

**AFTER RECORDING, RETURN TO:**

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**AMENDED & RESTATED DECLARATION  
FOR CAPITOL CITY GOLF CLUB ESTATES**

GRANTOR(S):	CAPITOL CITY GOLF CLUB ESTATES ASSOCIATION, a Washington nonprofit corporation
GRANTEE(S):	CAPITOL CITY GOLF CLUB ESTATES ASSOCIATION, a Washington nonprofit corporation; CAPITOL CITY GOLF CLUB ESTATES; THE GENERAL PUBLIC
ABBREVIATED LEGAL DESCRIPTION:	CAPITOL CITY GOLF CLUB ESTATES, VOL 14 OF PLATS, PGS. 50-55, THURSTON COUNTY AUDITOR'S NO. 668071, AS AMENDED OF RECORD

**AMENDED & RESTATED DECLARATION  
FOR CAPITOL CITY GOLF CLUB ESTATES**

WHEREAS, on December 26, 1962, an instrument titled "Covenants Applicable to Capitol City Golf Club Estates" was recorded in the real property records of Thurston County at Volume 369 of Deeds, Pages 220-232 (as amended by the First, Second and Third Amendments, the "Original Declaration") and, on December 2, 1962, a Plat Map for Capitol City Golf Club Estates was recorded in the real property records of Thurston County at Volume 14 of Plats, Pages 50-55 (as amended of record, the "Plat Map"), thereby submitting the real property set forth in the Plat to the covenants set forth in the Original Declaration; and

WHEREAS, the Plat Map was corrected by an instrument recorded on June 18, 1963, at Thurston County Auditor's No. 679936 and, on March 23, 1987, an instrument titled "Amended Plat of Capitol City Golf Club Estates" was recorded at Volume 23 of Plats, Pages 16-21, Thurston County Auditor's No. 8703230152; and

WHEREAS, the Original Declaration was amended three (3) times by recorded instruments, each one wholly amending, superseding and replacing the version of the Original Declaration that preceded it. The first instrument, titled "Amended Declaration of Covenants, Conditions and Restrictions of Capitol City Golf Club Estates," was recorded December 16, 1977, at Thurston County Auditor's No. 1021104. The second instrument, titled "Second Amended Declaration to Covenants, Conditions and Restrictions of Capitol City Golf Club Estates," was recorded November 20, 1987, at Thurston County Auditor's No. 8711200083. The third instrument, titled "Third Amended Declaration of Covenants, Conditions and Restrictions of Capitol City Golf Club Estates," was recorded December 22, 2005 at Thurston County Auditor's No. 3795417; and

WHEREAS, since it was originally recorded, the Declaration has served to direct the Capitol City Golf Club Estates Association in meeting the purposes for which it was created, including but not limited to, the provision of services to members, and enforcement of the protective covenants and architectural controls that similarly burden and benefit all Association members; and

WHEREAS, while purporting to be restatements of the Original Declaration, prior amendments thereto failed to recognize the assigned and existing uses of certain Lots as residential, commercial, single-family or multifamily and failed to restate critical provisions relating to common areas and assessments; and

WHEREAS, to incorporate numerous changes and improvements, the Board of Trustees has proposed, and at least a majority (expressed as 51%) of the Owners have approved this Amended & Restated Declaration by written consent; and

WHEREAS, out of an abundance of caution, all Owners of Lots, the residential or commercial use restrictions of which have been clarified or changed, have approved this Amended & Restated Declaration by written consent; and

WHEREAS, the Board of Trustees believes the amendments contained herein are in the best interests of the Association.

NOW THEREFORE, the President and Secretary of the Association Board of Trustees certify that the Original Declaration shall be amended in the following particulars:

- A. ***AMENDED & RESTATED. The Original Declaration, including all amendments thereto, shall be completely amended, restated, and replaced by this Amended & Restated Declaration.***
- B. ***PLAT MAP UNCHANGED. The Plat Map and legal description of the real property in Capitol City Golf Club Estates, as amended, is unchanged hereby. However, references to Lots that may not appear on the Plat Map are made herein due to subdivision of certain Lots occurring after the recording of the Plat Maps that are not reflected in an amendment to the Plat Map, but which are reflected in Exhibits B and C to this Amended & Restated Declaration.***
- C. ***EFFECTIVE DATE. This Amended & Restated Declaration shall take effect upon recording.***

**AMENDED & RESTATED DECLARATION  
FOR CAPITOL CITY GOLF CLUB ESTATES**

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## ARTICLE 1. DEFINITIONS

1.1 Words Defined. For the purposes of this Declaration, the following definitions shall apply. The singular form of words shall include the plural and the plural shall include the singular. Masculine, feminine, and gender-neutral pronouns shall be used interchangeably. The definitions in this Declaration are not intended to limit or contradict the definitions in the Homeowners Association Act, but may be intended to clarify or supplement those definitions and shall be interpreted to be consistent with the Act wherever possible.

1.2 “Accessory Building” shall mean any building or structure on a Lot other than the Residence that is intended to be permanent, including detached garages, permanent storage sheds, greenhouses, and outdoor living spaces such as gazebos and other similar structures.

1.3 “Act” or “HOA Act” shall mean the Washington Homeowners Association Act, Chapter 64.38 of the Revised Code of Washington, as it may be amended from time to time.

1.4 “Architectural Compliance Committee” or “ACC” shall mean a committee of the Board designated by that name, or, in the absence of such committee, shall mean the Board.

1.5 “Assessments” shall mean all sums chargeable by the Association against a Lot, Unit, or Owner thereof, including, without limitation: (a) regular and special Assessments for Common Expenses; (b) charges and fines levied by the Association; (c) fees charged for services; (d) interest and late charges on any delinquent account; and (e) any and all costs incurred by the Association, including attorneys’ fees, in connection with the collection of delinquent assessments or enforcement of any provision of the Governing Documents.

1.6 “Association” shall mean the non-profit corporation and any successor entity thereof, identified in ARTICLE 10 organized to manage the affairs of Capitol City Golf Club Estates consistent with the Act and the Governing Documents, the membership of which is comprised of all Lot Owners.

1.7 “Association Records” shall mean the records required to be kept and made available to Owners for review as further provided in Section 17.2.

1.8 “Board of Trustees” or “Board” shall mean the governing body of the Association by whatever name designated.

1.9 “Bylaws” shall mean the bylaws of the Association, as amended from time to time.

1.10 “Capitol City Golf Club Estates” shall mean the mixed-use development created pursuant to the Plat Map and the Original Declaration.

1.11 “Capital Improvement” shall mean an addition or significant improvement to Capitol City Golf Club Estates that is not for the purposes of restoring, repairing or replacing pre-existing portions of the Common Areas.

1.12 “Commercial Lot” shall mean a Lot restricted to non-residential use as identified and further described in ARTICLE 5.

1.13 “Common Areas” shall mean all portions of the Property that are not Lots as further described in ARTICLE 6.

1.14 “Common Expenses” shall mean all expenditures made by or financial liabilities of the Association, including any allocations to reserves, as further described in Section 12.1.

1.15 “Declaration” shall mean this Amended & Restated Declaration for Capitol City Golf Club Estates, and any subsequent amendments thereto.

1.16 “Governing Documents” shall mean the collective group of documents that control the governance and administration of Capitol City Golf Club Estates and the Association, consisting of this Declaration, the Plat Map, the Bylaws, the Articles of Incorporation, and the Rules, as any of them may be amended from time to time.

1.17 “Individually Allocated Assessment” shall mean an Assessment that is levied upon one or more individual Owners in accordance with the Act, WUCIOA, or this Declaration, whether considered a Common Expenses or not.

1.18 “Lease” or “Leasing” shall mean the grant of an exclusive right to use or occupy a Lot or Residence to a non-Owner in exchange for receiving money or other goods or services of value, regardless of the duration of the lease or rental, the form of agreement, or payor; provided that co-habitation with a Lot’s Owner is not Leasing, co-ownership of a Lot is not Leasing, and provided that occupation of a Lot by a person who is closely related to the Lot Owner by blood, marriage, domestic partnership or lawful adoption is not Leasing.

1.19 “Lot” shall mean any parcel of real property within the Estates designated for separate ownership as shown on the Plat Map or as described in Section 4.2 (Single-Family Lots), Section 4.3 (Multi-Family Lots) and Section 5.1 (Commercial Lots), but shall not include Common Areas.

1.20 “Managing Agent” shall mean a person or entity engaged by the Board on behalf of the Association to assist in administration or management of any portion of Capitol City Golf Club Estates or the Association.

1.21 “Mortgage” shall mean a recorded mortgage, deed of trust or real estate installment sales contract against any Lot or Unit.

1.22 “Multi-Family Lot” shall mean a Lot intended for multi-family use and upon which a multi-family building has been constructed as of the date of the recording of this Declaration, as further described in Section 4.3.

1.23 “Notice and Opportunity to be Heard” shall mean the enforcement procedures established by Rule, consistent with the Act, this Declaration, and the Bylaws, that provide Owners with written notice of any alleged wrongdoing or responsibility and an opportunity to be heard before the Board or such representatives designated by the Board, prior to the levy of any fine or Individually Allocated Assessment.

1.24 “Officer” shall mean the president, vice-president, secretary and treasurer of the Association, as elected or appointed by the Trustees.

1.25 “Original Declaration” shall mean the “Covenants Applicable to Capitol City Golf Club Estates”, recorded in Thurston County at Thurston County Recording Number 670745, and any amendments thereto prior to the effective date of this Declaration.

1.26 “Owner” shall mean the person holding fee simple title to any Lot or Unit, including any natural person, corporation, partnership, limited liability company, association, trustee or other legal entity; or in the event any Lot or Unit is sold under a real estate installment sales contract, the record vendee or vendees under said contract, but not including those having an interest in the Lot or Unit merely as security for the performance of an obligation.

1.27 “Passenger Vehicle” shall mean a motor vehicle designed to transport people over land and shall include any motorcycle, car, passenger van, two-axel truck, golf cart, or any other similar type of vehicle as defined in the Rules. “Passenger Vehicle” does not include Recreational Vehicles or commercial vehicles.

1.28 “Plat Map” shall mean the original plat map creating Capitol City Golf Club Estates, recorded at Thurston County Recording No. 668071, the “correction” recorded at Thurston County Recording No. 669686, the Amended Plat, recorded at Thurston County Recording No. 8703230152, and any subsequent recorded amendments, additions, or adjustments thereto.

1.29 “Property” or “Estates” shall mean the real property comprising Capitol City Golf Club Estates, legally described in the Plat Map, including all buildings, improvements and structures thereon, except any real property deeded and/or dedicated to the City, all of which is subject to the provisions of this Declaration.

1.30 “Recreational Vehicle” shall mean a vehicle designed for the purpose of recreation and includes motor homes, campers, RVs, all-terrain vehicles, and trailers (whether or not the trailer is motorized or must be towed), boats or boat trailers, or any other similar type of vehicle as defined in the Rules, but generally does not include commercial vehicles (such as tractors, dump trucks or other large motorized equipment); or portable storage crates or pods.

