



**WHEN RECORDED RETURN TO:**

FAKKEMA & KINGMA, INC.  
840 SE 8<sup>TH</sup> AVE - SUITE 102  
OAK HARBOR, WA 98277

**DOCUMENT TITLE:** SUBDIVISION GUARANTEE

**GRANTOR(s) :** FAKKEMA & KINGMA, INC

**GRANTEE(s):** MAPLE HILL DEVELOPMENT, INC.

**LAND DESCRIPTION:** THAT PORTION OF THE U. FREUND DONATION LAND CLAIM IN SECTION 3, TOWNSHIP 32 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, ISLAND COUNTY, WASHINGTON, LYING WEST OF THE CITY STREETS KNOWN AS SW BARRINGTON DRIVE AND SW FLEET STREET AND LYING SOUTH OF TRACT A OF THE PLAT OF BARRINGTON HEIGHTS, DIV. NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 13 OF PLATS, PAGES 327-329, UNDER AUDITOR'S FILE NO. 4197229, RECORDS OF ISLAND COUNTY, WASHINGTON.

**ASSESSOR'S PARCEL NOs:** R13203-237-3700, R13203-248-3930, R13203-180-3780



NO. is103553

LIABILITY \$ 1,000.00

FEE \$ 200.00

**CHICAGO TITLE INSURANCE COMPANY**  
*a corporation, herein called the Company*

**GUARANTEES**

**FAKKEMA & KINGMA, INC.;** MAPLE HILL DEVELOPMENT, INC., a Washington  
corporation

herein called the Assured, against actual loss not exceeding the liability amount stated above which the Assured shall sustain by reason of any incorrectness in the assurances set forth in Schedule A.

**LIABILITY EXCLUSIONS AND LIMITATIONS**

1. No guarantee is given nor liability assumed with respect to the identity of any party named or referred to in Schedule A or with respect to the validity, legal effect or priority of any matter shown therein.
2. The Company's liability hereunder shall be limited to the amount of actual loss sustained by the Assured because of reliance upon the assurance herein set forth, but in no event shall the Company's liability exceed the liability amount set forth above.

Dated: September 11, 2007, at 8:00 a.m.

CHICAGO TITLE INSURANCE COMPANY

By

  
Authorized Signature

Issued by:  
CHICAGO TITLE COMPANY  
770 NE Midway Boulevard  
P. O. Box 1050  
Oak Harbor, Washington 98277  
(360) 675-0733  
(360) 321-1311

Please note carefully the liability exclusions and limitations and the specific assurances afforded by this guarantee. If you wish additional liability, or assurances other than as contained herein, please contact the Company for further information as to the availability and cost.



## Chicago Title Company - Island Division

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### Subdivision Guarantee

#### Schedule A

<b>Liability:</b>	\$1,000.00	<b>Order No:</b>	IS103553
<b>Dated:</b>	SEPTEMBER 11, 2007	<b>Fee:</b>	\$200.00
<b>Reference:</b>	Barrington Heights 2	<b>Tax:</b>	\$16.60

Name of Assured: FAKKEMA & KINGMA, INC.; MAPLE HILL DEVELOPMENT, INC., a  
Washington corporation

The assurances referred to on the face page are:

That, according to those public records which, under the recording laws, impart  
constructive notice of matters relative to the following described real property:

SEE EXHIBIT 'A' WHICH IS ATTACHED HERETO.

Title to said real property is vested in:

**MAPLE HILL DEVELOPMENT INC., a Washington corporation**

subject to the matters shown below under Exceptions, which Exceptions are not necessarily  
shown in the order of their priority.

**Exceptions:**

1. Taxes or assessments which are not shown as existing liens by the records of any taxing  
authority that levies taxes or assessments on real property or by the public records.
2. Unpatented mining claims; reservations or exceptions in the United States Patents or in Acts  
authorizing the issuance thereof; water rights, claims or title to water.
3. Title to any property beyond the lines of the real property expressly described herein, or title  
to streets, roads, avenues, lanes, ways or waterways on which such real property abuts, or  
the right to maintain therein vaults, tunnels, ramps or any other structure or improvement; or  
any rights or easements therein unless such property, rights or easements are expressly  
and specifically set forth in said description.

*continued....*



Order No.: IS103553

**SCHEDULE A**

**EXCEPTIONS Continued:**

4. Easement, including the terms and conditions thereof, granted by instrument(s);  
Recorded: June 24, 1980  
Auditor's No(s): 370276, records of Island County, Washington  
In favor of: Puget Sound Power & Light Company  
For: Electric transmission and/or distribution line, together with  
necessary appurtenances  
Affects: Said premises and other property
5. Easement disclosed by Plat;  
Plat of: Barrington Heights No. 1  
Recorded: March 20, 2007  
Auditor's File No.: 4197229, records of Island County, Washington  
For: Utilities  
Affects: Northeasterly portion of said premises
6. Easement, including the terms and conditions thereof, granted by instrument(s);  
Recorded: January 29, 2007  
Auditor's No(s): 4192831, records of Island County, Washington  
In favor of: Puget Sound Energy, Inc.  
For: Electric transmission and/or distribution line, together with  
necessary appurtenances  
Affects: Said premises and other property
7. Deed of Trust, including the terms and conditions thereof, securing an indebtedness of  
\$810,000.00;  
Dated: June 30, 2006  
Recorded: July 6, 2006  
Auditor's No.: 4175180, records of Island County, Washington  
Grantor: Maple Hill Development, Inc.  
Trustee: Zylstra Beeksma & Waller, P.L.L.C., Attorneys at Law  
Beneficiary: Nancy Rose Freund, Janet Freund, Sally Freund and Carl R.  
Freund  
Affects: Said premises and other property

Continued. . .



NOTES:

1. General taxes for 2006 have been paid.  
Amount: \$1,551.76  
Account No.: R13203-237-3700  
Key No.: 800176  
Tax Code: 100  
Total Assessed: \$543,390.00  
Affects: Portion of said premises and other property

General taxes for 2006 have been paid.  
Amount: \$758.22  
Account No.: R13203-248-3930  
Key No.: 13078  
Tax Code: 100  
Total Assessed: \$265,500.00  
Affects: Portion of said premises and other property

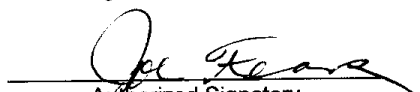
General taxes for 2006 have been paid.  
Amount: \$22.57  
Account No.: R13203-100-3510  
Key No.: 596457  
Tax Code: 100  
Total Assessed: \$2,500.00  
Affects: Portion of said premises and other property

General taxes for 2006 have been paid.  
Amount: \$1,338.80  
Account No.: R13203-180-3780  
Key No.: 587573  
Tax Code: 100  
Total Assessed: \$729,240.00  
Affects: Portion of said premises and other property

- END OF SCHEDULE A -

jf/sec

Countersigned

  
Authorized Signatory



Order No.: IS103553

**EXHIBIT 'A'**

That portion of the U. Freund Donation Land Claim in Section 3, Township 32 North, Range 1 East of the Willamette Meridian, Island County, Washington, lying West of the City Streets known as SW Barrington Drive and SW Fleet Street and lying South of Tract A of the Plat of Barrington Heights, Div. No. 1, according to the Plat thereof recorded in Volume 13 of Plats, page 327-329, under Auditor's File No. 4197229, records of Island County.

Situated in Island County, Washington

- END OF EXHIBIT 'A'

1052

THAT PORTION OF THE U. FREUND DONATION LAND CLAIM IN SECTION 3, TOWNSHIP 32 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, ISLAND COUNTY, WASHINGTON, LYING WEST OF THE CITY STREET KNOWN AS SW BARRINGTON DRIVE AND SW FLEET STREET AND LYING SOUTH OF TRACT A OF THE PLAT OF BARRINGTON HEIGHTS, DIV. NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 13 OF PLATS, PAGES 327-329, UNDER AUDITOR'S FILE NO. 4197229, RECORDS OF ISLAND COUNTY.

