common Areas and Common Area Facilities. The goods and services shall include (by way of illustration and not limitation) utility services for the Common Areas and Common Area Facilities; policies of insurance and fidelity bonds; legal and accounting services' maintenance, repair, resurfacing, landscaping, gardening and general upkeep of the Common Areas and Facilities; and all supplies, materials, fixtures, and equipment that are in the Board's judgment necessary or desirable for the operation or maintenance of the common areas. The Board may hire such full time or part time employees, as it considers necessary.

**Section 10.4 Managing Agent**

The Board may, but shall not be required to, contract with an experienced professional managing agent to assist the Board in the management and operation of the Common Areas and Common Areas Facilities and may delegate such of its powers and duties to the Managing Agent as it deems to be appropriate, except as limited herein. Only the Board can approve an annual budget or a supplemental budget, and only the Board can impose special assessment on a Lot or authorize foreclosure of an assessment lien. Any contract with a Managing Agent shall have a term no longer than one year (but may be renewable by agreement of the parties for successive one-year periods) and shall be terminable by the Board without payment of a termination fee, either for cause on 30 days' written notice or without cause on not more than 90 days' written notice.

**Section 10.5 Protection of Property**

The Board may spend such funds and take such action as it may from time to time deem necessary to preserve the Common Areas and Common Areas Facilities, settle claims, or otherwise act in what it considers to be the best interests of the Lot Owners or the Association, provided that the Board shall have no authority to acquire and pay for out of the maintenance fund, capital additions and Improvements (other than for purposes of resurfacing, restoring, repairing or replacing portions of the Common Areas Facilities) having a total cost in excess of Five Thousand Dollars (\$5,000), without first obtaining an affirmative vote of the Owners holding a majority of the voting power presented or represented at a meeting called for such purpose, or if no such meeting is held, then the written consent of voting Owners having a majority of the voting power.

**Section 10.6 Borrowing Power of Board**

In the discharge of its duties and the exercise of its powers as set forth in this Declaration, but subject to the limitations set forth therein, the Board may borrow funds on behalf of the Association and to secure the repayment thereof, encumber, subject to the limitations set forth in this Declaration the Common Areas and Common Areas Facilities and Association's funds, and the undivided interest of each Lot Owner therein. Provided, that the Owner of each Lot may remove said Lot and the percentage of undivided interest in the Common Areas appurtenant to such Lot from the lien of such encumbrance or from any other lien by payment of the 1/85<sup>th</sup> amount thereon attributable to such Lot. Subsequent to any such payment, discharge, or satisfaction,

the Lot and the percentage of undivided interest in the Common Areas and Common Areas Facilities appurtenant thereto shall thereafter be free and clear of the liens so paid, satisfied, or discharged. Such partial payment, satisfaction, or discharge shall not prevent the lienor from proceeding to enforce his rights against any Common Areas and Facilities appurtenant thereto not so paid, satisfied, or discharged. The Board shall not borrow funds in any amount except upon majority vote of the Lot Owners in the manner specified in Section 10.5. Nothing in this Section is intended to otherwise limit the powers of the Board otherwise set forth in the Declaration.

**Section 10.7 Other Board Powers**

The Board may, from common funds of the Association, 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; and the beneficial interest in such Property shall be owned by the Owners in the same proportion as their respective interest in the Common Areas, and such Property shall thereafter be held, sold, leased, rented, mortgaged or otherwise dealt with for the benefit of the common fund of the Association as the Board may direct. The Board shall not, in any case acquire by lease or purchase real or personal property valued in excess of Two Thousand Dollars (\$2,000) except upon a majority vote of Lot Owners, in the manner specified in Section 10.5. Nothing in this Section is intended to otherwise limit the powers of the Board otherwise set forth in this Declaration.

**Section 10.8 Power of Attorney**

Each Lot Owner, by the mere act of becoming a Lot Owner or contract purchaser of a Lot, shall irrevocably appoint the Association as his attorney-in-fact, with full power of substitution, to take such action as reasonably necessary to promptly perform the rights and duties of the Association and Board hereunder, including, without limitations, (i) the duties to maintain, repair and improve the Common Areas and Common Areas Facilities and to secure insurance proceeds otherwise in accordance with this Declaration, and (ii) the rights and duties set forth in Article 20. The power of attorney so created shall be coupled with the interest and there shall be no necessity of a further writing to accomplish or confirm the creation thereof.

