



ASPINWALL ESTATES
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION is made on the ____ day of March, 1992, by C & V MANKE JOINT VENTURE, a Washington general partnership, ("Declarant").

BACKGROUND

1. Declarant is the owner of certain property (the "Property") in Thurston County, Washington, which is described on Exhibit "A". The Declarant intends to create on that property the residential community of Aspinwall Estates with permanently maintained Common Areas for the benefit of the residents.

2. Declarant desires to preserve and enhance the property values, amenities, and opportunities in Aspinwall Estates and to provide for the health, safety and welfare of the residents. To this end, Declarant desires to subject the property described on Exhibit "A" to the covenants, restrictions, easements, charges and liens set forth in this Declaration, all of which are for the benefit of the property and each owner.

3. Declarant has incorporated, or will incorporate, as a nonprofit corporation, the Aspinwall Estates Homeowners Association, to provide a mechanism for meeting the purposes of this Declaration.

DECLARATION

Declarant hereby declares that the property described in Exhibit "A", is, are, and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens set forth in this Declaration.

Further, Declarant delegates and assigns to the Aspinwall Estates Homeowners Association the power of maintaining, and administering the Common Area, administering and enforcing the covenants and restrictions, collecting and disbursing the assessments and charges created in this Declaration, and promoting the recreation, health, safety, and welfare of the residents.

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THURSTON COUNTY
 OLYMPIA, WA
 03/19/92 09:26 AM
 REQUEST OF: MANKE LUM
 Saw S. Peed, AUDITOR
 BY: MIKE, DEPUTY
 \$29.00 DECOV
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 File No: 9203190005

ARTICLE I

Definitions

Section 1.1. "ACC" shall mean the Architectural Control Committee as described in this Declaration.

Section 1.2. "Association" shall mean the Aspinwall Estates Homeowners Association, a Washington nonprofit corporation, its successors and assigns.

Section 1.3. "Board" or "Board of Directors" shall mean the Board of Directors of the Association.

Section 1.4. "Common Areas" shall mean all real property and improvements owned or leased by the Association or by the Owners in common as shown on the recorded plat of Aspinwall Estates, or in which the Association has an easement (excepting easements for maintaining lots) for the use and enjoyment of the members.

Section 1.5. "Declarant" shall mean C & V MANKE JOINT VENTURE, its successors and assigns as developers of the project.

Section 1.6. "Declaration" shall mean the covenants, conditions and restrictions and all other provisions set forth in this Declaration, as they may from time to time be amended.

Section 1.7. "Federal Mortgage Agencies" shall mean those federal agencies which may have an interest in the properties, such as the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the successors to their interests.

Section 1.8. "First Mortgagee" shall mean a lender who holds the first mortgage on a Lot and who has notified the Association in writing of his holdings.

Section 1.9. "Lot" shall mean any numbered parcel of land shown upon any recorded subdivision map of the properties, with the exception of the Common Areas or other areas set aside for nonresidential use.

Section 1.10. "Member" shall mean every person or entity who holds membership in the Association.

Section 1.11. "Mortgage" shall include a deed of trust or other security instrument.

Section 1.12. "Notice" shall mean written notice delivered personally or mailed to the last known address of the intended recipient.

Section 1.13. "Owner" shall mean every person or entity, including Declarant, which is a record Owner of the fee simple title to any Lot, or if any Lot is sold under real estate contract, the vendee or vendees under that contract; provided, however, that the term "Owner" shall not include those having such interest merely as security for the performance of an obligation.

Section 1.14. "Property" shall mean the real property described on Exhibit "A".

ARTICLE II

Common Areas

Section 2.1. Ownership of Common Areas. The Common Areas consist of open space areas and a storm water retention area as set forth on the plat of Aspinwall Estates. These areas will be conveyed to the Lot Owners, with each holding an undivided 1/20th interest.

Section 2.2. Owners' Easements of Enjoyment. Each Owner shall have a right and a nonexclusive easement of enjoyment in and to the Common Areas and for ingress and egress over and through the Common Areas for the purpose for which they were set aside. Such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the right of the Association to adopt reasonable rules governing the use of the Common Areas and the personal conduct of persons authorized to use said areas, and to establish appropriate penalties for the violation of those rules.

