

THURSTON COUNTY  
OLYMPIA, WA  
11/10/02 1:59 PM  
REQUEST OF: CANORRO,  
SAR S. Seed, AUDITOR  
ET: MUE, DEPUTY  
\$0.00 DECCGV

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth is made by the owners whose signatures appear hereon of lots (the "Lots") in the plat of Beverly Beach (the "Plat") dated November 21, 1960, recorded November 21, 1960 under Auditor's File No. 035148 in Volume 13 of Plats, page 64, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, the Lots are subject to certain covenants and restrictions set forth in the Plat (the "Original Covenants"), and

WHEREAS, Declarant desires to expand upon and clarify such Original Covenants:

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

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Beverly Beach Homeowners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property included in the Plat, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Areas" shall mean all real property (including the improvements thereto and property located thereon) owned by the Association for the common use and enjoyment of the owners and includes, without limitation, the sewage disposal plant and system and the well and water system.

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ORIGINAL

Order Title Insurance Through  
**Chicago Title Insurance Company**  
Olympia (360) 456-7878



Section 5. "Lot" shall mean and refer to any plot of land shown upon the Plat with the exception of the Common Areas.

Section 6. "Declarant" shall mean and refer to all of the owners of Lots.

## ARTICLE II

### COMMON AREAS

#### Section 1. Specified Uses and Restrictions.

(a) The primary use of tract A is for location and operation of the sewage system, treatment plant, and the artesian well and water system. The Association may permit passive recreational uses of this tract by all lot owners under rules, adopted by the Board of Directors, which are not inconsistent with the primary use of this tract.

(b) Additional common area tracts include those used for roads and streets and the tide lands in front of, adjacent to and abutting on the Plat, together with bulkheads between uplands and tidelands. The roads and streets shall be used for ingress, egress and utilities and the tidelands, bulkheads and any other common areas shall be for the use by all Lot owners under such rules and regulations as are adopted by the Association.

## ARTICLE III

### PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to special uses designated in Article II and subject to the following provisions:

(a) the right of the Association through the Board of Directors to suspend the voting rights of an owner for any period during which any assessment against his Lot remains unpaid for more than 30 days; and for a period not to exceed 60 days for any infraction of its published rules and regulations; and

(b) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by the owners of two-thirds (2/3rds) of the Lots has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

#### ARTICLE IV

##### MEMBERSHIP AND VOTING RIGHTS

Section 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 ownership of any Lot which is subject to assessment.

Section 2. The Association shall have one class of voting membership; and each Lot owner shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

#### ARTICLE V

##### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation 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: (1) annual assessments or charges; and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual assessment and special assessments, together with interest, costs, and reasonable attorney's 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, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such 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 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Areas.

Section 3. Regular Quarterly Assessments. The Board of Directors shall fix the regular quarterly assessments. The

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membership may change the quarterly assessments set by the Board of Directors at the annual or a special meeting of the membership. Regular quarterly assessments may include amounts determined by the Board of Directors necessary for the establishment of reasonable reserves.

Section 4. Special Assessment for Capital Improvements. In addition to the regular quarterly assessments authorized above, the Association through the Board of Directors may levy, in any assessment year, a special assessment or assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto. Emergency repairs to water, sewer, road and other association systems and utilities up to Five Thousand Dollars (\$5,000) may be authorized by the President or Operations Officer. Such repairs must be approved by the Board of Directors within thirty (30) days.

Section 5. Uniform Rate of Assessment. Both regular quarterly and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly or annual basis as determined by the Board of Directors.

Section 6. Date of Commencement of Annual Assessments: Due Dates. The regular quarterly assessments provided for herein shall be due on or before the tenth day of January, April, July and October of each year. The Board of Directors shall fix the amount of the regular quarterly assessment against each Lot at least thirty (30) days in advance of each quarterly assessment period. Written notice of the regular quarterly assessment shall be sent to every Owner subject thereto.

Section 7. Official Statement of Assessment Status on Lots. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 12 percent per annum; provided, however, that the Board of Directors may waive any or all of said interest. The Association 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 Areas or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the

lien 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.

## ARTICLE VI

### ARCHITECTURAL CONTROL

Section 1. General. No building, fence, outside wall or other outside 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 and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an Architectural Committee composed of three (3) or more representatives appointed by the President. In the event said Board, or the designated committee, fails to approve or disapprove such design and location within 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. Applicants or members may appeal the decision of the Architectural Committee to the Board of Directors within 30 days.

### Section 2. Covenants Respecting Use.

A. Land Use and Building Type. All of the Lots, with the exception of tract "A", shall be used for residential purposes only. No more than one single-family dwelling with attached garage shall be constructed on each Lot.

