

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF BROOKSHIRE ESTATES HOMEOWNERS' ASSOCIATION

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THIS DECLARATION is made on the date hereinafter set forth by JOHN F. BUCHAN CONSTRUCTION, INC., and BANK OF CALIFORNIA ("Declarant"), who are the owners of certain land situated in the State of Washington, County of King, known as Brookshire Estates, which is more particularly described in Exhibit A. In order to ensure preservation of the gracious residential environment at Brookshire Estates, Declarant agrees and covenants that all land and improvements now existing or hereafter constructed thereon will be held, sold, conveyed subject to, and burdened by the following covenants, conditions, restrictions, reservations, limitations, liens and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of such lands for the benefit of all of such lands and the owners thereof and their heirs, successors, grantees and assigns. All provisions of this Declaration shall be binding upon all parties having or acquiring any right, title or interest in such lands or any portion thereof and shall inure to the benefit of each owner thereof and to the benefit of Brookshire Estates Homeowners' Association and shall otherwise in all respects be regarded as covenants running with the land.

ARTICLE I - DEFINITIONS

For purposes of the Declaration and the Articles of Incorporation and the Bylaws of the Brookshire Estates Homeowners' Association, certain words and phrases shall have particular meanings as follows:

Section 1. "Association" shall mean and refer to the BROOKSHIRE ESTATES HOMEOWNERS' ASSOCIATION, its successors and assigns.

Section 2. "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" or "Declarant" as provided in Article IV unless the language or context clearly indicates otherwise.

Section 3. "Properties" shall mean and refer to the real property described with particularity in Exhibit A and such additions to that property which may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Areas" shall mean and refer to all of the real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the members of the Association. The Common Areas to be owned by the Association at the time of the conveyance of the first lot are described as follows:

- Tract A -- Open Space Tract
- Tract B -- Open Space Wetland Tract
- Tract D -- Open Space Tract
- Tract E -- Open Space Tract

Section 5. "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:

Tracts A, B, D and E, together with the median planter island at the entrance on SE 44th Street and planters located within cul-de-sacs.

Section 6. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties, including any lots created subsequent to this Declaration by the subdivision of Tract C. Common Areas shall not be regarded as Lots.

Section 7. "Declarant" shall mean and refer to John P. Buchan Construction, Inc., their successors and assigns, if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

Section 8. "Architectural Control Committee" shall mean and refer to the duly appointed or elected committee of the Board of Directors as outlined in Article XVI of this Declaration, hereinafter referred to as the "Committee."

Section 9. "Development Period" shall mean and refer that period of time as defined in Article IV of this Declaration.

Section 10. "Other Parcels" shall mean those parcels of land selected by the Declarant which may be added to the Properties by Declarant in accordance with Article III. Other Parcels of land include Tract C, which is held by the Declarant for the purpose of further development.

Section 11. "Plat" shall mean and refer to the Plat of Brookshire Estates as recorded in Volume ____ of Plats, Pages ____through ____, Records of King County, State of Washington, under Recording No. ____.

Section 12. "Residence" shall mean and refer to buildings occupying any Lot.

Section 13. "Native Growth Protection Easements" shall mean and refer to those areas on the Plat which are designated as Native Growth Protection Easements. These easements have been set aside, in the areas indicated on the Plat, for King County, for the protection and preservation of slopes and wetlands that are located on the Properties. These easements are subject to the control of the King County Department of Public Works and the King County Department of Building and Land Development.

ARTICLE II - PRE-EXISTING RESTRICTIONS

The Properties covered by this Declaration, to the extent that the Properties may be already affected by previous covenants, conditions, encumbrances and restrictions to the extent that such restrictions are valid, the Properties continue to be subject to such restrictions.

ARTICLE III - OTHER PARCELS

Section 1. Declarant reserves the right, but is not obliged, to add Other Parcels to the Properties. Declarant reserves the right to determine the number and location of any Lots within the Other Parcels.

If any Other Parcels are added to the Properties, all of the Other Parcels shall be governed by this Declaration if Declarant so elects. The character of the improvements which may be later added to the Properties on Other Parcels shall be compatible with improvements already existing on the Properties, provided, however, that Declarant may develop the Other Parcels for any lawful purpose that is allowed by applicable land use laws and regulations. All easements for ingress, egress, utilities and use of facilities, unless otherwise specifically limited, shall exist in favor of all Lot Owners in the Other Parcels.

Section 2. The addition of any Other Parcels to the Properties shall occur when the Declarant files for record an amendment to this Declaration legally describing the Other Parcels and stating that the Other Parcels are added to the Properties and subject to the

provisions of this Declaration. Upon expiration of the Development Period, Other Parcels may be added to the Properties with the consent of two-thirds of the members of the Association. If Other Parcels are added to the Properties, the Association shall file for record an amendment to this Declaration legally describing the Other Parcels and stating that the Other Parcels are added to the Properties and subject to the provisions of this Declaration.

