

****NEW Drafted Governing Document. Font colors below coordinate with font colors (changes) on the Original(and current) Governing Document (see other pdf)****

red text - Leahy changes. green text - identifies changes

Restated Declaration - 1

NOTICE TO MEMBERS

SCHOA has the duty to interpret, apply and enforce the terms of this Restated Declaration, paying particular attention to the General Protective Covenants of Article V. To encourage compliance and foster a spirit of cooperation, the Board may form a Community Standards Committee (“CSC”) which shall advise the Board in its determination to approve or disapprove a Member’s proposed Project. You are strongly encouraged to read and become familiar with Article V and Article VI of this Restated Declaration. The Board and the CSC stand ready to assist you in obtaining approval for your Project before work begins.

RESTATED DECLARATION of SNOHOMISH CASCADE DIVISION I, II, III and IIIA

INTRODUCTION AND HISTORY

This Restated Declaration is applicable to SNOHOMISH CASCADE DIVISIONS I, II, III and IIIA, including Division 1, Lots 1 through 98, Division 2, Lots 1 through 98, Division 3, Lots 1 through 110, and Division IIIA, Lots 1 through 4, and all tracts, easements and open space, inclusive.

The plat community, known as The Falls, is a 310-lot community located east of Mill Creek and west of Glacier Peak High School in the Snohomish School District. Specifically, the plats that comprise The Falls lie on either side of Snohomish Cascade Drive, between 134th Place SE/Cathcart Way on the north and Puget Park Drive on the south. Donald Leavitt developed the community in four phases beginning in 1988 with the recording of the plat of Snohomish-Cascade Division I (AFN 8803025002), a 98-lot plat, followed by Snohomish-Cascade Division II (AFN 8908025004), a 98-lot plat; Snohomish-Cascade Division III (AFN 8908095001), a 110-lot plat; and Snohomish-Cascade – Sector 1, Division IIIA (AFN 9210125001), a 4-lot plat.

Following the recording of the first plat, Leavitt recorded a declaration of covenants, conditions and restrictions. This declaration recorded 7 June 1988, encumbered Snohomish-Cascade Division I (AFN 8806070215). Later, an amendment to the declaration was recorded on 31 August 1988 (AFN 8808310161).

[CONSIDER ADDITIONAL CROSS-REFERENCE TO PLAT MAPS]

Following the recording of plat Division II and plat Division III, Leavitt recorded, on 16 August 1989, a declaration titled First Amendment to the Snohomish Cascade Division II Declaration of Covenants, Conditions and Restrictions (AFN 8908160130).

On 21 September 1990, a declaration encumbering all three divisions was recorded (AFN 9009210392). It was ultimately superseded by Amended Declaration of Snohomish Cascade Divisions I, II & III Covenants Conditions and Restrictions, recorded 25 October 1990 (AFN 9010250531) (hereinafter "Former CCR"). It is this declaration that the Owners and the Homeowners' Association are bound to as controlling covenants of the aforementioned plats.

The declaration of Covenants, Conditions, Restrictions and Maintenance Agreements for Snohomish Cascade Sector I, Division IIIA, encumbering the four-lot plat only was recorded on 12 October 1992, but these covenants speak only to the private road that services the four lots. A covenant contained in the plat (AFN 9210125001) binds the four lots of Division IIIA to the terms and conditions of the Former CCR (AFN 9010250531).

On 20 January 1989, Snohomish Cascade Homeowner's [sic]¹ Association, a Washington nonprofit corporation, was formed (hereafter "SCHOA"). It is active today. On its website, the corporation posts transcribed copies of its articles of incorporation and amended bylaws. The date of the bylaws' adoption is unknown.

1 For more information on the use of the apostrophe in the Association's name, please see introduction to the Restated Articles of Incorporation.

~~Members of Snohomish Cascade Homeowners' Association desire to adopt this restated declaration containing covenants, conditions and restrictions which are internally consistent and consistent with SCHOA's other governing documents; which speak to current conditions and which reflect current law. On May X, 2020 at Totem Falls Elementary, SCHOA conducted a Members' Meeting at which XXX Members attended, establishing a quorum of XXX voters (XXX voters were required to establish a quorum.) The Members of SCHOA were asked the following questions:~~

~~a. Do you support the adoption of the Restated Declaration of Snohomish Cascade Homeowners' Association, Section I, II, III and IIIA, replacing Amended Declaration of Snohomish Cascade Divisions I, II & III Covenants Conditions and Restrictions, recorded 25 October 1990 (AFN 9010250531) and all other covenants, conditions and restrictions recorded against the Property? Yes: XXX; No: XXX;~~

~~b. Do you support the adoption of the Restated Articles of Incorporation?~~

~~Yes: XXX; No.: XXX.~~

~~c. Do you support the adoption of the Restated Bylaws? Yes: XXX; No.: XXX.~~

~~Pursuant to the vote of the Members, the Restated Declaration of Covenants were recorded in Snohomish County, Washington under Auditor's File No.: 2020XXXXXXXX, on XX Month 2020; the Restated Articles of Incorporation were filed with the Washington State Secretary of State's office on XX Month 2020; and the Restated Bylaws were filed with the Washington State Secretary of State's office on XX Month 2020.~~

~~The Restated Declaration of Snohomish Cascade Homeowners' Association, Section I, II, III and IIIA, recorded under Auditor's File No. 2020XXXXXXXX is cross-referenced with the Official Map of the plat~~

~~Amended Declaration of Snohomish Cascade Divisions I, II & III Covenants Conditions and Restrictions, recorded 25 October 1990 (AFN 9010250531).~~ **8/27/20 Requires revision to accommodate "opting-in" , Leahy**

ARTICLE I

DEFINITIONS

Section 1. Definitions. The following terms, when used in this Declaration or in any of the Governing Documents, their addenda, modification or supplement, shall have the following meanings:
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1.1 **"Association" or "Homeowners' Association" or "SCHOA"** means the Snohomish Cascade Homeowners' Association, a Washington non-profit corporation, its successors and assigns.

1.2 **"Board" and "Board of Directors"** means members of the Board of Directors of Snohomish Cascade Homeowners' Association, a Washington nonprofit Corporation.

1.3 **Common Area** means Tracts A through D, G through K and M as designated in the plats of SNOHOMISH CASCADE DIVISION I, II, and III, and Tract 1 referred to in the plat of SNOHOMISH CASCADE DIVISION IIIA, together with all landscaped areas within the right-of-way of Snohomish Cascade Drive, and improvements within said right-of-way, and the Common Fence, all constructed by or for the benefit of the Snohomish Cascade Homeowners' Association and reserved for the common use and enjoyment of its Owners. While Tracts E and L are labeled "Tracts," they are merely portions of a cul-de-sac, comprised of curb, gutter, sidewalk and asphalt road which Snohomish County shall maintain. Tract F was transferred to the Snohomish School District and is the site upon which Totem Falls Elementary School is constructed. Thus, Tracts E, F and L shall not be considered part of the Common Area.

1.4 "Common Fence" means:

- (a) the fence that borders either side of the right-of-way known as Snohomish Cascade Drive, except for the chain-link fence which belongs to the Snohomish School District which borders Tract F;
- (b) from the intersection of Snohomish Cascade Drive and 134th Place S.E., the fence that runs west along the north line of Tract D and continues along the south edge of the right-of-way of 134th Place S.E. until it terminates at the intersection with the Northeast corner of Tract C;
- (c) from the southwest corner of Tract, A, the fence that borders the south line of Tract A all the way to the southwest corner of the development – where "The Falls" ends and "Silver Firs" begins.
- (d) from the northwest corner of Tract K, the fence that borders the north line of Tract K, continuing along the north line of Tract J until it intersects with the fence on the west border of Snohomish Cascade Drive;
- (e) from the northernmost point where Tract B intersects with Snohomish Cascade Drive (behind Lot 24), the fence that borders the north line of Tract B along the rear lot lines of Lots 24, 23, 22 and the west approximately 39 feet 7 inches of Lot 21 (four panels), as measured along its rear lot line;
- (f) the fences that border the north and south lines of Tract G and Tract I (both tracts provide a footpath to Totem Falls Elementary School).

