

After Recording Return to;
Law Office of Paul W. Taylor Inc. P.S.
20388 Eric Street
Mount Vernon, WA 98274



200501310276
Skagit County Auditor

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**FIFTH AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
MONTBORNE HEIGHTS**

This is a Fifth Amendment to that certain Declaration of Covenants, Conditions, and Restrictions for Montborne Heights dated August 20, 1993, executed by Henry Holt and D. Anna Strazicich (a/k/a D. Anna Holt), Declarants, recorded August 24, 1993, under Skagit County Auditor's File No. 9308240005 in Book 1226 at page 0179 and the First Amendment to Declaration of Covenants, Conditions, and Restrictions recorded on 22 April, 1994 under Skagit County Auditor's File No. 9404220057 in Book 1322 at Page 0174 and the Second Amendment to the Declaration of Covenants, Conditions and Restrictions recorded on May 8, 1995 under Skagit County Auditor's File No. 9505080075 in Book 1437 at Page 0496, the Third Amendment to the Declaration of Covenants, Conditions and Restrictions recorded on February 5, 1996 under Skagit County Auditor's File No. 9602050083 in Book 1517 at page 034, and the Fourth Amendment to the Declaration of Covenants, Conditions and Restrictions recorded on March 28, 1996 under Skagit County Auditor's File No. 9603280081 in Book 1533 at page 0007.

It is hereby agreed that the Declaration of Covenants, Conditions, and Restrictions for Montborne Heights is amended as follows:

New Sections 3.2 and 3.3 shall read as follows:

Section 3.2 TRANSFERS OF POWERS AND DUTIES FROM DECLARANT TO BOARD OF DIRECTORS. The Declarant, once a majority of the lots/tracts subject to this Declaration as amended herein, are sold, shall transfer the authority to the Montborne Heights Homeowner's Association Board of Directors, who shall exercise their authority in accordance with this Declaration, as amended, and in accordance with the Association's bylaws.

Section 3.3 POWERS AND DUTIES OF THE BOARD OF DIRECTORS. The Board of Directors of the Montborne Heights Homeowner's Association shall have the power to:

3.3.1 Conduct, manage and control the affairs and business of the Association and to make such rules and regulations therefore not inconsistent with law, the Articles of Incorporation, or the Bylaws as they deem best.

3.3.2 Adopt and publish rules and regulations governing the use of common areas and facilities, the personal conduct of members and their guests thereon, and to establish penalties for infraction thereof;

3.3.3 Suspend the voting rights of a member during any period which such member shall be in default and payment of assessment levy by the Association. Such rights may all be suspended after notice and hearing for a period not to exceed sixty (60) days for infraction of published rules and regulations;

3.3.4 Enforce the Covenants, Conditions and Restrictions existing upon and/or created for the benefit of the property in Montborne Heights including setting the amount of fines or other sanctions to be imposed upon any owner who fails to comply with this Declaration, the Association Bylaws or rules or regulations promulgated by the Homeowner's Association.

3.3.5 Exercise such powers of control, interpretation, construction, consent, decision, determination, modification, amendment, cancellation, annulment and/or enforcement of covenants, reservations, restrictions, liens and charges imposed upon said property, and as may be vested in, delegated to, or assigned to said Association and such duties with respect thereto as may be assigned to and assumed by said Association.

3.3.6 Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions by these Bylaws, the Articles of Corporation or the Declaration of Covenants, Conditions and Restrictions.

3.3.7 Declare the office of a member of the Board of Directors to be vacant in the event such Board member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

3.3.8 Employ a manager, independent contractor or other such employees as they deem necessary and to prescribe their duties.

3.4 ADDITIONAL POWERS/DUTIES: It shall be the duty of the Board of Directors to:

3.4.1 cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at regular meetings of its members or any special meeting and when such statement is requested in writing by one-quarter of the members who are entitled to vote;

3.4.2 supervise all officers, agents and employees of the Association to see that their duties are properly performed;

3.4.3 as more fully provided in the Declaration, to:

3.4.3.1 fix the amount of the annual assessment and/or special assessment against each Lot at least thirty (30) days in advance of each annual assessment period;



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3.4.3.2 send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

3.4.3.3 foreclose the lien against any property for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the owner personally obligated to pay the same.

3.4.4 issue, or to cause an appropriate office to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

3.4.5 procure and maintain adequate liability and hazard insurance on property owned by the Association;

3.4.6 cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

3.4.7 cause Common Areas to be maintained.

