



• CCR

APPLE
VILL#1

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION, made on the date hereinafter set forth by Larry D. Weaver and Judy L. Weaver hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Thurston, State of Washington, which is more particularly described as:

That plat 549 known as Applegate Village I as filed in Auditor's File No. 3000218, records of Thurston County, Washington. Pages 1,2 and 3.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property and be binding on all parties having any right, title or interest in the described and shall inure to the benefit of each owner thereof.

ARTICLE 1

DEFINITIONS

Section 1.1 "Association" shall mean and refer to The Applegate Homeowners Association of the Applegate Subdivision, a Washington non-profit corporation, its successors and assigns.

Section 1.2 "Owner" shall mean and refer to the record owner, or the contract purchaser, whether one or more persons or entities, of any lot which is part of the properties. The definition of owner excludes those having such interest merely as security for the performance of an obligation.

Section 1.3 "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the association.

11-14-95

Section 1.4 "Common Area" shall mean all real property (including all the improvements thereto) owned or utilized by the Association (or held by the developer or other entity) for the common use and enjoyment of the owners. The Common Area to be utilized by the Association is described as follows:

Those easements associated with the entryways, drainages and Park Area as shown on plat maps as filed.

Section 1.5 "Lot" shall mean and refer to any plot of land shown upon the recorded subdivision map of the Properties with the exception of the Common or Park Area.

Section 1.6 "Declarant" shall mean and refer to Larry D. Weaver and Judy L. Weaver, their successors and assigns.

ARTICLE II

PROPERTY RIGHTS

Section 2.1 Owners Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the park area designated. Such right shall not interfere or conflict with purposes and uses by the Rochester Water Association and/or the local Park district who, at the discretion of the declarant, may hold title to the park area as designated on the face of the plat maps.

Section 2.2 Delegation of Use. Any owner may delegate, in accordance with the by-laws, his right of enjoyment to the park area to the members of his family or his tenants.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 3.1 Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of any lot which is subject to assessment.

Section 3.2 Class A members shall be all owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds and interest in any lot, all such persons shall be members. The vote for such Lot shall be exercised as the determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier: (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership or (b) on January 1, 2005.

ARTICLE IV

COVENANT FOR MAINTENANCE, IMPROVEMENT OR ENFORCEMENT ASSESSMENTS

Section 4.1 Creation of the Lien and Personal Obligations of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association or the Declarant if prior the formation of the association: (1) annual assessments or charges and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorney fees shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, cost and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of the property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 4.2 Purpose of Assessments. The assessments levied by the Association or Declarant shall be used to promote the recreation, health, safety and welfare of the residents in the Properties, for the improvement and maintenance of the drainage facilities and Common area, (specifically including park area), to pay property taxes in common areas and to enforce or defend any section of this document including but not limited to architecture or maintenance standards. Association funds shall specifically not be used to bring legal action of any kind against the Declarant.

Section 4.3 Maximum Annual Assessment. Until January 1, 1998, the maximum annual assessment shall be One Hundred Fifty Dollars (\$150.00) per lot.

(a) From and after January 1, 1998, the maximum annual assessment may be increased each year not more than 5% above the maximum without a vote of the membership.

(b) From and after January 1, 1998, the maximum annual assessment may be increased above 5% by a vote of 2/3 of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The board of directors or Declarant may fix the annual assessment at an amount not in excess of the maximum.

Section 4.4 Special Assessments for Capitol Improvements. In addition to the annual assessments authorized above, the association or declarant may levy, in any assessment year, a special assessment applicable to the year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capitol improvement upon the park or common area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of 2/3 of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 4.5 Notice and quorum for any action authorized under sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under section 3 or 4 shall be sent to all members not less than 10 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast 60% of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject

to the same notice requirement and the required quorum at the subsequent meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 4.6 Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a semi-annual basis.

