

Return Address

Gordon, Thomas, Honeywell, Malanca,
Peterson & Daheim, P.L.L.C.
P.O. Box 1157
Tacoma, WA 98401-1157
Attn: Stephanie A. Arend

Please print or type information.

Document Title(s) (of transactions contained therein):

- 1. Declaration of Covenants, Conditions and Restrictions for Eagle Point at American Lake
- 2.
- 3.

Grantor(s) (Last name first, then first name and initials)

- 1. American Lake, L.L.C.
- 2.
- 3.
- 4. Additional Names on Page _____ of Document.

Grantee(s) (Last name first, then first name and initials)

- 1. Eagle Point at American Lake Homeowners Association
- 2.
- 3.
- 4. Additional Names on Page _____ of Document.

Legal Description (abbreviated: i.e., lot, block, plat or section, township, range)

Section 21, Township 19N, Range 2 East, W.M., Pierce County, Washington

Full Legal Description on Page 28 of Document.

Reference Number(s) of Documents Assigned or Released:

N/A

Additional Reference Numbers on Page _____ of Document.

Assessor's Property Tax Parcel/Account Number

02-19-21-2-001; 02-19-21-2-030; 02-19-21-2-044; 02-19-21-2-051

The Auditor/Recorder will rely on the information provided on this cover sheet. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

For reference only, not for re-sale.

42

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

EAGLE POINT AT AMERICAN LAKE

For reference only, not for re-sale.

TABLE OF CONTENTS

BACKGROUND 1

DECLARATION 1

ARTICLE I Definitions 2

ARTICLE II Property, Development Plan 3

ARTICLE III Common Areas and Other Special Parcels 4

ARTICLE IV Association 6

ARTICLE V Easements 7

ARTICLE VI Assessments 8

ARTICLE VII Maintenance 11

ARTICLE VIII Architectural Control Committee 13

ARTICLE IX Architectural and Landscape Control 14

ARTICLE X Permitted and Prohibited Uses 16

ARTICLE XI Insurance Requirements 20

ARTICLE XII Damage or Destruction 20

ARTICLE XIII Condemnation 21

ARTICLE XIV Mortgagees' Protection 21

ARTICLE XV General Provisions 23

EXHIBIT "A" to DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR EAGLE POINT AT AMERICAN LAKE 28

EXHIBIT "B" to DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR EAGLE POINT AT AMERICAN LAKE 31

EXHIBIT "C" to DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR EAGLE POINT AT AMERICAN LAKE 32

For reference only, not for re-sale.

**EAGLE POINT AT AMERICAN LAKE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION is made on the 3rd day of SEPTEMBER, 1999, by AMERICAN LAKE, L.L.C., a Washington limited liability company ("Declarant").

BACKGROUND

1. Declarant is the owner of certain property in Pierce County, Washington, which is described on **Exhibit "A."** The Declarant intends to create on that property the residential community of Eagle Point at American Lake, with permanently maintained Common Areas for the benefit of the Eagle Point at American Lake residents.

2. Declarant has developed a general plan of development for the benefit of all of the property within Eagle Point at American Lake. Declarant desires to preserve and enhance the property values, amenities, and opportunities in Eagle Point at American Lake and to provide for the health, safety and welfare of the residents. To this end, Declarant desires to subject the property described on **Exhibit "A"** to the covenants, restrictions, easements, charges and liens set forth in this Declaration, all of which are for the benefit of the property and each owner.

3. Declarant has incorporated, or will incorporate, as a nonprofit corporation, the Eagle Point at American Lake Homeowners Association, to provide a mechanism for meeting the purposes of this Declaration.

DECLARATION

Declarant hereby declares that the property described in **Exhibit "A"** is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens set forth in this Declaration.

Further, Declarant delegates and assigns to the Eagle Point at American Lake Homeowners Association the power of owning, maintaining, and administering the Common Area, administering and enforcing the covenants and restrictions, collecting and disbursing the assessments and charges created in this Declaration, and promoting the recreation, health, safety, and welfare of the residents.

ARTICLE I

Definitions

Section 1.1 "ACC" shall mean the Architectural Control Committee as described in this Declaration.

Section 1.2 "Association" shall mean the Eagle Point at American Lake Homeowners Association, a Washington nonprofit corporation, its successors and assigns.

Section 1.3 "Board" or "Board of Directors" shall mean the Board of Directors of the Association.

Section 1.4 "Common Areas" shall mean all real property and improvements: (a) owned or leased by the Association, (b) in which the Association has an easement (excepting easements for maintaining Lots) for the use, enjoyment or benefit of the Members, or (c) in which the Members of the Association have an undivided interest. The term includes the property described in Section 3.1 below.

Section 1.5 "Declarant" shall mean American Lake, L.L.C., a Washington limited liability company, and its successors and assigns; provided, however, that no successor or assignee of Declarant shall have any rights or obligations of Declarant under the Declaration unless such rights and obligations are specifically set forth in the instrument of succession or assignment.

Section 1.6 "Declaration" shall mean the covenants, conditions and restrictions and all other provisions set forth in this Declaration, as they may from time to time be amended.