**Article 11. Budget and assessment for common expenses**

**Section 11.1 Preparation of Budget**

Within thirty (30) days prior to the beginning of each calendar year; the Board: shall estimate the expenditures to be made during such year; shall make provision for creating, funding and maintaining reasonable reserves for contingencies and operations, as well as for repair, landscaping, maintenance of entry, replacement and acquisition of Common Area Facilities; and shall take into account any expected income and any surpluses available from the prior year's operating fund. Without limiting the generality of the foregoing but in furtherance thereof, the Board shall create and maintain from regular annual assessments a reserve fund for replacement of those common areas which can reasonably be expected to require replacement. The

Board shall calculate the contributions to said reserve funds so that there are sufficient funds therein to replace each Common Area Facility covered by the fund at the end of the estimated useful life thereof. The Declarant or initial Board may at a suitable time establish the first such estimate. If the sum estimated and budgeted at any time proves inadequate for any reason (including non-payment for any reason of any Owner's assessment), the Board may at any time levy a further assessment, which shall be assessed to the Owners in like proportions. Notwithstanding the provisions of this Section 11.1, until Declarant's management authority under Article 9 terminates, Declarant may elect to collect neither the full budgeted assessment for each year nor any assessments for reserve funds (other than reserves for insurance premiums), and instead may collect and expend only the actual costs of operation of the Common Area and Common Area Facilities.

Section 11.2 Periodic Assessments.

11.2.1 Basis for Common Assessments. The sums required by the Association for common expenses as reflected by the annual budget and any supplemental budgets shall be paid annually and shall be assessed to the Lots (including Lots owned by Declarant) and their respective owners in proportion to the Lot's percentages of undivided interest in the common areas and facilities. Assessments shall begin accruing with respect to each Lot upon the closing of the initial sale of that Lot by Declarant and, in any event, with respect to all Lots within 30 days after the closing of the first sale of any Lot by Declarant. During such time as electrical utility charges are based on the number of Lots having Improvements, any Lots owned by Declarant shall be exempt from assessment for such charges.

11.2.2 Notice of Assessment. The Board shall notify each Lot Owner in writing of the amount of the annual assessment to be paid for his Lot and shall furnish copies of each budget on which assessments are based to all Lot Owners and, if so requested, to their respective Mortgages.

Section 11.3 Payment of Assessments

On or before the first day of each calendar year each Lot Owner shall pay or cause to be paid to the Treasurer of the Association the assessment against his Lot for that year. Any assessment not paid by the first day of the calendar year for which it is due shall be delinquent and subject to interest charges and collection procedures as provided in Article 12.

Section 11.4 Proceeds Belong to Association

All assessments and other receipts received by Association on behalf of the Property shall belong to the Association.

Section 11.5 Limitations on Assessments

During such time as Declarant continues to be the original owner of a Lot and is offering it for sale, no budget shall be adopted or special assessment imposed that will cause the total assessments against any Lot in any month to be more than 10% greater than the total assessments against the Lot for the same month of the preceding calendar year. This limitation may be waived in writing, by Declarant

only, for any one or more assessments. No person other than Declarant shall have the power either to assert or waive the limitation stated in this Section.

**Section 11.6 Failure to Assess**

Any failure by the Board or the Association to make the budget and assessments hereunder before the expiration of any year for the ensuing year shall not be deemed a waiver or modifications in any respect of the provisions of this Declaration, or release the Owners from the obligation to pay assessments during that or any subsequent year, and the annual assessment amount established for the preseding year shall continue until a new assessment is established.

**Section 11.7 Certificate of Unpaid Assessments**

Upon the request of any Owner or Mortgagee or of a Lot, the Board will furnish a certificate in recordable form stating the amount, if any, if unpaid assessments charged to the Lot. The certificate shall be conclusive upon the Board and the Association as to the amount of such indebtedness on the date of the certificate in favor of all purchasers and Mortgagees of the Lot who rely on the certificate in good faith. The Board may establish a reasonable fee to be charged to reimburse it for the cost of preparing the certificate.