Section 2.3. Delegation of Use. Any Owner may delegate their right of enjoyment to the Common Areas and facilities to the members of their family, their tenants, or their guests, subject to the limitations set forth above.

Section 2.4. Association to Maintain. The Association shall maintain, repair, replace, and improve the Common Areas and the other improvements described in Paragraph 2.1, as appropriate for a first-class residential community, and shall pay the actual cost of the same from annual or special assessments as appropriate. However, the maintenance of the water system and its appurtenances shall be the sole

responsibility of South Sound Utilities, its successors and assigns pursuant to the Easement and Covenant recorded under Thurston County Auditor's No. 9108290125 and supplemented by Auditor's No. 911118047.

ARTICLE III

Association

Section 3.1. General. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of a Lot shall be the sole qualification for membership.

Section 3.2. Voting. Members shall have one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The single vote for such Lot shall be divisible and exercised as the Owners determine, but in no event shall more than one vote be cast with respect to any Lot.

Section 3.3. Board of Directors. The Association shall be managed by a Board of Directors, elected or appointed in accordance with the Articles of Incorporation and Bylaws of the Association. Until the Declarant has sold all of the Lots in Aspinwall Estates, it shall have the sole right to appoint all members of the Board of Directors.

ARTICLE IV

Easements

Section 4.1. Easement for Association. The Association and its agents shall have an easement for access to each Lot and to the exterior of any building located thereon during reasonable hours as may be necessary for the following purposes:

- (a) The maintenance, repair, replacement, or improvement of any Common Area accessible from that Lot.
- (b) Emergency measures necessary to prevent damage to the Common Areas or to another Lot, or the improvements thereon.
- (c) To remove vegetation or maintain an improvement which the Owner has failed or refused to maintain in accordance with these Covenants or other applicable rules and regulations for Aspinwall Estates.

Except in an emergency where advance notice is not possible, these easements shall be exercised only after reasonable notice to the Lot Owner.

Section 4.2. Easement for Government Personnel. An easement for access by police, fire, rescue and other government personnel is reserved across all Common Areas as necessary or appropriate for the performance of their public duties.

Section 4.3. Easement for Declarant. The Declarant shall have an easement across all Common Areas for ingress, egress, storage and placement of equipment and materials, and other actions necessary for or related to the development or maintenance of Aspinwall Estates.

Section 4.4. Easement for Water System. An easement for Aspinwall Estates' Water System has been granted to South Sound Utility Company, Inc., a Washington corporation for the construction and maintenance of a water system as more particularly set forth in Easement and Covenant recorded under Thurston County Auditor's No. 9108290125 and supplemented by Auditor's No. 911118047.

ARTICLE V

Assessments

Section 5.1. Covenants for Maintenance Assessments.

(a) Declarant, for each Lot owned by it, agrees, and each Owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to agree to pay to the Association (i) annual assessments or charges, and (ii) special assessments for capital improvements.

(b) The annual and special assessments, together with interest, costs and reasonable attorney's fees shall be a charge and a continuing lien upon the Lot against which the assessment is made. This lien may be foreclosed by the Association in a like manner as a Mortgage on real property.

(c) Each assessment, together with interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of the Lot at the time the assessment fell due. The personal obligation shall not pass to the Owner's successors-in-interest unless expressly assumed by them. The new Owner shall be personally liable for assessments which become due on and after the date of sale or transfer.

Section 5.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Property, and the improvement, maintenance, and repair of the Common Area and the services and facilities related to the use and enjoyment of said areas, or for real property or other taxes assessed by Thurston County.

Section 5.3. Maximum Annual Assessments. The Board of Directors shall establish the maximum annual assessment which may, from time to time, be increased subject to the following conditions and limitations:

(a) Until February 1, 1993, the Maximum annual assessment shall be \$10.00 per Lot per month.

(b) After February 1, 1993, and until such time as the Declarant's Lots have all been sold, the Board of Directors may fix and increase the maximum annual assessment as necessary to fulfill the purposes set forth above. Thereafter, the maximum annual assessment may not be increased by more than the percentage increase in the Consumer Price Index applicable to the area for the previous year without a vote of two-thirds (2/3) of the Members.