Section 1.7 "Development Plan" shall mean the total general plan of intended development approved by the City of Lakewood and illustrated in Exhibit "B," as the plan may be amended from time to time.

Section 1.8 "Federal Mortgage Agencies" shall mean those federal agencies which may have an interest in the properties, such as the Federal Housing Administration, the U.S. Department of Veteran's Affairs, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the successors to their interests.

Section 1.9 "First Mortgagee" shall mean a lender who holds the first mortgage on a Lot and who has notified the Association in writing of its holdings.

Section 1.10 "Lot" shall mean any parcel of land depicted with a number followed by a letter (e.g., 1A) upon a recorded subdivision map of the Property, with the exception of the Common Areas or other areas set aside for nonresidential use.

Section 1.11 "Member" shall mean every person or entity who holds membership in the Association.

Section 1.12 "Mortgage" shall include a deed of trust or other security instrument.

Section 1.13 "Notice" shall mean written notice delivered personally or mailed to the last known address of the intended recipient.

Section 1.14 "Owner" shall mean every person or entity, including Declarant, which is a record Owner of the fee simple title to any Lot, or if any Lot is sold under real estate contract, the vendee or vendees under that contract; provided, however, that the term "Owner" shall not include those having such interest merely as security for the performance of an obligation.

Section 1.15 "Person" shall mean a natural person, corporation, partnership, limited partnership, limited liability company, proprietorship, trust, or any other entity recognized in law as such.

Section 1.16 "Property" shall mean the real property described on Exhibit "A."

ARTICLE II

Property; Development Plan

Section 2.1 The Property. The real Property which is subject to this Declaration is described on Exhibit "A," and represents the residential community of Eagle Point at American Lake, comprised of 53 residential Lots for 56 dwelling units.

Section 2.2 The Development Plan. The Development Plan, illustrated on Exhibit "B," is the Declarant's intended design for the development of Eagle Point at American Lake as a planned residential community comprised of single-family homes, with three (3) different types of Lots as described below. At the present time, the Development Plan includes 15 detached single-family Lots, 35 Lots with attached single family homes, and 3 duplex Lots (each with 2 dwelling units) all located on approximately 21.42 acres. The Development Plan may be modified and amended as provided in this Declaration, and as provided under City of Lakewood ordinances. The Declarant currently intends to develop Eagle Point at American Lake in full accordance with the Development Plan. The Development Plan is, however, conceptual in nature, and does not bind the Declarant to improve any portion of the Property.

Section 2.3. Lot Types. There are three (3) different Lot types in Eagle Point at American Lake:

Standard Lots. Lots 1D through 27D, and 10C through 15C.

View Corridor Lots. Lots 1C through 9C, 1B and 2B.

Waterfront Lots. Lots 1A through 9A.

Some provisions of the Declaration apply only to certain Lot types, particularly as to maintenance and assessment obligations.

ARTICLE III

Common Areas and Other Special Parcels

Section 3.1. Declarant to Convey. At the present time, the Common Area consists of: open space areas (Tract C), the gated entry, roadways (Tract G), street lights, a storm water system and sidewalks. The Declarant shall deliver to the Association a deed for the open space (Tract C) and the roadways (Tract G), including all improvements on those properties, and an easement for the storm water system, the community drainfields (Tract E), the clubhouse (Tract B), the dock, bathhouse and boat launch (a portion of Tract A), and landscaping and related improvements (perimeter of plat except along the waterfront, and on Tracts E and F). Declarant may convey by quit claim deed to the Association additional Common Areas shown on the Development Plan, as it may be amended, including all or a portion of Tract A, and Tract B.

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

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

(b) The right of the Association to dedicate or transfer by deed or easement all or any part of the Common Areas to any public agency, authority, or utility. No such dedication or transfer shall be effective without the approval of two-thirds (2/3) of the Members.

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

Section 3.4. Association to Maintain. The Association shall maintain, repair, replace, and improve the Common Areas and the other improvements described in Section 7.1, as appropriate for a first-class residential community, and shall pay the actual cost of the same from annual or special assessments as appropriate.

Section 3.5. Other Special Parcels. There are four (4) other parcels in which the Owners have some rights or privileges:

Tract A. Tract A is owned by the Declarant subject to the provisions of the City of Lakewood's decisions to approve the Development Plan and to the provisions of an Eagle Preservation Agreement, as the Plan and/or Agreement may be modified from time to time. Declarant hereby grants an exclusive easement over the portion of Tract A described below to the Owners, their guests and invitees, for waterfront access and recreational use. The easement is over the property legally described on Exhibit "C." The Declarant may lease moorage, space on a dock that Declarant may build on or adjacent to Tract A.

The balance of Tract A shall be held by the Declarant, except that if the Development Plan and Agreement are so amended, the Declarant may develop one single-family residence on Tract A for sale.

Tract B. Tract B is owned by the Declarant subject to use rights of the Association as set forth in this paragraph. The Association shall pay all real and personal property taxes, insurance premiums and maintenance costs. Tract B's use shall be limited to clubhouse activities, including meetings, social gatherings, classes, dances and the like. Declarant, or its assigns, has the right to host functions in the clubhouse, on the same terms and conditions as other members.

