

Leonard, Boudnot + Skodje
603 S. First St.
Mt. Vernon WA 98273

45
2
47

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
EAGLEMONT COMMUNITY 9401250030
MOUNT VERNON, WASHINGTON**

THIS DECLARATION is made on the 11th day of JANUARY, 1994, by SEA-VAN INVESTMENTS ASSOC., a Washington general partnership, hereinafter referred to as "Declarant".

RECITALS

A. Declarant owns certain property in Mount Vernon, Washington, which is described in Exhibit A which is attached to this Declaration and incorporated by this reference (the "Property").

B. Declarant intends to create on the Property the first of the residential community of Eaglemont with permanently maintained Common Areas for the benefit of the residents of Eaglemont.

C. Declarant intends that Eaglemont be a family-oriented rural community with emphasis on golf and outdoor recreation activities.

D. Pursuant to Resolution No. 332, the City of Mount Vernon, Washington adopted the Master Plan for Proposed Development of the "Sea-Van" Property approving the Development Plan and establishing the guidelines for development of the entire Eaglemont community in accordance with regulations and ordinances of the City of Mount Vernon. The processing and approval of the Master Plan resulted in the modification of the Comprehensive Plan for the City of Mount Vernon and designation of the Property as a Planned Community.

E. Declarant wishes to preserve and enhance the property values, amenities, and opportunities in Eaglemont, and to provide for the health, safety, and welfare of residents and the preservation of wetland areas and open space, and to this end desire to subject the Property together with such additions as may be made to the Property from time to time (as provided in Article II) to the covenants, restrictions, easements, charges, and liens set forth in this Declaration, all of which are for the benefit of the Property and each owner of any portion thereof.

F. Declarant has incorporated the Eaglemont Homeowners Association to provide a means for meeting the purposes of this Declaration, and the requirements of the City of Mount Vernon.

9401250030

BK | 290PG0070

0127 1994

0572 0717

DECLARATION

Declarant hereby declares that the Property and such additions as may be made pursuant to Article II is, are and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens set forth in this Declaration. Further, Declarant delegates and assigns to the Eaglemont Homeowners Association the power of owning, maintaining, and administering the Common Areas, administering and enforcing the covenants and restrictions, collecting and disbursing the assessments and charges created in this Declaration, and promoting the recreation, health, safety, and welfare of the residents.

ARTICLE I DEFINITIONS

"ACC" shall mean the Architectural Control Committee as described in this Declaration.

"Association" shall mean the Eaglemont Homeowners Association, a Washington nonprofit corporation, its successors and assigns.

"Board" or "Board of Directors" shall mean the Board of Directors of the Association.

"City" or "the City" shall mean the City of Mount Vernon, Washington.

"Common Areas" shall mean all real property and improvements owned or leased by the Association, or in which the Association has an easement (except easements for maintaining Lots) for the use and enjoyment of the members.

"Declarant" shall mean Sea-Van Investments Assoc., a Washington corporation, and its successors and assigns; provided, however, that no successor or assignee of Declarant shall have any rights or obligations of Declarant under the Declaration unless such rights and obligations are specifically set forth in the instrument of succession or assignment.

"Declaration" shall mean the covenants, conditions and restrictions and all other provisions set forth in this declaration, as they may be amended from time to time.

"Development Plan" shall mean the total general plan of intended development approved by the City of Mount Vernon, Washington, and illustrated in Exhibit "B", as the plan may be amended from time to time, and as further defined in Article II.

The amendments to the Development Plan may include the annexation of additional land for development.

" Dwelling Unit " shall mean any portion of a building on any Lot, which portion is designed and intended as a residence for one family. Without limiting the foregoing, the term shall include single-family houses, townhouses and condominium units.

" First Mortgagee " shall mean a lender who holds the first mortgage on a Dwelling Unit and/or a Lot and who has notified the Association in writing of such first mortgage.

" Golf Course Operator " shall mean Sea-Van Investments Assoc., a Washington corporation, and its successors and assigns;.

" Lot " shall mean any numbered parcel of land shown upon any recorded subdivision map of the Property, with the exception of the Common Areas or other areas set aside for nonresidential use.

" Member " shall mean every person or entity who holds membership in the Association.

" Mortgage " shall include a deed of trust or other security instrument.

" Native Growth Protection Areas " shall mean those sensitive areas and their buffers designated by the City as Native Growth Protection Areas in its approval of the Master Plan and subsequent Planned Unit Development phases of the Master Plan. A map of these areas shall be kept on file by the Association. Such areas are located solely on Common Areas or other areas set aside for non-residential use.

" Notice " shall mean written notice delivered personally or mailed to the last known address of the intended recipient.

" Owner " shall mean every person or entity, including Declarant, which is a record owner of the fee simple title to any Lot or Dwelling Unit, or if any Lot or Dwelling Unit is sold under real estate contract, the vendee or vendees under that contract; provided, however, that the term " Owner " shall not include those having such interest merely as security for the performance of an obligation.

ARTICLE II PROPERTY SUBJECT TO DECLARATION AND ADDITIONS THERETO

2.1 Property. The Property represents the first phase of the residential community of Eaglemont. Additional properties may become subject to this Declaration in the following manner:

(a) Additions by Declarant. Declarant, at its sole option, shall have the right to subject to this Declaration any additional property which is covered by the Development Plan as it may be amended from time to time as set forth in Section 2.2 of this Article. In the event of such addition, the number of Class "B" votes of Declarant shall be automatically increased so that Declarant shall have nine (9) votes for each Lot owned, including the number of Lots in the additional property.

(b) Other Additions. Properties, other than those described in 2(a) above, may be annexed to the properties upon the approval of both (i) fifty-one percent (51%) of the Class "A" members and (ii) the Class "B" member, if any, at a meeting called for this purpose. Written notice of such meeting shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting and shall set forth the purpose of the meeting. The presence of members or of proxies entitled to cast sixty (60%) Percent of the votes of the Class "A" membership and the presence of the Class "B" member or its proxy shall constitute a quorum. If the required quorum is not present at any meeting, another meeting may be called subject to the notice requirements set forth above and the required quorum of Class "A" members required at the preceding meeting, together with the Class "B" member. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. Members of the Class "A" membership or the Class "B" member not present in person may give their written assent or dissent to the action taken at said meeting.

The additions authorized under paragraphs (a) and (b) above shall be made by complying with the applicable ordinance of the City, by recording one or more supplementary declarations of covenants and restrictions with respect to the additional property, and by filing with the Association the preliminary plat or site plan for such additions.

2.2 Development Plan. The Development Plan, illustrated on Exhibit B, is Declarant's intended design for the staged planned-unit development of Eaglemont as a planned residential community comprised of single-family and multi-family units. The Plan may be modified and amended, as provided in this Declaration, during the several years required to develop the community. It is currently the intention of Declarant to develop Eaglemont substantially in accordance with the Development Plan. The Development Plan is, however, conceptual in nature, and does not bind Declarant to add any of the properties which are shown on the Plan or to improve any portion of such properties.

(b) Amendments. Declarant reserves the right to amend the Development Plan or to add to the Development Plan parcels adjacent to or located within Eaglemont. These rights shall be exercised by:

(i) Giving notice of the proposed changes to the Association; and

(ii) Securing the approval of the City as required by applicable ordinances and laws.

(c) Additional Phases. Declarant may subject portions of the property covered by the Development Plan to additional or different covenants or declarations governing particular aspects of the ownership of such property. Such covenants or declarations shall not require the approval of anyone other than Declarant. In the event such additional phases are developed, the Association shall cooperate with such homeowners association or associations as may be created for each phase of Eaglemont to assure that maintenance of the Common Areas and common areas in the other phases of Eaglemont are maintained to a uniform standard in accordance with this Declaration.

ARTICLE III COMMON AREAS

3.1 Declarant to Convey. Prior to the execution of this Declaration, the Declarant has delivered to the Association a warranty deed free of all liens and encumbrances for the Common Areas. Declarant may convey by warranty deed to the Association additional potential common areas shown on the Development Plan as it may be amended, including roads, open space and retention areas, and a storm water drainage system. Utility and other easements not inconsistent with the intended use of the Common Areas shall not be considered "liens or encumbrances" under this paragraph. If and when additional areas are added to the development as set forth in this instrument, the easements will be modified to include the additional property.