**Section 11.8 More Frequent Collection of Assessments**

Notwithstanding anything set forth in this Declaration, the Board may, in its discretion, elect to collect the annual assessments otherwise provided for herein in monthly, quarterly or semi-annual installments, as it sees fit from time to time, and upon such election, any reference in this Declaration to "annual" assessments shall mean the period selected by the Board.

**Article 12. Lien and collection of assessments**

**Section 12.1 Assessments are a Lien; Priority**

All unpaid sums assessed by the Association for the share of the common expenses chargeable to any Lot and any sums specifically assessed to any Lot under the authority of this Declaration or the Bylaws shall constitute a lien on the Lot and all its appurtenances from the date of the assessment became due. The lien for such unpaid assessments shall be subordinate to tax liens on the Lot in favor of any assessing unit and/or special district, and to all sums unpaid on all Mortgages of record, but, to the extent permitted by applicable law, shall have priority over all other liens against the Lot. A First Mortgagee of a Lot that obtains possession through a mortgage foreclosure or deed of trust sale, or by taking a deed in lieu of foreclosure or sale, or a purchaser at a foreclosure sale, shall take the Lot free of any claims for the share of common expenses or assessments by the Association chargeable to the Lot which became due before such possession, but will be liable for the common expenses and assessments that accrue after the taking of possession. The Lot's past due share of common expenses or assessments shall become new common expenses chargeable to all of the Lot Owners, including the Mortgagee or foreclosure sale purchaser and their successors and assigns, in proportion to their respective percentages of undivided interest in the Common Areas. For purposes of this

Section, "mortgage" does not include a real estate contract and "Mortgagee" does not include the vendor or the assignee or designee of a vendor of a real estate contract.

**Section 12.2 Lien May be Foreclosed.**

The lien for delinquent assessments may be foreclosed by suit by the Board, acting on behalf of the Association, in like manner as the foreclosure of a mortgage of real property. The Board, acting on behalf of the Association, shall have the power to bid in the Lot at the foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same.

**Section 12.3 Assessments are Personal Obligations**

In addition to constituting a lien on the Lot and all its appurtenances, all sums assessed by the Association chargeable to any Lot shall be the joint and several personal obligations of the Owner when the assessment is made. Suit to recover personal judgment for any delinquent assessments shall be maintainable without foreclosing or waiving the liens securing them.

**Section 12.4 Interest on Delinquent Assessments**

The Board may from time to time establish the rate of interest to be charged on assessments that may thereafter become delinquent. In the absence of another established, non-usurious rate, delinquent assessments shall bear interest at the rate of 1 ½% per month.

**Section 12.5 Recovery of Attorneys' Fees and Costs**

In any action to collect delinquent assessments brought by the Board on behalf of the Association, the plaintiff shall be entitled to recover as a part of its judgment a reasonable sum for attorney's fees and all costs and expenses reasonably incurred in preparing for and prosecuting the action, in addition to taxable costs permitted by law.

**Section 12.6 Remedies Cumulative**

The remedies provided herein are cumulative and the Board may pursue them, and any other remedies which may be available under law although not expressed herein, either concurrently or in any order.

**Section 12.7 Security Deposits**

A Lot Owner who has been delinquent in paying the monthly assessments for three of the past five months may be required by the Board, from time to time, to make and maintain a security deposit not in excess of three month's estimated monthly assessment, which may be collected and subject to penalties for non-payment as are other assessments. The deposit shall be held in a separate fund, credited to such Owner, and may be resorted to at any time when such Owner is ten days or more delinquent in paying the monthly or other assessments.

**Article 13. Failure of Board to insist on strict performance no waiver**

The failure of the Board in any instance to insist upon strict compliance with this Declaration or the Bylaws or rules and regulations of the Association, or to exercise any right contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of any term, covenant, condition, or restriction. The receipt by the Board of payment of any assessment from an Owner, with knowledge of

any breach by the Owner, shall not be a waiver of the breach. No waiver by the Board of any requirement shall be effective unless expressed in writing and signed by the Board. This Article also extends to the Declarant, Declarant's Managing Agent, and interim board of directors, exercising the power of the Board before the Transition Date.