Tract E. Tract E is owned by the Declarant subject to an easement in favor of the Association for drainfield purposes. When public sanitary sewers are brought and connected to the Property, the easement shall automatically terminate. The property shall be used only for community drainfields, except with the consent of the Association. If Tract E is no longer used for community drainfields, Declarant may develop Tract E for residential lots or nonresidential storage, subject to obtaining all necessary governmental approvals, with the same rights as all other Owners.

Tract F. Tract F is owned by Declarant for use as a recreational and marine vehicle parking area. During the initial development of Eagle Point at American Lake, all spaces shall be held for the Owners, to be leased to them at prevailing market rates. Once 80% of the Lots are sold, Declarant may lease any vacant space to non-Owners. At any time thereafter that spaces become vacant, Declarant shall make them available on a priority basis to Owners at prevailing market rental rates. Declarant may develop Tract F for non-residential storage.

ARTICLE IV

Association

Section 4.1. Form of Association. The Association shall be organized as a nonprofit corporation under the laws of the State of Washington, ch. 24.03 RCW, and shall be known as Eagle Point at American Lake Homeowners Association.

Section 4.2. Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of a Lot shall be the sole qualification for membership.

Section 4.3. Classes. The Association shall have two (2) classes of voting membership:

(a) Class "A". Class "A" Members shall be all Owners, with the exception of the Owners of Lots 9A, 1C and 2C, and shall be entitled to one (1) vote for each Lot owned.

(b) Class "B". Class "B" Members shall be the Owners of Lots 9A, 1C and 2C, and shall be entitled to two (2) votes for each Lot, because each Lot is or shall be improved with a duplex.

Section 4.4. Board of Directors. The Association shall be managed by a Board of Directors, elected or appointed in accordance with the Articles of Incorporation and Bylaws of the Association.

Section 4.5. Delegation to Manager. The Board of Directors may delegate any of its managerial duties, powers, or functions to any person, firm, or corporation, provided that any management agreement for the project shall be terminable by the Association for cause upon thirty (30) days written notice, and without cause upon ninety (90) days written notice. The term of any such agreement may not exceed one (1) year, renewable by agreement of the parties for successive one (1) year periods. The members of the Board of Directors shall not be liable for any omission or improper exercise by the manager of any duty, power, or function so delegated by written instrument executed by a majority of the Board of Directors.

Section 4.6. Sub Associations. The Lots may be subject to additional covenants and the Owners of Lots may be mandatory members of a Sub Association; however, there shall be no requirement that a Sub Association be created. A Sub Association may be created to serve the unique needs of a class of Lots, as identified in section 2.3. A Sub Association may adopt such covenants, rules and regulations as it deems necessary and appropriate, provided, however, in the event of a conflict, the Association documents shall control.

ARTICLE V

Easements

Section 5.1. Utility and Drainage Easements. In addition to easements reserved on any plat of the Property or shown by any instrument of record, easements for utilities and drainage are reserved for the Declarant or its assigns, over a five (5) foot wide strip along each side of the interior Lot lines, over the rear ten (10) feet of each Lot, and over, under, and on the Common Areas. Within all of the easements, no structure, planting or fill material shall be placed or permitted to remain which may, in the opinion of the ACC, damage or interfere with the installation and maintenance of utilities, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements within it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, a utility company, or the Association is responsible.

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

- (a) The cleaning, maintenance, repair or replacement of any home or Lot in the event an Owner fails to so maintain as required in **Section 7.1** (this easement shall also include the reasonable right of entry to the interior of any building, to the extent necessary to perform the work described in that section).
- (b) The maintenance, repair, replacement, or improvement of any Common Area accessible from that Lot.
- (c) The maintenance, repair, replacement, or improvement of any Septic Systems, as required in **Section 7.3**.
- (d) Emergency repairs necessary to prevent damage to the Common Areas or to another Lot, or the improvements thereon.
- (e) Cleaning, maintenance, repair, or restoration work which the Owner is required to do but has failed or refused to do.

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

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

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

Section 5.5. Easements for Tracts A, E and F. The Declarant reserves to itself, its successors and assigns, the right to grant an easement for ingress, egress and utilities over, under, and through the Common Areas, when and if Tracts A, E or F are developed with a single family residence.

ARTICLE VI

Assessments

Section 6.1. Covenants for Maintenance Assessments.

(a) Declarant, for each Lot owned by it, agrees, and each Owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to agree to pay to the Association: (i) annual assessments or charges to fund Common Expenses for the general benefit of all Lots; (ii) special assessments for capital improvements; and, (iii) specific assessments to provide specific benefits or services to specific Lots.

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

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

Section 6.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Property, including the repair and maintenance of certain home exteriors as described in **Section 7.1.**, the maintenance and repair of Septic Systems as described in **Section 7.3.**, the maintenance and replacement of landscaping as described in **Section 7.4.**, and the improvement, maintenance and repair of the Common Area and the services and facilities related to the use and enjoyment of said area, for the payment of taxes and insurance on the Common Areas, security guard, and management fees.