3.2 Owners' Easements of Enjoyment. Each Owner shall have a right and a nonexclusive easement of enjoyment in and to the Common Areas and for ingress and egress over and through the Common Areas and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable fees for the use by guests of any Common Area recreational facility.

(b) The right of the Association to suspend the voting rights and right to use of the Common Area recreational facilities by an owner for the period during which any assessment against his or her Lot or Dwelling Unit remains unpaid, and for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations.

(c) The right of the Association to adopt reasonable rules governing the use of the Common Areas and the personal conduct of persons authorized to use said areas, and to establish appropriate penalties for the violation of those rules.

(d) The right of the Association to dedicate or transfer by deed or easement all or any part of the Common Areas to any public agency, authority, or utility.

3.3 Delegation of Use. Any owner may delegate his or her right of enjoyment to the Common Areas and facilities to the members of his or her family, his or her tenants, or his or her guests, subject to the limitations set forth above.

3.4 Association to Maintain. The Association shall maintain, repair, replace, and improve the Common Areas and special maintenance areas that may be designated by the Association from time to time and shall pay the actual cost of the same from annual or special assessments as appropriate. Notwithstanding the foregoing, the Association shall not have any obligation to maintain any portion of the Common Areas dedicated or transferred by deed or easement to any public agency, authority or utility. The Board of Directors may delegate any of its managerial duties, powers, or functions to any person, firm, or corporation, provided that any management agreement for the project shall be terminable by the Association for cause upon thirty (30) days written notice thereof, and the term of any such agreement may not exceed one (1) year, renewable by agreement of the parties for successive one (1) year periods. Members of the Board of Directors shall not be liable for any omission or improper exercise by the manager of any duty, power, or function so delegated by written instrument executed by a majority of the Board of Directors.

ARTICLE IV ASSOCIATION

4.1 General. Every owner of a Lot or Dwelling Unit shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Dwelling Unit. Ownership of a Lot or Dwelling Unit shall be the sole qualification for membership. It is currently anticipated that a total of 780 dwelling units will comprise the Project.

4.2 Classes. The Association shall have two (2) classes of voting membership:

(a) Class "A". Class "A" members shall be all owners, with the exception of Declarant, and shall be entitled to one (1) vote for each Lot or Dwelling Unit owned. When more than one person holds an interest in any Lot or Dwelling Unit, all such persons shall be members. The vote for such Lot or Dwelling Unit shall be divisible and exercised as the owners determine, but in no event shall more than one vote be cast with respect to any Dwelling Unit.

(b) Class "B". The Class "B" member shall be Declarant, and shall be entitled to nine (9) votes for each Lot (or, if greater, Dwelling Unit) owned. The Class "B" membership shall cease and be converted to Class "A" membership when the total votes in the Class "A" membership equal the total votes in the Class "B" membership.

4.3 Multiple Dwelling Units. The votes for any Lot upon which multiple Dwelling Units may be constructed shall be based upon the number of Dwelling Units permitted under the Development Plan, until such time as all Dwelling Units on the Lot have been completed. Thereafter, the votes shall be based upon the number of units actually constructed upon the Lot. Notwithstanding this provision, any investor who owns more than one Dwelling Unit for rental purposes shall be restricted to one (1) vote regardless of the number of Dwelling Units owned; provided, however, that this provision shall not apply to the Declarant or to any recognized financial institution.

4.4 Appointment of Board. A Board of Directors consisting of not less than three (3) nor more than seven (7) persons shall be appointed by Declarant. Each member shall hold office until he or she resigns, is removed, or until his or her successor has been appointed and qualified. Declarant shall have the authority to appoint, remove and/or replace the members of the Board until the termination of the Class "B" membership as set forth in this Declaration. Thereafter, the members of the Board shall be elected by the Class "A" membership.

ARTICLE V EASEMENTS

5.1 Utility and Drainage Easements. In addition to easements reserved on any plat of the Property or shown by any instrument of record, easements for utilities and drainage are reserved over a five (5) foot wide strip along each side of the interior lot lines, over the rear ten (10) feet of each Lot, and over, under, and on the Common Areas. Within all of the easements, no structure, planting or fill material shall be

placed or permitted to remain which may, in the opinion of the ACC, damage or interfere with the installation and maintenance of utilities, 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 within it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority, a utility company, or the Association is responsible. This provision shall apply to the perimeter of areas where multiple Dwelling Units or townhouse units may be constructed under the Development Plan, but shall not apply along lot lines separating individual Dwelling Units or clusters of units in such areas.

5.2 Easement for Association. The Association and its agents shall have an easement for access to each Lot and to the exterior of any building located thereon during reasonable hours as may be necessary for the following purposes:

(a) The maintenance, repair, replacement, or improvement of any Common Area accessible from that Lot.

(b) Emergency repairs necessary to prevent damage to the Common Areas or to another Lot or the improvements thereon.

(c) Cleaning, maintenance, repair, or restoration work which the owner is required to do but has failed or refused to do.

Except in an emergency where advance notice is not possible, these easements shall be exercised only after reasonable notice to the Lot owner.

5.3 Easement for Government Personnel. An easement for access by police, fire, rescue and other government personnel is reserved across all Common Areas as necessary or appropriate for the performance of their public duties.

5.4 Easement for Declarant. The Declarant shall have an easement across all Common Areas for ingress, egress, storage and placement of equipment and materials, and other actions necessary for or related to the development or maintenance of Eaglemont.

ARTICLE VI ASSESSMENTS

6.1 Covenants for Maintenance Assessments.

(a) Declarant, for each Lot owned by it, agrees, and each owner of a Lot or Dwelling Unit by acceptance of a deed therefor, whether or not it shall be so expressed in any

such deed or other conveyance, is deemed to agree to pay to the Association (i) annual assessments or charges as described in Section 3.4 above, and (ii) special assessments for capital improvements.

(b) The annual and special assessments, together with interest, costs and reasonable attorneys' fees shall be a charge and a continuing lien upon the Lot or Dwelling Unit against which each such assessment is made. Such lien may be foreclosed by the Association in like manner as a mortgage on real property.

(c) Each assessment, together with interest, costs, and reasonable attorneys' fees shall also be the personal obligation of the person who was the owner of the Lot or Dwelling Unit assessed at the time the assessment fell due. The personal obligation shall not pass to the owner's successors-in-interest unless expressly assumed by them. The new owner shall be personally liable for assessments which become due on and after the date of sale or transfer.

6.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the properties, including the improvement, repair and maintenance of the Common Areas and special maintenance areas and the services and facilities related to the use and enjoyment of said areas, and for the payment of taxes and insurance on the Common Areas and special maintenance areas.

6.3 Maximum Annual Assessments. The Board of Directors shall establish the maximum annual assessment which may, from time to time, be increased subject to the following conditions and limitations:

(a) Until such time as the Class "B" membership ceases to exist, the Board of Directors may fix and increase the maximum annual assessment as necessary to fulfill the purposes set forth above.

(b) From and after the date upon which the Class "B" membership ceases to exist, the maximum annual assessment may not be materially increased without an affirmative vote of two-thirds (2/3) of the Class "A" members who are voting in person or by proxy, at a meeting duly called for such purpose pursuant to 6.7 of this Article. A "material increase" shall be an increase which, cumulatively for the Association's fiscal year, increases the annual assessment by a percentage in excess of a percentage increase in the Consumer Price Index over the twelve (12) month period ending one (1) month before the start of the fiscal year.

The Consumer Price Index shall be that applicable to "All Urban Consumers" published by the Bureau of Labor Statistics for the area which includes Eaglemont, or if that index is terminated or superseded, a comparable measure.

6.4 Board to Fix Annual Assessment. The Board of Directors shall fix the annual assessment at an amount not in excess of the maximum at least fifteen (15) days prior to the start of the fiscal year. Written notice of the annual assessment shall be sent to every owner. The Annual Assessment shall be payable in quarterly installments on the first day of each JANUARY, APRIL, JULY and OCTOBER. In the event the Board fails to fix an annual assessment for any fiscal year, then the assessment established for the prior year shall automatically be continued until such time as the Board acts. The annual assessments shall be sufficient to meet the obligations imposed by the Declaration and any supplementary declarations, and shall be sufficient to establish an adequate reserve fund for the maintenance, repair and replacement of those Common Areas which require such actions on a periodic basis.

6.5 Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto; provided, however, that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose pursuant to 6.7 of this Article.

