

WHEN RECORDED RETURN TO:

NAME: MaryJane Slye Co Burnstad Construction
ADDRESS: 1215 - 120th Ave NE, Ste. 213
CITY, STATE, ZIP: Bellevue, WA 98005



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DOCUMENT TITLE(s)

1. Declaration of covenants, conditions and restrictions
2.
3.
4.

REFERENCE NUMBER(s) OF DOCUMENTS ASSIGNED OR RELEASED:

Additional numbers on page _____ of document

GRANTOR(s):

1. Rick Burnstead Construction Co.
2.
3.

Additional names on page _____ of document

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REF. # W0401170-10

19

GRANTEE(s):

1. Madison Lane Homeowners Assoc.
2.
3.

Additional names on page _____ of document

LEGAL DESCRIPTION

Lot-Unit: _____ Block: _____ Volume: 224 Page: 53
Section: _____ Township: _____ Range: _____
Plat Name: Madison Lane

Additional legal description is on page _____ of document

ASSESSOR'S PROPERTY TAX PARCEL ACCOUNT NUMBER(s):

Bellevue 334330-0240; 334330-0260
 Additional legal description is on page _____ of document

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

MADISON LANE

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE PLAT OF MADISON LANE

THIS DECLARATION, made this 4th day of November, 2004, by RICK BURNSTEAD CONSTRUCTION COMPANY, a Washington Corporation, hereinafter called "Developer",

WITNESSETH:

WHEREAS, Developer is the owner of the real property described in Article II of this declaration and desires to create thereon a residential community with permanent landscaped areas, trails and other amenities for the benefit of the said community; and

WHEREAS, developer desires to provide for the preservation of the values and amenities of said community and, for the maintenance of said areas; and, to this end, desires to subject the real property described in Article II together with such additions as may hereafter be made thereto (as provided in Article II) to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof, and

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

WHEREAS, Developer has incorporated under the laws of the State of Washington, as a non-profit corporation, the MADISON LANE HOMEOWNERS ASSOCIATION, for the purpose of exercising the functions aforesaid:

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

ARTICLE I

DEFINITIONS

Section 1: The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Association" shall mean and refer to MADISON LANE HOMEOWNERS ASSOCIATION.
- (b) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Article II hereof.
- (c) "Common Properties" shall mean and refer to those areas of land shown on any recorded subdivision plat or deeded to and accepted by the Association of The Properties and intended to be devoted to the common use and enjoyment of the owners of The Properties.
- (d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of The Properties with the exception of common Properties as heretofore defined.
- (e) "Owner" shall mean and refer to the record owners, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit situated upon The Properties but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (f) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article III, Section I, hereof.
- (g) "Board" shall mean and refer to the Board of Directors of the Association, as provided for in Article XII. For purposes of exercising the powers and duties assigned in this Declaration to the Board, this term shall also mean the "Temporary Board" of "Declarant" as provided in Article IV, unless the language or context clearly indicates otherwise.
- (h) "Declarant" shall mean and refer to RICK BURNSTEAD CONSTRUCTION CO., their successors and assigns.
- (i) "Common Maintenance Areas" shall mean those portions of all real property (including the improvements thereto) maintained by the Association for the benefit of the members of the Association. The areas to be maintained by the Association at the time of recording this Declaration are described as follows: All improvements, including fencing and landscaping located at the entrance to the plat with the common properties as well as the improvements which may be part of publicly owned rights-of-way or tracts.
- (j) "Public Maintenance Areas" shall mean those portions of Open Space/Recreation Tracts where the recreation/park elements will be privately developed, but publicly owned, and publicly maintained. The areas to be maintained by The City of Newcastle at the time of recording this Declaration are described as follows: All improvements, including fencing and landscaping located in said tracts as well as all recreational equipment, signage, trails and rockeries.

- (k) "Development Period" shall mean and refer to that period of time defined in Article V of this Declaration.
- (l) "Plat" shall mean and refer to the Plat of MADISON LANE, as recorded in Volume 224 of Plats, Page 53, records of King County, Washington, under Recording No.20041027000938
- (m) "Mortgage" means a mortgage, deed of trust or a real estate contract covering all or part of a Lot.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION: AND ADDITIONS THERETO

Section 1: Existing Property. The real property which is, and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in The City of Newcastle, King County, Washington, and is more particularly described as follows:

The Plat of MADISON LANE, according to the plat recorded in Volume 224 of Plats, page 53, records of King County, Washington, all of which real property shall hereinafter be referred to as "Existing Property".

