



VISTAFIELD

Introduction to Governing Documents

Relating to
The Vista Field Declaration of Covenants, Conditions and Restrictions
and to
The Vista Field Declaration of Covenants, Conditions and Restrictions
for Commercial Property

THE PORT OF KENNEWICK (the "Port") executes this Introduction to Governing Documents for Vista Field on the _____ day of _____, year of _____ .

HISTORY AND DESIGN

History of the Site. The Vista Field Airport, which began operations in the 1940s, was an auxiliary field for training naval aviators located at the nearby Naval Air Station Pasco during World War II. In the decades after, it served as a public use airport. In 1991, the Port purchased the airport and surrounding lands from the City of Kennewick and took over its management.

Faced with declining use of the airfield, the Port in 2012 opened public discussion of the airport's future, including concepts for redevelopment as a mixed-use community led by the design firm, Duany Plater-Zyberk & Company (DPZ). After substantial stakeholder input over a six-month period, the Port Commission unanimously decided in 2013 that closure and redevelopment of the Vista Field Airport was in the community's best interest.

Vision. The 103-acre site is located in the City of Kennewick at the geographic and commercial heart of the Tri-Cities, Washington, next to the region's sports and convention venues. It is envisioned to have active areas used day and evening for living, working, recreating and entertaining. While subject to change, these uses may include:

- Public and quasi-public open spaces, ranging from small pocket parks to a large central plaza for recreation and entertainment.

- Nearly 1,100 residential units, including single family homes, condominium and apartments.
- Approximately 750,000 square feet of retail, office, service and entertainment, most of it in Vista Field's Village Center.

The City crafted the Urban Mixed Use (UMU) zoning district and adjusted other land use regulations to allow mixed-use, pedestrian-friendly development as envisioned in the 2017 City and Port-adopted Vista Field Master Plan (the "Master Plan").

Master Plan. The Master Plan lays out the overall design and development concept for Vista Field. It is subject to change and refinement during development and is not guaranteed. A legal description of the 103 acres of land, known as the Master Plan Area, is attached as Exhibit A to this Introduction.

Due to its history as an airfield, the site is long and relatively narrow. The Master Plan currently shows a main street and a parallel, secondary pedestrian-oriented street running the length of the site. These two very different streets weave around one another, with utility alleys running parallel to both. The proposed Village Center is at the physical center of the plan.

Projects designed by DPZ interweave residential and commercial uses in a compact form, unlike more typical mixed-use projects that separate homes from businesses. Uses may be mixed within a single building, sometimes known as live/work units, that may have an office or shop at street level and living space above. This tight interconnection between uses directly influences the form of governance of Vista Field.

GOVERNANCE STRUCTURE

Two Governing Documents. The governance structure was developed after thorough examination of the master plan for Vista Field, experience with other DPZ-designed projects, discussions with Port and DPZ staff, and review of applicable Washington law, and resulted in the preparation of two governing documents:

1. The **Vista Field Declaration of Covenants, Conditions and Restrictions** (the "Vista Field Declaration"), which establishes the common interest community to be known as Vista Field and applies to all property within Vista Field (with each individually owned piece of land known as a "Parcel"), and
2. The **Vista Field Declaration of Covenants, Conditions and Restrictions for Commercial Property** (the "Commercial Declaration"), which applies only to commercial Parcels and the commercial portions of mixed-use Parcels within Vista Field.

The Vista Field Declaration and the Commercial Declaration (together, the "Declarations") are recorded immediately following this Introduction. Both concern the development of the Master Plan Area and its long-term operation as a vibrant mixed-use area in the City.

Independent Operation. Even though the Vista Field Declaration affects the entire common interest community, and the Commercial Declaration applies only to its commercial and mixed-use properties, the Vista Field Declaration is not a master declaration as that term is generally used. The two Declarations and the associations they create have separate purposes and are intended to operate independently.

VISTA FIELD DECLARATION

Purpose. The Vista Field Declaration provides for the establishment of a property owners' association (the "Vista Field Association") to manage and maintain those parts of Vista Field that are used by the entire community. Known as Common Elements, these are owned, managed and/or controlled by the Vista Field Association and include certain streets, open space, water features and other facilities and grounds. Some streets will be dedicated to the public and are not part of the Common Elements. Limited Common Elements are owned, managed and/or controlled by the Association but serve only certain Parcels that have the right to use such Limited Common Elements, such as an alley.

Phasing. With the recording of the Vista Field Declaration and submission of the first phase, Vista Field is officially created as a common interest community. Additional land may be added in phases. The Port, known in the documents as the "Founder," may, but is not required to, add any part of the Master Plan Area, in any order. Once land is added to the Vista Field Declaration, it is subject to its terms, including the requirement to pay assessments.

As each phase is created, a supplemental declaration will be recorded, making the additional property part of the Vista Field community that is subject to the Vista Field Declaration.

No portion of the Master Plan Area shall be part of Vista Field or subject to the Vista Field Declaration or the Commercial Declaration until added as a phase by a supplemental declaration.

Washington Uniform Common Interest Ownership Act. The Vista Field Declaration is written to comply with the Washington Uniform Common Interest Ownership Act (as amended, the "Act"). The Act, which was enacted in 2018, applies to common interest communities that include residential property. In the event of any conflict between the Vista Field Declaration and the Act, the Act shall govern and control.

Vista Field Association Membership. Members of the Vista Field Association include all Parcel owners within Vista Field, both residential and commercial. The Declaration allows the Founder to retain control of the Association for the longest period permitted under the Act.

Allocated Interests. The Declaration states a formula to assign to each Parcel an Allocated Interest as required by the Act. The Allocated Interest for a Parcel determines both its share of the assessments and its voting rights. Most residential Parcels are assigned the same assessment per dwelling unit. However, dwelling units of smaller than 1000 square feet and units in apartment buildings pay slightly less. Allocated Interests for commercial space is based on square footage. Parcels that include both residential and commercial space combine the formulas to determine the Parcel's Allocated Interest.

Maintenance Zones. Maintenance Zones are smaller areas within Vista Field that share Limited Common Elements or that require other specialized shared maintenance, such as a landscaped courtyard that is part of a bungalow court. They are a flexible tool to tailor services and cost allocation to particular areas within the community as they are developed. The Maintenance Zone concept allows the Association to provide this additional maintenance and bill the cost to the benefited owners.

Design Review. All new construction and modification of existing buildings are subject to design review. Design review is reserved to the Founder during the entire Development Period, defined in the Declaration as six months after the Founder neither owns a total of at least one acre of land in the Master Plan Area nor holds any Parcels for sale in the normal course of business, but no later than 75 years. A Town Architect will work with applicants and their architects and to review plans. At the end of the Development Period, the review rights for residential property is automatically assigned to the Association, while review rights for commercial and the commercial portion of mixed-use Parcels is assigned to the Commercial Association described below.

Effect of Declaration on Commercial Property. Like residential owners, commercial property owners pay assessments for the maintenance of Common Elements that serve the entire community. However, the Vista Field Association is not responsible for maintaining primarily commercial space or regulating businesses. Instead, the Commercial Declaration, a separate document summarized below, governs the operation of commercial property and the commercial portions of mixed-use property wherever located in Vista Field.

COMMERCIAL DECLARATION

Purpose. The Commercial Declaration provides for the establishment of a Commercial Association, which has three primary purposes:

- *Maintenance:* The Commercial Association will be responsible for maintenance of the commercial common areas, such as plazas, landscaping and street furniture.
- *Management:* The Commercial Association will oversee and regulate businesses' use of shared space, and may regulate some aspects of business operation, such as hours of operation. It may also participate in such services as shared parking arrangements, sanitation and security.
- *Promotion:* The Commercial Association's Marketing Director will promote Vista Field for the mutual benefit of all businesses, including advertising, special event programming, seasonal decoration and other promotional activities.

Application only to Commercial Property. The Commercial Declaration applies to all commercial property anywhere within Vista Field, plus the commercial portion of mixed-use buildings. Any residential Parcel and any residential portions of mixed-use Parcels within Vista Field will be automatically excluded. If the use of the Parcel is later changed to commercial, it becomes subject to the Commercial Declaration as uses change. The reverse is also true; commercial property (or any portion thereof) that is converted to residential use will no longer be subject to the Commercial Declaration.

Commercial Association. All commercial property owners within Vista Field will be members of the Commercial Association and pay assessments based on Assigned Value. As provided in the Commercial Declaration, Assigned Value is based on the appraised value of a commercial Parcel or the commercial portion of a mixed-use property as determined by the Benton County Tax Assessor.

The Commercial Declaration is not subject to the Washington Uniform Common Interest Ownership Act. The documents allow the Founder to choose how long it operates and controls the Commercial Association.

Implementation and Phasing. The Commercial Declaration is recorded at the same time as the Vista Field Declaration and becomes effective at the same time. As phases are added to the Vista Field Declaration, commercial Parcels and the commercial portions of mixed-use Parcels within the additional property will automatically become subject to the Commercial Declaration.

This document is a summary. Further information about specific terms is contained in the Declarations. In the event of a conflict between this Introduction and the Declarations, the Declarations shall govern and control.

The Port has executed this summary of the Vista Field Declaration and Commercial Declaration and caused it to be recorded in the public records.

WITNESSES:

PORT OF KENNEWICK

By: _____
_____ its _____ president

ACKNOWLEDGEMENT

STATE OF _____)

) ss.

COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ 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 _____ of PORT OF KENNEWICK, to be the free and voluntary act of such parties for the uses and purposes mentioned in this instrument.

DATED: _____.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary public in and for
the state of: _____
Residing at: _____
My appointment expires: _____

Exhibit A: Master Plan Area



VISTA FIELD

DECLARATION

of

Covenants, Conditions and Restrictions

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6/27/22

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Glossary

Capitalized words are defined terms, which means they have a specific meaning as defined in this Declaration. Defined terms are usually defined the first time they are used in the text or in a portion of the text where the definition is important. Below is a table listing defined terms and where they can be found.

Act:	<i>Submission to Declaration</i>
Additional Property:	<i>Paragraph 1.3.1</i>
Allocated Interests:	<i>Section 2.2</i>
Articles of Incorporation:	<i>Paragraph 2.1.1 and 2.1.6</i>
Association:	<i>Paragraph 2.1.1</i>
Assessments:	<i>Section 5.3</i>
Board:	<i>Paragraph 2.1.2 and the Act</i>
Bylaws:	<i>Paragraph 2.1.1 and 2.1.6</i>
Capital Improvement:	<i>Section 8.1</i>
Commercial:	<i>Paragraph 1.2.2</i>
Commercial Association:	<i>Paragraph 1.2.3</i>
Commercial Declaration:	<i>Paragraph 1.2.3</i>
Common Streets:	<i>Paragraph 3.3.2</i>
Common Elements:	<i>Section 3.1 and the Act</i>
Common Interest Community:	<i>Submission to Declaration</i>
Dependent Attached House:	<i>Section 4.3</i>
Design Standards:	<i>Section 7.2</i>
Design Review Board (DRB):	<i>Section 7.3</i>
Founder:	<i>First paragraph in Declaration; Paragraph 9.3.1</i>
Initial Property:	<i>Recitals and Submission to Declaration</i>
Introduction:	<i>Recitals to Declaration</i>
Limited Common Element:	<i>Section 3.2</i>
Master Plan:	<i>Paragraph 1.1.2</i>
Master Plan Area:	<i>Submission to Declaration and Paragraph 1.1.1</i>
Maintenance Zone:	<i>Section 4.2</i>
Mixed-Use Parcel:	<i>Paragraph 1.2.2</i>
Net Usable Square Footage	<i>Paragraph 2.2.7</i>
Owner:	<i>Submission to Declaration</i>
Parcel:	<i>Submission to Declaration</i>

Plat: *Submission to Declaration*
Property: *Submission to Declaration*
Residential: *Paragraph 1.2.2*
Special Assessment: *Paragraph 5.3.3*
Special Use Parcel *Paragraph 2.2.5*
Specially Allocated Assessment: *Paragraphs 5.1.2, 5.3.2 and the Act*
Supplemental Declaration: *Paragraph 1.3.2*
Town Architect *Section 7.1*
Town Center: *Paragraph 1.2.2*
Woonerf: *Paragraph 3.3.1*

VISTA FIELD DECLARATION of Covenants, Conditions and Restrictions

THE PORT OF KENNEWICK, to be known in this document as the "Founder," makes this Declaration of Covenants, Conditions and Restrictions for Vista Field (the "Declaration") on the _____ day of _____, year of _____.

RECITALS:

- A. The Founder is the owner of all of the property in Benton County, Washington, described on Exhibit A (the "Initial Property") and Exhibit B (the "Master Plan Area").
- B. The purpose of this Declaration and the unique characteristics of the common interest community to be known as Vista Field are as described in the Introduction to Governing Documents for Vista Field (the "Introduction"), recorded in the Official Public Records of Benton County, Washington immediately prior to this document and hereby incorporated by reference.

SUBMISSION TO DECLARATION

The Founder hereby submits the Initial Property to this Declaration of Covenants, Conditions and Restrictions and declares that the Initial Property and any other property made subject to

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this Declaration (together, the "Common Interest Community") shall be held, sold and conveyed subject to the covenants, restrictions and easements of this Declaration.

It is intended that this submission be in accordance with Chapter 64.90, Revised Code of Washington, which, as amended from time to time, shall be known in this Declaration as the Washington Uniform Common Interest Ownership Act, or the Act. The Founder is to be considered the Declarant under the Act.

Vista Field is a plat community under the Act, in which land has been subdivided in accordance with a drawing of a subdivision known in Chapter 58.17, Revised Code of Washington, as a Plat. A Plat is also known as a Map under the Act.

A "Parcel" is the smallest piece of land that can be owned within the Common Interest Community; it is usually a platted lot but can also be a condominium unit. A Parcel shall be considered a Unit under the Act.

A person, group of people or entity that owns a Parcel is known in this Declaration as an "Owner." The Founder may also be an Owner for so long as the Founder is record owner of any Parcel.

This Declaration shall run with the land and be binding upon each owner of a parcel within the Common Interest Community, their heirs, successors and assigns, and upon all other parties, heirs, successors and assigns having any right, title or interest in all or any part of the Common Interest Community.

The Founder also hereby provides notice of certain restrictions, as further described in Paragraph 1.1.4, for the property described on Exhibit B (the "Master Plan Area") but does not submit the entire Master Plan Area to all the terms of this Declaration at this time.

The Founder is a Washington municipal corporation, and, as such, is subject to a prohibition against the "gifting" of public funds contained in the Washington State Constitution, and other legal requirements unique to a public entity. Consequently, throughout this Declaration Founder necessarily retains the right and ability to comply with state and federal law, as necessary.