6.6 Rate of Assessment. Both annual and special assessments shall be fixed at a uniform rate for all Dwelling Units, provided, however, that owners of Lots on which no construction has occurred shall be assessed at twenty-five percent (25%) of the regular annual assessment rate until the date which is two (2) years after the date of sale, after which time such Lots shall be assessed at one hundred percent (100%) of the regular annual assessment rate. For Lots upon which multiple Dwelling Units are permitted, assessments shall be based upon the number of units permitted until such time as all Dwelling Units to be constructed on the Lot are completed. Thereafter, assessments shall be based upon the actual number of units constructed.

6.7 Notice and Quorum For Any Action Authorized Under s 6.3 and 6.4. Written notice of any meeting conducted pursuant to s 6.3 or 6.4 of this Article shall be sent to all members not

less than thirty (30) days nor more than sixty (60) days in advance of the meeting and shall include a statement of the purpose for which the meeting is to be held. At the first meeting called for the purposes set forth in s 6.3 and 6.5, the presence of members or of proxies entitled to cast Sixty (60%) 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 herein, and one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

6.8 Commencement of Annual Assessments; Due Dates. The annual assessments shall commence as to all Lots or Dwelling Units within the Property on the first (1st) day of the month following the conveyance of the first Lot or Dwelling Unit. If additional property is annexed to the Property pursuant to Article II, annual assessments on each of the Lots or Dwelling Units added shall commence on the first (1st) day of each month following the first conveyance of a Lot or Dwelling Unit within the annexed property. The first annual assessment on any Lot or Dwelling Unit shall be adjusted according to the number of months remaining in the calendar year.

6.9 Certificate. The Association shall upon demand furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot or Dwelling Unit have been paid. A reasonable charge may be made by the Association for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment stated to have been paid.

6.10 Effect of Nonpayment of Assessments; Remedies of Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due 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 obligated to pay the assessment, or may foreclose the lien against the property, and in either event, interest, costs, and reasonable attorneys' fees shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for annual or special assessments by non-use of the Common Areas or by abandonment of his or her Lot or Dwelling Unit.

6.11 Subordination of Lien to Mortgages. The lien of the assessments provided for in this Declaration shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot or Dwelling Unit shall not affect the assessment lien. However, where the mortgagee of a mortgage of record or other purchaser of

a Lot or Dwelling Unit obtains possession of the Lot or Dwelling Unit as the result of foreclosure of a mortgage, or by deed or assignment in lieu of foreclosure, such possessor, his or her successors and assigns, shall not be liable for the share of the common expenses or assessments by the Association chargeable to such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the owners, including such possessor, his or her successors and assigns.

6.12 Exempt Property. The following property shall be exempt from the payment of annual and special assessments:

(a) All portions of the Properties dedicated to and accepted by a local public authority.

(b) The Common Areas and other areas set aside for nonresidential use.

ARTICLE VII EXTERIOR MAINTENANCE

Each Owner shall have the obligation to maintain his or her Lot and any building or improvements located on the Lot in first-class condition. The Owner of a Lot upon which a Dwelling Unit has not yet been constructed shall regularly maintain such Lot, including mowing the grass, attending to and caring for existing landscaping, and removing all weeds, including blackberry plants. If the Owner of any Lot fails to maintain his or her Lot, or any buildings, and other improvements thereon, the Association, after approval by two-thirds (2/3) vote of the Board, shall have the right, through its agents and employees, to enter upon the Lot and to clean, repair, maintain, and restore the Lot and the exterior of the buildings and other improvements, if any. The cost of such maintenance shall be added to and become part of the assessments to which such Lot is subject.

ARTICLE VIII ARCHITECTURAL CONTROL COMMITTEE

8.1 Appointment. An Architectural Control Committee ("ACC") consisting of not less than three (3) nor more than seven (7) persons shall be appointed by Declarant. Each member shall hold office until he or she resigns, is removed, or until his or her successor has been appointed and qualified. Declarant shall have the authority to appoint, remove and/or replace the members of the ACC until the termination of the Class "B" membership as set forth in this Declaration. Thereafter, the members of the ACC shall be appointed by the Board of Directors.

8.2 Duties. The ACC shall have the authority to review and act upon proposals and plans submitted and to perform other duties set forth in this Declaration.

8.3 Guidelines; Permits; Fees. The ACC shall have the authority to adopt and amend written guidelines to be applied in its review of plans and specifications, in order to further the intents and purposes of this Declaration and any other covenants or restrictions covering the Property. If such guidelines are adopted, they shall be available to all members upon request. The ACC may charge a fee to cover plan review and inspection and may require a completion bond to ensure that exterior and landscaping work is completed. All permit fees and bond proceeds shall belong to the Association. The ACC may, among other things, establish guidelines requiring, for all Lots sold by Declarant after the date of this instrument, an Eaglemont Building Permit for activities requiring ACC approval; provided, however, that any such permit shall be in addition to any building permits or other approvals required by the City of Mount Vernon. Nothing in this Declaration shall be construed to relieve any owner of property subject to this Declaration from his or her obligation to comply with all laws and regulations of the City of Mount Vernon for construction of any structure.

8.4 Meetings; Compensation. The ACC shall meet as necessary to properly perform its duties, and shall keep and maintain a record of all actions taken at the meetings or otherwise. Unless authorized by the Association, the members of the ACC shall not receive any compensation for their services. All members shall be entitled to reimbursement for reasonable expenses incurred in connection with the performance of any ACC duties.

8.5 Nonwaiver. Approval by the ACC of any plans, drawings or specifications shall not be a waiver of the right to withhold approval of any similar plan, drawing, specification, or matter submitted for approval.

8.6 Liability. Neither the ACC nor any of its members shall be liable to the Association or to any owner for any damage, loss or prejudice resulting from any action taken in good faith on a matter submitted to the ACC for approval or for failure to approve any matter submitted to the ACC. The ACC or its members may consult with the Association or any owner with respect to any plans, drawings, or specifications, or any other proposal submitted to the ACC.

**ARTICLE IX
ARCHITECTURAL AND LANDSCAPE CONTROL**

9.1 Approval of Plans Required. Except as provided in 9.2 below, none of the following actions may be taken until plans and specifications for the same have been approved in writing by the ACC:

- (a) The construction of private roads or driveways.
- (b) The construction or erection of any building, fence, corral, wall or other structure, including the installation, erection or construction of any solar collection device.
- (c) The remodeling, reconstruction, or alteration of any road, driveway, building or other structure.
- (d) The removal of any living plant or tree from any portion of a Lot which is a set back area under any covenant, regulation, or restriction applicable to said Lot, except such removal as may be necessary under the terms of any other covenant applicable to the Lot.

Any of such actions which has been approved shall only be taken in conformity with the plans and specifications actually approved by the ACC, and no changes in or deviations from the approved plans and specifications shall be made without prior written approval of the ACC. In addition, a home may only be constructed by a builder approved by the ACC as set forth below. In addition to compliance with the requirements of this paragraph, construction within Eaglemont shall be subject to all applicable laws, including the requirement to obtain appropriate building permits from the City. ACC review shall be completed prior to application for a building permit from the City.

NONE OF THE ACTIONS DESCRIBED ABOVE MAY BE TAKEN UNTIL THE OWNER HAS RECEIVED A WRITTEN LETTER FROM THE ACC APPROVING THE PLANS.

9.2 Approval Not Required. Notwithstanding any provision of this Declaration, the approval of the ACC shall not be required for action taken by Declarant to develop the property in accordance with the Development Plan.

9.3 Procedure for Approval. Any person wishing to take any of the actions described above shall submit to the ACC two (2) sets of plans and specifications which meet all of the requirements set forth in the design guidelines prepared by the ACC as may be modified from time to time. Approval of such plans and specifications shall be evidenced by letter and by written

notation on such plans and specifications, one (1) copy of which shall be delivered to the owner of the Lot upon which the proposed action is to be taken. The ACC shall not be responsible for any structural defects in such plans or specifications or in any building or structure erected according to such plans and specifications. The ACC shall make its decision within thirty (30) days from the date the completed plans and specifications are submitted.