Section 4.7. Date of Commencement of Annual Assessments and Due Dates. The annual assessments called for herein shall commence on the month following the notification by the directors or declarant that such assessment is necessary. The 1st annual assessment shall be adjusted according to the number of months remaining in the calendar year. The directors or declarant shall fix the amount of the annual assessment against each Lot at least 30 days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the directors or declarant.

Section 4.8 Effect of Nonpayment of Assessments: Remedies of the Association or Declarant. Any assessment not paid within thirty (30) days after the due date shall bear interest from due date at the rate of 12 percent per annum. The Association or Declarant may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, Park or abandonment of his lot.

Section 4.9 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the line of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 4.10 The Homeowner's Association or Declarant, whichever is collecting the assessments, shall be responsible and pay for all costs to maintain the landscaping, lighting and improvements in all Common Areas.

NOTE: LOT 62 SHALL BE SPECIFICALLY EXEMPT FROM
ARTICLES V AND VI

ARTICLE V

ARCHITECTURAL AESTHETICS

Section 5.1 Architectural Controls. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to an approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant, or by an architectural committee appointed by the Declarant. In the event said Declarant or its designated committee, fails to approve or disapprove such design and location thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 5.2 Standards for Approval. Approval shall be based, among other things, on conformity and harmony of exterior design, colors and materials with neighboring structures; relation of proposed improvements to the natural topography, grade and finished ground elevation; relation of the structure to that of neighboring structures and natural features of the Property; and conformity of the plans and specifications to the purpose and general plan and intent of these restrictions. The Declarant or the Architectural Review Committee shall have the right to require and approve landscaping plans. The Declarant or the Architectural Review Committee shall not arbitrarily or unreasonably withhold its approval of such plans and specifications.

The exterior of the home, including, but not limited to roof area, exterior sides, painting, driveways and walks, fireplaces and landscaping shall be fully completed within six (6) months after the issuance of the building permit.

Section 5.3 Non-Liability for Actions. Neither Declarant, nor the Architectural Review Committee, nor their respective successors or assigns, shall be liable in damages to anyone submitting plans to the Declarant or the Architectural Review Committee for approval, or to any owner affected by this Declaration, by reason of mistake in judgment, negligence or non-feasance arising out of or in connection with the approval or disapproval or failure to approve any such plans and specifications. Every Owner or other person who submits plans to the Declarant or the Architectural Review Committee for approval agrees, by submission of such plans and specifications that he will not bring any action or suit against the Declarant or the Architectural Review Committee to recover any such damages. Approval by the Declarant or the Architectural Review Committee shall not be deemed to constitute compliance with the requirements of any local buildings codes and government regulations, and it shall be the responsibility of the Owner or other person submitting plans to the Declarant or the Architectural Review Committee to comply therewith.

Section 5.4 Address. Unless otherwise changed by the Declarant or by the Architectural Review Committee by due notice thereof given to the owners, all plans and specifications required under Section 5.1 shall be submitted in person or by mail to the following address:

Declarant - Larry D. Weaver
 10118 Hwy 12, S. W.
 Rochester, WA 98579

or such other address as may be designated by the Declarant or Architectural Review Committee.

ARTICLE VI

USE RESTRICTIONS

Section 6.1 Compliance with Zoning or Plat Standards. All residences shall be used primarily for single residential purposes only and shall not be used for any business, manufacturing, or commercial purpose.

Section 6.2 LAND USE AND BUILDING TYPE No lot shall be used for any purpose other than single family residential. No building shall be altered, erected, placed, or permitted to remain on any lot other than one single family dwelling, not to exceed two (2) stories, not including basement, in height and a private garage for a minimum of two cars.

Section 6.3 OUTBUILDINGS All outbuildings shall be built in a character and style similar to the residence and garage and shall be placed to the rear of the dwelling or in a location so that the home shall be the main feature on the lot.