1.5 “**Community**” means the communities in Snohomish County, Washington known as The Falls and Gold Creek.

1.6 “**Declarant**” means DONALD H. LEAVITT, his successors and assigns.

1.7 “**Declaration**” means this Restated Declaration of Snohomish Cascade Divisions I, II, III and IIIA.

1.8 “**Governing Documents**” means the Restated Declaration, the Restated Articles of Incorporation and the Restated Bylaws.

1.9 “**Improvement**” means every building of any kind, including, but not limited to fence, wall, driveway, storage shelter, or other product of construction efforts on or in respect of the plats of SNOHOMISH CASCADE DIVISIONS I, II, III and IIIA.

2.0 “**Inoperable Vehicle**” means a vehicle which is in an extreme state of disrepair or otherwise legally inoperable.

1.10 “**Lot**” means any numbered plot of land shown upon any recorded subdivision plat of SNOHOMISH CASCADE DIVISION I, II, III and III A, except those areas specifically designated on such plats as “Tracts” or “Open Areas.”

1.11 “**Owner**” means the person or persons of record holding the beneficial Ownership of a Lot. The rights, obligations and other status of being an Owner commence upon acquisition of the beneficial Ownership of a Lot and terminate upon the disposition of such Ownership, but termination of Ownership shall not discharge an Owner from obligations incurred prior to termination.

1.12 “**Operating Documents**” means the Restated Articles of Incorporation and the Restated Bylaws.

1.13 “**Project**” or “**Member Project.**” “Project” or “Member Project” means a Member’s undertaking to:

(a) Construct a new dwelling on a Lot;

(b) Remodel or relocate an existing dwelling on a Lot such that the remodeled dwelling undergoes a material change in its exterior appearance, or the relocated dwelling occupies a different footprint on the Lot;

(c) Construct, reconstruct or remodel a private green house, storage unit, private swimming pool, a garage, shed or shelter for a recreational vehicle, boat, and/or camper-trailer;(d) Change in the exterior paint color of a dwelling;

(e) Change in the roofing materials of a dwelling; and

(f) Change in the siding materials of a dwelling;

PROVIDED, that the object of the Member’s undertaking as described above *can* be seen from the street or street front of a dwelling or Common Areas.

1.14 “**Properties**” means that certain real property hereinafter described in Article II of this Declaration.

1.15 “**Quorum**” - Please see Bylaws, Article V.

1.16 “**Restated Declaration**” means this document.

1.17 “**Sight-Obscuring Fence or Hedge**” means a fence or hedge which impairs a vehicle operator’s vision of oncoming traffic, pedestrians and children at play.

1.18 “**Snohomish Cascade Drive**” means that drive currently designated as Snohomish Cascade Drive, formerly known as 65th Avenue SE, and designated as 65th Avenue SE on the face of the plats of Snohomish Cascade Division I, II, III and IIIA.

1.19 “**Snohomish Cascade Homeowners’ Association**” means that non-profit corporation, organized on 20 January 1989 in the office of the Washington State Secretary of State, to create the homeowners’ association required by the declarations that had been recorded and would, in the future, be recorded against the real property described in Article II, below.

ARTICLE II

PROPERTIES SUBJECT TO THIS DECLARATION

The real property which is, by the recording of this Restated Declaration, subject to the covenants and restrictions hereafter set forth, and which, by virtue of the recording of this Restated Declaration, shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to this Restated Declaration is the real property described as follows:

Those certain plats entitled Snohomish-Cascade Division 1, recorded 2 March 1988 (AFN 8803025002), a 98-lot plat, recorded in the records of the Snohomish County Auditor, situate in Snohomish County, State of Washington; Snohomish-Cascade Division 2, recorded 2 August 1989 (AFN 8908025004), a 98-lot plat, recorded in the records of the Snohomish County Auditor, situate in Snohomish County, State of Washington;

Division 3, recorded 9 August 1989 (AFN 8908095001), a 110-lot plat, recorded in the records of the Snohomish County Auditor, situate in Snohomish County, State of Washington; and Snohomish-Cascade, Sector 1, Division IIIA, recorded 12 October 1992 (AFN 9210125001), a 4-lot plat, recorded in the records of the Snohomish County Auditor, situate in Snohomish County, State of Washington.

ARTICLE III

SNOHOMISH CASCADE HOMEOWNERS’ ASSOCIATION (article vi of old)

Section 3.1 Description of Association. The Association shall be charged with the duties and vested with the powers prescribed by law and set forth in this Declaration and the Articles of Incorporation and Bylaws of the Association, all as may be amended from time to time, provided, however, that no such governing document shall for any reason be amended or otherwise interpreted so as to be inconsistent with this Declaration or Chapter 64.90 Revised Code of Washington, as amended.

Section 3.2 Number of Directors, Member Elected Board. The number of directors shall be as set forth in the Bylaws. The Board of Directors shall be elected by the Members in accordance with the Bylaws.

Section 3.3 Membership. Each person who is an Owner of record of a fee or undivided fee interest in any Lot as defined in this Section 1.8, shall be deemed to have membership in the SCHOA. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate an Owner’s membership in SCHOA. No Owner, whether one or more Persons, shall have more than one (1) vote per Lot. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Membership shall be appurtenant to and may not be separated from Ownership of any Lot. The rights and privileges of membership, including the right to vote and to hold

office, may be exercised by any Owner, but in no event shall more than one (1) vote be cast nor office held for each Lot owned.

Section 3.4 Right to Vote. Members shall be entitled to one (1) vote for each Lot owned. When more than one (1) Person holds an Ownership interest in any Lot, the vote of such Lot shall be exercised as those Members themselves determine, but in no event shall more than one (1) vote be cast for any singular Lot. A Member may vote in person or by directed proxy or in any manner authorized by the Board as permitted by law.

Section 3.5 SCHOA Duties. The Snohomish Cascade Homeowners' Association shall have the following duties:

- (a) Adopt organizational documents;
- (b) Adopt budgets as provided in RCW 64.90.525;
- (c) Impose assessments for common expenses and specially allocated expenses on the Owners as provided in RCW 64.90.080(1) and 64.90.525;
- (d) Prepare financial statements as provided in RCW 64.90.530; and
- (e) Deposit and maintain the funds of the Association in accounts as provided in RCW 64.90.530.

Section 3.6 Optional SCHOA Undertakings. Except as otherwise provided in Section 3.9 (Association borrowing) and subject to the provisions of this Declaration and the Governing Documents, the Association may:

- (a) Amend organizational documents and adopt and amend rules; RCW 64.90.405;
- (b) Amend budgets under RCW 64.90.525;
- (c) Hire and discharge managing agents and other employees, agents, and independent contractors; RCW 64.90.405(2)(d);
- (d) Institute, defend, or intervene in litigation or in arbitration, mediation, or administrative proceedings or any other legal proceeding in its own name on behalf of itself or two or more Members on matters affecting the common interest community;
- (e) Make contracts and incur liabilities subject to Section 3.9, below;
- (f) Regulate the use, maintenance, repair, replacement, and modification of the Common Area;
- (g) Cause additional improvements to be made as a part of the Common Area;
- (h) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real estate or personal property, but the Common Area may be conveyed or subjected to a security interest pursuant to RCW 64.90.465;
- (i) Grant easements, leases, licenses, and concessions through or over the Common Area;
- (j) Impose and collect any reasonable payments, fees, or charges for the use, rental, or operation of the Common Area;

- (k) Collect assessments and impose and collect reasonable charges for late payment of assessments;
- (l) Enforce the governing documents and, after notice and the opportunity to be heard, impose and collect reasonable fines for violations of the governing documents in accordance with a previously established schedule of fines adopted by the Board of Directors and furnished to the Members;
- (m) Impose and collect reasonable charges for the preparation and recordation of lender questionnaires, or statements of unpaid assessments;
- (n) Provide for the indemnification of its Board members and officers, to the extent provided in RCW 23B.17.030;
- (o) Maintain directors' and officers' liability insurance;
- (p) Subject to Section 3.9, below, assign its right to future income, including the right to receive assessments;
- (q) Establish and administer a reserve account as described in RCW 64.90.535;
- (r) Prepare a reserve study as described in RCW 64.90.545;
- (s) Exercise any other powers conferred by this Restated Declaration or the Organizational Documents;
- (t) Exercise all other powers that may be exercised in this State by the same type of entity as the Association;
- (u) Exercise any other powers necessary and proper for the governance and operation of the Association;
- (v) Suspend any right or privilege of a Member who fails to pay an assessment, but may not:
 - (i) Deny a Member or other occupant access to the Member's Lot;
 - (ii) Suspend a Member's right to vote;
 - (iii) Withhold services provided to a Lot or a Member by the Association if the effect of withholding the service would be to endanger the health, safety, or property of any person.

