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DOCUMENT TITLE(S):  
DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS OF THE HEIGHTS  
MEADOWS SPRINGS

REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:

GRANTOR:  
RONALD E. ASMUS AND TRACEY L. ASMUS

GRANTEE:  
THE PUBLIC

ABBREVIATED LEGAL DESCRIPTION:  
THE HEIGHTS AT MEADOW SPRINGS

*36-9-28*

TAX PARCEL NUMBER(S):  
1-3698-102-0007-000(PTN), 1-3698-102-0008-000(PTN)

**DECLARATION OF PROTECTIVE COVENANTS,  
CONDITIONS AND RESTRICTIONS  
OF THE HEIGHTS AT MEADOW SPRINGS**

THIS DECLARATION is made and entered into by RONALD E. ASMUS and TRACEY L. ASMUS, husband and wife, (hereinafter referred to collectively as either the "Declarants" or "Asmus").

WHEREAS, the Declarants are the owner in fee of THE HEIGHTS AT MEADOW SPRINGS, (hereinafter referred to as the "Project" or the "Heights") as legally described below;

WHEREAS, the Covenants, Conditions and Restrictions included in this Declaration are hereinafter referred to collectively either as this "Declaration" or these "Covenants"; and

WHEREAS, The Declarants now desire to make this Declaration as to certain Covenants, Conditions and Restrictions so as to better ensure the appropriate development and proper and beneficial continuation of the Heights now and in the future;

NOW, THEREFORE, Asmus hereby declares and imposes this Declaration as follows:

Declarants hereby declare that the Project, and all lots and property therein, shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold and improved subject to the following covenants, conditions and restrictions, all of which are and shall be interpreted to be for the purpose of enhancing and protecting the value and attractiveness of the Project and all Lots therein. All of the limitations, covenants,

conditions and restrictions shall constitute covenants which shall run with the land and shall be binding upon Declarants, their successors and assigns and all parties having or acquiring any right, title or interest in or to any part of the Project.

## ARTICLE I DEFINITIONS

Section 1. “Annual Assessment” shall mean that portion of taxes and the cost of insuring, maintaining, improving, repairing, operating and managing the Common Area and operating the Association which is to be paid by each Lot Owner as determined by the Association and as provided herein. There are also other Greenbelt Assessments, Special Assessments and Irrigation Assessments included in this Declaration as detailed elsewhere herein.

Section 2. “Association” shall mean The Heights at Meadow Springs Homeowners Association, a Washington association to be formed, (hereinafter sometimes referred to as the “HMS/HOA”). RCW 64.38

Section 3. “Common Area(s)” shall mean Tract A (the pathway to the neighboring greenbelt) and Tract C (the Pond parcel), as well as the entrance medians bordering exterior streets, the planting area or strip bordering the Project along Bellerive Drive or other exterior streets, including, but not limited to, grass, trees, shrubs, fences, walls and related irrigation and all other Common Areas as designated on the Plat, including all structures, facilities, improvements and landscaping thereon and all rights, and appurtenances relating thereto. Title to the Common Areas shall be conveyed to the Association by the Declarants for the benefit of all of the Lot Owners upon the completion of all of the improvements designed therefor. 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 right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated on the Common Area, the right of the Association to suspend Common Area use rights as provided in the Bylaws and the right of the Association to dedicate or transfer Common Area to any public agency, authority or utility company as provided in the Articles. Any Owner may delegate, in accordance with the Project Documents, his right of enjoyment to the Common Area and facilities thereon to members of his family, tenants and contract purchasers who reside on his lot.

Section 4. “Greenbelt” shall mean that parcel of property shown on the Plat as Tract B and located adjacent to the Project along its Northern border. The Greenbelt has been



contemporaneously deeded by the Declarants to the neighboring Homeowners Association of Meadows East, (hereinafter referred to as the "ME/HOA") under an arrangement calling for the ME/HOA to maintain, repair and replace the Greenbelt, while allowing the homeowners in both the ME/HOA development and the HMS/HOA development to jointly access and use the Greenbelt, and in return for which joint access and use the Lot Owners in this Project are obligated to pay Greenbelt Assessments for their pro-rata share of the ongoing maintenance, repair and replacement expenses incurred by the ME/HOA in regard to the Greenbelt. Tract B was previously identified as Tract A in the preliminary plat for this development.

Section 5. "Builder" shall mean and refer to any registered general contractor who purchases a Lot for purposes of building a home for sale.

Section 6. "Lot" or "Lots" shall mean and refer to one or more of the separately designated plots as shown on any recorded Plat of the Project, together with any improvements thereon, with the exception of the Common Area. The term "lot" or "lots" shall mean the lot or lots that are not included in the Plat, as defined below, but that are included in the remainder of the Project, as defined below.

Section 7. "Member" shall mean and refer to those persons entitled to membership in the Association as provided herein. (See Article II, Section 5.)

Section 8. "Owner" shall mean and refer to the record holder of title to a Lot in the Project. This shall include any person having fee simple title to any Lot in the Project, but shall exclude persons or entities having interest merely as security for the performance of any obligation. Further, if a Lot or other property is sold under a recorded contract of sale or subdivision trust to a purchaser, the purchaser, rather than the fee owner, shall be considered the "Owner" as long as he or a successor in interest remains the contract purchaser or purchasing beneficiary under the recorded contract or subdivision trust.

Section 9. "Plat" shall mean that certain plat of The Heights at Meadow Springs, Phase One, as recorded in Volume 15 of Plats, page 332 of the official records of the County Auditor of Benton County, Washington, together with any other recorded plats of all or any portion of the Project, as the same are recorded from time to time.

Section 10. The overall "Project" shall mean that certain real property shown on the Plat identified above, together with certain additional property, which, in combination prior to the Plat, were all collectively described as follows:



That portion of the southeast quarter of Section 36, Township 9 North, Range 28 East, Willamette Meridian, Benton County, Washington, described as follows:

Tract 2 and Tract 3 of the Meadows East – Tracts “A”, 1,2,3 and 4 plats, as recorded September 22, 1977 in volume 12 of Plats at page 4 under Auditor’s Fee No. 737764, together with that 150 foot wide strip of land shown as Richland-Kennewick transmission line easement, B.P.A. Easement and Cascade Natural Gas Corporation Easement on said plat, lying southeasterly of the southeasterly right of way of Bellerive Drive.

Section 11. “Project Documents” shall mean and include this Declaration, as it may be amended from time to time, the exhibits, if any, attached hereto, the Plat, the Articles and Bylaws and any “Rules and Regulations” adopted from time to time by the Association as provided herein or in the Bylaws.