Section 2: Additions to Existing Property. Additional lands may become subject to this Declaration in the following manner.

- (a) **Additions Upon Approval.** Upon approval in writing by the Board of Directors of the MADISON LANE ASSOCIATION as provided in its Articles of Incorporation, adjoining property may be added and be subject to the jurisdiction of the MADISON LANE HOMEOWNERS ASSOCIATION.
- (b) **Mergers.** Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, its properties, rights, and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Existing Property together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration within the Existing Property except as hereinafter provided.

ARTICLE III

RESIDENTIAL AREA COVENANTS

Section 1: Land Use and Building Type. All building sites in the plat, excluding designated recreational areas shall be known as described as residential building sites. No structure shall be erected, altered, placed or permitted to remain on any building site other than one detached single family dwelling not to exceed two (2) stories in height (excluding basement), a private garage for not less than two (2) cars, play and accessory structures, including, but not limited to garden sheds, tool sheds,

play houses, and playground equipment, fences, walls, and appurtenant recreational facilities (e.g. hot tubs, spas, basketball courts and hoops, tennis courts, bath houses, swimming pools and sports courts) all incidental to residential use of the premises. All zoning and land use ordinances, rules and regulations of the City of Newcastle, as found in the Land Use Codes, shall apply to all lots.

Section 2: Building Location. Buildings shall be located in conformance with setbacks established by the City of Newcastle. For the purpose of this covenant, eaves, steps and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another Lot or Tract.

Section 3: Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear 5 feet and the side five feet of each lot. Within these easement, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

Section 4: Private Easements.

The private storm drain easement within lot 3 is for the benefit of lot 2. The owners of lots 2 and 3 shall be responsible for the maintenance, repairs, and reconstruction of that portion of the storm drainage system that they have benefit of use within the easement area.

The private storm drain easement within lot 5 is for the benefit of lot 4. The owners of lots 4 and 5 shall be responsible for the maintenance, repairs, and reconstruction of that portion of the storm drainage system that they have benefit of use within the easement area.

The private storm drain easement within lot 8 is for the benefit of lot 9. The owners of lots 8 and 9 shall be responsible for the maintenance, repairs, and reconstruction of that portion of the storm drainage system that they have benefit of use within the easement area.

The private storm drain easement within lot 11 is for the benefit of lot 12. The owners of lots 11 and 12 shall be responsible for the maintenance, repairs, and reconstruction of that portion of the storm drainage system that they have benefit of use within the easement area.

The private storm drain easement within lot 14 is for the benefit of lot 15. The owners of lots 14 and 15 shall be responsible for the maintenance, repairs, and reconstruction of that portion of the storm drainage system that they have benefit of use within the easement area.

The private storm drain easement within lots 26 and 27 is for the benefit of lots 27 and 28. The owners of lots 26, 27 and 28 shall be responsible for the maintenance, repairs, and reconstruction of that portion of the storm drainage system that they have benefit of use within the easement area.

The private storm drain easement within lots 32 is for the benefit of lots 31, 33 and 34. The owners of lots 31, 32, 33 and 34 shall be responsible for the maintenance, repairs, and reconstruction of that portion of the storm drainage system that they have benefit of use within the easement area.

The private storm drain easement within lot 33 is for the benefit of lot 34. The owners of lots 33 and 34 shall be responsible for the maintenance, repairs, and

reconstruction of that portion of the storm drainage system that they have benefit of use within the easement area.

The private storm drain easement within lots 36 and 37 is for the benefit of lots 35, 37, and 38. The owners of lots 35, 36, 37 and 38 shall be responsible for the maintenance, repairs, and reconstruction of that portion of the storm drainage system that they have benefit of use within the easement area.

The private storm drain easement within lots 39, 40 and 41 is for the benefit of lots 40, 41 and 42. The owners of lots 39, 40, 41 and 42 shall be responsible for the maintenance, repairs, and reconstruction of that portion of the storm drainage system that they have benefit of use within the easement area.

The private storm drain easement within lot 44 is for the benefit of lot 43. The owners of lots 43 and 44 shall be responsible for the maintenance, repairs, and reconstruction of that portion of the storm drainage system that they have benefit of use within the easement area.

The private entry monument easement within Tract D is for the benefit of the Madison Lane Homeowners Association. The Madison Lane Homeowners Association shall be responsible for the cost of maintenance, repairs or reconstruction of the entry monument.

The private sewer easement within lot 34 is for the benefit of property owner(s) immediately to the East of the easement. The property owner(s) immediately to the East of the easement shall be responsible for the cost of maintenance, repairs or reconstruction of that portion of the sewer system used by the property owner(s) immediately to the East of the easement.