Section 6.4 MINIMUM HOME SIZE No dwelling shall be permitted to be built on a lot wherein the floor area, exclusive of one-story open porches and garages is less than 1,250 square feet of living space, exclusive of basement and garage.

Section 6.5 ROOF DESIGN All homes shall have roofs constructed with a 25 year designer composition or better and shall have a roof pitch at a 5/12 minimum.

Section 6.6 EXTERIOR SIDING Beveled siding shall be on the frontside of the home. Declarant may allow alternative siding materials and design where he considers it equal to the above in character and quality.

Section 6.7 DRIVEWAYS All garages located upon any lot shall be connected to the adjacent street by a concrete or asphalt paved driveway. This shall not pertain to outbuildings placed to the rear of the residence. Each lot shall be limited to a single access unless otherwise approved by the Declarant and the county. A general illustration of an approved driveway is attached and marked as "Applegate driveway example".

Section 6.8 MOBILE HOMES No mobile home, manufactured home or structure of a temporary character shall be used on any lot at any time as a residence either temporarily or permanently.

Section 6.9 PROMOTIONAL SIGNS There shall be no promotional signs of any kind, including "For sale" signs placed in the entryway or common areas by those other than the declarant without express written permission by the declarant. Such permission may be revokable at any time.

Section 6.10 FENCES No fencing shall be placed on any lot that is greater than six feet in height nor shall any fence be constructed that does not conform to the architectural design of the house. Chain link style shall be allowed providing it is of good quality and is attractive to the home design. Barbed wire or agricultural style field fencing shall be prohibited.

Section 6.11 NUISANCES No noxious, obnoxious or offensive activity shall be carried on in any Lot, or in the Common Area, nor shall anything be done therein which may be an annoyance or disturbance to the Owners or occupants of the other Lots including, by way of example and without limitation thereto, maintenance of flashing lights or noise audible outside the Lot, except decorative lighting installed or authorized by the Declarant. Normal park activities (games, picnics) during reasonable hours shall be exempt from this section.

Section 6.12 HOUSEHOLD PETS No livestock shall be raised or boarded on any lot, except that household pets may be kept provided however that they are kept in fenced yards: and if taken outside of an owners yard, such pets are kept leashed and under an owners control at all times. Hobby animals (rabbits, birds etc.) may be kept provided they are properly screened from adjoining lots and do not create noise or smell nuisance. Each owner of a pet shall be responsible for clean-up and removal from the common area of such pet's excrement.

Section 6.13 REFUSE. All rubbish, trash, garbage, and other refuse shall be regularly removed from the Lots and shall neither be allowed to accumulate thereon nor be burned in outside incinerators, barbecue pits, or the like. All containers or other equipment for the storage or disposal of rubbish, trash, garbage, or other refuse shall be kept in a clean, sanitary condition and shall be screened by adequate

planting or fencing so as to conceal them from public view. The Declarant or Architectural Review Committee, or the designated representative of either shall, upon prior notice to an Owner to remove any rubbish, trash, garbage or other refuse from his Lot and upon the Owner's failure to so remove, have the right at any reasonable time to enter upon such Lot and remove any such rubbish, trash, garbage, or other refuse at the sole expense of the Owner of such Lot. Such entry shall not be deemed to be trespass upon the Lot.

Section 6.14 DRAINAGE SWALES All Owners shall leave all drainage areas and easements, including streetside swales, constructed on the Lots and on other portions of the Property in the state originally fixed by the Declarant or persons or entities acting on behalf of the Declarant. Those areas shall be maintained by those owners in accordance with attached addendums pertaining to stormwater facilities. Any Owner who in any way modifies such drainage areas without such consent shall be subject to the sanctions contained herein for violations of this Declaration.

Section 6.15 VISIBLE OBJECTS All clotheslines, equipment, garbage and trash containers, woodpiles, and storage piles shall at all times be kept screened by adequate planting and fencing so as to conceal them from public view.