**ARTICLE II  
ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS OF THE  
ASSOCIATION**

Section 1: Purpose and Duties of the Association. The Heights at Meadow Springs Homeowners Association (HMS/HOA) shall be established among the real property owners of The Heights at Meadow Springs for the following purposes:

- a. To acquire, maintain and preserve for the benefit of The Heights at Meadow Springs Owners, real property and adjoining easements constituting fencing, frontal and entrance areas, landscaping, pond area(s), lighting and other amenities common to real property Owners of The Heights at Meadow Springs; i.e. the Common Area(s).
- b. To monitor compliance with, and enforce as necessary, real property covenants, conditions and restrictions affecting use and enjoyment of ownership.
- c. To cooperate and work with, for the benefit of the real property owners, public and private organizations and homeowners associations to promote



and enhance the use of facilities, services and amenities.

The management and maintenance of the Common Area shall be vested in the Association in accordance with this Declaration. The Owners covenant and agree that the administration of the Project shall be in accordance with the provisions of this Declaration and any Articles, Bylaws Rules and Regulations adopted by the Association as provided herein, subject to the standards set forth in this Declaration and all applicable laws, regulations and ordinances of any governmental or quasi-governmental body or agency having jurisdiction over the Project.

Section 2: Annual Business Meeting. The membership as convened for the Annual Business Meeting is the principal authority of the Association, and establishes general consensus, direction and plans for the Association to be carried out by its members. Scheduling, notification and conduct of the Annual Business Meeting shall be in accordance with RCW 64.38, as amended, and the Articles and Bylaws of the Association.

Section 3: Board of Directors and Officers. The membership of the Association shall elect and approve a Board of Directors from the constituency during the Annual Business Meeting. The Board of Directors shall appoint officers and committees, to represent and perform the duties and functions, of the Association. The Board of Directors may employ professional services, including property management and lawn care, in executing its duties and functions for the Association. The Board of Directors shall be suitably insured and bonded as a prerequisite to executing its duties. Such insurance and bonding shall be an expense of the Association. The actions of the Board of Directors, officers and committees shall be subject to the Articles and Bylaws of the Association.

Section 4: Rules and Regulations. To promote uniform, consistent and quality proceedings, the Board of Directors shall promulgate rules and regulations. Such rules and regulations shall be subject to review and sanction by the membership of the Association during the Annual Business Meeting for the common interest and benefit of all members. The rules and regulations should follow standard practices and guidelines for homeowners associations concerning the conduct and actions of the membership and the board of Directors, communications, meetings and records.

Section 5: Membership. The Owner of a Lot shall automatically, upon becoming the Owner of same, be a Member of the Association and shall remain a Member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership shall be in accordance with Articles



and the Bylaws adopted by the Association. No Owner shall have more than one voting membership; however, this limitation does not apply to Declarants.

Section 6: Transfer of Membership. Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the transfer of ownership of the Lot to which it is appurtenant, and then automatically to the new Owner as provided in Section 5 above. Any attempt to make a prohibited transfer is void. Upon the transfer of an ownership interest in a Lot, the Association shall record the transfer upon its books, causing an automatic transfer of membership as provided in Section 5 above.

Section 7: Membership Classes. The Association shall have two (2) classes of voting membership established according to the following provisions:

- A. Class A Membership shall be that held by each Owner of a Lot other than Declarants (while two classes of membership exist), and each Class A Member shall be entitled to one (1) vote for each lot owned. If a Lot is owned by more than one (1) person, each such person shall be a Member of the Association, but there shall be no more than one (1) vote for each Lot.
- B. Class B Membership shall be that held by Declarants (or their successor) which shall be entitled to three (3) votes for each platted Lot and each unplatted lot owned by Declarants, included in the Project. Class B Membership shall be converted to Class A Membership and otherwise forever cease to exist on the occurrence of the following:

The total outstanding votes held by Class A Members equals the total outstanding votes held by the Class B Members after having been tripled as provided for above. For purposes of this calculation only, the Project shall consist of a total of 155 lots. The number of lots in unplatted property shall be 155 less the number of Lots in recorded Plats; or

Declarants may voluntarily convert Class B Membership to Class A at any time by notice to the Association.

Section 8: Association Voting Requirements. Any action by the Association which must have the approval of the Association membership before being undertaken shall require the vote of fifty-one percent (51%) of the membership present and voting at a duly called and held meeting of the membership at which a quorum as prescribed herein or in the Bylaws has been constituted or the written assent of fifty-one percent (51%) of the



membership unless another percentage is specifically prescribed by a provision within the Declaration, the Bylaws or the Articles.

Section 9: Vesting of Voting Rights. Voting rights attributable to all Lots and lots owned by Declarants shall vest immediately by virtue of Declarants' ownership thereof. Except for Declarants, no Owner of any Lot shall have any voting rights attributable to that Lot until an Assessment has been levied against that Lot and Owner, and collected by the Association pursuant to Article III below.

Section 10: Meetings of the Association. Regular and special meetings of Members of the Association shall be held with the frequency, at the time and place in accordance with the provisions of the Bylaws and any governing law including RCW 64.38.

**ARTICLE III  
ASSESSMENTS AND CHARGES**

Section 1: Assessment Obligations. Each Owner of any Lot, by acceptance of a Deed or recorded Contract of Sale thereof, whether or not it shall be so expressed in such document, is deemed to covenant and agree to pay to the Association (a) regular Annual Assessments, (b) Greenbelt Assessments (payable to the ME/HOA as per Section 4 below), (c) Irrigation Assessments, (d) Special Assessments for capital improvements and unexpected expenses and (e) other charges made or levied by the Association against the Owner or Lot pursuant to the Declaration or the Bylaws, such Assessments and charges to be established and collected as provided herein and in the Bylaws. Any part of any Assessment (or other amount due from the Owner to the Association, including interest) not paid when due as established in this Article III shall bear interest at the rate of twelve percent (12%) per annum from the due date until paid and shall be subject to a reasonable late charge not exceeding twenty five percent (25%) of the delinquent amount as determined by the Board. The Annual, Greenbelt, Irrigation and Special Assessments and any other charge made against an Owner or a Lot pursuant to this Declaration (whether or not a lawsuit or other legal action is instituted or commencing) as provided herein, shall be a charge and a continuing lien upon the Lot (hereinafter "Assessment lien"). Each such Assessment and charge, together with interest, late charges, costs and reasonable attorneys' fees as provided above, shall also be the personal obligation of the person who was the Owner of such Lot at the time the Assessment or other charge fell due as provided in Article II or elsewhere in this Declaration, but this personal liability shall not pass to successors in title of the Owners unless specifically assumed by them. The Assessment lien on each Lot shall be prior and superior to all other liens except (a) all taxes, bonds, Assessments and other levies which, by law, would be superior thereto and

(b) the lien or charge of any First Mortgage on that Lot. No Owner of a Lot may exempt himself from liability for Assessments by waiving the use or enjoyment of any of the Common Area, the Greenbelt, or the Irrigation water or by the abandonment of his Lot.