Section 5.4. Board to Fix Annual Assessment. The Board of Directors shall fix the annual assessment at an amount, not in excess of the maximum, at least fifteen (15) days prior to the start of the fiscal year. Written notice of the annual assessment shall be sent to every Owner. In the event the Board fails to fix an annual assessment for any fiscal year, then the assessment established for the prior year shall automatically be continued until such time as the Board acts. The annual assessments shall be sufficient to meet the obligations imposed by the Declaration and any supplementary declarations, and shall be sufficient to establish an adequate reserve fund for the maintenance, repair and replacement of those Common Areas which require such actions on a periodic basis.

Section 5.5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto; provided, however, that any such assessment shall have the assent of two-thirds (2/3) of the Members who are

voting in person or by proxy at a meeting duly called for this purpose pursuant to Section 7 of this Article.

Section 5.6. Rate of Assessment. Both annual and special assessments shall be fixed at a uniform rate for all Lots.

Section 5.7. Notice and Quorum For Any Action Authorized Under Sections 3 and 5. Written notice of any meeting conducted pursuant to Sections 3 or 5 of this Article shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting and shall include a statement of the purpose for which the meeting is to be held. At the first meeting called for the purposes set forth in Sections 3 and 5, the presence of Members or of proxies entitled to cast Sixty (60%) Percent of all the votes shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth herein, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5.8. Commencement of Annual Assessments; Working Capital. The annual assessments shall commence as to each Lot within the Property on the first (1st) day of the month following the initial conveyance of the Lot. The first annual assessment on any Lot shall be adjusted according to the number of months remaining in the calendar year. At the time of each initial sale, the Declarant shall collect from each purchaser, an amount equal to two (2) months assessments for the Association's working capital.

Section 5.9. Certificate. The Association shall upon demand furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Association for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment stated to have been paid.

Section 5.10. Effect of Nonpayment of Assessments; Remedies of Association. Any assessments which are not paid when due shall be delinquent. A late charge equal to Five Percent (5%) of the amount overdue shall be charged for any payment made more than 10 days past the due date. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the rate of Twelve Percent (12%) per annum, and the Association may bring an action at law against the Owner obligated to pay the assessment, or may foreclose the lien against the

Lot, and in either event, interest, costs, and reasonable attorney's fees shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for annual or special assessments by nonuse of the Common Area or by abandonment of his Lot.

Section 5.11. Subordination of Lien to Mortgages. The lien of the assessments provided for in this Declaration shall be subordinate to the lien of any first Mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, where the mortgagee of a Mortgage of record or other purchaser of a Lot obtains possession of the Lot as the result of foreclosure of a Mortgage, or by deed or assignment in lieu of foreclosure, such possessor, his successors and assigns, shall not be liable for the share of the common expenses or assessments by the Association chargeable to such Lot which became due prior to such possession. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the owners, including such possessor, his successors and assigns.

Section 5.12. Exempt Property. The following Property shall be exempt from the payment of annual and special assessments:

- (a) All portions of the Properties dedicated to and accepted by a local public authority.
- (b) The Common Areas and other areas set aside for nonresidential use.

ARTICLE VI

Architectural Control Committee

Section 6.1. Appointment and Membership. There is hereby constituted an Architectural Control Committee (the "ACC"). The Declarant shall have the right to select the Members of the ACC so long as it owns Lots within Aspinwall Estates. Thereafter, the ACC shall be appointed by the Board for such terms as the Board may select. Initially, the ACC members shall be Holly Manke-White, Virgil Manke and Charles M. Manke, all of 1717 Marine View Drive, Tacoma, Washington, 98422. A majority of the ACC may designate a representative to act for it. The members of the ACC shall not be entitled to any compensation for services performed under these covenants.

Section 6.2. Guidelines. The ACC shall have the authority to adopt and amend written guidelines to be applied in its review of plans and specifications, in

order to further the intent and purpose of this Declaration and any other covenants or restrictions covering the Property. If such guidelines are adopted, they shall be available to all Members upon request.