The private sewer easement across lots 40 and 41 is for the benefit of the property owner(s) immediately to the east of the easement. The property owner(s) immediately to the east of the easement shall be responsible for the cost of maintenance, repairs or reconstruction of that portion of the sewer system used by the property owner(s) immediately to the east of the easement.

An easement is hereby reserved for and granted to the City of Newcastle under and upon the easements shown on the plat and described herein as "public storm drainage easement" to install, maintain, replace, repair and operate drainage systems, mains and appurtenances for the subdivision and other property together with the right to enter upon said easements at all times for the purposes stated. Structures shall not be constructed upon any area reserved for these easements. The grantor covenants that no permanent structure shall be erected, and no large trees or shrubs shall be planted in the area of ground for which the easement in favor of the City of Newcastle has been provided. Grantor may construct a fence or other obstruction, excluding rock or retaining walls, on grantors property. Provided however, that grantor does not prohibit or impede the city's access to the easement.

An easement is hereby reserved for and granted to the Coal Creek Utility District under and upon the easements shown on the plat and described herein as "public waterline easement" and "public sanitary sewer easement" to install, maintain, replace, repair and operate water and sewer systems, mains and appurtenances for the subdivision and other property together with the right to enter upon said easements at all times for the purposes stated. Structures shall not be constructed upon any area reserved for these easements.

An easement is hereby granted to the Coal Creek Utility District, Puget Sound Energy, U.S. West, and any television cable company and their respective successors and assigns, under and upon the exterior 10 feet parallel with and abutting the street frontage of all lots and tracts in which to install, lay, construct, renew, operate and maintain underground conduits, cables, pipelines, and wires with the necessary facilities and other equipment for the purpose of service to this subdivision and other

property with electric, telephone, gas, cable T.V service, sewer and water, together with the right to enter upon said easements at all times for the purposes stated.

Section 5: Common Maintenance Areas.

Tract A is an open space and storm drainage water quality and infiltration tract hereby dedicated and conveyed upon the recording of this plat to the City of Newcastle. The City of Newcastle shall be responsible for the maintenance of the drainage water quality and infiltration facilities in said Tract A. The Madison Lane Home Owners Association will be responsible to maintain Open Space improvements.

The Private Entry Monument easement within Tract D is for the benefit of the Madison Lane Home Owners Association. The Madison Lane Homeowners Association shall be responsible for the cost of maintenance, repairs or reconstruction of the entry monument.

Maintenance and repairs to the planter strips located in front of each lot shall be the responsibility of The Madison Lane Homeowners Association.

Section 6: Public Maintenance Facilities.

Tract A is an open space and storm drainage water quality and infiltration tract hereby dedicated and conveyed upon the recording of this plat to the City of Newcastle. The City of Newcastle shall be responsible for the maintenance of the drainage water quality and infiltration facilities in said Tract A. The Madison Lane Home Owners Association will be responsible to maintain Open Space improvements.

Tract B is an open space and recreation tract hereby dedicated and conveyed upon the recording of this plat to the City of Newcastle. The city of Newcastle will be responsible for the maintenance and repair of the recreational facilities in this tract.

Tract C is an open space, recreation, and public drainage tract hereby dedicated and conveyed upon the recording of this plat to the City of Newcastle. The City of Newcastle will be responsible for the maintenance and repair of the open space, recreational and drainage facilities in this tract.

Tract D is an open space and recreation tract hereby dedicated and conveyed upon the recoding of this plat to the City of Newcastle. The City of Newcastle will be responsible for the maintenance and repair of the open space and recreational facilities in this tract.

Tract E is an ingress, egress and utilities tract to serve lots 33 and 34. Upon the recording of this plat an equal and undivided ownership interest in said tract is hereby dedicated and conveyed to the owners of lot 33 and 34. The owners of lots 33 and 34 shall be responsible for the maintenance of said tract. A public drainage easement is reserved over said tract and The City of Newcastle is responsible for the maintenance of public drainage facilities in said Tract E.

Tract F is an open space, recreation and drainage tract hereby dedicated and conveyed upon the recording of this plat to the City of Newcastle. The City of Newcastle will be responsible for the maintenance and repair of the recreational and drainage facilities. A public drainage easement is reserved over said tract and the City of Newcastle is responsible for the maintenance of public drainage facilities in said tract. A public sanitary sewer easement is reserved over said tract and the Coal Creek Utility District is responsible for the maintenance of public sanitary sewer in said tract.