1. CERTIFICATION, AS CONTAINED HEREIN, COMPREHENSES THE DECLARATION OF THE SURVEYOR'S PROFESSIONAL JUDGMENT. IT DOES NOT CONSTITUTE A WARRANTY OR A GUARANTEE, EXPRESSED OR IMPLIED; NOR DOES IT RELIEVE ANY OTHER PARTY OF HIS RESPONSIBILITY TO ABIDE BY CONTRACT DOCUMENTS, APPLICABLE CODES, STANDARDS, REGULATIONS AND ORDINANCES.
2. ALL CORNERS ARE MARKED UPON THE GROUND WITH AN IRON REBAR AND PLASTIC CAP MARKED FAKEMA & KINGMA, INC. LS 1194; UNLESS NOTED

6. HORIZONTAL CUTLINE BASED ON WASHINGTON COORDINATE SYSTEM (NAD 1927 ADJUSTMENT, NORTH ZONE).
7. THE 15' LANDSCAPE BUFFER BUFFER HEREIN IS ESTABLISHED, CREATED, AND IS RESERVED FOR THE BENEFIT OF THE "15' LANDSCAPE BUFFER ASSOCIATION, THIS ASSOCIATION SHALL BE A NON-PROFIT CORPORATION, INCORPORATED IN THE STATE OF WASHINGTON, AND SHALL BE THE SOLE ENTITY TO MAINTAIN, PRESERVE, AND MANAGE THE BUFFER. WHEN THE BUFFER SHALL BE AS RESTORATION, MAINTENANCE, AND MANAGEMENT OF THE ENVIRONMENT, CONSERVATION, AND OF LANDSCAPE RESOURCES, DIVISION 2.
8. TRACT 1 IS SET ASIDE FOR THE PROTECTION OF TREES FOR 1 AND 2 ENVIRONMENTAL AND AESTHETIC VALUE TO THE COMMUNITY OF DIVISIONS 1 AND 2. THE TRACT 1 SHALL BE MAINTAINED AND PRESERVED FOR THE PROTECTION OF THE UNDISTURBED ARGUMENT TO THE REQUIRED PROTECTION OF THIS AREA FOR TREE RETENTION. TREES DETERMINED TO BE A HAZARD MAY ONLY BE REMOVED FOR THE PROTECTION OF THE TRACT 1. THE TRACT 1 SHALL BE MAINTAINED FOR THE PROTECTION OF TREES ALLOWED IN THIS AREA. NO STRUCTURES ARE ALLOWED IN THIS AREA. THE TRACT 1 SHALL BE MAINTAINED FOR THE PROTECTION OF THE LANDSCAPE ASSOCIATION.

## EASEMENT PROVISIONS

- AN EASEMENT IS RESERVED FOR AND GRANTED TO THE UNOWNERS ASSOCIATION, CITY OF OAK HARBOR, PUEBLO SANDS ENERGY, VERIZON NORTHWEST, CASCADE NATURAL GAS CORPORATION, U.S. POSTAL SERVICE, CHAMBERLAIN, AND THE CITY OF OAK HARBOR, TO MAINTAIN, REPAIR, REPLACE, MAINTAIN AND REMOVE THE STREET LIGHTS AND TRACT ADJUTING THE STREETS AS SHOWN HEREIN, IN WHICH TO INSTALL LAY, CONSTRUCT, REPAIR, OPERATE, MAINTAIN AND REMOVE THE STREET LIGHTS AND TRACT ADJUTING THE STREETS AS SHOWN HEREIN, FOR THE PURPOSE OF IMPROVING UTILITY SERVICES TO THE SUBDIVISION AND OTHER PROPERTY, AS WELL AS TO MAINTAIN, REMOVE OR RECONSTRUCT SIDEWALKS, DRIVEWAYS, AND TRACTS AT ALL TIMES FOR THE PURPOSES STATED HEREIN. THE CITY OF OAK HARBOR AND THE UNOWNERS ASSOCIATION, CITY OF OAK HARBOR, PUEBLO SANDS ENERGY, VERIZON NORTHWEST, CASCADE NATURAL GAS CORPORATION, U.S. POSTAL SERVICE, CHAMBERLAIN, AND THE CITY OF OAK HARBOR, SHALL BE RESPONSIBLE FOR ALL UNNECESSARY DAMAGE IT CAUSES TO ANY REAL PROPERTY OTHER THAN THE SUBDIVISION. A SCHEDULE OF RIGHTS AND PROCEEDINGS HEREIN ATTACHED.

[illegible]

STATE OF WASHINGTON) SS  
COUNTY OF YALOWA) I, CARL R. FREUND, SIGN  
CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT CARL R. FREUND SIGNED THIS  
INSTRUMENT, ON DATE STATED THAT HE WAS AUTHORIZED TO EXECUTE THE INSTRUMENT AND  
ACKNOWLEDGED IT AS THE PRESIDENT OF MAPLE HILL DEVELOPMENT, INC., A STATE CORPORATION  
TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED  
IN THE INSTRUMENT DATED 26-1-1988

NOT COMMISSION EXPIRES JUNE 3, 2000

NEW YORK STATE OF NEW YORK

NEW YORK CO. U. FREEDOM BLC

FILED FOR RECORD AT THE REQUEST OF FAKKEMA & KINQUA, INC. THIS 3 DAY OF March 2008, AND RECORDED IN VOLUME 2008-3169 OF PLATS, PAGES 1-2 OF BOOK 10 OF RECORDS OF ISLAND COUNTY, WASHINGTON.

AUDITOR'S FILE NO. 2008-3169

Suzanne Corder  
SUZANNE SINGALA  
ISLAND COUNTY AUDITOR

Robin Corder  
DEPUTY AUDITOR

MAPLE HILL DEVELOPMENT, INC.  
c/o CARL FREUND  
495 SW FREUND ST  
TACOMA HARBOR, WA 98277

## SEC 3. TWP 32N. RANGE 1E. W.M.

HEREBY CERTIFY THAT THE PLAT OF BARRINGTON HEIGHTS, D.W. NO. 2, BEING AN UNLAWFUL AND ILLEGAL PLAT OF LAND, AND BEING IN VIOLATION OF THE PLAT ACT, IS NOT VALID IN ANY MANNER, AND IS THEREFORE VOID IN ALL RESPECTS. THE PLAT IS VOID IN ALL RESPECTS IN CLAM IN SECTION 3, TOWNSHIP 32N, RANGE 1E, WM. THAT THE COLONIES AND DISTANCES ARE SHOWN CORRECTLY THEREON; THAT THE MONUMENTS HAVE BEEN SET AND THE LOT AND BLOCK CORNERS STAKED CORRECTLY THEREON ON THE GROUND; AND THAT I HAVE FULLY COMPLIED WITH THE PROVISIONS OF THE STATUTES AND PLATING REGULATIONS.

*Robert D. Gray*  
ROBERT D. GRAY, P.L.S. 2/27/00

HEREBY CERTIFY THERE ARE NO DELINQUENT SPECIAL ASSESSMENTS AND ALL SPECIAL ASSESSMENTS ON ANY OF THE PROPERTY HEREIN CONTAINED DEDICATED AS STREETS, ALLEYS OR FOR OTHER PUBLIC USE ARE PAID IN FULL. THIS 21 DAY OF February 2006

EXAMINED AND APPROVED THIS 26<sup>th</sup> DAY OF February 2008  
 \_\_\_\_\_  
 JERRIC JOHNSON, D.E.  
 CITY OF OAK HARBOR, ENGINEER  
 APPROVED BY THE COUNCIL OF OAK HARBOR, WASHINGTON, THIS 6<sup>th</sup> DAY OF February 2008  
 \_\_\_\_\_  
 CONNIE T. WHEELER, CLERK  
 JAMES A. SLOWIK, MAYOR

RECORDED March 03 2008 IN VOLUME --- PAGE --- UNDER  
AUDITOR'S FILE NO. 4223658 RECORDS OF ISLAND COUNTY,  
WASHINGTON.

FILED FOR RECORD AT THE REQUEST OF FAKKEMA & KINQUA, INC. THIS 3 DAY OF March 2008, AND RECORDED IN VOLUME 2008-3169 OF PLATS, PAGES 1-2 OF BOOK 10 OF RECORDS OF ISLAND COUNTY, WASHINGTON.