Section 6.16 LANDSCAPING All Lots shall be landscaped and maintained in a reasonable manner in a quality manner in harmony with existing yard areas.

Section 6.17 ADDITIONAL VEHICLES, BOATS, TRAILERS No non-operative motor vehicles shall be parked, stored or located on any lot, driveway or on any street. Trailers and boats of any length, not in excess of 36 feet, may be stored or parked on the side or rear of the lot but no trailers and boats of any length may be stored or parked on the street.

Section 6.18 EXTERIOR MAINTENANCE The exterior of the buildings and any other improvements erected on a lot shall be maintained in a quality manner in harmony with existing buildings and improvements.

Section 6.19 OPEN FIRES No open rubbish fires or burn barrels shall be permitted on any lot except for barbecue facilities or during construction periods.

Section 6.20 FIREARMS There shall be no hunting or target shooting on any lot.

Section 6.21 COMPLIANCE Where the restrictions and covenants herein set forth cannot be complied with because of land or setback limitations the property and orderly development of such lots shall be effected within the purview of these covenants as far as possible and the Declarant or Architectural control committee is hereby empowered to allow such variations of such lots most consistent with the general plans of development.

Section 6.22 Conveyance of Lots. The Common Area and all Lots, whether or not the instrument of conveyance or assignment shall refer to this Declaration, shall be subject to the covenants, conditions, restrictions, easements, reservations, and other provisions contained in this Declaration, as it may be amended from time to time pursuant to Article IX.

Section 6.23 Declarant's Use. Notwithstanding any provisions contained in this Declaration, Declarant or Declarant's employees, agents, independent contractor, successors, and assigns involved in the construction of Residences or in the development of the Property, may maintain during the period of development of the Property and upon such portion of the Property as Declarant deems necessary, such facilities as in the sole opinion of Declarant may be reasonably required, convenient, necessary, or incidental to the construction and sale of Residences and to the development of the property, specifically including without limiting the generality or the foregoing, business offices, storage areas, construction yards, signs, model units and sales offices. It is expressly understood and agreed that Declarant and Declarant's employees, agents, independence constructors, successors, and assigns involved in the construction of residences or in the development of the property, shall have the right to use the Common Area, Roads, and the facilities of the Association for sales and business office purposes and that Declarant may conduct business activities within the Property in connection with its construction of the Residences and development of the property.

Section 6.24 Conveyance of Lots The Common Area and all Lots, whether or not the instrument of conveyance or assignment shall refer to this Declaration, shall be subject to the covenants, conditions, restrictions and easements and

reservations and other provisions contained in this Declaration, as it may be amended from time to time pursuant to Article IX.

ARTICLE VII

EASEMENTS

Section 7.1 EASEMENTS Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the face of the recorded plat.

Section 7.2 Entry, Performance and Enforcement. The Association or Declarant shall have and enjoy a non-exclusive easement on, over, under, across and through, and a non-exclusive right of entry and access to, the Property and each part thereof, including the individual Lots, for the exercise or performance by the Association or Declarant, and persons and organizations authorized by it, of the rights granted to, or the duties imposed upon, the Association or Declarant by the provisions of the Declaration including without limitation thereto, the right to enter in or upon any Lot for the purposes of ascertaining whether there has been, or is, compliance with, and to enforce, the provisions of this Declaration, the rules and regulations of the Association and the resolutions of the Declarant.

Entry of a Lot pursuant to this easement shall be restricted to reasonable times and must be preceded by written notice of at least twenty-four (24) hours to the occupant unless entry is required by an emergency.

Section 7.3 Annexation Easement. Declarant, for itself and its successors and assigns, hereby retains a right and easement of enjoyment in and to the Common Area for the benefit of any other property or properties which Declarant may annex hereto in accordance with Article IX and for the benefit and use of Declarant, its successors and assigns, and any Owners, family members, guests, invitees, tenants, or contract purchasers of any portion of portions of such property or properties.