Section 3. Any Lots and Common Areas which may be created by subdivision of Tract C shall be considered part of the Properties and subject to the restrictions articulated in the Declaration.

Section 4. The voting rights of the existing Lot Owners shall be adjusted at the time Other Parcels are added to the Properties only to the extent that the total number, of votes is increased by the number of Lots added, and the percentage which one vote bears to the total is thus diminished. If Other Parcels are added prior to the expiration of the Development Period, such Other Parcels shall initially be managed by the Declarant subject to the provisions of Article IV.

ARTICLE IV - 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 years from the date of recording this Declaration or (2) the thirtieth day after Declarant has transferred title to the purchasers of Lots representing 75 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 IV 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 75 percent of the total voting power shall be determined on the basis of the voting power in all the Lots then in the Property after the addition of the Other Parcels.

Section 2. Notices to Owners. Not less than 10 nor more than 30 days prior to the termination of the Development Period, the Declarant shall give 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 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. 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 his management authority under Article IV or select a new Temporary Board under this section of Article IV.

Section 4. 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. 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.

ARTICLE V - DEED AND DEDICATION OF COMMON AREAS

Section 1. Declarant hereby transfers, conveys and grants title to all of the Common Areas of the Properties to the Association for the common use and enjoyment of the Association and the Owners in accord with the terms and conditions of this Declaration reserving, however, to the Declarant for the benefit of Declarant, his successors and assigns, those certain rights of use, ingress, egress, occupation and control indicated elsewhere in this Declaration for the duration of the Development Period, at which time this reservation shall cease and then be of no further force and effect.

ARTICLE VI - DEED AND DEDICATION OF EASEMENTS

Section 1. Declarant hereby transfers and conveys to the Association for the common use and enjoyment of the Association and the Owners all easements created hereby in the Common Areas for the purpose of open space enjoyment, utilities and access, including all private roads as laid out on the Plat, reserving, however, to Declarant for the benefit of Declarant, his successors and assigns, an equal right to utilize all easements. The Declarant's and Association's right to use such easements are subject to the right of the public to use rights-of-way which have been dedicated as public roads and are open to public access, including emergency vehicle access.

ARTICLE VII - ADMINISTRATION AND USE OF COMMON AREAS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right in easement of enjoyment in and to the Common which shall be appurtenant to and shall pass with title to every lot subject to the following provisions:

(a) The right of the Declarant or the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas;

(b) The right of either the Declarant (during the Development period) or the Association to suspend an Owner's right to vote and to use any recreational facilities for any period during which any assessments against his Lot remain unpaid and for a period, not to exceed 60 days, for any infraction of its published rules and regulations;

(c) The right of the Declarant (during the Development Period) or the Association to dedicate or transfer all or any part of the Common Areas to any Public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer, signed by two-thirds of the members of the Association, has been recorded.

Section 2. Insurance. Nothing shall be done or kept in any Common Areas which will increase the rate of insurance on the Common Areas or other Lots or improvements without the prior written consent of the Board. Nothing shall be done or kept in any Common Areas which will result in the cancellation of insurance on any part of the Common Areas or which would be in violation of any laws or ordinances.

Section 3. Alteration of Common Areas and Common Maintenance Areas. Nothing shall be altered, or constructed in, or removed from any Common Area or Common Maintenance Area except upon prior written consent of the Committee. There shall be no construction of any kind within the Common Areas except that community improvements may be constructed on the upland area of Tract B in the event that two-thirds of the members of the Association authorize (1) the construction of such improvements and (2) assessments for such improvements.

Section 4. Dumping in Common Areas, Common Maintenance Areas, or Native Growth Protection Easements. No trash, plant or grass clippings or other debris of any kind shall be dumped, deposited or placed on any Common Area, Common Maintenance Area, or Native Growth Protection Easement.

Section 5. Landscaping and Fencing. No permanent structures or landscaping of any kind, including fences, walls or shrubs, may be built or placed within any rights-of-way, easements, or Native Growth Protection Easements as delineated on the Plat except as deemed appropriate by the Committee. This prohibition shall not apply to cul-de-sac planters and the planter island at the entrance of SE 44th Street nor shall this section prohibit the Association from installing improvements or landscaping on the upland area of Tract B.

Section 6. Other Parcels. If Other Parcels are added to the Properties, all of the Common Areas of the Properties and the Other Parcels will be for the use and enjoyment of all the Owners, and all Owners shall share in the expense of maintaining Common Areas.

ARTICLE VIII - MAINTENANCE OF THE COMMON AREAS AND SITES – DELEGATION OF MANAGEMENT

Section 1. Maintenance of Common Areas. Maintenance of the Common Areas and all improvements thereon shall be the sole responsibility of the Association and shall include but not be limited to maintenance of the Common Areas and Common Maintenance Areas. All maintenance of Lots and Residences located on Properties shall be the sole obligation of the Owner, provided, however, the Association may, from time to time, provide certain common maintenance of lots and Residences as may be determined to be in the best interests of all Owners. The Association shall maintain and regulate the use of Common Areas for the benefit of each Lot within the Plat in accordance with requirements set forth by the Plat of Brookshire Estates and shall do all things necessary to preserve and maintain

the Common Areas for the purpose intended. It shall be the responsibility of the Association to ensure that Tracts A, D and E, which are designated on the face of the Plat as open spaces, are preserved and maintained as open space areas. The Association must also preserve the character of Tract B, which is designated on the Plat as open space wetland. The Association shall also be responsible for cleaning all rights-of-way within the Plat.