AUDITOR'S FILE NO. 2008-3169

Suzanne Corder  
SUZANNE SINGALA  
ISLAND COUNTY AUDITOR

Robin Corder  
DEPUTY AUDITOR

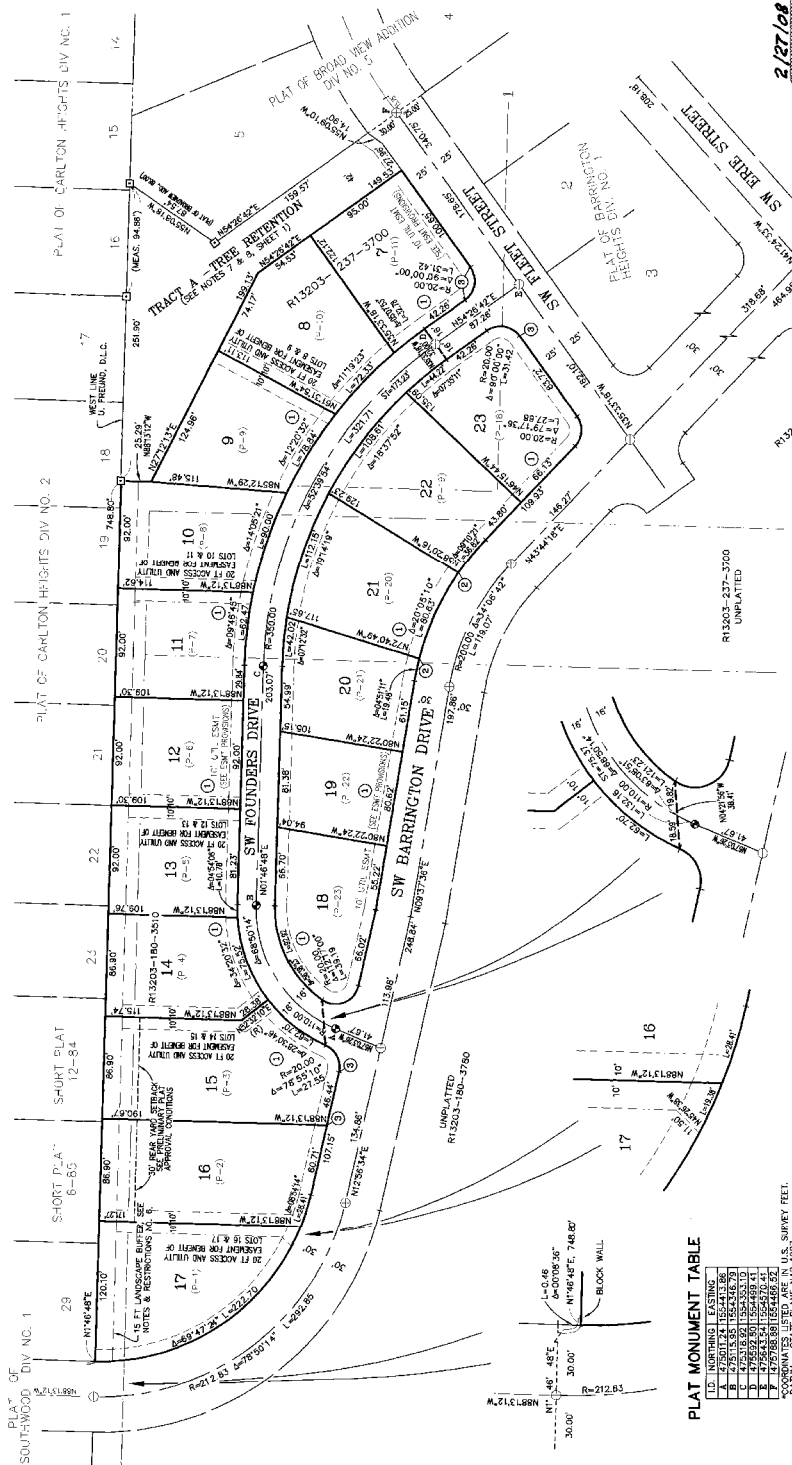
MAPLE HILL DEVELOPMENT, INC.  
c/o CARL FREUND  
495 SW FREUND ST  
TACOMA HARBOR, WA 98277

PLAT OF BARRINGTON HEIGHTS

DIV NO. 2

SHEET 1 OF 2



PLAT MONUMENT TABLE

	I.D.	NORTHING	EASTING
A	475011.24	1554413.86	
B	475115.95	1554346.79	
C	475316.92	1554353.10	
D	475592.50	1554499.41	
E	475643.54	1554570.41	
F	475788.88	1554466.52	

## REFERENCE NOTES

- 1 SEE NOTES 8 & 10, SHEET 1. REGARDING CONSTRUCTION REQUIREMENTS ADJACENT TO ROCKING WALLS AS FURTHER SPECIFIED IN SECTION 3.8.21 OF THE COVENANTS, CODES & RESTRICTIONS FOR THE PLANT OF BARRINGTON HEIGHTS DIVISION NO. 2.
- 2 LOT CORNER FALLS WITHIN EXISTING ROCKERY, IRON REBAR WITH CAP SET OUT ON EXTENSION OF LATERAL PROPERTY LINE, OFFSET 0.5 FT SOUTH
- 3 LEAD PLUG, TACK AND DISK IN CONCRETE SIDEWALK OR CURB DENOTING PLATTED PROPERTY CORNER. OWNERSHIP OF ALL PORTIONS OF SIDEWALKS/CURBS OR OTHER STREET IMPROVEMENTS LOCATED OUTSIDE THE BARRINGTON HEIGHTS LOT 170.00' WIDE PLAT, IS THE PROPERTY OF CHESAPEAKE HARBOR & COASTAL LOT OWNERS WITHIN THIS PLAT, SEE EASEMENT PROVISIONS.
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SCALE REDUCED



## LEGEND

- ⊕ EXISTING CAST ALUMINUM SURFACE MONUMENT  
REF PLAT OF EARRINGTON HEIGHTS, DIV. NO. 1
- ⊗ ALUMINUM SURFACE MONUMENT SET,  
MARKED "FAXSOMA & KINGMA, LS 11941"

03/03/2008 03:14:16 PM  
Recording Fee \$113.00 Page 2 of 2



4223159

R13203-248-3930  
UNPLATTED



2/27/08

PLAT OF BARRINGTON HEIGHTS  
DIV NO. 2  
SHEET 2 OF 2

100



When recorded return to:

Zylstra Beeksma & Waller, P.L.L.C.  
791 SE Barrington Drive  
Oak Harbor, Washington 98277

03/03/2008 03:14:16 PM  
Recording Fee \$66.00 Page 1 of 25  
Restriction  
Island County Washington

4223160



**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
OF BARRINGTON HEIGHTS, DIVISION 2**

<b>Grantor:</b>	Maple Hill Development, Inc.
<b>Grantee:</b>	Barrington Heights, Division 2
<b>Legal Description:</b>	Ptn U Freund DLC, Sec 3 Twp 32 N R 1 EWM
<b>Additional Legal Description:</b>	Page 24 (Exhibit A)
<b>Assessor's Tax Parcel No(s):</b>	(1) R13203-237-3702 (2) R13203-248-3932 (3) R13203-180-3782



**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
OF BARRINGTON HEIGHTS, DIVISION 2**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is made by Maple Hill Development, Inc., a Washington Corporation.

**RECITALS**

Declarant is the owner of certain real property (the "Property") in Oak Harbor, Island County, Washington, legally described on Exhibit A hereto.

The Property is subdivided as shown in the Plat of Barrington Heights, Division 2, recorded with Auditor of Island County, Washington, under Auditor's File No. 4223159.

Declarant wishes to subject the Property to this Declaration;

NOW, THEREFORE, Declarant declares the Property subject to all restrictions and easements of said plat, shall be held, transferred, sold, conveyed, leased, used and occupied subject to the covenants, conditions, restrictions, easements, assessments, and liens hereinafter set forth which are for the purpose of protecting the value and desirability of and which shall touch and concern and run with title to the Property and which shall be binding on all parties having any right, title, or interest in the Property or any portion thereof, and their respective heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE 1. DEFINITIONS**

**1.1. Words Defined.**

For the purpose of this *Declaration* and any amendments hereto, the following terms shall have the following meanings and all definitions shall be applicable to the singular and plural forms of such terms:

- 1.1.1. "Association" shall mean Barrington Heights Homeowners Association described in Article 4 of this *Declaration*, its successors and assigns.