The following attachments to this Declaration are hereby fully incorporated by reference:

- Exhibit A, Legal Descriptions, The Initial Property
- Exhibit B, Legal Description, The Master Plan Area

Part I:

Development Plan

- 1.1 Master Plan
- 1.2 Description of Community
- 1.3 Phasing and Development
- 1.4 Easements
- 1.5 Special Declarant Rights

1.1 Master Plan

1.1.1 Master Plan Area. The Master Plan Area is all that property described on Exhibit B comprising approximately 103 acres, including the Initial Property. The Master Plan Area is owned initially by the Founder and may be developed in any sequence. Although it is the current plan to do so, it is not required that all land within the Master Plan Area be developed as part of Vista Field and made subject to this Declaration.

1.1.2 Master Plan. The Master Plan is a conceptual drawing created by the design firm, Duany Plater-Zyberk & Company (DPZ) to illustrate a plan for development of the Master Plan Area. The Master Plan shows the general location of streets, open space and buildings, the relationship between commercial and residential property and the connections between Vista Field and the surrounding areas of the City of Kennewick. The Master Plan is general in nature and subject to change at the Founder's discretion. It is not a Plat and does not confer any legal rights to Owners of property within Vista Field.

1.1.3 Modification of Master Plan Area. The Founder may modify the Master Plan Area by adding or removing property at any time during the Development Period. Any additional land must be within one-half mile of the then-current boundaries of the Master Plan Area. Subject to City requirements, the Founder may record an amendment to this Declaration providing notice of such change, which shall not require the consent of any party other than the Founder and the owner of the property being added or removed, if different from the Founder.

1.1.4 Conveyances of Property within Master Plan Area. Property within Development Area is not subject to this Declaration unless it is part of the Initial Property or added to the Declaration under the phasing provisions of Section 1.3. If the Master Developer conveys any property within the Development Area during the Development Period without declaring the property to be subject to this Declaration, the Master Developer shall have the right to record a corrective instrument submitting such property to this Declaration unless the deed or other recorded

instrument executed by the Master Developer explicitly states that the property is not subject to the Declaration.

1.2 Description of Community

1.2.1 Name. Vista Field, a plat community, is the name by which the community may be known to the public and may include all of the property within the Master Plan Area, whether or not submitted to this Declaration.

1.2.2 Mixed Use.

(a) **Community.** Vista Field is a mixed-use community, where residents as well as the general public can enjoy shops, restaurants and activities. Commercial activity is primarily located within a centralized mixed-use area known as the Town Center. The general boundaries of Town Center are shown on the Master Plan. In addition, smaller commercial areas may be developed in other parts of Vista Field. Concerts, festivals and other events that invite the public may take place within Vista Field, contributing to an active civic life. Commercial property is subject to a Commercial Declaration as described in paragraph 1.2.3. Except as expressly provided in this Declaration, this Declaration and the Association do not regulate the operation of the businesses within the Common Interest Community.

(b) **Definitions of Residential and Commercial.** This Declaration uses the words "residential" and "commercial" in their common sense. The capitalized term "Residential" shall be as defined under the Act and shall also include residential apartments and apartment developments (but not hotels), plus all portions of a Parcel qualified as a home occupation under the City of Kennewick Municipal Code, section 18.42.090 as revised and interpreted from time to time. The capitalized term "Commercial" shall mean every use that is not Residential.

(c) **Mixed-Use Parcels.** The Master Plan for Vista Field encourages the development of Mixed-Use Parcels that include both Commercial and Residential space under single ownership. An example of a small Mixed-Use Parcel, also known as a live/work unit, may be a townhouse with an office or small shop below and a Residential unit above. A Mixed-Use Parcel could be a larger building with both Commercial space and Residential units, some of which would likely be rented. Note that a mixed-use condominium building would not usually be a Mixed-Use Parcel because the condominium units, some of which would be Residential and some of which would be Commercial, would be separately owned Parcels.

1.2.3 Commercial Declaration. In addition to this Declaration, all Commercial property within Vista Field is subject to a separate instrument known as the Vista Field Declaration of Covenants, Conditions and Restrictions for Commercial Property ("Commercial Declaration"), which creates a separate association known as the Commercial Association. The Commercial Declaration

applies only to Commercial Parcels within Vista Field, plus the Commercial portion of Mixed-Use Parcels. Only Owners of a Commercial or Mixed-Use Parcel shall be a member of the Commercial Association. Assessments and voting rights in the Commercial Association are based on Commercial Parcels, or the Commercial portion of Mixed-Use Parcels. Residential Parcels are not members of the Commercial Association and do not pay assessments to the Commercial Association.

1.2.4 Number of Parcels. The Initial Property includes 40 Parcels. The maximum number of Parcels that may be created is 2,500.

1.2.5 Restrictions on Sale or Lease. There are no restrictions on the sale of Parcels or the amount that can be received from any sale or property transfer. Residential Parcels may be leased, subject to regulation by the Association in Paragraph 6.1.2. Commercial Parcels may be leased subject to the Commercial Declaration.

1.2.6 Interpretation. This Declaration shall be liberally construed to allow for the operation of a mixed-use community within the Common Interest Community. The Association is prohibited from regulating the operation of Commercial uses within the Common Interest Community, including without limitation days and hours of operation of individual businesses.

1.3 Phasing and Development

1.3.1 Additional Property. Property within the Master Plan Area will be platted and made subject to this Declaration in phases. Property to be added to this Declaration ("Additional Property") may be authorized in either the following ways:

- (a) **By the Founder.** The Founder shall have the right, but not the obligation, at any time during the Development Period, to add to the Common Interest Community any part of the Master Plan Area, including any land added to the Master Plan Area as provided in paragraph 1.1.3. Such action shall not require the consent of the Association or any Owners other than the owner of the Additional Property if different from the Founder.
- (b) **By the Association.** Subject to the Act, property of any type may be added to the Common Interest Community at any time by a majority vote of the Board. During the Development Period, such action shall require the consent of the Founder and the Owner of the Additional Property if different.

1.3.2 Procedure for Submission. Additional Property authorized under Paragraph 1.3.1 may be added by Supplemental Declaration or, for property added by the Founder, by Deed as follows:

- (a) **Supplemental Declaration.** A Supplemental Declaration shall describe the property to be added, including a cross-reference by recording number to the Plat, and executed with the formality of a deed (and by the recording of any amendments to this Declaration and the Plat required by the Washington Uniform Common Interest Ownership Act). The

Supplemental Declaration shall require execution or consent and joinder of the parties listed in Paragraph 1.31 (a) or (b) as applicable.

- (b) **Submission by Deed.** Alternatively, for property added by the Founder, the Founder may submit the property to this Declaration by specifically declaring the land to be subject to this Declaration in the deed conveying the property from the Founder to the first Owner other than the Founder (and by recording any amendments to this Declaration and the Plat required by the Washington Uniform Common Interest Ownership Act).
- (c) **Optional Provisions.** The Supplemental Declaration or deed may identify Common Elements as described in Section 3.1 or Limited Common Elements as described in Section 3.2, may set forth Allocated Interests for Parcels within the Additional Property in accordance with the provisions of Section 2.2 of this Declaration, may create a new Maintenance Zone as described in Section 4.2 and may modify or add to the provisions of this Declaration as to the Additional Property if needed to reflect the different character of the Additional Property.
- (d) **Effect.** A Supplemental Declaration or deed adding the Additional Property shall become effective upon being recorded in the county's public records.

1.3.3 Withdrawal of Property. During the Development Period, the Founder reserves the right to withdraw property from the Common Interest Community so long as all Owners within the area to be withdrawn consent, reasonable access to the remaining portions of the Common Interest Community is preserved, and subject also to any City requirements. Withdrawal shall be accomplished by recording of an instrument in the public records executed by the Founder and any other Owner of the property to be withdrawn and by the recording of any amendments to this Declaration and the Plat required by the Act.

1.3.4 Modification of Parcel Boundaries. During the Development Period, the Founder may redefine Parcels prior to sale by dividing or combining Parcels or portions of Parcels and adjusting the boundary of a Parcel. The Founder shall also have the right to modify Plats of the land within the Common Interest Community to make adjustments to Parcel boundary lines with consent only of those Owners whose Parcel boundaries are to be changed. Any subdivision or combination of Parcels other than by the Founder shall require approval under the design review provisions of Part VII and shall also require the consent of the Founder during the Development Period. The division or combination of Parcels may also be subject to the Washington Uniform Common Interest Ownership Act and zoning or other governmental regulation.

1.3.5 Development Period. Wherever used in this Declaration, the Development Period shall be defined as that period of time that begins with the recording of this Declaration and continues for six months after the Founder neither owns a total of at least one acre of land in the Master Plan Area nor holds any Parcels in the Common Interest Community for sale in the normal course of business. However, in no event shall the Development Period extend beyond seventy-five (75) years from the recording of this Declaration.

1.4 Easements

1.4.1 Reservation of Easements. The Founder hereby reserves the easements in this Section 1.4 for itself, its successors and assigns, and for the Association and its assigns as perpetual, nonexclusive easements, which shall benefit the Common Interest Community and all other properties owned by Founder or its assigns which are adjacent to, or reasonably near, the Common Interest Community (including property separated from the Common Interest Community by a public road).

1.4.2 Utility Easements. An easement is hereby reserved on, over, under and through the Common Interest Community for ingress, egress, installation, replacement, repair and maintenance of all public and private utility and service systems. These systems include, but are not limited to, water, sewer, irrigation systems, drainage, telephone, electricity, gas, television, cable or communication lines and other equipment. Except where indicated on the Plat or as described in specific recorded easements, such easements shall be located within the street right-of-way or other Common Elements, or in alley easement areas. By virtue of this easement the Founder, and its successors or assigns, may install and maintain facilities and equipment, excavate for such purposes and affix and maintain wires, circuits and conduits.

1.4.3 Police Powers. A blanket easement is hereby reserved throughout the Common Interest Community for private patrol services, and for police powers and services supplied by the local, state and federal governments.

1.4.4 Drainage. A blanket easement and right are hereby reserved on, over, under and through the ground within the Common Interest Community for drainage of surface water and other erosion controls.

1.4.5 Encroachment. An easement is hereby reserved for any improvements constructed on the Common Elements that encroach on any Parcel, whether due to any minor deviation from a Plat or the settling or shifting of any land or improvements.

1.4.6 Maintenance of Common Elements. To the extent reasonably necessary, an easement is hereby reserved over any Parcel for maintenance of the Common Elements or to perform any duties required or permitted to be performed by the Association, its agent or assigns.

1.4.7 Special Events. The Founder reserves for itself and for the Commercial Association an easement for use of the Common Elements within the Town Center for special events such as concerts and festivals. After any such events, the Commercial Association shall provide any additional maintenance required by the event, including trash collection, clean-up and restoration.

1.5 Special Declarant Rights

1.5.1 Special Declarant Rights. The provisions of this Section 1.5 are intended as Special Declarant Rights under the Act and are effective during the entire Development Period with respect to the entire Common Interest Community, unless the provision specifies otherwise. There are no assurances as to the portions of the Common Interest Community that may be affected by these rights, or the order in which these rights may be exercised. Any Special Declarant Rights may be exercised with respect to different real estate at different times. Exercise of a Special Declarant Right in any portion of the Common Interest Community does not require that the Special Declarant Right be exercised in any other portion of the Common Interest Community.

1.5.2 Development Rights. The Founder has the right to exercise any Development Right (without the consent of the Association or the Owners) permitted under the Act with respect to the entire Common Interest Community, including the following:

- (a) Add real estate or improvements to the Common Interest Community (including Capital Improvements);
- (b) Create Parcels, Common Elements, or Limited Common Elements within the Common Interest Community;
- (c) Subdivide or combine Parcels or convert Parcels into Common Elements;
- (d) Add and withdraw real estate from the Master Plan Area as further provided in Paragraph 1.1.3 and withdraw real estate from the Common Interest Community as further provided in Paragraph 1.3.3;
- (e) Adjust the boundaries of a Parcel during the Development Period prior to sale, as provided in Paragraph 1.3.4, and
- (f) Reallocate Limited Common Elements with respect to Parcels that have not been conveyed by the Founder.

1.5.3 Additional Reserved Rights. In addition to the Development Rights, the Founder reserves the following rights with respect to the entire Common Interest Community:

- (a) Complete any improvements indicated on a Plat or described in this Declaration or a public offering statement delivered pursuant to paragraph 64.90.610(1)(h) of the Act;
- (b) Maintain sales offices, management offices, signs advertising the Common Interest Community, and models;
- (c) Use easements through the Common Elements for the purpose of making improvements within the Common Interest Community or within real estate that may be added to the Common Interest Community, including those specified in Section 1.4;
- (d) Make the Common Interest Community subject to a master association;

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- (e) Merge or consolidate the Common Interest Community with another common interest community of the same form of ownership;
- (f) Appoint or remove any officer or board member of the Association or any master association or veto or approve a proposed action of any Board or Association, pursuant to section 64.90.415 of the Act;
- (g) Control any construction, design review, or aesthetic standards committee or process as further provided in Part VII;
- (h) Attend meetings of the Owners and, except during an executive session, the Board; and
- (i) Have access to the records of the Association to the same extent as a Parcel Owner.

Part II:

The Association

- 2.1 Establishment
- 2.2 Allocated Interests

2.1 Establishment

2.1.1 Membership. The Vista Field Association (the "Association") is established under Washington law as a nonprofit corporation responsible for the operation of a mixed-use plat community under the Act. This Declaration, the Articles of Incorporation and the Bylaws describe its powers and duties. All Owners are members of the Association. Membership is automatically attached to ownership of the Parcel and cannot be separated from title to the Parcel.

2.1.2 Board. The Owners shall elect the Board to represent them and make decisions about the operation of the Common Interest Community. Except for those matters described in this Declaration or the Act requiring a vote of the Owners or consent of Owners, the Board makes all decisions necessary for the operation of the property under this Declaration. The Bylaws contain procedures for electing the Board.

Approval by Owners

As a convenient reference and not as a limitation, actions that may require a vote of the Owners, or assent in writing, include the following:

Election of the Board	Paragraph 2.1.2
Ratification of Maintenance Zone budget.....	Paragraph 5.1.2
Ratification of Association budget	Paragraph 5.1.5
Repeal of Additional Services	Paragraph 5.2.4
Repeal of Rules and Regulations adopted by the Board	Paragraph 6.2.1
Repeal of Modifications to Design Standards	Paragraph 7.2.4
Ratification of Expenditures for Capital Improvements	Paragraph 8.1.1
Conveyance or Dedication of the Common Elements.....	Section 8.1
Amendment or Termination of Declaration	Sections 9.1, 9.2

Except for those matters specifically requiring approval of the Owners, the Board has the power to act without membership approval.

2.1.3 Voting Interests. The voting interest assigned to each Parcel shall be the same as its Allocated Interest, as provided in Section 2.2.