9.4 Criteria for Approval. Approval of plans and specifications may be withheld or conditioned if the proposed action is at variance with these covenants, other covenants covering the Property, or design guidelines adopted by the ACC. Approval may also be withheld or conditioned if, in the opinion of the ACC, the proposed action will be detrimental to the community because of the grading and drainage plan, location of the improvement on the Lot, color scheme, finish design, proportions, size of home, shape, height, style, materials, outdoor lighting proposed, or landscaping plan, or impact on view rights. The ACC shall also have the right to withhold approval of the builder the owner plans to employ, based upon the builder's experience, reputation or credit history.

9.5 Conformity With Approved Plans. It shall be the responsibility of the ACC to determine that actions have been completed in accordance with the plans as submitted and approved. Such determination must be made within sixty (60) days of the completion of the action. If the ACC shall determine that the action does not comply with the plans and specifications as approved, it shall notify the owner within that sixty (60) day period, and the owner, within such time as the ACC shall specify, but not less than thirty (30) days, shall either remove or alter the improvement or take such other steps as the ACC shall designate.

ARTICLE X PERMITTED AND PROHIBITED USES

10.1 Land Use and Building Type. Except with the prior written approval of the ACC, no building shall be erected, altered, placed or permitted to remain upon any single-family Lot as shown on the Development Plan other than one (1) single-family dwelling not to exceed two (2) stories in height (not including a daylight basement on sloping lots); one (1) private garage for not more than three (3) standard-size passenger automobiles (provided, however, that the ACC may approve, in its discretion, larger garages to accommodate recreational vehicles or similar uses). Multi-family structures, including townhouses, may be built upon portions of the properties approved for such uses on the Development Plan. Nothing in this provision shall prevent the Declarant from using all or any portion of any Lot for

9401250030

-15-

BK1290PG0084

J:\AB\HOME26A\WC.DOC 01/11/94 09:17 AM

0127 1994

0572 0731

roadway purposes, provided such improvements are shown on the Development Plan.

10.2 Building Location. The setback requirements shown in the Development Plan and any further setbacks described in the design guidelines prepared by the ACC or required by the ACC shall apply to the location of any building or structure on any Lot unless a variance from or waiver of such requirement has been granted; provided, however, that nothing contained in this provision shall prevent the ACC from applying a more restrictive requirement in the architectural approval process. As to those Lots located adjacent to golf course boundaries, no Dwelling Unit or other structure shall be located within twenty-five (25) feet of the lot line bordering the golf course, without the written approval of the ACC and the Golf Course Operator.

10.3 Fireplaces and Stoves. Fireplaces and wood or coal-burning stoves shall meet federal, state, and local requirements.

10.4 Activities Prohibited in Native Growth Protection Areas and Sensitive Areas. No clearing, grading or filling of any kind, building construction, replacement, or road construction shall occur within any Native Growth Protection Area or Sensitive Area (as defined in City of Mount Vernon Ordinance No. 2482 (the "Sensitive Area Ordinance")), except for necessary utility installation or as otherwise permitted by the Sensitive Area Ordinance within Sensitive Areas. Removal of trees within Native Growth Protection Areas shall be limited to those which are dead, diseased or hazardous and may occur only with the approval of the ACC. No adjustment to the boundary of Native Growth Protection Areas shall occur unless first approved through the formal replatting process.

10.5 Pesticides, Fungicides and Herbicides. The use of pesticides, fungicides and herbicides shall be minimized. No pesticide, fungicide or herbicide shall be used that is not included in the "List of Approved Pesticides, Fungicides and Herbicides" provided by the Association and included in the approved "Integrated Pest Management Plan". Application rates of these products shall not exceed those recommended by the manufacturer.

10.6 Discharges to Storm Water System. Toxic substances shall not be discharged into the storm water system, including street drains.

10.7 Traffic Confined to Established Pathways. All forms of human traffic, including but not limited to walking, jogging, and hiking shall use the established pathway system. Such traffic within the Native Growth Protection Areas is prohibited outside of established and maintained paths and walkways.

10.8 Outdoor Lighting. Outdoor lighting shall be from ground sources directed at the structures and away from neighboring homes, the golf course, the Native Growth Protection Areas and greenbelt corridors.

10.9 Swimming Pools. Unless approved by the ACC in writing, swimming pools shall not be nearer than thirty (30) feet to any lot line (provided, however, that no swimming pool shall be located within fifty (50) feet of the golf course) and shall not project with their coping more than three (3) feet above the established grade.

10.10 Completion of Construction. On all single-family Lots sold after the date of this instrument, construction of the principal structure shall be commenced within two (2) years from the date the Declarant first sells the Lot. Construction work on all buildings and structures shall be prosecuted diligently and continuously from commencement of construction until the structures are fully completed and painted (including stains and/or natural finishes). All structures shall be completed as to external appearance, including finish painting, staining and/or natural finishes within twelve (12) months from date of commencement of the construction, unless prevented by cause beyond the owner's control, or unless the construction period is extended by the ACC, in its sole discretion.

10.11 Sight Distance at Intersections. No fence, wall, tree, hedge, shrub or other planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at a point twenty five (25) feet from the inter of the street lines, or in the case of a rounded property corner from the inter of the street property lines extended. The same sight line limitations shall apply on any Lot within the (10) feet from the intersection of a street property line with the edge of a driveway.

10.12 Quality of Construction. The principal structure on each Lot shall be constructed by a licensed building contractor in accordance with quality standards prepare by the ACC.

10.13 Driveway Standards. All driveways shall be constructed of concrete or asphalt unless otherwise approved in writing by the ACC.

10.14 Parking. Unless fully enclosed within an approved structure upon a Lot, no recreational vehicles, commercial vehicles, construction or like equipment, trailers (utility, boat, camping, horse, or otherwise), or disabled vehicles shall

be allowed to be parked or stored on any Lot, street, or area other than the designated recreational vehicle parking area, for a period in excess of twenty four (24) hours in any one week.

10.15 Nuisances. No noxious or undesirable thing, or noxious or undesirable use shall be permitted or maintained upon any Lot or upon any other portion of the Properties. If the Board determines that a thing or use is undesirable or noxious, that determination shall be conclusive.

10.16 Excavation. Except with the permission of the ACC, or except as may be necessary in connection with the construction of any approved improvement, no excavation shall be made nor shall any dirt be removed from any Lot herein.

10.17 Drainage. Except with the approval of the ACC, the natural drainage of any Lot shall not be changed.

10.18 Use During Construction. Except with the approval of the Board, no persons shall reside upon the premises of any Lot until such time as the improvements to be erected thereon in accordance with the plans and specifications approved by the Board have been completed.

10.19 Divisions of Lots. No Lot shall be divided without the prior written approval of the Board of Directors. In addition, compliance with applicable City ordinances and laws governing subdivision of property shall be required.

10.20 Water Supply. No individual water supply system shall be permitted on any Lot.

10.21 Signs. No sign or billboard of any kind shall be displayed to public view on any portion of any Lot, excepting one sign of not more than five (5) square feet advertising the property for sale or rent, one sign of not more than one (1) square foot indicating the name of the owner, or one sign of reasonable size used by a builder to advertise the property during the construction and initial sales period. All signs shall be subject to the approval of the ACC.

10.22 Animals. No animals or reptiles of any kind shall be kept on the properties, except that dogs, cats, or other household pets may be kept on any Lot. No animal may be kept, bred, or maintained for any commercial purpose. Pets (including dogs and cats) shall not be allowed to run free within any Native Growth Protection Area. Dogs shall be maintained on a leash when not confined to the owner's property.

10.23 Garbage and Refuse. No garbage, refuse rubbish, cuttings or debris of any kind shall be deposited on or left upon

any Lot unless placed in an attractive container suitably located and screened from public view. Such materials shall not be deposited in the Native Growth Protection Areas, or other sensitive areas. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No building material of any kind shall be placed or stored upon any property within Eaglemont until the owner is ready to commence construction, and then such material shall be placed within the boundary lines of the Lot upon which its use is intended.

10.24 Motorized Vehicles, Golf Carts. No motorized vehicles except necessary maintenance equipment shall be permitted on trails or jogging paths or any portion of the Common Areas not designated as a roadway, cart path or parking area, except that Golf Carts may be permitted on some trails and Common Areas as provided in regulations to be promulgated by the Board of Directors.

10.25 Temporary Structure. No structure of a temporary or movable character including but not limited to a trailer, mobile home, basement, tent, shack, garage, barn or any other outbuilding shall be kept or used on any Lot at any time as a residence. This provision shall not be deemed to prevent the use of a construction shack or trailer for purposes of storage or security at any time during the initial period of construction.