Section 7: Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Nothing shall be done or maintained on any Lot or within any Dwelling which may be or may become an annoyance or nuisance

to the neighborhood or other Owners within the Property or other activity which may or does detract from the value of the Property.

Section 8: Temporary Structures. No structure of a temporary character, trailer, recreational vehicle, tent, shack, garage, barn or any other outbuilding shall be used on any lot at any time as a residence for a period longer than fourteen (14) days, except for a temporary security office during construction by the Developer.

Section 9: Construction Period. Any dwelling or structure erected or placed on any lot in this subdivision shall be completed as to external appearance, including finish painting, within ten (10) months from the date of start of construction except for reasons beyond control in which case a longer period may be permitted, if authorized by the Architectural Control Committee.

Section 10: Signs. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one (1) square foot, one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period. Political yard signs of not more than five (5) square feet are allowed during campaign periods. For purpose of these covenants campaign period shall be the period two months prior to the election for which the sign is directed or intended to influence the vote.

Section 11: Animals and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that dogs, cats or other small household animals or birds may be kept, provided that they are not kept, bred or maintained for any commercial purpose. All pens and enclosures must be approved by the Architectural Control Committee prior to construction and shall be kept clean and odor free at all times.

Section 12: Garbage. No lot shall be used or maintained as a dumping ground for rubbish or trash. Garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition out of site from the street, except on pickup day.

Section 13: Fences. No fence, or wall shall be permitted to extend nearer to any street than the minimum setback line, except that nothing shall prevent the erection of a necessary retaining wall, the top of which does not extend more than three (3) feet above the finished grade at the back of said retaining wall. Exemptions to this paragraph may be granted by the procedure specified in Article IV (Architectural Control Committee). All fences must be approved by the Architectural Control Committee Review Board. All fences to be built shall be the same color and design as the fences constructed by the Declarant unless otherwise approved by the Architectural Control Committee Review Board. All fences shall comply with The City of Newcastle Codes as written now or hereafter amended.

Section 14: Oil and Mining Operation. Oil drilling, oil development operations, refining, mining operations of any kind, or quarrying shall not be permitted upon or in any of the building sites in the Plat described herein, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any of the building sites covered by these covenants.

Section 15: Campers, Trailers & Recreational Vehicles. The keeping of a boat, boat trailer, camper, mobile home, recreational vehicle or travel trailer, cars or similar objects, either with or without wheels, on any parcel of property covered by these covenants is prohibited unless written permission is granted by the procedure specified in Article IV (Architectural Control Committee) providing for storage to be no less than 30 feet to the front lot line, or nearer than 30 feet to any side street line; provided, that such personal property or vehicle shall be adequately screened and/or placed within a structure which screening or structure has been architecturally approved by the Architectural Committee.

Section 16: Antennas. No radio or TV antenna which extends more than 30 inches from the structure or which is more than 30" in diameter shall be permitted, on any parcel of property covered by these covenants, unless approved by the Architectural Control Committee.

Section 17: Covenants Running With Land. These covenants are to run with the land and shall be binding on all persons claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then-owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

Section 18. Enforcement. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damage.

Section 19. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

ARTICLE IV

ARCHITECTURAL CONTROL COMMITTEE

Section 1. No building, fence, wall, recreational facilities, antenna or other accessory structures shall be commenced, erected or maintained upon The Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, shape, height, materials, and location of the same have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee composed of three (3) or more representatives appointed by the Board, except for initial construction and improvements associated with residency which are constructed by the Declarant (s). The committee shall also review proposals to change the exterior color of homes in the plat.

Section 2. The initial Architectural Control Committee shall be composed of the following: Greg Strong, 1215 120th Ave NE, Bellevue, WA, 98005; Paula Judson, 1215 120th Ave NE, Bellevue, WA, 98005; Steven Ehrlich, 1215 120th Ave NE, Bellevue, WA, 98005.

Section 3. The Architectural Control Committee shall have the primary responsibility of interpreting and enforcing the rules and regulation of building and improvements subject to the procedures hereinafter set forth. The Architectural Control Committee shall adopt such reasonable and uniform rules of architectural control as the Board of Directors may prescribe, including, but not necessarily limited to the following:

3.1 No construction of a dwelling, other than by the Declarants, may be started on a platted residential lot without first obtaining:

- (a) A building permit from the proper local governmental authority if required and,
- (b) Written approval from the Architectural Control Committee designated by it pursuant to Article IV of these covenants. (Not required for construction done by the Declarants)
- (c) Each single family residence on a platted residential lot shall contain a minimum floor area of 1500 square feet if a one story residence, and 1800 square feet if more than a one story residence, exclusive of open decks (covered or uncovered) garages, covered carports, sheds or outbuildings.

