

**AFTER RECORDING MAIL TO:**

Name Robert E. and Eula O. Emmons

Address 1400 N 43rd Place

City/State Mount Vernon, WA 98273



200505180107

Skagit County Auditor

5/18/2005 Page 1 of 13 2:36PM

**Document Title(s):** (or transactions contained therein)

1. Declaration of Covenants, Conditions and
2. Restrictions
- 3.
- 4.

**Reference Number(s) of Documents assigned or released:**

☐ Additional numbers on page \_\_\_\_\_ of document

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

1. Emmons, Robert E
2. Emmons, Eula O.
- 3.
- 4.
5. ☐ Additional names on page \_\_\_\_\_ of document

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

1. Public
- 2.
- 3.
- 4.
5. ☐ Additional names on page \_\_\_\_\_ of document

**Abbreviated Legal Description as follows:** (i.e. lot/block/plat or section/township/range/quarter/quarter)

All Lots , "PLAT OF SPINNAKER COVE, DIVISION2"

Recorded plat 200505180106

☐ Complete legal description is on page \_\_\_\_\_ of document

**Assessor's Property Tax Parcel / Account Number(s):**



**First American Title  
Insurance Company**

B 83740

(this space for title company use only)

**NOTE:** The auditor/recorder will rely on the information on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR

SPINNAKER COVE DIVISION TWO, MOUNT VERNON, WA

THIS DECLARATION, made and entered into this 2<sup>nd</sup> day of May, 2005, by Robert E. and Eula O. Emmons, hereinafter referred to as "Declarant".

WITNESSETH WHEREAS, Declarant is the owner of that certain real property, known as Spinnaker Cove Division Two, in The City of Mount Vernon, County of Skagit, State of Washington, a plat of which is shown on Exhibit "A" attached hereto and incorporated herein by this reference.

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

ARTICLE I: DEFINITIONS

1. "Architectural Control Committee" (ACC) – the committee appointed by Declarant or by the Board of Directors of the Association pursuant to Article VIII, Paragraph 1 of this Declaration.
2. "Association" – the Homeowners' Association of Spinnaker Cove, a Washington non-profit corporation, its successors and assigns which will consist of all lot owners in both Spinnaker Cove, Lots 1 thru 5, and Spinnaker Cove Division Two, Lots 1 thru 14.
3. "Board" – A three person board of directors elected by the Lot Owners in accordance with the Bylaws of the Association.
4. "Common Area" – all properties indicated such on a final plat, including the improvements thereon, owned by the Association for the common use and enjoyment of the property owners of Spinnaker Cove.
5. "Development Period" – that period of time from the date of recording of the Covenants, Conditions and Restrictions (CCR's) until (1) a date ten years subsequent to recording the CCR's, or (2) the thirtieth day after title has been transferred to one hundred percent of the Lots to be developed on the property to Owners entitled to vote or (3) the date on which Declarant chooses to permanently relinquish all of Declarant's authority under Article III by written notice to the Owners, whichever date first occurs.
6. "First Mortgage" – any unpaid and outstanding mortgage, deed of trust, or other security instrument recorded in the records of the office of the Skagit County Recorder, having priority of record over all other recorded liens, except those governmental liens made superior by statute (such as general ad-valorem tax liens and special assessments).
7. "First Mortgagee" – any person(s) named as a mortgagee or beneficiary under any first mortgage, or any successor to the interest of any such person under such first mortgage.
8. "Lot" – any numbered plot of land shown on the recorded subdivision plat of the property together with all appurtenances, easements and improvements now or hereafter thereon.

Spinnaker Cove  
05/02/05



200505180107  
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9. "Member" – each Owner of a Lot that is subject to assessment. Membership in the Association shall be appurtenant to, and may not be separate from, ownership of a Lot.
10. "Owner" – the record owner, whether one or more persons or entities, of fee simple title to any Lot on which a dwelling unit has been built, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
11. "Plat" or "Amended Plat" – the final subdivision maps depicting all lots, common areas, public open spaces, rights-of-way, easements and conditions effecting the real Property included in this project and recorded with Skagit County at approximately the same time as this Declaration and the declaration for Spinnaker Cove, Lots 1 thru 5., recorded 9/17/02.
12. "Property" – That real property described in Exhibit "A" attached hereto, for Spinnaker Cove Division Two and in Exhibit "A" of the Covenants for Spinnaker Cove, Lots 1 thru 5, which are referred to herein collectively as Spinnaker Cove.