- 1.1.2. "Board" shall mean the board of directors of the Association.
- 1.1.3. "Common Area" and "Common Elements" shall each have the meaning set forth in Section 2.1.
- 1.1.4. "Construction" and "Constructed" shall mean any construction, reconstruction, erection or alteration of an Improvement, except wholly interior alterations to a then existing Structure.
- 1.1.5. "Declarant" shall mean Maple Hill Development, Inc.
- 1.1.6. "Declaration" shall mean this *Declaration of Covenants, Conditions, Restrictions, and Reservations for Barrington Heights, Division 2*, as it may from time to time be amended.
- 1.1.7. "First Mortgage" and "First Mortgagee" shall mean, respectively, (a) a recorded Mortgage on a Lot that has legal priority over all other Mortgages thereon, and (b) the holder of a first mortgage. For purposes of determining the percentage of First Mortgagees approving a proposed decision or course of action in cases where a Mortgagee holds First Mortgages on more than one Lot, such Mortgagee shall be deemed a separate Mortgagee for each such First Mortgage so held.
- 1.1.8. Except as hereafter provided, "Lot" shall mean any one of the seventeen (17) lots numbered 7 through 23, together with the structures and Improvements thereon.
- 1.1.9. "Mortgage" shall mean a recorded mortgage or deed of trust that creates a lien against a Lot and shall also mean a real estate contract for the sale of a Lot.
- 1.1.10. "Mortgagee" shall mean the beneficial owner, or the designee of the beneficial owner, of an encumbrance on a Lot created by a mortgage or deed of trust and shall also mean the vendor, or the designee of a vendor, of a real estate contract for the sale of a Lot.
- 1.1.11. "Owner" shall mean the record owner, whether one or more Persons, of fee simple title to a Lot within the Property, including a contract seller except those having such interest merely for the performance of an obligation.
- 1.1.12. "Person" shall mean an individual, corporation, partnership, association, trustee, or other legal entity.
- 1.1.13. "Plat" shall mean the recorded plat of Barrington Heights, Division 2 and any amendments, corrections or addenda thereto subsequently recorded.



1.1.14. "Property" shall mean the land described on Exhibit 1 and such additions thereto as may hereafter be subjected to the terms of the Declaration, and all improvements and structures now or hereafter placed on the land.

1.1.15. "Structure" shall mean any building, fence, wall, patio, swimming pool, or the like.

1.1.16. "Transition Date" is defined in Section 4.10.

**1.2. Form of Words.**

The singular form of words shall include the plural and the plural shall include the singular. Masculine, feminine, and neuter pronouns shall be used interchangeably.

**ARTICLE 2. COMMON AREAS, EASEMENTS AND LANDSCAPE BUFFER**

**2.1. Common Areas and Common Elements**

"Common Areas" shall include the area designated as Tract A of the recorded Plat of Barrington Heights, Division 1 and any amendments, corrections or addenda thereto subsequently recorded and the area designated for tree retention on the Plat. "Common Elements" shall include planter areas shown on the Plat on either side of shared driveways for Lots 8 and 9, Lots 10 and 11, Lots 12 and 13, and Lots 14 and 15.

**2.2. Maintenance of Common Areas and Common Elements**

The Association shall maintain the Common Areas and, except for irrigation, the Association shall maintain the trees planted within the Common Elements. Except for maintenance of trees which is the responsibility of the Association, it is the responsibility of the owners of Lots 8 and 9, Lots 10 and 11, Lots 12 and 13, and Lots 14 and 15 to maintain the common elements associated with their lots. Such maintenance includes mowing, cleaning and irrigation in a manner to preserve the health and viability of the trees located in the Common Elements. If an owner does not properly maintain the Common Elements associated with their lot, the Association shall have the right to perform maintenance and the cost of such maintenance shall be assessed to the property owner and the Association shall have all enforcement and lien authority with respect to such assessments as provided in these Covenants, the Association By-Laws, or other governing documents. If neither the owner nor the Association maintains the Common Elements which are its responsibility, the City of Oak Harbor shall have the right to enforce these covenants that pertain to the obligation of the owner or the Association to maintain the Common Areas and Common Elements.



**2.3. Alteration of Common Area**

Nothing shall be altered or constructed upon or removed from the Common Areas except upon the prior written consent of the Board. Natural vegetation is to remain within all common areas, except trees determined to be a hazard may be removed upon approval by City of Oak Harbor.

**2.4. Easements for Utilities, Drainage and Landscaping**

Declarant does hereby establish, create and reserve for the benefit of itself, the Association and all Owners, and their respective heirs and assigns, an easement (the "Utilities and Drainage Easement") for the installation and maintenance of master television antenna and/or cable systems, security and similar systems, and all utilities, including, but not limited to, storm sewers and drainage systems and electrical, gas, telephone, water and sewer lines over: a ten (10) foot wide strip measured from and parallel to, the front line of each Lot. No Lot Owner shall allow or permit any structure or landscaping to be located, installed or grow upon the area subject to the Utilities and Drainage Easement which might in any way damage or interfere with the installation and operation of such utilities and systems. Each person utilizing the Utilities and Drainage Easement areas located on another's Lot shall promptly restore such area to a condition as close to its original condition as reasonably practical after making such use. Except as specifically set forth herein as the responsibility of the Association, each Lot Owner shall maintain the area of his Lot subject to the Utilities and Drainage Easement in a condition which will not interfere with the operation and maintenance of said utilities and systems.

**2.5. Landscape Buffer for Lots 10 through 17**

Declarant hereby establishes, creates and reserves for the benefit of itself, the Association, the Owners of Lots 10 through 17 and their respective heirs and assigns a landscape buffer area over the west fifteen (15) feet of Lots 10 through 17. The Declarant and developer will grade the west fifteen (15) feet of Lots 10 through 17 and will improve said areas with topsoil and mulch for landscaping. Landscaping in the fifteen (15) foot buffer area shall be completed by the Owner within sixty (60) days of completion of construction of a home constructed on any Lot 10 through 17 and in a manner consistent with the provisions of Section 3.3.2. At Owner's request, the Declarant will provide landscape design assistance together with a one-time \$1,000 credit for purchase of plantings. It is the responsibility of each Owner of Lots 10 through 17 to maintain the landscape buffer area including mowing, weeding, trimming, cleaning and irrigation in a manner which promotes an attractive community providing pleasure and pride to both the Owners and neighboring properties. If an Owner does not properly maintain the landscape buffer area associated with their Lot, the Association shall have the right to perform maintenance and the cost of such maintenance shall be assessed to the property Owner and the Association shall have all



enforcement and lien authority with respect to such assessments as provided in these *Covenants*, the Association *Bylaws* and other governing documents. If neither the Owner nor the Association properly maintains the landscape buffer area, the City of Oak Harbor shall have the right to enforce the maintenance provisions that pertain to the obligations of the Owner or the Association to maintain the landscape buffer area. No Structures or play equipment (swing sets and the like) shall be constructed or maintained within the landscape buffer area. However, fencing along the lot lines is permitted within the landscape buffer area.

### ARTICLE 3. CONSTRUCTION ON LOTS AND USE OF LOTS

#### 3.1. Lots Affected

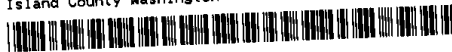
For purposes of this Article 3, "Lot" shall include Lots 7 through 23.

#### 3.2. Land Use and Building Type

No structures or buildings of any kind shall be erected, altered, placed, or permitted to remain on a Lot other than one detached single family dwelling together with private two- or three-car garage accessory to such dwelling and one additional accessory building. Carports are not permitted. No mobile homes, modular homes or factory built homes shall be permitted on any Lot. No building shall be erected, maintained, or placed onto any Lot prior to the erection of the dwelling house, except such building as may be necessary for the shelter and housing of tools and building equipment only during the period of actual construction of said dwelling house.

#### 3.3. Submission of Plans

3.3.1. At least ten (10) days before commencing Construction of any Structure on any Lot, the Owner shall submit to the Board one (1) complete set of detailed building, Construction, surface water run-off control and specifications and a site plan showing the location of all proposed Structures (the plans, specifications and site plans are individually and collectively referred to herein as the "Plans"). The Plans shall be submitted in a form satisfactory to the Board, which may withhold its approval by reason of its reasonable dissatisfaction with the location of the Structure on the Lot, color scheme, finish, architecture, height, impact on view from another Lot or Lots, appropriateness of the proposed Structure, materials used therein, or because of its reasonable dissatisfaction with any other matter which, in the reasonable judgment of the Board, would render the proposed Structure inharmonious with the general plan of development of the Property or other Structures nearby. The Board's approval or disapproval of Plans shall be in writing and approval shall be evidenced by written



endorsement on such Plans, one (1) copy which shall be delivered to the Owner of the Lot upon which the Structure is to be Constructed.