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

(a) The Board of Directors may fix and increase the maximum annual assessment as necessary to fulfill the purposes set forth above.

(b) The maximum annual assessment may not be materially increased without an affirmative vote of two-thirds (2/3) of the members who are voting in person or by proxy, at a meeting duly called for such purpose pursuant to **Section 6.8**. A "material increase" shall be an increase which, cumulatively for the Association's fiscal year, increases the annual assessment by four percentages in excess of the percentage increase in the Consumer Price Index over the twelve (12) month period ending one (1) month before the start of the fiscal year. This provision shall not apply to that portion of the assessments attributable to taxes and insurance which the Association is required to maintain. The Consumer Price Index shall be that applicable to "All Urban Consumers" published by the Bureau of Labor Statistics for the area which includes Eagle Point at American Lake, or if that index is terminated or superseded, a comparable measure.

Section 6.4. Board to Adopt Budget. The Board of Directors shall adopt the annual budget, including annual and special assessments, at least forty-five (45) days prior to the start of the fiscal year. In the event the Board fails to fix an annual budget for any fiscal year, then the budget established for the prior year shall automatically be continued until such time as the Board acts. The annual budget shall be sufficient to meet the obligations imposed by the Declaration and any supplementary declarations, and shall be sufficient to establish an adequate reserve fund for the maintenance, repair and replacement of those Common Areas which require such actions on a periodic basis.

Section 6.5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto.

Section 6.6. Specific Assessments. The Board may specifically assess against particular Lots expenses incurred by the Association to provide specific benefits, items, or services made necessary by the conduct of the owner, or its licensees, invitees, or guests, including but not limited to damage to Common Areas. Specific Assessments may be levied by the Board after notice to the Owner and an opportunity for a hearing.

Section 6.7. Rate of Assessment. That portion of annual and special assessments relating to repair and maintenance of Common Areas shall be fixed at a uniform rate for all

Lots. However, the overall assessments may vary depending upon Lot Type since the services provided by the Association vary. Further, the assessment may vary depending on the type of drainfield system as described below.

Section 6.8. Ratification of Budget. Within thirty (30) days after adoption by the Board of Directors of any proposed regular or special budget of the Association pursuant to Sections 6.4 or 6.5, the Board shall set a date for a meeting of the Owners to consider ratification of the budget. Written notice of any such meeting shall be sent to all Members not less than fourteen (14) days nor more than sixty (60) days in advance of the meeting and shall include a statement of the purpose for which the meeting is to be held. Unless at that meeting the Owners to which a majority of the votes in the Association are allocated reject the budget, in person or by proxy, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

Section 6.9. Commencement of Annual Assessments; Working Capital. The annual assessments shall commence as to each Lot within the Property on the first (1st) day of the month following the initial conveyance of the Lot. The first annual assessment on any Lot shall be adjusted according to the number of months remaining in the calendar year. At the time of each initial sale, the Declarant shall collect from each purchaser, an amount equal to two (2) months assessments for the Association's working capital.

Section 6.10. Certificate. The Association shall upon demand furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Association for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment stated to have been paid.

Section 6.11. Effect of Nonpayment of Assessments; Remedies of Association. Any assessments which are not paid when due shall be delinquent. A late charge equal to ten percent (10%) of the amount overdue shall be charged for any payment made more than 10 days past the due date. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the rate of eighteen percent (18%) but not to exceed the highest allowable rate, per annum, and the Association may bring an action at law against the Owner obligated to pay the assessment, or may foreclose the lien against the Lot, and in either event, interest, costs, and reasonable attorney's fees shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for annual or special assessments by nonuse of the Common Area or by abandonment of his Lot.

Section 6.12. Subordination of Lien to Mortgages. The lien of the assessments provided for in this Declaration shall be subordinate to the lien of any first Mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, where the mortgagee of a Mortgage of record or other purchaser of a Lot obtains possession of the Lot as the result of

foreclosure of a mortgage, or by deed or assignment in lieu of foreclosure, such possessor, his successors and assigns, shall not be liable for the share of the common expenses or assessments by the Association chargeable to such Lot which became due prior to such possession. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the Owners, including such possessor, his successors and assigns.

Section 6.13. Exempt Property. The following property shall be exempt from the payment of annual and special assessments:

- (a) All portions of the Property dedicated to and accepted by a local public authority
- (b) All property owned by the Association, including Tracts C, D, and G.
- (c) Tracts A, B, E, and F. However, if a single-family residence is constructed on Tract A, it shall become responsible for assessments on the same basis as Waterfront Lots. If a single-family residence is constructed on Tracts E or F, it shall become responsible for assessments on the same basis as Standard Lots.