Section 7.1 shall be amended to read as follows:

7.1 after "assessments." insert "The determination of imposing a fine or other sanction shall require a majority vote of the Board of Directors. The results of such decision shall be in writing and published in the meeting minutes, and provided to all members. Owners upon which fines or other sanctions have been imposed shall be notified of such action via registered mail by the Board within seven (7) days of its action. Upon notification, the owner shall have a right to request a review by the Board, and shall have the opportunity to present facts of substance to appeal said decision, including the right to call witnesses. Such review shall take place within thirty (30) days of the member receiving notice of termination. The Board shall convene a special meeting for such reviews, and shall appoint three (3) additional members at large to participate in the review and subsequent voting. If a request for review is not received by the Board in writing within ten (10) days of said notification, no review shall be required, and the Board shall proceed with the enforcement process without further action. The Board may reverse the decision by a Seventy Five Percent (75%) yes vote of the combined constituted Board plus the three (3) duly appointed reviewing members. If such reversal is not approved, the owner shall be notified via registered mail within seven (7) days of said vote. Such notification shall include a demand for the owner to immediately comply with the determination of the Board." Then add the following at the end. "The prevailing party in any litigation



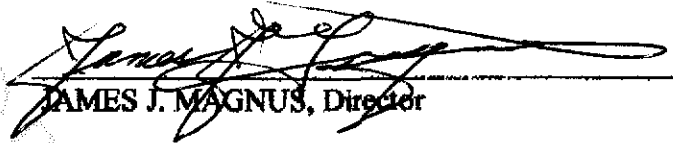
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involving enforcement of the covenants and these Bylaws or the rules or regulations adopted by the Board shall be awarded its attorney's fees and costs in addition to any other sanction, fine, or injunctive relief ordered by the court. Any judgment obtained against an owner may be enforced in accordance with Section 5.6 herein.")

APPROVED BY a special meeting of the Board of Directors in Montborne Heights Homeowner's Association on JULY 30, 2004.

DATED this 2ND day of AUGUST, 2004


JAMES J. MAGNUS, Director



200501310276
Skagit County Auditor

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I certify that I know or have satisfactory evidence that JAMES J. MAGNUS is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

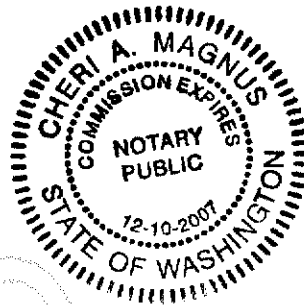
DATED this 2nd day of AUGUST, 2004.

Notary Public

(Print or Type name)

My Commission expires 12-10-2007

Cheri A. Magnus
Cheri A. Magnus



200501310276
Skagit County Auditor

**SIXTH AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
MONTBORNE HEIGHTS**

This is a Sixth Amendment to that certain Declaration of Covenants, Conditions, and Restrictions for Montborne Heights dated August 20, 1993, executed by Henry Holt and D. Anna Strazicich (a/k/a D. Anna Holt), Declarants, recorded August 24, 1993, under Skagit County Auditor's File No. 9308240005 in Book 1226 at page 0179 and the First Amendment to Declaration of Covenants, Conditions, and Restrictions recorded on 22 April, 1994 under Skagit County Auditor's File No. 9404220057 in Book 1322 at Page 0174 and the Second Amendment to the Declaration of Covenants, Conditions and Restrictions recorded on May 8, 1995 under Skagit County Auditor's File No. 9505080075 in Book 1437 at Page 0496, the Third Amendment to the Declaration of Covenants, Conditions and Restrictions recorded on February 5, 1996 under Skagit County Auditor's File No. 9602050083 in Book 1517 at page 034, and the Fourth Amendment to the Declaration of Covenants, Conditions and Restrictions recorded on March 28, 1996 under Skagit County Auditor's File No. 9603280081 in Book 1533 at page 0007.

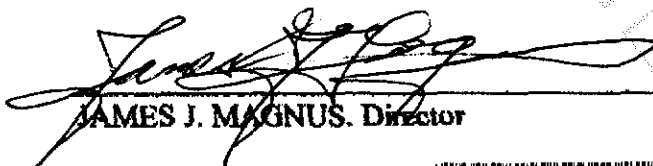
It is hereby agreed that the Declaration of Covenants, Conditions, and Restrictions for Montborne Heights is amended as follows:

New Section 7.1.1 shall read as follows:

Section 7.1.2 Indemnification/Attorney's Fees. In addition to any fine or other sanction imposed by the Montborne Heights Homeowners' Association Board of Director's, any Member who violates these Covenants, Conditions and Restrictions or who uses his or her property in any manner that causes harm or damage to the Montborne Heights Homeowners' Association shall assume all liability connected with such violation, and shall indemnify and defend the Montborne Heights Homeowners' Association to the fullest extent authorized under the law for any and all costs and expenses incurred by the Montborne Heights Homeowners' Association, including but not limited to the reimbursement of attorney fees resulting from such violation or from enforcement by the Montborne Heights Homeowners' Association.

APPROVED BY a special meeting of the Board of Directors in Montborne Heights Homeowner's Association on JULY 30th, 2004.

DATED this 2nd day of AUGUST, 2004



JAMES J. MAGNUS, Director



200501310276
Skagit County Auditor

STATE OF WASHINGTON)
) ss
COUNTY OF _____)

I certify that I know or have satisfactory evidence that JAMES J. MAGNUS is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

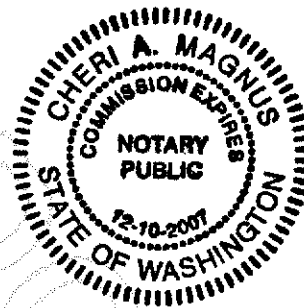
DATED this 2nd day of AUGUST, 2004.

Notary Public

Cheri A. Magnus
Cheri A. Magnus

(Print or Type name)

My Commission expires 12-10-2007



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