~~Section 3.7 Budgets, Assessments, and Special Assessments.~~

- ~~(a) (1) Within thirty days after adoption of any proposed budget of the SCHOA, the Board must provide a copy of the budget to all Members and set a date for a meeting of the Members to consider ratification of the budget not less than fourteen nor more than fifty days after providing the budget. Unless at that meeting the Owners to which a majority of the votes in the Association are allocated (156 of 310) reject the budget, the budget and the assessments against the Lots included in the budget are ratified.~~
- ~~(2) If the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the Members continues until the Members ratify a subsequent budget proposed by the Board.~~
- ~~(b) The budget must include:
 - ~~(1) The projected income to the Association by category;~~
 - ~~(2) The projected common expenses and those specially allocated expenses that are subject to being budgeted, both by category;~~~~

- ~~(3) The amount of the assessments per Lot and the date the assessments are due;~~
- ~~(4) The current amount of regular assessments budgeted for contribution to the reserve account;~~
- ~~(5) A statement of whether the Association has a reserve study that meets the requirements of RCW 64.90.550 and, if so, the extent to which the budget meets or deviates from the recommendations of that reserve study; and~~
- ~~(6) The current deficiency or surplus in reserve funding expressed on a per Lot basis.~~
- ~~(c) The Board, at any time, may propose a special assessment. The assessment is effective only if the Board follows the procedures for ratification of a budget described in Section 3.7(a)(1) and the Members do not reject the proposed assessment. The Board may provide that the special assessment may be due and payable in installments over any period it determines reasonable and may provide a discount for early payment. (Duplicative. 8/27/20, Leahy)~~

Section 3.8 Financial Statement and Audit. (new section - not part of original)

- (a) The Association must prepare, or cause to be prepared, at least annually, a financial statement of the Association in accordance with accrual-based accounting practices.
- (b) The financial statement of the Association must be audited at least annually by a certified public accountant.
- (c) The Association must keep all funds of the Association in the name of the Association with a qualified financial institution. The funds must not be commingled with the funds of any other Association or with the funds of any managing agent of the Association or any other person, or be kept in any trust account or custodial account in the name of any trustee or custodian.
- (d) A managing agent who accepts or receives funds belonging to the Association must promptly deposit all such funds into an account maintained by the Association as provided in subsection (c) of this section or RCW 64.90.535, as appropriate.

Section 3.9 Association Borrowing (new section - not part of original) Any borrowing by the Association that is to be secured by an assignment of the Association's right to receive future income pursuant to Section 3.6(e) and (p) of this Article requires ratification by the Members as provided in this subsection.

- (a) The Board must provide notice of the intent to borrow to all Owners. The notice must include the purpose and maximum amount of the loan, the estimated amount and term of any assessments required to repay the loan, a reasonably detailed projection of how the money will be expended, and the interest rate and term of the loan.
- (b) In the notice, the Board must set a date for a meeting of the Members, which must not be less than fourteen (14) no more than fifty (50) days after mailing of the notice, to consider ratification of the borrowing.
- (c) Unless at that meeting, Members holding a majority of the votes in the Association or any larger percentage specified in this Restated Declaration reject the proposal to borrow funds, the Association may proceed to borrow the funds in substantial accordance with the terms contained in the notice.

Section 3.10 Reserve Account (new). The Association is required to obtain a reserve study pursuant to RCW 64.90.545 and must establish one or more accounts for the deposit of funds for the replacement costs of reserve components. Any reserve account must be an income-earning account maintained under the direct control of the Board, and the Board is responsible for administering the reserve account.

Section 3.11 Borrowing from the Reserve Account. (new)

(a) The Board may withdraw funds from the Association's reserve account to pay for unforeseen or unbudgeted costs that are unrelated to replacement costs of the reserve components. Any such withdrawal must be recorded in the minute books of the Association. The Board must give notice of any such withdrawal to each Member and adopt a repayment schedule not to exceed twenty-four months unless the Board determines that repayment within twenty-four months would impose an unreasonable burden on the Members. The Board must provide to Members along with the annual budget adopted in accordance with RCW 64.90.525:

(1) Notice of any such withdrawal,

(2) A statement of the current deficiency in reserve funding expressed on a per Lot basis, and

(3) The repayment plan.

(b) The Board may withdraw funds from the reserve account without satisfying the notification of repayment requirements under this section to pay for replacement costs of reserve components not included in the reserve study.

Section 3.12 Reserve Study.(new) The Association must prepare and update a reserve study in accordance with Chapter 64.90 RCW. An initial reserve study must be prepared by a reserve study professional and based upon a reserve study professional's visual site inspection of existing improvements. An updated reserve study must be prepared annually. An updated reserve study must be prepared at least every third year by a reserve study professional and based upon a visual site inspection conducted by the reserve study professional. Funding the SCHOA's Reserve Account shall be a priority among SCHOA's expenses. The Board shall assure that the reserve amount is properly calculated.

Section 3.13 Notice and Adoption of Association Rules (new)

(a) The Board must, before adopting, amending, or repealing any rule, give all Owners notice of:

(1) Its intention to adopt, amend, or repeal a rule and provide the text of the rule or the proposed change; and

(2) A date on which the Board will act on the proposed rule or amendment after considering comments from Members.

(b) Following adoption, amendment, or repeal of a rule, the Association must give notice to the Members of its action and provide a copy of any new or revised rule.

(c) The Association may adopt rules to establish and enforce reconstruction and design criteria and aesthetic standards and, if so, must adopt procedures for enforcement of those standards and for approval of construction applications, including a reasonable time within which the Association must act after an application is submitted and the consequences of the Association's failure to act.

- (d) The Association's internal business operating procedures need not be adopted as rules.
- (e) Every rule must be reasonable.

Section 3.14 Tenant Enforcement Measures. If a Tenant of an Owner violates the Governing Documents, in addition to exercising any of its powers against the Owner, the Association may:

- (a) Exercise directly against the Tenant the powers described in Section 3.6(l) of this Article;
- (b) After giving notice to the Tenant and the Owner and an opportunity to be heard, levy reasonable fines against the Tenant and Owner for the violation; and
- (c) Enforce any other rights against the Tenant for the violation that the Owner as the landlord could lawfully have exercised under the lease or that the Association could lawfully have exercised directly against the Owner, or both; but the Association does not have the right to terminate a lease or evict a Tenant unless permitted by this Declaration. The rights referred to in this Section 3.14(c) may be exercised only if the Tenant or Owner fails to cure the violation within ten days after the Association notifies the Tenant and Owner of that violation.

Section 3.15 Limits to Tenant Enforcement. Unless a lease otherwise provides, this section does not:

- (a) Affect rights that the Owner has to enforce the lease or that the Association has under other law; or
- (b) Permit the Association to enforce a lease to which it is not a party in the absence of a violation of the governing documents.

Section 3.16 Enforcement Authority. The Board may determine whether to take enforcement action by exercising the Association's power to impose sanctions or commencing an action for a violation of the governing documents, including whether to compromise any claim for unpaid assessments or other claim made by or against it.

Section 3.17 Board's Enforcement Discretion. The Board does not have a duty to take enforcement action if it determines that under the facts and circumstances presented:

- (a) The Association's legal position does not justify taking any or further enforcement action;
- (b) The covenant, restriction, or rule being enforced is, or is likely to be, construed as inconsistent with law;
- (c) Although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the Association's resources; or
- (d) It is not in the Association's best interests to pursue an enforcement action.

