

DECLARATION OF
FORTY-ONE POINT FIVE

RESTRICTIVE COVENANTS AND CONDITIONS*

This Declaration of Protective Covenants is applicable to Forty-One Point Five, Lots 1 through 112 inclusive; tracts "A" and "B" common area, and tract "C" common access way inclusive. WHEREAS, NUPACIFIC COMPANY, INC., an Oregon Corporation, hereinafter referred to as Declarant, is owner in fee simple of certain real property located in the County of King, State of Washington, known as Forty-One Point Five, a duly recorded plat.

WHEREAS, the Declarant desires to declare of public record its intentions to create certain protective covenants and conditions to the ownership of said property.

NOW, THEREFORE, the Declarant does hereby certify and declare that the following reservations, conditions, and covenants shall become and are hereby made a part of all conveyances of Lots 1 through 112 inclusive, and those certain tracts and easements inclusive within the plat of Forty-One Point Five, recorded March 8, 1978, in Volume 106 of Plats, pages 35 through 37, Records of the County of King, State of Washington, and that the following protective covenants and reservations shall by reference become a part of any such conveyances and shall apply thereto as fully and with the same effect as if set forth at large therein.

ARTICLE I

Definitions: As used in these covenants, the terms set forth below shall have the following meanings:

- 1.01 "Association" shall mean and refer to a non-profit corporation formed to serve as an owner's association known as the Forty-One Point Five Homeowners Association, its heirs, successors and assigns.
- 1.02 "Declarant" shall mean and refer to NuPacific Company, Inc., an Oregon Corporation and its successors and assigns.
- 1.03 "Improvement" shall mean and refer to every building of any kind, including but not limited to fence, wall, driveway, swimming pool, storage shelter, or other produce of construction efforts on or in respect to the plat of Forty-One Point Five.

*Note: This document is a verbatim copy of the official Covenants and Conditions which each owner is given upon purchase of his/her home.

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- 1.04 "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision plat of Forty-One Point Five, except those areas specifically designatd on such plats as "Tracts" or "Open Areas".
- 1.05 "Owner" shall mean and refer to the person or persons (including Declarant except where otherwise expressly provided) of record holding the beneficial ownership of a lot. The rights, obligations and other status of being an owner commence upon acquisition of the beneficial ownership of a lot and terminate upon disposition of such ownership, but termination of ownership shall not discharge an owner from obligations incurred prior to termination.
- 1.06 "Properties" shall mean and refer to that certain real property hereinafter described.
- 1.07 "Common Area" shall mean and refer to Tracts A and B as designated on the plat of Forty-One Point Five reserved for the common use and enjoyment of the owners.
- 1.08 "Forty-One Point Five" shall mean and refer to the land described in Article II hereof.
- 1.09 "Sold" shall mean that legal title has been conveyed or that a contract of sale has been executed under which the purchaser has obtained the right to possession.
- 1.10 "These Covenants" shall mean and refer to all of the limitations, restrictions, covenants and conditions set forth in this Declaration with respect to Forty-One Point Five, as the same may be amended and supplemented from time to time hereafter in accordance with the provisions of this Declaration.

ARTICLE II

PROPERTIES SUBJECT TO THESE COVENANTS

2.01 "Forty-One Point Five"

The Declarant hereby declares that all of the real property described below is owned and shall be owned, conveyed, hypothecated, encumbered, used, occupied and improved subject to these Covenants:

The real property identified and contained by that certain plat entitled Forty-One Point Five recorded on the 8 day of March, 1978, in Book 106 of Plats at Page(s) 35-37 of Records of King County Auditor, King County, State of Washington.

ARTICLE III

GENERAL PROTECTIVE COVENANTS

3.01 "Residential Use"

No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one single family dwelling not to exceed two and one-half stories in height and a private garage for not less than two (2) cars. The foregoing provisions shall not exclude construction of a private greenhouse, storage unit, private swimming pool or a shelter or port for the protection of such swimming pool, or for the storage of a boat and/or camping trailer kept for personal use, provided the location of such structures is in conformity with the applicable municipal regulations, and is compatible in design and decoration with the residence constructed on such lot, and has been approved by the Architectural Control Committee. The provisions of this section shall not be deemed to prohibit the right of any homebuilder to construct residences on any lot, to store construction materials and equipment on said lots in the normal course of construction, and to use a single family residence as a sales office or model home or purposes of sale in Forty-One Point Five.