Section 6.3. Meetings Compensation. The ACC shall meet as necessary to properly perform its duties, and shall keep and maintain a record of all actions taken at the meetings or otherwise. Unless authorized by the Association, the members of the ACC shall not receive any compensation for their services. However, all members shall be entitled to reimbursement for reasonable expenses incurred in connection with the performance of any ACC duties.

Section 6.4. Nonwaiver. Approval by the ACC of any plans, drawings or specifications shall not be a waiver of the right to withhold approval of any similar plan, drawing, specification, or matter submitted for approval.

Section 6.5. Liability. Neither the ACC nor any of its members shall be liable to the Association or to any Owner for any damage, loss or prejudice resulting from any action taken in good faith on a matter submitted to the ACC for approval or for failure to approve any matter submitted to the ACC. The ACC or its members may consult with the Association or any Owner with respect to any plans, drawings, or specifications, or any other proposal submitted to the ACC.

ARTICLE VII

Architectural and Landscape Control

Section 7.1. Approval of Plans Required. Except as provided in Section 7.2, below, none of the following actions may be taken until plans and specifications for the same have been approved in writing by the ACC:

- (a) The construction of private roads or driveways.
- (b) The construction or erection of any building, fence, wall or other structure, including the installation, erection, or construction of any solar collection device.
- (c) The remodeling, reconstruction, repainting or other alteration of any road, driveway, building or other structure.
- (d) The planting of trees and other major landscape features.

Section 7.2. Procedure for Approval. Any person wishing to take any of the actions described above shall submit to the ACC two (2) sets of plans and specifications showing:

- (a) The size and dimension of the improvements;
- (b) The exterior design;
- (c) The exterior color scheme;
- (d) The exact location of the improvement on the Lot;
- (e) The location of driveways and parking areas;
- (f) The scheme for drainage and grading;
- (g) The proposed landscaping; and,
- (h) Proposed outdoor lighting.

Approval of such plans and specifications shall be evidenced by written notation on such plans and specifications, one (1) copy of which shall be delivered to the Owner of the Lot upon which the proposed action is to be taken. The ACC shall not be responsible for any structural defects in such plans or specifications or in any building or structure erected according to such plans and specifications. The ACC shall make its decision within 30 business days from the date the completed plans and specifications are submitted.

Section 7.3. Criteria for Approval. Approval of plans and specifications may be withheld or conditioned if the proposed action is at variance with these covenants, other covenants covering the Property, or design guidelines adopted by the ACC. Approval may also be withheld or conditioned if, in the opinion of the ACC, the proposed action will be detrimental to the community because of the grading and drainage plan, view impacts, location of the improvement on the Lot, color scheme, finish design, proportions, size of home, shape, height, style, materials, outdoor lighting proposed, or landscaping plan.

Section 7.4. Conformity With Approved Plans. It shall be the responsibility of the ACC to determine that actions have been completed in accordance with the plans as submitted and approved. Such determination must be made within sixty (60) days of the completion of the action. If the ACC shall determine that the action does not

comply with the plans and specifications as approved, it shall notify the owner within that sixty (60) day period, and the Owner, within such time as the ACC shall specify, but not less than thirty (30) days, shall either remove or alter the improvement or take such other steps as the ACC shall designate.

Section 7.5. Contractor. The construction of a residence or accessory structure, and any major alterations shall be done by a licensed and bonded contractor unless written approval to the contrary is obtained from the ACC.

ARTICLE VIII

Permitted and Prohibited Uses

Section 8.1. General. All Lots shall be used solely and exclusively for private one-family residences with appurtenant garages. A building site shall consist of not less than one (1) Lot as shown on the recorded plan. No Lot shall be divided except that, with the permission of the ACC and Thurston County, the boundary between two Lots may be adjusted. Any building or structure to be erected, constructed or maintained shall be commensurate in quality with the other homes in said subdivision.

Section 8.2. Driveways. All driveways shall be approved by the ACC and shall be asphalt or concrete. Black rock will be acceptable when the driveway cannot be viewed from the main road.