Section 2: Purpose of Annual Assessments. The Annual Assessments by the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the residents in the Project, for the improvement and maintenance of the Common Area as provided herein and for the common good of the Project. As previously noted in the definitional section as to the "Greenbelt", the Owners will also be assessed for the ongoing maintenance, repair and replacement of the Greenbelt by the neighboring ME/HOA, which assessments are carried out on a pro-rata basis between the then total residential owners in the ME/HOA development and the Owners in this development, and as that total number of Owners may increase over time as this Project is built out. See Section 4 below. Annual Assessments shall include an adequate reserve fund for taxes, insurance, maintenance, repairs and replacement of the Common Area and other improvements which the Association is responsible for maintaining.

Section 3: Annual Assessments. Annual Assessments shall begin January 1, 2008 and be due on the first of January each year thereafter. The Assessment Amount of \$240.00 for 2007 shall be prorated to the date of closing on the purchase of each Lot. The Annual Assessment amount per Lot shall be \$240 for 2008, 2009, 2010, 2011 and 2012. Beginning in 2013, the Board shall annually determine and fix the amount of the Annual (Calendar year) Assessment against each Lot, including those Lots owned by Declarants (and Builders) at an amount not exceeding the maximum Annual Assessment for the year in question as described below, and shall notify the Owner of each lot in writing as to the amount of such Annual Assessment not less than forty-five (45) days prior to the date that such Assessment is to commence. The Annual Assessment against each Lot as fixed by the Board shall not exceed the maximum annual Assessment amount then in effect and shall not be decreased by more than twenty percent (20%) of the Annual Assessment against the Lot for the prior calendar year without the affirmative vote of Declarants. Except as to the maximum Annual Assessment amount for the initial years as set forth above, the maximum Annual Assessment (i.e. \$240.00) shall be automatically increased each year by a percentage equal to the percentage increase, if any, in the Consumer Price Index - United States City Average for Urban Wage Earners and Clerical Workers - All Items (published by the Department of Labor, Washington, D.C.) for the year ending with the preceding July (or a similar index chosen by the Board if the above-described Index is no longer published) without the vote or approval of the Members of the Association, however, the maximum Annual Assessment amount may be increased by an amount in excess of the amount produced by the foregoing formula only if such increase is approved



by the affirmative vote of Declarants (while Class B Membership exists) and of two-thirds(2/3) of the voting power of Class A Members voting in person or by proxy at a meeting duly called for this purpose. All Annual Assessments shall be payable in one annual installment to the HMS/HOA: at The Heights at Meadow Springs Homeowners Association, PO Box 4, Richland, Washington, 99352 or such other address as designated by the Board.

Notwithstanding anything to the contrary stated in this Article, Declarants and Builders shall be obligated to pay only twenty-five percent (25%) of the Annual Assessment amount fixed for Lots pursuant to this Section, and shall pay said percentage of the Annual Assessment amount in the same manner established for payment of the Annual Assessment amount by other Lot Owners, except that Declarants and Builders owning Lots shall pay and be liable for the full Assessment amount of any Lot owned by Declarants or Builder, if any, after said Lot and the Unit on the Lot are first rented or leased to or occupied by another person. In the event said reduced Assessment amount for Lots owned by Declarants and Builders is insufficient to cover the reasonable share of those Lots' contribution toward insurance costs and depreciated reserves for the Project, as determined by generally accepted cost accounting methods, Declarants and other Builders, if any, shall also pay such amount monthly or quarterly, as applicable, in addition to said reduced Assessment amount for the Lots, as is necessary to cover those Lots' contribution toward the insurance cost and depreciation reserves.

Until Class B Membership is terminated pursuant to Section 7B of Article II above, Declarants shall be responsible for the prompt payment on a current basis for all costs and expenses related to maintenance and repair of the Common Area and other areas required to be maintained by the Association hereunder in the event and to the extent that the funds available to the Association are inadequate for payment of such costs and expenses on a current basis. Declarants' failure to perform the requirements contained in this section shall constitute a default under this Declaration entitling any Lot Owner First Mortgagee to record a notice of lien against Declarants' property interest in the Project to enforce the provisions of this section. If Declarants fund a shortfall under this provision they shall be reimbursed from assessment receipts available prior to Class B Membership Termination.

Greenbelt, Special and Irrigation Assessments are in addition to Annual Assessments.

Section 4: Greenbelt Assessments. By accepting ownership of each Lot within the Heights at Meadow Springs, each Owner who acquires a Lot in this development agrees to pay such assessments as may be specifically levied by the neighboring ME/HOA for the reasonable and necessary expenses associated with the operation, maintenance,

upkeep, taxes, insurance, and irrigation equipment repair or replacements relating only to Tract B of the Heights at Meadow Springs Plat; i.e. the Greenbelt. Tract B was previously identified as Tract A in the preliminary Plat for this development.

Such Greenbelt Assessments shall be separately determined annually by the Board of Directors of the ME/HOA and shall be assessed equally among all lot owners belonging to ME/HOA and all Lot Owners within the Heights at Meadow Springs owning their Lots as of January 1 of the assessment year. Lots still owned by the original Developer who platted the Heights at Meadow Springs shall not be subject to such assessments.

If any such assessment is not paid within thirty (30) days after it has become due, the same shall constitute a lien against the Lot assessed and shall bear interest at twelve percent (12%) per annum from the date of the assessment. The ME/HOA shall have the power to bring suit against any Owner for unpaid assessments and to enforce the lien created herein by foreclosure in the same manner as provided by law for mortgages on real property.

If it should be necessary for the ME/HOA to employ an attorney to assist in the collection of any unpaid assessments, or to enforce the lien against any Lot by virtue of any unpaid assessment, the substantially prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

Section 5: Other Assessments.

A. Special Assessments. In addition to the regular Annual Assessments and the Greenbelt Assessments authorized above, the Board 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 or other improvements the Association is responsible for maintaining, including fixtures and personal property related thereto, or to defray an unanticipated or underestimated expense normally covered by a regular Assessment and, where necessary, for taxes assessed against the Common Area, provided however that no such Special Assessment shall be made without the affirmative vote of Declarants Asmus (while Class B Membership exists) and of two-thirds (2/3) of the voting power of Class A Members voting in person or by proxy at a meeting duly called for this purpose.

B. Irrigation Assessments. Each Lot Owner shall also be subject to an annual Irrigation Assessment from the HMS/HOA for their pro rata share of the expense

related to irrigation water supply and system maintenance, repair and replacement, until such time as the irrigation water supply and related system may be assumed in whole or in part by one or more entities, including perhaps the HMS/HOA, at which time such assessments by the HMS/HOA shall be modified or replaced, in whole or in part, accordingly.

Section 6: Procedures for Voting on Annual and Special Assessments. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 5A shall be sent to all Owners not less than seven (7) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of Members or proxies therefor entitled to cast sixty percent (60%) of all of the votes of the 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. No such subsequent meeting shall be held more than twenty (20) days following the preceding meeting. While Class B Membership exists, the quorum requirements described above shall apply to both classes and a quorum shall not exist for a meeting unless a quorum of each class is present. Greenbelt Assessments and Irrigation Assessments are not subject to these voting procedures. See Sections 4 and 5B above.