## ARTICLE II: PROPERTY RIGHTS IN COMMON AREAS

1. Owners' Easement of Enjoyment. Subject to the provisions of Paragraph 2 of this Article, every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Areas.
2. Rights and Extent of Owners' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:
- a) Right of the Association, in accordance with its Articles and Bylaws, to borrow money to improve a common area and to mortgage said property as security for any such loan; and
  - b) Right of the Association to promulgate rules and regulations for use of common areas including establishment of reasonable charges for use of any recreational facilities; and
  - c) Right of the Association, pursuant to its Articles and Bylaws, to suspend the voting rights and the right to use of recreational facilities within the Common Areas, of a Member for any period during which an assessment against his Lot remains unpaid or for such period, not exceeding 60 days, for any infraction of its published rules and regulations; and
  - d) Right of the Association to grant or transfer all or any part of a Common Area to a public agency, authority or utility company for such purposes and under such conditions as may be agreed to by the Members, provided that such has been approved by the voting Members of the Association in accordance with its Articles and Bylaws; and
  - e) Right of the Association, through its Board of Directors, to enter into, make, perform or enforce: contracts, leases, licenses, easements and/or rights-of-way for use by Owners, other persons, family members and guests, for the use of common areas and any facilities or improvements thereon, for pedestrian and vehicle access thereto, for vehicle parking and for recreational use and enjoyment; and
  - f) Right of the Association to close or limit use of a Common Area while maintaining, repairing and making replacements thereon.
3. Delegation of Use. An Owner may delegate, in accordance with the Bylaws, his right of enjoyment to a Common Area to the members of his immediate family, his tenants, or contract purchasers who reside on his Lot.
4. Repair of Damage by Lot Owner. Any damage to a Common Area by a Lot Owner, family member or guest shall be repaired within two weeks by the responsible Lot Owner. If repairs are not made in a timely manner and to the satisfaction of the Board of Directors of the Association, the Association shall execute the repair and the Owner will be obliged to immediately pay the Association for the repair. If the Owner does not make full payment within ten calendar days, the Owner will be considered in default under the Bylaws, the obligation will become a lien on the Lot and interest will be charged at 12 percent per annum.



### ARTICLE III – MANAGEMENT RIGHTS OF DECLARANT

1. Management by Declarant. Until termination of the Development Period the Property shall be managed by the Declarant or an Association organized at the sole discretion of the Declarant. The Development Period shall be defined as the sale of all Lots planned for Spinnaker Cove and other lands contiguous thereto now owned by Declarant, expiration of ten years or at the discretion of the Declarant.
2. Notice to Owners. The Declarant will give written notice of the date of termination of the Development Period to Owners of all Lots. Said notice shall specify the date, place and time when a meeting will be held and further specify that the purpose of the meeting is to officially form the Association and elect officers and directors. At least 50 percent of the Owners or their designated proxy in writing, who must be an Owner, must be present to constitute a quorum. If a quorum is not present, the Development Period shall nevertheless terminate on the date specified in the notice and it shall thereafter be the responsibility of the Owners to provide for operation of the Association.
3. Temporary Board. During the Development Period, Declarant may at his sole discretion, and at such times as the Declarant deems appropriate, appoint three persons who do not have to be Lot Owners as a temporary board. This temporary board shall have full authority, including all rights, responsibilities and duties to manage the Property under this Declaration, the Articles and Bylaws. After selecting a temporary board, the Declarant at his sole discretion, may at any time terminate the temporary board and resume his management authority under Article III or select a new temporary board. During the Development Period it will not be necessary to conduct the affairs of the Homeowners' Association in strict accordance with the provisions of the Bylaws, but only to adhere to the Bylaws if a temporary board is appointed.
4. Administration of the Association. Unless a temporary board is managing the Property or until such time as a permanent Board is elected, Declarant shall have the power and authority to exercise all of the rights, duties and functions of the Board to generally carry out the provisions of the Declarations, including but not limited to, enacting reasonable administrative rules, contracting for required services, obtaining property and liability insurance, establishing and collecting assessments, and expending all Association funds. Declarant shall have the authority to contract with a management agency at his sole discretion which shall have the same powers, duties and responsibilities as the Declarant.
5. Acceptance of Management Authority. The purpose of this management arrangement is to ensure that the Property will be adequately managed during the development period. Acceptance of an interest in a Lot evidences acceptance of this management arrangement.