Section 2. Responsibility for Maintaining Common Maintenance Areas. The Association is responsible for maintaining and preserving the character of areas designated on the face of the Plat as Common Maintenance Areas. Common Maintenance Areas have been set aside for landscaping and community identification purposes.

Section 3. Repair of Common Areas and Common Maintenance Areas. Any damage to the Common or Common Maintenance Areas or improvements thereon, including landscape plantings, fences, berms, etc., by the Owners or their children shall be repaired within one week by the Owner who caused the area to be damaged. If such repairs are not made timely, the Association shall execute the repair and the Owner will be obliged to immediately remit funds for the repair. If the Owner fails to promptly make payment for such repairs, the Owner will be charged interest at the rate of 12 percent per annum.

Section 4. Maintenance by Owners. Tract F of Brookshire Estates is designated as a private drive and is accordingly dedicated to Lots 82, 83 and 84. Those lots have an equal and undivided interest in Tract F. The Owners of Lots 82, 83 and 84 are obliged to share all maintenance costs equally.

Section 5. Maintenance of Planter Islands. It shall be the responsibility of the Association to maintain the planter islands in cul-de-sacs within the Plat and the entry planter island.

Section 6. Native Growth Protection Easements. The Association shall not permit any structures, filling, grading or obstruction to be placed beyond the building setback line or within the Native Growth Protection Easements unless the Association obtains the approval of the King County Department of Public Works and the King County Department of Building and Land Development. No decks, patios, out buildings, or overhangs shall be permitted beyond the building setback line or within the Native Growth Protection Easements. Unless the Association obtains the approval of the King County Department of Public Works and the King County Department of Building and Land Development, neither the construction of fencing nor the clearing or removal of trees or vegetation shall be permitted

within the area of the Native Growth Protection Easements. Dead trees or vegetation growing within the Native Growth Protection Easements which present a threat to life and property due to decay or other natural causes may be removed upon obtaining the approval of the Association.

Section 7. Management Each Owner expressly covenants that the Board and the Declarant, during the Development Period, may delegate all or any portion of their management authority to a managing agent, manager or officer of the Association and may enter into such management contracts or other service contracts to provide for maintenance and the operation of Common Areas and any portion thereof. Any management agreement or employment agreement for the maintenance or management of the Common Areas or any portion thereof shall be terminable by the Association without 'cause upon 90 days' written notice thereof; the term of any such agreement shall * not exceed three years, renewable by agreement of the parties for successive three-year periods. Each Owner is bound to observe the terms and conditions of any such management agreement or employment contract, all of which shall be made available for inspection by any Owner on request. Any fees or salaries applicable to any such management, employment or service

agreement shall be assessed to each Owner.

ARTICLE IX - ASSESSMENTS

Section 1. Each Owner of any Lot, by acceptance of a deed therefor, whether it shall be so expressed in each deed, is deemed to covenant and agree to pay to the Association (1) annual assessments or charges and (2) special assessments for capital improvements. If the Owner fails to timely pay assessments within 30 days of the date specified by the Association, the annual and *special assessments, together with any interest, costs and any reasonable attorneys' fees incurred to collect such assessments, shall be a lien on the land and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with any interest, costs and reasonable attorneys' fees incurred in attempting to collect the assessment, shall also be the personal obligation of the person who is the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. The Association shall record such liens in the Office of the King County Auditor.

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 Areas and Common Maintenance Areas as provided in Article VII.

Section 3. Annual Assessment. Until January 1988, the annual assessment shall be \$110 per Lot; six percent of which shall be allocated and paid to the Declarant for Plat management services provided by the Declarant to the Association or by a professional management firm. Such allocation of funds to the Declarant shall cease when the Development Period expires and the Association assumes collection costs, bookkeeping, and other management responsibilities which are described with Particularity in the Bylaws of the Association.

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 during the Development Period must directly reflect increases in the above recited costs.

(a) After the Development Period expires, the maximum annual assessment may be increased each year not more than 10 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 10 percent only if two-thirds 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 in accord with 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 or any improvements upon the Common Areas not prohibited by this Declaration, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds of the members of the Association who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4.

Written notice

of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 of this Article shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first meeting called, the presence of 60 percent of the members of the Association or of proxies entitled to cast 60 percent of the votes of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement; the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and must be collected on a monthly basis, provided, however, that any unimproved Lot owned by the Declarant shall not be subject to any assessment or charge herein described.