Section 7: Allocation of Assessment. The Owners of each Lot shall bear an equal share of each Annual and Special Assessment, except as specified in Section 3 of this article.

Section 8: Commencement of Assessments. The Assessments provided for herein shall commence as to each Plat in the Project on the first day of the month following the close of escrow on the sale of the first Lot in the Plat by Declarants Asmus to a Builder or another person. Due dates of Assessments shall be January 1 or as established by the Board and notice shall be given to each Lot Owner as least forty-five (45) days prior to any due date.

Section 9: Effect of Transfer of Lot by Sale or Foreclosure. The sale or transfer of any Lot shall not affect the Assessment lien or liability for Assessments due and payable. No sale or transfer of a Lot shall relieve such Lot from liability for any Assessment thereafter becoming due or from the lien therefore. In a voluntary conveyance of a Lot, the grantee of the same shall be personally liable for Assessments or any other charges due to the Association in connection with that Lot which accrued prior to the conveyance. Any such grantee shall be entitled to a statement from the Association setting forth the amount of the unpaid Assessments due the Association, and such grantee shall not be liable for

nor shall the Lot conveyed be subject to a lien for any unpaid Assessments made by the Association against the grantee in excess of the amount set forth in the statement, provided however, the grantee shall be liable for any such Assessment becoming due after the date of any such statement.

Section 10: Remedies for Nonpayment. When any Homeowner Assessment or other amount due from an Owner to the Association on behalf of any Lot is not paid within thirty (30) days after the due date, the lien therefor may be enforced by foreclosure of the lien and/or sale of the Lot by the Association, its attorney or other person authorized by this Declaration or by law to make the sale or as provided herein. The lien may be foreclosed and the Lot sold in the same manner as foreclosure of a realty mortgage and property mortgaged thereunder, the Lot may also be sold pursuant to the statutory or customary procedures for sales of trust property under deeds of trust (with the Association acting as trustee), or the lien may be enforced or foreclosed in any other manner permitted by law for the enforcement or foreclosure of liens against real property or the sale of property subject to such a lien. Any such enforcement, foreclosure or sale action may be taken without regard to the value of such Lot, the solvency of the Owner thereof or the relative size of the Owner's default. Upon the sale of a Lot pursuant to this section, the purchaser thereof shall be entitled to a deed to the Lot and to immediate possession thereof, and said purchaser may apply to a court of competent jurisdiction for a writ of restitution or other relief for the purpose of acquiring such possession, subject to applicable laws. The proceeds of any such sale shall be applied as provided by applicable law but, in the absence of any such law, shall be applied first to discharge costs thereof, including but not limited to court costs, other litigation costs, costs and attorney's fees incurred by the Association, all other expenses of the proceedings, interest, late charges, unpaid Assessments and other amounts due to the Association, and the balance thereof shall be paid to the Owner. It shall be a condition of any such sale, and any judgments or orders shall so provide, that the purchaser shall take the interest in the Lot sold subject to this Declaration. The Association, acting on behalf of the Lot Owners, shall have the power to bid for the Lot at any sale and to acquire and hold, lease, mortgage or convey the same. In the event the Owner against whom the original Assessment was made is the purchaser or redemptioner, the lien shall continue in effect and said lien may be enforced by the Association, or by the Board of the Association, for the Lot's Assessments and other amounts that were due prior to the final conclusion of any such foreclosure, sale or equivalent proceedings. Further, notwithstanding any foreclosure of the lien or sale of the Lot, any Assessments and other amount due after application of any sale proceeds as provided above shall continue to exist as personal obligations of the defaulting Owner of the Lot to the Association, and the Board may use reasonable efforts to collect the same from such Owner even after he is no longer a Member of the Association.

Section 11: Suspension of Rights. In addition to all other remedies provided for in this Declaration or at law or in equity, the Board may temporarily suspend the Association voting rights and/or rights to use the Common Area of a Lot Owner who has breached his obligations under this Declaration or is in default in the payment of any Assessment or any other amount due to the Association or proceed otherwise, as provided in the Bylaws.

Section 12: Other Remedies. The rights, remedies and powers created and described in this Declaration, the Articles or the Bylaws are cumulative and may be used or employed by the Association in any order or combination, except as specifically provided to the contrary herein. Without limiting the foregoing sentence, suit to recover a money judgment for unpaid Assessments, interest, rent, costs, attorney's fees and/or other amounts due hereunder, to obtain specific performance of obligations imposed hereunder and/or to obtain injunctive relief may be maintained without foreclosing, waiving, releasing or satisfying the liens created for Assessments or other amounts due hereunder.

Section 13: Unallocated Taxes. In the event that any taxes are assessed against the Common Area or the personal property of the Association, rather than against the Lots, said taxes shall be included in the Assessments made under the provisions of this article, and, if necessary, a special Assessment may be levied equally against all of the Lots in an amount equal to said taxes, as provided in Section 5 of this article.

#### ARTICLE IV DUTIES AND POWERS OF THE ASSOCIATION

Section 1: Duties and Powers of the Association. In addition to the duties and powers enumerated in the Bylaws and the Articles of the Association, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

- A. Maintain, paint, repair, replace, restore, operate and keep in good condition all of the Common Area and all facilities, improvements, furnishings, equipment and landscaping thereon as well as the perimeter fences and entryway landscaping. The responsibility of the Association for maintenance and repair shall not extend to repairs or replacements arising out of or caused by the willful or negligent act or neglect of an Owner or his guests, tenants or invitees. The repair or replacement of any portion of the Common Area or any Lot resulting from such excluded items shall be the responsibility of such Owner. The Association shall be entitled to commence an action at law or in equity to enforce this responsibility and duty and/or recover damages for the breach thereof. Liability hereunder shall be limited

to that provided for or allowed in the statutory or case law of the State of Washington.

- B. Obtain and continue in effect comprehensive public liability insurance insuring the Association, the Declarants, or a Builder, the agents and employees of each and the Owners and their respective family members, guests and invitees against any liability incident to the ownership or use of the Common Area, including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured and a "severability of interest" endorsement precluding the insurer from denying coverage to one Owner because of the negligence of other Owners or the Association or other insured. Such insurance shall be in amounts deemed appropriate by the Board. Additionally, the Association shall obtain and continue in effect a policy of multi-peril insurance, providing at a minimum fire and extended coverage, said coverage to be obtained on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost) of all improvements in the Common Area. Such policy shall contain extended coverage and replacement cost endorsements (providing for replacement of insured improvements from insurance loss proceeds) and may also contain vandalism and malicious mischief coverage, a stipulated amount clause and a determinable cash adjustment clause or a similar clause to permit cash settlement covering the full value of the improvements. All insurance premiums shall be included in the Assessments of the Association. If any of the improvements, furnishings or equipment on the Common Area are damaged by fire or other casualty, insurance proceeds to the Association shall be used to rebuild, repair or replace the same substantially in accord with the original plans and specification therefore unless the Association membership otherwise determines in a meeting called for the purpose of considering the same. Any excess insurance proceeds shall be deposited in the general fund of the Association. In the event insurance proceeds are inadequate, then the Association may levy a special Assessment on Lot Owners therefor as provided in Article III. The Association's use of funds from its general account or levy of a special Assessment shall not constitute a waiver of the Association's or any Owner's right to institute any legal proceeding or suit against the person or persons responsible, purposely or negligently, for the damage.
- C. Enforce the provisions of this Declaration by appropriate means, including without limitation the expenditure of funds of the Association, the employment of legal counsel and the commencement of legal actions.