Section 3.18 Limits to Discretion. The Board's decision under Sections 3.16 and 3.17 of this Article to not pursue enforcement under one set of circumstances does not prevent the Board from taking enforcement action under another set of circumstances, but the Board may not be arbitrary or capricious in taking enforcement action.

ARTICLE IV

COMMON AREA, COMMON ACCESS WAY and MAINTENANCE

Section 4.1 Common Area. Members and their respective invitees shall be entitled to the use of Common Area, subject, however, to the restriction found in the applicable plats, that the Common Area shall be dedicated for open space and those recreational uses which do not harm or otherwise disturb the natural setting of the areas or the trees or vegetation thereon. The Common Area shall not be platted or otherwise divided into lots for residential use. Nothing herein shall prevent the placing of a sign or signs in the Common Area identifying the subdivision and the restricted nature of the Common Area, provided such signs comply with applicable Snohomish County sign ordinances. Upon approval in writing of the Members by a majority of the votes in the Association and approval by order or resolution of the Snohomish County Council (or the equivalent thereof), should such resolution be necessary, the Association may dedicate or convey any portion of the Common Areas to a part-district or other public body for open space or recreational use. The general public has the right to ingress and egress for pedestrian use over and upon the improved trails within the Common Area Open Space.

Section 4.2 Common Access Ways. Common access ways shall be used exclusively for driveway and access proposed by the Owners of lots. The Owners of each of the lots having the exclusive use of a particular Common Access Way shall be responsible for the maintenance of such driveways, the cost of which shall be borne in equal portions by such Owners. Each such Owner shall have a perpetual easement over the Common Access Way for ingress and egress, and the benefits and burdens thereof, including the obligation of maintenance, all of which shall be appurtenant to and run with the lots so benefited or burdened.

Section 4.3 Maintenance of Common Area. SCHOA shall be responsible for and shall maintain, repair, improve and, when necessary, replace the Common Areas, including but not limited to, in its entirety, the Common Fence, and all landscaping, lawn, signs, the north entrance at 134th St. SE and Snohomish Cascade Drive and the south entrance at Puget Park Drive and Snohomish Cascade Drive.

Section 4.4 Liability for a Claim. An action alleging a wrong done by the Association, including an action arising from the condition or use of the Common Areas, may be maintained only against the Association and not against any Member.

NOTICE TO MEMBERS

SCHOA has the duty to interpret, apply and enforce the terms of this Restated Declaration, paying particular attention to the General Protective Covenants of Article V. To encourage compliance and foster a spirit of cooperation, the Board may form a Community Standards Committee ("CSC") which shall advise the Board in its determination to approve or disapprove a Member's proposed Project. You are strongly encouraged to read and become familiar with Article V and Article VI of this Restated Declaration. The Board and the CSC stand ready to assist you in obtaining approval for your Project before work begins.

Article V

GENERAL PROTECTIVE COVENANTS

Section 5.1 Residential Use. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than a single-family dwelling not to exceed in elevation two stories plus a basement in height, with an attached garage for not less than two cars. All dwellings, buildings and other structures built or located upon any Lot, shall comply with applicable municipal land use and building regulations.

Section 5.2 Project or Member Project Regulation. A “Project” or “Member Project” means a Member’s undertaking to (see Definitions, Sec. :

- (a) Construct a new dwelling on a Lot;
- (b) Remodel or relocate an existing dwelling on a Lot such that the remodeled dwelling undergoes a material change in its exterior appearance, or the relocated dwelling occupies a different footprint on the Lot;
- (c) Construct, reconstruct or remodel a private green house, storage unit, private swimming pool, a garage, shed or shelter for a recreational vehicle, boat, and/or camper-trailer;
- (d) Change the exterior paint color of a dwelling;
- (e) Change the roofing materials of a dwelling; and
- (f) Change the siding materials of a dwelling;

PROVIDED, that the object of the Member’s undertaking as described above *can* be seen from the street or street front of a dwelling or Common Areas.

Section 5.3 Dwelling Size. The minimum allowable square footage of any residence within SNOHOMISH CASCADE DIVISION I, II, III & IIIA, excluding open porches and garages, shall be as follows: ramblers – 1,500 sq. ft.; two-story houses – main or entry level 900 sq. ft., upper level 700 sq. ft.; split-level houses – 1,100 sq. ft.; tri-level houses – 1,200 sq. ft. inclusive of entry and upper level, and 300 sq. ft. of basement level; daylight ramblers – 1,250 sq. ft. on entry or main level.

Section 5. 4 Building Setbacks. No building shall be located on any Lot nearer to the front, rear or side lot lines than is permitted by Title 30, Snohomish County Unified Development Code. In any event, no building shall be located on any Lot nearer than twenty (20) feet to the front lot line, nearer than five (5) feet to the rear lot line, or nearer than five (5) feet to the side lot line.

Section 5.5 Easements. No structure, planting or other material shall be placed or permitted to remain within any easement of record that is specifically designed to be an easements for installation and maintenance of utilities and drainage facilities, which may damage or interfere with the installation or maintenance of such utilities or which may change the direction of flow of drainage in said easement, or which may obstruct or retard the flow of water through drainage channels in said easements. The easement area of each Lot and all Improvements on said easement shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

Section 5.6 Tree Removal. Removal of any tree by an Owner shall be limited to a tree which is located on the Owner’s Lot and (1) is less than twenty (20) feet in height, or (2) is dead, diseased or hazardous. All other trees, whether located on a Lot or in the Common Area, may be removed only with the approval of CSC or the Board, through the process described in Article 6, below.

Section 5.7 Business and Commercial Uses. No trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any Lot, nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service, or business be kept or stored on any Lot, except such use shall qualify as a Home Occupation in Urban Zone R-9,600, Snohomish County Code 30.28.050 and 30.22.100. Notwithstanding the foregoing, a Home Occupation shall be allowed only if, at the time of operation, the Home Occupation is a Permitted Use under the then-current zoning applicable to the Properties.

Section 5.8 Offensive Activities. No noxious or undesirable thing, activity or use of any Lot or Common Area shall be permitted which is offensive to the community, detracts from the value of neighboring properties, or is illegal.

Section 5.9 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept on a Lot, provided that the animals are not kept, bred or maintained for commercial purposes and are reasonably controlled so as not to be a nuisance.

Section 5.10 Signs. No signs may be placed in the Common Area or upon any Lot except for **political**, for sale, or for rent signs, or signs advertising special events. Such signs shall be temporary and shall not exceed 24 inches by 36 inches in size.

Section 5.11 Parked Vehicles and Equipment. (combined 3.10 & 3.11 sections from old)

- (a) No Owner shall permit a **boat, trailer, camper, construction equipment, recreational vehicle**, or like equipment to remain on any Lot or Common Area, except within the confines of an enclosed garage or behind a solid six-foot fence on a Lot. Notwithstanding the foregoing, any such vehicle may be parked in the driveway of a Lot for not more than 72 hours.
- (b) No Owner shall permit an Inoperable Vehicle to remain upon any Lot or Common Area for a period of more than **10 days**, PROVIDED, that this Subsection shall not apply to an Inoperable Vehicle that is parked behind a six-foot fence or in an enclosed garage.
- (c) No vehicle shall be parked on the front yard lawn of a Lot.
- (d) Parking on the street is regulated by State and County law. Enforcement matters may be referred to the Snohomish County Sheriff's Office or other law enforcement agency.

Section 5.12 Trash and Yard Waste Regulations. **No trash, yard waste, landscaping debris or rubbish of any kind ("Garbage") shall be discarded or thrown away in any street, right-of-way, Common Area, or another Member's Lot. A Member shall not discard, accumulate or store Garbage on his/her Lot where it is easily seen. Garbage shall be stored in appropriate sanitary containers and placed where not easily seen by other Members. A pet's solid waste shall not be left on any street, right-of-way, Common Area or Lot belonging to another Member, but shall be removed immediately by the pet's Owner or the Owner's representative and disposed of in a sanitary trash container or as otherwise required by County regulation.**

Section 5.13 Temporary Structures. No structure of a temporary character, trailer, tent, shed, garage, or other outbuilding shall be used on any Lot at any time as a residence.