Section 7.4 Sales Program. Until such time as Declarant no longer owns a Lot in the Property, Declarant or its designated successors, their agents, employees or

assigns, shall have a non-exclusive easement and right to maintain in or upon the Common Area and lots owned by it such signs and sales displays as may be required in connection with Declarant's sales program; provided, however, that such use shall not unreasonably interfere with any Owner's quiet enjoyment of his Lot. Declarant, his designated successors, their agents, employees or assigns, and prospective purchasers coming to view sales models, shall also have a non-exclusive easement to use the General Common Area, for ingress, egress and parking in connection with Declarant's sales program.

ARTICLE VIII

ANNEXATION

Section 8.1 Annexation by the Declarant. If at any time or times prior to December 31, 1997, Declarant or its successors or assigns should develop any additional property or properties within the service area of Rochester Water Association, then such additional property or properties including the already developed properties, may at the sole discretion of the Declarant, or its successors and assigns, be annexed to the Properties and become subject to the provisions of the Declaration without requiring, needing, or obtaining the approval of The Association, or any Owners.

Any instrument of annexation hereunder by Declarant, its successors and assigns, may also contain additional or other covenants, conditions, restrictions, easements, reservations, and other provisions therein which are applicable to the property or properties thereby being annexed.

ARTICLE IX

DURATION AND AMENDMENT

Section 9.1 Duration and Extension. This Declaration, every provision, covenant, condition, restriction and reservation contained herein shall run with and bind the land and shall continue in full force and effect for a period of twenty (20) years from the date hereof, and shall thereafter be automatically extended for successive periods

of ten (10) years unless otherwise terminated or modified as hereinafter provided.

Section 9.2 Amendments and Modifications. Subject to Section 9.3, this Declaration or any provision hereof or any covenant, condition or restriction contained herein, may be terminated, extended, modified, or amended, as to the whole of the Property or any portion thereof, with the written consent of the members holding at least sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of the Class A membership in the Association, and the consent of the Class B member thereof, if any, during the first twenty (20) year period of these Covenants and thereafter by not less than a majority of the Class A membership in the Association and the consent of the Class B member thereof, if any. Such termination, extension, modification or amendment shall be immediately effective upon recording the property instrument in writing, executed and acknowledged by such Owners (and by Developer) as required herein in the office of the Thurston County Auditor of Thurston County, Washington.

Section 9.3 Sections Which May Not Be Amended. Notwithstanding the foregoing, the following Sections of this Declaration are intended to be for the personal benefit of the Declarant, its successors and assigns, and may not be extinguished, amended, or otherwise modified unless the written approval of the Class B member thereof, if any, thereto shall be obtained and the written consent of the members holding at least ninety percent (90%) of the Class A membership in the Association shall be obtained: Article I; Article II, Section 2.1; Article III, Section 3.2; Article VI, Section 4.3, Section 4.4; Article VII; Article VIII; and this Article IX, Section 9.3.

ARTICLE X

ENFORCEMENT

Section 10.1 Enforcement. The Association, Declarant, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereinafter imposed by the provisions of this Declaration. Failure by the Association, Declarant, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 10.2 Deemed to Constitute a Nuisance. Every violation of these covenants or any part thereof is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed therefor by law or equity against an Owner, shall be applicable against every such violation and may be exercised by the Association, Declarant, or Owners pursuant to Section 10.1.

In any legal or equitable proceeding for the enforcement or to restrain the violation of this Declaration or any provision hereof, the losing party or parties shall pay the reasonable attorneys' fees of the prevailing party or parties in the amount as may be fixed by the Court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

The failure of the Association, Declarant, or any Owner to enforce any of the conditions, covenants, restrictions or reservations herein contained shall in no event be deemed to be a waiver of the right to do so for subsequent violations of or the right to enforce any other conditions, covenants, restrictions or reservations, and the Association shall not be liable therefor.