### ARTICLE IV – BUILDING AND LAND USE RESTRICTIONS

1. General Plan. It is the intention of the Declarant to establish and impose restrictions for the improvement, use and occupancy of the Lots and other areas which will enhance the value, desirability and attractiveness of Spinnaker Cove and serve to promote the sale thereof. All Lots shall be held and henceforth be sold, conveyed, used, improved, occupied and owned subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, including those contained elsewhere in this Declaration.
2. Residential Use. Lots shall be used exclusively for one private single-family residential structure only. No business or profession having employees shall be conducted on any Lot or in any structure on a Lot unless permitted by the municipal zoning regulations and approved by the Homeowners' Association. Notwithstanding the foregoing, Declarant may use Lots and residences erected thereon, or permit the use thereof, for show homes, sales offices, temporary storage of materials which are not offensive to adjacent lot owners and parking incidental to the aforesaid. Owner of a Lot or Lots on which no permanent residence exists or is planned within 90 days of purchase shall



landscape the Lot with grass or other approved ground cover within said 90 days of purchase, and shall keep it mowed and maintained so as not to detract from other lots.

3. Dwelling Restrictions. No mobile homes, prefabricated or manufactured homes, or modular homes shall be located on any Lot either permanently or temporarily.

4. Garages and Outbuildings. Each residence must have at least a two-car garage attached thereto. An outbuilding, not larger than 250 square feet and one story in height, is permitted provided it is designed and constructed to complement the single-family residence on the Lot and of similar materials, approved by the ACC, in compliance with setback regulations and not detrimental to surrounding Lots.

5. Temporary Structures. No structure of a temporary character, including but not limited to, a trailer, recreational vehicle, tent, shack, garage or other outbuilding shall be placed on a Lot as either a permanent or temporary residence. No residence being erected on a Lot shall be occupied in any manner at any time prior to its full completion, nor shall any residence when completed be occupied until it complies with all covenants and restrictions herein set forth.

6. Minimum Dwelling Size. The area of a one-story residence shall contain at least 1700 square feet of habitable area. A second story or loft is permitted, but the ground floor must contain a minimum of 1400 square feet and not more than one-third of the total livable floor area may be contained in the second level. Split level and tri-level residences are not permitted except by unanimous consent of the ACC.

7. Building Materials. It is the intent of this regulation to create visually appealing residences compatible with those on surrounding Lots in style, quality, color and durability. All homes shall be built of new materials with the exception of certain décor items such as used brick, weathered planking and similar type items which must be so noted on the construction drawings submitted. Siding shall be natural wood, cedar shingles or fiber cement (such as Hardiplank). Aluminum, plywood and pressed board types of exterior sidings (i.e. T-111, board and batten) are prohibited. Exterior masonry is encouraged and stone (both natural and high-quality hand cast), brick and stucco are acceptable.

8. Building Colors. Siding and principal building exterior coverings shall be earth tones (such as grays and tans), creams, natural or shades of white. Exterior colors for siding, trim and masonry shall be designated on the construction drawings. Care shall be taken when selecting colors to insure visual compatibility with existing or other proposed dwellings.

9. Roofs. Flat roofs and shed type roofs are not permitted. The minimum pitch for roofs shall be 5 vertical to 12 horizontal (5:12). Roof materials may include cedar shakes, tile, standing seam metal and 30-year asphalt composition.

10. Fireplaces. Wood burning stoves and fireplaces are not permitted. All fireplaces shall be natural gas fired.

11. Driveways and Walks. Both broomed and exposed aggregate finish concrete driveways are acceptable. No asphalt or rock driveways are permitted. Walks, not adjacent to streets, may be of other approved materials.