2.1.4 Voting Procedure. Wherever used in this Declaration, approval by a majority or other proportion of the Owners refers to a vote based on the total voting interests within the Association or applicable group of Owners, either at a properly called membership meeting or through another voting procedure established under the Bylaws and the Act. However, where the Declaration specifies consent in writing, or request in writing, then the necessary number is based on the total voting interests within the Association or applicable group of Owners, and signatures may be collected without a membership meeting or other voting procedure. To the greatest extent permitted by law, the Association may institute voting by electronic or other means.

2.1.5 Period of Declarant Control. The Founder reserves the right to retain control of the Association to the greatest extent permitted by the Washington Uniform Common Interest Ownership Act, or as otherwise required by Washington law.

2.16 Additional Provisions. Additional provisions concerning the operation of the Association and the Board and voting procedure are contained in the Articles of Incorporation and the Bylaws. The Articles of Incorporation or Bylaws may establish provisions for classes of voting and Board representation. Operation of the Association is also subject to the Act.

2.2 Allocated Interests

2.2.1 Generally. As required by the Act, Allocated Interests are used for voting rights in the Association as well as for determining Assessments. Each Parcel subject to this Declaration is assigned an Allocated Interest in accordance with this Section 2.2. Net Usable Square Footage as used in this Section is as defined in Paragraph 2.2.7.

2.2.2 Residential Parcel. Each Residential Parcel's Allocated Interest shall be the sum of the Allocated Interests for all separately leasable dwelling units on that Parcel. Each such dwelling unit, whether a detached home, townhouse, condominium unit, a unit within a duplex or other multifamily dwelling, or a garage apartment or other accessory building, shall be assigned One Allocated Interest, except that 0.8 Allocated Interest shall be assigned to the following:

- a. all dwelling units of less than 1000 square feet of Net Usable Square Footage and
- b. dwelling units that are part of an apartment building or group of buildings that has at least four units and is under single ownership and management.

The above formula is intended to balance fairness against ease of administration, to encourage the development of affordable housing and to recognize the economies to the Association of collecting Assessments for multiple units from a single Owner.

2.2.3 Commercial Parcels. Commercial parcels shall be assigned one Allocated Interest per one thousand (1,000) square feet of net usable Commercial square footage, as defined in

paragraph 2.2.7. Commercial space may be assigned fractional interests and shall be rounded to the nearest 100 net usable square feet, or one-tenth of an Allocated Interest.

2.2.4 Mixed-Use Parcels. Mixed-Use Parcels that include both Residential and Commercial uses shall have an Allocated Interest that is equal to the sum of the Residential and Commercial uses.

2.2.5 Special Use Parcels. Special Use Parcels are unique Parcels that do not fit in the customary categories. The Supplemental Declaration adding the property that includes the Special Use Parcel shall designate the Parcel as a Special Use Parcel and assign an Allocated Interest for the Parcel which may be different from the formulas for other Residential or Commercial use. Any such Allocated Interest must be fair and reasonable, consistent with other Allocated Interests based on the expected use of the Parcel and its impact on the Common Elements.

2.2.6 Unimproved Parcels. Parcels that do not have a building that is substantially complete shall be assigned 0.25 Allocated Interest.

2.2.7 Definition of Net Usable Square Footage.

- (a) **Generally.** For purposes of calculating Allocated Interests for both Residential and Commercial uses, Net Usable Square Footage shall include all heated or air-conditioned space, measured to the center of the wall for interior common walls (such as the walls between condominium units) and measured to the exterior surface of the wall for all other exterior walls. There shall be no deduction for interior non-common walls.
- (b) **Commercial Space.** Commercial square footage shall include all interior space that may be used for commerce, office, storage and other support areas for the Commercial use but shall not include any Residential Unit, or any lobbies, stairwells or walkways used primarily to access any Residential space. Decks and other un-airconditioned space that are designed to be used on a regular basis for outdoor dining, bar or entertainment may be considered as part of the Net Usable Square Footage at a reduced rate in accordance with rules established from time to time by the Association.
- (c) **Rule-making and Adjustments.** The Association in its reasonable discretion may determine the amount of assessed Net Usable Square Footage for a particular Parcel and may make rules for the process of calculating Net Usable Square Footage. The Association shall adjust or revise Allocated Interests if buildings are remodeled or uses for the Parcel change.

Part III:

Shared Spaces

- 3.1 Common Elements
- 3.2 Limited Common Elements
- 3.3 Streets
- 3.4 Parking
- 3.5 Landscaping and Lighting

3.1 Common Elements

3.1.1 Generally. The Association may own open space, recreational facilities, streets and other commonly used portions of the Common Interest Community or may hold use rights in the form of easements, leases or other rights. Those common areas for which the Association owns such interests, or for which the undivided interests are vested in all of the Owners, are called the Common Elements. Common Elements may be labeled as such on the Plat, the Declaration or Supplemental Declaration, or conveyed by deed, easement, lease, license or other agreement, as applicable, to the Association.

3.1.2 Maintenance Responsibility. The Association is responsible for managing the Common Elements and must keep the Common Elements clean and in good repair (except as provided herein with respect to Limited Common Elements). The Association may also make Capital Improvements to the Common Elements and may modify the uses of the Common Elements as provided in paragraph 8.1.1.

3.1.3 Association's Easements for Maintenance. To the extent reasonably necessary, the Association has, and is hereby granted, an easement over each Parcel for maintenance of the Common Elements. The Association also has, and is hereby granted, an easement with respect to any improvements constructed on the Common Elements that encroach on a Parcel, whether due to any minor deviation from the Plat or the settling or shifting of any land or improvements.

3.1.4 Use by Public. Passive recreational facilities such as parks, squares or plazas that are part of the Common Elements are intended to be open for appropriate use by the public, subject to reasonable regulation by the Association to prevent nuisances. If active recreational facilities such as swimming pools, tennis courts or other facilities are created as part of the Common Elements, the Board may from time to time determine whether or not they may be open for use by the general public, or may be open under certain limited conditions.

3.1.5 Owners' Easement of Enjoyment. Every Owner has, and is hereby granted, an easement for appropriate use and enjoyment of the Common Elements. For Limited Common Elements, such easement shall only benefit the Owner or Owners of the Parcels that are served by such Limited Common Elements. This easement passes with title to the Owner's Parcel and is automatically extended to the family members, tenants or guests who reside on the Parcel or are accompanied by the Owner. The easement is subject to the Association's right of regulation in accordance with this Declaration and the Act and is also subject to any limitations that may be contained in the conveyance of that portion of the Common Elements to the Association.

3.1.6 Damage or Destruction of Common Elements by Owner. If any Owner or any of his guests, tenants, licensees, agents, employees or members of his family damages any of the Common Elements as a result of negligence or misuse, the Owner hereby authorizes the Association to repair the damage. In the case of vandalism or other reckless or intentional damage, the cost of repair shall be the responsibility of that Owner and shall become a Specially Allocated Assessment payable by the responsible Owner. The Association may, but is not required to, seek compensation for damage from the guest, tenant or other party who caused the damage, in which case the Owner shall be jointly and severally liable. This paragraph shall not be used to reduce the obligation of any insurer to the Association for any policy held by the Association.

3.1.7 Limitation. The Association shall use reasonable judgment in maintaining and regulating the Common Elements, but neither the Association nor the Founder makes any representation or assumes any liability for any loss or injury. The Founder and the Association make no representations concerning security and shall not be liable in any way for failure to provide services or quality of such services.

3.1.8 Additional Common Elements. The Founder may convey to the Association additional Common Elements which the Association shall accept for maintenance. The design, construction method and cost of each of the additional Common Elements shall be at the discretion of the Founder.

3.2 Limited Common Elements

3.2.1 Designation. Portions of the Common Elements that are intended for use by one or more, but not all Owners, are known as Limited Common Elements. An alley or shared courtyard is an example of a Limited Common Element. Limited Common Elements may be designated in a Plat, this Declaration or a Supplemental Declaration, or a deed, easement, lease, license, or other document conveying the property to the Association. In addition, the Board may reasonably determine that portions of the Common Elements are designed for use by only certain Owners. Unless otherwise specified or clear from the context, the term Common Elements includes Limited Common Elements.

3.2.3 Maintenance. Generally, the Association is responsible for maintenance of Limited Common Elements. The Association may by rule make Owners of Parcels responsible for some or all of the maintenance of the Limited Common Elements serving such Parcels.

3.2.4 Expenses. If the Limited Common Elements is maintained by the Association, the Association shall assess the cost in either of the following ways:

- (a) The Association may distribute the cost of such maintenance among the Owners served by the Limited Common Elements, which may be by the establishment of a Maintenance Zone as provided in Section 4.2 or other Specially Allocated Expenses.
- (b) The Association may reasonably determine that the benefit of separately billing and accounting for the cost of maintenance is not sufficient to justify the burden and may reasonably choose to maintain any particular Limited Common Element as part of the Common Elements. Such practice shall not preclude the Association from assessing the Owners for more significant expenses relating to the Limited Common Elements.

3.3 Streets

3.3.1 Design. The streets in Vista Field have been designed to encourage drivers to drive at safer speeds, and to make the streets compatible for cars, bikes and people on foot. Such design elements include narrower street width, on-street parking, planting of street trees, building homes closer to the street, choice of paving materials and design and frequency of intersections. The plan for Vista Field includes a special street type called a Woonerf, which is intended primarily for pedestrians and cyclists but may be used by vehicles traveling at very low speeds.

3.3.2 Common Streets. Any streets that are not dedicated to the public and shown on the Plat as a Common Element shall be part of the Common Elements and shall be known as the Common Streets.

3.3.3 Access. The Common Streets are hereby made subject to an easement for pedestrian and vehicular access to and from other parts of Vista Field, including the Town Center, other parts of the Master Plan Area whether or not subject to this Declarant or developed as part of Vista Field, and areas outside Vista Field. However, the Association may reserve alleys or driveways as Limited Common Elements for the private use of Owners served by such alley or driveways.

3.3.4 Regulation. Subject to local government regulation, the Association may reasonably regulate driving within the Common Interest Community.

3.3.5 Maintenance of Rights-of-Way. To the extent permitted by governmental authorities, the Association may, but is not obligated to, maintain sidewalks and on-street parking, even if located within the public right-of-way, in order to improve safety or attractiveness of the Common Interest Community.

3.3.6 Modification. The Association shall not remove on-street parking shown on the Plat in order to increase driving lanes. The Association may remove spaces on a case-by-case basis as needed, such as for visibility, pick-up and drop-off zones or access. Except for occasional closure for street fairs or other events or as reasonably necessary to maintain their private nature, the Common Streets are not to be gated or access otherwise restricted. Alleys are required to be kept accessible for fire safety. Traffic calming measures, if needed, shall be as unobtrusive as possible.

3.4 Parking

3.4.1 Design. Much of the parking within Vista Field is intended to be shared, so that guests can park once and walk to various businesses. Through streets have a significant amount of on-street parking, which serves both residents and the Town Center. Because on-street parking narrows the street width and slows traffic, it also serves as a traffic-calming measure. Larger parking lots or garages are intended to be shielded from view wherever possible.

3.4.2 Residential Parking Regulation. The Association may regulate or prohibit parking on the Woonerfs or designate areas where parking is permitted. The Association may regulate parking on other Common Streets in residential areas, including limiting the time periods for parking. Parking within the residential areas is intended to serve as overflow for the Town Center during unusually busy periods. If parking within residential areas is frequently and unduly impacted, the Association may limit its use to residents or guests of residents during certain time periods or establish other reasonable regulation, including charging for parking.

3.4.3 Commercial Parking Areas. Commercially-oriented parking may be managed by the Commercial Association or the owner of the parking area, as applicable, including the charging of fees for parking. Subject to local government regulation, surplus parking areas may be redeveloped.

3.5 Landscaping and Lighting

3.5.1 Common Landscaping and Rights-of-Way. The Association shall maintain any landscaping or signage that is part of the Common Elements. To the extent permitted by governmental authorities, the Association may, but is not obligated to, maintain street trees and any landscaping between the sidewalk and the street as if they were part of the Common Elements, even if located within the public right-of-way, and any other easement areas, public rights-of-way and other public or private properties located within reasonable proximity to the Common Interest Community if its deterioration would affect the appearance of or access to the Common Interest Community.

3.5.2 Surface Water Management. The Association shall have a blanket easement and right on, over, under and through the ground within the Common Interest Community to inspect, maintain and correct drainage of surface water and other erosion controls. This easement

includes the right to cut or remove any vegetation, grade soil or to take any other action reasonably necessary for health or safety or to comply with governmental requirements. The Association shall notify affected Owners (except in an emergency) and shall restore the affected property to its original condition as nearly as practical.

3.5.3 Street Lights. The Association may purchase or lease, or lease to purchase, lighting for the streets and Common Elements from the local utility. Alternatively, the Association may enter into such agreements with the Founder or other entity if the lighting equipment to be provided meets the requirements of the Design Standards and the terms are reasonable. To make outdoor lighting as unobtrusive as possible, the Association shall have an easement to hang or fix lighting for the Common Elements from houses on Parcels as provided in the Design Standards. Owners of the houses to which lighting is attached may be required to maintain the lighting in good condition. The Association may repair lighting and replace light bulbs and is hereby granted an easement to do so. In most cases, such lighting is wired as part of the original construction to draw electricity from the house to which it is attached. Owners of such houses shall be responsible for paying the electricity for the light and shall not cut off the electricity to the light or remove or damage the fixture or bulb.

3.5.4 Welcome Lights. To help create a sense of safety, security and neighborliness at Vista Field after dark, houses may be required to have one or more Welcome Lights on porches and in alleys as described in the Design Standards. The Design Standards may establish rules concerning light sensors or timers to ensure that lights operate efficiently and properly. The Owner of the house must keep the Welcome Lights in good repair and working order, subject to regulation by the Association. The Association may establish procedures to notify Owners if Welcome Lights are not working properly, and, after notice, may repair the light and charge the cost, including a reasonable management fee, to the Owner. The Association may contract to maintain the Welcome Light for the Owner for a reasonable fee.

Part IV:

Relationships between Parcels

- 4.1 Easements Between Parcels
- 4.2 Maintenance Zones
- 4.3 Dependent Attached Homes
- 4.4 Sub-Associations

4.1 Easements Between Parcels

Vista Field is a compact community, with homes close together and, in some cases, attached. The easements apply wherever the described housing type exists.

4.1.1 Structural Party Walls. Each Owner grants to the Owner of each adjacent Parcel the right and easement to maintain and to utilize any exterior or interior wall of a Building that forms a party wall between them. A wall will be considered a party wall only if it provides structural support for the Buildings, or parts of a Building, on more than one Parcel. Maintenance of the surface of the party wall shall be the sole responsibility of the Owner whose Building faces such wall. Each Owner shall be liable and responsible if, in connection with that Owner's use and maintenance of the party wall, the Owner damages the adjacent Owner's Parcel or the wall itself. The adjacent Owners shall share the cost of any other repairs to the party wall equally.