ARTICLE VII

Maintenance

Section 7.1. Association Obligation. The Association shall be obligated to maintain, repair and replace the Common Areas in as good or better of a condition as when it is first installed by the Declarant. Without limiting the generality of the foregoing, the Association shall maintain, repair and replace the roadways, gate, gatehouse, entry monuments and associated landscaping, storm drainage system, community drainfields, off-site street trees and landscaping, street lights as shown on the plat map, dock, bathhouse, boat launch, clubhouse, and landscaping on all Common Areas. However, the dock area on Tract A that allows boat moorage shall be maintained, repaired and replaced by Declarant. All expenses incurred in performing this work shall be paid for by the Association and become part of the assessments described above. The expenses associated with community drainfields shall be a specific assessment, charged only against those Lots served by the drainfield, as specified more particularly in **Section 7.3(b)**. However, any work required as the result of the negligent or intentional act or omission of any Owner or his or her guests, family or tenants shall be paid for exclusively by such Owner and shall become part of the specific assessments levied against the Lot owned by such Owner.

Section 7.2. Owners' Obligation. Each Owner shall have the obligation to maintain his/her Lot, any building or improvements located on the Lot and all landscaping to standards appropriate for a first-class residential community. If the Owner of any Lot fails to so maintain the Lot, buildings, and other improvements to those standards, the Association, after approval by two-thirds (2/3) vote of the Board, shall have the right, through its agents and

employees, to enter upon the Lot and to clean, repair, maintain, and restore the Lot and the exterior of the buildings and other improvements; provided, however, that any alteration or demolition of constructed improvements may only take place after judicial proceedings are instituted. The cost of such exterior maintenance and all court costs, and attorney's fees incurred in enforcing this provision shall be added to and become part of the assessments for such Lot, fully subject to the remedial provisions set forth in Article VI.

Section 7.3. On-Site Septic Systems. All on-site septic systems, including tanks, pumps, pipes, and drainfields ("Septic Systems"), whether serving an individual Lot or serving more than one Lot or dwelling unit, shall be inspected, monitored, pumped, maintained, repaired and replaced by the Association, for the benefit of the Lot Owners, pursuant to this paragraph.

(a) Individual Systems. Lots 1D through 27D and Lots 10E through 15E each have a separate individual drainfield located either on the Lot or on another Lot where the soils are more suitable, as shown on the as-built described in (d) below. As to those Lots, the Association shall maintain, repair and replace the septic tanks, pumps, pipes, and drainfields. The cost of such work shall be charged by the Association to the Owners of those Lots collectively as a part of their annual, special, or specific assessments as appropriate.

(b) Community Systems. The balance of the Lots are served by three separate community systems, located on Tract E for the benefit of Lots 1A through 8A, on Tract E for the benefit of Lots 1C, 2C, the Club House and Lot 9A, and on Tract E for the benefit of Lots 3C through 9C and Lots 1B and 2B, as shown on the as-built described in (d) below. The Association shall maintain, repair and replace the community septic tanks, pumps, pipes, and drainfields. The cost of such work shall be charged by the Association to the Owners of those Lots served by each community system, proportionately, as a part of their annual, special, or specific assessments as appropriate.

(c) Operation and Maintenance Manual and Permit. The Association shall maintain the Septic Systems pursuant to the Operation and Maintenance Manual dated the 4th day of June, 1999, prepared by Dave Ray & Associates, and the most current Operation and Maintenance Permit issued by the Tacoma-Pierce County Health Department. The Manual and the Permit may be revised from time to time as required by state or local laws or regulations; provided, however that the Association shall maintain a valid Permit with the Tacoma-Pierce County Health Department. The Manual, and any amendments, shall be made available for inspection by the Owners, together with all other Association documents.

(d) Annual Reporting to the Health Department. The Association shall provide the Tacoma-Pierce County Health Department with annual reports on the status of implementing the Manual, any required changes to the Manual, and the amount of

funds held in the reserve account, together with any required reporting under the Permit. The first report shall also include a copy of an as-built drawing of the Septic Systems. The as-built drawing shall be made available for inspection by the Owners, together with all other Association documents.

(e) Contract for Maintenance Work. The Association shall fulfill its inspection and maintenance obligations under this section by entering into a contract with a company or entity that is licensed and bonded to perform such work, and which is approved by the Tacoma-Pierce County Health Department, or such other governmental entity with jurisdiction.

(f) Reserves. The Association shall maintain a reserve account for the replacement of the Septic System.

(g) Future Public Sewers. If a public entity provides sanitary sewer service in the future, any charges or improvements with respect to individual Lots shall be the responsibility of the individual Lot Owners. Any charges or improvements with respect to streets, Tract E or any other Common Areas shall be the responsibility of the Association, chargeable to the Lots served as a specific assessment. Nothing in this Declaration should be interpreted to impose or accept any greater responsibility on the Owners or Association than would be charged to any other person served by the public entity.

Section 7.4. Landscaping and Related Improvements. The Association shall maintain and trim all street trees, grass and irrigation system installed by the Declarant, including the installations along both sides of Boundary Street and along the Portland Street right-of-way. The Association shall also maintain the fence installed by the Declarant along the perimeter of the plat, except along the waterfront, and Tracts E and F.