10.26 Utility Lines; Radio and Television Antennas. All electrical service, telephone lines and other outdoor utility lines shall be placed underground. No exposed or exterior radio or television transmission or receiving antennas shall be erected, placed, or maintained on any part of such premises except as approved by the ACC prior to installation or construction. Any waiver of these restrictions shall not constitute a waiver as to other Lots or lines or antennas. TV antennas, HAM radio antennas and microwave or satellite dishes are prohibited.

10.27 Tanks, Etc. No elevated or underground tanks of any kind shall be erected, placed, or permitted on any property subject to this Declaration. All clotheslines, garbage cans, equipment, coolers, wood piles, or storage piles shall be walled in or otherwise suitably screened to conceal them from the view of neighboring Lots, Common Areas, roads, or streets. Plans for all enclosures of this nature must be approved by the ACC prior to construction.

10.28 Authority to Adopt Additional Rules and Restrictions. The Association shall have the authority to adopt additional written rules and restrictions governing the use of the Property, provided such rules and restrictions are consistent

with the purposes of the Declaration, and to establish penalties for violation of those rules and restrictions. If rules and restrictions are adopted, they, along with the established penalties, shall be available to all members upon request.

ARTICLE XI
SPECIAL RESTRICTIONS AFFECTING GOLF FAIRWAY RESIDENTIAL AREAS

11.1 Golf Course Maintenance Easement. There is reserved to Declarant a "Golf Course Maintenance Easement Area" on each Lot adjacent to the golf course developed on property adjacent to the Property. This easement shall permit Declarant, at its election, to go onto any affected Lot at any reasonable hour and maintain or landscape the Golf Course Maintenance Easement Area. Such maintenance and landscaping shall include regular removal of underbrush, trees less than six (6) inches in diameter, stumps, trash or debris, planting of grass, watering, application of fertilizer, and mowing the Golf Course Maintenance Easement Area. This Golf Course Maintenance Easement Area shall be limited to the portion of such Lots within twenty-five (25) feet of the lot line bordering the course, or such lesser area as may be shown as a "Golf Course Maintenance Area" on the recorded plat of such Lot; provided, however, that the above-described maintenance and landscaping rights shall apply to the entire Lot until there has been filed with the Declarant or the ACC a landscaping plan for such Lot by the owner thereof, or alternatively, a Dwelling Unit is constructed on the Lot.

11.2 Entry by Golfers. Until such time as a Dwelling Unit is constructed on a Lot, Declarant, its agents, successors or assigns, reserves an easement to permit and authorize registered golf course players and their caddies to enter upon a Lot to recover a ball or play a ball, subject to the official rules of the course, without such entering and playing being deemed a trespass. After a Dwelling Unit is constructed, such easement shall be limited to that portion of the Lot included in the Golf Course Maintenance Easement Area, and recovery of balls only, not play, shall be permitted in such Easement Area. Registered players or their caddies shall not be entitled to enter on any such Lot with a golf cart or other vehicle, nor spend unreasonable time on such Lot, or in any way commit a nuisance while on such Lot. After construction of a Dwelling Unit on a Lot, "Out of Bounds" markers may be placed on said Lot at the expense of Declarant or the Association.

11.3 Prohibited Activities. Owners of golf fairway Lots shall be obligated to refrain from any actions which would detract from the playing qualities of the golf course or the development of an attractive overall landscaping plan for the entire golf course area. Such prohibited actions shall include, but are not limited, such activities as permitting unfenced dogs

or other pets on the Lot under conditions interfering with play due to noise or otherwise, running on the golf course, picking up balls or other like interference with play.

11.4 No Reserved Rights. Ownership of a Dwelling Unit or Lot in itself shall not create any rights of access, play or membership to any golf course constructed within the Property, and Declarant reserves the right to use said golf course and golf club as it may choose in its sole discretion including, but not limited to, the right to permit public play.

11.5 Assignment of Declarant's Rights. Declarant hereby assigns its rights under this Article XI to the Golf Course Operator.

ARTICLE XII INSURANCE REQUIREMENTS

The Association shall continuously maintain in effect such casualty, flood and liability insurance as the Board determines is sufficient in its reasonable business judgment.

ARTICLE XIII DAMAGE OR DESTRUCTION

13.1 Application of Proceeds. In the event of damage or destruction to all or part of the Common Areas, the insurance proceeds, if sufficient, shall be applied to repair, reconstruct or rebuild the Common Area in accordance with the original plans. Such repair, reconstruction or rebuilding shall be rearranged for promptly by the Board of Directors.

13.2 Meeting of Owners. If the insurance proceeds are insufficient to pay for the cost to repair the Common Areas, the Board shall promptly, but in no event later than ninety (90) days after the date of damage or destruction, give notice to and conduct a special meeting of the owners to review the proposed repairs, replacement, and reconstruction, as well as the projected cost of such repairs, replacement or reconstruction. The owners shall be deemed to have approved the proposed repairs, replacement, and reconstruction as proposed by the Board at that meeting, unless the owners decide by an affirmative vote of Fifty One (51%) Percent of the total votes cast at such meeting (provided a quorum exists), to repair, replace, or reconstruct the premises in accordance with the original plan in a different manner than that proposed by the Board. In any case, however, use of hazard insurance proceeds for other than repair, replacement, or reconstruction of the Common Areas in accordance with the original plans shall not be permitted without the prior written approval of at least sixty-seven percent (67%) of the first mortgagees (based on one [1] vote for each first mortgage

owned) or Owners (if there is no first mortgage on that Lot or Dwelling Unit) of the Lots or Dwelling Units.

ARTICLE XIV CONDEMNATION

In the event of a partial condemnation of the Common Areas, the proceeds shall be used to restore the remaining Common Areas, and any balance remaining shall be distributed to the Association. In the event that the entire Common Area is taken or condemned, or sold, or otherwise disposed of in lieu of or in avoidance thereof, the condemnation award shall be distributed to the Association. No proceeds received by the Association as the result of any condemnation shall be distributed to a Lot owner or to pay any other party in derogation of the rights of the first mortgagee of any Lot or Dwelling Unit.

ARTICLE XV MORTGAGEE PROTECTION

15.1 Definitions. As used in this Declaration:
(1) "mortgagee" includes the beneficiary of a deed of trust, secured party, or other holder of a security interest;
(2) "foreclosure" includes a notice and sale proceeding pursuant to a deed of trust or sale on default under a security agreement;
and (3) "institutional holder" means 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.

15.2 Approval of Mortgagees Required. The prior written approval of at least seventy-five percent (75%) of the first mortgagees (based on one vote for each first mortgage owned) of the individual Lots or Dwelling Units shall be required for any of the following:

(a) The abandonment or termination of the PUD status of the project, except for abandonment or termination, if any, provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain.

(b) Any material amendment to this Declaration, or to the Articles of Incorporation or Bylaws of the Association, including, but not limited to, any amendment which would change the ownership interests of the owners in this project, change the pro rata interest or obligation of any individual owner for the purpose of levying assessments or charges or for allocating distributions of hazard insurance proceeds or condemnation awards.

(c) The effectuation of any decision by the Association to terminate professional management and assume self-management (however this shall not be deemed or construed to require professional management).

(d) Partitioning or subdividing any Lot.

(e) Any act or omission seeking to abandon, partition, subdivide, encumber, sell or transfer the Common Areas; provided, however, that the granting of easements for public utilities or other public purposes consistent with the intended use of the Common Areas shall not be deemed a transfer within the meaning of this clause.

(f) Any act or omission seeking to change, waive or abandon any scheme of regulations or enforcement thereof, pertaining to the architectural design or the exterior appearance of buildings and other improvements, the exterior maintenance of buildings and other improvements, the maintenance of common property walks or common fences and driveways, or to the upkeep of lawns and plantings in the properties.

(g) Any act or omission whereby the Association fails to maintain fire and extended coverage on insurable properties common property on a current replacement cost basis in an amount not less than 100% of the insurable value (based on current replacement costs).

(h) Use of hazard insurance proceeds for losses to any properties common property for other than the repair, replacement or reconstruction of such common property.

15.3 Notice to Mortgagees. Each first mortgagee (as well as each owner) shall be entitled to timely written notice of:

(a) Any significant damage or destruction to the Common Areas.

(b) Any condemnation or eminent domain proceeding effecting the Common Areas.