4.1.2 Exterior Walls along a Parcel Line. An exterior wall which supports the Building on only one Parcel, or which encloses a courtyard on one Parcel, shall not be considered a party wall. The Association may make rules and regulations concerning use and maintenance of such walls, including assigning responsibility between the adjoining Owners for painting and repair and granting access over the adjoining Parcel as reasonably necessary to maintain the wall. All such maintenance and repair shall be in accordance with the Design Standards.

4.1.3 Side-Yard Easements. Rather than have narrow, useless side yards on both sides, houses may be designed so that each home has an accessible yard on one side, and a "privacy side" on the other. Such easements may be designated on a Plat, the Design Standards or on the deed from the Founder to the first Owner other than the Founder. Side-yard easements shall generally run the length of the lot and shall encompass the area between the home and the boundary line. The Owner of such a Parcel subject to an easement shall be the beneficiary of a similar easement along another portion of the Parcel, unless the Parcel is a corner lot, is larger than the surrounding lots or has other special conditions. Subject to regulation under the Design Standards, the beneficiary of such an easement shall have the use and maintenance

responsibility for the easement area and may place air-conditioning equipment, fences, decks or patios and other fixtures (but not a primary structure) upon the easement area.

4.1.4 Roof Overhang; Footings. For certain building types that are to be built near or along a property line, the Design Standards may permit roofs, gutters, soffits and downspouts to overhang this property line, and may allow footings and rain leaders to intrude below the surface of the same property line. To the extent allowed by the Design Standards and local governmental regulations the adjacent property shall be subject to an easement for such intrusion, and the adjacent landowner shall not excavate or otherwise operate in such a way that would impair the structural integrity of the footing.

4.1.5 Attached Roof. If a wall or parapet is constructed along or very near the property line, the Owner of a building to be constructed on the adjacent property shall have the right to flash into the existing building, in accordance with normal building practices and in order to make the new building watertight. This right shall include the right to make minor cuts on the existing building and to secure flashing or other materials to the existing building, so long as the structural integrity and water-tightness of the existing building is not impaired. The cost for flashing shall be incurred by the Owner of the new building, but the maintenance of this connection shall be a shared expense between adjacent property Owners.

4.1.6. Regulation. The Association may reasonably interpret these easements and make reasonable rules for maintenance and use of easement areas and shared improvements, which shall be applied uniformly to all Parcels similarly configured.

4.1.7 Additional Easements. The Founder shall have the right to establish additional easements as necessary to provide for different design conditions that may be created in the future.

4.2 Maintenance Zones

4.2.1 Purpose. Maintenance Zones are smaller areas within the Common Interest Community that share the cost of certain services. The system of Maintenance Zones is intended to permit efficient delivery of services based on property type without the formation of multiple incorporated sub-associations. Reasons for establishment of a Maintenance Zone include the following:

- (a) Parcels share Limited Common Elements such as a courtyard, alley or parking court,
- (b) Parcels within the Zone are of a type that require specialized Association maintenance of Parcels, such as front-yard maintenance or,
- (c) Dependent Attached Houses as described further in Section 4.4, require coordinated maintenance of a shared roof or other types of building maintenance.

4.2.2 Authority. Maintenance Zones are established in reliance upon the following provisions of the Act:

- (a) Section 64.90.480, which provides that certain expenses shall be assessed against Parcels on a basis other than Allocated Interests if the declaration so provides, including expenses associated with the operation, maintenance, repair, or replacement of any specified limited common element and expenses specified in the declaration as benefiting fewer than all of the units; and
- (b) Paragraph 64.90.235(4)(a) of the Act, which allows for different allocations of votes on particular matters specified in the declaration.

4.2.3 Designation. Maintenance Zones may be created by Supplemental Declaration or designated by the Board in its reasonable discretion. A Parcel may be in more than one Maintenance Zone. For instance, a Parcel could be in one Maintenance Zone for alley maintenance and another for front yard landscaping.

4.2.4 Condominiums. Property that is submitted to condominium ownership shall be maintained by the applicable condominium association and shall not be considered a Maintenance Zone. However, a condominium may be part of a larger Maintenance Zone.

4.2.5 Advisory Councils. The Board shall permit the establishment of an advisory council from each Maintenance Zone. A Maintenance Zone advisory council shall be formed when at least 90% of the Parcels anticipated for the Maintenance Zone have received certificates of occupancy and been conveyed to Owners other than the Founder or a builder. Unless the Board determines otherwise on a Maintenance Zone basis, there shall be up to five members of the advisory council. After the first such council, which shall be appointed by the Board, Owners from each Maintenance Zone shall elect subsequent councils as part of the regular Board election process. If there are no candidates for the Advisory Council, the Board may act without such input from an advisory council.

4.2.6 Budget. Each Maintenance Zone has separate maintenance requirements and a separate budget. The Maintenance Zone budget shall include the following as applicable:

- (a) **Limited Common Elements.** Limited Common Element alleys, shared driveways and parking lots may be a Maintenance Zone Expense. Other Limited Common Elements such as a courtyard intended primarily for the use of the surrounding Parcels may be designated a Maintenance Zone Expense for such Parcels.
- (b) **Parcel Maintenance.** Any maintenance that this Declaration, Supplemental Declaration or Amendment to this Declaration requires to be provided to a particular Maintenance Zone shall be included in the Maintenance Zone budget.
- (c) **Landscape Maintenance.** In order to provide better service and reduce the number of landscaping vehicles on the Common Interest Community, the Board may at any time determine that the Association shall provide landscape maintenance services to some or all of the Parcels within the Common Interest Community. The cost for such maintenance shall be considered a Maintenance Zone expense, based upon the type of Parcel. If such

service is provided, the Board shall make and apply policies concerning the type of maintenance to be provided and allocation of costs.

- (e) **Additional Services.** Any Maintenance Zone may, by majority vote of the Owners within that Maintenance Zone and approval of the Board, vote to assess all Owners within the Maintenance Zone for maintenance or services in addition to those normally provided by the Association, including yard maintenance (if not already provided) or other maintenance to the Parcel or Maintenance Zone Common Elements. Any service thus approved shall continue until revoked by majority vote of the Owners within that Maintenance Zone.

The advisory council for a Maintenance Zone shall review and give suggestions to the Board for the annual Maintenance Zone budget, proposed services and any modifications to the Maintenance Zone. The Board of the Association shall review each advisory council's recommendations and adopt a proposed budget for each Maintenance Zone as part of its regular budgeting process as provided in Section 5.1.

4.2.7 Allocation of Maintenance Zone Expenses. Unless provided otherwise in the Supplemental Declaration creating the Maintenance Zone, the Maintenance Zone budget will be assessed to and allocated to all Owners within that Maintenance Zone in proportion to their Allocated Interests or such other proportion that the Board reasonably determines based on the proportionate benefits provided to the Owners within that Maintenance Zone.

4.2.8 Capital Improvements. Any Maintenance Zone may, by majority vote of the Owners within that Maintenance Zone and approval of the Board, vote to assess all Owners within the Maintenance Zone for Capital Improvements to Common Elements (including Limited Common Elements) within that Maintenance Zone.

4.3 Dependent Attached Houses

Dependent Attached Houses are a special type of Maintenance Zone.

4.3.1 Definition. A Dependent Attached House is attached to another home on one or more sides and needs to be maintained together with the attached home because it is structurally dependent on the neighboring home, or because it is intended to have a uniform appearance with the neighboring home, or both. A Dependent Attached House is structurally dependent if it shares a roof structure, so that damage to the roof over one Dependent Attached House could cause water to travel to another Dependent Attached House, or if other damage to the structure of the Dependent Attached House could cause structural impairment to the other Dependent Attached House.

4.3.2 Maintenance Zone Designation. Each group of Dependent Attached Houses of similar design, materials and time of construction shall be considered a Maintenance Zone. A Supplemental Declaration submitting the property to this Declaration may designate such a

Maintenance Zone and establish special maintenance and insurance provisions, or an instrument may be recorded by the Association. If not so designated, the Board may determine in its reasonable discretion whether a building shall be considered a Dependent Attached House that requires unified maintenance. The Board shall then designate the boundaries of the Maintenance Zone and the type of maintenance required.

4.3.3 Expenses. The budget for a Maintenance Zone for Dependent Attached Houses may include any expense reasonably necessary to ensure structural and weatherproof integrity of all houses within the group based on the construction methods used. Expenses may include but not be limited to roof maintenance and repair (including a reserve fund for roof replacement), and property insurance to ensure that funds are available for rebuilding in the event of fire or other damage. Where a uniform exterior appearance is required, expenses may include exterior repair and repainting of siding and trim.

4.3.4 Damage and Repair. An Owner shall promptly notify the Association and the appropriate Maintenance Zone Council of any damage that affects, or has the potential to affect, more than one attached house. In addition to the other remedies provided by this Declaration, the Association shall have the right to take any action reasonably necessary to ensure prompt and appropriate rebuilding to protect the structural integrity of the Dependent Attached Houses, and to assess the cost to the affected Parcels as a Specially Allocated Assessment.

4.4 Sub-Associations

In rare cases, Dependent Attached Houses or other Maintenance Zones may need more care than can be provided within the Maintenance Zone structure. This Section 4.4 is provided for those instances.

4.4.1 Formation. Owners within a Maintenance Zone may create an incorporated association to provide services to that Maintenance Zone:

- (a) **Single Entity.** During the Development Period, if all of the Allocated Interests within that Maintenance Zone are owned by a single entity, then formation of the Maintenance Zone association shall require approval of the Founder and the Owner of the Allocated Interests, if different. A declaration and association documents shall be recorded and shall not require any other approvals.
- (b) **Vote of Owners.** Any Maintenance Zone may form an owners' association and adopt articles of incorporation and bylaws, if approved by written consent representing at least a majority of the Allocated Interests within that Maintenance Zone, by the Board of the Association and, if during the Development Period, by the Founder. The documents so adopted, or a notice as to the documents, may be recorded in the public record as an amendment to this Declaration or Supplemental Declaration.

4.4.2 Operation. Upon creation, the new association shall assume the Maintenance Zone maintenance responsibilities and shall have the same rights to assess, collect and lien for assessments for Maintenance Zone expenses as provided to the Association under Section 4.2 and Paragraph 5.1.2. All Owners within that Maintenance Zone shall continue to be members of the Association, to pay Assessments for Association expenses, and to be subject to the terms of this Declaration.

4.4.3 Termination. Any association so created may be terminated, and the Maintenance Zone responsibilities resumed by the Association, by consent in writing of a majority of the Allocated Interests within that Maintenance Zone and approval of the Board of the Association and, if during the Development Period, by the Founder.

Part V:

Association Budget and Assessments

- 5.1 Association Budget
- 5.2 Services
- 5.3 Assessments
- 5.4 Effect of Nonpayment of Assessment; Remedies
- 5.5 Initial Budget and Guarantee of Assessments
- 5.6 Working Capital Contribution

5.1 Association Budget

5.1.1 Budget Items. The budget shall estimate total expenses to be incurred by the Association in carrying out its responsibilities. These expenses shall include, without limitation, the cost of professional management of the Association, insurance premiums, taxes, services, supplies, professional services (including accounting and legal counsel), and other expenses for the rendering of all services properly approved in accordance with this Declaration. The budget may also include reasonable amounts, as determined by the Board, for working capital.

5.1.2 Maintenance Zones and other Specially Allocated Expenses. The Board shall adopt a separate budget for each Maintenance Zone for Maintenance Zone expenses after consultation with the appropriate Maintenance Zone Advisory Council, as applicable, as described in Section 4.2.

- (a) **Ratification.** Each Maintenance Zone budget shall be subject to ratification in accordance with RCW 64.90.525, except that the number of votes required to reject a Maintenance Zone budget shall be those representing a majority of Allocated Interests in that Maintenance Zone.
- (b) **Assessment.** Maintenance Zone Assessments and other charges designated in this Declaration or the Act that are assessed to a particular Parcel or group of Parcels shall be considered Specially Allocated Expenses under the Act. Where such services may be reasonably estimated in advance, the Association may budget for such expenses and assess the cost in advance to the affected Parcels. All such charges shall be distributed in accordance with Allocated Interests or such other proportion that the Board reasonably determines based on the proportionate benefits provided to the Owners within that Maintenance Zone.

5.1.3 Reserves. The Association shall establish reserves as required by the Act and may establish additional reserve funds. Reserves for Maintenance Zones shall be accounted for separately but may be commingled with other Association accounts.

5.1.4 Insurance. The Association must maintain in its own name, to the extent reasonably available and subject to reasonable deductibles, the various types of insurance required by RCW 64.90.470, directors' and officers' liability insurance, and other types of insurance deemed prudent by the Board.

5.1.5 Approval. The Board shall review and approve the budget prior to the beginning of the fiscal year for which it applies in accordance with the Bylaws and the Act., subject to ratification by the Owners in accordance with RCW 64.90.525. The Board's failure or delay in preparing or adopting the annual budget for any fiscal year shall not waive or release an Owner's obligation to pay Assessments whenever the amount of such Assessments is finally determined. In the absence of an annual Association budget each Owner shall continue to pay Assessments at the rate established for the previous fiscal period until notified otherwise.

5.1.6 Contracting Parties. The Association may contract with any party, including the Founder, for the performance of all or any portion of the management of the Association and its maintenance and repair obligations. All such contracts shall be fair and reasonable. The cost of the contract shall be included within the General Assessment, Special Assessment or Individual Parcel Assessment as applicable.

5.2 Services

5.2.1 Snow Removal. The Association shall provide snow removal services to all Common Streets, alleys and parking areas that are part of the Common Elements, including Limited Common Elements. The Association shall establish a policy from time to time whether to assess such services to Limited Common Elements as a Maintenance Zone Expense or to include it in the budget for general Association expenses.

5.2.2 Street Sweeping. The Association may, but is not obligated to, provide street sweeping, on a regular or as-needed basis.

5.2.3 Security. The Association may, but is not obligated to, provide private security services.

5.2.4 Additional Association Services. In addition to the specific powers provided in this Declaration, and to the extent permitted by governmental authorities, the Association, by majority vote of the Board, may provide any other service allowed by law to be provided by a community association organized as a nonprofit corporation. If requested by petitions signed by at least 10% of the Owners, a membership meeting may be called and, if a quorum is present, the offering of the additional service may be repealed by majority vote of the Owners. For three years after such a repeal, the Board may not reinstitute the service unless also approved by majority vote of the Owners.

5.2.5 Parcel Services. The Association may, but is not obligated to, act as agent for an Owner, if so requested by that Owner, to contract for routine maintenance and other services not required to be provided by the Association, the cost of which would be assessed to that Owner as a Specially Allocated Assessment. The terms and conditions of all such contracts shall be at the discretion of the Board.