Section 8.3. Garages. Where it is architecturally possible, all garages shall be incorporated in or made a part of the dwelling. On-site parking provisions for no less than two automobiles shall be provided in addition to garage automobile storage. Where a garage is not a part of a dwelling, it shall not be located closer than 20 feet from the front line of the building site (measured at the closest point of each line).

Section 8.4. Animals. No animals, livestock (including goats or pigs) or poultry of any kind, shall be kept or maintained on any part of said Property. Dogs and cats, not to exceed a combined total of two, may be kept on any Lot, provided that they are not kept, bred or maintained for any commercial use or purpose. Any dogs must be kept so as to minimize excessive noise from barking or otherwise shall be considered a nuisance according to the terms of these covenants.

Section 8.5. Temporary Structures. No building or structure shall be moved onto any land within the subdivision. No trailers shall be maintained on any building

site as a residence. No building of any kind shall be erected or maintained on a building site prior to the erection of a dwelling thereon, except that a garage or other small building or permanent structure may be erected for the storing of tools and other articles, but shall not be used for residence purposes. Nothing in this restriction shall prevent the temporary use of a construction shack and/or trailer during the construction of any approved dwelling or during the development of the Property by Declarant.

Section 8.6. Construction. The construction of all buildings and structures shall be prosecuted diligently and continuously from commencement of construction until the structures are fully completed and painted. All structures shall be completed as to external appearance, including finish painting, within six (6) months from the date of commencement of construction. Except with the approval of the ACC, no persons shall reside upon the premises of any Lot until such time as the improvements to be erected thereon in accordance with the plans and specifications approved by the ACC have been completed.

Section 8.7. Garbage and Refuse Disposal. No garbage, rubbish or cuttings shall be deposited on or left on a Lot, unless placed in an attractive container suitably located and screened from public view. No building material of any kind shall be placed or stored upon any Property in said subdivision until the Owner is ready to commence construction; then such material shall be placed within the Lot line of the building site upon which structures are to be erected and shall not be placed in the street.

Section 8.8. Nuisances. No noxious or undesirable thing or noxious or undesirable use of a Lot in said subdivision shall be permitted or maintained upon the Property. If the ACC shall determine that a trade, business or use is undesirable or noxious, such determination shall be conclusive. The use of illegal fireworks, the use of motorcycles for purposes other than transportation to and from Aspinwall Estates, and the discharge of any firearm or weapon including BB Guns, shall be considered nuisances and are prohibited.

Section 8.9. Signs. No sign of any kind shall be placed on the Property, except:

- (a) signs identifying the Owner and address;
- (b) signs designating a Lot or residence for sale or rent; and,
- (c) a sign at the entrance of the Property identifying the subdivision.

No such signs, other than the entrance sign, shall be of a size greater than two (2) feet square and shall not be of a nature offensive or obnoxious to persons owning Property within the subdivision. No business signs, advertising signs or signs in any way relating to occupation or profession shall be allowed.

None of the foregoing provisions shall apply to signs placed upon the Property by the developer or professional builder during the initial development of the subdivision.

Section 8.10. Oil and Mining Operations. Oil drilling or oil development operations, refining, mining operations of any kind or the operation of quarries, gravel and sand pit, solid removing or topsoil stripping shall not be permitted on the Property. No oil wells, tanks, tunnels, mineral excavations or shafts shall be permitted. No derrick or other structures designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot.

Section 8.11. Individual Water Systems. No individual water supply systems shall be permitted on any Lot.

Section 8.12. Clotheslines. No clothesline shall be located on any Lot so as to be visible from the street, a private way, or other residential Lots or public areas.

Section 8.13. Fuel Tanks. No fuel tank shall be maintained above ground on any Lot, unless screened from view in a manner satisfactory to the ACC.

Section 8.14. Excavation. Except with the permission of the ACC, or except as may be necessary in connection with the construction of any improvement, no excavation shall be made nor shall any dirt be removed from a Lot herein.

Section 8.15. Fences. Fences will only be permitted around patios or similar private outdoor spaces in accordance with the design guidelines. Notwithstanding the foregoing, no fence, wall or hedge shall be erected, placed or altered on any Lot nearer to any street than the building setback line, except that nothing shall prevent the erection of a necessary retaining wall (the top of which does not extend more than two (2) feet above the finished grade at the back of said wall). Fences will be erected only after the design of said fence has been approved by the ACC.