- D. Grant and reserve easements where necessary for utilities and sewer facilities over the Common Area to serve the Common Area and Lots.
- E. Have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, subject to the Bylaws and restrictions imposed by any governmental or quasi-governmental body or agency having jurisdiction over the Project.
- F. Adopt reasonable rules not inconsistent with the Declaration, the Articles or the Bylaws relating to the use of the Common Area and all facilities thereon and the conduct of Owners and their tenants and guests with respect to the Project and other Owners.
- G. Adopt a schedule of reasonable monetary penalties for violation by Owners of the provisions of this Declaration, the Articles, the Bylaws and Rules and Regulations of the Association and impose the same according to procedures in the Bylaws.
- H. Accept siting directions from the United States Postal Service for the placement of grouped mail boxes within the Project, and to maintain, repair and replace the same as reasonably necessary, after initial construction.

**ARTICLE V  
USE RESTRICTIONS**

Section 1: Use of Lots as a Single Family Subdivision. All Lots within the Project shall be known and described as residential Lots and shall be occupied and used for single family residential purposes only, and construction thereon shall be restricted to single-family houses and related improvements. No business uses or activities of any kind whatsoever shall be permitted or conducted in the Project, except as set forth in Section 5 of this Article below. No Owner shall bring any action for or cause partition of any Lot, it being agreed that this restriction is necessary in order to preserve the rights of the Owners. Judicial partition by sale of a single Lot owned by two or more persons or entities and the division of the sale proceeds is not prohibited (but partition of title to a single Lot is prohibited). No horizontal property regime or condominium shall be created within the Project. No unsightly objects or nuisance shall be erected, placed or permitted which may endanger the health or unreasonably disturb the Owner or occupant of any Lot. No noxious, illegal or offensive activities shall be conducted on any Lot..

Section 2: Site Preparation. Clearing and grading, including, but not limited to, the cutting or transplanting of natural vegetation from any Lot, shall not be undertaken until plans for the single family dwelling to be constructed thereon are approved by the Architectural Control Committee as provided for herein.

Section 3: Nature of Buildings. No building or structures shall be moved from other locations onto any Lot, and all improvements erected on a Lot shall be of new construction. No structure of a temporary character and no trailer, basement, shack, garage, barn or other out-building shall be used on any Lot at any time as a residence, either temporarily or permanently.

Section 4: Animals. No animal, livestock or poultry shall be raised, bred or kept on any lot except that customary household pets such as dogs, cats and household birds may be kept but only such number and types shall be allowed which will not create a nuisance or disturb the health, safety, welfare or quit enjoyment of the Lots by the Owners. All animals shall be kept under reasonable control at all times and in accordance with applicable laws. All animal wastes must be promptly disposed of in accordance with applicable city or county regulations. Upon the written request of any Owner, the Board shall conclusively determine, in its sole and absolute discretion, whether a particular animal constitutes a customary household pet or is a nuisance, or whether the number of animals or birds maintained on any portion of the Project is reasonable. Any decision rendered by the Board shall be final.

Section 5: Signs, Restrictions on Commercial Uses: No sign of a commercial nature, except for one "For Rent" or two "For Sale" signs per Lot of no more than five (5) square feet, shall be allowed in the Project. No signs may be installed or placed upon the Common Area except monuments/signs for the Project itself. No billboards, stores, offices or other places of business of any character, or any institution or other place for the care or treatment of the sick, disabled, physically or mentally, shall be placed or permitted to remain on any of said Lots, nor shall any theater, bar, restaurant, saloon, or other place of entertainment ever be erected or permitted on any Lot, and no business of any kind or character whatsoever shall be conducted in or from any Lot. No unsightly objects or nuisance shall be erected, placed or permitted on any Lot. Notwithstanding any provision contained herein to the contrary, it shall be expressly permissible for the Declarants and Builders to move, locate and maintain, during the period of construction and sale of Lots, on such portions of the Project owned by that party as that party may from time to time select, such facilities as in the sole opinion of that party shall be reasonably required, convenient or incidental to the construction of houses and sale of Lots, including but not limited to business offices, storage areas, trailers, temporary

buildings, construction yards, construction materials and equipment of any kind, signs, models, and sales offices, subject to prior approval thereof by Declarants Asmus.

Section 6: Driveways, Walkways and Patios. All driveways, exterior walks and patios shall be concrete unless the approval for use of other material is granted by the Architectural Control Committee.

Section 7: Use of Garages. No garages or any other buildings whatsoever shall be constructed on any Lot until a house shall have been erected thereon (or is being erected thereon). The restrictions and conditions set forth above shall not be applicable to Declarants. No garage may be converted to living space or for recreational use without the prior written consent of the Architectural Control Committee.

Section 8: Size of Improvement. Single-family dwelling units shall, in the case of single-level homes, have a living area of not less than 2,000 square feet. Single-level homes with basements shall have not less than 2,000 square feet on the main level. In the case of multi-level homes: not less than 2,200 square feet, with a minimum of 1,200 square feet on the main level. All homes constructed in the area shall include an attached garage of at least 400 square feet.

Section 9: Antennas and Service Facilities. No exterior antenna, clothes line or other service facility shall be placed on any lot or any structure on any lot so as to be visible from the street(s) abutting such lot. In any event, exterior antenna and satellite dishes are strictly prohibited unless prior written approval is obtained from the Architectural Control Committee. Failure to comply with this provision shall obligate the Lot Owner to relocate such antenna or satellite dish at their sole expense to such location as is acceptable to the Architectural Control Committee and to pay a penalty to the Architectural Control Committee of \$250.00. THEREFORE, LOT OWNERS ARE ENCOURAGED TO INSTRUCT THEIR SUPPLIERS/INSTALLERS OF EXTERIOR ANTENNAS OR SATELITE DISHES TO COMPLY WITH THIS RESTRICTION AND TO SEEK PRIOR APPROVAL OF INSTALLATION LOCATIONS FROM THE ARCHITECTURAL CONTROL COMMITTEE, AS STATED ABOVE.

Section 10: Storage Sheds and Swings. No storage sheds or similar or related type objects shall be located on any Lot if the height of such object is greater than the height of the fence on or adjoining said Lot or if such object is visible from the front of the Lot without prior written approval by the Architectural Control Committee. Notwithstanding the above, taller, detached sheds (*i.e.* up to a maximum eight (8) feet sidewalls and a maximum roof peak height of thirteen (13) feet) will be approved by the Committee so

long as all City setbacks are met and the pitch of the roof, as well as the exterior materials and color match the related residence. All swings and slides (including those used in connection with a swimming pool) shall be at least seven (7) feet from all fences located on or near perimeter Lot Lines.