Section 7. Date of Commencement of Annual Assessment; Due Dates. The annual assessments described in this Article shall Commence in January 1987. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. After the Development Period expires, the Board of Directors shall fix the annual assessment. Written notice of the annual assessment shall be sent to every Owner subject to such assessments. The due date shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified Lot has been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within 30 days after the due date shall bear interest at the rate of 12 percent per annum. Each Owner hereby expressly vests in the Association or its agents the right and power to bring all actions against such Owner Personally for the collection of such assessments as debts and to enforce lien rights of the Association by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in like manner as a mortgage of real property. Such Owner hereby expressly grants to the Association the power of sale in connection with such liens. The liens provided for in this section shall be in favor of the Association and shall be for the benefit of the Association. The Association shall have the power to bid in an interest at foreclosure sale and to acquire, hold, lease, mortgage and convey the same. The Owner is responsible for payment of all attorneys' fees incurred in collecting past due assessments or enforcing the terms of assessment liens (see Article XVII, Section 5). No Owner may waive or otherwise escape liability for the assessments provided herein by non-use of the Common Areas or abandonment of his Lot.

The Association shall have the right to suspend the voting rights of an Owner for any period during which any assessment against the Lot remains unpaid and for a period not to exceed 60 days for any infraction of the terms of either this Declaration, the Articles or the Bylaws of the Association.

Section 9. Subordination of the Lien to Mortgage. The lien for assessments, provided for in this Article, shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a mortgage foreclosure, or any proceeding in lieu thereof, shall extinguish the lien created pursuant to this Article as to payments which become due prior to such sale or transfer. No sale or transfer, however, shall relieve such Lot from liability for any assessments thereafter

becoming due or from the lien thereof.

Section 10. Exempt Property. All property dedicated to and accepted by local public authority shall be exempt from the assessments provided for in this Article. Property owned by Declarant shall also be exempt from such assessment.

Section 11. Management by Declarant During the Development Period. Declarant, at its option, shall have and may exercise all of the rights and powers herein given to the Association. Such rights and powers are reserved by the Declarant, its successors and assigns as provided in Article IV. Declarant shall have the right and option to assess owners for actual costs of maintaining Common Areas, Common Maintenance Areas and rights-of-way and a Plat management fee during the Development Period.

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 regularly be emptied and the 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. No storage of goods, vehicles, boats, trailers, trucks, campers, recreational vehicles, or any other equipment or device shall be permitted in open view from any Lot or right-of-way. (Vehicles, boats, trailers, trucks, campers, and recreational vehicles shall be referred to as "Vehicles".) This provision shall not exclude temporary (less than 24 hours) parking of Vehicles on the designated driveway areas adjacent to garages on the Lots. This Paragraph is not meant to disallow permanent (more than 24 hours) parking or storage of Vehicles on the Lots, but if stored, Vehicles shall be adequately screened from the view of adjacent rights-of-way and Lots. Screening of such Vehicles must have the approval of the Committee. Upon 48 hours' notice to the Owner of an improperly parked Vehicle, the Board has the authority to have towed, at the Owner's expense, any Vehicles visible from the right-of-way or adjacent Residences that are parked on any Lot or within the right-of-way for more than 24 hours.

Notwithstanding the foregoing, Owners who have visiting guests intending to stay in such a Vehicle may secure written permission from the Board for such guests to park the Vehicle upon the Lot owned by the Owner for a maximum period of one week. Such a privilege shall only exist, however, after the written permission has been obtained from the Board.

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 of his premises and the improvements situated thereon in a manner consistent with maintenance standards of the Brookshire Estates community, the Board shall, upon receipt of written complaint of any Owner and subsequent investigation which verifies that complaint, have the right through its agents and employees to enter upon the offending Owner's Lot and repair, maintain and restore the Lot and exterior of the improvements on that Lot if the Owner shall fail to respond in a manner satisfactory to the Board within 45 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 two-thirds of the Members before undertaking such repairs.

Section 4. Enforcement During the Development Period. During the Development Period, the Declarant may elect to exercise and perform the functions of the Board. If the Declarant elects not to perform this function or at any time elects to no longer perform this function, the Declarant shall appoint the Temporary Board to function as provided herein.

ARTICLE XI - HOMEOWNERS' ASSOCIATION

Section 1. Non-Profit Corporation. The Association shall be a non-profit corporation under the laws of the State of Washington.

Section 2. Membership. Every person or entity who 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 Brookshire Estates Homeowners' Association.

ARTICLE XII - 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 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 adapted, the Board shall have the power and be responsible for the following, in way of explanation but not limitation:

(a) Insurance. Obtain policies of insurance for Common Areas & Common Maintenance Areas.

(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. Pay all costs of maintaining the Common Areas and Common Maintenance Areas.

(d) Maintenance of Lots. If necessary, maintain any Lot if such maintenance is reasonably necessary in the judgment of the Board to (1) protect Common Areas and Common Maintenance Areas or (2) to preserve the appearance and value of the Properties or Lot. The Board may authorize such maintenance activities if the owner or Owners of the Lot have failed or refused to perform maintenance within a reasonable time after written notice of the necessity of such maintenance has been delivered by the Board to the Owner or Owners of such Lot, provided that the Board shall levy a special assessment against the Owner or Owners of such Lot for the cost of such maintenance.