- 3.3.2. At least thirty (30) days before completion of construction of a home constructed on any lot, the owner shall submit to the Board a detailed landscape plan, drawn accurately to scale, including specifications for those portions of the lot not covered by buildings and driveways. Landscape guidelines which govern the Board's approval consist of: plant materials, location of plantings, ground cover, grading, proposed hard surfaces (walkways, patios, etc.), types of irrigation systems, statuary, artificial features, color, harmony and compatibility with neighborhood yards. Plans shall include the common name for all plantings. The preparation of plans by a landscape architect is not required, but the owner is encouraged to consult with local landscape professional experienced with Northwest landscape practices.

It is the intent of landscape guidelines to promote an attractive community, which provides pleasure and a source of pride to both the owners and the visiting public driving through the neighborhood. The Board, therefore, shall concentrate their efforts in landscape review to those areas readily viewed from the street and sidewalk, especially the front yards. Except as otherwise provided in the landscape buffer area in Section 2.5, backyard areas are to be at least planted to grass or as approved by the Board. The grading for installation of landscape features shall be prosecuted diligently and shall be completed with sixty (60) days of occupancy of the residence. The Board may grant extensions for completion based on weather or other conditions.

#### 3.4. Construction

No Structure shall be Constructed or caused to be Constructed on any Lot unless the Plans for the Structure have been approved in writing by the Board. The Board's review and approval or disapproval of Plans on the basis of cost, aesthetic design, harmony with previously approved Structures on or about other Lots in the Property, and location, shall be absolute and enforceable in any court of competent jurisdiction. The Board's approval of any Plans, however, shall not constitute any warranty or representation whatsoever by the Board or any of its members that such Plans were examined or approved for engineering or structural integrity or sufficiency or compliance with applicable governmental laws, codes, ordinances and regulations, and each Owner hereby releases any and all claims or possible claims against the Board or any of them, and their heirs, successors and assigns, or of any nature whatsoever, based upon engineering or structural integrity or sufficiency or compliance with applicable governmental laws, codes, ordinances and regulations.



3.4.1. Power of the Board to Grant a Variance

The Board shall have the power to grant a variance to an owner, who, at the time the owner submits his plans for approval, also submits a request for a variance. The variances which may be allowed by the Board shall be limited to those matters herein covered by Section 3.5 (minimum size) and (and 3.8.16 as it pertains to roof pitch). The granting of the request for a variance shall be in writing and shall also be entered in the minutes of the Board.

3.5. **Minimum Size**

The floor area of the main house Structure, exclusive of open porches and garages shall be not less than 1,750 square feet.

3.6. **Location of Buildings**

All buildings shall be located on each Lot in accordance with the Zoning Ordinance and Building Department requirements of the City of Oak Harbor and as approved by the Board.

3.7. **Maximum Height**

All buildings or Structures on Lots 18 through 23 shall be constructed in conformity with maximum height restrictions which are summarized in the following list. Each Lot number includes a reference elevation which represents the maximum elevation height (ridge height) for any manmade structure that can be constructed on said Lot. The maximum height shall apply to the topmost point of any structure. Each elevation listed is referenced to a datum.

Lot Number	Maximum Ridge Height	Datum
18	16 feet	Point of highest elevation of the lot
19	16 feet	Point of highest elevation of the lot
20	16 feet	Point of highest elevation of the lot
21	16 feet	Point of highest elevation of the lot
22	16 feet	Point of highest elevation of the lot
23	16 feet	Point of highest elevation of the lot





3.8. Use Restrictions

3.8.1. Residential Use

The dwellings within the Structures are intended for and restricted to use as single family residences only, on an ownership, rental, or lease basis, and for social, recreational, or other reasonable activities normally incident to such use, which may include in-home offices so long as the business therefrom is in compliance with the provisions of paragraph 3.8.10.

3.8.2. Maintenance of Buildings and Lots

Each Owner shall, at the Owner's sole expense, keep the interior and exterior of the Structure on the Owner's Lot, as well as the Lot, in a clean and sanitary condition, free of rodents and pests, and in good order, condition and repair and shall do all redecorating, painting, landscaping, and maintenance at any time necessary to maintain the appearance and condition of the Structure and the Lot. The landscaping shall be maintained to the curb on the edge of the street.

3.8.3. Completion of Construction

Any Structure erected or placed on any Lot shall be completed as to external appearance within eight (8) months from the date Construction is started, however, with good cause shown, the Board may extend this term. All yards and landscaping must be completed within three (3) months from the date of completion of the Structure, however, with good cause shown, the Board may extend this term. All Lots shall be maintained in a neat and orderly condition during Construction.

3.8.4. Parking

3.8.4.1. Each owner is required to maintain four off street parking spaces, including two in the garage and two on the driveway. On street parking is reserved for guests and emergency purposes only.

3.8.4.2. Recreational vehicles, including boats, are permitted on off street parking spaces for a period of up to 24 hours only. No other recreational vehicle parking is permitted.

3.8.4.3. Immobilized or inoperable vehicles shall be removed from the premises within five days or kept within the garage.

3.8.4.4. Commercially licensed vehicles of a pickup and light van type are permitted on off street spaces.



3.8.4.5. Dump trucks, large vans or other heavy construction type vehicles are not permitted.

3.8.5. Signs

No sign of any kind shall be displayed to the public view on or from any Lot without the prior written consent of the Board, except for "For Rent" or "For Sale" signs in a form not prohibited by any rules and regulations of the Board. This Section shall not apply to the Declarant or any Participating Builder.

3.8.6. Animals

Animals, including horses, livestock, poultry, reptiles or pigs, shall not be kept on any Lot. Household pets shall not exceed three (3) in number; provided that unweaned puppies or kittens may be kept. All animal enclosures must be kept in a clean, neat and odor free condition at all times. All animals must be kept at a distance of not less than 20 feet from abutting Structures and erosion control Structures if directed by the Board. The Board may at any time require the removal of any pet which it finds is disturbing other Owners or tenants unreasonably, in the Board's determination, and may exercise this authority for specific pets even though other pets are permitted to remain. Notwithstanding anything set forth herein all Owners shall comply with all applicable governmental laws, codes, ordinances, and regulations pertaining to animals.

3.8.7. Temporary Structures

No Structure of a temporary character, trailer, tent, shack, garage, barn, or other outbuilding shall be installed, placed, or used on any Lot as a residence, either temporarily or permanently.

3.8.8. Radio and Television Aerials

No television or radio aerial and no satellite receiving dish or other electronic receiving device shall be placed or erected outside of any building on any Lot, except small digital dishes.

3.8.9. Trash Containers and Debris

All trash shall be placed in sanitary containers and maintained inside the garage. Trash and garbage which is properly bagged or boxed, may be permitted at street curbs the evening before or on the day of pickup only. No lot or any portion thereof shall be used as a dumping ground for trash or rubbish of any kind. Yard rakings, dirt and debris resulting from landscaping work or construction shall not be dumped onto adjoining lots or streets or roadways.



3.8.10. Offensive Activity

Except for in-home offices that do not involve client or customer visits, no trade, craft, business, profession, commercial or manufacturing enterprise or business or commercial activity of any kind, including day schools, nurseries, or church schools, shall be conducted or permitted on any Lot, nor shall goods, equipment, vehicles or materials used in connection therewith, be kept, parked, stored, dismantled or repaired outside of any Lot or any street with the Property. No noxious or offensive activity, including but not limited to the creation of excess levels of noise, shall be carried on in any Lot, nor shall anything be done therein which may be or become an annoyance or nuisance to other Owners or tenants.

3.8.11. Fences

No fence shall be constructed on any Lot without the prior written approval of the Board, which approval may be granted or denied in the Board's sole discretion. All fences shall be constructed in a good and workman-like manner of suitable fencing materials and shall be artistic in design and shall not detract from the appearance of any adjacent Structures. Fences shall not exceed forty-eight (48) inches in height on any street side or seventy-two (72) inches on other sides.

3.8.12. Underground Utilities

All utility lines located outside a dwelling unit and installed by utility companies, shall be installed underground and in a manner customarily utilized by the utility company. Owner installed utility lines shall be underground and in conduits.

3.8.13. Drainage

Any and all drainage from a Lot, which in the reasonable opinion of the Board causes erosion problems, shall be piped at the Lot Owner's expense to the nearest underground public storm sewer line, street ditch or dry well. Absolutely no dumping of any pollutants into the storm sewer systems shall be permitted.

3.8.14. Damage

Any damage to streets, plat improvements, entry structure, fences, landscaping, mailboxes, lights and lighting standards by Lot Owners, their children, contractors, agents, visitors, friends, relatives or service personnel shall be repaired by such Owner within twelve (12) days from the occurrence of such damage.