Section 5.14 Structures in Common Area. No building, wall, fence, paving, landscaping or construction of any type shall be erected or maintained by an Owner so as to trespass or encroach upon

any tracts, Common Area, Open Space and/or Native Growth Protection Easements without permission from the Board.

Section 5.15 Completion of Construction. The construction of any building on any Lot, including painting and all exterior finish, shall be completed within twelve (12) months from the beginning of construction so as to present a finished appearance **when viewed from the street**. If undue hardship or weather conditions prevent timely completion, the Community Standards Committee may recommend extension of this deadline for a reasonable period upon the Member's written request.

Section 5.16 Completion of Landscaping. Extensive front yard landscaping projects must be completed within six (6) months of the project's start. Should severe weather or other unforeseen event prevent timely completion, the Community Standards Committee may recommend extension of this deadline for a reasonable period upon the Member's written request. Once the landscaping project is complete, unused materials must be removed from view.

Section 5.17 Fences and Hedges.

(a) **Appearance.** Fences shall not detract from the appearance of the dwelling houses within the development and shall be made of wood or have a **wood-like appearance**.

(b) **Fence and Hedge Height.** Any fence or sight-obscuring hedge (**see Definition of Sight-Obscuring**) located in the front yard or on the side lot lines forward of the building line with the greatest setback on the Lot, shall not exceed four (4) feet in height, unless the fence is the Common Fence, the fence or hedge serves as a barrier to Snohomish Cascade Drive, or the fence or hedge denotes the back yard property line of another Lot. The maximum height of a fence located on the remainder of a lot shall be six (6) feet.

(c) **At Street Intersections.** Sight-obscuring fences and sight-obscuring hedges near corners or intersections, must terminate within **fifteen (15) feet (comply with state law)** of intersection on each side of the corner so as to provide good visibility of approaching traffic, pedestrians or children at play.

Section 5.18 Exterior Materials and Finish. (combines 3.18 & 3.19 old)

All residences and other structures constructed upon a Lot shall be maintained so as to preserve the quality, characteristics, design and values of The Falls community.

(a) **Replacement Siding.** **Replacement siding** shall be cedar or a comparable wood or cement fiber product having the appearance of cedar and blending in appearance with other dwellings in the community. Plywood or metal siding is not acceptable. Other siding materials must be first approved by the **Board (?)** before installation.

(b) **Replacement Roofs.** Replacement **roofing materials** shall be of high-quality:

- (1) **Architectural composition shingles;**
- (2) Cedar shake;
- (3) **Clay** and concrete tile;
- (4) Other roofing materials as approved by the Board.

(c) **External Color.** **The external color of a dwelling shall blend to retain reasonable harmony of appearance in the community.**

Section 5.19 Antennas / Satellite Dishes / Solar Panels / Clothes Lines. Except as otherwise provided by RCW 64.90.510(3)-(7) or by FCC OTARD rules, exterior antennas, satellite dishes, solar panels, and clotheslines shall be located so as not to be easily seen from the street or the street front of a dwelling or Common Areas.

Section 5.20 Maintenance of Structures and Grounds. Each Owner shall maintain his Lot and residence thereon in a clean and attractive condition, in good repair and in such fashion as not to create a fire hazard. Tree branches that overhang the sidewalk shall provide at least eight feet of clearance from the ground. Shrubs and bushes shall not impede use of the sidewalk.

Section 5.21 Driveways. Driveway surfaces shall be constructed of exposed aggregate or concrete, provided that a driveway exceeding 25 feet in length may consist of asphalt leading to a concrete or exposed aggregate pad of at least 25 feet in length nearest the dwelling. Other driveway surface materials are subject to Board? approval.

NOTICE TO MEMBERS

SCHOA has the duty to interpret, apply and enforce the terms of this Restated Declaration, paying particular attention to the General Protective Covenants of Article V. To encourage compliance and foster a spirit of cooperation, the Board may form a Community Standards Committee (“CSC”) which shall advise the Board in its determination to approve or disapprove a Member’s proposed Project. You are strongly encouraged to read and become familiar with Article V and Article VI of this Restated Declaration. The Board and the CSC stand ready to assist you in obtaining approval for your Project before work begins.

ARTICLE VI

COMMUNITY STANDARDS COMMITTEE

Section 6.1 Community Standards Committee. The Board of Directors may appoint a Community Standards Committee (“CSC”) of three (3) or more Members of the Association, whose responsibility it shall be to review and recommend to the Board whether a proposed Project should be approved or disapproved. (See Section 1.13 for definition of “Project” or “Member Project”). (For the remainder of this Article VI, any reference to the “Community Standards Committee” or “CSC” shall mean the Board of Directors if the Board determines it will not organize a Community Standards Committee.)

Section 6.2 Elements to be Considered. The CSC should consider and compare, among other things, quality, colors, shapes and other relevant characteristics of dwellings and other buildings in determining whether a Project is in reasonable harmony with the Community’s standard for design and appearance.

Section 6.3 Application for Project Approval. A Member seeking Project approval (“Applicant”) from the Community Standards Committee shall submit in writing a description of the Project with relevant supporting data, sufficient to apprise the CSC of the nature, scope and intended appearance of the Project. If the Project is the construction or reconstruction of a dwelling, the application shall include

a site plan, building plans, specifications, and a list of exterior materials to be used including type of roofing material, siding material and paint color; and, if available, pictures of similarly finished structures.

Section 6.4 Pre-start Approval. No Project shall be commenced or placed upon any Lot, unless:

- (a) The Community Standards Committee has recommended in writing approval of the Project and the Member has agreed in writing with the recommendation; or
- (b) The Community Standards Committee recommended denial of the project, the Project was appealed to the Board of Directors, and the Board in the appeal reversed the CSC and approved the Project.

Section 6.5 Determining Approval.

(a) **Test for Project Approval.** The test that CSC and the Board shall use to determine whether to approve or disapprove a proposed Member Project is:

- (1) Whether the Project complies, or upon completion, will comply with applicable restrictions contained in Article V, General Protective Covenants, and
- (2) Whether the design and appearance of the Member Project is in reasonable harmony with the Community's design and appearance.

(b) **Test for Tree Cutting Approval.** The test used by the CSC and the Board for determining whether a tree should be cut down, as proposed by a Member, is:

- (1) Whether, to date, the Member has complied with the limitations of Section 5.5, Tree Removal, and
- (2) Whether cutting the tree down is in the best interests of the Association and the Member seeking approval.

(c) **Test for Extension of Construction or Landscaping Deadline:** The test CSC or the Board shall use in determining whether to extend a Member's deadline for completing construction or completing a landscaping project is whether the request is in the best interests of the Association and the Member seeking the extension.

Section 6.6 Timing of Decision. The CSC's written recommendation regarding a Member's proposed Project shall be sent to the Applicant within fourteen (14) days of the Committee's receipt of a complete application. Upon the Member's request, the Committee shall provide the Member with a receipt (1) establishing that the Member has delivered a complete application to the Association, and (2) confirming the date on which the complete application was received by the CSC. After fourteen days from receipt of application, if no decision is rendered in writing, the Member may, at the Member's option, send a request for decision to the CSC, including therewith a copy of the receipt of complete application. If a written decision by the CSC is not delivered within seven (7) days following the request for decision, the decision on the matter shall be deemed approved by the Board, and the Applicant may go forward with his or her Project as if the Committee or Board had actually approved the Project.

Section 6.7 Appeal to Board of Directors.

(a) Within 10 days of the Community Standards Committee's transmission of its decision recommending rejection of the Applicant's Project, the Applicant may appeal the CSC's recommendation of rejection to

the Board. The appeal is announced by Applicant's personal service or by email delivery of a written notice of appeal to at least one Board Member and to at least one member of the CSC.

(b) The date and time of the appeal hearing shall be established by agreement between the Applicant and the Board. Notice of the hearing shall be delivered to all Members of the Association no less than 14 days before the hearing.