12. Completion of Construction. Residences, including exterior painting and landscaping (as required in Paragraph 13) shall be completed and ready for occupancy within 12 months from commencement of construction. The time for completion of additions, reconstruction and remodeling shall be agreed to at the time of review of construction drawings.

13. Landscaping. As a minimum, the front yard and any side yard visible to the public on a corner lot shall be landscaped within 90 calendar days of first occupancy of a new residence. If intended landscaping is to be other than natural grass and shrubs conducive to this area, a landscaping plan, at a



minimum scale of 1"=30', shall be submitted to the ACC for review. The remainder of the Lot must have established grass or be fully landscaped within 180 calendar days. Landscaping which will promote groundwater infiltration is encouraged.

14. Grading. Final Lot grading shall match the natural contours of the area as closely as possible and not change the intended runoff paths. All areas disturbed by construction activity shall be protected from erosion pursuant to local regulations, and problem areas shall be immediately reseeded with a grass which will control erosion, or otherwise protected, until final landscaping is complete. No increased runoff is permitted onto adjacent Lots or properties.

15. Utility Lines. All electric, television and telephone lines from the utility company service facilities to the residence and within the property to other structures shall be underground, except that a temporary overhead electric service during construction is permitted.

16. Antennae. All radio, television and other types of antennae shall be located inside a building or out of view from adjacent roads and nearby residences unless specifically approved otherwise by the ACC.

17. Signs. No advertising structures or signs of any type shall be placed on a Lot other than a name plate for the occupant, a street number, and one temporary "For Sale", "For Rent" or "Garage Sale" sign, not exceeding 7 square feet in area. Builders are permitted to place signs on a Lot during the construction and sale period for a new residence, but they must be removed immediately upon the sale of the property. These restrictions do not apply to the Declarant during the development period.

18. Animals/Pets. Household pets such as dogs, cats, fish and similar small animals may be kept so long as they are not kept for commercial purposes, create a continuing disturbance or become a nuisance. No more than two dogs or two cats may be kept for periods longer than 60 days. Animals shall be kept on a leash or other restraint when not confined to the property. Owners are required to properly house, maintain and clean up after their pets, and any complaints by other Lot owners shall be addressed by the Board at a regular or special meeting at which the pet owner may appear. The decision of the Board will be final and failure to comply with the decision by the pet owner or complainant will be referred to the proper authorities.

19. Fences. Fences as described herein shall be considered either of the decorative or privacy type. Decorative fences shall be 42" or less in height and shall not restrict the view, such as rail or picket fences. Privacy fences shall be a maximum of 72" in height, constructed of new, durable wood and may be solid or partially restrict the view. Galvanized chain-link fencing with or without metal or plastic inserts in the mesh are not permitted. Vinyl coated chain link is permissible for decorative fencing only. Privacy fencing may be located in rear and/or side yards but must not extend beyond the main residential structure. No fencing shall completely enclose a front yard nor shall it impede access to utility controls, fire hydrants or meters. Fence color shall be compatible with the house and shall not detract from the neighborhood. Written approval from the ACC is required before constructing fences.

20. Annoying Light, Sounds or Odors. No light shall be emitted from any Lot which is unreasonably bright or causes offensive glare; no sound shall be emitted which is continuous or unreasonably loud; and no odor shall be emitted which is noxious or offensive to others.

21. Parking of Vehicles and Recreational Equipment. Owners may not permanently park or store vehicles and recreational equipment in open view on any Lot. If vehicles or recreational equipment are to be stored for more than 48 hours they must be adequately screened from view by an appropriate fence or housed in a garage or outbuilding. Temporary parking of vehicles wholly within a driveway by an Owner or a guest is permitted. No type of vehicle shall be parked overnight in the street, including motorcycles.

22. Refuse, Brush and Lawn Clippings. Lot shall be kept free of all types of debris. Refuse and garbage shall be kept in sanitary containers concealed from view except when placed at curbside for



regularly scheduled trash pickup. Empty trash containers at curbside shall be removed from view as soon as possible following pickup. No grass clippings, leaves, limbs and other landscaping debris shall be dumped or allowed to accumulate on any Lot or open area, except that a regularly tended compost heap may be permitted if it is concealed from the view of other Lots. Non-functioning appliances, old furniture, motorized equipment, construction debris and similar items shall not be stored in view of other Lots or the public, but must be properly disposed of as quickly as possible.