1.31 “Residential Lot” shall mean a physical portion of the Property, whether improved or unimproved, designated for residential development, including both Multi-Family Lots and Single-Family Lots, as may be shown on the Plat Map or as more particularly described in ARTICLE 4.

1.32 “Residence” shall mean the enclosed building or physical space intended for habitation by people, and shall include the single-family residence on any Single-Family Lot, the duplex on any Multi-Family Lot, and any Townhome Unit.

1.33 “Residents” shall mean the Owners and occupants of Lots and Units, and shall include their Tenants, agents, guests, invitees and licensees.

1.34 “Rules” shall mean the rules and regulations adopted by the Association pursuant to the Act and the Declaration, including, but not limited to, house rules, regulations, resolutions, fine schedules, fee schedules, collection policies, enforcement policies and other policies as adopted by the Board, as amended from time to time.

1.35 “Single-Family Lot” shall mean a Lot intended for single-family use upon which a single Residence has or may be constructed, as further identified and described in Section 4.2.

1.36 “Street” shall mean any of the private roadways within the Property that are not part of Lots, as depicted in the Plat Map.

1.37 “Tenant” shall mean a natural person, corporation, partnership, limited partnership, limited liability company, trust, governmental subdivision or agency, or other person or entity who occupies a Lot or Residence pursuant to a Lease.

1.38 “Total Voting Power” shall mean the sum total of all votes assigned to Lots and Units at the time of the deadline for such voting, irrespective of other conditions precedent to voting and regardless of the number of votes represented at any meeting.

1.39 “Townhomes” shall mean the Capitol City Townhome Condominium, constructed within original Lot 504 and created by the recording of the Capitol City Townhome Condominium Association Declaration of Covenants & Bylaws at Thurston County Recording No. 9508290011, as may be amended from time to time.

1.40 “Trustee” shall mean a member of the Board of Trustees of the Association.

1.41 “Unit” shall mean a unit within the Townhomes as defined and described in the recorded declaration creating such condominium.

1.42 “WUCIOA” shall mean the Washington Uniform Common Interest Ownership Act at Chapter 64.90 of the Revised Code of Washington, as it may be amended from time to time.



## ARTICLE 2. DECLARATION CONSTRUCTION & VALIDITY

2.1 Creation: Covenants Run With the Land. The original developer created Capitol City Golf Club Estates by recording the Plat Map and subjecting the real property therein to the Original Declaration. As a result, all Property, including Lots and Common Areas, are and shall be held, used, conveyed, encumbered, leased, occupied, rented and improved subject to the Declaration and Plat Map, all of which shall be deemed to run with the land and constitute a burden and benefit to all persons who own, hold or acquire an interest in the Property or any part thereof, and their grantees, successors, heirs, executors, administrators, and assigns.

2.2 Consistent with the Applicable Acts. This Amended & Restated Declaration was adopted to incorporate provisions of the HOA Act and WUCIOA and to make improvements to the governance structure and administrative tools available to the Association. However, no title to a Lot, Unit, or Common Area shall be impaired, rendered invalid or unmarketable, or otherwise affected by an insignificant failure of this Declaration, the Plat Map, or any amendment thereto, to comply with HOA Act or WUCIOA.

2.3 Liberally Construed. The contents of this Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan for the operation of Capitol City Golf Club Estates under the Act and other laws of the State of Washington. The provisions of the HOA Act and WUCIOA shall be liberally construed and administered to effectuate the intent and purpose of this Declaration and any amendments thereto.

## ARTICLE 3. DESCRIPTION OF PROPERTY, EASEMENTS & DEDICATION

3.1 Legal Description. Capitol City Golf Club Estates consists of the Property legally described in **Exhibit A** and shown on the Plat Map, as amended.

3.2 Description of Buildings & Improvements. Capitol City Golf Club Estates is a mixed-use development consisting of Common Areas and Lots as described in this Declaration or as depicted on the Plat Map, as it may be amended from time to time. At the time of recording of this Amended & Restated Declaration, the Common Areas of the Association consist primarily of Streets designated as private roads within the Estates. The Estates is primarily residential, having three-hundred-ninety-nine (399) Single-Family Lots, seven (7) Multi-Family Lots, eight (8) Units, and twelve (12) Commercial Lots, one of which may be converted to residential use as further provided in Section 5.1.3. At the time of the recording of this Amended & Restated Declaration, Lot 505, as shown on the Plat Map, has been withdrawn from the Estates and its Owner is not a member of the Association. The Lots and their numeric designations are listed in **Exhibit B** and depicted on **Exhibit C**.

3.3 Water System and Roadway Dedication. By virtue of owning a Lot or Unit within the Estates, all Owners dedicate the use of all Lots within the Plat Map and all Streets on

said Plat Map for ingress and egress to, from, and between such Lots and the nearby public roads, and do further dedicate to the use of all said Lots the easements over all areas designated as easement areas on the Plat Map. The easements generally consist of ten-foot (10') wide strips on each side of all platted Streets for the installation, maintenance and operation of utility service systems serving the Estates. All Residential Lots within the Property are served by the City of Lacey Water Department, and as long as water for said Lots is available through such system, no private water system shall be provided upon or maintained by the Owner of any Residential Lot within the Property.

#### **ARTICLE 4. RESIDENTIAL LOTS**

4.1 Residential Lots. Only Residential Lots are subject to the provisions of this Article. There are four-hundred-six (406) Residential Lots in Capitol City Golf Club Estates, including Single-Family Lots and Multi-Family Lots as described herein and as listed in **Exhibit B** and depicted on **Exhibit C**. All Residential Lots are intended for and restricted to residential use on an ownership, rental, or lease basis and for social, recreational and other reasonable activities normally incident to residential use.

4.2 Single-Family Lots. There are three-hundred-ninety-nine (399) Single-Family Lots in the Estates. Lots 1 through 229, 233 through 278, 284, 287 through 305, 307 through 401, and 403 through 407, inclusive, as shown on the Plat Map, are Single-Family Lots. In addition, although not shown on the Plat Map as of the recording of this Amended & Restated Declaration, but as listed in **Exhibit B** and depicted on **Exhibit C**, Lot 353 has been subdivided, creating an additional Lot referred to as Lot 35301; Lot 501 has been subdivided, creating two (2) additional Single-Family Lots referred to as Lots 50103 and 50104; and Lot 502 has been subdivided, creating an additional Single-Family Lot referred to as Lot 50200. Alteration of Single-Family Lots or visible changes to Residences or other structures on Single-Family Lots shall be subject to review by the ACC to the extent required by ARTICLE 9.

4.3 Multi-Family Lots. There are seven (7) Multi-Family Lots in the Estates. Lots 279 through 283, 285, and 286, as shown on the Plat Map, are Multi-Family Lots, upon each of which has been constructed a duplex. In addition, although not reflected on the Plat Map as of the date of recording of this Amended & Restated Declaration, but as depicted on **Exhibit C**, the original Lot 504 was subdivided into two (2) parcels, the north parcel of which contains the Townhomes condominium and is therefore considered to be eight (8) Units rather than a single Multi-Family Lot. Alteration of Multi-Family Lots or visible changes to Residences on Multi-Family Lots shall be subject to review by the ACC to the extent required by ARTICLE 9.

4.4 Residences. Other than the Residence, no structure, Accessory Building, Recreational Vehicle, or any other structure, whether permanent or temporary in nature, shall be used as a residence in the Estates.

4.5 Business Use of Residential Lot. No Owner may conduct, or permit any person to conduct, any trade or business of any kind in or from any Residential Lot or Residence, including any occupation, work or activity undertaken on an ongoing basis that involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether (a) the activity is engaged in full or part-time, (b) the activity is intended to or does generate a profit, or (c) a license is required to engage in the activity, except as provided in this Section.

4.5.1 An Owner may conduct or permit business activities on a Residential Lot only if:

4.5.1.1 The existence or operation of the business activity within the Lot is not apparent or detectable by sight, sound or smell from anywhere on the Property outside of the Lot;

4.5.1.2 The business activity conforms to all zoning and other governmental requirements for the Lot and/or the activity;

4.5.1.3 The business activity does not involve customers, vendors, employees or workers, or other persons (other than delivery services, such as Federal Express) who are not Owners or Residents coming onto the Property in any number or manner which shall be determined by the Board to create or constitute a burden on the Property or the other Owners;

4.5.1.4 The business activity does not increase the liability or casualty insurance obligation or premium of the Association; and

4.5.1.5 The business activity is consistent with the residential character of the Association and does not constitute a nuisance, annoyance or hazardous or offensive use, as determined in the sole discretion of the Board.

4.5.2 The Board may, by Rule, allow nominal, temporary business on Residential Lots such as garage sales, lemonade stands and the like, or may permit such nominal, temporary business use with the prior, written approval of the Board.

4.6 Timesharing. Residential Lots, Residences and Units may not be used as timeshares as defined in RCW Chapter 64.36.

4.7 Residential Lot Leases. Owners may Lease their Residential Lots or Units only as provided in this Section. All Leases shall be in writing. No Lease or rental may be for less than an entire Lot for Single-Family Lots, but Owners of Multi-Family Lots may rent one or both of the dwelling units within the duplex. No Lease shall be for an initial period of fewer than thirty (30) days. Leases shall be in writing and provide that Tenants are subject in all respects to the provisions of the Governing Documents, and that any failure by the Tenant to comply with the terms of the Governing Documents shall be a default under the Lease. Owners

are responsible for their Tenants' compliance. Owners Leasing a Lot or Unit shall provide a copy of the Lease to the Board or Managing Agent and provide contact information for the Tenants and shall be obligated to update the Association as to any material changes in contact information or occupancy. The Board shall be empowered to adopt Leasing Rules, including such procedures and forms as may be necessary to ensure the restrictions contained herein are administered fairly and effectively.

4.8 Conveyance of Lots & Units; Notice Required. The right of an Owner to sell or convey a Lot or Unit shall not be subject to any right of approval, disapproval, first refusal, or similar restriction by the Association or the Board, or anyone acting on their behalf. An Owner intending to convey a Lot or Unit shall deliver written notice to the Board or Managing Agent, at least two (2) weeks before closing, specifying: (a) the Lot or Unit being sold; (b) the name and address of the purchaser, the closing agent, and the title insurance company insuring the purchaser's interest; and (c) the estimated closing date. The Board shall have the right to notify the purchaser, the closing agent, and the title insurance company of the amount of any unpaid assessments and charges outstanding against the Lot or Unit, whether or not such information is requested.

4.9 Sewer/Septic Prohibited. No individual sewer or septic system is permitted on a Residential Lot unless such system has been constructed with the approval of and in accordance with the requirements and standards of the Thurston County Department of Health or other such agency with jurisdiction over such systems. If any such systems exist on a Lot, the Lot's Owner shall be required to observe all applicable health, safety, testing, repair, upkeep and decommissioning regulations.

4.10 Signs. Except as provided in this Section, no signs or billboards may be placed upon any Residential Lot.

4.10.1 One temporary real estate sign advertising the Lot for sale or for rent not exceeding twenty-four inches (24") in height and thirty-six inches (36") in length may be erected by the Owner or by a licensed real estate agent when a Lot is placed upon the market for sale or rental; provided that any such temporary real estate sign shall be removed within seven (7) days of the sale or rental of such Lot.