(e) 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.

(f) Utilities. Pay all utility charges attributable to Common Areas and Common Maintenance Areas.

(g) 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.

(h) Right to Contract. Have the exclusive right to contract for all goods, services, maintenance, and capital improvements provided, however, that such right of contract shall be subject to Association approval.

(i) Improvement of Common Area. Improve the Common Areas with capital improvements to such Common Areas; provided that for those capital improvements exceeding \$15,000, 60 percent of the Owners must approve the addition of such capital improvements to the Common Areas.

(j) Right of Entry. Enter any Lot or Residence, when reasonably necessary, in the event of emergencies or in connection with any maintenance, landscaping or construction for which the Board is responsible. Except in cases of emergencies, the Board, its agents or employees shall attempt to give notice to the Owner or occupant of any Lot or Residence 24 hours prior to such entry. Such entry must be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Board if the entry was due to an emergency (unless the emergency was caused by the Owner of the Lot entered, in which case the cost shall be specially assessed to the Lot). If the repairs or maintenance activities were necessitated by the Owner's neglect of the Lot, the cost of such repair or maintenance activity, shall be specially assessed to that Lot. If the emergency or the need for maintenance or repair was caused by another Owner of another Lot, the cost thereof shall be specially assessed against the Owner of the other Lot.

- (k) Promulgation of Rules. Adopt and publish rules and regulations governing the members and their guests and establish penalties for any infraction thereof.
- (l) Declaration of Vacancies. 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.
- (m) Employment of Manager. Employ a manager, an independent contractor, or such other employees as the Board deems necessary and describe the duties of such employees.
- (n) Payment for Goods and Services. Pay for all goods and services required for the proper functioning of the Common Areas and Common Maintenance Areas.
- (o) Impose Assessments. Impose annual and special assessments.
- (p) Bank Account. Open a bank account on behalf of the Association and designate the signatories required.
- q) 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 XIII - LAND USE RESTRICTIONS

Section 1. All Lots within the Properties shall be used solely for private single-family residential purposes. Private single-family residences shall consist of no less than one Lot, and no Lot shall ever be further subdivided. No residence shall be constructed which exceeds three stories in height, inclusive of basement. Each residence must have a private enclosed car shelter for not less than two cars. No single structure shall be altered to provide residence for more than one family Rambler-type residences (residences consisting of a basement and one story or residences consisting of a single story) shall contain at least 1,600 square feet. Multi-story residences (residences consisting of a basement and two stories or residences consisting of two stories) shall contain at least 1,800 square feet. In computing the total square footage of a residence, the basement shall not be included.

Section 2. No Lot shall be used in a fashion which unreasonably interferes with the other Owners' right to use and enjoy their respective Lots or Common Areas. The Board, the Committee designated by it, or the Declarant during the Development Period, shall determine whether any given use of a Site unreasonably interferes with those rights; such determinations shall be conclusive.

Section 3. No noxious or offensive activity shall be conducted on any Lot or Common Area nor shall anything be done or maintained on the Properties which may be or become an activity or condition which unreasonably interferes with the right of other Owners to use and enjoy any part of the Properties. No activity or condition shall be conducted or maintained on any part of the Properties which detracts from the value of the Properties as a residential community. No untidy or unsightly condition shall be maintained on any property. Untidy conditions shall include, but are not limited to, publicly visible storage of wood, boats, trailers, recreational vehicles and disabled vehicles of any kind whatsoever.

Section 4. Fences, walls or shrubs are permitted to delineate the Lot lines of each Lot, subject to (1) the approval of the Committee and (2) determination whether such fences, walls or shrubs would interfere with utility easements reflected on the face of the Plat and

other easements elsewhere recorded. No barbed wire, chain link, or corrugated fiberglass fences shall be erected on any Lot. All fences, open and solid, are to meet the standards set by the committee and must be approved by the Committee prior to construction.

Section 5. No structure of a temporary character or trailer, recreational vehicle, basement, tent, shack, garage, barn, or another out buildings shall be used on any Lot at any time as a residence, either temporarily or permanently. No vehicles parked in public rights-of-way may be used temporarily or permanently for residential purposes.

Section 6. Mining. No oil drilling, oil development operations, oil refining, quarrying, or mining operation of any kind shall be permitted on or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavation or shafts be permitted on or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot. Oil storage for residential heating purposes is permissible if the storage tank is buried. This provision shall not impair the right of Northern Pacific Railroad to exercise its pre-existing mineral rights.

Section 7. Building Setbacks. No structure shall be located on any Lot nearer to the front line or nearer to the side street line than minimum dwelling setback lines required by relevant public zoning ordinances. No dwelling shall be located on any Lot nearer than 10 feet to the rear Lot line. For the purpose of this Covenant, eaves, steps, chimneys and open porches shall not be considered as part of the dwelling; provided, however, that this shall not be considered to permit

any portion of a dwelling on a Lot to encroach upon another Lot or upon any easement indicated on the face of the Plat or as otherwise recorded or upon Common Areas.