23. Window Coverings. All blinds, curtains, drapes, shutters and similar window coverings visible to public areas, adjacent lots and streets shall be white or a neutral color on the side facing the exterior.

24. Delivery Boxes No newspaper, magazine or similar type of delivery box shall be permitted in the front setback area of a Lot or in the right-of-way adjacent thereto.

25. Vehicle Repair. No activity such as, but not limited to, repair, rebuilding, dismantling, and repainting of any kind of vehicle, trailer, boat or construction equipment, whether motorized or not, shall be performed on any Lot unless it is done within a completely enclosed and approved structure which screens the sight and sound of the activity from the street and adjoining Lots. This restriction shall not prevent washing and polishing of any automobile, truck, recreational vehicle, boat, trailer, or motorcycle. Oil, grease, transmission and other fluids shall not be discharged into a sewer or open water course as prescribed by law.

26. Rental/Leasing. No Lot or structure located thereon, or any portion thereof, may be leased or rented for a period of less than ninety continuous days and may not be used for hotel or transient purposes. Lease agreements between an Owner and a lessee shall provide that the lease shall be subject to all provisions of the CCR's and the Bylaws of the Homeowners' Association. A signed copy of the lease agreement shall be delivered to the office of the Homeowners' Association within 10 days after execution thereof.

#### ARTICLE V- MAINTENANCE

1. General. Maintenance and repair of each Lot, including interior and exterior of the residence, decks, patios, outbuildings, fences, driveways, building utility services, landscaping and other improvements thereon are the responsibility of the Owner thereof. Lots must be kept mowed, neat and free of debris prior to construction. Each Owner, his agent or contractor, is hereby granted a temporary easement for the purpose of maintenance and repair of his Lot or improvements thereon across and through adjacent Lots and Common Areas, if necessary, upon reasonable notice to the Owner(s) thereof. Any damage to Lots and Common Areas resulting from the granting of this temporary easement shall be the responsibility of the Owner performing or having performed such repairs and maintenance.

2. Repainting, Reconstruction and Additions. The Owner of a Lot is responsible for determining the need for and carrying out the repainting of the residence, outbuildings and fences thereon. If the condition of any improvements are determined by the Board of Directors of the Homeowners' Association to materially detract from the appearance of Spinnaker Cove, a written notice shall be given to the Owner and he shall have 30 days to commence the required corrective action or to appeal the notice to the Board. The appearance, exterior colors, roofing, addition or other exterior condition of an improvement on a Lot shall not be changed without the prior written consent of the ACC.

3. Association's Right to Repair, Maintain and Restore. Should any Owner fail to perform maintenance and repair obligations as provided herein in a manner satisfactory to the Board of Directors of the Homeowners' Association, the Association shall, if the said failure continues for a period of 30 days following notice to the Owner by the Board, have the right to enter upon the Lot and cause such breach of these Declarations to be corrected. The cost of such maintenance, repair or restoration shall be the personal obligation of the Owner of the Lot, and the actual cost thereof plus 15 percent shall be added to and become part of the assessment for such Lot, unless paid in full at the office of the Homeowners Association within 30 days of the completion of such work. Any unpaid amount shall



become a lien against such Lot, with enforcement rights as provided herein, and shall bear interest at the rate of 12 percent per annum.

#### ARTICLE VI- HOMEOWNERS' ASSOCIATION

1. Membership. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot, and shall not be assigned or conveyed in any way except by transfer of title for said Lot to another Owner. All Members shall have the rights and duties specified in this Declaration, the Articles and Bylaws of the Association.
2. Non-Profit Corporation. The Association shall be a non-profit corporation under the laws of the State of Washington. The Association will be incorporated upon or before termination of the Development Period or upon appointment of a Temporary Board of Directors.
3. Voting Rights. Owners, including the Declarant, shall be entitled to one vote for each Lot owned. If more than one person or entity owns an interest in a Lot, the vote for that Lot shall be exercised as the owners decide, but in no event shall more than one vote be cast for a Lot nor shall any vote be divided. Voting rights of any Owner may be suspended as provided for in this Declaration, the Articles and the Bylaws of the Association.
4. Meetings. Meetings of the Association shall be conducted in accordance with the Bylaws of the Association. At least one meeting shall be held annually to set assessments and elect officers.
5. Notice and Quorum. Upon formation of the Association, written notice of any meeting to take action affecting all Owners and for setting assessments shall be mailed first class to each Owner at least 30 days prior to the date set for holding the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast at least 60 percent of all eligible votes shall constitute a quorum. If the required quorum is not present, subsequent meetings may be called by the Board subject to the same notice requirements, and the required quorum at each such subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days after the date for the preceding meeting.