#### **Article 14. Limitation of Liability**

##### Section 14.1 Liability for Utility Failure, etc.

Except to the extent covered by insurance obtained by the Board, neither the Association nor the Board (nor the Declarant, Declarant's Managing Agent, or the interim board of directors) shall be liable for: any failure of any utility or other service to be obtained and paid for by the Board; or for injury or damage to Person or property caused by the elements, or resulting from electricity, water, rain, dust or sand which may lead or flow from outside or from any parts of the Common Areas, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place; or for inconvenience or discomfort resulting from any action taken to comply with any law, ordinance, or order of a governmental authority. No diminution or abatement of common expense assessment shall be claimed or allowed for such utility or service failure, or for such injury or damage, or for such inconvenience or discomfort.

##### Section 14.2 No Personal Liability.

So long as a Board member, or Association committee member, or association officer, or Declarant or the Managing Agent has acted in good faith, without willful or intentional misconduct, upon the basis of such information as is then possessed by such Person, then no such Person shall be personally liable to any Lot Owner, or to any other Person, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission error, or negligence of such Person; provided, that this section shall not apply where the consequences of such act, omission, error, or negligence are covered by insurance obtained by the Board.

#### **Article 15. Indemnification**

Each Board member and Association committee member and Association officer, and Declarant and the Managing Agent shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed in connect with any proceeding to which he may be a party, or in which he may become involved, by reason of holding or having held such position, or any settlement thereof, whether or not he holds such position at the time of the expenses or liabilities are incurred, except to the extent such expenses and liabilities are covered by insurance and except in such cases wherein such Person is adjudged guilty of willful misfeasance in the performance of his duties; provided; that in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being for the best interests of the Association.

#### **Article 16. Insurance**

##### Section 16.1 Coverage Required

The Board shall cause the Association to purchase and maintain at all times as a common expense policies necessary to provide casualty insurance (more fully described in Section 16.2); comprehensive liability insurance (more fully described in Section 16.3); insurance against loss of personal property of the Association by fire, theft, or other causes with such deductible provisions as the Board deems advisable; insurance, if available, for the protection of the Association's directors, officers and representatives from personal liability in management of the Association's affairs; and such other insurance as the Board deems advisable. The Board shall review the adequacy of the Association's insurance coverage at least annually. All insurance shall be obtained from an insurance carrier designated Class VI or better by Best's Key Rating Guide, and licensed to do business in the state of Washington.

**Section 16.2 Casualty Insurance.**

The casualty insurance shall, at the minimum, consist of a standard form of fire insurance policy replacement value (i.e. 100% of current replacement cost exclusive of land, foundation, excavation, and other items normally excluded from coverage) of the Common Areas and Common Areas Facilities and all fixtures and equipment belonging to the Association with an "agreed Amount Endorsement" or its equivalent. In addition to protection against loss or damage by fire and other hazards covered by the standard extended coverage endorsement, the policy shall provide protection against loss or damage from sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, and such other risks as the Board elects to obtain in its sole and absolute discretion. The named insured shall be the Board, as trustee for each of the Lot Owners. The insurance proceeds may be made payable to any trustee with which the Association may enter into an insurance trust agreement, or any successor trustee, who shall have exclusive authority to negotiate losses under the policies. The policy or policies shall provide that, notwithstanding any provision thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the Association (or any insurance trustee) or when in conflict with the provisions of any insurance trust agreement to which the Association may be a party, or any requirement of law.

**Section 16.3 Comprehensive Public Liability Insurance**

The comprehensive policy of public liability insurance shall insure the Board, the Association, the Lot Owners, Declarant, and Managing Agent, and cover all of the Common Areas Facilities and public ways in the Property, with a "Severability of Interest Endorsement" or equivalent coverage which would preclude the insurer from denying the claim of a Lot Owner because of the negligent acts of the Association or of another Lot Owner, and shall include protection against liability for property of others, and such other risks as the Board elects to obtain in its sole and absolute discretion. The limits of liability shall not be less than \$1,000,000 covering all claims for personal injury and/or property damage arising out of a single occurrence.