5.2.6 Utilities. If the Association provides any utility services, the costs may be assessed on any reasonable basis determined by the Association, including actual usage, per unit, by Allocated Interest or upon the way such utility charges are made by the utility provider.

5.3 Assessments

5.3.1 Establishment of General Assessments. The budgeted amount for general expenses shall be divided among all Owners according to Allocated Interest and assessed as General Assessments. The Board shall set the date or dates such Assessments become due and may provide for collection of Assessments annually or in monthly, quarterly or semiannual installments.

5.3.2 Obligation for Assessments. Each Owner of any Parcel by acceptance of a deed or other transfer instrument is deemed to agree to pay to the Association the following (to be known collectively as "Assessments"):

- (a) General Assessments,
- (b) Special Assessments for the purposes provided in this Declaration, and
- (c) Maintenance Zone Assessments and other Specially Allocated Expenses for any charges particular to that Parcel.

5.3.3 Special Assessment. In addition to the General Assessment, the Board may at any time levy a Special Assessment:

- (a) **Capital Improvements.** A Special Assessment may be levied for a Capital Improvement approved in accordance with Paragraph 9.1.1.
- (b) **Emergency Assessment.** By a two-thirds (2/3) vote, the Board may impose a Special Assessment for any unusual or emergency maintenance or repair or other expense that this Declaration or the law requires the Association to pay (including, after depletion of reserves, any unexpected expenditures not provided by the budget or unanticipated increases in the amounts budgeted).

Before the Special Assessment can be charged, the Act requires that the Board follow the procedures for ratification of a budget described in Paragraph 5.1.6. The Board may provide that the Special Assessment be due and payable in installments over any period it determines and may provide a discount for early payment.

5.4 Effect of Nonpayment of Assessment; Remedies

5.4.1 Late Fees. To the greatest extent permitted by the Act, each Owner also agrees to pay a reasonable late fee and interest, as established by the Board, and cost of collection when delinquent, including a reasonable attorney's fee whether or not suit is brought. Upon default in the payment of any one or more installments, the Board may, to the extent permitted by the Act, accelerate the entire balance of such Assessment, which shall be declared due and payable in full.

5.4.2 Personal Obligation. All Assessments, together with any late fee, charges, fines, interest and cost of collection when delinquent, including a reasonable attorney's fee whether or not suit is brought (collectively, the "Assessment Charge") shall be the personal obligation of the person or entity who was the Owner of the Parcel at the time when the assessment was levied, and of each subsequent Owner. No Owner may waive or otherwise escape liability for the Assessment Charge by abandonment of the Parcel. The Association may bring an action at law against the Owner personally obligated to pay the Assessment Charge.

5.4.3 Statutory Lien. The Association shall have a statutory lien against the Parcel in accordance with the Act, which shall secure all Assessments, costs and attorneys' fees and other permitted charges under the Act. The statutory lien may be foreclosed as provided by the Act. RCW 64.90.485

5.4.4 Acquisition of Parcel. The Association, acting on behalf of the Owners, shall have the power to bid for an interest in any Parcel foreclosed at foreclosure sale and to acquire, hold, lease, mortgage and convey the Parcel. The Association may take a deed in lieu of foreclosure.

5.5 Working Capital Contribution

This Section 5.5 applies only to the sale of a Parcel from the Founder to the first Owner.

5.5.1 Working Capital Contribution. At the closing and transfer of title of each Parcel to the first Owner (other than the Founder or an affiliate of the Founder), the new Owner shall contribute to the Association three months' Assessments or \$250, whichever is greater, based upon the agreed upon use and anticipated Allocated Interest upon completion. If not paid at closing, the Working Capital Contribution may be collected as a Specially Allocated Expense.

5.5.2 Purpose. This contribution may be used by the Association for the purpose of initial and nonrecurring expenses of the Association, for providing initial working capital for the Association and for other expenses and shall not be considered as a pre-payment of Assessments. A Working Capital Contribution may not be used to defray expenses that are the obligation of the Founder.

5.5.3 Exempt Transactions. The Working Capital Contribution is not required to be paid by an institutional first mortgagee that acquires title as the result of a foreclosure or deed in lieu but

shall be paid by a third-party purchaser at foreclosure or upon the conveyance by the mortgagee to a subsequent Owner. The Founder has the right in its discretion to exempt transfers to an affiliate of Founder. If the Founder conveys a Parcel without a building to a builder, then that sale may be exempt from the Working Capital Contribution so long as the contribution is made upon conveyance from the builder to a subsequent buyer (other than re-conveyance to the Founder) or occupation of the Parcel, whichever comes first.

Notice to Purchasers concerning Unpaid Assessments

Under Section 64.90.640 of the Act, a Parcel Owner is required to provide, prior to the execution of any contract for sale, a resale certificate, signed by an officer or authorized agent of the Association. If there are any Assessments unpaid on the Parcel, you will automatically become liable for those Assessments when you accept a deed.

Part VI:

Residential Property

- 6.1 Covenants and Restrictions
- 6.2 Rule-Making and Enforcement

This Part VI applies only to Residential Parcels, and to the Residential portion of Mixed-Use Parcels. The Association shall not have any authority to regulate Commercial uses.

6.1 Covenants and Restrictions

This Declaration doesn't have long lists of rules. General rules of civility shall apply, so that neighbors shall have freedom to enjoy music, entertainment and other aspects of life so long as such enjoyment does not unreasonably infringe on the enjoyment of others.

6.1.1 Generally. Each Parcel Owner is responsible for keeping that Parcel in good repair, free of debris, hazardous conditions and unpleasant odors, and for observing reasonable Association rules concerning placement of trash cans, yard maintenance and other rules for the appearance and safety of the community.

6.1.2 Renting. Parcels may be rented, subject to reasonable rules and regulations as promulgated by the Association from time to time.

6.1.3 Pets. Pets are allowed consistent with City zoning, rules and regulations. Pets shall not create unreasonable noise or odor, and Owners may be required to collect and dispose of animal waste. The Association may designate specific areas within the Common Elements where pets may be walked, may prohibit pets on other areas, and may require pets to be on leash.

6.2 Rule-Making and Enforcement

6.2.1 Rules and Regulations. The Board may from time to time adopt reasonable rules or amend previously adopted rules and regulations to address specific problems concerning the operation, use, maintenance and control of the Parcels, Common Elements and any facilities or services made available to the Owners. Notice shall be provided to Owners as provided in the Act. Rules and Regulations shall take effect immediately upon approval by the Board, or at a later date selected by the Board. If requested in writing by at least 10% of all Owners, a membership meeting may be called and any Rule or Regulation may be repealed by majority vote of the Owners.

6.2.2 Owner's Responsibility. Each Owner, family members of Owners and Owners' guests and tenants shall abide by the covenants contained in this Declaration and any Rules and Regulations which may be adopted from time to time by the Board. Each Owner shall be responsible for assuring such compliance, and any violation by family members, guests or tenants may be considered to be a violation by the Owner.

6.2.3 Enforcement. The Association shall give notice and opportunity to be heard concerning any violation of the Declaration or its rules and regulations and shall have all rights of enforcement against the Owner or tenant, all as provided in the Act.

6.2.4 Design Review. After the Development Period, the Association may adopt rules to establish and enforce construction and design standards as provided in the Act and in Part VII of this Declaration.

Part VII:

Design Review

- 7.1 Town Architect
- 7.2 Design Standards
- 7.3 Review Process
- 7.4 Basis for Decision; Variances
- 7.5 Remedies
- 7.6 Additional Terms

7.1 Town Architect

7.1.1 Role. Vista Field shall have a Town Architect, whose job it is to help realize the vision of the Master Plan and improve the quality of construction within Vista Field by working with applicants and their architects. The Town Architect shall interpret the Design Standards and propose changes when necessary.

7.1.2 Selection. During the Development Period, the Town Architect is appointed by the Founder and serves at its pleasure. After the Development Period, the Town Architect is appointed by the Board of the Association and serves at its pleasure.

7.1.3 Qualifications. The Town Architect must have a professional degree in architecture, landscape architecture or urban design from an accredited university or comparable qualifications. If the individual is not licensed as an architect in the state of Washington and if necessary to comply with state law concerning licensure of architects, the Town Architect may be known as the "Town Planner" or other such term but shall have the same rights and responsibilities under this Declaration.

7.1.4 Compensation. The Founder, during the Development Period, and the Association after the Development Period, shall pay the Town Architect reasonable compensation. The Town Architect may be employed on a contract basis and is not necessarily a full-time position.

7.2 Design Standards

7.2.1 Establishment of Design Standards. The Founder hereby establishes the Design Standards for Vista Field, which shall set design criteria and aesthetic standards for the Common Elements and for all aspects of the Parcel visible from the outside. Although the Design

Standards do not need to be recorded to be effective, the Founder or the Association may at any time record the Design Standards, or any amendment to the Design Standards, in the public record as an additional exhibit to this Declaration.

7.2.2 Changes to the Design Standards. The Town Architect may propose changes to any part of the Vista Field Design Standards from time to time. During the Development Period, the Town Architect shall submit any Design Standards modification to the Founder, who shall approve or reject the change in its reasonable discretion. After the Development Period, the Board of the Association, after proper notice to the Owners as required by the Act, by majority vote may approve or reject the Town Architect's proposed modifications to the Design Standards as it applies to Residential Parcels, and the Commercial Association shall have the same power as it applies to Commercial and Mixed-Use Parcels.

7.2.4 Repeal. If requested by petitions signed by at least 10% of the Owners, a membership meeting may be called and, if a quorum is present, the modification to the Design Standards shall be repealed by majority vote of the Owners.

7.2.5 Applicable Design Standards. Applications are approved based upon compliance with the Design Standards in effect at the time of the submittal. However, Parcel Owners who have not yet constructed a primary building may elect to use the version of the Design Standards in effect at the time the Parcel was conveyed, provided that construction begins within two years of the date of conveyance.

7.2.6 Interpretation of Design Standards. The Town Architect may establish, and periodically update, interpretations of the Design Standards, describe techniques and configurations, and list approved doors, windows, colors, hardware, plants and other materials.

7.2.7 Designation of Uses. The Design Standards may regulate the type, placement, size and number of Residential or Commercial units that may be constructed on a Parcel. The Design Standards may also designate shared driveways and courtyards or similar shared uses among Parcels, which shall be effective and enforceable without the necessity for a recorded easement so long as the provision was part of the Design Standards at the time of approval of the plans and the initial construction is consistent with such shared use.

7.2.8 Governmental Codes. The Design Standards are intended to be consistent with all applicable requirements of state and local law. In the event of a conflict, the Owner shall comply with the governmental code in the way most consistent with the Design Standards, subject to review and approval as provided in this Part VII.

7.3 Review Process

7.3.1 Exercise of Review Rights.

- (a) ***During the Development Period.*** As provided in Paragraph 1.5.3, the Founder has reserved the right to review all construction and modification during the Development

Period. The Founder initially assigns these rights to the Town Architect to act on the Founder's behalf. However, the Founder may at any time create a Design Review Board (DRB) to act on behalf of the Founder, and such DRB shall review all construction and modification. The Founder may select the members of the DRB, who shall serve at the Founder's pleasure, or the Founder may establish another method for designating members of the DRB. In either case, the Town Architect shall be a member of the DRB.

- (b) **Assignment.** At the end of the Development Period, all reserved rights for design review for Residential parcels and land owned by the Association shall be automatically assigned to the Association, and all reserved design review rights for Commercial parcels, Mixed-Use Parcels and land owned by the Commercial Association shall be assigned to the Commercial Association. The Founder may earlier assign its rights to the Association, Commercial Association or other entity, in whole or in part, at any time, but is not obligated to do so.
- (c) **Review Process after Assignment.** Upon termination of the Development Period or if sooner authorized by the Founder, the Association, Commercial Association and other entity if applicable shall each establish its own DRB, which shall act as the agent of the entity to which the rights are assigned. Each DRB may include a Town Architect or other paid professionals.

7.3.2 Original Construction. No clearing or construction of any type may begin except in accordance with approved plans and specifications. Any modification to the approved plans and specification must be reviewed and approved by an amendment to the application before the modified plans may be used. The applicant shall submit plans to the Town Architect or DRB, as applicable, to include the following:

- (a) the construction plans and specifications, including all proposed clearing and landscaping,
- (b) elevations of all proposed improvements and
- (c) all other items required by the Town Architect (or DRB if applicable).

The Town Architect or DRB as applicable may establish procedures for the review of applications, including review costs and fees, if any, to be paid by the applicant. For review after assignment to the Association, the Board shall set the DRB's review fees to cover all or part of the expected cost of its operation and shall fund any deficit. Fees shall not be intended to create a surplus, other than an ordinary operating fund for the DRB to which any excess fees shall be contributed.

7.3.3 Parcel Modification Subject to Review. After the completion of original construction, all modifications (except interior alterations not affecting the external structure or appearance of any building) must be approved in advance. Improvements and modifications subject to review specifically include, but are not limited to, the following:

- (a) painting or other alteration of a building (including doors, windows and trim) other than with originally approved paint and colors, except as provided in paragraph 7.6.2;
- (b) replacement of roof or other parts of building other than with duplicates of the original material, except as provided in paragraph 7.6.2;
- (c) installation of antennas, satellite dishes or receivers, solar panels or other devices;
- (d) construction of fountains, swimming pools, whirlpools or other pools;
- (e) construction of privacy walls or other fences or gates;
- (f) addition of awnings, flower boxes, shelves, statues, or other outdoor ornamentation; and
- (g) any significant modifications to the landscaping and any removal or substantial pruning of trees or plants.

The listing of a category does not imply that such construction is permitted.

7.3.4 Common Elements. Any modification of the Common Elements, including reconstruction or repair after a loss, modification of any existing structure, or any material alteration of the landscaping or topography of any Common Elements must be approved in advance by the Town Architect or DRB as applicable.

7.3.5 Simplified Review. The Town Architect or DRB may provide lists of approved materials and may allow for staff review and approval of routine or minor matters.

7.4 Basis for Decision, Variances

7.4.1 Basis for Approval. In addition to compliance with the Design Standards, the Town Architect or DRB as applicable may also consider other factors, including compatibility with surrounding Parcels and Common Elements, overall quality of design and purely aesthetic considerations, so that it may require changes to a plan to improve its appearance even if the design meets the technical requirements of Design Standards. If the Town Architect or DRB rejects an application due to overall design quality, the Town Architect or DRB as applicable may make suggestions for improving the design.

7.4.2 Exceptions. A request for an exception to the Design Standards must be submitted by written application. The Town Architect or DRB as applicable may, but is not required to, grant an exception in its discretion if it finds at least one of the following:

- (a) the deviation from the Design Standards is exceedingly minor and insignificant,
- (b) the submission has particular architectural merit,
- (c) the exception is in response to existing site conditions or other extenuating or unusual circumstance,
- (d) the design achieves particular harmony with adjacent properties, or

- (e) the application is consistent with the design intention of the Standards.