Section 11: Screening Materials. All screening areas, whether fences, hedges or walls, shall be maintained and replaced from time to time on the Lots by the Owners thereof in accordance with the original construction of the improvements by the Declarants, or as approved by the Architectural Control Committee pursuant to Article VII.

Section 12: Garage and Rubbish, Storage Areas. Each lot shall be maintained free of rubbish, trash, garbage or other unsightly items or equipment, and the same shall be promptly removed from each Lot and not allowed to accumulate thereon, and no garbage, trash or other waste materials shall be burned on any Lot. Garbage cans, clotheslines, woodpiles, compost piles and areas for the storage of equipment and unsightly items shall be kept screened by adequate fencing or other aesthetically pleasing materials acceptable to the Architectural Control Committee so as to conceal same from the view of adjacent Lots and streets.

Section 13: Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done or maintained thereon which may be or become an annoyance or nuisance to the neighborhood or detract from its value.

Section 14: Vehicles. No transportation vehicles including, but not limited to, boats, campers and trailers, whether operable or not, of any kind shall be stored, maintained, or constructed on any Lot or street in such a manner as to be visible from the street or neighboring Lots. For purposes of this section, any vehicle shall be deemed stored if it is located on either the Lot and/or street for two (2) weeks or longer, continuously, in any given month.

Section 15: Sanitary Facilities. None of the Lots shall be used for residential purposes prior to the installation thereon of water-flushed toilets and all bathrooms, toilets and sanitary conveniences shall be inside the house permitted hereunder on each Lot.

Section 16: Lights. Except as initially installed by Declarants, no spotlights, flood lights or other high intensity lighting shall be placed or utilized upon any Lot or any structure erected thereon which in any manner will allow light to be directed or reflected on any other Lot or the Common Area, or any part thereof without the prior written consent of the Architectural Control Committee.

Section 17: Window Cover Materials. Prior to installation of any reflective materials on the windows or any portion of the house or any other area on any Lot, approval and consent must be obtained from the Architectural Control Committee pursuant to Article VII, except such consent shall not be required for any such installations made by Declarants Asmus.

Section 18: Drilling and Mining. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil or water wells, tanks, tunnels, mineral extractions, or shafts be permitted upon 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.

Section 19: Landscaping. All Lots must have a minimum of 1,000 square feet of lawn or grass growing. The front yard abutting the main street serving as access to any Lot must be fully landscaped within a maximum of thirty (30) days of any structure receiving a certificate of occupancy by the City of Richland. All landscaping on each lot must be substantially installed in an attractive manner by the Owner within six (6) months from the date of close of escrow of a newly acquired or constructed home based upon plans therefor approved in advance by the Architectural Control Committee pursuant to Article VII. The landscape plans submitted to the Committee must include proposed changes in grade to be accomplished as part of the landscaping development. Landscaping at all times must be maintained by each Owner in a neat and attractive manner and any alterations or modification made in the original landscaping and/or grade as originally installed shall be approved in advance by the Architectural Control Committee. If any Owner does not install and complete approved landscaping within the six month period described above or if he/she does not maintain his landscaping in a neat and attractive manner, the Declarants or the Architectural Control Committee, after giving the Owner fifteen (15) days written notice to cure any such default, shall have the right to cause the necessary landscaping work to be done and the Owner in default shall be responsible for the cost thereof and the parties expending funds for such work shall have a lien on the defaulting Owner's Lot for the funds expended together with interest thereon at the rate of fifteen percent (15%) per annum until paid. In addition to the foregoing, any party may utilize remedies available under Article VIII, Section 1, for such Owner's default.

Section 20: Trees. There shall be no Poplar Trees or Russian Olive Trees allowed to be planted or growing within the Project.

Section 21: Leasing. The Owners of Lots shall have the absolute right to lease their

respective Lots and the dwelling thereon provided that any such lease is in writing and is specifically made subject to the covenants, conditions, restrictions, limitations and users contained in the Declaration and the Bylaws and any reasonable Rules and Regulations published by the Association. Any Owner who leases his/her Lot shall provide a copy of the lease to the Association within ten (10) days of its execution.

Section 22: Damage to Common Area. The Owner of each Lot shall be liable to the Association for all damage to the Common Areas or improvements thereon caused by such Owner or any occupants, guests or invitee of or to his Lots. This refers to land or properties maintained by the Association. The Association shall be entitled to commence an action at law or in equity under Washington law to enforce this obligation and/or recover damages for the breach hereof.

Section 23: Construction Time. Any dwelling or structure erected or placed on any Lot shall be completed as to external appearance, including finish painting, within nine (9) months from date of start of construction except for reasons beyond control of the Lot owner, in which case a longer period may be permitted if approved by the Architectural Control Committee.

Section 24: Dust Control. Any Builder or individual who has acquired Lots or is contractually obligated to buy Lots is responsible for dust control on those Lots and any subsequent fines resulting from lack of dust control on those Lots. Until a final sale is transacted each Builder is responsible to maintain the back and side yards by mowing, weeding or planting.

## ARTICLE VI FENCES AND PERIMETER EASEMENTS

Section 1: Fence Requirements. Lots, when developed, may be improved with fences at the option of the Builder. All fencing must be approved by the Architectural Control Committee. Except as may be installed by Declarants Asmus, no side or rear fence and no side or rear wall, other than the wall of the house constructed on said Lot, shall be more than six (6) feet in height. Notwithstanding the foregoing, the prevailing governmental regulations and the provisions of Section 3 of this article below shall take precedence over these restrictions if said regulations are more restrictive. Unless otherwise approved by the Architectural Control Committee, all fencing and any materials used for fencing, dividing or defining the Lots must be of new materials, and erected in a good and workmanlike manner. The finished side or surface of such fencing shall be facing outward from the Lot on which it is erected. The color(s) of the fencing for all Lots

require prior written approval by the Architectural Control Committee. This restriction shall not apply to the Declarants. All fences shall be maintained in good condition and repair, and fences, upon being started, must be completed within a reasonable time not exceeding three (3) months from commencement of construction. Subject to the other provisions of this section, in the event any fence is wholly or partially damaged by any cause, it shall be removed in its entirety or returned to its original condition within three months from the date of damage; provided, however, any fences installed by any Builder must be promptly restored to their original condition by the Owner(s) of the adjacent Lots. The Association will perform routine maintenance of certain perimeter fences as provided in Article IV, Section 1, but the Owners of the Lots adjacent to said fences shall be responsible to replace the same in the event they are responsible for the damage or destruction thereof. No fences shall be installed in front yards. No chain link fences may be visible from roadways, other Lots or Common Areas.