Section 8. Signs. No signs, billboards, or other advertising structure or device shall be displayed to the public view on any Lot except one sign not to exceed five square feet in area may be placed on a Lot to offer the property for sale or rent. Signs also may be used by a builder to advertise the property during the construction and sale period. Political yard signs, not more than five square feet, of a temporary nature will be allowed during campaign periods on Lots. Within five days of the occurrence of the election, such signs must be removed from Lots. The Board may cause any sign placed on Properties in violation of this provision to be removed and destroyed.

Section 9. Animals. No animals, except dogs, cats, caged birds, fish and tanks, and other small household pets, will be permitted on Lots. Dogs shall not be allowed to run at large. Leashed animals are permitted within rights-of-way. Efforts should be made by the person accompanying the animal to exercise "scooping" of animal waste. All pens and enclosures must be approved by the Committee prior to construction and shall be kept clean and odor free at all times. If the investigation of the Board indicates that animals are kept in violation of this section, the Board will give the Owner 10 days' written notice of the violation. Such violations must be remedied by the Owner within 10 days. Failure to comply with the written notice will result in a fine of \$25 per day. The Association shall be entitled to attorneys' fees for any action taken to collect such fines in accord with the provisions of Article XVII, Section 5.

Section 10. Delegation of Use and Responsibilities. Any Owner may delegate, in accord with the Bylaws of the Brookshire Estates Homeowners' Association, his right of enjoyment of Common Areas to members of his family, his tenants, or contract purchasers who reside on the property. In the event an owner rents or leases his property, a copy of this Declaration as well as any rules and regulations that may be adopted by the Association shall be made available by the Owner to the prospective renter at the time of commitment to the rental agreement. Each Owner shall also be responsible for informing guests and service

personnel of the contents of this Declaration, as well as any rules and regulations that may be adopted by the Association as they may relate to appropriate community behavior.

ARTICLE XIV - BUILDING RESTRICTIONS

Section 1. Building Materials. All homes constructed on each Lot shall be built of new materials, with the exception of decor items such as used brick, weathered planking, and similar items. The Committee will determine whether a used material is a decor item. In making this determination, the Committee will consider whether the material harmonizes with the aesthetic character of the Brookshire Estates development and whether the material would add to the attractive development of the subdivision. All roofs are to be unpainted cedar shingles, shakes or tile. All siding and trim are to be resawn wood of a color approved by the Committee. All visible masonry shall be native stone, brick or stucco. Homeowners who do not have John F. Buchan Construction, Inc., construct their homes shall be obliged to use materials of a quality equivalent to those materials which John F. Buchan Construction, Inc., has utilized for the construction of homes in the Plat. If inferior materials are utilized, the Committee will require that such materials be replaced. The (1) grade of materials and (2) price of materials shall be relevant considerations in determining whether the materials are of equivalent quality.

Section 2. Plan Checks/Construction Cleanup Fee. Each Lot Owner not using John F. Buchan Construction, Inc., as house builder shall be required to cleanup the Lot within 10 days of completing construction. Such Lot Owners shall be required to pay a \$350 fee to the Committee to be used as follows:

- (a) \$100 for house plan check; and
- (b) \$250 as a damage deposit to be held until house construction is complete. The damage deposit will be used in the event the Owner does not fulfill his cleanup responsibility, in which case the Committee will handle the cleanup and deduct the cost of such cleanup from the \$250 deposit.

Section 3. Permits. No construction or exterior addition or change or alteration of any structure may be started on any portion of the Properties without the Owner first obtaining a building permit and other necessary permits from the proper local governmental authority and written approval of such permits from the Board, Committee or the Declarant.

Section 4. Codes. All construction shall conform to the requirements of the State of Washington's Rules and Regulations for Installing Electric Wires and Equipment, and Uniform Codes (building, mechanical, plumbing), in force at the commencement of the construction, including the latest revisions thereof.

Section 5. Time of Completion. The exterior of any structure, including painting or other suitable finish and initial landscaping, shall be completed within six months of the beginning of construction so as to present a finished appearance when viewed from any angle. The construction area shall be kept reasonably clean during the construction period.

Section 6. Entry for Inspection. Any agent, officer or member of the Board, Committee, or the Declarant may, at any reasonable predetermined hour upon 24 hours' notice during construction or exterior remodeling, enter and inspect the structure to determine if there has been compliance with the provisions of this Declaration. The above recited individuals shall not be deemed guilty of trespass for such entry or inspection. There is created an easement over, upon and across the residential Lots for the purpose of making and carrying out such inspections.

Section 7. Contractor. No home may be constructed on any Lot other than by a contractor licensed

as general contractor under the statutes of the State of Washington without the prior approval of the Committee.

ARTICLE XV - UTILETIES

Section 1. Wiring. The wiring of accessory buildings of any kind shall be underground.