Section 6.8 Appeal Hearing. At the Appeal Hearing, the Applicant shall provide the Board with a copy of the complete Application. The Applicant shall be entitled to introduce any additional relevant evidence he or she believes necessary. Any Association Member shall be entitled to testify for or against the Applicant's proposed Project. Following the Appeal Hearing, the Board shall review the evidence, together with CSC's recommendation, if any, and render a decision within ten (10) days of the conclusion of the hearing. If a decision is not delivered within ten (10) days, the Project shall be deemed approved by the Board, and the Applicant may go forward with his or her Project as if the Board had actually approved the Project.

Section 6.9 Project Subject to Future Challenge. A Member who engages in a Project without first having received approval of the Project by the Community Standards Committee or the Board of Directors and that Member's Project, within six (6) months of completion, receives at least five (5) written objections from five (5) Members of the Association, each of whom own different Lots, but none of whom shall be Board members, shall be subject to a hearing before the Board of Directors. Notice of the hearing must be given by the Board to all Association Members not less than 14 days nor more than 50 days prior to the hearing. Members are invited to express their comments and opinions on the Project. The Board shall render a decision based on the complaints of the five (5) Members and the facts established at the hearing. The Board shall render its final decision *retroactively*, as if the hearing had been held before the Project began, without respect to the cost or complications of undoing that which was wrongfully done by not obtaining approval from the Community Standards Committee or the Board before implementation.

Article VII

ASSESSMENTS (article VII in old)

Section 7.1 Purpose of Assessment. SCHOA shall maintain or provide for the maintenance of the Common Areas. The assessments provided for herein shall be used for the general purposes of paying bills incurred by SCHOA and promoting the Owners' recreation, health, safety, welfare, common benefit and enjoyment derived of the Common Areas. The annual assessment may not be increased by more than 10% without an affirmative majority vote of the members (156 of 310).

Section 7.2 Personal Obligation. Each Owner, by acceptance of a deed to his or her Lot, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association:

- (a) Annual assessments, equal in amount to all Lots or;
- (b) Special assessments, as defined below;
- (c) Specific assessments against a particular Lot which are established pursuant to the terms of this Restated Declaration, including but not limited to reasonable fines as may be imposed in accordance with the terms of this Restated Declaration.

(1) All such assessments, together with late charges, interest set by the Board not to exceed the maximum rate permitted by law and costs including, without limitation, reasonable attorney's fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made.

(2) Each such assessment, together with late charges, interest, costs, including without limitation, reasonable attorney's fees actually incurred, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due. Each Owner shall be personally liable for the portion of each assessment coming due while the Owner of a Lot, and each payable at the time of conveyance; provided, however the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings or deed in lieu of foreclosure.

(3) The Association shall within five (5) days after receiving a written request therefor and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot shall be binding upon the Association as of the date of issuance.

(d) Assessments for common expenses and those specially allocated expenses that are subject to inclusion in a budget must be made at least annually based on a budget adopted at least annually by the Association in the manner provided in RCW 64.90.525.

(e) Except as provided otherwise in this section, all common expenses must be assessed equally against all the Lots. Any past due assessment or installment of past due assessment bears interest at the rate established by the Association pursuant to RCW 64.90.485.

(f) To the extent that any expense of the Association is caused by willful misconduct or gross negligence of any Owner or that Owner's tenant, guest, invitee, or occupant, the Association may assess that expense against Owner's Lot after notice and an opportunity to be heard, even if the Association maintains insurance with respect to that damage or common expense.

(g) To the extent that any expense of the Association is caused by the negligence of any Owner or that Owner's tenant, guest, invitee, or occupant, the Association may assess that expense against the Owner's Lot after notice and an opportunity to be heard, to the extent of the Association's deductible and any expenses not covered under an insurance policy issued to the Association.

Section 7.3 Accounts and Records – Reconciliation.

(a) The Association must establish and maintain its accounts and records in a manner that will enable it to credit assessments for common expenses and specially allocated expenses, including allocations to reserves, and other income to the Association, and to charge expenditures, to the account of the appropriate Lots in accordance with the provisions of this Restated Declaration.

(b) To assure that the Members are correctly assessed for the actual expenses of the Association, the accounts of the Association must be reconciled at least annually, unless the Board determines that a reconciliation will not result in a material savings to any Member. Unless provided otherwise in this Restated Declaration any surplus funds of the Association remaining after the payment or provision for common expenses and any prepayment of reserves must be paid annually to the Members in proportion to their common expense liabilities or credited to them to reduce their future common expense assessments.

Section 7.4 Liens, Enforcement. (8.1 in old)

- (a) The Association has a statutory lien on each Lot for any unpaid assessment against the Lot from the time such assessment is due.
- (b) A lien under this section has priority over all other liens and encumbrances on a Lot except:
- (1) Liens and encumbrances recorded before the recordation of the declaration;
 - (2) Except as otherwise provided in subsection (3) of this section, a security interest on the Lot recorded before the date on which the unpaid assessment became due;
 - (3) Liens for real estate taxes and other state or local governmental assessments or charges against the Lot.
- (c) (1) A lien under this section also has priority over the security interests described in subsection (2)(b) of this section to the extent of an amount equal to the following:
- (i) The common expense assessments, excluding any amounts for capital improvements, based on the periodic budget adopted by the Association pursuant to RCW 64.90.480(1), along with any specially allocated assessments that are properly assessable against the Lot under such periodic budget, which would have become due in the absence of acceleration during the six months immediately preceding the institution of proceedings to foreclose either the Association's lien or a security interest described in subsection (2)(b) of this section;
 - (ii) The Association's actual costs and reasonable attorneys' fees incurred in foreclosing its lien but incurred after the giving of the notice described in (a)(iii) of this subsection.
 - (iii) The amounts described in (a)(ii) of this subsection shall be prior only to the security interest of the holder of a security interest on the Lot recorded before the date on which the unpaid assessment became due and only if the Association has given that holder not less than sixty days' prior written notice that the Owner of the Lot is in default in payment of an assessment. The notice shall contain:
 - (A) Name of the borrower;
 - (B) Recording date of the trust deed or mortgage;
 - (C) Recording information;
 - (D) Legal description of the Lot;
 - (E) Amount of unpaid assessment; and
 - (F) A statement that failure to, within sixty days of the written notice, submit the Association payment of six months of assessments as described in (a)(i) of this subsection will result in the priority of the amounts described in (a)(ii) of this subsection; and
 - (iv) Upon payment of the amounts described in (a)(i) and (ii) of this subsection by the holder of a security interest, the Association's lien described in this subsection (3)(a) shall thereafter be fully subordinated to the lien of such holder's security interest on the Lot.
- (2) For the purposes of this subsection:
- (i) "Institution of proceedings" means either:

- (A) The date of recording of a notice of trustee's sale by a deed of trust beneficiary;
 - (B) The date of commencement, pursuant to applicable court rules, of an action for judicial foreclosure either by the Association or by the holder of a recorded security interest; or
 - (C) The date of recording of a notice of intention to forfeit in a real estate contract forfeiture proceeding by the vendor under a real estate contract.
- (ii) "Capital improvements" does not include making, in the ordinary course of management, repairs to common elements or replacements of the common elements with substantially similar items, subject to:
- (A) Availability of materials and products,
 - (B) Prevailing law, or
 - (C) Sound engineering and construction standards then prevailing.
- (3) The adoption of a periodic budget that purports to allocate to a Lot any fines, late charges, interest, attorneys' fees and costs incurred for services unrelated to the foreclosure of the Association's lien, other collection charges, or specially allocated assessments assessed under RCW 64.90.480(6) or (7) does not cause any such items to be included in the priority amount affecting such Lot.
- (d) Subsections (2) and (3) of this section do not affect the priority of mechanics' or material suppliers' liens to the extent that law of this State other than chapter 277, Laws of 2018 gives priority to such liens, or the priority of liens for other assessments made by the Association.
- (e) A lien under this section is not subject to chapter 6.13 RCW.
- (f) If the Association forecloses its lien under this section nonjudicially pursuant to chapter 61.24 RCW, as provided under subsection (13) of this section, the Association is not entitled to the lien priority provided for under subsection (3) of this section, and is subject to the limitations on deficiency judgments as provided in Chapter 61.24 RCW.
- (g) Recording of the declaration constitutes record notice and perfection of the statutory lien created under this section. Further notice or recordation of any claim of lien for assessment under this section is not required, but is not prohibited.
- (h) A lien for unpaid assessments and the personal liability for payment of those assessments are extinguished unless proceedings to enforce the lien or collect the debt are instituted within six years after the full amount of the assessments sought to be recovered becomes due.
- (i) This section does not prohibit actions against Owners to recover sums for which subsection (1) of this section creates a lien or prohibit an Association from taking a deed in lieu of foreclosure.
- (j) The Association upon written request must furnish to an Owner or a mortgagee a statement signed by an officer or authorized agent of the Association setting forth the amount of unpaid assessments or the priority amount against that Lot, or both. The statement must be furnished within fifteen days after receipt of the request and is binding on the Association, the Board, and every Owner unless, and to the extent, known by the recipient to be false. The liability of a recipient who reasonably relies upon the statement must not exceed the amount set forth in any statement furnished pursuant to this section or RCW 64.90.640(1)(b).
- (k) The Association's lien may be foreclosed in accordance with (a) and (b) of this subsection.