3.02 "Dwelling Size"

The ground floor area of a one-story dwelling, exclusive of open porches and garages shall not be less than 1,600 square feet. In the case of a two-story dwelling, the lower or ground floor living level shall not be less than 1,200 square feet. In the event of a multi-level dwelling, the area of the one-story portion and the area of the upper level of the two-story portion shall constitute a minimum of 1,300 square feet. A split entry or split foyer type home shall have a main floor area of not less than 1,500 square feet and daylight basement 1,100. The Architectural Control Committee upon applications, may, at its discretion, waive any violation of this provision which it finds to have been inadvertent.

3.03 "Building Setbacks"

No building shall be located on any lot near to the front, rear or side lot lines than is permitted by King County Ordinances. In any event, no building shall be located on any lot nearer than twenty (20) feet to the front lot lines, nearer than twenty-five (25) feet to the rear lot lines, or nearer than five (5) feet to a side lot line. On corner lots, the side yard shall be a minimum of fifteen (15) feet on the side abutting the street. The Architectural Control Committee, upon application, at its discretion, waive any violation of this restriction which it finds to have been inadvertent, provided the same would not constitute a violation of the King County Ordinances.

3.04 "Easements"

Easements for installation and maintenance of utilities and drainage facilities are reserved over the front ten (10) feet of each lot, as well as on other portions of certain lots, all of record. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities, or which may change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the Owner of the lot, except for those improvements for which a public authority or utilities company is responsible. Screening easements are reserved over the rear ten (10) feet of Lots 1 through 7 and Tract "D", all of record, within which an Owner shall not remove the natural vegetation and within which the Architectural Control Committee may augment or agree to permit an Owner to augment said natural vegetation for screening purposes.

3.05 "Tree Removal"

No trees with a diameter of six (6) inches, or more, measured at a height of five (5) feet above ground level, may be removed from those portions of any lot which lie outside of the building site (including driveway) without prior written approval from the Architectural Control Committee.

3.06 "Business and Commercial Uses"

No trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any lot, nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service, or business be kept or stored on any lot, excepting the right of any homebuilder and the Declarant to construct residences on any lot, to store construction equipment and materials on said lots in the normal course of said construction and to use any single family residence as a sales office or model home for purposes of sale in Forty-One Point Five.

3.07 "Offensive Activities"

No noxious or offensive activity shall be carried on upon any lot or Common Area, nor shall anything be done or placed upon any lot or Common Area which interferes with or jeopardizes any Owner's use and enjoyment of his lot and the Common Area within Forty-One Point Five.

3.08 "Animals"

No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for commercial purposes and are reasonably controlled so as not to be a nuisance.

3.09 "Signs"

No signs shall be erected or maintained on any lot except that not more than one "For Sale" or "For Rent" sign placed by the Owner, the Declarant or by a licensed real estate agent, not exceeding twenty-four (24) inches high and thirty-six (36) inches long, may be temporarily displayed on any lot. This restriction shall not prohibit the temporary placement of "political" signs on any lot by the Owner.

3.10 "Vehicles in Disrepair"

No Owner shall permit any vehicle which is in an extreme state of disrepair to be abandoned or to remain parked upon any lot or on the Common Area or on any street for a period in excess of forty-eight (48) hours. A vehicle shall be deemed to be in an "extreme state of disrepair" when its presence offends the occupants of the neighborhood.

3.11 "Parking"

Parking of boats, trailers, motorcycles, trucks, truckcampers and like equipment shall not be allowed on any part of the property excepting only within the confines of an enclosed garage or screened area, the plans for which must have been reviewed and approved by the Architectural Control Committee prior to construction, and no portion of same may project beyond the screened area.

3.12 "Rubbish and Trash"

No lot or part of the Common Area shall be used as a dumping ground for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate sanitary containers for proper disposal and out of public view. Yard rakings and dirt resulting from landscaping work shall not be dumped onto streets, Open Space or on any lots.

3.13 "Temporary Structures"

No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently. All structures must comply with the Uniform Building Code, as adopted by King County.

3.14 "Structures in Common Areas"

No building, wall, fence, paving, landscaping or construction of any type shall be erected or maintained by any owner of a lot so as to trespass or encroach upon the Common Area.