4.10.2 An Owner may place one (1) political sign per candidate or ballot issue on their Lot not earlier than forty-five (45) days before or more than seven (7) days after any general or special election.

4.10.3 An Owner may install security signs, no larger than ten inches by ten inches (10" x 10").

4.10.4 All such signs shall be maintained by the Owner in a neat, clean and orderly condition and state of repair.

4.10.5 Garbage, Recycling & Yard Waste. All trash, recycling, garbage or yard waste shall be regularly removed from a Lot, and shall not be allowed to accumulate thereon. Garbage and recycling receptacles and firewood shall be screened from view of the Street or the Lots or stored neatly on the sides or rear of the Owner's Residence or other location approved by the Board. Trash, recycling or yard waste containers placed on or near the Street to be picked up by the disposal service shall be removed from the Street within twenty-four (24) hours of the designated pick-up time. Large items to be disposed of, including, but not limited to, broken or discarded furniture, household wares, equipment, appliances, furnishings, personal belongings shall be disposed of by the Owner and shall not be visible on any Lot for more than twenty-four (24) hours. Composting on a Lot requires the prior approval of the ACC to ensure that such areas are screened from view and odors and vermin attracted to compost are controlled.

4.11 Unightly Conditions. Owners shall keep their Lots and Residences in a neat and tidy condition, and shall not hang laundry, or permit other unsightly conditions to exist on Residential Lots that may be visible in or from the Common Areas or other Lots. The Board may, by Rule, further define what constitutes an unsightly condition consistent with this Section.

4.12 Alteration of Residential Lots. Any installation, construction, improvement, or alteration that visibly changes the appearance of the Lots or structures, shall require the prior, written permission of the Architectural Control Committee to the extent required by ARTICLE 9.

4.13 Residential Lot Subdivision. Residential Lots may not be subdivided, but Owners may adjust the boundary lines of adjacent Lots. Any such boundary line adjustments shall be documented in a recorded boundary line adjustment that references the Amended & Restated Declaration and Plat Map and any amendments thereto by recording number.

4.14 Residential Lot Combination. Residential Lots may be combined, but the Owner of any Lots combined shall remain responsible for one share of the Common Expense for each Lot as listed in **Exhibit B** and depicted on **Exhibit C**, and shall have one vote for each such Lot, so that the total number of Lots in the Estates, shares of Common Expenses, and voting rights, shall remain the same.

## **ARTICLE 5. COMMERCIAL LOTS**

5.1 Commercial Lots. Only Commercial Lots are subject to the provisions of this Article. Commercial Lots are not Common Areas; the Declaration does not confer upon any Owner the right to go upon or use such Commercial Lots and membership in the Association does not grant any Owner membership in the golf club nor any other right to use golf club property. There are twelve (12) Commercial Lots in the Estates described as follows:

5.1.1 Lots 230, 231, 232, and 506, as shown on the Plat Map, are Commercial Lots restricted in their use to a golf course and related recreational and maintenance activities.

5.1.2 Although not shown on the Plat Map at the time of the recording of this Amended & Restated Declaration, Lot 501 was subdivided into three (3) parcels, the westernmost of which is referred to as Lot 501; Lot 502 was subdivided into two (2) parcels, the larger of which is referred to as Lot 50202; Lot 504 was subdivided into two (2) parcels, the southernmost of which is referred to as Lot 50401; Lot 507 was subdivided into two Lots, referred to as Lot 507 and 50701; and Lot 600 was subdivided into two Lots, referred to as Lot 600 and Lot 60001. Each of these Lots (501, 50202, 50401, 507, 50701, 600 and 60001) are Commercial Lots restricted in their use to a golf course and related recreational and maintenance activities. These additional Lots are listed in **Exhibit B** and depicted on **Exhibit C** to this Declaration.

5.1.3 Lot 503 is a Commercial Lot. No residential development shall be placed upon Lot 503, unless and until such time as the Aero Plaza Airport, lying directly to the West of Lot 503, ceases operation. At such time, the Owner of Lot 503 may elect to convert the Lot to residential use, subject to approval by the appropriate governmental jurisdictions, and provided that such Lot Owner shall cause the Association to prepare and record an amendment to this Declaration to reflect the change in use without a vote or approval of the other Owners, the costs of which shall be assessed to the Owner of Lot 503 as further provided in Section 16.1, and further provided that the Owner of each Residence to be constructed upon Lot 503 shall become a member of the Association, subject to the provisions of this Declaration, including all voting rights and assessment obligations.

5.2 Commercial Lot Regulations. The provisions of this Section shall apply to all Commercial Lots and shall be enforceable by the Association or any aggrieved Owner in accordance with ARTICLE 13. Except as necessary to clarify these provisions or to set the amount of reasonable fines associated with violations of this Section, the Board shall have no authority to promulgate Rules restricting the use of Commercial Lots or activity conducted on Commercial Lots except upon the vote or approval of the Owners of the majority of the Commercial Lots, which approval shall be explicitly stated in any such Rule so adopted and attested to by the Association secretary.

5.2.1 Commercial Lots shall not be used for the following purposes: a medical laboratory; food processing (other than as incidental for a restaurant); manufacturing activities; wholesale or retail sales of pornographic literature, photographs, movies or the like; card room; dance hall; pool hall; video arcade or other similar form of amusement center; musical school or studio; adult motion picture theater; massage parlor; laundry; dry-cleaner, dyeing or rug cleaning plant; jail; hotel or motel;

bar or tavern; package liquor store; marijuana store; taxidermy shop; retail pet shop or animal clinic; work release center; drug rehabilitation center; or social service agency. However, the foregoing restrictions shall not apply to the bar and restaurant located on Lot 506.

5.2.2 Notwithstanding any provision herein to the contrary, and to the extent authorized by state and local subdivision, zoning, and development laws and regulations, the Owners of Commercial Lots 600, 50401, 50202, 501, 230, and 231 may construct permanent structures thereon, such as storage buildings, restrooms, and/or concession facilities, provided: (a) the Owner shall provide notice of the proposed construction to the Board prior to applying for any building permit to allow the Association or any of its members sufficient opportunity to comment on the proposed construction; (b) the structures shall be designed and constructed consistent with the quality and aesthetic of the surrounding development; and (c) if any portion of the structure is within fifty feet (50') of a Residential Lot, the Owner shall screen the construction from view of the Residential Lots with landscape or other screening. No temporary structures shall be constructed, installed, or placed upon any Commercial Lot where visible from a Residential Lot except as provided in this Section. Upon at least thirty (30) days' notice to the Association prior to installation, a temporary banquet tent or other outside dining or event structure no larger than forty feet by sixty feet by sixteen feet (40' x 60' x 16') in height may be installed on Lot 506 between April 1st and October 1st (but subject to any time limitations contained in any permits), provided that the Owner has obtained all governmental permits or permissions required for such installation. Portable toilets and related facilities may be placed upon Lot 506 so long as they are screened from view of the Residential Lots.

5.2.3 Except with the prior, written permission of the Board for specific events, Commercial Lots shall maintain quiet hours between 11:00 PM and 6:00 AM during which hours any continuing noise that can be heard from Residential Lots is prohibited. At other times, the Owners of Commercial Lots shall not allow or permit any offensive or obnoxious vibration, noise, or odor to emanate from the Commercial Lots, nor shall the Owner allow or permit any machine or other installation on Commercial Lots to constitute a nuisance or otherwise to unreasonably interfere with the safety or comfort of Owners and shall not permit its occupants, guests or invitees to trespass upon any Residential Lot; provided that temporary construction, remodeling and maintenance of the Commercial Lots and activities reasonably necessary to accomplish the same shall not be considered a violation of this Section. Owners of Commercial Lots are responsible for their guests' and invitees' violations of this provision or other provisions of the Governing Documents. In the event of such a violation, the Commercial Lot Owner shall be provided with Notice and Opportunity to be Heard.

This provision is not intended to create third party beneficiaries of this Declaration, nor to apply to any determination of liability except as specifically stated herein.

5.2.4 The delivery or shipment of maintenance equipment, merchandise, supplies, fixtures, and the like, shall be accomplished in a manner that shall not unreasonably interfere with the comfort or security of the other Owners.

5.2.5 Commercial Lots shall be maintained in a neat and attractive manner. Trees, bushes, lawns and other areas of organic growth shall be regularly cared for and trimmed and shall not encroach upon Common Area streets or easements. No garbage, trash, recycling, construction debris, grass cuttings, tree trimmings, yard waste, or the like shall be dumped or allowed to accumulate on any Lot. All such refuse or debris shall be temporarily stored in designated sanitary receptacles screened from the view of the Street or Residential Lots and the contents of such receptacles disposed of at regular intervals. Compost receptacles shall be regularly tended to avoid odor or attraction of wildlife or vermin. Goods shall not be warehoused or stored in open view from the Street or other Lots. Notwithstanding the foregoing, the Owner of Lot 503 may temporarily store tree trimmings and similar organic materials on Lot 503 provided such materials are placed in an enclosed receptacle or screened from view from the Street or Residential Lots.

5.2.6 Commercial Lot Owners shall not permit any vehicle or structure to be used as a temporary or permanent living space or be occupied and parked overnight. Camping on Commercial Lots is strictly prohibited. Commercial Lot Owners shall be responsible for the removal of unsightly, inoperable or abandoned vehicles from their Lots.

5.2.7 Except with the prior, written approval of the Board, any and all Commercial Lot signage shall be of reasonable size and installed in a reasonable location within the boundaries of the Commercial Lot. Any and all lighting on Commercial Lots shall be of reasonable wattage and shall not unreasonably disturb other Lot Owners.

5.2.8 Commercial Lot Owners shall obtain and maintain any necessary utility services and shall be responsible for any increase in Common Expenses associated with any changes in utilities necessitated by the use of their Commercial Lot.

5.2.9 All Commercial Lot leases or rental agreements shall be in writing, and shall provide that the Tenant is subject in all respects to the provisions of the Governing Documents and that any failure by the Tenant to comply with the terms of the Governing Documents shall be a default under the lease or rental agreement. Owners are responsible for their Tenants' compliance as well as the compliance of Tenants' guests, vendors, and invitees. Owners leasing a Commercial Lot shall provide a copy of the lease or rental agreement to the Board or Managing Agent along with contact



information for the Tenant, including contact information for the most senior on-site personnel.

5.2.10 Commercial Lot Owners shall not use, occupy, do, or permit anything to be done to or on Commercial Lots that shall make it impossible for the Association to carry any insurance required by this Declaration or deemed to be necessary by the Board; that shall invalidate or unreasonably increase the cost of any such insurance; constitute a public or private nuisance; or violate any laws, regulations, ordinances or requirements of any other governmental authorities having jurisdiction over the Lots.

5.2.11 Commercial Lot Owners shall obtain and maintain property and liability insurance in commercially reasonable amounts commensurate with the use of the Lot and shall be required to list the Association as an additional insured with respect to incidents occurring on or within the Property.