B. Building Size and Value. The minimum square footage of living area for single family homes will be 1,800 square feet.

C. Building Location. Set-back requirements for construction shall comply with county regulations.

D. Noxious and Offensive Activity. No noxious or undesirable thing or noxious undesirable use of the property shall be permitted or maintained nor shall any Lot except tract "A" be used for any commercial business.

E. Temporary Structure. No structure of a temporary character, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently.

F. Completion of Structure. All buildings commenced on any lot shall be completed as to the exterior appearance, including painting and landscaping, not later than twenty-four (24) months after the date the building permit is issued.

G. Mobile Homes. No mobile homes or manufactured homes will be permitted in the Plat.

H. Boats, Campers, and Travel Trailer. Boats, campers and travel trailers may be stored on the Lot in conjunction with a permanent home. They shall not be lived in as a second residence nor shall any of them be parked on any of the streets within the Plat for a period longer than 24 hours. No commercial vehicles greater than one-half ton capacity shall be stored on any Lot.

I. Garbage and Refuse Disposal. No garbage, refuse, 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 until the owner is ready to commence construction, and then such material shall be placed within the property lines of the building site upon which structures are to be erected and shall not be placed in the street.

J. Livestock. No animals, livestock or poultry shall be raised, bred or kept on any lots except dogs, cats and other pets normally kept indoors may be kept thereon if they are not kept, bred or maintained for any commercial purpose.

K. Hunting and Firearms Use. The discharge of firearms for hunting purposes or for target practice within the area of the Plat shall be prohibited.

L. Height Restriction. The tops of the roofs of all new structures on each of lots 10 to 22 inclusive and the tops of all plants and trees on each of those lots shall be no higher than the main floor of the residence behind each of lots 10 to 22 inclusive, hereafter.

M. Sewer System. No material that could obstruct and/or interfere with sewer system operations shall be discharged into the sanitary sewer system. This includes materials that could create a fire or explosion as well as corrosive, solid or toxic materials that could obstruct, interfere with or cause sewer system upsets.

## ARTICLE VII

### GENERAL PROVISIONS

Section 1. Enforcement. The Association, 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 hereafter imposed by the provisions of this Declaration. Failure by the Association 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 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions, which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land. This Declaration may be amended by an instrument signed by the Owners of not less than 2/3 of the Lots. Any amendment must be recorded.

Section 4. Original Covenants. This Declaration is intended to add to and clarify the Original Covenants. The Original Covenants shall remain in full force and effect except that Declarant acknowledges and agrees that: (i) the Association shall stand in the place and stead of Beverly Beach Utilities Association, a cooperative association (the "Cooperative"); (ii) the Association is a non-profit corporation with members; and (iii) no capital stock will be issued for the Association. The assets of the Cooperative will be transferred to the Association and the Cooperative will be dissolved.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

LOT OWNER/DECLARANT

Borreson - 2145:

Paul H. Borreson

J. Borreson

Wegner - 2149:

Marlene L. Wegner

Henry Wegner

MacInnis - 2137:

Mr. Wald MacInnis  
Mrs. The MacInnis

Secret - 2141:

Rosemary W. Secret  
Charles Secret

Wayland - 2129:

Jack Wayland  
Stacey W. Wayland

Gilbert  
Stewart - 2125:

Joe Stewart  
Miss J. Stewart

Wick/- 2121:

Paul Wick  
Ann W. Wick

Canorro - 2117:

Anthony B. Canorro  
Cathy V. Canorro

Smith - 2109:

Craig A. Smith  
\_\_\_\_\_

Newton - 2113:

See later  
\_\_\_\_\_

Ingram - 2106:

Whitford Ingram  
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Jacques - 2050:

Sandra H. Jacques  
Douglas T. Jacques

Feigen - 2151:

Mare Feigen  
public gutbrie Feigen

Jeffords - 2153:

Leticia G. Jeffords  
Walter D. Jeffords

Taylor - 2154:

John C. Taylor  
Donald J. Taylor

Stetson - 2152:

John Stetson  
Catherine A. Stetson

Corkum - 2133:

W. J. Corkum

Cox - 2038:

Marion F. Cox

Wilson - 2032:

Rohrbeck - 2045:

Wilfred H. Rohrbeck

Romero - 2101:

Joseph B. Romero  
Barbara J. Romero

Baldwin - 2105:

L. Baldwin  
M. Baldwin

Canorro - 2117:

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Smith - 2109:

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Newton - 2113:

*Gay C. Newton*

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Ingram - 2106:

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Jacques - 2050:

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