Section 16.4 Additional Policy Provisions

The insurance obtained pursuant to Sections 16.2 and 16.3 above shall contain the following provisions and limitations:

- 16.4.1 The named insured shall be the Board, as trustee for each of the Lot Owners in the percentages of ownership of the Common Areas. The insurance proceeds may be made payable to any trustee with which the Association may enter into an insurance trust agreement, or any successor trustee, who shall have exclusive authority to negotiate losses under the policies.
- 16.4.2 Such policies shall not provide for contribution by or assessment against Mortgagees or become a lien on the property superior to the lien of a First Mortgage.
- 16.4.3 In no event shall the insurance coverage be brought into contribution with insurance purchased by the Lot Owners or their Mortgagees.
- 16.4.4 Coverage shall not be prejudiced by (a) any act of neglect of the Lot Owners when such act or neglect is not within the control of the Association, or (b) failure of the Association to comply with any warranty or condition with regard to any portion of the property over which the Association has no control.
- 16.4.5 Coverage may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 30 day's prior written notice to any and all insured named herein, including Lot Owners, Mortgagees, and designated servicers or Mortgagees.
- 16.4.6 A waiver of subrogation by the insurer as to any and all claims against the Association, the Owner of any Lot, and/or their respective agents, employees, or tenants, and of any defenses based on co-insurance or upon invalidity arising from the acts of the insured.
- 16.4.7 A standard Mortgagee clause which shall:
  - 16.4.7.1 Provide that any reference to a Mortgagee in the policy shall mean and include all holders of Mortgages of any Lot or Lot lease or sublease in their respective order of preference, whether or not named therein;
  - 16.4.7.2 Provide that such insurance as to the interest of any Mortgagee shall not be invalidated by any act or neglect of the Board or Lot Owners or any persons under them;
  - 16.4.7.3 Waive any provision invalidating such Mortgage clause by reason of the failure of any Mortgagee to notify the insurer of any hazardous use, of vacancy, any requirement that the Mortgagee pay any premium thereon, and any contribution clause; and



- 16.4.7.4 Provided that, without affecting any protection afforded by such Mortgagee clause, any proceeds payable under such policy shall be payable to the Board or the insurance trustee.

Section 16.5 Owner's Individual Insurance

Each Lot Owner may obtain additional insurance on his Lot and its improvements and contents at his own expense but only if the Owner's insurance does not decrease the amount the Board, or any trustee of the Board, on behalf of all of the Lot Owners, will realize under any insurance policy that the Board may have in force.

**Article 17. Damage and repair of damage to Property**

Section 17.1 Definitions: Damage, Repair, Emergency Work

As used in this Article 17:

- 17.1.1 "Damage" shall mean all kinds of damage, whether of slight degree or total destruction.
- 17.1.2 "Repair" shall mean restoring the Common Areas Facilities having substantially the same condition in which they existed before they were damaged, with modifications to conform with applicable governmental rules and regulations or available means of construction may be made.
- 17.1.3 "Emergency Work" shall mean work that the Board deems reasonably necessary to avoid further damage or substantial diminution in value to the Common Areas or Common Areas Facilities and to protect the Owners from liability from the condition of the Common Areas.

Section 17.2 Initial Board Determination.

In the event of damage to any part of the Property, the Board shall promptly, and in all events within 30 days after the date of the damage, make the following determination with respect thereto, employing such advice as the Board deems advisable.

- 17.2.1 The nature and extent of the damage, together with an inventory of the improvements and property directly affected thereby.
- 17.2.2 A reasonably reliable estimate of the cost to repair the damage, which estimate shall, if reasonably practicable, be based upon two or more firm bids obtained from responsible contractors.
- 17.2.3 The expected insurance proceeds, if any, to be available from insurance covering the loss based on the amount paid or initially offered by the insurer.
- 17.2.4 The amount of the assessments that would have to be made against each Lot if the excess cost were to be paid as a maintenance expense and specially assessed against all the Lots in

proportion to their percentages of undivided interest in the Common Areas.

- 17.2.5 The Board's recommendation as to how and whether the damage should be repaired, which recommendation shall take into account applicable requirements of governmental agencies having jurisdiction.