(c) Any default under this Declaration or the Articles of Incorporation or Bylaws which gives rise to a cause of action against the owner of a Lot subject to the mortgage of such holder or insurer, where the default has not been cured in thirty (30) days.

(d) Any material amendment of this Declaration or to the Articles of Incorporation or Bylaws of the Association.

15.4 Rights of Mortgagees. Each first mortgagee shall be entitled, upon request, to:

(a) Inspect the books and records of the Association during normal business hours.

(b) Require the preparation of and, if preparation is required, receive an annual financial statement of the Association for the immediately preceding fiscal year, except that such statement need not be furnished earlier than ninety (90) days following the end of such fiscal year.

(c) Receive written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.

15.5 Taxes on Common Areas. First mortgagees of any Lots or Dwelling Units may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Areas, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Common Areas, and the first mortgagees making such payments shall be entitled to immediate reimbursement therefor from the Association.

ARTICLE XVI GENERAL PROVISIONS

16.1 Binding Effect. All present and future owners or occupants of Lots or Dwelling Units shall be subject to and shall comply with the provisions of this Declaration, and the Bylaws and rules and regulations of the Association, as they may be amended from time to time. The acceptance of a deed or conveyance of any Lot or the entering into occupancy of any Dwelling Unit shall constitute an agreement that the provisions of this Declaration, and the Bylaws and rules and regulations of the Association, as they may be amended from time to time, are accepted and ratified by such owner or occupant, and all such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Lot or Dwelling Unit, as though such provisions were recited and stipulated at length in each and every deed and conveyance or lease thereof.

16.2 Enforcement. The Association and any owner shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Should the Association or any owner employ counsel to enforce any of the foregoing covenants, conditions, reservations, or restrictions, all costs incurred in such

enforcement, including a reasonable fee for counsel, shall be paid by the owner found to be in violation of said condition, covenant, reservation, or restriction, or found to be delinquent in the payment of said lien or charge.

16.3 Failure to Enforce. No delay or omission on the part of the Declarant or the owners of Lots or Dwelling Units in exercising any rights, power, or remedy provided in this Declaration shall be construed as a waiver of or acquiescence in any breach of the covenants, conditions, reservations, or restrictions set forth in the Declaration. No action shall be brought or maintained by anyone whatsoever against the Declarant for or on account of its failure to bring any action for any breach of these covenants, conditions, reservations, or restrictions, or for imposing restrictions which may be unenforceable.

16.4 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

16.5 Interpretation. In interpreting this Declaration, the term "person" may include natural persons, partnerships, corporations, associations, and personal representatives. The singular may also include the plural and the masculine may include the feminine, or visa versa, where the context so admits or requires. This Declaration shall be liberally construed in favor of the party seeing the enforce its provisions to effectuate the purpose of protecting and enhancing the value, marketability, and desirability of the Property by providing a common plan for the development of Eaglemont.

16.6 Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) years by a vote of Ninety (90%) Percent of each class of members and thereafter by a vote of Seventy Five (75%) of the members. Any amendment must in writing and signed by the approving members or owners, and must be recorded.

16.7 Power of Declarant to Amend to Meet Financing Requirements. Notwithstanding anything in this Declaration to the contrary, Declarant may without the consent of any owner, at any time prior to the time it has sold and closed ninety percent (90%) of the Lots, amend this Declaration by an instrument signed by Declarant alone in order to satisfy the requirements of any lender to Declarant.

9401250030

-25-

J:\JAB\HOME\26A0WC.DOC 01/11/94 09:17 AM

BK1290PG0094

0127 1994

0572 0741

16.8 Certain Rights of Declarant. For such time as Declarant shall own Lots or Dwelling Units, there shall be no amendments to the Declaration, the Articles of Incorporation, the Bylaws of the Association, or any Rules and Regulations adopted by the Association which:

(a) Discriminate or tend to discriminate against the Declarant's rights as an owner.

(b) Change Article I ("Definitions") in a manner which alters Declarant's rights or status.

(c) Alter Declarant's rights under Article II regarding annexation of additional properties.

(d) Alter the character and rights of membership or the rights of Declarant as set forth in Article IV.

(e) Alter previously recorded or written agreements with public or quasi-public agencies regarding easements and rights-of-way.

(f) Deny the right to convey Common Areas to the Association so long as such Common Areas lie within the land area represented in the Development Plan.

(g) Alter its rights as set forth in Articles VIII and IX relating to architectural controls.

(h) Alter the basis for assessments.

(i) Alter the provisions of Articles X or XI.

(j) Alter the number or selection of Directors as established in the Bylaws.

(k) Alter the Declarant's rights as they appear under this Article.

16.9 Dispute Resolution. Any dispute or controversy arising under this Declaration or any breach hereof (including any action for specific performance), shall be determined and settled by arbitration as set forth herein pursuant to the rules (but not the supervision) of the American Arbitration Association in the following manner:

(a) A party may, by written notice to other parties within thirty (30) days after a controversy has arisen hereunder, appoint an arbitrator who shall be a lawyer engaged in the practice of real estate law in Washington for

at least ten years. The other party shall by written notice within ten (10) days after receipt of such notice appoint a second arbitrator who shall be similarly qualified. In default of such second appointment, the first arbitrator shall be the sole arbitrator.

(b) If two arbitrators have been appointed as provided herein, they shall, if possible, agree on a third arbitrator and shall appoint him or her by written notice signed by both of them and a copy mailed to each party immediately following such appointment.

(c) If ten (10) days elapse after the appointment of the second arbitrator without notice of appointment of the third arbitrator, then either party or both may request that the presiding judge of the Skagit County Superior Court appoint the third arbitrator. The third arbitrator shall be the "Arbitrator" and shall hear evidence and decide the case as provided below.

(d) The Arbitrator shall hold an arbitration hearing in Mount Vernon, Washington within thirty (30) days after the appointments are complete. At the hearing, the laws of evidence of the State of Washington shall apply. The Arbitrator shall allow each party to present its case, evidence and witnesses in the presence of the other party. The judgment of the Arbitrator the award shall be based upon the agreements of the parties and rules of law. The Arbitrator shall set forth findings of fact and conclusions of law upon which the award is based in the same manner as is required in trials before judges in the Superior Court of the State of Washington.

(e) The award of the Arbitrator shall be binding upon the parties hereto. Judgment may be entered upon the award in the Superior Court of the State of Washington for the County of Skagit. The award and the judgment based thereon shall be final, binding and nonappealable. The Arbitrator shall award attorneys' fees and costs of the arbitration and related proceedings to the prevailing party.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed this 11th day of January, 1994.

DECLARANT

SEA-VAN INVESTMENTS ASSOC.,
a Washington general partnership

By

Its

James Honey
President of Union Development Co,
Managing Partner of Sea-Van
Investments Associates

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this 11th day of January, 1994, before me personally appeared James Hung, to me known to be the President of Union Development Co, Managing Partner of SEA-VAN INVESTMENTS ASSOC., a Washington general partnership, the partnership that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said partnership, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

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

Leslie A. Kuntz
Print Name: Leslie A. Kuntz
NOTARY PUBLIC in and for the
State of Washington, Residing
at Everett, WA
My Appointment Expires Aug 24, 1994

**EAGLEMONT ARCHITECTURAL CONTROL COMMITTEE
RESIDENTIAL DESIGN GUIDELINES**

PREFACE

The Eaglemont Association, of which every homeowner is a member, was established to preserve and enhance the resources of Eaglemont. The Association is charged with preserving open space and ensuring the landscape and design qualities which make Eaglemont a desirable community in which to live.

The Covenants, Conditions and Restrictions (CC&R's) are a part of every deed to property in Eaglemont and grant the Association the legal authority to review and approve or disapprove the details and written plans and specifications showing the nature, kind, shape, height, materials, colors, and location of proposed living units, buildings, fences, walls, landscaping, or other structures, exterior additions, changes or alterations, clearing or excavation of lots or cutting of trees. This authority is vested by the Eaglemont Association in the Architectural Controls Committee (ACC).

The specifications and guidelines contained in this document are intended to provide the buyer, prospective homeowner, architect or designer, and builder with the requirements for development. You, your architect or designer should review this material and contact Eaglemont with any questions before starting any design work.