In order to grant the exception, the Town Architect or DRB should also find that the exception results in a project that is superior to what would be built without the exception. The decisions shall be accompanied by a written statement explaining the basis for its decision. Any exception granted by a DRB requires unanimous vote of the DRB. Each exception should be considered unique and shall not set a precedent for future exceptions.

7.4.3 Interpretation. The provisions of this Section 7.4 apply to review by both the Town Architect or DRB. However, any provision of the Act or other legal determination that limits the DRB's discretionary ability shall not apply to review by the Town Architect during the Development Period.

7.5 Remedies

7.5.1 Generally. If any construction or installation is begun which has not been approved or which deviates from approved plans and specifications, the Founder, Association or Commercial Association as applicable shall be entitled to take any of the following actions, or any combination:

- (a) Require the Owner to resolve the dispute through mediation or binding arbitration,
- (b) Seek an injunction requiring the Owner to immediately stop construction and remove or correct any improvements that are not in compliance with approved plans.
- (c) Bring suit seeking other remedies, including any combination of damages, specific performance, declaratory decree, temporary or permanent injunction or other remedy at law or in equity.

If the Founder, Association or Commercial Association brings suit and the court finds that the construction was not approved or that the construction deviated from the approved plans or specifications, then the Founder, Association or Commercial Association as applicable shall also be awarded reasonable attorney's fees and costs, even if the relief requested is not granted.

7.5.2 Inspections. The Founder, Association or Commercial Association, as applicable, or their respective agents, may inspect the property during construction but has no obligation to make any such inspection. Inspectors are concerned primarily with aesthetic considerations and are not responsible for compliance with governmental requirements or design or construction defects or use of materials affecting the safety or structural integrity of the building.

7.5.3 Deposit, Fines. The Founder, Association or Commercial Association, as applicable, may require the builder or Owner to post a deposit from which the Founder, Association or Commercial Association, as applicable, may deduct fines for failure to comply with the approved plans and specifications, damage to the Common Elements, tree regulations and rules for builder conduct. The collection of a fine shall not in any way diminish the available remedies at law or equity.

7.5.4 Tree Protection. Improper cutting, removal or intentional damage to existing trees is subject to fines as set by the Founder, Association or Commercial Association, as applicable, plus a requirement that the tree be replaced with one or more of approved species and size.

7.5.5 Governmental Compliance. Owners are responsible for making sure that construction conforms to governmental regulations and all local building codes. All plans must comply with applicable drainage, water conservation, erosion control and storm water detention requirements. If the Founder, Association or Commercial Association or applicable DRB notes noncompliance, the Owner will be required to make the necessary changes. However, the Founder, Association or Commercial Association or DRB are not responsible for the construction's compliance with governmental requirements.

7.5.6 No Liability. Approval by Founder, Association or Commercial Association or applicable DRB, as applicable, or their respective agents, of an application, builder or architect shall not constitute a basis for any liability for failure of the plans to conform to any applicable building codes or inadequacy or deficiency in the plans resulting in defects in the improvements, or for the performance or quality of work of any contractor or architect approved by it, or for non-compatible or unstable soil conditions or soil erosion, or any other condition or event.

7.5.7 No Waiver. Failure to enforce any provision of this Declaration, the Design Standards or construction rules shall not be deemed a waiver of the right to do so at any time thereafter.

7.6 Additional Terms

7.6.1 Builders Guild. The Founder may establish a Builders Guild and may allow only members of the Guild to construct or modify buildings in Vista Field. Membership in the Guild shall be based on understanding of the Design Standards, completion of education requirements, willingness to build in accordance with approved plans and specifications, quality of past work, client satisfaction and financial history. Builders must agree to comply with construction regulations, to properly contain and dispose of construction debris, and to build in accordance with the approved plans and specifications.

7.6.2 Notification and Registry. The Founder, during the Development Period, or the Association or Commercial Association, after assignment of the review process, may notify any Owner in writing that replacement with the original colors or materials will not be permitted, in which case review will be required. The Founder, Association or Commercial Association as applicable shall maintain a registry of such notifications, indexed by address and by the name of the Owner to whom the notice was originally given, so that any purchaser of a Parcel may check to see if such notice has been given. If the registry is properly maintained, it shall serve as notice to any subsequent Owner.

7.6.3 Dependent Attached Houses. Because Dependent Attached Houses must be compatible with its companion home or homes, including uniformity of maintenance, any repair or replacement of any part of the exterior of a Dependent Attached House Parcel is subject to

review, even with materials and colors identical to those originally approved. The Design Standards restrict Owners' ability to enlarge or enclose space or to make any other changes in the exterior appearance of a Dependent Attached House or yard to a much greater degree than for other housing types. Review of any private antenna, satellite dish or other structure to be placed on the roof must include assurances that the roof will not be damaged.

7.6.4 Signage. All signs, advertisements or notices of any type (other than building permits) on any Parcel visible from outside the Parcel are subject to review. However, the Association is encouraged to respect polite expressions of civic interest and permit reasonable political signage supporting candidates or causes. For Sale or For Rent signs may be prohibited or limited to a uniform size and type.

7.6.5 Temporary Commercial Space. The Founder anticipates the incremental development of commercial districts using farmers' markets and other open-air markets, pushcarts, kiosks, food trucks and other nontraditional commercial space. These structures may be placed within the footprint intended for a permanent building and may be relocated to other such spaces if and when a permanent building is constructed in that location. Such structures may also be placed in parking lots. The right to create such space is limited to the Founder or its assigns and is not subject to the Design Standards or design review.

7.6.6 Solar Energy Panels. As permitted under the Act, this Declaration and the Design Standards encourage the use of solar energy panels but regulate them as follows:

- (a) A roof-mounted solar energy panel shall not be visible above the roof line.
- (b) A solar energy panel may be attached to the slope of a roof facing a street only if:
 - (i) The solar energy panel conforms to the slope of the roof; and
 - (ii) The top edge of the solar energy panel is parallel to the roof ridge.
- (c) A solar energy panel frame, support bracket or any visible piping or wiring shall be painted to coordinate with the roofing material.
- (d) A ground-mounted solar energy panel shall be shielded if shielding the panel does not prohibit economic installation of the solar energy panel or degrade the operational performance quality of the solar energy panel by more than ten percent.

The Design Standards may include other reasonable rules regarding the placement and manner of a solar energy panel. As permitted by the Act, the Association may require Owners or residents who install solar energy panels to indemnify or reimburse the Association or its members for loss or damage caused by the installation, maintenance, or use of a solar energy panel.

7.6.7. Antennas and Satellite Dishes. The Design Standards may regulate antennas and satellite dishes to the greatest extent permitted by federal law.

Part VIII:

Modification, Repair and Reconstruction

- 8.1 Modification of Common Elements
- 8.2 Repair and Reconstruction

8.1 Modification of Common Elements

8.1.1 Capital Improvements.

- (a) **Definition.** A Capital Improvement is an alteration or addition or improvement to the Common Elements, or the purchase of additional real property to be added to the Common Elements. A Capital Improvement shall be considered substantial if the cost to the Association of the alteration, addition or improvement, whether by itself or when added to other Capital Improvements for such fiscal year, totals more than ten percent (10%) of the annual budget. However, any reasonably necessary repair or replacement of existing improvements with materials of similar price and utility shall not be considered a substantial Capital Improvement and may be authorized by the Board without Owner approval.
- (b) **Authority.** The Board may authorize Capital Improvements to the Common Elements and may modify the uses of the Common Elements; provided expenses for substantial Capital Improvements must be approved by written consent representing a majority of the Allocated Interests of Parcel Owners other than the Founder, plus the consent of the Founder during the Development Period.

8.1.2 Limitation on Modification of Certain Common Elements. The Founder may, in the instrument conveying certain Common Elements to the Association, restrict or prohibit the sale or modification of the Common Elements being conveyed. In such an instance, the provisions of the instrument of conveyance will take precedence over the provisions of this Section.

8.1.3 Purchase of Additional Common Elements. The Association may acquire additional real property to be owned as Common Elements. The decision to acquire additional real property as a Common Elements (other than that added by the Founder), whether by purchase or lease or other means, shall be authorized by a two-thirds vote of the Board. If the purchase or lease is costly enough to be considered a substantial Capital Expense, it must be approved as described in Paragraph 8.1.1.

8.1.4 Mortgage. The Association may borrow money, mortgage and grant security interests in the Common Elements as permitted under the Act provided that such mortgage is required to

pay for major expenses such as Capital Improvements, damage from a natural disaster or significant deferred maintenance. The Association must have a realistic plan for repaying the mortgage, which may include the levy of a Special Assessment. This provision may not be used with the intent of avoiding the restrictions on sale of the Common Elements.

8.1.5 Corrective Instruments. The Association, by approval of two-thirds vote of the Board and without a vote of the Owners, may also adopt, execute and record such corrective and other amendments to this Declaration permitted under the Act.

8.1.6 Condemnation. If all or part of the Common Elements is taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be paid to the Association and, if applicable, with respect to Limited Common Elements, divided among the Owners as required under the Act. The Board shall have the right to act on behalf of the Association with respect to the negotiation and litigation of the taking or condemnation affecting such property.

8.1.7 Dedication to the Public. The Founder may dedicate streets and parks within the Common Interest Community to the public rather than establishing such areas as Common Elements. Any areas that are Common Elements or have been conveyed to the Association may be conveyed to the appropriate public agency or authority and dedicated to the public upon approval of a two-thirds vote of the Board and, if required under the Act, approval by Owners representing the minimum percentage of the voting interests required under the Act for the conveyance of Common Elements.

Any such dedication may include additional terms and conditions as negotiated between the Board and the public entity.

8.1.8 Sale or Lease of Common Elements. Subject to the Act, the Association may sell, donate or grant short- or long-term leases for small portions of the Common Elements or exchange parts of the Common Elements for other property inside or outside the Common Interest Community when the Board finds that it benefits the Common Interest Community in at least one of the following two ways:

- (a) The conveyance is intended to benefit the Common Interest Community in ways other than the revenue, if any, to be derived from the transaction. For instance, the Association may convey or exchange property, if necessary to improve access to the Common Interest Community or to improve utility service.
- (b) The revenue to be derived is significant and the use and appearance of the Common Elements is not significantly impaired. For instance, the Association might sell or lease small amounts of space for cellular telephone transmission equipment if such equipment were not obtrusive.

Any decision to donate, sell, exchange or lease any portion of the Common Elements must be approved by two-thirds of the Board and must have the consent of the Founder if within the Development Period and, if required under the Act, must be approved by Owners representing

the minimum percentage of the voting interests required under the Act for conveyance of Common Elements. A transaction for lease for a term of more than one year, including all tenant renewal options, cannot be completed until thirty days after notice to Owners. If requested by Owners representing at least 10% of the voting interests within the 30-day period, a meeting of Owners must be held following at least seven days' notice and, if a quorum is present in person or proxy, the decision to lease may be rescinded by majority vote of the Owners present. Any contract with a third party for the purchase, sell, exchange or lease of the Common Elements must comply with the Act and should be contingent upon this right of rescission, unless the Board has previously passed a resolution describing the intended transaction and given 30 days' notice.

8.1.9 Limitation. Other than dedication to the public as provided in Paragraph 8.1.7, sale or lease under the provisions of Paragraph 8.1.8 or the grant of customary easements as provided under the Act, the Common Elements may not be sold or leased.

8.2 Repair and Reconstruction

8.2.1 Common Elements. If fire or other casualty damages or destroys any of the improvements on the Common Elements, the Board shall arrange for and supervise the prompt repair of the improvements. The Board may restore the Common Elements to substantially original condition or may improve or modify the design or use subject to design review. The reconstruction may be considered a substantial Capital Improvement in accordance with Paragraph 8.1.2 only if and to the extent that it modifies the Common Elements and considering the total cost of the project, both insurance proceeds and any additional Assessments.

8.2.2 Parcels. If fire, severe weather or other loss damages or destroys a building or any other improvements on a Parcel, the Owner is required to restore the property as follows:

- (a) **Clean-Up.** The Owner of the Parcel shall immediately clear and secure the Parcel. If the Owner fails to clear and secure a Parcel within 30 days after a loss, the Association shall notify the Owner. If the violation continues for ten days after notice to the Owner, the Association shall have the right without liability to enter the Parcel to remove debris, raze or remove portions of damaged structures and perform any other clean up the Association deems necessary to make the Parcel safe and attractive. The cost of such clean-up shall be assessed to the Parcel Owner as a Specially Allocated Assessment.
- (b) **Rebuilding.** Within 18 months of the loss, the Owner shall proceed to rebuild and restore the improvements and shall continue such improvement until completion without undue delay. The improvements shall be restored to the plans and specifications existing immediately prior to such damage or destruction, unless the Owner submits other plans for approval in accordance with Part VII. If an Owner fails to begin rebuilding within the time allowed or abandons reconstruction, then the Association has the right but not the obligation to purchase the Parcel at 80% of fair market value in "as is" condition. The

Part VIII: Modification, Repair and Reconstruction

reduction in value is intended to allow the Association to market and resell the Parcel to an Owner who will restore the property.

Part IX:

General Provisions

- 9.1 Amendment
- 9.2 Effect and Termination
- 9.3 Additional Terms

9.1 Amendment

9.1.1 Generally. Except for amendments that may be executed by the Founder or the Association as provided in the Act or elsewhere in this Declaration and except as limited by the Act, this Declaration, including vested rights, may be amended at any time by affirmative vote or written agreement signed by Parcel Owners representing at least sixty percent (60%) of the Allocated Interests in the Association except as follows:

- (a) Part VI (Residential Property) may be amended by 60% approval of Residential Allocated Interests (with no approval of Commercial Allocated Interests needed).
- (b) Any amendment which affects only Commercial property requires approval by 60% of Commercial Allocated Interests.
- (c) Any action described in this Declaration that requires approval of a greater percentage, amendment of that provision shall require the same percentage vote as would be required to accomplish that action directly.
- (d) Any amendment during the Development Period shall require Founder's consent. Rights reserved to the Founder may not be amended at any time without the specific consent of the Founder.

To the extent permitted by law, a meeting shall not be required to obtain such consents and the individual consents do not need to be recorded.

9.1.2 Technical Amendments. Except as limited by the Act, the Founder specifically reserves the right, at any time during the Development Period, to amend this Declaration without the consent or joinder of any Owner, the Board or any other party as follows:

- (a) to conform to the Act or other applicable law,
- (b) to conform to the requirements of the Federal Home Loan Mortgage Corporation, Veterans Administration, Federal National Mortgage Association, HUD or any other

generally recognized institution involved in the guarantee or purchase and sale of home loan mortgages,

- (c) to conform to the requirements of institutional mortgage lenders or title insurance companies, or
- (d) to clarify, explain, make more certain or reconcile local, state or federal law any the Declaration's provisions or to correct errors, omissions or inconsistencies.