ARTICLE VIII

Architectural Control Committee

Section 8.1. Appointment and Membership. There is hereby constituted an Architectural Control Committee (the "ACC"). The Declarant shall have the right to select the Members of the ACC until all Lots have a single family house built on them. Thereafter, the ACC shall be appointed by the Board. Initially, the ACC shall be composed of Kevin Byrne, Dan Simon, and a third member appointed by the Declarant. A majority of the ACC may designate a representative to act for it, which representative shall be known as the Control Architect. Neither the Members of the ACC, nor the Control Architect, shall be entitled to any compensation for services performed pursuant to these covenants.

Section 8.2. Guidelines; Plan Check Fees. The ACC shall have the authority to adopt and amend written guidelines to be applied in its review of plans and specifications, in

order to further the intent and purpose of this Declaration and any other covenants or restrictions covering the Property. If such guidelines are adopted, they shall be available to all Members upon request. The ACC shall have the authority to adopt plan check fees to cover the administrative costs associated with reviewing plans.

Section 8.3. Meetings; Compensation. The ACC shall meet as necessary to properly perform its duties, and shall keep and maintain a record of all actions taken at the meetings or otherwise. Unless authorized by the Association, the Members of the ACC shall not receive any compensation for their services. All Members shall be entitled to reimbursement for reasonable expenses incurred in connection with the performance of any ACC duties.

Section 8.4. No waiver. Approval by the ACC of any plans, drawings or specifications shall not be a waiver of the right to withhold approval of any similar plan, drawing, specification, or matter submitted for approval.

Section 8.5. Liability. Neither the ACC nor any of its Members shall be liable to the Association or to any Owner for any damage, loss or prejudice resulting from any action taken in good faith on a matter submitted to the ACC for approval or for failure to approve any matter submitted to the ACC. The ACC or its Members may consult with the Association or any Owner with respect to any plans, drawings, or specifications, or any other proposal submitted to the ACC.

ARTICLE IX

Architectural and Landscape Control

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

- (a) The construction of private roads or driveways.
- (b) The construction or erection of any building; fence, wall or other structure, including the installation, erection, or construction of any solar collection device.
- (c) The remodeling, repainting, reconstruction, or alteration of any road, driveway, building or other structure.
- (d) The installation of a landscaping plan.

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

Section 9.3. Procedure for Approval. Any person wishing to take any of the actions described above shall submit to the ACC two (2) sets of plans and specifications showing:

- (a) The size, dimension and material of the improvements;
- (b) The exterior design;
- (c) The exterior color scheme;
- (d) The exact location of the improvement on the Lot;
- (e) The location of driveways and parking areas;
- (f) The scheme for drainage and grading;
- (g) The proposed landscaping; and,
- (h) Proposed outdoor lighting.

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

Section 9.4. Criteria for Approval. Approval of plans and specifications may be withheld or conditioned if the proposed action is at variance with these covenants, other covenants covering the Property, or design guidelines adopted by the ACC. Approval may also be withheld or conditioned if, in the opinion of the ACC, the proposed action will be detrimental to the community because of the grading and drainage plan, location of the improvement on the Lot, color scheme, finish design, proportions, size of home, shape, height, style, materials, outdoor lighting proposed, or landscaping plan.

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

ARTICLE X

Permitted and Prohibited Uses

Section 10.1. General. All Lots shall be used solely and exclusively for private one-family residences, duplexes, and triplexes with appurtenant garages as depicted on the Development Plan. A building site shall consist of not less than one (1) Lot as shown on the recorded plan. No Lot shall be divided except that, with the permission of the ACC and the City of Lakewood, the boundary between two Lots may be adjusted. Any building or structure to be erected, constructed or maintained shall be commensurate in quality with the other homes in said subdivision as contemplated by the Development Plan.

Section 10.2. Dwelling Quality and Size. No home or other improvements as described in Section 9.1 shall be permitted on any Lot without the prior approval of the Control Architect or ACC. It is the intention and purpose of these covenants to assure that all homes shall be of a quality of workmanship and material substantially the same or better than that which can be produced on the date these covenants are recorded for the minimum permitted dwelling size. No house or other structure shall exceed two stories in height, or two stories plus a daylight basement. Lots 1A through 8A shall be a minimum of 2,500 square footage of living space, one story plus daylight basement. Lots 1B, 2B, and 3C through 9C shall be a minimum of 2,500 square feet, in two stories. Lots 1C and 2C shall be a minimum of 1,500 in two stories. Lot 9A shall be a minimum of 2,500, one story plus daylight basement. Lots 10 through 15 (and 1 through 27D) shall be a minimum of 1,700 square feet living space, one story. Building front elevations must be accented with stone or brick. Siding must be lap, cedar board and bat, brick or comparable material roofing must be 25 year composition, tile or shake.

Section 10.3. Garages. Where it is architecturally possible, all garages shall be incorporated in or made a part of the dwelling. On-site parking provisions for no less than two automobiles shall be provided in addition to garage automobile storage. Where a garage is not a part of a dwelling, it shall not be located closer than 20 feet from the front line of the building site (measured at the closest point of each said line).

Section 10.4. Animals. No animals, livestock or poultry of any kind, other than household pets, shall be kept or maintained on any part of said Property. Dogs and cats, not to exceed a total of two, may be kept on any Lot, provided that they are not kept, bred or maintained for any commercial use or purpose. No reptiles shall be kept upon the premises. Any dogs must be kept so as to minimize excessive noise from barking or otherwise shall be considered a nuisance according to the terms of these covenants.