- (d) Garages on platted residential lots may be detached from the main dwelling structure. The design and roof materials of garages shall be compatible with those of the main dwelling.

The committee's approval or disapproval as required in these covenants shall be in writing. The Architectural Control Committee designated by it shall determine whether any given use of a platted residential lot unreasonably interferes with an abutting owners use of his property, and such determination shall be conclusive. In the event the committee, or its designated representative, fails to approve within forty-five (45) days after plans and specifications have been submitted, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

ARTICLE V

DEVELOPMENT PERIOD; MANAGEMENT RIGHTS OF DECLARANT DURING DEVELOPMENT

Section 1. Management By Declarant. "Development Period" shall mean that period of time from the date of recording the Declaration until (1) a date five (5) years from the date of recording this Declaration or (2) the thirtieth (30th) day after Declarant has transferred title to the purchasers of Lots representing 99 percent of the total voting power of all Lot Owners as then constituted or (3) the date on which Declarant elects to permanently relinquish all of Declarant's authority under this Article V by written notice to all owners, whichever date first occurs. Until termination of the Development Period, either upon the sale of the required number of Lots, the expiration of five years, or at the election of the Declarant, the Property shall be managed and the Association organized at the sole discretion of the Declarant. If the Development Period has terminated under the foregoing provision (2), the addition of Other Parcels to the Properties already subject to this Declaration shall not change the fact that the Development Period has terminated as to the Properties. If the Development Period has not terminated pursuant to provision (2) herein before the addition of Other Parcels to the Properties, the 99 percent of the total voting power shall be determined on the basis of the voting power of all the Lots then in the Property after the addition of the Other Parcels.

Section 2. Notice To Owners. Not less than 10 nor more than 30 days prior to the termination of the Development Period, the Declarant shall send written notice of the termination of the Development Period to the Owner of each Lot. Said notice shall specify the date when the Development Period will terminate and shall further notify the Owners of the date, place and time when a meeting of the Association will be held. The notice shall specify that the purpose of the Association meeting is to elect new Officers and Directors of the Association. Notwithstanding any provision of the Articles or Bylaws of the Association to the contrary, for the purpose of this meeting, the presence, either in person or by proxy, of the Owners of five (5) Lots shall constitute a quorum. The Board of Directors and Officers of the Association may be elected by a majority vote of said quorum. If a quorum shall not be present, the Development Period shall nevertheless terminate on that date specified in said notice and it shall thereafter be the responsibility of the Lot Owners to provide for the operation of the Association.

Section 3. Temporary Board. Declarant may, in his sole discretion, and at such times as the Declarant deems appropriate, appoint three persons who may be Lot Owners, or are representatives of corporate entities or other entities which are Lot Owners, as a Temporary Board. This Temporary Board shall have full authority and all rights, responsibilities, privileges and duties to manage the Properties under this declaration and shall be subject to all provisions of this Declaration, the Articles and the Bylaws, provided that after selecting a Temporary Board, the Declarant, in the exercise of his sole discretion, may at any time terminate the Temporary Board and reassume its

management authority under Article V or select a new Temporary Board under this section of Article V.

Section 4. Management Of Plat During Development Period. So long as no Temporary Board is managing the Properties or until such time as the first permanent Board is elected, should Declarant choose not to appoint a Temporary Board, Declarant or a managing agent selected by the Declarant shall have the power and authority to exercise all the rights, duties and functions of the Board and generally exercise all powers necessary to carry out the provisions of this Declaration, including but not limited to enacting reasonable administrative rules, contracting for required services, obtaining property and liability insurance, and collecting and expending all assessments and Association funds. Any such managing agent or the Declarant shall have the exclusive right to contract for all goods and services, payment for which is to be made from any monies collected from assessments.

Section 5. Purpose Of Development Period. These requirements and covenants are made to ensure that the Properties will be adequately administered in the initial stages of development and to ensure an orderly transition to Association operations. Acceptance of an interest in a Lot evidences acceptance of this management authority in Declarant.

Section 6. Expenditures During Development Period. During the Development Period, Declarant, or any successor of Declarant, shall have the sole discretion to use and consume all or so much of the dues paid in as in Declarant's judgment is necessary or expedient in maintaining the common areas and carrying out the other functions of the Homeowners Association. Maintenance of common areas include, but are not limited to, (1) replacement of dead or missing flowers, annual color change, shrubs, trees or grass; (2) irrigation costs and repairs; and (3) costs to correct any vandalism.