Section 17.3 Notice of Damage

- 17.3.1 The Board shall promptly, and in all events within 30 days after the date of damage, provide each Owner and each Institutional Holder of any First Mortgage on a lot with a written notice describing the damage and summarizing the initial Board's determinations made under Section 17.2. If the Board fails so to do within said 30 days, any Owner or Mortgagee may make the determinations required under Section 17.2 and give the notice required under this Section 17.3.
- 17.3.2 Either the Board or a requisite number of Lot Owners, within 15 days after the notice required under Section 17.3.2 has been given, may, but shall not be required to call a special Owner's meeting in accordance with Section 7.8 to decide whether to repair the damage.
- 17.3.3 Except for emergency work, no repairs shall be commenced until after the 15-day period and until after the conclusion of the special meeting if such a meeting is called within the 15 days.
- 17.3.4 A unanimous decision of the Lot Owners and holders of first mortgages on Lots will be required to elect not to repair the damage. The failure of the Board and Owners within the 15-day period to call a special meeting shall be deemed a decision to repair the damage.

Section 17.4 Execution of Repairs

- 17.4.1 Unless prior to the commencement of repair work (other than emergency work) the Lot Owners shall have decided in accordance with this Article not to repair, the Board shall promptly repair the damage and use the available insurance proceeds therefore. If the cost of repair exceeds available insurance proceeds, the Board shall impose a special assessment against all Lots in proportion to their percentages of undivided interest in the Common Areas in an amount sufficient to pay the excess costs.
- 17.4.2 The Board shall have the authority to employ architects and engineers, advertise for bids, let contracts to contractors and others, and to take

such other action as is necessary to effectuate the repair. Contracts for the repair work shall be awarded when the Board, by means of insurance proceeds and sufficient assessments, has made provision for the cost thereof. The Board may further authorize the insurance carrier to proceed with the repair work if the Board is satisfied that such work will be satisfactorily carried out, and such authorization does not contravene any insurance trust agreement to which the Association may be a party or any requirement of applicable law.

17.4.3 The Board may enter into a written agreement with any reputable financial institution or trust or escrow company that the institution or company shall act as an insurance trustee to adjust and settle any claim for casualty loss in excess of \$20,000 or for the institution or company to collect the insurance proceeds and carry out the provisions of this Article 17.

Section 17.5 Effect of Decision Not to Repair

In the event of a valid decision under Section 17.3.4 not to repair the damage, the Board may nevertheless expend so much of the insurance proceeds and common funds as the Board deems reasonably necessary for emergency work (which emergency work may include but is not necessarily limited to removal of damaged improvements and clearing, filling, and grading the real property), and the Common Areas shall be sold by the Board in one or more parcels and for a price and under terms and conditions acceptable to the Board in its sole and absolute discretion. The remaining insurance and sales proceeds, if any, shall be distributed to the Lot Owners in proportion to their respective ownership interests in the Common Areas, provided that the Board may retain and apply such portion of each Lot Owner's share of such proceeds as is necessary to discharge the Lot Owner's liability for any regular or special assessment arising out of Articles 11, 12 or 17. Any sale under this Section 17.5 shall be deemed a Disposition for the purposes of Article 20.

**Article 18. Condemnation**

Section 18.1 Consequences of condemnation: Notices

If any of the Common Areas or Common Areas of Facilities or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority (referred to herein as a "taking"), written notice of the proceeding or proposed acquisition shall promptly be given to each Lot Owner and to each Institutional Holder of a First Mortgage and the provisions of this Article 18 shall apply.

Section 18.2 Proceeds.

All compensation, damages, or other proceeds of the taking, the sum of which is hereinafter called the "Condemnation Award," shall be payable to the Association.

Section 18.3 Complete Taking

If any or all of the Common Areas are taken, the net available proceeds (determined after payment of all costs, including attorneys' fees, incurred in connection with the taking and all costs incurred pursuant to Section 18.4) of the Condemnation Award shall be apportioned among the Lot Owners in proportion to their respective percentages of undivided interest in the Common Areas.

Section 18.4 Reconstruction and Repair

Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article 17 above for repair or damage, provided that the Board may retain and apply such portion of each Lot Owner's share of the Condemnation Award as is necessary to discharge the Lot Owner's liability for any special assessment arising out of Articles 11, 12 or 17.