3.15 "Completion of Construction"

The construction of any building on any lot, including painting and all exterior finish, shall be completed within eight (8) months from the beginning of construction so as to present a finished appearance when viewed from any angle. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval from the Architectural Control Committee.

3.16 "Landscape Completion"

All front yard landscaping must be completed within six (6) months from the date of occupancy of the residence constructed thereon. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval by the Architectural Control Committee.

3.17 "Fences and Hedges"

As defined in this section, "fencing" shall mean any barrier or wall other than natural living organic vegetation, including trees and shrubs. Plantings or site obscuring fences shall not exceed four (4) feet in height in the front yard or on side lot lines forward of the building line with the greatest setback on the lot or the adjoining residential lot. The maximum height of a site obscuring fence located on the remainder of the lots shall be six (6) feet. Fences shall be well constructed of wood materials and shall not detract from the appearance of the dwelling house located upon the lot or building site to be offensive to the owners or occupants thereof or detract from the appearances of the dwelling houses located on the adjacent lots or building sites.

3.18 "Exterior Materials"

Exterior materials must be approved for use by the Architectural Control Committee in accordance with the provisions of Article 5.01. Roofing materials must be cedar single, shake, or tile. Siding materials shall be of the cedar or redwood type. No plywood siding of any type will be approved. Windows must be aluminum bronze anodized or wood. Any other architectural features subject to control will be approved or disapproved upon submission of plans to the Architectural Control Committee.

3.19 "Exterior Finish"

The exterior of all construction on any lot shall be designed, built, and maintained in such a manner as to blend in with the natural surroundings and landscaping within Forty-One Point Five. Exterior colors must be approved by the Architectural Control Committee in accordance with the provisions of Article V. Exterior colors must conform to accepted earth tone colors. The use of bright or hard stains or paint will not be approved. Exterior trim, fences, doors, railings, decks, eaves, gutters, and the exterior finish of garages and other accessory buildings shall be designed, built and maintained to be compatible with the exterior of the structure they adjoin.

3.20 "Antennas and Service Facilities"

Exterior antennas shall not be permitted to be placed upon the roof of any structure on any lot so as to be visible from the street in front of said Lot. Clotheslines and other service facilities shall be screened so as not to be viewed from the street or Common Area.

3.21 "Maintenance of Structure and Grounds"

Each Owner shall maintain his lot and residence thereon in a clean and attractive condition, in good repair and in such fashion as not to create a fire hazard.

3.22 "Specific Construction Provisions"

Construction of residential buildings on Lots 21 through 31 and 96 through 100 shall have as a minimum the following as standard features:

- (a) the void between studs in all exterior walls shall be filled with four (4) inch thick insulation, or other suitable sound attenuating material;
- (b) All southerly exterior doors shall be solid core;
- (c) All windows, except those with a northerly exposure, shall be of double pane construction and shall have an air space between panes such as 5/8-inch insulated glass.

ARTICLE IV

COMMON AREA, COMMON ACCESS WAY

4.01 "Common Areas"

The owners of lots within Forty-One Point Five and their respective invitees shall be entitled to the exclusive use of common areas within the project, subject, however, to the restriction that the common areas shall be dedicated for open space and those recreational uses which do not harm or otherwise disturb the natural setting of the areas or the trees or vegetation thereon. The common areas shall not be platted or otherwise divided into lots for residential use. Nothing herein shall prevent the placing of a sign or signs on the common areas identifying the subdivision, provided such signs are approved by the Architectural Control Committee and comply with any applicable King County sign ordinances. Declarant (or, after delegation, the Association) upon approval in writing of the owners of a majority of the lots and approved by order or resolution of the King County Planning Commission (or equivalent thereof), may dedicate or convey any portion of the common areas to a park district or other public body for open space or recreational use.

4.02 "Common Access Ways"

Common access ways shall be used exclusively for driveway and access purposes by the Owners of Lots 109, 110, 111 and 112. The Owners of each of the lots having the exclusive use of a particular common access way shall be responsible for the maintenance of such driveway, the cost of which shall be borne in equal portions by such Owners. Each said Owner shall have a perpetual easement over the common access way for ingress and egress, and the benefits and burdens thereof, including the obligation of maintenance, shall be appurtenant to and run with the lots so benefited or burdened.