Section 10.5. Temporary Structures. No building or structure shall be moved onto any land embraced in said subdivision. No trailers shall be maintained on any building site as a residence. No building of any kind shall be erected or maintained on a building site prior to the erection of a Lot thereon, except that a garage or other small building or permanent

structure may be erected for the storing of tools and other articles but shall not be used for residence purposes. Nothing in this restriction shall prevent the temporary use of a construction shack and/or trailer during the construction of any approved dwelling or during the development of the Property by Declarant.

Section 10.6. Construction. The work of construction of all building and structures shall be prosecuted diligently and continuously from commencement of construction until the structures are fully completed and painted. All structures shall be completed as to external appearance, including finish painting, within six (6) months from the date of commencement of construction. Except with the approval of the Control Architect or the ACC, no persons shall reside upon the premises of any Lot until such time as the improvements to be erected thereon in accordance with the plans and specifications approved by the Control Architect or ACC have been completed.

Section 10.7. Garbage and Refuse Disposal. No garbage, rubbish or cuttings shall be deposited on or left on the Lot premises, unless placed in an attractive container suitably located and screened from public view. No building material of any kind shall be placed or stored upon any Property in said subdivision until the Owner is ready to commence construction; then such material shall be placed within the Property line of the building site upon which structures are to be erected and shall not be placed in the street.

Section 10.8. Nuisances. No noxious or undesirable thing or noxious or undesirable use of property in said subdivision whatsoever shall be permitted or maintained upon the Property. If the Control Architect or ACC shall determine what trade, business or use is undesirable or noxious, such determination shall be conclusive. The use of illegal fireworks and the use of motorcycles for purposes other than transportation to and from Eagle Point at American Lake shall be considered a nuisance and are prohibited.

Section 10.9. Signs. No sign of any kind shall be placed on the Property, except:

- (a) signs identifying the Owner and address;
- (b) signs designating a Lot or residence for sale or rent.

No such signs shall be of a size greater than two (2) feet square and shall not be of a nature offensive or obnoxious to persons owning Property within the subdivision. No business signs, advertising signs or signs in any way relating to occupation or profession shall be allowed.

None of the foregoing provisions shall apply to signs placed upon the Property by the developer or professional builder during the initial development of the subdivision.

Section 10.10. Oil and Mining Operations. Oil drilling or oil development operations, refining, mining operations of any kind or the operation of quarries, gravel and sand pit, solid

removing or topsoil stripping shall not be permitted on any of the building sites of the subdivision described herein. No oil wells, tanks, tunnels, mineral excavations or shafts shall be permitted. No derrick or other structures designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot.

Section 10.11 Individual Water Systems. No individual water supply systems shall be permitted on any Lot.

Section 10.12 Clotheslines. No clothesline shall be located on a Lot premises so as to be visible from the street, a private way, or other residential Lots or public areas.

Section 10.13 Fuel Tanks. No fuel tank shall be maintained above ground on any Lot, unless screened from view in a manner satisfactory to the Control Architect or the ACC.

Section 10.14 Excavation. Except with the permission of the Control Architect or the ACC, or except as may be necessary in connection with the construction of any improvement, no excavation shall be made nor shall any dirt be removed from a Lot herein.

Section 10.15 Fences. No fence, wall or hedge shall be erected, placed or altered on any Lot nearer to any street than the front wall of the house, except that nothing shall prevent the erection of a necessary retaining wall (the top of which does not extend more than two (2) feet above the finished grade at the back of said wall). A variance may be granted by the Control Architect or ACC, but only upon a showing by the Owner of extraordinary circumstances. Fences will be erected only after the design of the fence has been approved by the Control Architect or the ACC. On waterfront Lots, no rear yard fences, walls or hedges shall be erected or placed that exceeds four feet in height.

Section 10.16 Cutting of Trees. No cutting of trees shall be permitted without the prior written approval of the Control Architect or the ACC.

Section 10.17 Natural Drainage. Except with the approval of the Control Architect or the ACC, the natural drainage of any Lot shall not be changed.

Section 10.18 Exterior Lighting. Exterior lighting of any sort which is visible from any street or from any other Lot in this subdivision shall not be installed without first obtaining the permission of the Control Architect or the ACC.

Section 10.19 Sight Distance at Intersection. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or, in the case of a rounded Property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any Lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree

shall be permitted to remain within such distance of such intersection, unless the foliage line is maintained a sufficient height to prevent obstruction of such sight lines.

Section 10.20. Vehicle and Boat Parking. No vehicle may be parked on any building Lot, except on designated and approved driveways or parking areas, which areas shall be hard-surfaced. Any additional parking added after the initial landscaping shall be hard surfaces and constructed only in accordance with the site plan approved by the Control Architect or the ACC. Only the cars of guests and visitors may be parked on the streets. All other vehicles shall be parked in garages or on driveways located entirely on a Lot.