ARTICLE XI

EFFECTS OF DEVELOPMENT PLAN, PLATS AND OTHER

DOCUMENTS FILED WITH THE COUNTY OF THURSTON

Section 11.1 General Information Regarding Development Plan. The Development Plan of Applegate Village I, of which the Property is a part, the preliminary or final plat and other related documents which are on record in the office of the Thurston County Auditor of the County of Thurston or other applicable governmental agency (hereinafter referred to as the "Plan"), has the effect and only the effect described by the Statutes of the State of Washington, and the rules and regulations of said County. The Plan and related documents constitute part of the public controls imposed by the County upon Developers, Owners, Residents and users of the Development and do not create, and are not intended to create, any private property or contract rights in the Owners and Residents of the Development except as such rights may be created expressly by separate contracts, deeds and other documents including this Declaration. The plan on file in the office of the said Auditor or other

applicable governmental agency describes a plan of development which Declarant believes will provide maximum benefit to the Residents, Owners and the public. During an extended development program, however, various factors can intervene which may hinder the effectiveness of the plan and may threaten the benefits to be derived by the Declarant, Residents, Owners, and the public unless the plan can be modified as prescribed by applicable law. Accordingly, this Declaration is not intended to nor does it grant or create any private property or contract rights to the said Plan for the Development and such plans continue to remain subject to modification by the proper governmental authorities in accordance with the procedures set forth in the Statutes, rules and regulations of the County of Thurston, State of Washington.

Section 11.2 Rights Reserved. Declarant expressly reserves to itself, its successors and assigns the right to amend any Plan for the Property or any additional property which is hereafter annexed pursuant to Article VIII hereof, so long as:

- 2.1 Such amendment does not alter the Lot lines of of any Lot which has been conveyed to any Owner; and
- 2.2 Such amendment does not materially reduce the amount of Common Area within the Property available to an Owner for such Owner's use and enjoyment.

ARTICLE XII

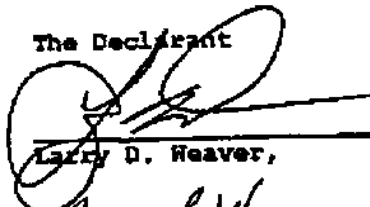
MISCELLANEOUS

Section 12.1 Non-Waiver. Failure by the Declarant, the Association, or any Owner to enforce any covenant, condition, restriction, easement, reservation or other provision contained in this Declaration shall in no way or event be deemed to be a waiver of the right to do so thereafter.

Section 12.2 Severability. The provisions of this Declaration shall be deemed to be independent and severable, and the invalidity of any one or more of the provisions hereof, or any portion thereof, by judgment or court order or decree shall in no way affect the validity of enforceability of any of the other provisions, which other provisions shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned is the owner of the properties described herein subject to these covenants, conditions and restrictions.

The Declarant



Larry D. Weaver,



Judy L. Weaver

**ADDENDUM TO
APLEGATE VILLAGE I SUBDIVISION
PROPERTY OWNER'S DEED COVENANTS**

The stormwater facilities designed and constructed on the subject site (including biofilter strips, swales stormwater ponds and future roof drywells) meet the requirements of the "Stormwater and Erosion Control Manual - Thurston Region" 1994 as documented on the Applegate Village I Subdivision Improvements Plans and in the Storm Drainage and Erosion Control Report. See Attachment "A" for specific requirements and conditions to be undertaken by the individual property owners in addition to the above requirements. Alteration of the common Short Plat facilities or the individual Lot facilities requires the approval of Thurston County Roads and Transportation Department. Revision and resubmission of these documents may be required.

Easements are hereby granted for the installation, inspection, and maintenance of utilities and drainage facilities as delineated on the Applegate Village I Subdivision. No encroachment will be placed within the easements shown on the plat, which may damage or interfere with the installation, inspection, and maintenance of utilities. Maintenance and expense thereof of the utilities and drainage facilities shall be the responsibility of the Property Owners Association as established by covenant recorded under Auditor's file number _____.