## **ARTICLE 6. COMMON AREAS**

6.1 Description. The Common Areas are all portions of the Property other than Lots, including, but not necessarily limited to, Streets and easements for the benefit of the Association. The golf course and other amenities on Commercial Lots are not part of the Common Areas.

6.2 Use of Common Areas. Subject to the restrictions in this Declaration, the Bylaws, and any Rules consistent therewith, each Owner and Resident shall have the right to use the Common Areas in common with all other Owners and shall have a right of access over the Common Areas for ingress and egress from the Owner's Lot. Users of the golf course who are not Residents shall have a nonexclusive easement to use the Common Area streets for pedestrian and golf cart ingress and egress and for vehicular access to Commercial Lot parking areas. No Owner shall interfere with the Association's maintenance, repair or operation of the Common Areas, nor shall any Lot Owner store items in, damage, alter, construct in, mount on, or remove fixtures or common property from the Common Areas, except with the prior, written approval of the Board.

## **ARTICLE 7. MAINTENANCE & REPAIR RESPONSIBILITIES**

7.1 Association Responsibilities. Except as otherwise provided in this Declaration, the Association shall, as a Common Expense, manage, maintain, repair and replace as necessary, all Common Areas, including any improvements thereon.

7.2 Owner Responsibilities. Residential Lots shall be maintained by their Owners at their sole expense, including repair and replacement of all components of the Lots and the Residences and other improvements thereon, as reasonably necessary to keep Lots and Units in

a condition that is neat and attractive, and consistent with the aesthetics and style of the community. The Board may promulgate Rules containing maintenance or repair requirements consistent with this standard.

7.3 Owner's Failure to Perform. In the event that any Owner fails to maintain, repair, or replace any portion of a Lot as required by the Governing Documents after having been given Notice and Opportunity to be Heard, then, in addition to other remedies available under the Act or this Declaration, including but not limited to assessment of fines, the Board may, at its discretion, enter onto the Lot in accordance with Section 10.7 and perform such maintenance, repair or replacement and shall thereafter levy an Assessment for the costs thereof against the Lot and Owner, which Assessment shall be an Individually Allocated Assessment. This Section shall not be interpreted to allow the Association or its agents to enter any Residence except in an emergency as provided in Section 10.7.

## **ARTICLE 8. RULES; PERMITTED USES**

8.1 Rules. The Board may, from time to time, adopt and amend reasonable Rules as may be necessary or advisable to ensure compliance with, clarify, and supplement the Governing Documents, to aid in the administration, governance or enjoyment of Capitol City Golf Club Estates, to preserve the exterior appearance of Residential Lots, Units and Common Areas, or for any other purpose not inconsistent with this Declaration, the Articles of Incorporation, the Bylaws or any amendments thereto, but such power shall be limited with respect to Commercial Lots as provided in Section 5.2.

8.2 Noxious & Offensive Use. No unlawful, noxious or offensive activities may be carried on in the Common Areas or on any Residential Lot, nor shall anything be done therein which shall constitute a nuisance or which shall, in the judgment of the Board, cause unreasonable noise or disturbance to others. Owners shall not permit any condition to exist that will induce, breed, or harbor infectious diseases, insects, or vermin. Owners shall not permit its occupants, guests or invitees to trespass upon any other Lot.

8.3 Effect on Insurance. Nothing shall be done or kept in any Lot or in any Common Area that would significantly increase premiums for, or make it impossible for the Association to obtain or maintain insurance required or reasonably desired by the Board without the prior, written approval of the Board.

8.4 Animals. Customary household pets, such as dogs, cats, and birds, may be kept on a Residential Lot provided they are not raised, kept, or bred for any commercial purpose, and provided further they are not kept in such numbers or in such a manner so as to create a nuisance. No chickens or poultry are allowed. If on a Lot but not within a fenced yard, pets (excepting cats) must be under the control of the pet's owner. Dogs must be leashed or under the immediate control of their owners at all times while on Common Areas, excepting only

those portions of the Common Areas specifically designated by the Board as off-leash areas, if any. Pet owners must immediately scoop and remove any pet waste from Common Areas, and pet waste on Lots must be removed at regular intervals. Notwithstanding the above, the Board shall retain the right to require removal of a pet that it reasonably considers a danger or nuisance to other Residents or their pets, after providing the Owner with Notice and Opportunity to be Heard. Pet restrictions are subject to federal laws regarding disability, and requests for accommodations relating to service or support animals shall be interpreted consistently therewith.

8.5 Use of Streets; Parking on Streets. No vehicle of any type or other item shall be placed, parked, or kept such that it interferes with the normal flow of traffic, emergency vehicle access, or ingress or egress to any Lot or Common Area. Owners are required to trim, prune, or top any hedge, bush, tree or other planting that extends outside the boundaries of any Lot onto Streets, or that could impede the free flow of traffic or traffic-related sight lines. Streets are to be used for normal ingress and egress; Residents and others using the Streets shall observe all posted signs, including speed limits determined by the Board. In addition to any other remedy available to the Association, any Passenger Vehicle or Recreational Vehicle parked in violation of this Section may be subject to being towed at the Owner's sole expense. Unless allowed by Rule or by prior written permission of the Board, the following shall also apply:

8.5.1 Up to two (2) guest, service, or commercial vehicles may be temporarily parked on the Street for a period not to exceed twenty-four (24) consecutive hours.

8.5.2 If parking areas on the Lot are temporarily unavailable for use due to occupation by vehicles or other items during construction, Owners may park a vehicle of any type on the Street for a period not to exceed forty-eight (48) hours.

8.6 Parking on Lots. Except with respect to adjacent parking areas and cut-outs already existing at the time of the recording of this Declaration, Owners may establish and construct adjacent parking areas or parking cut-outs only with the prior, written approval of the ACC as provided in Section 9.2. Passenger Vehicles and Recreational Vehicles may be parked on Lots only in garages, on driveways, and on adjacent parking areas or cut-outs as provided in this Section:

8.6.1 Vehicles of any type may be regularly parked in garages.

8.6.2 No more than two (2) Passenger Vehicles or Recreational Vehicles may be regularly kept or parked in any driveway, except that if the Lot has no cut-out or adjacent parking area, up to four (4) Passenger Vehicles or Recreational Vehicles may be regularly parked in any driveway provided that each vehicle is wholly within the driveway and does not protrude into the Street.

8.6.3 Only one (1) Passenger Vehicle or Recreational Vehicle may be regularly kept or parked in a designated adjacent parking area established and constructed with approval of the ACC.

8.6.4 Only one (1) Passenger Vehicle may be regularly kept or parked on cut-outs.

8.6.5 Owner's guests, vendors or other invitees may park on driveways, adjacent parking areas or cut-outs for up to twenty-four (24) consecutive hours.

8.7 Unightly or Inoperative Vehicles. Unightly, unlicensed, or inoperative Vehicles may not be kept or parked anywhere on a Lot except in a driveway, and then only if fully covered in a manner prescribed by Rule.

## **ARTICLE 9. ARCHITECTURAL CONTROL**

9.1 ACC Established. The Original Declaration established an Architectural Control Committee ("ACC") with members appointed by the Board, to review Owner applications for construction of visible improvements upon Residential Lots, and make recommendations to the Board regarding approval thereof. Commercial Lot Owners are not required to obtain ACC approval for Lot alterations unless specifically required to do so in ARTICLE 5. The ACC shall include at least two (2) members of the Board. If an ACC has not been established, the Board shall perform the functions of the ACC.

9.2 ACC Approval Required. Owners of Residential Lots shall obtain the prior, written approval of the ACC for the following: (a) the construction of an adjacent parking area or parking cut-out; (b) any project that alters the exterior appearance of a structure on a Residential Lot, including the construction, modification, alteration, installation, or remodel of Residences, Accessory Buildings, or other permanent or temporary structures on Lots (including, but not limited to, garages, decks or patios, sheds, greenhouses, arbors, gazebos, and hot tubs or spas); and (c) any landscaping that has a significant impact on the portions of the Lot visible from the Street, including the installation or construction of concrete or masonry walls, rockeries, driveways, fences, hedges, and adding or removing trees. Approval shall not be required for remodels to the interiors of Residences that do not affect the external appearance of the Residence or for standard yard maintenance including weeding, mowing, thatching, gardening, or small plantings. In addition, while not prohibited, prior approval from the ACC is required for installation of solar collectors and antennas or satellite dishes to ensure installation in compliance with state and federal laws. No work may commence on any such projects until the Owner has received written approval from the ACC to proceed with construction. If any project to which this Article applies is constructed without such pre-approval, in addition to any other remedies provided for in the Governing Documents, the Owner may be required to remove the structure, improvement, or alteration at the Owner's cost

or modify the structure, improvement, or alteration to comply with this Article at the Owner's cost.

9.3 Application Procedures. Requests for ACC approval shall be made at least forty-five (45) days in advance of any planned work, in writing, in the form required by the Association, if any, and signed by an Owner or Owner's designee. The request or application shall include a description of the project, identification of the licensed and bonded contractor to perform the work (if any), and complete plans and specifications for the project. The Owner must affirmatively state that the plans and specifications comply with the provisions of this Declaration and all applicable laws and codes. The ACC may require the submission of any other relevant materials including additional plans, drawings, photographs, surveys, proof of governmental agency compliance, or other reasonable materials as a condition to approval. Owners requesting ACC approval have an ongoing duty to amend or supplement their ACC application if any material changes have occurred prior to or after obtaining ACC approval.

9.4 ACC Review. The ACC will review submittals for compliance with the Governing Documents, quality of proposed workmanship and materials, location, conformity and harmony with existing Lots, aesthetics, potential effect on neighboring Lots and the Common Areas, and in accordance with any Design Guidelines & Construction Conditions adopted by the Board. The ACC will notify the Owner within thirty (30) days of the receipt of a complete application whether the project is approved, disapproved or approved with conditions. Failure of the ACC to request additional information or approve an application within this timeline shall be deemed approval thereof, except that such approval shall not constitute waiver of any conditions of the project that may violate any provision of the Governing Documents.

9.5 Design Standards. The Board may, from time to time, adopt and promulgate design and construction standards to be administered by the ACC as part of the Association's Rules, and procedures and forms that Owners requesting ACC approval must complete and return for project consideration. The standards set forth in this Declaration may be supplemented by the Board; provided, however, no such modification shall take effect retroactively.

9.5.1 *Buildings; Quality; Size.* All Residences and structures on Residential Lots shall be built to conform to all applicable building codes, with new material, and shall be constructed in a sound, skillful, workmanlike manner. No permanent structure shall be constructed, erected, placed, altered or permitted to remain on any Single-Family Lot other than one (1) single-family Residence with a private attached garage for not more than three (3) vehicles, and one (1) unattached Accessory Building. The floor area of any single-family Residence, exclusive of open porches and garages, shall be no less than 1,200 square feet. The maximum height of the roof of any single-family Residence shall be not more than twenty-four (24) feet above the highest point of the street grade

adjoining the Lot. No structure shall be constructed, erected, placed, altered or permitted to remain on any Multi-Family Lot other than a duplex or one or more multi-unit residential buildings and one (1) unattached Accessory Building.