No inoperable vehicles, boats, motorcycles or other motorized apparatus shall be stored on the premises or the streets within the subdivision. No mechanical repairs shall be conducted upon the premises, except minor maintenance and mechanical work by a resident of the subdivision on said resident's private vehicle or boat, provided that any such conduct be in a manner which is not offensive to persons residing in the neighborhood, is not unsightly, does not result in unusual noise or debris being placed upon the premises and is in keeping with the residential development.

If an Owner refuses to remove an illegal vehicle, the Control Architect or the ACC shall have the power to remove the vehicle at the owner's expense. Except with the approval of the Control Architect or the ACC, Owners at no time shall keep or permit to be kept on their premises any house trailer, unattached camper, recreational vehicle (R.V.), mobile home, boat or boat trailer, unless the same is housed within a garage. Boats are permitted in the water at appropriate moorage. Boats shall be maintained in good condition and no unsightly boats are permitted.

Section 10.21. Utility Lines; Radio and Television Antennas. All electrical service, telephone lines and other outdoor utility lines shall be placed underground. No exposed or exterior radio or television transmission or receiving antennas greater than 1 meter in diameter shall be erected, placed, or maintained on any part of the premises; provided, however, that antennas and satellite dishes smaller than 1 meter in diameter may be erected, placed, and maintained on the premises in a location approved by the ACC prior to installation or construction. Any waiver of these restrictions shall not constitute a waiver as to other Lots or lines or antennas.

Section 10.22. Landscaping. All Lot Owners shall install and keep watered street trees as required on the approved Landscaping Plan. On the Waterfront Lots, the Owners shall be responsible for installing and maintaining landscaping in their rear yard according to the Landscaping Plan approved by the City of Lakewood, dated March 12, 1999. The Owners shall use an ACC-approved landscaper to install the plantings, provided, however, that an Owner may seek ACC approval for a landscaper not on the ACC list.

Section 10.23. Irrigation. All Lot Owners shall install and maintain irrigation systems to serve that Owner's Lot. The irrigation system must be approved by the ACC prior to installation.

ARTICLE XI

Insurance Requirements

The Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for a planned unit development project established by Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, U.S. Department of Veteran's Affairs, and Government National Mortgage Association, so long as any of them are a mortgagee or Owner of a Lot within Eagle Point at American Lake, except to the extent such coverage is not available or has been waived in writing by Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, U.S. Department of Veteran's Affairs, and Government National Mortgage Association.

ARTICLE XII

Damage or Destruction

Section 12.1. Insurance Proceeds Sufficient. In the event of damage or destruction to all or part of the Common Areas, the insurance proceeds, if sufficient, shall be applied to repair, reconstruct or rebuild the Common Area in accordance with the original plans. Such repair, reconstruction or rebuilding shall be arranged for promptly by the Board of Directors.

Section 12.2. Insurance Proceeds Insufficient. If the insurance proceeds are insufficient to pay for the cost to repair the Common Areas, the Board shall promptly, but in no event later than ninety (90) days after the date of damage or destruction, give notice to and conduct a special meeting of the Owners to review the proposed repairs, replacement, and reconstruction, as well as the projected cost of such repairs, replacement or reconstruction. The Owners shall be deemed to have approved the proposed repairs, replacement, and reconstruction as proposed by the Board at that meeting, unless the Owners decide by an affirmative vote of fifty-one percent (51%) of the total votes cast at such meeting (provided a quorum exists), to repair, replace, or reconstruct the Common Areas in accordance with the original plan in a different manner than that proposed by the Board. In any case, however, use of hazard insurance proceeds for other than repair, replacement, or reconstruction of the Common Area in accordance with the original plans shall not be permitted without the prior written approval of at least sixty-seven percent (67%) of the First Mortgagees (based on one (1) vote for each first Mortgage owned) or Owners (if there is no first Mortgage on that Lot) of the Lots.

ARTICLE XIII

Condemnation

Section 13.1. Partial Condemnation. In the event of a partial condemnation of the Common Areas, the proceeds shall be used to restore the remaining Common Area, and any balance remaining shall be distributed to the Association.

Section 13.2. Total Condemnation. In the event that the entire Common Area is taken or condemned, or sold, or otherwise disposed of in lieu of or in avoidance thereof, the condemnation award shall be distributed to the Association.

Section 13.3. Mortgagee Protection. No proceeds received by the Association as the result of any condemnation shall be distributed to a Lot Owner or to any other party in derogation of the rights of the First Mortgagee of any Lot.

ARTICLE XIV

Mortgagees' Protection

Section 14.1. Definitions. As used in this Declaration: (1) "mortgagee" includes the beneficiary of a deed of trust, a secured party, or other holder of a security interest; (2) "foreclosure" includes a notice and sale proceeding pursuant to a deed of trust or sale on default under a security agreement; and (3) "institutional holder" means a mortgagee which is a bank or savings and loan association or established Mortgage company, or other entity chartered under federal or state laws, any corporation or insurance company, or any federal or state agency.

Section 14.2. Approval. The prior written approval of at least seventy-five percent (75%) of the First Mortgagees (based on one vote for each first Mortgage owned) of the individual Lot shall be required for any of the following:

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

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