**Article 19. Amendments of declaration, survey map, and plans**

Section 19.1 Amendments by the Association

Any Lot Owner may propose amendments to this Declaration, the Survey Map, or the Plans to the Board. A majority of the members of the Board may cause the proposed amendment to be submitted to the members of the Association for their consideration. If an amendment is proposed by Owners of 20% or more of the Lots in the Property, then, irrespective of whether the Board concurs in the proposed amendment, it shall be submitted to the members of the Association for their consideration at their next regular or special meeting for which timely notice may be given. Notice of a meeting at which an amendment is to be considered shall include the text of the proposed amendment. Amendments may be adopted at a meeting of the association or by written consent of the requisite number of persons entitled to vote, after notice has been given to all persons (including Mortgagees) entitled to receive notice of a meeting of the Association. The unanimous consent of all Lot Owners shall be required for adoption of either (1) an amendment altering the value of the property and of each Lot or the percentages of undivided interest in the Common Areas, or (2) an amendment of this Article 19. All other amendments shall be adopted if approved by 60% of the Lot Owners. Once an amendment has been adopted by the Association and any necessary approval of Mortgagees has been obtained, the amendment will become effective when a certificate of the amendment, executed by two officers of the Association, has been recorded in the public records.

Section 19.2 Requirement of Mortgagee Approval.

In addition to other provisions of this Declaration, but subject to Section 9.3 and Article 20, the prior written approval of 75% of the Institutional Holders of First Mortgages on Lots will be required for any material amendment of this Declaration or the Bylaws, including, but not limited to, any amendment that would change the percentages of undivided interest in the Common Areas of the Lot Owners.

Section 19.3 Conflict with Article 20

Section 19.1 and Section 19.2 shall have no applicability to an amendment to the Declaration or to the Bylaws made pursuant to Article 20.

**Article 20. Removal of common areas and common area facilities from applicability of declaration**

The Association shall have the power to convey or otherwise transfer (a "disposition") the Common Areas and/or Common Areas Facilities to any utility company or governmental body at any time, under terms and conditions acceptable to the Board in its sole and absolute discretion, and upon any such event of disposition (i) the provisions of this Declaration relating to Common Areas and Common Areas Facilities, including without limitation, those provisions dealing with maintenance, repair, insurance and assessments related thereto, shall be suspended to the extent appropriate, and (ii) the Association shall promptly amend the Bylaws and executed and record in the public records an instrument amending this Declaration by deleting any and all provisions of Articles 1, 6, 7, 10, 11, 12, 16, 17 and 18 rendered unnecessary or undesirable by the disposition, including even to the extent of dissolving the Association and terminating the powers and duties of the Association and the Board in their entirety. Upon any such dissolution, any funds held by the Association shall be distributed to the Lot Owners in proportion to their respective ownership interests in the Common Areas, provided that the Board may retain and apply such portion of each Lot Owner's share of such proceeds as is necessary to discharge the Lot Owner's liability for any regular or special assessment arising out of Articles 11, 12 or 17. The Board shall give each Lot Owner notice of any disposition within ten (10) days thereof and a copy of any amendatory instrument made pursuant to this Article 20 promptly upon execution thereof.

**Article 21. Severability**

The provisions of this Declaration shall be independent and severable, and the unenforceability of any one provision shall not affect the enforceability of any other provision.

**Article 22. Effective date**

This Declaration shall take effect upon recording in the records of King County, Washington.

**Article 23. Assignment by Declarant**

Declarant reserves the right to assign, transfer, sell, lease, or rent all of any portion of the Property and reserves the right to assign all or any of its rights, duties, and obligations created under this Declaration at any time in its complete and absolute discretion.

This Declaration is made as of this 19<sup>th</sup> day of July, 1985.

DECLARANT  
VALLEY FAIRE DEVELOPMENTS PARTNERSHIP

By Original signed by Jack B. Jacobson

SATE OF Washington  
COUNTY OF King

On this day personally appeared before me Jack B. Jacobson to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the use and purposes therein mentioned.

GIVEN Under my Hand and Official Seal this 19<sup>th</sup> day of July, 1985.

By Original signed by Nancy L. Lohti  
Notary Public in and for the State of  
Washington residing at Seattle

There was a copy of the Valley Faire II Plat attached to this document. They have been scanned in "sheets 1 - 5" in this file. A more readable version is a PDF download off the King County website. This the file labeled "Valley Faire II Plat.pdf".