3.8.15. Roofs

All roofs shall have a minimum life from the time of installation of thirty (30) years. All roofs are to have a 5.12 pitch or greater.

3.8.16. Driveways

All driveways shall be paved from the edge of the paved street to connect with the paved surface of the floor of the garage.

3.8.17. Mailboxes

All mailboxes must be of a standard accepted by the U. S. Postal Authorities and must be located in those areas so designed by the U. S. Postal Department and the Board. Newspaper boxes are not allowed, except as approved by the Board.

3.8.18. Compliance with Laws

Notwithstanding anything to the contrary set forth herein, each Owner and the Association shall comply with the more restrictive of either (i) the terms and conditions of this Declaration, or (ii) the laws, codes, ordinances, and regulations of any governmental entity having jurisdiction.

3.8.19. Lighting

Area, flood and ornamental lighting must be of a subdued nature and must be approved by the Board. Each Owner is required to provide one (1) outside globe light on top of a column consisting of cultured stone, measuring sixteen (16) to twenty (20) inches square and a minimum of forty-two (42) inches high. The style of globe light and type of cultured stone shall be as designated by the Declarant or approved by the Board. The column shall be located one (1) foot behind the sidewalk. The column for all Lots shall also provide the attachment of house numbers.

3.8.20. View

It is important that property owners restrict the height of improvements, including trees, to the end the view of other owners be preserved to the greatest extent reasonably practical. The Board shall have the responsibility of determining whether the view of other properties is being unreasonably restricted and, if such finding is made, the Board shall give notice, in writing, of such finding to the offending owner. If after thirty (30) days corrections have not been made to eliminate the problem of restrictive view to the satisfaction of the Board, the Board may cause the correction to be made at the expense of the offending



owner and such expense shall be an assessment forcible, collectable and lienable as provided in these Covenants, the Association By-Laws or other applicable governing documents. The Board has the authority to, from time to time, make rules and as provided in Article 6 to insure compliance and to protect views.

3.8.21. Retaining Wall Protection

The integrity of the rock retaining walls on Lots 7 through 23 must be maintained. No excavation shall occur within the 1H/1V bearing splay of any rock retaining wall below the level of the highest elevation of the retaining wall. For example, if the retaining wall is three (3) feet in height, no excavation shall occur within three (3) feet of the retaining wall below the highest elevation of the retaining wall. By way of further example, if the retaining wall is five (5) feet in height, no excavation shall occur within five (5) feet of the retaining wall below the highest elevation of the retaining wall. This protected area is the "bearing splay" of the retaining wall. With the review and approval of the Declarant or of the Association after the Transition Date, an irrigation system may be installed in the bearing splay provided all excavation and installation is performed by hand methods and the maximum depth of installation does not exceed one (1) foot below existing grade. Other construction and/or improvements are not permitted in the bearing splay. Modifications to the existing retaining wall are strongly discouraged, but may be permitted with approval of the Declarant or the Association after the Transition Date. If permitted, modifications and the construction methods used for installation shall not impair the structure or function of the retaining wall. Plans and calculations reflecting the intended modification shall be prepared by a licensed civil engineer. All modifications must be in accordance with applicable governmental codes and permits and modifications must retain an esthetically pleasing look to the retaining wall.

**ARTICLE 4. BARRINGTON HEIGHTS HOMEOWNERS ASSOCIATION**

4.1. **Form of Association**

The Owners of Lots within the Property as well as Owners of Lots within the Property constituting Division 1 of the Plat of Barrington Heights and the Owners of Lots within the Property constituting future Divisions of Barrington Heights shall constitute the members of Barrington Heights Homeowners Association. The rights and duties of the members and of the Association shall continue to be governed by the provisions of this Declaration.



**4.2. Board of Directors**

The affairs of the Association shall be governed by a Board of Directors (the "Board") which shall be composed of one or more members, to be determined in the reasonable discretion of the Board. The initial Board shall be Carl R. Freund. Subject to any specific requirements hereof, the Board shall have authority to establish operating rules and procedures. In the event of death or resignation of any member or members of the Board, the remaining member or members, if any, shall have full authority to appoint a successor member or members. Members of the Board shall not be entitled to any compensation for services performed pursuant to this Declaration. Upon the Transition Date and without further action by any person or persons, (i) the term of the initial Board members or their successors shall end, and (ii) the initial Board members and their then successors shall be released from any and all liability whatsoever for claims arising out of or in connection with this Declaration, exempting only claims arising prior to the Transition Date.

**4.3. Qualification for Membership**

Each fee owner of a Lot (including Declarant) on the Property shall be a member of the Association and shall be entitled to one membership and one vote for each Lot owned; provided, that if a Lot has been sold on contract, the contract purchaser shall exercise the rights of an Owner for purposes of the Association, and this Declaration except as hereinafter limited, and shall be the voting representative unless otherwise specified. Ownership of a Lot shall be the sole qualification for membership in the Association.

**4.4. Transfer of Membership**

The Association membership of each Owner (including Declarant) shall be appurtenant to the Lot giving rise to such membership, and shall not be assigned, transferred, pledged, hypothecated, conveyed, or alienated in any way except upon the transfer of title to the Lot and then only to the transferee of title to the Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association to the new Owner.

**4.5. Number of Votes**

The total voting power of the Association at any given time shall equal the number of Lots included within the Property at that time. The Owner or Owners of each Lot within the Property shall be entitled to one vote. If a Person (including Declarant) owns more than one Lot, he or she shall have the votes appertaining to each Lot owned.

**4.6. Voting**

If a Lot is owned by husband and wife and only one of them is at a meeting, the one who present will represent the marital community. The vote for a Lot must be cast as a single



vote, and fractional votes shall not be allowed. If joint Owners are unable to agree among themselves how their vote shall be cast, they shall lose their right to vote on the matter in question.

**4.7. Pledged Votes**

An Owner may, but shall not be obligated to, pledge his vote on all issues or on certain specific issues to a Mortgagee; provided, however, that if an Owner is in default under a Mortgage on his Lot for ninety (90) consecutive days or more, the Owner's Mortgagee shall automatically be authorized to declare at any time thereafter that the Lot Owner has pledged his vote to the Mortgagee on all issues arising after such declaration and during the continuance of the default. If the Board has been notified of any such pledge to a Mortgagee, only the vote of the Mortgagee will be recognized on the issues that are subject to the pledge.

**4.8. Annual and Special Meetings**

Within the period commencing thirty (30) days before the Transition Date and ending thirty (30) days after the Transition Date, there shall be a meeting of the members of the Association and thereafter there shall be an annual meeting of the members of the Association in the first quarter of each fiscal year at such reasonable place and time as may be designated by written notice from the Board delivered to the Owners no less than thirty (30) days before the meeting. At the first such meeting, and at each annual meeting thereafter, the Owners shall elect by majority vote individuals to serve as Board members until a successor is elected at the next annual meeting. Each Lot shall be entitled to one vote for each director and the voting for directors shall be non-cumulative. The financial statement for the preceding fiscal year (if any) and the budget the Board has adopted for the pending fiscal year shall be presented at the annual meeting for the information of the members. Special meetings of the members of the Association may be called at any time upon not less than fourteen (14) days prior written notice to all Owners, for the purpose of considering matters which require the approval of all or some of the Owners, or for any other reasonable purpose. Any First Mortgagee of a Lot may attend or designate a representative to attend the meetings of the Association.

**4.9. Books and Records**

The Board shall cause to be kept complete, detailed, and accurate books and records of the receipts and expenditures (if any) of the Association, in a form that complies with generally accepted accounting principles. The books and records, authorizations for payment of expenditures, and all contracts, documents, papers, and other records of the Association shall be available for examination by the Lot Owners, Mortgagees, and the



agents or attorneys of either of them, during normal business hours and at any other reasonable time or times.