9.1.3 Recording of Amendments. Any amendment shall be recorded and unless provided otherwise, shall take effect immediately upon recording. All amendments must contain a cross-reference by recording number to this Declaration and to any prior amendments to the Declaration.

9.1.4 Rerecording of Declaration. Unless this Declaration is terminated, the Association shall rerecord this Declaration or other notice, if necessary under Washington law to preserve its effect.

9.1.5. Incorporation of Provisions of the Act. This Declaration references provisions of the Act rather than restate the requirements of the law. The Declaration shall be deemed to automatically incorporate any changes to the law, including changes in numbering. The Association may but is not required to record an amendment showing the updated information. Such amendment shall require only Board approval.

9.2 Effect and Termination

9.2.1 Covenants Run with the Land. The covenants and restrictions contained in this Declaration shall run with and bind the Common Interest Community and shall inure to the benefit of and be enforceable by the Founder, the Association, and all Owners of property within the Common Interest Community, their respective legal representatives, heirs, successors or assigns.

9.2.2 Termination. This Declaration may be terminated as provided by the Act. If permitted by the Act, this Declaration may be terminated by the consent in writing of Owners representing 75% of the Allocated Interests in the Association if all of the Common Elements are accepted for dedication by the City and Limited Common Elements either (i) accepted by the City with the benefited Owners being granted easements rights to use such Limited Common Elements substantially similar to the rights held by the benefitted Owners under this Declaration prior to such acceptance by the City or (ii) deeded to the benefited Owners jointly with the benefited Owners each having rights to use such Limited Common Elements substantially similar to the rights held by the benefitted Owners under this Declaration prior to such deeding.

9.3 Additional Terms

9.3.1 Assignability and Waiver.

- (a) **Successors and Assigns.** Wherever used in this Declaration, the term "Founder" shall mean the Port of Kennewick, its successors and assigns, or any successor or assign of all or substantially all of its interests in the development of the Property unless the instrument conveying such interests provides otherwise. Founder may assign all or any portion of its rights at any time to any successor or assigns, or to the Association.
- (b) **Termination.** Founder may terminate some or all of its rights sooner by a signed writing, in which case the Founder reserves the right to record an instrument specifying that, prior to the end of the Development Period, certain actions of the Association must be approved by the Founder before they become effective.

9.3.2 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform and consistent plan for the development and operation of the Common Interest Community as a high-quality mixed-use community. Boxed text and italicized portions may be used as an aid to interpretation. However, if the boxed or italicized portion conflicts with the operative provision, the operative provision shall govern.

9.3.3 Enforcement of Declaration.

- (a) **Enforcement.** Suit may be brought against any person, persons or entity violating or attempting to violate the provisions of this Declaration, either to restrain violation or to recover damages, and against his or its property to enforce any lien created by this Declaration. To enforce this Declaration or the Rules and Regulations, the Association, the Founder or any Owner may bring an action for damages, specific performance, declaratory decree or injunction, or any other remedy at law or in equity. The Board shall be empowered to bring suits on behalf of the Association.
- (b) **No Waiver.** Failure to enforce any provision of this Declaration, the Design Standards or the Rules and Regulations shall not be deemed a waiver of the right to do so at any time thereafter.
- (c) **Association's Legal Fees.** To the greatest extent permitted by the Act, any and all costs, including but not limited to attorneys' fees and court costs, which may be incurred by the Association in the enforcement of any of the provisions of this Declaration, whether or not suit is brought, may be assessed as a Specially Allocated Assessment to the Owner against whom such action was taken.

9.3.4 Notices. Any notice required to be sent to the Owner shall be deemed to have been properly sent when delivered in accordance with the Bylaws and Act.

9.3.5 Number. The use of the singular shall be deemed to include the plural, whenever the context so requires.

Exhibit A: Legal Description, The Initial Property

Exhibit B: Legal Description, The Master Plan Area

2/17/22

BY-LAWS
for
VISTA FIELD ASSOCIATION,
a Washington Nonprofit Corporation

Introduction

The Vista Field Association (the "Association") is organized as a nonprofit corporation under Chapter 24.03, RCW (the "Washington Nonprofit Corporation Act"). These Bylaws were written to comply with the Washington Nonprofit Corporation Act and Chapter 64.90, RCW, and the Washington Uniform Common Interest Ownership Act (the "Act") at the time the Association was formed. However, those laws may change, and the Association is required to comply with changes to the laws, which by their terms do not require adoption by the Board or the Owners, as applicable. In case of any conflict between Washington Nonprofit Corporation Act and the Act, the Act controls.

These Bylaws provide for operation of the plat community known as Vista Field (the "Common Interest Community"), which is established by the Declaration of Covenants, Conditions and Restrictions for Vista Field (the "Vista Field Declaration"), as recorded in the public records of Benton County, Washington, and created under the Act. They apply to the entire Common Interest Community, each Parcel therein, and all Common Elements.

The Articles of Incorporation forming the Association and these Bylaws are not required to be recorded.

Unless otherwise defined in these Bylaws, all capitalized terms are as defined in the Vista Field Declaration.

I. Membership

1.1 Members. As provided in Section 2.2 of the Vista Field Declaration, membership is comprised of each of the Owners of a Parcel within the Common Interest Community. An individual, domestic or foreign profit or nonprofit corporation, a general or limited partnership, an association or other entity may be a member of the Association.

1.2 One Class of Membership. There is one class of membership, comprised of each of the Owners of the Parcels within the Common Interest Community.

1.3 Transfer of Membership with Parcel. Upon the sale, transfer or other disposition of the ownership interest in a Parcel, the owner's membership in the Association shall automatically be transferred to the new Parcel owner. The Founder may assign its rights created under these Bylaws in whole or in part at any time as provided in the Vista Field Declaration and in accordance with the Act.

II. Voting, Notices and Membership Meetings

2.1 Voting by Multiple Owners. If only one of the multiple Owners of a Parcel is present at a meeting of the Association, the Owner is entitled to cast all the votes allocated to that Parcel. If more than one of the multiple Owners are present, the votes allocated to that Parcel may be cast only in accordance with the agreement of a majority in interest of the multiple Owners. There is majority agreement if any one of the multiple Owners casts the votes allocated to that Parcel without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Parcel.

2.2 Voting Representative. Corporations, partnerships, limited liability companies, and other entities and organizations shall notify the Association in writing of the natural person who shall exercise its vote. An Owner may, by written notice to the Board, designate a voting representative for its Parcel. The voting representative need not be an Owner. The designation may be revoked at any time by written notice to the Board from a person having an ownership interest in the Parcel, or by actual notice to the Board of the death or judicially declared incompetence of any person with an ownership interest in the Parcel. This power of designation and revocation may be exercised by the guardian of an Owner, the attorney-in-fact of the Owner under a durable power of attorney, or the administrators or executors of an Owner's estate. If no designation has been made, or if a designation has been revoked and no new designation has been made, the voting representative of the Parcel shall be the group composed of all of its Owners. If a Unit is owned by husband and wife and only one of them is at a meeting, the one who is present will represent the marital community.

2.3 Allocated Interests. Section 2.2 of the Vista Field Declaration assigns each Parcel an Allocated Interest. Each Owner shall have a vote in the Association, with votes to be equal to its Allocated Interest(s) in all owned Parcel(s).

2.4 Voting Procedures. It is the intent of these Bylaws to permit electronic voting and other secure, convenient forms of voting to the greatest extent permitted by law. This section incorporates the provisions of the Act and shall be considered automatically updated to conform to the provisions of the Act as the Act may be amended from time to time.

- (a) **Types of Acceptable Voting.** A member may vote in person, by absentee ballot, by proxy in the form of a record executed by the member or a duly authorized attorney-in-fact, or by any other method permitted by the Act as designated by the Board from time to time. The use of proxies shall be subject to the terms and requirements of the Act.
- (b) **Identification of Candidates and Proposals.** Whenever proposals or directors or officers are to be elected by members, the vote may be taken by mail or by electronic transmission or by any other method permitted by the Act as designated by the Board from time to time if the name of each candidate and the text of each proposal to be

voted upon are set forth in a record accompanying or contained in the notice of meeting.

- (c) **Requirements for Electronic Voting.** If the election is conducted by electronic transmission, the Association shall provide such notices and follow such procedures and processes as are required by the Act.

2.5 Annual Meeting. The Association shall hold an annual meeting of its membership within Vista Field or at another appropriate and convenient place in the state of Washington. The Board of Directors shall determine the place and time of the annual meeting. At the annual meeting, the Owners shall elect members to the Board or fill vacancies (as appropriate, per the term limits of the Board as set forth below), and transact other business of the Association.

2.6 Budget Meeting. Within 30 days after adoption of any proposed budget for the Association, the Board shall provide a summary of the budget all of the members and set a date for a meeting of the members to consider ratification of the budget, which date shall be not less than 14 nor more than 50 days after mailing the summary. Unless at the meeting members holding a majority of the votes in the Association vote to reject the budget, the budget is ratified, whether or not a quorum is present for the meeting. In the event the proposed budget is rejected or the required notice for the meeting is not given, the budget last ratified by the Owners shall be continued until a budget proposed by the Board is ratified.

2.7 Special Meetings. Unless specifically provided otherwise in these Bylaws or in the Vista Field Declaration, meetings of the membership other than the annual meeting shall be held when directed by the President or the Board of Directors or when requested in writing by members holding ten percent (10%) of the votes having the right to vote at such meeting.

2.8 Notice. Notice of all members' meetings, regular or special, shall be provided in accordance with the Act.

2.9 Waiver. To the extent permitted by the Act and the Washington Nonprofit Corporation Act, any Owner may waive notice of a meeting or consent to the holding of a meeting without notice or consent to action taken without a meeting, by execution of a waiver or consent in writing. Such waiver or consent may be executed prior to, at, or subsequent to the meeting or Association action to which the waiver or consent relates.

2.10 Percentage Required for Quorum. A quorum shall be 20% of the Allocated Interests.

2.11 Order of Business. The order of business at meetings of the Association shall be as follows unless dispensed with on motion or as otherwise required by the Act:

- (a) Roll call
- (b) Proof of notice of meeting or waiver of notice

- (c) Minutes of preceding meeting
- (d) Reports of officers
- (e) Reports of committees
- (f) Election of inspectors of election
- (g) Election of directors (annual meeting or special meeting called for such purpose)
- (h) Unfinished business
- (i) New business
- (j) Adjournment

2.12 Majority Vote. Except as otherwise provided by the Washington Nonprofit Corporation Act, the Vista Field Declaration, the Act, or by these Bylaws, passage of any matter submitted to vote at a meeting of the Owners where a quorum is present, shall require the affirmative vote of at least 51% of the votes present.

2.13 Meetings by Conference. Meetings may be conducted by telephone, video, or other conferencing process, so long as the meeting notice, procedures and process are consistent with the Act.

2.14 Adjournment of Meetings. To the extent permitted by the Act and the Washington Nonprofit Corporation Act, if any meeting of Owners cannot be organized because a quorum has not attended, the Owners present, in person or by proxy, may adjourn the meeting to a time not less than 48 hours from the time the original meeting was called.

2.15 Rules. Except where in conflict with the Vista Field Declaration, these Bylaws or the Act, Roberts Rules of Order (as amended) shall govern the conduct of all membership meetings. To the extent required by the Act, Owners shall be given a reasonable opportunity at any meeting to comment on any matter affecting the Condominium or the Association.

III. Board of Directors

3.1 Decision Making and Powers. Except for those matters described in the Vista Field Declaration requiring a vote or consent of the Owners or consent of the Founder, the Board of Directors makes all decisions necessary for the management and operation of the property under the Vista Field Declaration including causing the Association to take all actions required by the Act. The Board of Directors have all powers necessary to act on behalf of and to assume all powers of the Association as set forth in the Act, the Vista Field Declaration and these Bylaws and may do all such acts and things as are not prohibited by the Act or by the Vista Field Declaration required to be done in another manner. The Board of Directors may delegate any specific powers to any officer or managing agent or impose such limitations or restrictions upon the powers of any officer or managing agent as the Board of Directors may deem necessary.

3.2 Standard of Care. Directors of the Board of Directors shall perform their duties in accordance with the standard of care set forth in the Act as it may be amended from time to time.

3.3 Transition. The Transition Date occurs upon the first to occur of the following: (a) expiration of the period of declarant control as provided under Section 64.90.415 of the Act, (b) the end of the Development Period as defined in the Vista Field Declaration, or (c) Founder's voluntary surrender of Declarant Rights.

3.4 Election or appointment of Directors. The Board of Directors shall be appointed or elected as follows:

(a) **Initial Board.** The Founder shall appoint three Directors. Directors appointed by the Founder shall serve at the Founder's pleasure and may be removed by the Founder and a substitute appointed by the Founder.

(b) **Addition of Owner-Elected Directors.** The Act provides for Owners other than the Founder or a Founder affiliate to elect a portion of the Board upon certain events as provided in the Act. As set forth in the set forth in Section 64.90.415 of the Act:

(i) not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Parcels to Owners other than a Founder or Founder Affiliate, twenty-five percent (25%) of the Board must be elected by Owners other than the Founder or Founder Affiliate; and

(ii) not later than sixty days after conveyance of fifty percent (50%) of units that may be created within the Common Interest Community to Owners other than Founder or Founder Affiliate, not less than thirty three and one third percent (33.33%) of the Board must be elected by Owners other than Founder or Founder Affiliate.

The existing Board may increase the number of Directors on the Board to accommodate the additional Directors. Until such directors are elected and take office, the existing directors may continue to act on behalf of the Association.

(c) **After Transition.** Within thirty days of the Transition Date, the Board shall schedule a transition meeting and provide notice to the Owners pursuant to the Act. Upon the transition, the Board of Directors shall be comprised of nine (9) directors as follows:

(i) one third of the directors being elected by the Owners of the Residential Parcels (the "Residential Directors"),

(ii) one third of the directors being elected by the Owners of the Commercial Parcels (the "Commercial Directors") and

(iii) one-third being elected at large.

After Transition, the Board may from time to time, without Amendment of these Bylaws, modify the number of Directors from six (6) up to a maximum of fifteen (15), so long as the three categories of Directors is preserved.

3.5 Qualifications. Prior to the Transition Date, the Directors need not be members, it being recognized that individuals who operate businesses in Vista Field or who have other interests in the successful operation of Vista Field may offer talents and service to the community even though such an individual may not be named as the holder of title to a Parcel. Directors are not required to be residents of the state. After the Transition Date, at least a majority of the Directors must be members. Any of the following may be elected to the Board as a member if the entity is a member: any shareholder, officer, director, or employee of a corporation, any partner or employee of a partnership, any member or manager of a limited liability company, and any trustee or beneficiary of a trust.