Section 8.16. Cutting of Trees. Trees with a diameter greater than 8 inches shall not be cut without the prior written approval of the ACC.

Section 8.17. Natural Drainage. Except with the approval of the ACC, the drainage of any Lot shall not be changed.

Section 8.18. Exterior Lighting. Exterior lighting of any sort which is visible from any street or from any other Lot in this subdivision shall not be installed without first obtaining the permission of the ACC.

Section 8.19. Open Space. The Common Areas which are identified on the Plat of Aspinwall Estates as "Open Space" shall be held and maintained subject to the requirements of Thurston County as set forth in the approval of Aspinwall Estates and in the Ordinances of Thurston County.

Section 8.20. Vehicle Parking. No vehicle may be parked on any Lot, except on designated and approved driveways or parking areas, which areas shall be hard-surfaced. Any additional parking added after the initial landscaping shall be hard surfaced and constructed only in accordance with the site plan approved by the ACC. Only the cars of guests and visitors may be parked on the streets. All other vehicles shall be parked in garages or on driveways located entirely on a Lot. No inoperable vehicles, motorcycles or other motorized apparatus shall be stored on the premises or the streets within the subdivision.

If an Owner refuses to remove an illegal vehicle, the ACC shall have the power to remove the vehicle at the owner's expense. Except with the approval of the ACC, landowners at no time shall keep or permit to be kept on their premises any house trailer, unattached camper, recreational vehicle (RV), mobile home, boat or boat trailer, unless the same is housed within a garage or located in the side or rear yard and suitably screened from view from street or Common Area.

Section 8.21. Repair of Vehicles or Equipment. No mechanical repairs or dismantling of any automobile, motorcycle or other vehicle or equipment shall be conducted upon the premises, except minor maintenance and mechanical work by a resident of the subdivision on said resident's private vehicle, provided that any such conduct be in a manner which is not offensive to persons residing in the neighborhood, is not unsightly, does not result in unusual noise or debris being placed upon the premises and is in keeping with the residential development here involved.

Section 8.22. Utilities. All electrical service, telephone lines and other outdoor utility lines shall be placed underground. No exposed or exterior radio or television transmission or receiving antennas (including satellite dishes) shall be erected, placed,

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or maintained on any part of such premises except as approved by the ACC prior to installation or construction. Any waiver of these restrictions shall not constitute a waiver as to other Lots or lines or antennas.

ARTICLE IX

Insurance Requirements

The Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for a planned unit development project established by Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Veterans Administration, and Government National Mortgage Association, so long as any of them are a mortgagee or Owner of a Lot within the project, except to the extent such coverage is not available or has been waived in writing by Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Veterans Administration, and Government National Mortgage Association.

ARTICLE X

Damage or Destruction

Section 10.1. Insurance Proceeds. In the event of damage or destruction to all or part of the Common Areas, the insurance proceeds, if sufficient, shall be applied to repair, reconstruct or rebuild the Common Area in accordance with the original plans. Such repair, reconstruction or rebuilding shall be arranged for promptly by the Board of Directors.

Section 10.2. Insufficient Insurance Proceeds. If the insurance proceeds are insufficient to pay for the cost to repair the Common Areas, the Board shall promptly, but in no event later than ninety (90) days after the date of damage or destruction, give notice to and conduct a special meeting of the Owners to review the proposed repairs, replacement, and reconstruction, as well as the projected cost of such repairs, replacement or reconstruction. The Owners shall be deemed to have approved the proposed repairs, replacement, and reconstruction as proposed by the Board at that meeting, unless the Owners decide by an affirmative vote of Fifty-One (51%) Percent of the total votes cast at such meeting (provided a quorum exists), to repair, replace, or reconstruct the premises in accordance with the original plan in a different manner than that proposed by the Board. In any case, however, use of hazard insurance proceeds for other than repair, replacement, or reconstruction of the Common Area in accordance with the original plans shall not be permitted without the prior written approval of at

least Sixty-Seven (67%) Percent of the first mortgagees (based on one (1) vote for each first Mortgage owned) or owners (if there is no first Mortgage on that Lot) of the Lots.