(1) The Association's lien may be foreclosed judicially in accordance with chapter 61.12 RCW, subject to any rights of redemption under chapter 6.23 RCW.

(2) The lien may be enforced nonjudicially in the manner set forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of trust. ~~For the purpose of preserving the Association's non-judicial foreclosure option, this Declaration shall be considered to create a grant of each Unit in trust to First American Title Insurance Company or its successors or assigns ("Trustee"), to secure the obligations of each lot Owner to the Association for the payment of Assessments. Each lot Owner shall retain the right to possession of its Lot so long as Grantor is not in default of an obligation to pay Assessments. The Trustee shall have a power of sale with respect to each Lot, which becomes operative in the case of a default in a Lot Owner's obligation to pay Assessments. The Lots are not used principally for agricultural or farming purposes. If the Association forecloses its lien non-judicially pursuant to this Section 7.4, it shall not be entitled to the lien priority over Mortgages provided in Section 7.4(c)(1) and shall be subject to limits on deficiency judgments under chapter 61.24 RCW. if the declaration: Contains a grant of the common interest community in trust to a trustee qualified under RCW 61.24.010 to secure the obligations of the Owners to the Association for the payment of assessments, contains a power of sale, provides in its terms that the Lot is not used principally for agricultural purposes, and provides that the power of sale is operative in the case of a default in the obligation to pay assessments. The Association or its authorized representative may purchase the Lot at the foreclosure sale and acquire, hold, lease, mortgage, or convey the Lot. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption is eight months. (add language, scratch, 8/27/20, Leahy)~~

(l) In an action by an Association to collect assessments or to foreclose a lien on a Lot under this section, the court may appoint a receiver to collect all sums alleged to be due and owing to an Owner before commencement or during pendency of the action. The receivership is governed under chapter 7.60 RCW. During pendency of the action, the court may order the receiver to pay sums held by the receiver to the Association for any assessments against the Lot. The exercise of rights under this subsection by the Association does not affect the priority of preexisting liens on the Lots.

(m) Except as provided in subsection (3) of this section, the holder of a mortgage or other purchaser of a Lot who obtains the right of possession of the Lot through foreclosure is not liable for assessments or installments of assessments that became due prior to such right of possession. Such unpaid assessments are deemed to be common expenses collectible from all the Owners, including such mortgagee or other purchaser of the Lot. Foreclosure of a mortgage does not relieve the prior Owner of personal liability for assessments accruing against the Lot prior to the date of such sale as provided in this subsection.

(n) In addition to constituting a lien on the Lot, each assessment is the joint and several obligation of the Owner of the Lot to which the same are assessed as of the time the assessment is due. An Owner may not exempt himself or herself from liability for assessments. In a voluntary conveyance other than by foreclosure, the grantee of a Lot is jointly and severally liable with the grantor for all unpaid assessments against the grantor up to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee. Suit to recover a personal judgment for any delinquent assessment is maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

(o) The Association may from time to time establish reasonable late charges and a rate of interest to be charged, not to exceed the maximum rate calculated under RCW 19.52.020, on all subsequent delinquent assessments or installments of assessments. If the Association does not establish such a rate,

delinquent assessments bear interest from the date of delinquency at the maximum reiterate calculated under RCW 19.52.020 on the date on which the assessments became delinquent.

(p) The Association is entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent assessments, whether or not such collection activities result in a suit being commenced or prosecuted to judgment. The prevailing party is also entitled to recover costs and reasonable attorneys' fees in such suits, including any appeals, if it prevails on appeal and in the enforcement of a judgment.

(q) To the extent not inconsistent with this section, the declaration may provide for such additional remedies for collection of assessments as may be permitted by law.

(r) An Association may not commence an action to foreclose a lien on a Lot under this section unless:

(1) The Lot's Owner, at the time the action is commenced, owes a sum equal to at least 25 percent of common expense assessments; and

(2) The Board approves commencement of a foreclosure action specifically against that Lot.

(s) Every aspect of a collection, foreclosure, sale, or other conveyance under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

Section 7.5 Special Assessments. (Where is this addressed in old documents? Bylaws?)

(a) (1) Within thirty days after adoption of any proposed budget for the common interest community, the board must provide a copy of the budget to all the unit owners and set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen nor more than fifty days after providing the budget. Unless at that meeting the unit owners of units to which a majority of the votes in the association are allocated or any larger percentage specified in the declaration reject the budget, the budget and the assessments against the units included in the budget are ratified, whether or not a quorum is present.

(2) If the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the unit owners continues until the unit owners ratify a subsequent budget proposed by the board.

(b) The budget must include:

(1) The projected income to the association by category;

(2) The projected common expenses and those specially allocated expenses that are subject to being budgeted, both by category;

(3) The amount of the assessments per unit and the date the assessments are due;

(4) The current amount of regular assessments budgeted for contribution to the reserve account;

(5) A statement of whether the association has a reserve study that meets the requirements of RCW 64.90.550 and, if so, the extent to which the budget meets or deviates from the recommendations of that reserve study; and

(6) The current deficiency or surplus in reserve funding expressed on a per unit basis.

(c) The board, at any time, may propose a special assessment. The assessment is effective only if the board follows the procedures for ratification of a budget described in subsection (1) of this section and

the unit owners do not reject the proposed assessment. The board may provide that the special assessment may be due and payable in installments over any period it determines and may provide a discount for early payment.

ARTICLE VIII

ASSOCIATION'S RECORDS (new - not in original)

Section 8.1. Mandatory Retention. An association must retain the following:

- (a) The current budget, detailed records of receipts and expenditures affecting the operation and administration of the association, and other appropriate accounting records within the last seven years;
- (b) Minutes of all meetings of its Owners and board other than executive sessions, a record of all actions taken by the Owners or board without a meeting, and a record of all actions taken by a committee in place of the board on behalf of the association;
- (c) The names of current Owners, addresses used by the association to communicate with them, and the number of votes allocated to each Lot;
- (d) Its original or restated declaration, organizational documents, all amendments to the declaration and organizational documents, and all rules currently in effect;
- (e) All financial statements and tax returns of the association for the past seven years;
- (f) A list of the names and addresses of its current board members and officers;
- (g) Its most recent annual report delivered to the secretary of state, if any;
- (h) Financial and other records sufficiently detailed to enable the association to comply with RCW 64.90.640;
- (i) Copies of contracts to which it is or was a party within the last seven years;
- (j) Materials relied upon by the board or any committee to approve or deny any requests for design or architectural approval for a period of seven years after the decision is made;
- (k) Materials relied upon by the board or any committee concerning a decision to enforce the governing documents for a period of seven years after the decision is made;
- (l) Copies of insurance policies under which the association is a named insured;
- (m) Any current warranties provided to the association;
- (n) Copies of all notices provided to Owners or the association in accordance with this chapter or the governing documents; and
- (o) Ballots, proxies, absentee ballots, and other records related to voting by Lot Owners for one year after the election, action, or vote to which they relate.