ARTICLE V

ARCHITECTURAL CONTROL COMMITTEE

5.01 "Architectural Review"

No structure, including storage shelters, shall be commenced, erected, placed or altered on any lot until the construction plans and specifications and a plat showing the nature, shape, heights, materials, colors, and proposed location of the structure have been submitted to and approved in writing by the Architectural Control Committee. It is the intention and purpose of this Covenant to assure quality of workmanship and materials, harmony of external design with the existing structures as to location with respect to topography, finish grade elevations, and to avoid plan repetition. In all cases in which Architectural Control Committee consent is required by these Covenants, the following provisions shall apply.

A. Major Construction

In the case of initial or substantial additional construction of a dwelling, the owner shall prepare and submit to the Architectural Control Committee such plans and specifications for the proposed work as the Committee may require. Material required by the Committee may include, but not necessarily be limited to, the following:

- (1) A plot plan indicating location of all improvements.
- (2) Drawings showing elevations, exterior materials and exterior color schemes of all improvements.

The Architectural Control Committee shall render its decision with respect to the proposal within twenty (20) days after it has received all material required by it with respect thereto.

B. Minor Work

In the case of a minor addition or remodeling, change of existing exterior color scheme or exterior material, greenhouse, or swimming pool construction, or any other work not referred to in Paragraph A above, the owner shall submit to the Architectural Control Committee such plans and specifications for the proposed work as the Committee determines to be necessary to enable it to evaluate the proposal. The Architectural Control Committee shall render its decision with respect to the proposal within twenty (20) days after it has received all material required by it with respect thereto.

5.02 "Architectural Control Committee Discretion"

The Committee may, at its sole discretion, withhold consent to any proposed work if the Committee finds that the proposed work would be inappropriate for the particular lot or incompatible with the design standards that Declarant intends for Forty-One Point Five. Consideration such as siding, shape, size, color, design, height, impairment of the view from other lots within Forty-One Point Five or other effects on the enjoyment of other lots or Common Area, disturbance of existing terrain and vegetation, and other factors which the Committee reasonably believes to be relevant, may be taken into account by the Committee in determining whether or not to consent to any proposed work.

5.03 "Procedure"

In the event the Committee fails to render its approval or disapproval within thirty (30) working days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related Covenants shall be deemed to have been fully complied with.

5.04 "Membership: Appointment and Removal"

The Architectural Control Committee, hereinafter referred to as Committee, shall consist of as many persons, but not less than three (3), as the Declarant may from time to time appoint. The Declarant may remove any member of the Committee from office at any time and may appoint new or additional members at any time. The Declarant shall keep on file at its principal office a list of names and addresses of the members of the Committee. A member of the Committee shall not be entitled to any compensation for services performed pursuant to these Covenants. The powers and duties of such Committee shall cease one year after completion of all the single family dwellings and the sale of said dwellings to the initial owner/occupant on all of the building sites within the property.

5.05 "Liability"

Neither the Architectural Control Committee nor any member thereof shall be liable to any Owner, occupant, builder or developer for any damages, loss or prejudice suffered or claimed on account of any action or failure to act of the Committee or a member thereof, provided that the member has, in accordance with the actual knowledge possessed by him, acted in good faith.

5.06 "Action"

Except as otherwise provided herein, any two members of the Architectural Control Committee shall have power to act on behalf of the Committee, without the necessity of a meeting and without the necessity of consulting the remaining members of the Committee. The Committee may render its decisions only by written instrument setting forth the action taken by the members consenting thereto.

5.07 "Nonwaiver"

Consent by the Architectural Control Committee to any matter proposed to it and within its jurisdiction under these Covenants shall not be deemed to constitute a precedent or waiver impairing its rights to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.

5.08 "Effective Period of Consent"

The Committee's consent to any proposed work shall automatically be revoked one year after issuance unless construction of the work has been commenced or the owner has applied for and received an extension of time from the Architectural Control Committee.

ARTICLE VI

**FORTY-ONE POINT FIVE
HOMEOWNERS ASSOCIATION**

Declarant shall organize an association of all of the owners of property within Forty-One Point Five. Such association, its successors or assigns (the "Association") shall be organized under the name "Forty-One Point Five Homeowners Association" or a name similar thereto, and shall have property, powers and obligations as set forth in these Covenants for the benefit of Forty-One Point Five, and all owners of property located within.