Other functions include, but are not limited to, any legal fees associated with Declarant, or any successor of Declarant, carrying out any duties during the Development Period, including all costs associated with turning over the Homeowners Association after the expiration of said Development Period.

Upon termination of the Development Period, Declarant shall deliver any funds remaining to the Homeowners Association. It is provided, however, that if, during the Development Period, the expenses have exceeded the receipts, Declarant shall have no claim against the Homeowners Association.

Declarant, or any successor of Declarant, shall not be held liable to the Homeowners Association for monetary damages for conduct as the Declarant and shall be held harmless from any and all legal actions brought by the Association for the administration of the Association prior to expiration of the Development Period.

ARTICLE VI

PROPERTY RIGHTS IN COMMON PROPERTIES

Section 1: Members' Easements of Enjoyment. Subject to the provisions of Section 3 below, every member shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2: Title to Common Properties. The Developer may retain the legal title to the common Properties, if any, until such time as it has completed improvements thereon and until such time as, in the opinion of the Developer, the Association is able to maintain the same, but notwithstanding any provision herein, the Developer hereby covenants, for itself, its heirs and assigns, that it shall convey the Common Properties to the Association as outlined in Article V, Section I.

Section 3: Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) The right of the Developer and of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties. In the event of a default upon any such mortgage the lender shall have a right, after taking possession of such properties, to charge admission and other fees as a condition to continued enjoyment by the members and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied, whereupon the possession of such properties shall be returned to the Association and all rights of the Members hereunder shall be fully restored; and
- (b) The right of the Association to take such steps as are reasonably necessary to protect the above described properties against foreclosure; and
- (c) The right of the Association, as provided in its Articles and Bylaws, to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and for any period not to exceed sixty (60) days for any infraction of its published rules and regulations; and
- (d) The right of the Association to charge reasonable admission and other fees for the use of the Common Properties; and
- (e) The right of the Association to donate all operating and capital surpluses in excess of anticipated maintenance, replacement and capital improvement requirements to qualified public and private charitable uses; and
- (f) The right and responsibilities for the maintenance of the common maintenance areas as delineated on the face of the recorded plat and on other recorded documents; and
- (g) Transfer of common areas used for open space, parks or storm detention must first be approved by The City of Newcastle as complying with the conditions that allowed the City to approve the underlying plat. The right of the Association to dedicate or transfer all or any part of the Common Properties to any person, public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members of the Association provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of membership has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the proposed agreement and action thereunder is sent to every Member as least ninety (90) days in advance of any action taken.

ARTICLE VII

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1: Creation of the Lien and Personal Obligation of Assessments.

The Developer for each Lot owned by it within The Properties hereby covenants and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to pay to the Association: (1) annual assessments to be fixed, established, and collected from time to time as hereinafter provided. (2) special assessments for capital improvements. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon, and cost of collection thereof as hereinafter provided, shall also be the personal obligation

of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose Of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and for the improvement and maintenance of the Common Maintenance Areas as provided in Article IX.

Section 3. Annual Assessment. Until January 1, 2006, the annual assessment shall be \$ 250.00 per Lot.

The annual assessment may be increased during the Development Period to reflect increased (1) maintenance costs, (2) repair costs, or (3) plat management costs. All increases in the annual assessment during the Development Period must directly reflect increases in the above recited costs. It shall not be necessary to amend this Declaration to increase the annual assessment during the Development Period. During this period, the Declarant will give members of the Association notice of increased assessments thirty (30) days before such assessments become effective.

- (a) After the Development Period expires, the maximum annual assessment may be increased each year not more than twenty (20%) percent above the maximum annual assessment for the previous year without a vote of the membership.
- (b) After the Development Period expires, the maximum annual assessment may be increased by more than twenty (20%) percent only if sixty (60%) percent of the members of the Association, who are voting in person or by proxy at a meeting duly called for this purpose, consent to such an increase.
- (c) After the Development Period expires, the Board of Directors shall fix the annual assessment subject to the above-recited standards.

Section 4. Special Assessments For Capital Improvement. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a common assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Maintenance Areas not provided by this Declaration, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of sixty (60%) percent of the members of the Association who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Special Assessments For Legal Fees And Damages. In addition to the annual and special assessments authorized in Section 4, the Declarant or the Association may levy in any assessment year a special assessment for the purpose of defraying, in whole or in part, (1) the cost of legal fees and costs incurred in legal actions in which the Association is a party, (2) the cost of legal fees and costs incurred in any action in which a member of either the Board or Architectural Control Committee is named as a party as a result of a decision made or action performed while acting in behalf of the Homeowners Association, or (3) any other reasonable expenses incurred by the Homeowners Association. The assessment shall require the consent of fifty-one (51%) percent of the members of the Association at a meeting duly called for this purpose.