9.5.2 *Painting; Colors.* Painting or staining of any Residence, Accessory Building, fence, or other improvement or structure on any Lot, including painting of trim, shall require the prior approval of the ACC except that an Owner may touch up or maintain existing paint without changing the color thereof. Residences and Accessory Buildings must be painted the same color. For Residences, Accessory Buildings, and fences, no specific paint or stain colors are specified, but the color must be complementary to the colors of other Residences in the Estates, as determined by the ACC. All sides of the structure must be painted or stained uniformly in the same color; provided, trim may be of a different contrasting color approved by the ACC.

9.5.3 *Driveways.* All garages located upon a Residential Lot shall be connected to the adjacent Street by an asphalt or concrete paved driveway. Changes to driveways shall require the approval of the ACC.

9.5.4 *Setbacks; Easement Area.* Each Residential Lot is subject to a ten-foot (10') utility easement adjacent to the Street. No structure, fences, or significant landscaping shall be allowed within the easement area. No Residence or Accessory Building shall be located within twenty-five feet (25') of any property line abutting the Street, or within ten feet (10') of any property line abutting another Lot. No Residence shall be located within twenty feet (20') of Lot lines adjacent to the Commercial Lots designated for golf course use as provided in Section 5.1, and no Accessory Building shall be located within five feet (5') of the rear or interior Lot lines. No roofline, steps or open porches shall be located within five feet (5') of any Residential Lot line adjacent to any other Lot. In no case shall any portion of a structure on a Lot be permitted to encroach upon another Lot except where Lots have been combined, in which case, all setbacks shall be measured from the outer perimeter of the combined Lots.

9.5.5 *Fences and Walls.* No fence, wall, or screen shall exceed six feet (6') in height except that net or mesh fences designed to protect against injury from errant golf balls may be installed on Lots adjacent to Commercial Lots. No fence or wall shall be erected or placed on any Lot nearer than twenty-five feet (25') to any Street fronting except decorative picket or rail fences, masonry walls, or shrubs not exceeding three and one-half feet (3-½') in height.

9.5.6 *Antennae & Satellite Dishes.* The ACC may require placement that will minimize visibility from the Streets and other Residential Lots so long as such installation complies with regulations and decisions of the Federal Communications Commission ("FCC") regarding Over-the-Air Reception Devices ("OTARD"), 47 C.F.R. § 1.4000, including that the Association shall not (a) unreasonably delay or

prevent the installation of a Qualified Reception Device (as that term is defined in the OTARD guidelines), (b) unreasonably increase the cost of installation, maintenance or use thereof, or (c) preclude the reception of an acceptable quality signal thereby. Such restrictions shall be applied to the extent practicable in a nondiscriminatory manner to devices, appurtenances or fixtures other than antennas that are comparable in size and weight and pose a similar or greater safety risk and shall be no more burdensome to affected antenna users than is necessary to achieve the objectives of this Section.

9.5.7 *Completion of Structures.* All construction of any Residence, Accessory Building or other improvement on a Lot, once commenced, shall be completed within one (1) year. All landscaping associated with new construction shall be completed within eighteen (18) months after construction is commenced.

9.6 ACC Approval No Waiver. Construction of particular structures may require approval from federal, state or local regulatory agencies. It is the Owner's responsibility to determine if such approval is needed. Approval by a regulatory body other than the ACC does not relieve the Owner of the obligation to obtain pre-approval of the ACC as provided for herein. Nor does approval by the ACC relieve the Owner of the obligation to obtain pre-approval of any regulatory body as may be required.

9.7 Correction of Violations. In addition to any other remedy available to the Association under the Act or this Declaration, any work done in violation of this Article, without approval of the ACC, or that does not comply with the proposal approved by the ACC, may be corrected or removed by the Board, after providing the Owner with Notice and Opportunity to be Heard and notice of entry onto the Lot in accordance with Section 10.7.

## **ARTICLE 10. OWNERS' ASSOCIATION**

10.1 Name and Form of Association. The Owners of Lots in Capitol City Golf Club Estates shall be members of the homeowners' association known as Capitol City Golf Club Estates Association, or such other official name as set out in the Articles of Incorporation, and shall be subject to the Act in all respects and to WUCIOA, to the extent applicable. The Association shall be organized as a nonprofit corporation, subject to the Nonprofit Corporations Act at RCW Chapter 24.03.

10.2 Bylaws. Except as provided in this Article, the Bylaws for the administration of the Association and for other purposes not inconsistent with the Act or this Declaration shall contain the number, qualifications, powers, duties, terms of office, and manner of electing and removing Trustees and Officers and filling Trustee and Officer vacancies. To ensure consistency herewith, the Board shall be empowered to adopt the Amended & Restated Bylaws, but subsequent amendments to the Amended & Restated Bylaws shall require the vote or approval of the Owners to which a majority of the Total Voting Power is allocated. The Bylaws

shall be interpreted to be consistent with this Declaration if at all possible, but in case of conflict, the provisions of this Declaration shall control.

10.3 Membership in Association. Each Owner of a Lot is a member of the Association and shall be entitled to one membership for each Lot owned, which membership shall be considered appurtenant to that member's Lot. Ownership of a Lot shall be the sole qualification for membership in the Association. Membership shall not be transferred in any way except upon the transfer of title to the Lot and then only to the transferee of title to the Lot, provided that if a Lot has been sold on contract, the contract purchaser shall exercise the rights of the Owner for purposes of the Association, this Declaration, and the Bylaws, except as hereinafter limited, and shall be the voting representative unless otherwise specified. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association to the new Owner. Membership in the Association shall not extend to or include any persons or entities who hold an interest in any Lot merely as security for the performance of an obligation, including but not limited to mortgagees and holders of deeds of trust.

10.4 Management by Board. Except where a vote or approval of the Owners is required under the Act or this Declaration, the Board shall have exclusive power to act on behalf of the Association in all instances. The Board shall be composed of five (5), seven (7), or nine (9) Trustees, all of whom must be Owners, the exact number of which shall be established in the Bylaws. The Board may delegate certain powers and duties to one or more committees, who may exercise the authority of the Board if at least two Trustees serve on the committee. The Board may also delegate administrative functions to its Managing Agent. In the performance of their duties, the Officers and Trustees shall exercise ordinary and reasonable care.

10.5 Powers of the Association. The Association, acting through the Board, shall have all powers and authority permitted to the Association under the Act and this Declaration, as may be limited or qualified herein, including the right and authority to:

10.5.1 Adopt and amend the Declaration, Bylaws, and Rules;

10.5.2 Adopt and amend budgets for revenues, expenditures, and reserves, and impose and collect Assessments based on those budgets as further described in ARTICLE 12;

10.5.3 Obtain or prepare a reserve study and establish and administer a reserve account as further described in Section 12.9.1 and RCW 64.38.065;

10.5.4 Hire and discharge or contract with Managing Agents and other employees, agents, and independent contractors, including legal counsel;



10.5.5 Institute, defend, or intervene in litigation, arbitration or administrative proceedings in its own name on behalf of itself or two (2) or more Lot Owners on matters affecting Capitol City Golf Club Estates;

10.5.6 Make and assume contracts and incur liabilities, including contracts with parties to provide recreational amenities for the Owners;

10.5.7 Regulate the use, maintenance, repair, replacement, and modification of Common Areas and Lots;

10.5.8 Provide for or pay, as part of the Common Expenses, utility services to the Common Areas;

10.5.9 Cause additional improvements to be made as a part of the Common Areas;

10.5.10 Acquire, hold, encumber, convey, dispose of, in the Association's name, any right, title, or interest to tangible or intangible personal property, and convey or subject the Common Areas to a security interest.

10.5.11 Grant easements, leases, licenses, and concessions through or over the Common Areas and petition for or consent to the vacation of streets and alleys;

10.5.12 Impose and collect any payments, fees, or charges for the use, rental, or operation of the Common Areas;

10.5.13 Impose and collect any payments, fees or charges for services provided to Owners;

10.5.14 Impose and collect charges for late payment of Assessments as further provided in Section 12.18;

10.5.15 After Notice and Opportunity to be Heard, levy reasonable fines in accordance with a previously established schedule thereof adopted by the Board and furnished to the Owners for violations of the Governing Documents as further provided in ARTICLE 12;

10.5.16 Provide for the indemnification of its Officers and Board, and any committee members exercising the powers of the Board as further provided in Section 14.3, and maintain Trustees' and Officers' liability insurance as further provided in Section 14.2;

10.5.17 Borrow funds from banks, other financial institutions, lenders, vendors, and/or contractors to pay for maintenance, repair, replacement, reconstruction, alteration, addition, or improvement to Capitol City Golf Club Estates (including Capital

Improvements), or for any other purposes that the Board determines is in the best interests of the Association;

10.5.18 Assign or pledge common funds of the Association, including its right to future income, and the right to receive Assessments;

10.5.19 Enter into Lots and Units, but only in accordance with the provisions of Section 9.7.

10.5.20 Pay any amount necessary to discharge any lien or encumbrance levied against Capitol City Golf Club Estates or any part thereof which is claimed to or may, in the opinion of the Board, constitute a lien against any part of Capitol City Golf Club Estates, rather than merely against the interest therein of particular Owners;

10.5.21 Exercise any other powers conferred by this Declaration or the Bylaws;

10.5.22 Exercise all other powers that may be exercised in this state by the same type of corporation as the Association; and

10.5.23 Exercise any other powers necessary and proper for the governance and operation of the Association.

10.6 Reserve Study. Unless the Board determines, in its reasonable discretion, that doing so would impose an unreasonable hardship upon the Association, the Association shall obtain, prepare, and periodically update a reserve study in accordance with the Act.

10.7 Entry into Lots, Residences & Units. The Association and its agents shall not have the authority to enter into any Residence or Unit except in the case of emergency relating to the health or safety of the occupants thereof or to prevent imminent damage to property. The Association and its agents or employees may enter onto any Lot after reasonable notice has been given when necessary to do so: (a) in connection with the performance of its duties, including, but not limited to, any inspection, maintenance, repair, landscaping, or construction for which the Association is responsible; (b) to address or cure a violation of the Governing Documents when an Owner has failed to do so after Notice and Opportunity to be Heard; or (c) in the event of emergencies. Any damage caused as a result of entry into a Lot or Unit shall be repaired and paid for by the Association as a Common Expense, unless entry was occasioned by an act or omission of the Owner or Resident of the Lot entered, and Notice and Opportunity to be Heard has been given with respect to that determination, in which case the cost shall be assessed to the Owner as an Individually Allocated Assessment as provided in Section 12.4.