6.01 "Organization"

Declarant shall within two (2) years after recording of this Declaration organize the Association as a non-profit corporation under the general non-profit corporation laws of the State of Washington. The Articles of Incorporation of the Association shall provide for its perpetual existence but in the event the Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. In the event all of the property, powers and obligations of the incorporated Association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated Association, and such vesting shall thereafter be confirmed and evidenced by appropriate conveyances and assignments by the incorporated Association. To the greatest extent possible, any successor unincorporated Association shall be governed by the Articles of Incorporation and Bylaws of the Association as if they had been made to constitute the governing documents of the unincorporated Association.

6.02 "Membership: Voting"

Every Owner of one or more lots within Forty-One Point Five shall, immediately upon creation of the Association and thereafter during the entire period of such Owner's ownership of one or more lots within Forty-One Point Five, be a member of the Association. Such membership shall commence, exist and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership. Each Owner shall have one vote on all matters submitted to the membership of the Association for each lot owned by him within Forty-One Point Five.

6.03 "Declarant's Duty to Convey and Associations Duty to Accept Common Area"

The Declarant shall convey to the Association, and the Association shall accept all of the Common Area as soon as the Association is able to operate and maintain the same in a manner appropriate to the needs and desires of the Owners and in accordance with these Covenants, but the Declarant shall not delay the conveyance of said Common Area for more than two (2) years after the date of recording of this Declaration.

6.04 "Declarant's Reservation of Powers, Duties and Obligations Pursuant to These Covenants"

The Declarant hereby reserves to itself all of the powers, duties and obligations granted by these Covenants to the Association, for the purposes of administering and enforcing any and all provisions hereof, until such time as the Declarant shall delegate the same to the Association in accordance with the provisions of Section 6.05 hereof, including the right to dedicate, transfer, and convey all or any part of the Common Area and utilities thereon to King County or to a Park Department thereof.

6.05 "Delegation by Declarant"

Declarant may at any time and from time to time delegate, convey or otherwise assign to the Association Declarant's interest in the Common Area within Forty-One Point Five and the powers and obligations of Declarant pursuant to these Covenants, and such interest, powers and obligations shall thereon vest in the Association without the necessity of any acceptance thereof by the Association. Such delegations, conveyances or other assignments may grant to the Association authority which is exclusive or which is concurrent with Declarant, and may be made in general terms or with reference to specific items. If specific delegations, conveyances or other assignments are made, they shall cover only those items which are expressly described therein; provided, however, that correlative powers and obligations shall be treated together. The timing and manner of such delegations, conveyances or other assignments shall be solely within the discretion of the Declarant; provided, however, that Declarant shall complete the delegation, conveyance or other assignment of all of its interest in the common areas within Forty-One Point Five, and all of Declarant's powers and obligations under these Covenants with respect to Forty-One Point Five no later than: (a) when 112 lots within Forty-One Point Five are owner-occupied; or (b) 2 years after the date this Declaration is recorded, whichever is earlier. The responsibility of Declarant under these Covenants with respect to any property, powers or obligations shall cease upon the exclusive conveyance, delegation or other assignment thereof to the Association. Any delegation pursuant to this section shall be in writing, executed by Declarant and recorded in the Deed Records of King County, Washington.

6.06 "Powers and Obligations"

The Association shall have exercise and perform all of the following powers, duties and obligations:

- (a) The powers, duties and obligations granted directly to the Association by these Covenants, or granted by these Covenants to Declarant and in turn delegated, conveyed or otherwise assigned by Declarant to the Association.
- (b) The powers and obligations of a non-profit corporation pursuant to the general non-profit corporation laws of the State of Washington.
- (c) Any additional or different powers, duties and obligations necessary or desirable for the purposes of carrying out the functions of the Association pursuant to these Covenants or otherwise promoting the general benefit of the Owners within Forty-One Point Five.

The powers and obligations of the Association may from time to time be amended, repealed, enlarged or restricted by changes in these Covenants made in accordance with the provisions herein or by changes in the Articles of Incorporation or Bylaws of the Association made in accordance with such instruments and with the non-profit corporation laws of the State of Washington.