#### 4.10. Transition Date

The "Transition Date" shall be the date control of the Board passes from the initial Board to the Association. The Transition Date will be either (i) the date designated by Declarant in a written notice to the Owners, which date may be by Declarant's election any date after this *Declaration* has been recorded or (ii) the later of (a) with respect to Division 1 of Barrington Heights, three (3) years after the recording of the *Declaration of Covenants, Conditions and Restrictions of Barrington Heights Division 1*; with respect to Division 2 of Barrington Heights, three (3) years after the recording of the *Declaration of Covenants, Conditions and Restrictions of Barrington Heights Division 2*; with respect to future divisions of Barrington Heights, three (3) years after the recording of the *Declaration of Covenants, Conditions and Restrictions* for each future division of Barrington Heights or (b) the 120th day after Declarant has transferred title to the purchasers of Lots representing 70% of the total voting power of all Lot Owners in the Association. For purposes of the foregoing clause (ii), however, transfer of title to a Lot by Declarant to any Participating Builder shall be disregarded and title to any Lot owned by Participating Builder shall not be deemed transferred for purposes of determining the Transition Date until the Lot is further transferred by Participating Builder to a purchaser who is not either a Participating Builder or Declarant. From and after the Transition Date, the then Owners of 70% of the Lots in the Property shall have the power through a written instrument recorded in the real property records of Island County, Washington to restrict or eliminate all or any of the approval powers and duties of the Board set forth in this Declaration, excluding the duty to maintain the Common Areas.

### ARTICLE 5. NOTICES FOR ALL PURPOSES

All notices given under the provisions of this Declaration or rules or regulations of the Association shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, the notice shall be deemed to have been delivered on the third day of regular mail delivery after a copy has been deposited in the United States mail, first class, postage prepaid, addressed to the Person entitled to such notice at the most recent address known to the Board. Mailing addresses may be changed by notice in writing to the Board. Notices to the Board may be given to any Board member or mailed to the residence address of the president or secretary of the Board.





## **ARTICLE 6. AUTHORITY OF THE BOARD**

### **6.1. Adoption of Rules and Regulation**

The Board is empowered to adopt, amend, and revoke on behalf of the Association detailed administrative rules and regulations necessary or convenient from time to time to insure compliance with the general guidelines of this Declaration to promote the comfortable use and enjoyment of the Property and to govern the operation and procedures of the Association. The rules and regulations may, without limitation, authorize voting by proxy or mail, or both, on Association matters. The rules and regulations of the Association shall be binding upon all Owners and occupants and all other Persons claiming any interest in the Property.

### **6.2. Enforcement of Declaration, Etc.**

The Board shall have the power to enforce the provisions of this Declaration, and the rules and regulations of the Association for the benefit of the Association. The failure of any Owner to comply with the provisions of this Declaration, or the rules and regulations of the Association will give rise to a cause of action in the Association (acting through the Board) and any aggrieved Lot owner for recovery of damages, or injunctive relief, or both. If a legal action is brought to interpret or enforce compliance with the provisions of this Declaration, or the rules or regulations of the Association, the prevailing party shall be entitled to recreation, health, safety and welfare of the Lot Owners and for the improvement and maintenance of the Common Areas.

### **6.3. Goods and Services**

The Board shall acquire and pay for as common expenses of the Association all goods and services reasonably necessary or convenient for the efficient and orderly maintenance of all portions of the Common Areas not maintained by public utility companies or a governmental entity. The goods and services shall include (by way of illustration and not limitation) policies of insurance; and maintenance, repair, landscaping, gardening, and general upkeep of the Common Areas. The Board may hire such employees as it considers necessary.

### **6.4. Protection of Common Area**

The Board may spend such funds and take such action as it may from time to time deem necessary to preserve the Common Areas, settle claims, or otherwise act in what it considers to be the best interests of the Association.



## **ARTICLE 7. BUDGET AND ASSESSMENT FOR COMMON EXPENSES**

### **7.1. Fiscal Year; Preparation of Budget**

The Board may adopt such fiscal year for the Association as it deems to be convenient. Unless another year is adopted, the fiscal year will be the calendar year. As soon as the Board in its discretion deems advisable and prior to the expiration of each fiscal year thereafter, the Board shall establish a budget for the costs of maintaining the Common Area during the ensuing fiscal year. The Board shall then assess each Lot within the Property with its pro rata share, based upon the number of Lots then within the Property, of such estimated costs. The Board, at its election, may require the Lot Owners to pay the amount assessed in equal monthly or quarterly installments or in a lump sum annual installment. The Board shall notify each Lot Owner in writing at least ten (10) days in advance of each assessment period of the amount of the assessment for said period, which notice shall be accompanied by a copy of the budget upon which the assessment is based. The assessments levied by the Board shall be used exclusively to promote the recreation, health, safety and welfare of the Lot Owners and for the improvement and maintenance of the Common Areas and Common Elements.

### **7.2. Certificate of Unpaid Assessments**

Any failure by the Board or the Association to make the budget and assessments hereunder before the expiration of any fiscal year for the ensuing fiscal year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of the Owners from the obligation to pay assessments during that or any subsequent year, and the assessment amount and payment method established for the preceding fiscal year (if any) shall continue until a new assessment is established. Upon the request of any Owner or Mortgagee or prospective Owner or prospective Mortgagee of a Lot, the Board will furnish a statement of the amount, if any, of unpaid assessments charged to the Lot. The statement shall be conclusive upon the Board and the Association as to the amount of such indebtedness on the date of the statement in favor of all purchasers and Mortgagees of the Lot who rely on the statement in good faith. All assessments and other receipts received by the Association shall belong to the Association.

### **7.3. Date of Commencement of Annual Assessments**

The annual assessments provided for herein shall commence as to all Lots at such time as the Board in its absolute discretion deems advisable. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year.



## **ARTICLE 8. LIEN AND COLLECTION OF ASSESSMENTS**

### **8.1. Assessments Are a Lien; Priority**

All unpaid sums assessed by the Association for the share of the common expenses chargeable to any Lot and any sums specially assessed to any Lot under the authority of this Declaration shall constitute a lien on the Lot and all its appurtenances from the date the assessment becomes due and until fully paid. The lien for such unpaid assessments shall be subordinate to tax liens on the Lot in favor of any assessing unit and/or special district, and to all sums unpaid on all First Mortgages of record, but, to the extent permitted by applicable law, shall have priority over all other liens against the Lot. A First Mortgagee that obtains possession through a Mortgage foreclosure or deed of trust sale, or by taking a deed in lieu of foreclosure or sale, or a purchaser at a foreclosure sale, shall take the Lot free of any claims for the share of common expenses or assessments by the Association chargeable to the Lot which became due before such possession, but will be liable for the common expenses and assessments that accrue after the taking of possession. The Lot's past due share of common expenses or assessments shall become new common expenses chargeable to all of the Lot Owners, including the Mortgagee or foreclosure sale purchaser and their successors and assigns, in proportion to the number of Lots owned by each of them. Notwithstanding any of the foregoing, however, the Owner and the real estate contract purchaser shall continue to be personally liable for past due assessments as provided in Section 8.3. For purposes of this Section, "Mortgage" does not include a real estate contract and "Mortgagee" does not include the vendor or the assignee or designee of a vendor of a real estate contract.

### **8.2. Lien May Be Foreclosed**

The Lien for delinquent assessments may be foreclosed by suit by the Board, acting on behalf of the Association, in like manner as the foreclosure of a mortgage of real property. The Board, acting on behalf of the Association, shall have the power to bid on the Lot at the foreclosure sale, and to acquire and hold, lease, Mortgage, and convey the same.

### **8.3. Assessments Are Personal Obligations**

In addition to constituting a lien on the Lot, all sums assessed by the Association chargeable to any Lot, together with interest, late charges, costs and attorney's fees in the event of delinquency, shall be the joint and several personal obligations of the Owner and any contract purchaser of the Lot when the assessment is made and their grantees. Suit to recover personal judgment for any delinquent assessments shall be maintainable without foreclosing or waiving the liens securing them.

### **8.4. Late Charges and Interest on Delinquent Assessments**

The Board may from time to time establish late charges and a rate of interest to be charged on assessments delinquent for a period of more than ten (10) days after the date when due. In the absence of another established, non-usurious rate, delinquent assessments shall



bear interest at the rate of 12% per annum. If an installment on an assessment against a Lot is not paid when due, the Board may elect to declare the entire assessments against the Lot for the remainder of the fiscal year to be immediately due and payable.

**8.5. Recovery of Attorney's Fees and Costs**

In any action to collect delinquent assessments, the prevailing party shall be entitled to recover as a part of its judgment a reasonable sum for attorney's fees and all costs and expenses reasonably incurred in connection with the action, in addition to taxable costs permitted by law.

**8.6. Remedies Cumulative**

The remedies provided herein are cumulative and the Board may pursue them, and any other remedies which may be available under law although not expressed herein, either concurrently or in any order.