#### ARTICLE VII- ASSESSMENTS

1. Creation of Lien and Personal Obligation. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay to the Association (1) annual assessments or charges and (2) special assessments. Annual and special assessments shall be established and collected in accordance with this Declaration. The assessments, together with interest, costs and attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the property against which such assessment is made. The lien may be enforced by foreclosure on the defaulting Owner's Lot by the Association in like manner as a mortgage on real property. Each assessment, together with the interest, costs and reasonable attorney's fees incurred to collect such assessments, shall be the personal obligation of the Lot owner at the time the assessment fell due.
2. Purpose of Assessments. Assessments imposed by the Association shall be used (1) to promote the recreation, health, safety and welfare of the residents of Spinnaker Cove, (2) for the improvement, maintenance, upkeep, repair, replacement, operation and use of the Common Areas, (3) for legal fees and damages incurred in any action in which the Association or a member of the Board or ACC, acting on behalf of the Association, is named a party, (4) for legal, accounting and management fees incurred by the Association, and (5) for any other reasonable expenses incurred by the Association.





3. Annual Assessment. Beginning with the sale of the first Lot, the annual assessment shall be \$240 per Lot, except that Lots owned by the Declarant will not be subject to the annual assessment until sold.

(a) The annual assessment may be increased during the Development Period by the Declarant or temporary Board to reflect increased maintenance costs, repair costs, operating costs, insurance, legal costs and unforeseen costs affecting the common areas. All adjustments to the annual assessment during the Development Period must directly reflect increases or decreases in the above costs, and shall be made at the discretion of the Declarant. During the Development Period, the Declarant shall give Members notice of any increase or decrease in the annual assessment 30 days prior to the date the assessment becomes effective.

(b) Upon expiration of the Development Period, the Board of Directors may increase the annual assessment by not more than 10 percent above the annual assessment for the previous year without a vote of the Members. A copy of the previous year's expenditures, budget and justification for any increase shall be available at the office of the Association and shall be given to a Member upon request.

(c) Upon expiration of the Development Period, the annual assessment may be increased by more than 10 percent only if 60 percent of the Members in good standing in attendance at a duly called annual or special meeting approve in person or by proxy.

(d) The Association shall consider the need to establish adequate reserves for future repair, maintenance and replacement of improvements in the Common Area when establishing the annual assessment.

4. Special Assessments. In addition to the annual assessment authorized heretofore, the Association may levy, in any year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of improvements within the Common Area, unforeseen or unexpected costs incurred, including legal expenses, and for any other reasonable operating deficit. Any such special assessment must have the approval of 60 percent of the votes for each Member in good standing voting in person or by proxy at a meeting duly called for this purpose.

5. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and must be collected on an annual basis.

6. Date of Commencement of Annual Assessments. Annual assessments required herein shall commence on the sale of the first Lot with the assessment to cover one calendar year. Any Owner purchasing a Lot shall pay a pro rata amount based on the number of months remaining in the calendar year. If a Lot is sold before the 15<sup>th</sup> day of a month, that month shall be included in the proration. Following the Development Period, the Association will set the date for payment of the annual assessment and send a written notice of the amount and due date to each Member. The Association shall, upon request and for a reasonable charge, furnish a certificate signed by an officer of the Association giving the status of payment of the assessment for a specific Lot. Any special assessment levied during a calendar year must be paid by the buyer of a Lot if same has not been paid by the previous Owner.

7. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within fifteen (15) days of the due date shall bear interest at the rate of 12 percent per annum and the Association may add a monthly late charge in an amount not exceeding 10 percent of the assessment as determined by the Association. Each Owner expressly vests in the Association the right and power to bring suit personally against such Owner for the collection of assessments as debts and to enforce lien rights of the Association by all methods available for the enforcement of such liens, including foreclosure. Such Owner hereby expressly grants to the Association the power of sale in connection with such liens. The Owner is responsible for payment of all late charges, collection costs and reasonable attorneys' fees incurred in collection of past due assessments or enforcing assessment liens. No Owner may waive or otherwise escape liability for assessments provided for herein by abandonment of his Lot. If any assessment remains unpaid for more than 30 days, the Owner's voting rights in the Association shall be suspended until the assessment(s) and any other charges connected therewith are paid.



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

#### ARTICLE VIII – ARCHITECTURAL CONTROL COMMITTEE

1. Committee Membership. The Architectural Control Committee (ACC) shall consist of three or more persons appointed by the Board of Directors; provided, however, that until all Lots contain completed residences and have been conveyed to the first Owner thereof, Declarant shall appoint the ACC which may contain less than three members. Committee members do not have to be Lot Owners or have a fiduciary interest in the property. The Committee may designate a representative to act in its behalf. ACC members serve without compensation.

2. Review by Committee. No residence, addition thereto, garage, carport, accessory building, permanent recreational facility, swimming pool, wall, fence, deck patio, awning, driveway, exterior lighting (other than low voltage accent lighting not intrusive to adjacent Lots), front yard landscaping or similar improvement shall be placed or constructed on a Lot, and no alteration to any such structures or attachments shall be made, including a change in the color of or materials used on the exterior of such structures or attachments, and no significant changes in grades which will affect drainage across any Lot or open area, shall be performed unless complete plans and specifications therefor have been first submitted to and approved by the ACC. For color changes and similar items not requiring plans and specifications, a letter with sufficient backup data will be adequate for submittal.

3. Procedures. The ACC shall approve or disapprove plans and specifications within 30 days after submission. If the ACC fails to render a decision within 30 days, approval will be deemed to be automatically granted and this Article fully complied with. If additional material is required to be submitted, the 30 day period will commence with receipt of the last additional submittal.

4. Vote. A majority vote of the ACC is required to approve a proposed improvement or change, unless the Committee has designated a representative to act for it, in which case the decision of the representative will control.

5. Records. The ACC shall maintain written records of all applications submitted to it and all actions taken thereon and shall retain same for three years. Such records will be available to Members for inspection upon request.

6. Liability. The ACC and its members shall not be liable for damages to any person submitting requests for approval or to any Owner by reason of its actions, failure to act, approval or disapproval regarding any matter within its jurisdiction hereunder.

7. Variance. The ACC may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article or Article IV hereof in order to overcome impractical expectations and prevent unnecessary hardships arising by reason of the application of the restrictions contained in this Article or Article IV. Variances or adjustments shall only be granted in cases where no material or detrimental effect will be caused to other Lots and properties.

#### ARTICLE IX – MANAGEMENT BY BOARD

1. Formation of the Board. Upon expiration of the Development Period, a meeting shall be held to set up the permanent Homeowners' Association. All administrative power and authority shall be vested in a Board of three directors to be elected from Members of the Association at the initial meeting. The Association may increase the number of directors by amendment of the Bylaws at its annual meeting.



At the first meeting of the Board, bylaws shall be adopted. Copies will be made available to Owners upon request. Terms of the Board shall be defined in the Bylaws.

2. Powers of the Board. All powers of the Board shall be set forth in the Bylaws and must be exercised according to the Bylaws. The Board, for the benefit of the Owners and the Property, shall endorse the provisions of this Declaration and the Bylaws. In addition, the Board shall have the power and be responsible for the following by way of explanation but not limitation:

- a) *Insurance* – Obtain necessary policies of general liability insurance.
- b) *Legal and Accounting Services* – Obtain legal and accounting services as necessary for administration of Association affairs and for enforcement of this Declaration.
- c) *Maintenance* – Pay all costs associated with the improvement, upkeep and repair of the Common Area and any improvements thereon. If necessary, maintain any Lot if such maintenance is necessary in the judgement of the Board under provisions of this Declaration to maintain the value of the Property should an Owner fail to maintain the Lot.
- d) *Utilities* – Pay all utility charges attributable to the Common Areas or other facilities under control of the Association. Authorize the installation of utility or service lines which the Board deems to be in the best interest of the Association.
- e) *Security* – Contract for and pay all costs deemed necessary by the Association to ensure adequate security for the Property.
- f) *Right to Contract* – Have the exclusive right to contract for all goods, services, maintenance and improvements.
- g) *Right of Entry* – Right to enter upon any Lot in connection with improvements regulated by this Declaration and in emergencies related thereto or which impact other Members of the Association. Except in emergencies at least 24 hours notice will be given to the Lot Owner unless the Owner is not available. Normal entry will be made with as little inconvenience as possible to the Owner. Costs of emergency entry caused by the Owner will be specially assessed to the Owner.
- h) *Promulgation of Rules* – Adopt and publish rules and regulations governing the Members, family members and guests use of the Property, and establish penalties for infractions thereof.
- i) *Declaration of Vacancies.* Declare a Board vacancy in the event that the Board member moves off the Property or is absent from three consecutive regular Board meetings.
- j) *Financial Matters* – Open a bank account for the Association and designate the signatories thereto. Pay for all goods and services required to operate the Association and maintain Common Areas. Employ an accountant or bookkeeper to maintain or review financial records of the Association and ACC.
- k) *Legal Actions* – Commence legal actions for enforcement of these covenants or other legal action which the Board deems necessary, and defend against legal actions initiated against the Association.
- l) *Exercise of Powers, Duties and Authority* – Exercise for the Association all the powers, duties and authority vested in or delegated to the Association and not reserved to the membership by provisions of the Bylaws, Articles of Incorporation or this Declaration.

#### ARTICLE X – GENERAL PROVISIONS

1. Covenants Running with the Land. These covenants shall run with the land and be binding on all parties and persons claiming under them for a period of twenty years from the date these covenants are recorded, after which time they shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the then-owners of the Lots is recorded agreeing to change said covenants in whole or in part.



2. Amendment. This Declaration may be amended during the Development Period by an instrument signed by the Declarant. After the Development Period, this Declaration may be amended if a majority of the Owners approve in accordance with the Bylaws. Provisions which expressly refer to the Declarant may not be amended without the prior written approval of the Declarant. All amendments must be recorded with the office of the Skagit County auditor and will become effective upon filing.

3. Enforcement. The Association, its Board, or any Owner shall have the right to enforce, by any legal proceeding, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure to insist on strict performance of any covenant, condition or restriction herein contained shall not waive the right to do so thereafter. In a legal action commenced to enforce the provisions of this Declaration, the prevailing party shall be entitled to recover reasonable legal costs.

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

5. Severability. Invalidation of any one or more of the covenants, restrictions or conditions of this Declaration by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned being the Declarant herein has hereunto set its hand and seal as of the date first herein set forth.

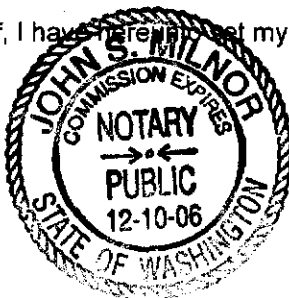
By Robert E. Emmons  
Robert E. Emmons

By Eula O. Emmons  
Eula O. Emmons

State of Washington )  
                                  ) ss.  
County of Skagit )

On this 2<sup>nd</sup> day of May, 2005, before me personally appeared Robert E. Emmons and Eula O. Emmons that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said persons for the uses and purposes therein mentioned, and on oath stated they were authorized to execute this instrument.

In witness whereof, I have hereunto set my hand and official seal the day and year above written.



John S. Milnor  
Notary Public in and for the State of  
Washington, residing at Mount Vernon  
My appointment expires 12-10-06



200505180107  
Skagit County Auditor

5/18/2005 Page 12 of 13 2:36PM

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
SPINNAKER COVE DIVISION TWO

TABLE OF CONTENTS

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
I	Definitions	1
II	Property Rights in Common Areas	2
III	Management Rights of Declarant	3
IV	Building and Land Use Requirements	3
V	Maintenance	6
VI	Homeowners' Association	7
VII	Assessments	7
VIII	Architectural Control Committee	9
IX	Management by Board	9
X	General Provisions	10