Section 8.2. Right to Examine. Subject to Sections 8.3 and 8.4, below, all records required to be retained by an association must be made available for examination and copying by all Owners, holders of mortgages on the Lots, and their respective authorized agents as follows, unless agreed otherwise:

- (a) During reasonable business hours or at a mutually convenient time and location; and
- (b) At the offices of the association or its managing agent.

Section 8.3.Exception to Right to Examine. Records retained by an association may be withheld from inspection and copying to the extent that they concern:

- (a) Personnel and medical records relating to specific individuals;
- (b) Contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated;
- (c) Existing or potential litigation or mediation, arbitration, or administrative proceedings;
- (d) Existing or potential matters involving federal, state, or local administrative or other formal proceedings before a governmental tribunal for enforcement of the governing documents;
- (e) Legal advice or communications that are otherwise protected by the attorney-client privilege or the attorney work product doctrine, including communications with the managing agent or other agent of the association;
- (f) Information the disclosure of which would violate a court order or law; [2020-1-8 FINAL Draft Restated Declaration - 35](#)
- (g) Records of an executive session of the board;
- (h) Individual files other than those of the requesting Owner;
- (i) Unlisted telephone number or electronic address of any Owner or resident;
- (j) Security access information provided to the association for emergency purposes; or
- (k) Agreements that for good cause prohibit disclosure to the members.

Section 8.4. Reasonable Charge. An association may charge a reasonable fee for producing and providing copies of any records under this section and for supervising the Owner's inspection.

Section 8.5. Policies Regarding Records.

- (a) A right to copy records under this section includes the right to receive copies by photocopying or other means, including through an electronic transmission if available upon request by the Owner.
- (b) An association is not obligated to compile or synthesize information.
- (c) Information provided pursuant to this section may not be used for commercial purposes.

Section 8.6 Property Management's Duty Re: Association's Records. An association's property manager must deliver all of the association's original books and records to the association immediately upon termination of its management relationship with the association, or upon such other demand as is made by the board. A property manager may keep copies of the association's records at his or her own expense.

ARTICLE IX

INSURANCE and CASUALTY LOSS (new - not in original)

Section 9.1 Insurance Coverage. The Board of Directors or the duly authorized agent of the Association shall have the authority to and shall cause to be obtained insurance as follows:

- (a) Property insurance on the Common Areas, insuring against risks of direct physical loss commonly insured against, which insurance, after application of any deductibles, must be not less than eighty percent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies;
- (b) Commercial general liability insurance, including medical payments insurance, in an amount determined by the Board, covering all occurrences commonly insured against for bodily injury and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements;
- (c) Fidelity insurance; and
- (d) Other insurance as deemed necessary by the board.

Section 9.2 Reasonable availability. If the insurance described in Section 9.1, above, is not reasonably available, the Association must promptly cause notice of that fact to be given to all unit owners. The Association may carry any other insurance it considers appropriate to protect the Association or the Owners.

Section 9.3 Coverage. Insurance policies carried pursuant to Section 9.1 must provide that:

- (a) Each Owner is an insured person under the policy with respect to liability arising out of the Owner's interest in the Common Areas or membership in the Association;
- (b) The insurer waives its right to subrogation under the policy against any Owner or Member of the Owner's household;
- (c) Any act or omission by an Owner, unless acting within the Owner's scope of authority on behalf of the Association, does not void the policy and is not a condition to recovery under the policy; and
- (d) If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

Section 9.4 Insurance Proceeds. Any loss covered by the property insurance policy under Section 9.1 herein must be adjusted with the Association, but the insurance proceeds for that loss are payable to the Association, and not to any holder of a security interest. The Association must hold any insurance proceeds in trust for the Association, Owners, and lienholders as their interests may appear. Subject to Section 9.6 herein, the proceeds must be disbursed first for the repair or replacement of the damaged property, and the Association, Owners, and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or replaced, or the Association is terminated.

Section 9.5 Proof of Insurance. An insurer that has issued an insurance policy under this section must issue certificates or memoranda of insurance to the Association and, upon a request made in a record, to any Owner or holder of a security interest. The insurer issuing the policy may not modify the amount or the extent of the coverage of the policy or cancel or refuse to renew the policy unless the

insurer has complied with all applicable provisions of chapter 48.18 RCW pertaining to the cancellation or nonrenewal of contracts of insurance. The insurer may not modify the amount or the extent of the coverage of the policy or cancel or refuse to renew the policy without complying with this section.

Section 9.6 Repair or Replacement. Any portion of the common interest community for which insurance is required under this section that is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- (a) The common interest community is terminated, in which case RCW 64.90.290 applies;
- (b) Repair or replacement would be illegal; or
- (c) Eighty percent of the Owners, including each Owner whose Lot shall not be rebuilt, vote to rebuild.

Section 9.7 Common Expense. The cost of repair or replacement not paid from insurance proceeds is a common expense. If all of the damaged or destroyed portions of the common interest community are not repaired or replaced:

- (a) The insurance proceeds attributable to the damaged Common Areas must be used to restore the damaged area to a condition compatible with the remainder of the common interest community; and
- (b) Except to the extent that other persons will be distributes, the insurance proceeds attributable to damaged Lots and, thus, Lots which will not be repaired, must be distributed to their Owners.

Section 9.8 Decision not to rebuild. If the Owners vote not to rebuild a Lot, that Lot's allocated share of common expenses shall be divided equally among the remaining Lots in the Plat.

Section 9.9 Damage and Destruction – Insured by Association. Immediately after damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. The Board shall have the enforcement powers specified in this Declaration necessary to enforce this provision.

- (a) Any damage or destruction to property covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least fifty one percent (51%) of the Total Association Vote otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as the result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.
- (b) If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Association's members, levy a special assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like

manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited for the benefit of the Association.

(c) In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the property shall be restored to its natural state and maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition.

Section 9.10 Damage and Destruction – Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction. In the event of noncompliance with this provision, the Board shall have all enforcement powers specified herein.

(a) The deductible for any casualty insurance policy carried by the Association shall, in the event of damage or destruction, be allocated among the Persons who are responsible hereunder, or be a common expense of the Association.

ARTICLE X

CONDEMNATION

After 60 days following a taking by eminent domain, the Association may restore, reconstruct or replace on any of the remaining Common Area such improvements as were taken, to the extent lands are available therefor. The decision so to act must be approved by at least fifty-one percent (51%) of the votes allocated in the Association. If the determination to restore, reconstruct or replace does not pass, the Association shall assure the remaining improvements are safe to use and thereafter maintain the same in the remaining Common Area. If the improvements or Common Area cannot be so used and maintained, then, the Association shall demolish all improvements and remove all debris therefrom within seventy-five (75) days after such damage or destruction.

DATED this day: _____

SNOHOMISH CASCADE

HOMEOWNERS' ASSOCIATION

By: _____

Tami Zevenberger, President

CERTIFICATE OF SECRETARY

THE UNDERSIGNED hereby certifies that he/she is the Secretary of the Snohomish Cascade Homeowners' Association, and that the foregoing-Restated Declaration of Snohomish Cascade Homeowners' Association for Divisions I, II, III and IIIA has been duly adopted by an affirmative vote of at least sixty-seven percent (67%) of votes allocated in the Association (208 of 310) at a Member Meeting held for this purpose on _____ 2020.

SNOHOMISH CASCADE

HOMEOWNERS' ASSOCIATION

By: _____

Michelle Haneberg, Secretary 2020-1-8 FINAL Draft Restated Declaration - 41

STATE OF WASHINGTON)

) ss.

COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that Tami Zevenbergen is the person who appeared before me, and said person acknowledged that she signed this instrument, and on oath stated that she was authorized to execute the instrument as the President of Snohomish Cascade Homeowners' Association to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

Notary Public for the State of Washington.

My appointment expires: _____

STATE OF WASHINGTON)

) ss.

COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that Michelle Haneberg is the person who appeared before me, and said person acknowledged that she signed this instrument, and on oath stated that she was authorized to execute the instrument as the Secretary of Snohomish Cascade Homeowners' Association to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

Notary Public for the State of Washington.

My appointment expires: _____