**8.7. No Avoidance of Assessments**

No Owner may avoid or escape liability for assessments provided for herein by abandoning his or her Lot.

**ARTICLE 9. FAILURE OF BOARD TO INSIST ON STRICT PERFORMANCE NO WAIVER**

The failure of the Board in any instance to insist upon the strict compliance with this Declaration or rules and regulations of the Association, or to exercise any right contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of any term, covenant, condition, or restriction. The receipt by the Board of payment of any assessment from an Owner, with knowledge of any breach by the Owner, shall not be a waiver of the breach. No waiver by the Board of any requirement shall be effective unless expressed in writing and signed for the Board.

**ARTICLE 10. LIMITATION OF LIABILITY**

So long as a Board member, or Association member, or Declarant has acted in good faith, without willful or intentional misconduct, upon the basis of such information as is then possessed by such Person, then no such Person shall be personally liable to any Owner, or to any other Person, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of such Person; provided, that this Article shall not apply where the consequences of such act, omission, error, or negligence are covered by any insurance actually obtained by the Board.



#### ARTICLE 11. INDEMNIFICATION

Each Board member, and Declarant shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of holding or having held such position, or any settlement thereof, whether or not he holds such position at the time such expenses or liabilities are incurred, except to the extent such expenses and liabilities are covered by insurance and except in such cases wherein such Board member or Declarant is adjudged guilty of willful misfeasance in the performance of his or her duties; provided, that in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being for the best interests of the Association.

#### ARTICLE 12. INSURANCE

At such times as the Board deems appropriate, the Board shall cause the Association to purchase and maintain as a common expense a policy or policies which the Board deems necessary or desirable to provide casualty insurance; comprehensive liability insurance; with such deductible provisions as the Board deems advisable; insurance, if available, for the protection of the Association's directors, and representatives from personal liability in the management of the Association's affairs; and such other insurance as the Board deems advisable. The board shall review the adequacy of the Association's insurance coverage at least annually.

#### ARTICLE 13. DAMAGE AND REPAIR OF DAMAGE TO PROPERTY

In the event of any casualty, loss or other damage to the Common Area or Common Elements for which the then current assessments by the Board are insufficient to repair, or restore or for which there are not insurance proceeds or insufficient insurance proceeds available to the Board for such restoration or repair, the Board may make a special assessment against each Lot within the Property for its pro rata share of the cost and expenses to repair and/or restore the Common Areas or Common Elements. The special assessment shall be payable, at the determination of the Board, in either monthly or quarterly installments or in a single lump sum amount. The Board shall notify each Lot Owner of any such special assessment not less than twenty (20) days prior to the date such special assessment or the first installment thereon is due and payable, which notice shall be accompanied by a reasonably detailed statement of the Board's estimated costs and expenses of repairing and/or restoring Common Areas or Common Elements.

#### ARTICLE 14. AMENDMENTS OF DECLARATION

Any Lot Owner may propose amendments to this Declaration to the Board. A majority of the members of the Board may cause a proposed amendment to be submitted to the members of the Association for their consideration. If an amendment is proposed by Owners of 20% or more of



the Lots, then, irrespective of whether the Board concurs in the proposed amendment, it shall be submitted to the members of the Association for their consideration at their next regular or special meeting for which timely notice may be given. Notice of a meeting at which an amendment is to be considered shall include the text of the proposed amendment. Amendments may be adopted at a meeting of the Association or by written consent of the requisite number of Persons entitled to vote, after notice has been given to all Persons entitled to receive notice of a meeting of the Association. The unanimous consent of all Owners shall be required for adoption of an amendment changing the voting power or portion of assessments appurtenant to each Lot, or of this Article 14. All other amendments shall be adopted if approved by 70% of the Lot Owners. Once an amendment has been adopted by the Association, the amendment will become effective when a certificate of the amendment, executed by a member of the Board, has been recorded in the real property records of Island County, Washington. Any amendment which would change the obligation of the Association to maintain the drainage system must first be approved by the City of Oak Harbor.

#### **ARTICLE 15. ANNEXATION AND SUBDIVISION**

Residential property other than Common Areas may be annexed or added to the Property only with the consent of two-thirds of the Association. No Lot shall be subdivided or combined without the approval of all Lot Owners.

#### **ARTICLE 16. DURATION**

The covenants, conditions, and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Owners, their respective legal representatives, heirs, successors, and assigns, for a period of thirty (30) years from the date this Declaration is recorded, after which time the covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by a majority of the then Owners has been recorded agreeing to terminate the covenants, conditions and restrictions.

#### **ARTICLE 17. RESERVATION OF DECLARANT'S RIGHT TO AMEND TO COMPLY WITH FNMA, FHLMC OR FHA REQUIREMENTS**

##### **17.1. Amendment by Declarant**

Declarant reserves the right to amend the Declaration as may be necessary to comply with Federal Home Loan Mortgage Corporation ("FHLMC") or Federal National Mortgage Association ("FNMA") or Federal Housing Administration ("FHA") regulations or requirements as necessary to enable the holders of first mortgages or deeds of trust to sell first mortgages or deeds of trust to FHLMC or FNMA or if such amendment is necessary



to secure funds or financing provided by, through or in conjunction with FHLMC or FNMA or FHA.

**17.2. Authorization to Amend**

If Declarant, at its option, determines that it is necessary so to amend the Declaration, then Declarant, on behalf of all Lot Owners in the Association, is hereby authorized to execute and to have recorded (or filed, in the case of the Articles) said required amendment or amendments. All Lot Owners hereby grant to Declarant a full and complete power of attorney to take any and all actions necessary to effectuate and record said amendment or amendments and agree that said amendment or amendments shall be binding upon their respective Lots and upon them and their heirs, personal representatives, successors and assigns to the same extent as if they had personally executed said amendment or amendments. All Lot Owners hereby acknowledge and agree that the power of attorney granted herein shall be deemed coupled with an interest and shall be irrevocable.

**17.3. Duration**

Declarant's rights under this Article shall exist only until the Transition Date.

**ARTICLE 18. SEVERABILITY**

The provisions of this Declaration shall be independent and severable, and the unenforceability of any one provision shall not affect the enforceability of any other provision, if the remainder affects the common plan.

**ARTICLE 19. EFFECTIVE DATE**

This Amended Declaration shall be effective upon recording.

**ARTICLE 20. ASSIGNMENT BY DECLARANT**

Declarant reserves the right to assign, transfer, sell, lease, or rent all or any portion of the Property and reserves the right to assign all or any of its rights, duties, and obligations created under this Declaration.

**ARTICLE 21. SPECIAL PROVISIONS**

**21.1. Hookup Fees and Impact Fees**

This project is subject to applicable water, sewer, and storm water hookup fees and transportation, fire, school, and park impact fees. These fees are payable at levels in effect



at the time of the building permit issuance and may differ from those fee levels currently in effect.

DATED this 3<sup>rd</sup> day of March, 2008.

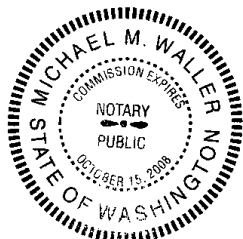
MAPLE HILL DEVELOPMENT, INC.

By: Carl R. Freund  
CARL R. FREUND, President

STATE OF WASHINGTON )  
( ss.  
COUNTY OF ISLAND )

I certify that I know or have satisfactory evidence that Carl R. Freund is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President of Maple Hill Development, Inc. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 3<sup>rd</sup> day of March, 2008.



Michael M. Waller  
(Signature)  
Michael M. Waller  
(Print Name)  
NOTARY PUBLIC  
My appointment expires: 10-15-08





**EXHIBIT A**

THAT PORTION OF THE U. FREUND DONATION LAND CLAIM  
IN SECTION 3, TOWNSHIP 32 NORTH, RANGE 1 EAST OF THE  
WILLAMETTE MERIDIAN, ISLAND COUNTY, WASHINGTON,  
LYING WEST OF THE CITY STREETS KNOWN AS SW  
BARRINGTON DRIVE AND SW FLEET STREET AND LYING  
SOUTH OF TRACT A OF THE PLAT OF BARRINGTON  
HEIGHTS, DIV. NO. 1, ACCORDING TO THE PLAT THEREOF  
RECORDED IN VOLUME 13 OF PLATS, PAGES 327-329, UNDER  
AUDITOR'S FILE NO. 4197229, RECORDS OF ISLAND COUNTY.

SITUATE IN ISLAND COUNTY, WASHINGTON.

**End of Exhibit A**