Section 2: Fences as Party Walls.

- A. Fences which may be constructed upon the dividing line between Lots or adjacent to said dividing line because of minor encroachments due to engineering errors (which are hereby accepted by all Owners in perpetuity)(or because existing easements prevent a fence from being located on the dividing line) by Declarants Asmus, shall be maintained and repaired at the joint cost and expense of the adjacent Lot Owners, and fences constructed upon the back of any Lot (which do not adjoin any other Lot) by Declarants Asmus shall be maintained and repaired at the cost and expense of the Lot Owner on whose Lot (or immediately adjacent to whose Lot) the fence is installed. Without limiting the generality of the foregoing, in the event any party wall is wholly or partially damaged or in need of maintenance or repair (other than as a result of any action either of the Owners, their guests, tenants, invitees, agents or members of their family, which shall be governed by the provisions set forth below), then, each of the adjoining Owners shall share equally in the cost of replacing the party wall or restoring the same to its original condition. For this purpose, any adjoining Owners shall have an easement as more fully described in Section 3 of this article. Such fences shall not be altered, or changed in design, color, material or construction from the original installation made by Declarants Asmus without the approval of the adjoining Owner(s), if any, and the Architectural Control Committee. In the event any such fence is damaged or destroyed by the act or acts of one of the adjoining Lot Owners, his family, agents, guests or tenants, that Owner shall be responsible for said damage and shall promptly rebuild and repair the fence(s) to its (their) prior condition, at his sole cost and expense. All gates shall be no higher than the

adjacent fence.

- B. In the event of a dispute between Owners with respect to the repair or rebuilding of a party wall, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to arbitration under such rules as may from time to time be adopted by the Association. If no such rules have been adopted, the matter shall be submitted to an arbitrator chosen by any judge of the Superior Court of Benton County. A determination of the matter signed by the arbitrator shall be binding upon the Owners who shall share the cost of arbitration equally.
- C. Where the words "fence" or "fences" or "fencing" appears in this Declaration, they include block walls, chain link fences, wood fences and other materials used as a fence, fences, wall or walls (except a wall which is part of a house).

Section 3: Easements. Easements for installation and maintenance of utilities and drainage facilities have been created as shown on the Plat, and additional easements may be created by grant or reservations by Declarants Asmus of a portion of the Project for the foregoing purposes, or for the purpose set forth in Subsection 3B below. Except as may be installed by Declarants Asmus, no structure, planting or other materials shall be placed or permitted to remain within these easements which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, if any, or which may obstruct or retard the flow of water through the channels in the drainage easement, if any. The easement area of each Lot and all improvements located thereon shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. In the latter case, the easement area shall be maintained by the Owner of the Lot who has use of the easement.

- A. For the purpose of repairing and maintaining any fence or wall located upon the dividing line between Lots (or located near or adjacent thereto because of an existing easement located on the dividing line), an easement not to exceed five (5) feet in width is hereby created over the portion of every Lot immediately adjacent to any perimeter fence or wall to allow the adjoining Owner access for maintenance purposes set forth and no other purpose.
- B. In addition to the foregoing, if a fence is not located on a dividing line between Lots, an easement is hereby created for purposes of constructing and maintaining a fence between Lots over that portion of each Lot adjacent to or near the dividing line wherever a fence may be constructed by Declarants Asmus within six (6)

months after a house is constructed on any Lot. With respect to any fence not located on a dividing line between Lots but located near or adjacent to such dividing line, an Owner of a Lot shall have and is hereby granted a permanent easement over any property immediately adjoining said Owner's Lot up to the middle line of said fence for the use and enjoyment of the same.

## ARTICLE VII ARCHITECTURAL CONTROL COMMITTEE

Section 1: Creation of Committee. For the purpose of maintaining the aesthetic and beautification features and the architectural and aesthetic integrity and consistency within the Project, an Architectural Control Committee (the "Committee") of at least two (2) members is hereby established. The first member of said Committee is Ronald E. Asmus. The second member is Tracey L. Asmus. Additional members may be appointed by Ronald E. Asmus. After the Project has been fully developed (i.e., all Lots have houses constructed thereon), or at such earlier time as Declarants may specify in its sole discretion, the Board of Directors of the Association shall have the right from time to time to remove and/or replace the members of the Committee.

Section 2: Review by Committee. No building or improvements, fences, walls, antennas (including customary TV antennas), underground TV apparatus, broadcasting towers, other structures, landscaping or grade changes or conversion of garage areas to living or recreational space shall be commenced, erected, repaired structurally, replaced or altered (except as set forth below) and no changes to exterior colors of any of the foregoing shall be made until the plans and specifications showing the nature, kind, shape, size, height, color, material, floor plan, location and approximate cost of same shall have been submitted to and approved by the Committee. Failure of the Committee to reject in writing said plans and specifications within forty-five (45) days from the date same were submitted shall constitute approval of said plans and specifications, provided the design, location, color and kind of materials in the building or improvement or other item to be built, installed or altered in said Lot shall be governed by all of the restrictions herein set forth and said improvement or alteration or other item shall be in harmony with existing buildings and structures in the Project. Approval of plans and specifications shall not be unreasonably withheld and rejection of any proposal reflected in plans or specifications must be based on reasonable judgment as to the effect said construction, installation or alteration will have on the Project as a whole. The Committee shall have the right to refuse to approve any such plans and specifications which are not suitable or desirable in their opinion for aesthetic or other reasons and in so passing upon such plans and specifications, it shall have the right to take into consideration the suitability of the

proposed improvements or other structure or alteration, and of the material (including type and color) of which it is to be built, the site (including location, topography, finished grade elevation) upon which it is proposed to be erected, the harmony thereof with the surroundings (including color and quality of materials and workmanship) and the effect of the improvements or other structure or alteration as planned on the adjacent or neighboring property including visibility and view. The restrictions and conditions set forth in this paragraph shall not be applicable to any original construction whatsoever undertaken by the Declarants. The Committee's approval of materials submitted to it shall not be interpreted or deemed to be an endorsement or verification of the safety, structural integrity or compliance with applicable codes or building ordinances of the proposed improvements or alterations and the Owner and/or its agents shall be solely responsible therefor. The Committee and its members shall have no liability for any lack of safety, integrity or compliance thereof. The Committee and its members shall not have personal liability for judicial challenges to its decisions and the sole remedy for a successful challenge to a decision of the Committee shall be an order overturning the same without creating a right, claim or remedy for damages.

Section 3: Roofs. Approved roofing material and colors include the following:

- A. Option 1: Pabco 30, 40 or 50 year. Color shall be Weathered Wood.
- B. Option 2: Advantage 50 year. Color shall be Beachwood.
- C. Option 3: Tile roofing. Color subject to approval of the Committee.

The minimum for roof pitch shall be six/twelve (6/12). Less than a six/twelve (6/12) pitch shall not be used without the prior approval of the Committee, exercised on a case by case basis.