We need your sympathetic cooperation in complying with these carefully thought-out guidelines. We are not dictating style, but believe that it is in everyone's long-term interest to be stringent about these requirements. If you are a prospective buyer, please understand these requirements before you buy the lot so there will be no misunderstanding.

An Eaglemont building permit must be issued by the ACC prior to submitting for any building permits and other permits as required by the City of Mount Vernon or any other public agency and prior to initiating any site development activity. It is the property owner's responsibility to determine what, if any, governmental approvals are required. Public agency approval does not relieve the property owner of responsibility to obtain ACC approval nor does ACC approval relieve the property owner of the responsibility to obtain public agency approvals.

The Eaglemont Architectural Control Committee reserves the right to decide whether or not proposed plans are acceptable. Builders agree that if Eaglemont Architectural Control Committee decides the plan is not acceptable the builder has no recourse. A builder may be dropped from the approved builder list at anytime, for any reason deemed sufficient, solely by Eaglemont Architectural Control Committee.

**YOU MUST HAVE APPROVAL BY THE ARCHITECTURAL CONTROL COMMITTEE
AND AN EAGLEMONT BUILDING PERMIT BEFORE ANY CLEARING OR
CONSTRUCTION BEGINS.**

9401250030

BK 1290 PG 0099

ACC CHECKLIST

LOT _____ DIV _____ ACC REVIEW DATE _____

HOMEOWNER _____

- 1. Site plan
- 2. Construction plans
- 3. Cross section & grading plan
- 4. Preliminary landscape plan
- 5. Sensitive Areas Boundary
- 6. Exterior Materials
 - Masonry _____
 - Siding _____
 - Roofing _____
- 6. Exterior Colors
 - Siding _____
 - Trim _____
 - Masonry _____
 - Roofing _____
- 7. Builder _____
- 8. Building Review Fee - \$ _____ payable to Eaglemont Homeowners Association

This checklist supersedes colors and materials on the construction plans.

Homeowner signature Date

FOR ACC USE ONLY

- 9. EAGLEMONT Building Permit issued _____ (Date)
- 10. Ribbonded and sidelines _____ (Date reviewed)
- 11. Approximate start date of construction _____
- 12. Final Landscape plan _____ (Date)

EAGLEMONT BUILDING PERMIT

Lot # _____ Div. # _____

Property Owner _____

Builder _____

While under construction, it is hereby agreed that the following conditions will be observed:

- Lot corners have been or shall be set by Eaglemont prior to construction. Protection and/or relocation of such corners is the responsibility of the builder or lot owner.
- Clearing limits must be strung prior to clearing and must remain in place throughout construction.
- The streets must be kept clean and free from dirt, debris and building materials.
- There will be no storage of building materials or debris by builder on any location other than within the borders of this lot.
- A portable bathroom must be provided for each site according to state regulations.
- There will be no access to this lot from neighboring lots or the golf course without written permission.
- Burning of debris from clearing shall adhere to the current burning regulations as per the City fire code.
- This permit does not take the place of any building permits required by the City.

Violations of the above conditions may be remedied directly by Eaglemont and billed to the lot owner and/or civil action maybe filed.

Additional Requirements and/or General Comments: _____

Your are hereby permitted construction in accordance with the approved plans, and conditions of approval. Any changes in plans or colors must be submitted for approval in writing to the ACC.

Eaglemont Corp. Date

Owner/Builder Date

EAGLEMONT RESIDENTIAL DESIGN GUIDELINES

BACKGROUND

The emphasis at Eaglemont is to preserve and enhance the experience of the unique natural environment of the property and surrounding area. Excellent views of Mt. Baker, dramatic variations in terrain, and extensive networks of wetland habitat combine to give Eaglemont a special character. Everyone living at Eaglemont has an interest in the overall quality of the architecture since no other factor has more impact on our future environment and in maintaining this special character.

The purpose of the Residential Design Guidelines is to give more specific direction to people considering moving to Eaglemont or who own lots and are starting the process of landscaping, designing their homes, or who wish to change or modify an existing home.

One of the major concerns of the ACC is in the area of lot grading and the relationship of homes to the fairways, open space and environmentally sensitive areas and their buffers. Many of the lots in Eaglemont are not flat and abut fairways or open space areas. This inherently creates a grading problem that can only be dealt with by a grading and landscape plan. The Architectural Control Committee must clearly understand the relationship between the existing topography, the new topography after the foundation is in, and the plan for any retaining walls or banks. It is also exceedingly important that the ACC determine that the natural edge of trees and undergrowth will be maintained so there is a natural border between the yards and the golf course and Native Growth Protection Areas.

I. PURPOSE AND INTENT

The following guidelines will be applied by the ACC in its review of plans and specifications for residential lots. The guidelines are intended as a supplement to the Eaglemont Declaration of Covenants, Conditions and Restrictions (CC&R's). The purpose of the guidelines is to further the intent and purpose of the CC&R's.

The golf course is recognized as both a view and recreational amenity. The forested edges of the course not only frame its limits but significantly contribute to the view from homes along the fairway and green frontages, as well as from other home sites and community open spaces. Fairway homes must be designed with a feeling for the impact on the course and these other areas. Non-fairway homes need to consider the neighboring lots but are subject to design standards that are somewhat different than fairway lots.

II. REQUIRED ARCHITECTURAL AND SITE DRAWINGS

- A. Two sets of the drawings listed below will be required with the ACC application. All drawings shall adequately convey adherence to the following guidelines and must be approved before any clearing or construction.
1. Detailed site grading plans indicating:
 - a. Existing and proposed contours;
 - b. Measures to retain grades and prevent overfilling/cutting of tree root systems.
 - c. Landscape drawings for any landscaping within minimum setback areas.
 - d. Tree retention plans.
 - e. Sensitive area protection plans and erosion control plans.
 2. Cross Section(s), at a scale of $1/8" = 1'$, through the site including building and golf course lot lines and other lot lines. Cross Sections shall indicate the relationship of outdoor use areas (including attached decks) to:
 - a. The building.
 - b. The golf course lot line.
 - c. The existing and proposed grades.
- B. Samples of all exterior materials, including color, shall be submitted for approval with the application.
- C. Prior to any clearing for construction, the "limits of clearing" shall be defined at the construction site by ribbon set four-foot high.
- D. Eaglemont building permit - see attached building permit.

III. GUIDELINES

A. General

1. No clearing, grading or filling of any kind, building construction or placement, or road construction shall occur within any Native Growth Protection Area, except for necessary utility installation. Removal of trees within these Native Growth Protection Areas shall be limited to those which are dead, diseased or hazardous with the prior written approval of the ACC. No adjustment to the boundary of this area shall occur unless first approved through the formal replat process of the City of Mount Vernon.

2. The existing natural landscape shall be preserved as much as possible within the setback areas and along the golf course frontages and shall remain undisturbed or restored to the natural condition following development.
3. In color, form and materials, buildings and structures shall enhance the natural native appearance of the forested edge of the golf course.
4. No direct cart access from fairway lots to the golf course shall be permitted.
5. For those lots located adjacent to the golf course boundaries no Dwelling Unit or other structure shall be located within 25 feet of the lot line bordering the golf course without the written approval of the ACC and Golf Course Operator.

B. Setbacks

Setbacks for each lot will be defined on the Approved Final Plat for each Phase of development.

C. Structure Height

Maximum roof ridge height is not to exceed 35 feet measured parallel to grade. This does not include a single story day-light basement on sloping lots.

D. Lot Coverage

Lot coverage shall not exceed 35% for structures and a combined total of 60% for impervious surfaces.

E. Light and Glare

1. Driveway and parking area lighting is to be low height ground plane flooding.
2. Exterior lighting of the structure and premises is to be from ground sources directed at the structures and away from neighboring homes, the golf course or from Native Growth Protection Areas.

3. Window orientation which will create reflective glare toward the golf course is to be avoided or shielded by sun screens.

F. Site Grading

1. Existing topographic forms should be maintained as much as possible. Where existing topography must be modified to create level outdoor use areas the site shall be incrementally terraced to minimize the visual impact of embankments from the course frontage.
2. No filling or excavation shall occur within the drip-lines of existing vegetation to be saved.
3. No trees greater than 8 inches in diameter at a point 4 feet above the ground level can be removed without the approval of the ACC.
4. If retaining walls or rockeries are used to provide outdoor use areas or to preserve trees installation of vines, shrubs or other suitable plants may be required by the ACC so as to cover the face of the wall. Rock for all rockeries shall be provided by Meridian Quarry and be light grey in color.
5. Specific attention must be paid to finished floor elevations and roof peak elevations. These elevations must be consistent with the natural contours of the surrounding lots and homes. The setback from the roadway must also be compatible with the homes on adjacent lots.
6. Roof and yard drainage shall be directed away from adjacent lots and toward the street or other specifically provided drainage systems whenever possible. Roof drainage shall be connected to the storm drain system via underground pipe. The storm systems have been designed to accommodate these flows.
7. A 4" PVC pipe must be installed under all driveways running parallel to the street.