## **ARTICLE 11. MEETINGS, QUORUM & VOTING**

11.1 Board Meetings and Quorum. At any meeting of the Board, a quorum shall exist if at least fifty percent (50%) of the serving members of the Board are present in person at the

beginning of the meeting. Trustees are deemed present in person at a Board meeting if they participate by means of a conference telephone or similar communications equipment, provided all persons participating in the meeting can hear each other at the same time. Any action or decision by the Board shall require the affirmative vote of a majority of the members of the Board who are present at a meeting in person; proxies are not effective for Board meetings. Except as provided in this Section, all Board meetings shall be open for observation by all members of record and their authorized agents. The Board shall keep minutes of all actions taken by the Board in open meeting, which shall be available to all Owners. Upon the motion of any Trustee, the Board may convene in closed executive session to consider personnel matters; consult with legal counsel or consider communications with legal counsel; discuss likely or pending litigation, matters involving possible violations of the Governing Documents of the Association, or matters involving the possible liability of an Owner to the Association, and similar privileged or sensitive issues. The motion shall state the specific purpose for the executive session, which shall be reflected in the minutes. The Board shall restrict the consideration of matters during the closed portions of meetings only to those purposes specifically exempted and stated in the motion. No motion, or other action adopted, passed, or agreed to in closed session may become effective unless the Board, following the closed session, reconvenes in open meeting and votes in the open meeting on such motion or other action which is reasonably identified. The requirements of this subsection shall not require the disclosure of information in violation of law or which is otherwise exempt from disclosure.

11.2 Association Meetings and Quorum. A meeting of the Association must be held at least once per year. Special meetings may be called by the president, a majority of the Board, or by Owners to which twenty percent (20%) of the Total Voting Power is allocated. Notice of Association meetings shall be prepared and provided by the Secretary or other Officer of the Association, shall state the time and place of the meeting and the items on the agenda to be voted on by the members, including the general nature of any proposed amendment to the Declaration and any proposal to remove a Trustee. Notices shall be delivered as provided in Section 17.1. A quorum is established if Owners to which ten percent (10%) of the Total Voting Power is allocated are present in person or by proxy at the beginning of any meeting of the Association. If a quorum cannot be reached at a meeting, the Board may adjourn the meeting from time to time until a quorum is reached. Further meeting procedures are provided in the Bylaws.

11.3 Voting Power. The Owners of each Lot or Unit (as listed in **Exhibit B** and depicted on **Exhibit C**) shall be entitled to one (1) vote for each Lot or Unit owned. Thus, unless Lot 50202 is subdivided, the Total Voting Power in the Association shall be four-hundred twenty-six (426). For Lots or Units owned by multiple persons or an entity, the Association shall accept the vote or approval of any record Owner or officer of a Lot or Unit owned by an entity as the vote or approval of that Lot or Unit, provided that if a subsequent, inconsistent vote

or approval is received from a co-Owner or other officer of the entity Owner, the vote for such property shall not be counted except for quorum purposes.

11.4 Method of Voting. The means by which votes in the Association shall be cast and recognized shall be as set forth in the Bylaws. Any vote required to be taken at a meeting of the Association members may be taken without a meeting as provided in the Bylaws.

## **ARTICLE 12. BUDGETS, ASSESSMENTS, RESERVES**

12.1 Common Expenses. Common Expenses shall mean all expenditures made by or financial liabilities of the Association, including any allocations to reserves. Common Expenses shall include, but may not be limited to, the costs of operation and governance of the Association, costs of maintenance, repair and replacement of the Common Areas, general operating expenses of the Association, including management and professional fees and costs, costs of insurance, general reserves for contingencies, payment of Individually Allocated Assessments prior to reimbursement by Owners, insurance deductibles; contribution to a reserve fund as described in Section 12.9.1, any expenses relating to any obligation under the Act or the Governing Documents, and any other expenditures the Board determines are in the best interests of the Association.

12.2 Preparation of Budgets. Prior to the end of the fiscal year, the Board shall prepare and adopt an annual budget for the Association for the coming year, upon which regular Assessments will be based. In preparing its budget, the Board shall estimate the Common Expenses of the Association to be paid during the year and shall take into account any expected income to the Association as well as any surplus or deficit carried over from the preceding year. Supplemental budgets may be prepared and adopted at any time in accordance with this ARTICLE 11. Budgets shall include the following:

12.2.1 The projected income to the Association by category;

12.2.2 The projected Common Expenses, including any Common Expense that will be charged to Owners as Individually Allocated Expenses to the extent such costs are subject to being budgeted, by category;

12.2.3 The amount of the resulting regular or special Assessment per Lot or Unit and the date the Assessments or any installment thereof, are due;

12.2.4 The current amount of regular Assessments budgeted for contribution to the reserve account; and

12.2.5 Reserve study and reserve fund disclosures as required by the Act or WUCIOA, as applicable.

12.3 Budget Ratification. Within thirty (30) days after the Board's adoption of any proposed budget for the Association, the Board shall provide notice of a meeting to consider ratification of the budget along with a copy of the Board-approved budget. The meeting shall be not less than fourteen (14) nor more than fifty (50) days after mailing of the budget. Unless at that meeting, the Owners to which a majority of the Total Voting Power is allocated reject the budget, the budget and the resulting assessments against the Lots and Units are ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice not given, the periodic budget last ratified by the members, and the Assessments based upon that budget, shall continue until such time as the Owners ratify a subsequent budget proposed by the Board.

12.4 Calculation of Assessments. Each of the Lots and Units shall be assessed an equal share of any budget of the Association except that the following expenses shall, to the extent reasonably ascertainable, be assessed exclusively to the Lot or Unit benefitted as an "Individually Allocated Assessment":

12.4.1 Any Common Expense used or required to maintain, repair, or replace components of a Lot or Unit that the Owner has the primary responsibility to maintain, repair or replace under Section 7.2; and

12.4.2 If the Association provides utility or other services to Lots, the actual or estimated costs shall be assessed to the Owners to which the service is provided in accordance with usage, unless such usage is not reasonably ascertainable; and

12.4.3 Any expense chargeable directly to Owners, Lots, or Units as provided elsewhere in this Declaration.

12.5 Special Assessments. If the Board determines that the sums estimated and budgeted for are inadequate for any reason (including, but not limited to, Owner nonpayment of Assessments, unexpected, nonrecurring or unanticipated Common Expenses, or any deficiencies in funds for any reason), the Board may propose a special assessment budget to cover such Common Expenses. A special assessment budget must be proposed and ratified as provided in Sections 12.2 and 12.3, except that a special assessment budget may be proposed by the Board at any time, with payment terms as determined by the Board and set forth in the notice described in Section 12.6. Assessments levied pursuant to a special assessment budget are special assessments.

12.6 Notice of Assessments. When a budget has been ratified in accordance with Section 11.3, the Board shall levy assessments pursuant thereto by notifying each Owner in writing of the amount of the regular or special Assessment for the Owner's Lot or Unit. Such notice may be given to Owners prior to the ratification as part of the notice of the budget ratification meeting. Regular and Special Assessments shall become due as provided in the notice of assessments, but if no terms are provided, then the Assessments shall become due and

payable in equal monthly installments on the first of the month, or other interval (such as quarterly) as may be prescribed by the Board, and shall be considered delinquent if not paid by the 10th of the month, quarter or other interval designated by the Board.

12.7 Proceeds Belong to Association. All Assessments and other receipts received by the Association shall belong to the Association.

12.8 Surplus Funds. Any surplus funds of the Association remaining after payment of or provision for Common Expenses shall, at the discretion of the Board, either be paid to the Owners at the time the surplus is determined in proportion to their allocated share of Common Expenses, credited to the Lot or Unit to reduce future Assessments, or transferred to the reserve accounts, at such times and in such amounts as the Board determines is in the best interests of the Association.

12.9 Association Accounts. The funds of the Association shall be kept in an account under the name of the Association. Association funds may not be commingled with the funds of any other person, association or entity, including any Managing Agent or any other person responsible for the custody of such funds. Except as provided in this Section, Association funds need not be kept in separate accounts so long as separate accounting is observed.

12.9.1 Reserve Fund. The Association shall create and the Board shall administer a reserve account in the name of the Association to fund major maintenance, repair, or replacement of Common Areas that will require major maintenance, repair, or replacement within thirty (30) years. The Reserve Fund shall be kept in a segregated account and any transaction affecting such funds, including the issuance of checks, shall require the signature of at least two (2) Trustees. The Association may withdraw funds from its reserve account to pay for unforeseen or unbudgeted costs that are unrelated to maintenance, repair or replacement of the reserve components, provided that: (a) the Board adopts a repayment schedule that shall not exceed twenty-four (24) months unless it determines that repayment within that time would impose an unreasonable burden on the Lot Owners; (b) such withdrawal shall be recorded in the minute books of the Association; and (c) notice of the withdrawal and repayment plan is provided to each Lot Owner. Payments for major maintenance, repair, or replacement of the reserve components out of cycle with the reserve study projections or not included in the reserve study may be made from the reserve account without meeting the notification or repayment requirements under this Section. Any contract or other document for performance of any item specified in the Replacement Reserve shall require the approval of the Board, and the signatures of two (2) Officers or members of the Board.

12.10 Financial Records and Audit. The Association shall keep financial records sufficient to enable the Association to fully declare to each Owner the true statement of its financial status. At least annually, the Association shall prepare, or cause to be prepared, a financial statement of the Association in accordance with generally accepted accounting

principles. The annual financial statement shall be audited at least annually by a certified public accountant who is not a member of the Board or an Owner, but such requirement may be waived if sixty-seven percent (67%) of the votes cast by Owners, in person or by proxy, at a meeting of the Association at which a quorum is present, vote each year to waive the audit.

12.11 Assessments are a Personal Obligation. All Assessments shall be the joint and several personal obligation of the Owners of the Lot or Unit when the Assessment or an installment thereof becomes due. In a voluntary conveyance, the grantee of a Lot or Unit shall be jointly and severally liable with the grantor for all unpaid Assessments associated with the Lot or Unit 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 therefor. Suit to recover personal judgment for any delinquent Assessments shall be maintainable without foreclosing or waiving the liens securing them. An Owner's obligation to pay Assessments is absolute; no Owner may claim diminution, offset or abatement of Assessments for any reason, including abandonment of the Owner's Lot or Unit.

12.12 Lien for Assessments. The Association has a lien on a Lot or Unit for any unpaid Assessment levied against a Lot or Unit from the time the Assessment or an installment thereof becomes due. Recording of the Original Declaration constituted record notice and perfection of the lien for Assessments; however, the Association may record a notice of claim of lien for Assessments in Thurston County.

12.13 Lien Survives Sale. The Association's lien for unpaid Assessments shall not be affected by the sale or transfer of a Residential Lot or Unit except in the event of sale by foreclosure (sheriff's sale), trustee's sale, contract forfeiture or deed in lieu thereof. Such sheriff's sale, trustee's sale or contract forfeiture shall extinguish the Association's lien for all Assessments or installments that became due prior to their occurrence. Such actions shall not, however, relieve subsequent Owners of the Lots or Units from paying Assessments or installments becoming due thereafter.

12.14 Judicial Foreclosure. The Association's Assessment lien may be enforced judicially by the Association or its authorized representative in the manner set forth in RCW Chapter 61.12. The Association or its authorized representative shall have the power to purchase the Lot at the foreclosure sale and to acquire, hold, lease, mortgage, or convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption shall be eight (8) months. Nothing in this Section shall prohibit the Association from taking a deed in lieu of foreclosure. The holder of a Mortgage or other purchaser of a Lot who obtains the right of possession of a Lot through foreclosure or deed in lieu of foreclosure shall not be liable for any Assessments or installments thereof that became due prior to such right of possession. If deemed uncollectible, such unpaid Assessments shall be deemed Common Expenses. Foreclosure does not relieve the prior Owner

of personal liability for Assessments or installments thereof accruing against the Lot prior to the date of such sale pursuant thereto.