ARTICLE XI

Condemnation

In the event of a partial condemnation of the Common Areas, the proceeds shall be used to restore the remaining Common Area, and any balance remaining shall be distributed to the Association.

In the event that the entire Common Area is taken or condemned, or sold, or otherwise disposed of in lieu of or in avoidance thereof, the condemnation award shall be distributed to the Association.

No proceeds received by the Association as the result of any condemnation shall be distributed to a Lot Owner or to any other party in derogation of the rights of the First Mortgagee of any Lot.

ARTICLE XII

Mortgagees' Protection

Section 12.1. Definitions. As used in this Declaration: (1) "mortgagee" includes the beneficiary of a deed of trust, a secured party, or other holder of a security interest; (2) "foreclosure" includes a notice and sale proceeding pursuant to a deed of trust or sale on default under a security agreement; and (3) "institutional holder" means a mortgagee which is a bank or savings and loan association or established Mortgage company, or other entity chartered under federal or state laws, any corporation or insurance company, or any federal or state agency.

Section 12.2. Written Approval. The prior written approval of at least Seventy-Five (75%) Percent of the First Mortgagees (based on one vote for each first Mortgage owned) of the individual Lot shall be required for any of the following:

- (a) The abandonment or termination of the PUD status of the project, except for abandonment or termination, if any, provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain.

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(b) Any material amendment to this Declaration or to the Articles of Incorporation or Bylaws of the Owners Association, including, but not limited to, any amendment which would change the ownership interests of the Owners in this project, change the pro rata interest or obligation of any individual Owner for the purpose of levying assessments or charges or for allocating distributions of hazard insurance proceeds or condemnation awards.

(c) The effectuation of any decision by the Owners Association to terminate professional management and assume self-management (however this shall not be deemed or construed to require professional management).

(d) Partitioning or subdividing any Lot.

(e) Any act or omission seeking to abandon, partition, subdivide, encumber, sell or transfer the Common Areas; provided, however, that the granting of easements for public utilities or other public purposes consistent with the intended use of the Common Areas shall not be deemed a transfer within the meaning of this clause.

(f) Any act or omission seeking to change, waive or abandon any scheme of regulations or enforcement thereof, pertaining to the architectural design or the exterior appearance of buildings and other improvements, the exterior maintenance of buildings and other improvements, the maintenance of common property walks or common fences and driveways, or to the upkeep of lawns and plantings in the Properties.

(g) Any act or omission whereby the Association fails to maintain fire and extended coverage on insurable Common Areas and improvements on a current replacement cost basis in an amount not less than 100% of the insurable value (based on current replacement costs).

(h) Use of hazard insurance proceeds for losses to any Common Areas and improvements for other than the repair, replacement or reconstruction of such common property.

Section 12.3. Written Notice. Each First Mortgagee (as well as each Owner) shall be entitled to timely written notice of:

(a) Any significant damage or destruction to the Common Areas.

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(b) Any condemnation or eminent domain proceeding effecting the Common Areas.

(c) Any default under this Declaration or the Articles of Incorporation or Bylaws which gives rise to a cause of action against the Owner of a Lot subject to the Mortgage of such holder or insurer, where the default has not been cured in thirty (30) days.

(d) Any proposed abandonment or termination of the PUD status of this project.

(e) Any material amendment of this Declaration or to the Articles of Incorporation or Bylaws of the Association.

Section 12.4. Requested Information. Each First Mortgagee shall be entitled, upon request, to:

(a) Inspect the books and records of the Association during normal business hours.

(b) Require the preparation of an audited financial statement at its expense and, if preparation is already required, to receive an annual audited financial statement of the Association for the immediately preceding fiscal year, except that such statement need not be furnished earlier than ninety (90) days following the end of such fiscal year.

(c) Receive written notice of all meetings of the Owners Association and be permitted to designate a representative to attend all such meetings.

