

# DRIFTWOOD CONDOMINIUM

THIS DECLARATION, made on the date hereinafter set forth, by COLUMBIA BASIN PROPERTIES, INC., a Washington corporation, hereinafter referred to as “Declarant”.

## WITNESSETH

WHEREAS, Declarant is the owner of certain property in Pasco, County of Franklin, State of Washington, more particularly described as follows:

Lot 12, except the West 10.0 feet thereof and all of Lots 13 through 17, Block 1, Star Addition to Pasco, as recorded in Volume “C” of Plats, page 10, records of the County Auditor, Franklin County, Washington, together with the North vacated 8.0 feet of Cartmell Street.

SUBJECT TO: Covenants, easements, restrictions and reservations of record.

NOW, THEREFOR, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

## ARTICLE 1 DEFINITIONS

Section 1. “Association” shall mean and refer to Driftwood Condominium, its successors and assigns.

Section 2. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. “Properties” shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. “Common Area” shall mean all real property owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

All areas within the area described in the introductory paragraph except the residential lots within that area.

Section 5. “Limited Common Area” shall mean all stairways provided to the second story apartments for ingress and egress to said apartments. The use of said “limited common areas” shall be restricted to the first and second story apartments for which said stairways were constructed.

Section 6. “Lot” shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 7. “Declarant” shall mean and refer to Columbia Basin Properties, Inc., a Washington corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

## ARTICLE II PROPERTY RIGHTS

Section 1. Owners’ Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which 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 admission and other fees for the use of any recreational and parking facilities situated upon the Common Area and to establish rules and regulations for their use.
- (b) The right of the Association to suspend the voting rights and right to use the recreational facilities by an owner for any period during which any assessment against his Lot 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 dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

## ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Voting shall be on a percentage basis and the percentage of the vote to which the owner is entitled is the percentage assigned to the apartment unit in the recorded declaration.

Section 3. In each such percentage vote allocable to an apartment unit shall be cast as a single unit vote and shall not be fractionally divided. In the event of co-ownership (as by husband and wife) of any apartment, those parties together shall comprise the unit vote. For these purposes "Ownership" means recorded ownership of the fee interest, except in a case of a recorded real estate contract when it means the contract vendee; and the term does not include the interests of tenants or lessee-occupants.

#### ARTICLE IV EXTERIOR MAINTENANCE

Section 1. Maintenance of Common Areas. In addition to maintenance upon the Common Area, Association shall provide exterior maintenance upon each Lot which is subject to assessment, hereunder, as follows: Paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, pool, and other exterior improvements. Each exterior maintenance shall not include glass surfaces.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such lot is subject.

#### ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was 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.

Section 2. Purpose of Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \_\_\_\_\_ ( ) per unit.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment

- may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
  - (c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. 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, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided 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.

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 Section 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at the uniform rate for all Lots that have construction and/or landscaping on or adjacent to them and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessments against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates 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 assessments on the specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessment not paid within sixty (60) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein 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 mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

## ARTICLE VI COMMON WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a common wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding common walls and liability for property damage due to negligence of willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a common wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a common wall is destroyed or damaged by fire or other casualty, and Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes a common wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a common wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

## ARTICLE VII ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, heights, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article be deemed to have been fully complied with.

## ARTICLE VIII USE RESTRICTIONS

- (a) All property in Driftwood Condominium shall be used solely and exclusively for residences.
- (b) No animals, livestock or poultry of any kind other than house pets shall be kept or maintained on any part of said Properties, provided that they are not kept, bred or maintained for any commercial use or purpose, and provided they do not create a nuisance to the neighborhood.
- (c) No building or structure shall be moved onto any land embraced in said condominium from any land outside of said condominium. No trailers shall be maintained on any building site as a residence. No external building may be erected, placed or altered on any Lot or Common Area without the written approval of the Board of Directors.
- (d) Except with the approval of the Board of Directors, landowners at no time shall keep or permit to be kept on their premises any house trailer, truck, camper, mobile home or boat trailer except within a garage or carport or in the screened parking area designed for this use.
- (e) No noxious or undesirable thing, or noxious or undesirable use of the property in said addition, whatsoever, shall be permitted or maintained upon said building sites in said addition. If the Board of Directors shall determine what trade, business or use is undesirable or noxious, such determination shall be conclusive.
- (f) No signs of any kind nor for any uses, except public notice by a political division of the State, or as required by law, shall be erected, posted, painted or displayed on any building site or portion of this Condominium

whatsoever except one professional sign of not more than one square foot. Provided, however, that the builder may erect and display signs during the period he is building and selling property in said Condominium, and that any owner wishing to sell or rent his or her home may place one sign, not larger than four (4) square feet advertising the property for rent or sale.

- (g) No more than four (4) people may live in a two bedroom Condominium unit for more than four (4) months of any year; nor more than five (5) people may live in a two bedroom plus den and/or basement unit nor more than six (6) people in a three bedroom unit for more than four (4) months of a year.

## ARTICLE IX GENERAL PROVISIONS

Section 1.     Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2.     Severability. Invalidation of any one of these covenant or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3.     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 period of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein has hereunto set its hand and seal this 3<sup>rd</sup> day of May, 1972.

Recorded:     May 10, 1972

Recording Number: 330816