12.15 Non-Judicial Foreclosure. The Association shall have the right to foreclose its Assessment lien non-judicially in the manner provided for trustees' sales under the Washington Deed of Trust Act, RCW Chapter 61.24. For such purpose, the Property and all Lots and Units are hereby conveyed, transferred, and assigned to Chicago Title Insurance Company, as trustee, in trust with power of sale, for the benefit of the Association as security for the payment of the Assessments levied by the Association when due. Said power of sale may be exercised with respect to any given Lot or Unit upon the failure of the Owner thereof to pay any amounts which are secured by said lien. No portion of the Property is used principally for agricultural or farming purposes. The Association or its authorized representative shall have the power to purchase the Lot or Unit at the trustee's sale and to acquire, hold, lease, mortgage, or convey the same. If the Association forecloses its lien non-judicially pursuant to this Section, it shall not be entitled to the lien priority over Mortgages.

12.16 Receiver During Foreclosure. From the time of commencement of an action by the Association to foreclose a lien for nonpayment of delinquent Assessments against a Lot or Unit that is not occupied by an Owner thereof, the Association shall be entitled to the appointment of a receiver to collect from the lessee thereof the rent for the Lot or Unit as and when due. If the rent is not paid, the receiver may obtain possession of the Lot or Unit, refurbish it for rental up to a reasonable standard for rental Lots or Units in this type of community, rent the Lot or Unit or permit its rental to others, and apply the rents first to the cost of the receivership and attorney fees thereof, then to the cost of refurbishing the Lot or Unit, then to applicable charges, then to costs, fees, and charges of the foreclosure action, and then to the payment of the delinquent Assessments. Only a receiver may take possession and collect rents under this Section, and a receiver shall not be appointed less than ninety (90) days after the delinquency. The exercise by the Association of the foregoing rights shall not affect the priority of preexisting liens on the Lot or Unit.

12.17 Acceleration of Assessments. If any Assessment levied upon a particular Lot or Unit remains delinquent for more than ninety (90) days, the Board may, upon fifteen (15) days' written notice to the Lot or Unit Owner, accelerate and demand immediate payment of all Assessment installments that the Board reasonably determines will become due during the next twelve (12) months with respect to the Lot or Unit. The right of acceleration under this Section is solely for the benefit of the Association. If the Board has exercised its right of acceleration under this Section, it may, in its sole discretion, reverse the acceleration.

12.18 Late Charges and Interest. The Association may establish reasonable late charges and a rate of interest to be charged on all delinquent Assessments or installments thereof. In the absence of a specified late charge, the charge shall be twenty-five dollars (\$25.00). In the absence of another established non-usurious rate, delinquent Assessments shall



bear interest from the date of delinquency at the maximum rate permitted under RCW 19.52.020. Such charges shall constitute Assessments as defined herein.

12.19 Recovery of Costs and Fees. The Association shall be entitled to recover any costs incurred in connection with the collection of delinquent Assessments, including, but not limited to, administrative costs imposed by the Managing Agent, costs of preparing and serving notices, lien preparation, recording costs, copying, filing fees, and reasonable attorneys' fees, whether or not such collection activities result in suit being commenced or prosecuted to judgment. In addition, the Association shall be entitled to recover costs and reasonable attorney fees if it prevails on appeal and in the enforcement of a judgment.

12.20 Certificate of Unpaid Assessments. Upon written request, the Association, shall, within fifteen (15) days, furnish to a Lot or Unit Owner a statement signed by an Officer or authorized agent of the Association setting forth the amount of unpaid Assessments associated with that Owner's Lot or Unit. The statement shall be binding on the Association unless and to the extent known by the recipient to be false. Lot or Dwelling Unit Owners further consent to the provision of such a certificate to the mortgagee of its Lot or Unit and any agents thereof. The Board may establish a reasonable fee to be charged for the cost of preparing the certificate, which shall also be considered a cost of collection of the delinquent account.

### ARTICLE 13. ENFORCEMENT

13.1 Strict Compliance. Each Owner shall comply strictly with the Governing Documents as they may be lawfully amended from time to time, and the decisions of the Board relating thereto. Owners are responsible for the compliance of their Residents. Failure to comply shall be grounds for imposition of fines or other action by the Association to obtain compliance, including actions to recover sums due, damages, for injunctive relief, or any or all of them. In order to obtain equitable relief under this Declaration, no showing of irreparable injury or the lack of a remedy at law or the inadequacy of such remedy shall be required; provided, that this covenant shall not preclude an Owner or the Association from also seeking monetary damages. Such actions may be prosecuted by the Association or by any aggrieved Owner.

13.2 Owner Liability for Damage. In the event any of the Common Areas are damaged or destroyed by an Owner or Resident, the Association shall repair the damaged Common Areas in a good workmanlike manner in conformance with the pre-damage condition and shall, after giving the Owner Notice and Opportunity to be Heard, impose upon that Owner an Assessment for the cost expended for said repairs.

13.3 Supplemental Enforcement Procedures & Fines. The Board shall, by Rule, create enforcement procedures that provide Owners with Notice and Opportunity to be Heard prior to the levy of any fine or Individually Allocated Assessment, which procedures shall be

consistent with the Act and this Declaration. The Board shall also, by Rule, create a schedule of reasonable fines for violations of the provisions of the Governing Documents. Such fines constitute Assessments as defined herein and may be collected as such, including the imposition of interest, late fees, and the creation of a lien upon the Lot for failure to pay fines when due.

13.4 Remedies Cumulative. The remedies provided in this Declaration are cumulative and the Association may pursue any of them, as well as any other remedies that may be available under law although not expressed herein, either concurrently or in any order.

13.5 Costs of Enforcement. In any action to enforce the provisions of the Governing Documents, the prevailing party shall be entitled to all costs of enforcement, including reasonable attorneys' fees.

13.6 No Waiver. The failure of the Board in any instance to insist upon the strict compliance with the Governing Documents, or to exercise any right contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of any term, covenant, condition, or restriction. Acceptance of partial payment or payment of Assessments shall not constitute a waiver or ratification of any violation, or an accord and satisfaction. No waiver by the Board of any requirement shall be effective unless expressed in writing and signed by the Board.

#### **ARTICLE 14. LIABILITY; INDEMNIFICATION**

14.1 Claims Against Association. An action alleging a wrong done by the Association must be brought against the Association and not against any Owner or any Officer, Trustee, or committee member of the Association. So long as an Officer, Trustee, or committee member has acted in good faith, without willful or intentional misconduct, upon the basis of such information as is then possessed by such person, no such person shall be personally liable to any Owner, or to any other person, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of such person, provided that this Section shall not apply where the consequences of such act, omission, error, or negligence is covered by insurance obtained by the Board.

14.2 Limitation of Liability for Utility Failure. Except to the extent covered by insurance obtained by the Board, neither the Association nor the Board shall be liable for the failure of any utility or other service to be obtained and paid for by the Board, or for inconvenience or discomfort resulting from any action taken to comply with the Governing Documents, any law, ordinance, or orders of governmental authority. No diminution or abatement of Assessments shall be claimed or allowed for any such utility or service failure, for such injury or damage, or for such inconvenience or discomfort.

14.3 Indemnity. Except as provided in this Section, each Officer, Trustee and committee member shall be indemnified by the Association against all expenses and liabilities (including attorneys' fees) reasonably incurred by, or imposed in connection with, any proceeding in which such person may become involved, by reason of holding or having held such position, regardless of whether or not such person holds such position at the time such expenses or liabilities are incurred. Determination of indemnification rights and procedures for payment under this Section shall be as provided in the Washington Business Corporations Act, to the extent applicable through the Nonprofit Corporations Act.

14.3.1 The Association shall not indemnify such persons in connection with a proceeding in which such persons are adjudged liable to the Association;

14.3.2 The Association shall not indemnify such persons where the act or omission constitutes intentional misconduct, knowing violation of the law, making of unlawful distributions under the Nonprofit Corporations Act, or for any such transaction in which such persons personally received a benefit to which such persons were not legally entitled;

14.3.3 The indemnity shall not extend to amounts paid in settlement unless the Association is a party to the proceeding or approves such settlement;

14.3.4 The Association has no separate obligation to indemnify such persons if such expenses and liabilities are covered by any type of insurance.

## ARTICLE 15. INSURANCE

15.1 Property Insurance. The Association shall obtain and maintain property insurance covering all Common Areas, including any improvements thereon, to compensate for loss or damage by fire or other hazards commonly insured against in an amount sufficient to cover the full replacement cost of any repair or reconstruction work, in the event of damage or destruction from any hazard.

15.2 Liability Insurance. The Association shall obtain comprehensive liability insurance covering all Common Areas, and all damage or injury caused by the negligence of the Association or its agents, which shall include liability coverage for Officers and Trustees, in an amount determined by the Board to be in the Association's best interests and considering standard industry practice for associations of similar size and amenities.

15.3 Other Insurance. The Board shall have authority and discretion to obtain and maintain, as a Common Expense, such additional policies of insurance and bonds as the Board deems to be in the best interests of the Association, or to meet the requirements of lenders such as the Federal National Mortgage Association, Federal Home Loan Mortgage Association, Veterans Administration or similar agencies or lending institutions. Without limiting the

foregoing, the policies authorized above may include but are not limited to the following coverages to the extent reasonably available: (1) Trustees and Officers insurance; (2) worker's compensation insurance to the extent required by applicable laws; and (3) fidelity insurance affording coverage to protect against dishonest acts on the part of Officers, Trustees, trustees and employees of the Association, and all other persons who handle or are responsible for handling the funds of or administered by, the Association. The insurance policies and bonds purchased for the Association shall have deductibles and limits as determined in the discretion of the Board and based on the advice and recommendations of insurance agents, accountants, and other professionals as requested by the Board. The insurer(s) shall be financially sound and qualified to conduct business in the State of Washington.

15.4 Reasonably Available. To the extent reasonably available, the Association or its Managing Agent shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, and the Board determines that any insurance described in this Article will not be maintained, the Board shall cause notice of that fact to be given to all Owners.

15.5 Owner's Insurance. Residential Lot Owners and Unit Owners are encouraged to obtain insurance coverage for damage to the Owner's Lot or Unit.

15.6 Use of Insurance Proceeds. Any destruction of or damage to a portion of Capitol City Golf Club Estates that is covered by the Association's insurance shall be repaired or replaced promptly by the Association using insurance proceeds.