G. Vegetation

1. The removal of any living plant or tree from any portion of a lot which is in a setback area, sensitive area or their buffer (including, but not limited to, the golf course setback) must be approved by the ACC. This includes understory plants such as shrubs and groundcovers, as well as trees.

2. Breaks in frontage setback understory vegetation for the purposes of providing lawn shall be limited to ACC approval. The edges of lawn areas should be gently undulated to create a more natural transition between the golf course and private landscape development.
3. Supplemental planting of vegetation is required, provided that appropriate species are selected. These include native or naturalized trees, shrubs, and groundcovers that naturally occur at the edge of forest clearings, such as vine maple (*Acer Circinatum*), Pacific Dogwood (*Cornus Nattalii*), Red-flowering Current (*Ribes Sanguineum*), Rhododendron species, etc. (Suggested reference: Gardening with Native Plants of the Pacific Northwest by Arthur R. Kruckberg. Seattle: University of Washington Press, 1982)

Each lot owner must provide screening type landscaping of a mixture of flowering shrubs, evergreen shrubs, ground cover and no less than four 2" caliper trees which may be coniferous or ornamental. Screening type landscaping shall be provided along side lot lines between structures.

4. All landscaping on a lot must be completed within one year from the date construction of the house commences.
5. Each lot owner must provide one street tree for each 20 lineal feet of street frontage. Trees shall be selected from the attached list.

H. Structures

1. Dwellings and related structures must have exteriors (including roofs) of materials appropriate to the Northwest, consistent with the character of the forest edge. This included natural wood sidings, shakes, shingles, brick and other rough materials. Stucco is acceptable as a principal exterior material but will require a closed review by the ACC due to its contrasting nature. Use of natural wood stains is preferred. Colors of paint, wood stain, stone and brick require approval from the ACC.

9401250030

BK 1290 PG 0106

0127 1994

0572 0797

2. If metal windows and door frames are used they must have dark anodized or painted finish. Sliding windows are not permitted. Operable windows must be double hung, single hung, casement or awning.
3. Concrete foundation walls shall be concealed or clad with siding or masonry materials consistent with the exterior finishes. Concrete finishes appropriate to the structure may be accepted by the ACC.
4. The overhang areas and/or supporting structures of all decks within 6 feet of the ground plane shall be concealed from view with siding, lattice or similar skirting material consistent with the exterior finishes of the dwelling.
5. All building eaves and overhangs shall be enclosed on the underside, forming a soffit. Materials shall be consistent with the design of the residence.
6. Unless approved by the ACC in writing, swimming pools shall not be nearer than 30 feet to any lot line (provided, however, that no swimming pool shall be located within 50 feet of the golf course) and shall not extend more than 3 feet above the established final grade.

Swimming pools shall be screened from neighbors on all sides to 6' above the water level in a compatible material to the exterior construction of the residence.

7. Garbage cans, hot tubs, heat pumps, wood piles and the like shall be screened from view and provisions made for sound attenuation. Clotheslines must be fold-up or retractable styles and must be completely out of sight when not in use. Clotheslines shall not be used in a location that can be viewed from the golf course.
8. Blank facades are not permitted unless provided with a landscape arbor or trellis, covered with permanent, evergreen landscaping.
9. Fences shall be constructed of split cedar rails no taller than 4 feet above grade. Screening, where desired, shall be attained through landscape plantings. No chain link fencing will be permitted, with the exception of for pet enclosures, in which case chain link fencing must be concealed within the confines of a 3-tier split rail fence no higher than 36". A pet enclosure is permitted only in the rear yard of a dwelling and must adhere to building setback requirements.

10. Acceptable driveway materials are:
- A. Stamp textured concrete
 - B. Exposed aggregate concrete
 - C. Asphalt paving trimmed at the shoulders with unit pavers;
 - D. Unit pavers;
 - E. Grass-crete or similar product.
11. Residences shall be designed in such a way that the entrance facade incorporates an entry courtyard, covered porch, plant arbor/trellis or other similar architectural feature which provides relief to the facade.
12. Use of masonry veneer is acceptable, however, it must be applied in a consistent manner throughout the entire exterior perimeter envelope of the residence. Examples of acceptable uses include:
- A. Masonry base up to a consistent height as a "wainscot" around the perimeter.
 - B. Masonry panels "framing" architectural projections such as bay windows or other building modulations.
 - C. Masonry colonnades, either free standing with arbors, or with decorative infill panels or windows.
 - D. Stone veneer is an acceptable finish if used consistently throughout the building design.
- In all cases masonry veneer must wrap corners and be expressed as a corner pillar or as quoins.
13. Use of portland cement stucco, dryvit, or similar, are acceptable subject to conformance with the following guidelines:
- A. All roofs shall have eaves and soffits shall be enclosed.
 - B. Window boxes, shutters, arbors or similar decorative elements shall be incorporated in facades.
 - C. Windows shall be casement or single hung, in wood or vinyl.
 - D. Must be complemented with a masonry or architectural concrete finish base material at foundation.
14. The following guidelines apply to the use of wood siding:
- A. Sawn cedar shingles shall be applied over the entire surface, except for trim.
 - B. Soffits may be open if rafter ends are detailed and eave brackets are used.
 - C. Shingles must be stained, not painted.
 - D. Window trim shall have an accent color.
 - E. Horizontal lap or tongue and groove siding is also acceptable.

15. Acceptable roof materials include:
- A. Cedar shingles
 - B. Low profile cement tile, such as "slate" by "Monier", or "shake" profile
 - C. Slate or mineral fiber slate composite
 - D. Copper or other "natural" metal
 - E. Diamond lap composition shingles
 - F. Thatch
 - G. Roof Vents Acceptable:
 - 1. ridge vents
 - 2. gable vents
 - 3. dormer vents
 - 4. soffit ventsRoof vent jacks are not acceptable.
 - H. Gutters and downspouts:
 - 1. painted metal
 - 2. copper
 - 3. PVC is not acceptable
 - I. Skylights:
 - 1. Ridge skylights, dormers and clerestory lighting are preferred methods of providing natural light.
16. Acceptable chimney designs:
- A. All masonry
 - B. Metal flues shall be entirely enclosed and capped with a screening device consistent in profile with the chimney chase and house design.

IV. BUILDER APPROVAL REQUIRED:

- A. All builders must have the prior approval of the ACC. The ACC maintains an "Eaglemont Approved Builder List".
- B. To be considered for the list a builder must apply to the ACC in writing. The application must include:
 - 1. A current financial statement and bank references;
 - 2. A minimum of five recommendations from customers;
 - 3. Have a current Washington State contractor's license;
 - 4. Maintain adequate liability insurance;

5. In addition to providing plans for the on-site product prospective builders must provide a portfolio of past projects.

V. CLUSTER HOMES

In addition to all provisions for single-family lots cluster sites are subject to the following restrictions:

- A. Arbors and private courtyards shall be incorporated into the design;
- B. Architectural design within the tract is required to establish a distinct identity and continuity;
- C. Private patios must be incorporated into the unit designs;
- D. Auto access courts must be landscaped with trees and shrubs subject to approval by the ACC;
- E. A dense 20 foot wide landscape screen shall be provided between cluster tract and single family tracts;
- F. Each unit must provide two off-street parking garages. Visitor parking shall be provided at the rate of 0.5 autos per unit;
- G. No more than four units may be connected when an attached configuration is proposed;
- H. Structure massing and articulation may vary from structure to structure, however, there must be an architectural consistency of materials and detailing;
- I. An entry feature reflecting the identity and character of the tract is required; and,
- J. Mail boxes and refuse facilities are to be designed so that they are in character with the tract identity.

RECORDED _____ FILED _____
REQUEST OF _____

94 JAN 25 10:26

JERRY MCINTURE
SKAGIT COUNTY AUDITOR