6.07 "Liability"

Neither the Association nor any officer or member of its Board of Directors shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any action or failure to act by the Association, any of its officers or any member of its Board of Directors, provided only that the officer or Board member has acted in good faith in accordance with the actual knowledge possessed by him.

ARTICLE VII

MAINTENANCE: ASSESSMENT AND FUND

7.01 "Maintenance"

Declarant shall maintain, or provide for the maintenance of, the Common Area (unless the maintenance thereof is assumed by a public body). Declarant shall delegate or otherwise assign its obligation of maintenance to the Association, within the time set forth in Section 6.03.

7.02 "Maintenance Assessment"

The Association (or Declarant until so delegated to it) shall assess and collect from every Owner, and every Owner shall pay, an annual maintenance assessment sufficient to pay to common expenses, including but not limited to reserves, taxes and insurance, but not more than \$60.00 per lot unless such maximum assessment is increased as provided in Section 7.04. The annual assessment shall be made as of January 1 of each year, commencing January 1, 1979, unless deferred by Declarant, at the rate of \$60.00 per year or \$15.00 per quarter on or before the first day of each quarter; provided, however, that no such maintenance assessment shall be made with respect to lots as to which Declarant is owner or any Owner whose ownership of one or more lots is solely for the purpose of constructing homes thereon for resale. The Association (or Declarant until so delegated to it) shall place all amounts received as maintenance assessments hereunder in the Maintenance Fund to be established and used as provided herein.

7.03 "Maintenance Fund"

The Association (or Declarant until so delegated to it) shall keep all funds received by it as maintenance assessment, together with any proceeds from any condemnation of any part of the Common Area and any other funds received by it pursuant to these Covenants which are by the terms of such Covenants to be deposited in the Maintenance Fund, separately and apart from its other funds in an account to be known as the "Maintenance Fund", and shall use such funds only for the following purposes:

- (1) Payment of the cost of maintaining the common area designed to serve the general benefit of such Owners.
- (2) Payment of such taxes as assessed against common areas within Forty-One Point Five.
- (3) Payment of the cost of garbage and trash disposal for common areas.
- (4) Payment of the cost of insurance, including insurance protecting the Committee, Declarant and the Association against liability arising out of their functions and activities in the administration of these Covenants.
- (5) Payment of the cost of enforcing these Covenants.
- (6) Payment of the cost of other services which the Declarant deems to be of general benefit to owners of property within Forty-One Point Five including, but not limited to legal and secretarial services.
- (7) In the event any condemnation of a portion of the common areas should result in a surplus in the Maintenance Fund not needed for payment of the other items described herein, such surplus shall be divided by the number of lots in Forty-One Point Five and such amounts paid equally to the holder of any first mortgage or deed of trust on each lot, or if none, to the owner of the lot.

7.04 "Adjustments"

The Association (or Declarant until so delegated to it) may adjust the amount of the annual maintenance assessment in accordance with increase in maintenance costs, providing however that such increase does not exceed ten percent (10.00%) above the preceeding year's assessment, without requiring a vote thereon by the members. In the event the Association (or Declarant) deems the Maintenance Fund to be inadequate or excessive for the purposes set forth herein, taking into account the need for reasonable reserves for such purposes, the annual maintenance assessment provided for by Section 7.02 may be increased or decreased on a uniform basis and in such amount as is approved in writing or at a meeting of the Association members, by not less than 60 percent (60%) voting together.

7.05 "Maintenance of Stream"

A natural waterway or stream runs through a part of Forty-One Point Five, and more specifically meanders through the portion as shown on the recorded plat as Open Areas, Tracts "A" and "B". Said natural waterway or stream shall not be improved or have any soil disturbed or removed and no natural vegetation or trees shall be removed. No debris, soil, grass clippings or other material shall be thrown or placed on the Open Area or in the stream. The purpose of this restriction is to keep the stream and its stream bed in its natural state. Maintenance fo the stream bed area shall be the responsibility of Forty-One Point Five Homeowners Association. The cost of said assessment shall be paid as specified in Article 8.01. This section shall not supercede any power of authority granted by King County or any duly authorized governmental agency to enforce this section.