Section 12.5. Payments in Default. First Mortgagees of any Lot may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Areas, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Common Areas, and the First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

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ARTICLE XIII

General Provisions

Section 13.1. Binding Effect. All present and future Owners or occupants of Lots shall be subject to and shall comply with the provisions of this Declaration, the Articles of Incorporation, the Bylaws, and any rules and regulations of the Association, as they may be amended from time to time. The acceptance of a deed or conveyance, or the entering into occupancy of any Lot shall constitute an agreement that the provisions of this Declaration, the Articles of Incorporation, the Bylaws and any rules and regulations of the Association, as they may be amended from time to time, are accepted and ratified by such Owner or occupant. All such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Lot, as though such provisions were recited and stipulated at length in each and every deed and conveyance or lease thereof.

Section 13.2. Enforcement. The Association and any Owner shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Should the Association or any Owner employ counsel to enforce any of the foregoing covenants, conditions, reservations, or restrictions, all costs incurred in such enforcement, including a reasonable fee for counsel, shall be paid by the Owner found to be in violation of said condition, covenant, reservation, or restriction, or found to be delinquent in the payment of said lien or charge.

Section 13.3. Failure to Enforce. No delay or omission on the part of the Declarant or the Owners of Lots in exercising any right, power, or remedy provided in this Declaration shall be construed as a waiver of or acquiescence in any breach of the covenants, conditions, reservations, or restrictions set forth in the Declaration. No action shall be brought or maintained by anyone whatsoever against the Declarant for or on account of its failure to bring any action for any breach of these covenants, conditions, reservations, or restrictions, or for imposing restrictions which may be unenforceable.

Section 13.4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

Section 13.5. Interpretation. In interpreting this Declaration, the term "person" may include natural persons, partnerships, corporations, associations, and personal representatives. The singular may also include the plural and the masculine may include

the feminine, or visa versa, where the context so admits or requires. This Declaration shall be liberally construed in favor of the party seeing to enforce its provisions to effectuate the purpose of protecting and enhancing the value, marketability, and desirability of the Property by providing a common plan for the development of Aspinwall Estates.

Section 13.6. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by a vote of Owners holding Seventy-Five (75%) of the Votes. Any amendment must be in writing and signed by the approving Members or Owners, and must be recorded.

Section 13.7. Power of Declarant to Amend to Meet Financing Requirements. Notwithstanding anything in this Declaration to the contrary, Declarant may, without the consent of any Owner, at any time prior to the time it has sold and closed Seventy-Five (75%) Percent of the Lots, amend this Declaration by an instrument signed by Declarant alone in order to satisfy the requirements of the Federal Mortgage Agencies.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed this 12 day of Mar, 1992.

C & V MANKE JOINT VENTURE
a Washington general partnership

By: [Signature] + [Signature]
Partner
C & V Manke has acted in fact.

By: _____
Partner

By: [Signature]
Partner

By: [Signature]
Partner

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STATE OF WASHINGTON)

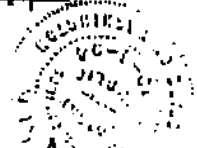
)ss.

County of Pierce

On this 16th day of Mar, 1992, before me, the undersigned, a Notary Public in and for said State, personally appeared Steve + Joan Manke to me known to be the Partners of C & V MANKE JOINT VENTURE, a Washington general partnership, the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.

Witness my hand and official seal.

[Signature]
Notary Public in And For the State of
Washington, residing at Elmopia
My commission expires: 10/4/94



STATE OF WASHINGTON)

)ss.

County of Pierce

On this 16th day of Mar, 1992, before me, the undersigned, a Notary Public in and for said State, personally appeared Chuck + Steve Manke to me known to be the _____ of C & V MANKE JOINT VENTURE, a Washington general partnership, the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.

Witness my hand and official seal.

[Signature]
Notary Public in And For the State of
Washington, residing at Elmopia
My commission expires: 10/4/94



EXHIBIT A

to

Declaration of Covenants, Conditions and Restrictions

for

Aspinwall Estates

Lot 1 through 20 and open space tracts A and B all set forth on the plat of Aspinwall Estates recorded under Thurston County Auditor's No. 9202240208 at Volume 25, pages 68 and 69, situate in the State of Washington, County of Thurston.

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