Section 6: Quorum For Any Action Authorized Under Sections 4 and 5. The quorum required for any action authorized by Sections 4 and 5 hereof shall be as follows:

At the first meeting called, as provided in Section 4 and Section 5 hereof, the presence at the meeting of Members or of proxies entitled to cast fifty (50) percent of all

the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in the Bylaws, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7: Date of Commencement of Annual Assessments; Due Dates.

The annual assessments provided for herein shall commence on January 1, 2006.

The assessments for any year, after the first year, shall become due and payable on the first day of January of said year.

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 8: Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

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

Section 9: Effect of Non-Payment of Assessment; The Personal Obligation of the Owner; The Lien; Remedies of Association. If the assessments are not paid on the date when due (being the dates specified in Section 7 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives, and assigns. Each such assessment, together with such interest thereon, and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

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

Section 10: Subordination of the Lien to Mortgages. In the event of the foreclosure of (a) the lien for the assessment provided for herein, or (b) any mortgage or mortgages now or hereafter placed upon the properties subject to assessment, the lien for the assessment provided for herein shall be subordinate to the lien of said mortgage or judicial foreclosure pursuant to RCW 61.24, forfeiture of a real estate contract or any proceeding in lieu of foreclosure or forfeiture shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessments.

Section 11: Exempt Property. The following property subject to this Declaration shall be exempted from the assessment charge and lien created herein:

- (a) All properties to the extent of any easement or other interest therein dedicated and accepted by a local public authority and devoted to public use;

- (b) All Common Properties as defined in Article I, Section 1 hereof;
- (c) All properties exempted from taxation by the laws of the State of Washington, upon the terms and to the extent of such legal exemption.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE VIII

HOMEOWNERS ASSOCIATION

Section 1. Non-Profit Corporation. After the Development Period expires, the Association shall be a non-profit corporation under the laws of the State of Washington. The Homeowners Association may be an unincorporated Association during the Development Period, unless the Declarant elects to incorporate the Association.

Section 2. Membership. Every person or entity, which is an Owner of any Lot, shall become a member of the Association. Membership shall be appurtenant to the Lot and may not be separated from ownership of any Lot and shall not be assigned or conveyed in any way except upon the transfer of title to said Lot and then only to the Transferee of title to the Lot. All Owners shall have the rights and duties specified in this Declaration, the Articles and the Bylaws of the Association.

Section 3. Voting Rights. Owners, including the Declarant, shall be entitled to one vote for each Lot owned. When more than one person or entity owns an interest in any Lot, the vote for that Lot shall be exercised as the Owners decide to exercise that vote, but, in no event, shall more than one vote be cast with respect to any Lot, nor shall any vote be divided. The voting rights of any Owner may be suspended as provided for in this Declaration, the Articles and the Bylaws of the Association.

Section 4. Meetings. Meetings shall be conducted in accord with the specifications set forth in the Bylaws of the MADISON LANE HOMEOWNERS ASSOCIATION.

ARTICLE IX

MANAGEMENT BY BOARD

Section 1. Expiration Of The Development Period. Upon expiration of the Declarant's management authority under Article IV, all administrative power and authority shall vest in a Board of three (3) directors who need not be members of the Association. The Association, by amendment of the Bylaws, may increase the number of directors. All Board positions shall be open for election at the first annual meeting after termination of the Development Period under Article IV.

Section 2. Terms. The terms of the Board are defined in the Bylaws.

Section 3. Powers Of The Board. All powers of the Board must be exercised in accord with the specifications which are set forth in the Bylaws. The Board, for the benefit of all the Properties and the Lot Owners, shall enforce the provisions of this Declaration and the Bylaws. In addition to the duties and powers imposed by the Bylaws and any resolution of the Association that may be hereafter adopted, the Board shall have the power and be responsible for the following, in way of explanation, but not limitation:

- (a) Insurance. Obtain policies of general liability insurance.
- (b) Legal and Accounting Services. Obtain legal and accounting services, if necessary, to the administration of Association affairs, administration of the Common Areas, or the enforcement of this Declaration.
- (c) Maintenance. Establish maintenance and use standards for the common areas and common maintenance areas which may include publicly owned areas such as landscaping in street right of ways, entry monument and the open space/recreation area overlying Tract A. Arrange for such maintenance and pay the costs of the maintenance.
- (d) Discharge Of Liens. The Board may also pay any amount necessary to discharge any lien or encumbrance levied against the entire Properties or any part thereof which is claimed or may, in the opinion of the Board, constitute a lien against the Properties or against the Common Areas rather than merely against the interest therein of particular Owners. Where one or more Owners are responsible for the existence of such liens, they shall be jointly and severally liable for the cost of discharging it and any costs or expenses, including reasonable attorneys' fees and costs of title search incurred by the Board by reason of such lien or liens. Such fees and costs shall be assessed against the Owner or Owners and the Lot responsible to the extent of their responsibility.
- (e) Utilities. Pay all utility charges attributable to Common Areas and Common Maintenance Areas.
- (f) Security. Pay all costs deemed appropriate by the Board to ensure adequate security for the Lots and Common Areas constituting the residential community created on the Properties.
- (g) Right To Contract. Have the exclusive right to contract for all goods, services, maintenance, and capital improvements provided. However, such right of contract shall be subject to Association approval.
- (h) Promulgation Of Rules. Adopt and publish rules and regulations governing the members and their guests and establish penalties for any infraction thereof.
- (i) Declaration Of Vacancies. May declare the office of a member of the Board to be vacant in the event that a member of the Board is absent from three consecutive regular meetings of the Board.
- (j) Employment Of Manager. Employ a manager, an independent contractor, or such other employee as the Board deems necessary and describe the duties of such employees.
- (k) Payment For Goods And Service. Pay for all goods and services required for the proper functioning of the Common Areas and Common Maintenance Areas.
- (l) Impose Assessments. Impose annual and special assessments.
- (m) Bank Account. Open a bank account on behalf of the Association and designate the signatories required.
- (n) Exercise Of Powers, Duties And Authority. Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of the Bylaws, Articles of Incorporation, or this Declaration. The Board shall have all powers and authority permitted to it under this Declaration and the Bylaws. However, nothing herein contained shall be construed to give the Board authority to conduct a business for profit on behalf of all the Owners or any of them.

ARTICLE X

MAINTENANCE OF LOTS

Section 1. Exterior Maintenance By Owner. Each Lot and Residence shall be maintained by the Owner in a neat, clean and sightly condition at all times and shall be kept free of accumulations of litter, junk, containers, equipment, building materials and other debris. All refuse shall be kept in sanitary containers sealed from the view of any Lot; the containers shall be emptied regularly and their contents disposed of off the Properties. No grass cuttings, leaves, limbs, branches, and other debris from vegetation shall be dumped or allowed to accumulate on any part of the Properties, except that a regularly tended compost device shall not be prohibited.

Section 2. Easement For Enforcement Purposes. Owners hereby grant to the Association an express easement for purposes of going upon the Lots of Owners for the purpose of removing Vehicles or other similar objects which are parked or stored in violation of the terms of this Declaration.

Section 3. Lot Maintenance By The Association. In the event that an Owner shall fail to maintain the exterior landscaping of his premises thereon in a manner consistent with maintenance standards of the MADISON LANE, community, the Board shall, upon receipt of written complaint of any Owner, and subsequent investigation which verifies such complaint, have the right through its agents and employees, to enter upon the offending Owner's Lot and repair, maintain and restore the landscaping on that Lot if the Owner shall fail to respond in a manner satisfactory to the Board within thirty (30) days after mailing of adequate notice by certified mail to the last known address of the Owner. The cost of such repair, maintenance or restoration shall be assessed against the Lot, and the Board shall have the right to cause to be recorded a notice of lien for labor and materials furnished, which lien may be enforced in the manner provided by law. In the event that the estimated cost of such repair should exceed one-half of one percent of the assessed value of the Lot and improvements on that Lot, the Board shall be required to have the assent of fifty-one (51%) percent of the Members before undertaking such repairs.

ARTICLE XI

GENERAL PROVISIONS

Section 1: Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by The Association, or the owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded after which time said covenants shall be automatically extended for successive periods of ten (10) years unless amended as provided for in Article XII, an instrument signed by the then Owners of two-thirds (2/3) of the Lots has been recorded, agreeing to change said covenants and restrictions in whole or in part; provided, however, that no such agreement to change shall be effective unless made and recorded one (1) year in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken..

Section 2: Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

mentioned, and on oath stated that he was authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal hereto affixed the day and year first above written.



Mary Jane D. Slye
Notary Public in and for the State of Washington,
residing at Bellevue
Mary Jane D. Slye
My appointment expires 7/15/08

Unofficial Document