Section 2. Antennae. No radio or television antennae, transmitters or parabolic reflectors (satellite dish antennae) shall be permitted unless approved by the Committee.

ARTICLE XVI - ARCHITECTURAL CONTROL

Section 1. Architectural Control Committee ("Committee"). Upon termination of the Development Period, the Board shall appoint a Committee. The Committee shall consist of not less than three and not more than five members. It is not a requirement that members of the Committee be (1) Owners or (2) members of the Association. During the Development Period, the Declarant may elect to exercise and perform the functions of the Committee. If the Declarant elects not to perform this function, or at any time elects to no longer perform this function, the Declarant or the Board shall appoint the Committee to function as herein provided. After termination of the Development Period, the functions of the Committee shall be performed by the Board until such time as the Board shall appoint and designate the Committee. The Committee shall be appointed within one month of the election of the Board following the termination of the Development Period.

Section 2. Jurisdiction and Purpose. The Committee or the Declarant shall review proposed plans and specifications for Residences, accessory structures, fences, walls, appurtenant recreational facilities (e.g., hot tubs, basketball courts, tennis courts, swimming pools, and bath houses), or other exterior structures to be placed upon the Properties. No exterior addition or structural alteration may be made until plans and specifications showing the nature, kind, shape, height, materials and location of the proposed structure or alteration have been submitted to and approved, in writing, by the Committee. The Committee shall also review proposals to change the exterior color of homes in the Plat. The Committee shall determine whether the exterior design and location of the proposed structure, alteration, or color change harmonizes with the (1) surrounding structures, (2) surrounding natural and built environment, and (3) aesthetic character of other homes in the Plat.

Section 3. Membership. The Committee shall be designated by the Board. An election to fill either a newly created position on the Committee or a vacancy on the Committee requires the vote of the majority of the entire Board. However, the Board is not obliged to fill a vacancy on the Committee unless the membership of the Committee numbers less than three persons.

Section 4. Designation of a Representative. The Committee may unanimously designate one or more of its members or a third party to act on behalf of the Committee with respect to both ministerial matters and discretionary judgments. The decisions of such individuals are subject to review by the entire Committee at the request of any member of the Committee.

Section 5. Donation of Time. No member of the Committee shall be entitled to any compensation for services performed on behalf of the Committee. Committee members shall have no financial liability resulting from Committee actions.

Section 6. Address of the Committee. The address of Committee shall be at the registered office address of Association.

Section 7. Voting. Committee decisions shall be determined by a majority vote by the members of the Committee.

Section 8. Submission of Plans. All plans and specifications required to be submitted to the Committee shall be submitted by mail to the address of the Committee in duplicate. The written submission shall contain the name and address of the Owner submitting the plans and specifications, identify the Lot involved, and the following information about the proposed structure:

- (a) The location of the structure upon the Lot;
- (b) The elevation of the structure with reference to the existing and finished Lot grade;
- (c) The general design;
- (d) The interior layout;
- (e) The exterior finish materials and color, including roof materials;
- (f) The landscape plan; and
- (g) Other information which may be required in order to determine whether the

structure conforms to the standards articulated in this Declaration and the standards employed by the Committee in evaluating development proposals.

Section 9. Plan Check Fee. All individuals submitting plans to the committee shall be obliged to pay a reasonable plan check fee to cover the administrative costs of reviewing such development proposals. It will be necessary to pay the plan check fee upon submitting plans and specifications to the Committee.

A plan check fee of \$100 will be charged to review plans and specifications for Residences. A fee of \$25 will be charged for the review of other structures.

Section 10. Evaluating Development Proposals. The Committee shall have the authority to establish aesthetic standards for evaluating development proposals. In addition to such standards, in evaluating development proposals, the Committee shall determine whether the external design, color, building materials, appearance, height, configuration, and landscaping of the proposed structure harmonize with (1) the various features of the natural and built environment, (2) the aesthetic character of the other homes in Brookshire Estates, and (3) any other factors which affect the desirability or suitability of a proposed structure or alteration. The Committee shall decline to approve any design which (1) fails to meet the above recited standards and any other aesthetic standards promulgated by the Committee, (2) impacts adversely on nearby Properties and Common Areas, (3) impairs the view of nearby Properties, or (4) is of a temporary or non-permanent nature. Committee determinations may be amended by a majority vote of Committee members.

Section 11. Exclusions. Plans and specifications for homes constructed by John F. Buchan Construction, Inc., need not be reviewed by the Committee.