## **ARTICLE 16. AMENDMENTS**

16.1 Certain Amendments Required. If the boundary of any Lot is changed, Lots are combined or subdivided, or the use of Lot 503 is converted, the Association shall prepare an amendment to this Declaration that identifies the Lots or Common Areas involved, describes the action taken and states the new Common Expense allocations of the altered Lot or Lots, if any. Such amendments shall be executed by the Association and by the Owners whose Lots were altered. In the case of a Lot boundary alteration, the amendment shall contain words of conveyance between the Owners of Lots whose boundaries are altered. The amendment shall be recorded in the name of the Association, and the grantor and the grantee. In any case where the Plat Map would be inaccurate or misleading without an amendment thereto, the Board shall also prepare and record an amendment to the Plat Map reflecting the change. All such amendments shall contain a cross-reference by recording number to this Declaration and all amendments thereto and shall set forth all information required by the Act. Costs of preparing, executing and recording such amendments shall be assessed to the Owner (or prorated to the Owners if multiple Lots are involved) as Individually Allocated Assessments in accordance with Section 12.4.

16.2 Proposed Amendments. Except as provided in Section 16.1, only a majority of the members of the Board or a written petition executed by Owners to which twenty percent (20%) of the Total Voting Power is allocated (along with a copy of the proposed amendment) may cause a proposed amendment to be submitted to the Owners for consideration. Notice of a meeting at which an amendment is to be considered or notice that an amendment is proposed for approval without a meeting shall include the text of the proposed amendment. However, non-material, formatting, or typographical errors may be corrected after approval is obtained, but prior to recording or publication.

16.3 Vote or Consent Required. This Declaration may be amended only upon obtaining the approval specified in this Section.

16.3.1 Any amendment that would change the equal allocation of Common Expenses among Lots and Units (except through combination or subdivision of Lots) shall require the vote or approval of Owners to which ninety percent (90%) of the Total Voting Power is allocated as well as the approval of each Owner whose allocation of Common Expense liability would change.

16.3.2 Any amendment to ARTICLE 5 shall require the vote or approval of the Owners to which a majority of the Commercial Lot votes are allocated in addition to the vote or approval of Residential Lot or Unit Owners to which at least sixty-seven percent (67%) of the Total Voting Power is allocated.

16.3.3 Any other amendment shall require the vote or approval of Owners to which at least fifty-one percent (51%) of the Total Voting Power is allocated.

16.3.4 Nominal amendments to correct formatting, dates, spelling, grammar, cross-references, Lot or Unit numbers or other scribes' errors may be prepared and recorded by the Board on behalf of the Association, without a vote of the Owners.

16.4 Form of Amendment; Recording. Any amendment to this Declaration shall be prepared, executed and certified on behalf of the Association by any two Officers of the Association designated for that purpose or, in the absence of designation, by the President and Secretary of the Association. The amendment shall be in writing and shall state the consecutive number of the amendment of the Declaration in the title (e.g., "Fifth Amendment to the Amended & Restated Declaration for Capitol City Golf Club Estates"). Each amendment to this Declaration must be recorded in the real property records of Thurston County and is effective upon recording. Amendments shall be indexed in the name of Capitol City Golf Club Estates and shall contain a cross-reference by recording number to this Declaration, the Original Declaration, and any previously recorded amendment to either of them.

16.5 No Challenge After One (1) Year. No action to challenge the validity of the adoption and approval of this Declaration or any amendments thereto may be brought by any person more than one (1) year after it is recorded.

## ARTICLE 17. MISCELLANEOUS

17.1 Form and Delivery of Notice. Unless otherwise provided in this Declaration, all notices to be given under the provisions of this Declaration, the Bylaws, or Rules, shall be in writing and may be delivered either personally (by hand delivery) or by U.S. Mail. Personal delivery shall be deemed delivered when the Lot or Unit Owner is handed such notice. Mailed notice shall be deemed to have been delivered upon being properly addressed to the Lot or Unit address unless another mailing address has been given in writing to the president or secretary of the Association or the Managing Agent, postage paid and deposited in the mail. Notices of Association meetings may be given by email or other electronic means, but only to those Owners who have consented, in writing, to receipt of electronically transmitted notices, which consent may be revoked as provided in the Act. Email or other electronic notice shall be deemed delivered upon successful transmission. Notwithstanding these provisions or anything else in this Declaration or the Bylaws to the contrary, if the Act is amended to allow some or all notices to be provided by email or other electronic transmission, or another law applies that supersedes the Act with respect to the giving of such notices, the Association may provide such notice consistent with the applicable statute.

17.2 Association Records. The Association shall keep financial records sufficiently detailed to enable it to comply with the requirements of the Act. All financial and other records of the Association, meaning copies of the Governing Documents, membership lists, list of current Trustees and Officers, and minutes of Association meetings, as well as any other non-privileged materials kept in the regular course of the Association's business, shall be made reasonably available for inspection by Owners and mortgagees as provided by Rule. Owners requesting access to such documents must have a purpose for inspection reasonably related to membership interests. The Association may charge a reasonable rate for providing copies of records, and for the time taken to review the requested records to protect any privilege and the privacy interests of its Owners, or to otherwise compile, present, or provide the records for review.

17.3 Severability. The provisions of this Declaration shall be independent and severable, and the unenforceability of any one provision shall not affect the enforceability of any other provision so long as the remaining provision or provisions comply with the Act.

17.4 Rule against Perpetuities. The rule against perpetuities may not be applied to defeat any provision of this Declaration.

17.5 Effective Date. This Declaration shall take effect upon recording.

*[signatures on next page]*

**CAPITOL CITY GOLF CLUB ESTATES ASSOCIATION**

By: [Signature] (signature)  
Its: President

**THE UNDERSIGNED SECRETARY OF THE ASSOCIATION HEREBY CERTIFIES THAT A MAJORITY OF MEMBERS OF THE ASSOCIATION ENTITLED TO VOTE HAVE APPROVED THIS AMENDED AND RESTATED DECLARATION.**

By: Pamela J Dittloff (signature)  
Its: Secretary

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF Thurston )

On this 2<sup>nd</sup> day of November, 2021, personally appeared before me, Larry Dittloff and Pamela Dittloff known to me to be the President and Secretary (Officers) of the Capitol City Golf Club Estates Association, the non-profit corporation that executed the within and foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of the Association, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute the instrument.

DATED this 2<sup>nd</sup> day of November, 2021.

[Signature] (Signed)  
Scott Roth (Print Name)

Notary Public in and for the State of Washington  
My commission expires: 5/15/25

Notary Public  
State of Washington  
Scott Roth  
Commission No. 108168  
Commission Expires 05-15-25

**Exhibit A**

A portion of the West three-quarter of the North one-half of Section 4, Township 17 North, Range 1 West, W.M., per that certain plat of Capitol City Golf Club Estates, recorded on December 3, 1962, at Thurston County Auditor's No. 669686, as amended by instruments recorded under Thurston County Auditor's Nos. 669686 and 8703230152.



**Exhibit B**

<b>Residential</b>		<b>Commercial</b>
<b>Single-Family Lots</b>	<b>Multi-Family Lots</b>	<b>Commercial Lots</b>
1-229	279-283	230-232
233-278	285-286	501
284		50202
287-305		503
307-401	<b>Condominium Units</b>	50401
35301	504-1 to 504-8	506
403-407		507
50103		50701
50104		60001
50200		600
	<b>7 MF Lots</b>	
<b>399 SF Lots</b>	<b>8 Condominium Units</b>	<b>12 Commercial Lots</b>

**Total Votes in Association: 426**

**Each Lot or Unit's Common Expense Liability: 1/426th**

**Exhibit C**

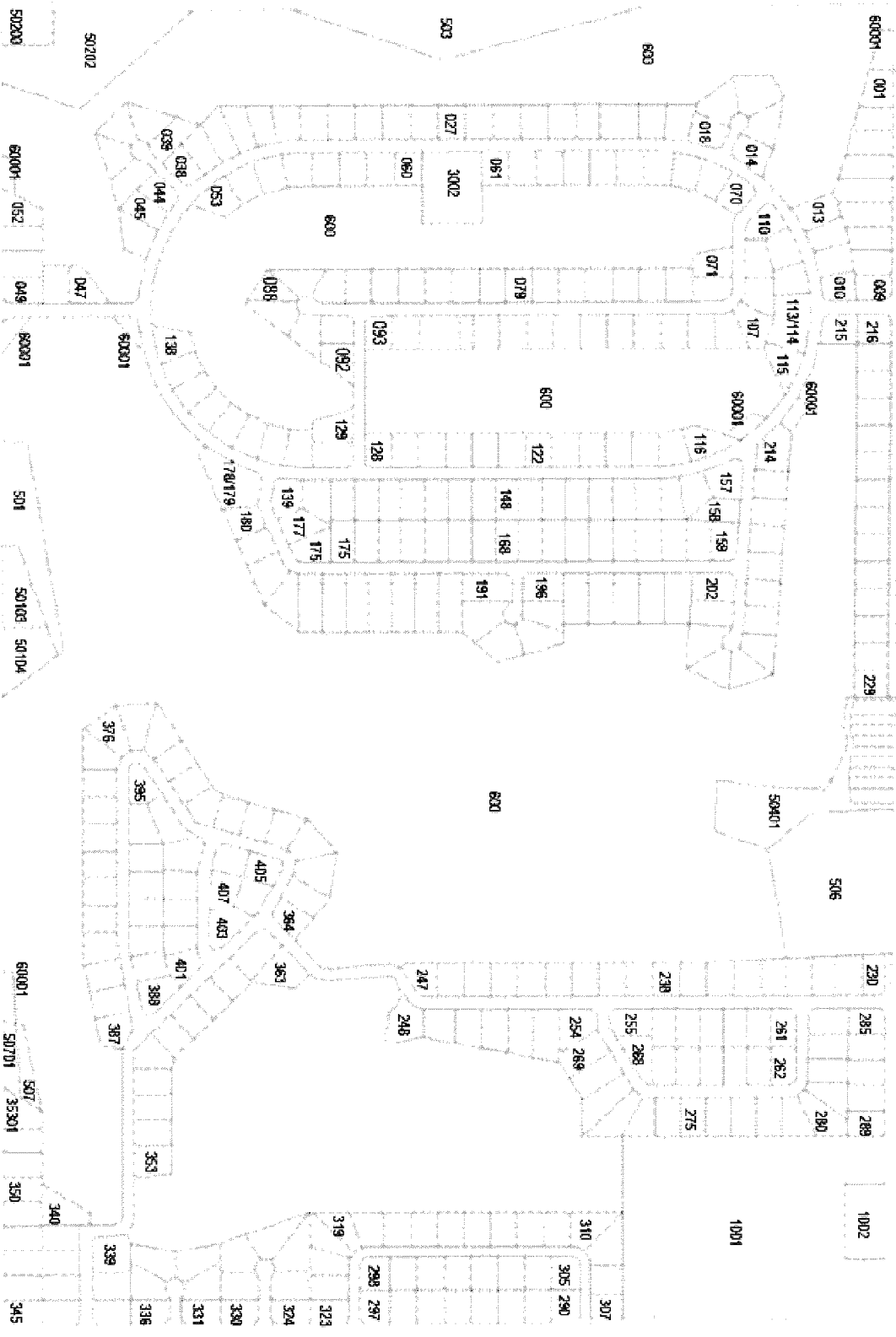


EXHIBIT C

AMENDED & RESTATED DECLARATION FOR  
CAPITOL CITY GOLF CLUB ESTATES - 38