ARTICLE VIII

ENFORCEMENT

8.01 "Default in Payment of the Assessment and Fines"

Each assessment levied pursuant to these Covenants shall be a separate, distinct and personal debt and obligation of the Owner against whom the assessment or fine is levied. Sale or transfer of the lot by the Owner shall not release him from the personal liability imposed hereunder. If the Owner fails to pay such fine or assessment or any installment thereof when due, the Owner shall be in default and the amount of the assessment not paid together with costs of attorneys' fees and elsewhere provided for herein shall become a lien upon the lot or lots against which the assessment was made upon recordation by Declarant or the Association of a notice of lien. Such liens shall be subordinate to the lien of any mortgage or deed of trust upon such lot or lots which was made in good faith or for value and which was recorded prior to recordation of the notice of lien. Declarant or the Association may commence proceedings to foreclose any such lien at the time within one year following such recordation.

8.02 "Enforcement by King County"

The provision of these Covenants relating to the preservation and maintenance of common area shall be deemed to be for the benefit of King County as well as Declarant and the owners of lots within Forty-One Point Five, and the County may enforce such provisions by appropriate proceedings at law or in equity.

8.03 "Expenses and Attorney's Fees"

In the event the Association (or Declarant until so conveyed to it) or King County shall bring any suit or action to enforce these Covenants, to collect any money due to them thereunder, or to foreclose a lien, the prevailing party shall be entitled to recover all costs and expenses incurred by him in connection with such suit or action, including a foreclosure title report and such amount as the court may determine to be reasonable as attorney's fees at trial and upon any appeal thereof.

8.04 "Nonexclusiveness and Accumulation of Remedies"

An election by the Association (or Declarant until so conveyed to it) to pursue any remedy provided for violation of these Covenants shall not prevent concurrent or subsequent exercise of another remedy permitted under these Covenants. The remedies provided in these Covenants are not exclusive but shall be in addition to all other remedies, including actions for damages and suits, for injunctions and specified performance, available under applicable law.

ARTICLE IX

GENERAL PROVISIONS

9.01 "Term"

These Covenants shall run with the land with respect to all property within Forty-One Point Five for a period of not less than twenty (20) years and shall be binding on all parties and all persons. These Covenants can be amended or revoked with the consent of a minimum of 75% of all lot owners and the consent of the King County Council duly recording an instrument which contains an agreement providing for termination and revocation or amendment, and which is signed by the Owners of at least 75% of the platted lots as previously noted.

9.02 "Limitation of Liability of Declarant"

Neither Declarant nor any officer or director thereof, shall be liable to any Owner on account of any action or failure to act of Declarant in performing its duties or rights hereunder, provided that Declarant has, in accordance with actual knowledge possessed by it, acted in good faith.

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9.03 "Amendment and Repeal"

These Covenants or any portion thereof, as from time to time in effect with respect to all or any part of Forty-One Point Five, may be amended or repealed by an affirmative vote or the written consent of not less than seventy-five (75%) of the Owners and the consent of the King County Council, and in accordance with the provisions of Section 6.02 whereby the Declarant and certain other Owners have one (1) vote for each lot owned by them and whereby the voting power of the Declarant shall be based on a total of 112 Lots in Forty-One Point Five. The provisions of Section 6.02 shall be in force insofar as voting rights, whether or not the Association has been organized prior to such amendment or repeal. Any such amendment or repeal shall become effective only upon the recordation of a certificate executed by two officers entitled to act in the name of the Declarant or the Association setting forth in full the amendment, amendments or repeal so approved and certifying that said amendment, amendments or repeal have been approved in accordance with the provisions herein.

9.04 "Construction; Severability, Number; Captions"

These Covenants shall be liberally construed as an entire document to accomplish the broad purposes thereof. Nevertheless, each provision of these Covenants shall be deemed independent and severable, and the invalidity or partial invalidity of any provision shall not affect the validity or enforceability of the remaining part of that or any other provision.

9.05 "Notices and Other Documents"

Any notices or other document permitted or required by these Covenants may be delivered either personally or by mail. Delivery by mail shall be deemed made 24 hours after having deposited as certified or registered mail in the United States Mail, with postage paid, addressed as follows: if to the Declarant, The Architectural Control Committee or the Association, P.O. Box 1847, Bellevue, Washington 98004; if to an Owner, at the address given by him at the time of his purchase of a Lot; or at his Lot within Forty-One Point Five. The address of a party may be changed by him at any time by notice in writing delivered as provided herein.