Section 12. Approval Procedures. Within 14 days after the receipt of plans and specifications, the Committee shall approve or disapprove the proposed structure. The Committee may decline to approve plans and specifications which, in its opinion, do not conform to restrictions articulated in this Declaration or to its aesthetic standards. The Committee shall indicate its approval or disapproval on one of the copies of the plans and specifications provided by the applicant and shall return the plans and specifications to the address shown on the plans and specifications. In the event that no disapproval of such plans and specifications is given within 14 days of submission, copies of plans and specifications shall be delivered to the Owners of adjacent Lots within the Properties together with a statement to the effect that (1) the plans and specifications have been submitted to the Committee, (2) 14 days have passed since the date of the submission and

no action has been taken on the plans and specifications by the Committee, and (3) unless a legal action by the Owners to enjoin the construction pursuant to the submitted plans and specifications is filed with 10 days after receipt of the delivered copies, construction will be commenced pursuant to the plans and specifications. If no legal action to enjoin the construction is commenced within 10 days of delivery of the copies of the submitted plans and specifications to adjacent property Owners, the plans and specifications shall be deemed to be approved by the Committee and construction pursuant to the plans and specifications may be commenced.

Section 13. Compliance with Codes. In all cases, ultimate responsibility for satisfying all local building codes and requirements rests with the Owner and contractor employed by the Owner. The Committee has no responsibility for ensuring that plan and specifications which it reviews comply with local building codes and requirements. The Committee shall be held harmless in the event that a structure which it authorizes fails to comply with relevant building and zoning requirements. No person on the Committee or acting on behalf of the Committee shall be held responsible for any defect in any plans or specifications which are approved by the Committee nor shall any member of the Committee or any person acting on behalf of the Committee be held responsible for any defect in a structure which was built pursuant to plans and specifications approved by the Committee.

Section 14. Variation. The Committee shall have the authority to approve plans and specifications which do not conform to these restrictions in order to (1) overcome practical difficulties or (2) prevent undue hardship from being imposed on an Owner as a result of applying these restrictions. However, such variations may only be approved in the event that the variation will not (1) detrimentally impact on the overall appearance of the development, (2) impair the attractive development of the subdivision or (3) adversely affect the character of nearby Lots or Common Areas. Granting such a variation shall not constitute a waiver of the restrictions articulated in this Declaration. Variations shall only be granted if the Committee determines that the variation would further the purposes and intent of these restrictions. Variations shall only be granted in extraordinary circumstances.

Section 15. Enforcement. In any judicial action to enforce a determination of the Committee, the losing party shall pay the prevailing party's attorneys' fees, expert witness fees, and other costs incurred in connection with such a legal action or appeal (see Article XVII, Section 5).

ARTICLE XVII - GENERAL PROVISIONS

Section 1. Covenants Running with the Land. These covenants are to run with the land and be binding on all parties and persons claiming under them for a period of 30 years from the date these covenants are recorded, after which time the covenants shall be automatically extended for successive periods of 10 year unless an instrument signed by a majority of the individuals then owning Lots has been recorded which reflects their intent to amend the covenants in whole or in part.

Section 2. Amendment. The covenants and restrictions articulated, in this Declaration shall run with the land and bind the land for a term of 30 years from the date that this Declaration is recorded. After 30 years have expired, the covenants shall be automatically extended in accordance with the provisions set forth in Section 1 of this Article. This Declaration and the Bylaws may be amended during the initial 30 year period if 75 percent of

the members vote to amend particular provisions of either instrument. This Declaration may be amended during the Development Period by any instrument signed by both the Declarant and the Owners of at least 51 percent of the Lots, including those owned by the Declarant. The provisions expressly referring to the Declarant may not be amended without the Declarant's

approval. All amendments must be filed with the office of the King County Auditor.

Section 3. Insurance. The Association shall have no obligation to obtain any insurance on the Lots or the structures located on the Lots except as expressly provided herein.

Section 4. Enforcement. The Association, the Board, or any Owner shall have the right to enforce, by any legal proceeding, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration.

Section 5. Attorneys' Fees. In the event that it is necessary to seek the services of an attorney in order to enforce any (1) provision of this Declaration or (2) lien created pursuant to the authority of this Declaration, the individual against whom enforcement is sought shall be obliged to pay any attorneys' fees incurred. If the Owner fails to pay such fees within 60 days, such fees shall become a lien against the Owner's Lot.

In any legal action commenced in order to enforce the provisions of this Declaration, the prevailing party shall be entitled to recover all reasonable attorneys' fees and expert witness fees incurred in order to enforce the provisions of this Declaration. The prevailing party shall also be entitled to recover all costs.

Section 6. Successors and Assigns. The covenants, restrictions and conditions articulated in this Declaration shall run with the land and shall accordingly be binding on all successors and assigns.

Section 7. Severability. The invalidity of any one or more phrases, clauses, sentences, paragraphs or sections hereof shall not affect the remaining portions of this Declaration or any part thereof. In the event that one or more of the phrases, clauses, sentences, paragraphs or sections contained herein should be invalid, this Declaration shall be construed as if the invalid phrase, clause, sentence, paragraph or section had not been inserted.

Section 8. Rule Against Perpetuities. In the event that any provision or provisions of this Declaration violate the rule against perpetuities, such provision or provisions shall be construed as being void and of no effect as of 21 years after the death of the last surviving incorporator of the Association or 21 years after the death of the last survivor of all of the incorporators' children and grandchildren who shall be living at the time this instrument is executed, whichever is later.