In the event that the Project Proponent (or successors or the Property Owners Association), in the judgment of the Jurisdiction:

1. Fails to maintain drainage facilities within the plat,
2. Willfully or accidentally reduce the capacity of the drainage system, or
3. Renders any part of the drainage system unusable,

the Proponent or successor agree to the following remedy:

After 30 days notice by registered mail to the Proponent or successors, Jurisdiction may correct the problem or maintain facilities as necessary to restore the full design capacity of the drainage system.

Jurisdiction will bill the Proponent or successors for all costs associated with the engineering and construction of the remedial work.

Jurisdiction may charge interest as allowed by law from the date of completion of construction.

Jurisdiction will place a lien on the property and/or on lots in the Property Owners Association for payments in arrears.

Costs or fees incurred by the Jurisdiction, should legal action be required to collect such payments, shall be borne by the Proponents or successors.

**PROPERTY OWNER'S DEED COVENANTS
ATTACHMENT "A"**

The purpose of this Attachment is to clarify the purpose, and operational and maintenance requirements of the stormwater collection and disposal facilities constructed to serve the entirety of the Applegate Village I Subdivision. These facilities are contained in Utility/Stormwater Easements located on the residential lots within the subdivision.

PURPOSE

The purpose of the stormwater facilities within the Applegate Village I Subdivision is to collect, treat, detain and dispose of stormwater runoff from all impervious and pervious surfaces within the subdivision, except the roof areas of the individual residences and other major structures constructed on the individual lots. Roof runoff is to be collected, stored and infiltrated in subgrade dry wells, which are to be constructed for each residence by the builder at the time of lot development. These drywells are not part of the stormwater facilities constructed to serve the subdivision.

In general, the stormwater system for the subdivision consists of swales, swale/ponds, roadway and driveway cross culverts, and catch basin overflow structures. The ponds are shallow, typically less than 3 ft deep with design ponding depths of less than 1.5 ft. Stormwater runoff generated on impervious surfaces is designed to pass over a grassed "Biofilter Strip" with a minimum width of 10 ft prior to entering the swale/ponds or ponds for the purpose of cleaning the runoff before it is infiltrated into the subgrade soil.

Driveway accesses through the lot frontage swale/ponds are an integral part of the stormwater system and are not to be relocated without the written approval of The Jurisdiction.

The collected stormwater will be detained in the pond areas while it infiltrates into the subgrade soil. Individual pond segments are connected by culverts to maximize the utilization of storage volume. The maximum detention time is designed to be less than 48 hours.

As such, it is imperative that the swales, swale/ponds, ponds and adjacent grassed sloped surfaces be maintained at the elevations and grades, and in the configurations shown on the Construction Drawings. The pond sideslopes and bottoms are to be maintained as free draining topsoil and turf.

- These areas shall NOT be landscaped or improved in any way beyond a simple grass lining.
- These areas shall NOT be filled, or bottom or sideslopes grades altered in any way.

- These areas shall NOT be covered or enclosed.

FACILITIES OPERATION AND MAINTENANCE

These facilities have been designed to require a minimum of operational attention and maintenance:

- Swales, swale/ponds and ponds should be cleared of debris, mowed periodically to maintain grass depth to less than 6 inches and thatched if required to improve infiltration through the turf.
- Catch basins are equipped with sediment sumps to collect soil and debris, which should be inspected annually and cleaned when accumulations of more than 6 inches of sediment develop.
- Roadway and driveway cross culverts should be maintained as free flowing with open end areas and clear of sediment accumulation. Debris and plant growth should be removed from culvert ends to insure a clean flow path.
- Culverts with catch basins at the inlet end are fitted with rip rap channel protection at the outlet end. Rip rap should be maintained in a compact well knit mass. Raveled areas should be reset and rock added if required.