Section 4: Exterior Finish. There shall be a minimum of 200 square feet of brick or cultured stone on the front of each main structure located on any Lot, unless the structure is constructed of stucco/dryvit material. Each main structure shall be double wall construction throughout, with a minimum of Cottage Lap, 5 inch revealed siding. Absolutely no vertical siding. All soffits shall be enclosed. Driveway minimum shall be brushed concrete.

Section 5: Improvements by Builders: The plans, specifications and elevations of all houses, buildings or other improvements, landscaping and other structures or other items that Builder (other than Declarants Asmus) intend to construct, install or erect in the

Project, whether or not the same is visible from another Lot, Common Area or public street, shall be subject to the review and approval of the Committee prior to the commencement thereof in accordance with the procedures set forth above. In addition to the foregoing requirements, such Builders shall strictly comply with the design and improvement standards adopted by Declarants Asmus from time to time for the Project as such standards are revised from time to time in Declarants Asmus' sole discretion, provided that any such Builder may continue construction within the Project in accordance with plans, specifications and elevations consistent with the standards in effect at the time the plans, specifications and elevations were submitted. The Committee shall refuse approval of any such Builder's plans, specifications and elevations if the same do not comply with the standards then in effect.

Section 6: Disputes. Any dispute which may arise as a result of a disapproval by the Architectural Control Committee shall be submitted to arbitration by a single arbitrator under the then current Construction Industry Rules of the American Arbitration Association.

## ARTICLE VIII GENERAL

Section 1: Effect of Declaration and Remedies. The declarations, limitations, easements, covenants, conditions and restrictions contained herein shall run with the land and shall be binding on all persons purchasing or occupying any Lot in the Project after the date on which this Declaration is recorded. In the event of any violation or attempted violation of these covenants, conditions and restriction, they may be enforced by an action brought by the Association, the Architectural Control Committee or by the Owner or Owners (not in default) of any Lot or Lots in the Project or by Declarants, at law or in equity. Declarants have no duty to take action to remedy any such default. Remedies shall include but not be limited to damages, injunctive relief and/or any and all other rights or remedies pursuant to law or equity and the prevailing party shall be entitled to collect all costs incurred and reasonable attorneys' fees sustained in commencing and/or defending and maintaining such lawsuit. Thirty (30) days after written notice to the Owner of any Lot setting forth a violation, Declarants Asmus, the Architectural Control Committee or the agent of either may enter upon such Lot, which entry shall not be deemed a trespass, and take whatever steps are necessary to correct the violation. The expenses thereof, if not paid by such Owner within thirty (30) days after written notice and billing, may be filed as a lien upon such Lot. Failure of Declarants, the Architectural Control Committee or any Lot Owner to enforce any provision herein shall in no event be deemed a waiver of the right to do so.

Any breach of these covenants, conditions and restrictions, or any remedy by reason thereof, shall not defeat nor affect the lien of any mortgage or deed of trust made in good faith and for value upon the Lot in question, but all of these covenants, conditions and restrictions shall be binding upon and effective against any Owner of a Lot whose title thereto is acquired by foreclosure, trustee's sale or otherwise, and the breach of any of these covenants and restrictions may be enjoined, abated or remedied by appropriate proceedings, notwithstanding the lien or existence of any such mortgage or deed of trust.

All instruments of conveyance of any interest in any Lot shall contain (and if not, shall be deemed to contain) reference to this Declaration and shall be subject to the declarations, limitation, easements, covenants, conditions and restrictions set forth herein as fully as though the terms and conditions of this Declaration were therein set forth in full; provided, however, that the terms and conditions of this Declaration shall be binding upon all persons affected by its terms, whether express reference is made to this Declaration or not in any instrument of conveyance. No private agreement of any adjoining property owners shall modify or abrogate any of these restrictive covenants, conditions and restrictions.

Section 2: Notice of Covenants Violation, Fines and Penalties. The Heights at Meadow Springs Homeowners Association shall have the right through the actions of the board of Directors and officers to assess penalties and levy fines for violations of the covenants, conditions and restrictions established in this Declaration provided: Determination of such violations, fines and penalties are established at a proceeding of the board of Directors, or its agent, in accordance with its governing rules and regulations, and that the Owner of real property is notified of the violation, by certified mail, not less than 30 days prior to enforcement actions, including fines and penalties, and collection of the cost described herein. Any such penalties or fines shall constitute a lien against the affected Lot and may be recorded as such against it. Such lien created herein may be enforced by foreclosure in the same manner as provided for mortgages on real property. If it should be necessary for the Association to employ an attorney to assist in the collection of any such fines or penalties, or related lien, the Association shall be entitled to reimbursement of or an award for its reasonable attorneys' fees and expenses incurred therein, regardless of whether suit or action is commenced.

Section 3: Severability. Invalidity of any one or more of these covenants, conditions and restrictions or any portion thereof by judgment or court order shall in no way affect the validity of any of the other provisions and the same shall remain in full force and effect.



Section 4: Rules Concerning Builders; Transfer by Declarants Asmus.

Notwithstanding anything to the contrary contained herein, Declarants Asmus or the Architectural Control Committee shall have the right from time to time to promulgate and amend reasonable rules and regulations concerning the conduct, operations and building activities of any other Builders who shall be bound thereby. Wherever Declarants Asmus are granted certain rights and privileges hereunder, Declarants Asmus shall have the right to assign and transfer any of such rights and privileges to any other Builders as evidenced by a written instrument recorded in the office of the Benton County Recorder. Upon assignment by Declarants Asmus of their rights hereunder, the Declarants Asmus shall thereafter have no further liability, responsibility or obligations for future acts or responsibilities of Declarants Asmus hereunder and the successor declarants shall be solely responsible therefor and all parties shall look to the successor declarants therefor. At any time, Declarants Asmus may, by a written, recorded notice, relinquish all or any portion of their rights hereunder and all parties shall be bound thereby.

Section 5: Miscellaneous. This Declaration shall remain and be in full force and effect for an initial term of thirty-five (35) years from the date this Declaration is recorded. Thereafter, this Declaration shall be deemed to have been renewed for successive terms of ten (10) years, unless revoked by an instrument in writing, executed and acknowledged by the then Owners of not less than seventy-five percent (75%) of the Lots in the Project, and said instrument shall be recorded in the office of the County Auditor of Benton County, Washington, within ninety (90) days prior to the expiration of the initial effective period hereof, or any ten (10) year extension.

Section 6: Notice. Any notice required hereunder shall be deemed effective when personally delivered or when mailed by certified mail to the owner of public record at the time of such mailing to such owner's address as appears on the Benton County Tax Records.

Section 7: Amendment. At any time, this Declaration may be amended by an instrument in writing, executed and acknowledged by the then Owners of not less than seventy-five (75%) of the Lots in the Project. If there is any conflict between any of the Project Documents, the provisions of this Declaration shall prevail. Thereafter, priority shall be given to the Project Documents in the following order: the Plat, Articles, Bylaws and Rules and Regulations of the Association.