3.6 Term. Directors shall hold office for a term of two years. To permit staggered terms, the Board of Directors may establish a procedure for one or more elections in which a director may be elected to a one-year term. Directors may be elected for successive terms.

3.7 No Cumulative Voting. For the election of any directors other than those appointed by the Founder, an Owner may cast votes (or partial votes) for as many candidates as there are Directors to be elected. An Owner is not required to use all of that Owner's votes; however, no cumulative voting shall be permitted. *For example, if there are three seats to be filled, the Owner may cast its vote each for one, two or three candidates, but shall not cast more than one vote for any particular candidate.*

3.8 Plurality Votes. The candidates receiving the highest number of votes shall be declared elected. If there are a large number of candidates, the Board of Directors may in advance of the voting determine that a majority or other certain minimum percentage of the votes be required for election and provide for run-off elections if such percentage is not achieved. Otherwise, Directors may be elected by a plurality; a majority is not required.

3.9 Removal.

- (a) **By Owners.** Any director may be removed from office, with or without cause, by at least a majority vote of the Owners entitled to elect such director, at any duly called meeting of Owners entitled to elect such director; provided no director appointed by the Founder may be removed by Owners prior to the Transition Date. A special Association meeting of the Owners entitled to elect such director to remove such director or directors from office may be called by Owners entitled to elect such director or directors representing 10% of the Allocated Interests of the Owner entitled to elect such director by giving notice of the meeting unless a higher percentage is required by the Act. The notice shall state the purpose of the meeting and be given to all

Owners entitled to elect such director or directors in writing at least one week prior to the Association meeting.

- (b) **By Board.** The Board may, without a vote of Owners, remove from the board any director or officer elected by the Owners if (a) the director or officer is delinquent in the payment of assessments more than sixty (60) days and (b) the director or officer has not cured the delinquency within thirty (30) days after receipt of notice of the Board's intent to remove the director or officer.

3.10 Vacancy. Any vacancy occurring in the Board of Directors other than at the time of election may be filled as follows:

- (a) **Directors Appointed by Founder.** The Founder may replace at any time any directors appointed by the Founder regardless of the reason for the vacancy.
- (b) **Commercial Directors.** Any vacancy occurring in the Commercial Directors may be filled by a majority vote of the remaining Commercial Directors even if there are not sufficient remaining Commercial Directors to constitute a quorum, except that a vacancy resulting from removal of a Commercial Director by the Owners shall be filled by a vote of the Owners of the Commercial Parcels;
- (c) **Residential Directors.** Any vacancy occurring in the Residential Directors may be filled by a majority vote of the remaining Residential Directors even if there are not sufficient remaining Residential Directors to constitute a quorum, except that a vacancy resulting from removal of a Residential Director by the Owners shall be filled by a vote of the Owners of the Residential Parcels.
- (d) **At-Large Directors.** Any vacancy occurring among the Directors selected at-large shall be may be filled by a majority vote of all remaining Directors even if there are not sufficient remaining Directors to constitute a quorum, except that a vacancy resulting from removal of an At-Large Director by the Owners shall be filled by a vote of the Owners.

A director filling a vacancy shall serve the unexpired term.

3.11 Compensation. Directors elected by the Owners shall receive no compensation for their services. Directors appointed by the Founder may be compensated by the Founder but not by the Association. Directors may be reimbursed by the Association for expenses relating to the fulfillment of their duties.

3.12 Indemnification. The Association shall indemnify any director, or former director in the manner and to the maximum extent permitted under the Act and the Washington Nonprofit Corporation Act.

IV. Officers

4.1 President. The President, who shall be elected by the Board of Directors, shall preside over the meetings of the Board of Directors and of the Association and shall be the chief executive officer of the Association. In the recess of the Board of Directors, the President shall have general control and management of the business and affairs of the Association.

4.2 Additional Officers. Subject to the provisions of the Vista Field Declaration and Articles, at each annual meeting of the Board of Directors, the Board of Directors shall elect the following officers of the Association:

- (a) **One or more Vice Presidents**, who shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform other such duties as prescribed by the Board of Directors;
- (b) **A Secretary**, who shall keep the minutes of all meetings of the Board of Directors and of the membership and who shall perform all the duties generally incident to the office of Secretary;
- (c) **A Treasurer**, who shall cause to be kept the financial records and books of account of the Association, and shall be responsible for Association funds and securities (if any); and
- (d) **Such additional officers** as the Board of Directors shall see fit to elect.

An individual may hold more than one position as permitted by applicable law.

4.3 Powers. The officers shall have the general powers usually vested in such officers of a nonprofit corporation and all powers designated under the Act and by these Bylaws, provided that the Board of Directors may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board of Directors may deem necessary.

4.4 Qualifications. The Officers need not be Owners or directors of the Association.

4.5 Term. Each officer shall hold office for the term of one year and until a successor shall have been elected and qualified.

4.6 Vacancy. The Board of Directors may fill any vacancies in any office. Any officer may be removed at any time, with or without cause, by the affirmative vote of a majority of the whole Board of Directors.

4.7 Compensation. Officers shall receive such compensation as determined by the directors. Officers may be reimbursed by the Association for expenses relating to the fulfillment of their duties.

4.8 Indemnification. The Association shall indemnify any officer, or former officer in the manner and to the maximum extent permitted under the Act and the Washington Nonprofit Corporation Act.

V. Board Meetings

5.1 Meetings. The Board must meet at least four (4) times per year. At least one of those meetings must be held within the Common Interest Community or at a place convenient to the Common Interest Community. After the Transition Date, the Board must meet at least four (4) times per year times per year within the Common Interest Community or at a place convenient to the Common Interest Community.

5.2 Notice. Meetings of the Board of Directors shall be held upon call by the President or a majority of the Board of Directors on not less than fourteen (14) days' notice to each Director and each Owner, unless the Board of Directors determines an emergency to exist, in which event the Board of Directors shall give such notice as is reasonable under the circumstances. Except under emergency conditions, all meetings shall be held in Benton County. Notice should specify the business to be transacted, and the purpose of, any regular or special meeting of the Board but failure to do so shall not invalidate the notice. If any materials are distributed to the Board before a meeting, the Board must make copies of those materials reasonably available to the Owners, except the Board need not make available copies of unapproved minutes or materials to be considered in executive session (as provided in Section 5.7 below).

5.3 Waiver. To the extent permitted by the Act and the Washington Nonprofit Corporation Act, any director may waive notice of a meeting or consent to the holding of a meeting without notice or consent to any action of the Board of Directors without a meeting. Such waiver or consent may be executed prior to, at, or subsequent to the meeting or Board of Directors action to which the waiver or consent relates. To the extent permitted by the Act and the Washington Nonprofit Corporation Act, attendance of a director or a committee member at a meeting shall constitute a waiver of notice of such meeting, except where a director or a committee member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

5.4 Percentage Required for Quorum. A quorum shall be a majority of the directors.

5.5 Majority Vote. Each director shall have one (1) vote. Except as otherwise provided by the Washington Nonprofit Corporation Act, the Vista Field Declaration, the Act, or by these Bylaws, passage of any matter submitted to vote of the Board of Directors at a meeting where a quorum is present, shall require the affirmative vote of at least 51% of the votes present.

5.6 Owners. The Board of Directors may provide for posting of Board meetings on a website or similar means easily accessible by all Owners.

5.7 Open Meetings; Executive Sessions. Meetings of the Board (which shall include any committee authorized to act for the Board) must be open to the Owners except during executive sessions as provided in the Act, but the Board may expel or prohibit attendance by any person who, after warning by the chair of the meeting, disrupts the meeting. At the meeting, the Board must provide a reasonable opportunity for Owners to comment on matters affecting the Common Interest Community or the Association. The Board may hold executive sessions only as provided in the Act. A final vote or action may not be taken during an executive session. An executive session may be held only as permitted under the Act.

5.8 Meeting by Conference. The Board may meet by participation of all board members by telephonic, video, or other conferencing process so long as the meeting notice, procedures and process are consistent with the Act.

5.9 Action by Directors Without a Meeting. Instead of a meeting, the Board may act by unanimous consent as documented in a record by all of the directors, provide, after the Transition Date, the Board may act by unanimous consent only to undertake ministerial actions, actions subject to ratification by the Owners, or to implement actions previously taken at a meeting of the Board.

VI. Committees

6.1 Appointment. Prior to the Transition Date, the Founder may appoint the Town Architect, committees, or other representatives pursuant to its Special Declarant Rights as set forth in Sections 1.5.3 and Part VII of the Vista Field Declaration to review all construction and modification during the Development Period. After the Transition Date, the Board may by resolution designate and appoint one or more committees each of which shall consist of two or more directors who have exclusive voting power for that committee, including an Architectural Review Committee as set forth in Section 7.3.1(c) of the Vista Field Declaration.

6.2 Powers. The Founder's representative(s) and/or committee, and any committee appointed after the expiration of the Transition Date may make recommendations to the Board or, to the extent provided in the Vista Field Declaration or provided in the resolution creating such committee, shall have and exercise the authority of the Board in the management of any designated aspects of the corporation (by resolution). The power of any committee shall be limited as provided by the Act and shall not operate to relieve the Board or any individual Director of any responsibility imposed by law.

VII. Records

7.1 Accounting and Auditing. The Board of Directors shall cause the Association to prepare a financial statement of the Association each year in accordance with accrual based accounting practices and applicable law. Once the annual assessments of the Association exceed \$50,000, the financial statements of the Association must be audited at least annually by a Certified Public

Accountant. If the annual assessments are less than \$50,000, the annual audit requirement may be waived by the Owners holding a majority of the votes (other than the Founder). After the first sale of a Parcel by the Founder, these accounting records shall include a record of receipts and expenditures and a separate account for each Owner showing the assessments charged to and paid by such Owner. After the first sale of a Parcel by the Founder, within ninety (90) days after the end of each year covered by an annual budget, the Board of Directors shall cause to be furnished to each Owner a statement for such year showing the receipts and expenditures and such other information as the Board of Directors may deem desirable. Upon reasonable notice to the Board of Directors and payment of any fee established by the Board of Director from time to time, any Owner shall be furnished a statement of the account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

7.2 Meetings. The Board of Directors shall keep a record of all meetings, both of the Board of Directors and of the Association. For each action taken, the record shall state the vote and a description of the action approved or disapproved, and may, where desired by the Board, the reasons why the action was considered necessary and a summary of the information on which the decision was based. The record shall be available for inspection by any Owner.

7.3 Other Records. The Association shall retain all other records specified in the Act. All such records required to be retained by an Association by the Act or otherwise under the law must be made available for examination and copying by any Owner, holders of mortgages on the Parcels, and their respective authorized agents, unless agreed otherwise, during reasonable business hours or at a mutually convenient time and location, and at the offices of the Association or its managing agent.

7.4 Confidential Records. Notwithstanding the foregoing, records retained by the Association may be withheld from inspection and copying to the extent that they concern the following or as otherwise permitted by the Act or applicable law:

- (a) Personnel and medical records relating to specific individuals;
- (b) Contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated;
- (c) Existing or potential litigation or mediation, arbitration, or administrative proceedings;
- (d) Existing or potential matters involving federal, state, or local administrative or other formal proceedings before a governmental tribunal for enforcement of the governing documents;
- (e) Legal advice or communications that are otherwise protected by the attorney-client privilege or the attorney work product doctrine, including communications with the managing agent or other agent of the association;
- (f) Information the disclosure of which would violate a court order or law;

- (g) Records of an executive session of the Board;
- (h) Individual Unit files other than those of the requesting Owner;
- (i) Unlisted telephone number or electronic address of any Owner or resident;
- (j) Security access information provided to the Association for emergency purposes; or
- (k) Agreements that for good cause prohibit disclosure to the members.

VIII. Handling of Funds

8.1 Accounts. The Association shall establish the funds or accounts required by the Act. Overall superintendence of these funds shall be the responsibility of the Treasurer. The funds of the Association shall not be commingled with that of the Commercial Association or any other association or with the funds of any managing agent of the Association or any other person, or be kept in any trust account or custodial account in the name of any trustee or custodian.

8.2 Loans. No loans shall be made by the Association to its directors or officers. The directors of the Association who vote for or assent to the making of a loan to a director or officer shall be jointly and severally liable to the Association for the amount of such loan until the repayment thereof.

IX. Dispute Resolution

To the extent permitted by the Act, in the event a deadlock on a matter requiring Board action or any dispute between Board members that cannot be resolved, upon the exhaustion of good faith efforts by the parties to resolve the dispute over a period of at least fifteen (15) days, either party to the dispute ("Party") may request the appointment of third party advisor (the "Advisor") to propose a resolution to the Parties of the matter in dispute as provided below. The Parties shall mutually select and appoint the Advisor. If they are unable to agree upon the selection of the Advisor, then the selection shall be made by the Presiding Judge of the Superior Court of Benton County upon the petition of any Party. The Advisor shall be a property manager with at least ten years' experience in condominium property management or a lawyer with at least ten years' experience in condominium law, who has no bias or partiality toward any Owner or Board member and is not an affiliate, employee, director, officer, official, partner, trustee, employee, or attorney of an Owner. To facilitate a resolution of the dispute, the Advisor initially shall present a non-binding advisory recommendation to the Parties to the dispute at a meeting called by the Board. At the meeting, the Parties shall review the recommendation from the Advisor, information submitted by the Parties and such additional information that the Advisor considers relevant to the issue. Following presentation of the Advisor's recommendation, the Parties shall determine whether they can resolve the dispute by agreement. To the extent permitted by the Act, if the Parties cannot resolve the dispute by agreement, then upon the request of either Party, the Parties shall submit the dispute to binding arbitration by an arbitrator selected by

agreement of the Parties; provided that if the Parties cannot agree on an arbitrator, the arbitrator shall be Judicial and Arbitration Mediation Service (JAMS). The arbitration shall be conducted in accordance with such lawful and reasonable practices and procedures as the arbitrator may approve, and the decision of the arbitrator following such arbitration shall be in writing delivered to all Parties and the Board, and shall be binding upon the Parties and not subject to appeal.

X. Amendment

The Bylaws may be altered, amended, modified or repealed by (a) two-thirds of the Directors, or (b) assent in writing of members representing a majority of the voting interests, provided, however, that rights reserved to the Founder cannot be modified without the Founder's consent.

XI. Interpretation

Operation of the Association shall at all times comply with the Act and the Washington Nonprofit Corporation Act, and any provision in conflict the Bylaws shall be deemed rewritten to comply. In the event of a conflict among the Act, Washington Nonprofit Corporation Act Bylaws, Articles, or Vista Field Declaration, the Act shall control, followed by the Washington Nonprofit Corporation Act, the Vista Field Declaration, the Articles, and then these Bylaws.

These Bylaws were adopted by the Board of Directors on _____, 20_____.