



**2003 AMENDED AND RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR FAIRWAY VILLAGE**

This 2003 Amended and Restated Declaration of Covenants, Conditions and Restrictions for Fairway Village (“2003 CC&R’s”) is made this \_\_\_ day of December, 2003 by Fairway Village Homeowners Association (“Association”).

**RECITALS**

A. Fairway Village is a community of owners established by the recording of Declaration of Covenants, Conditions and Restrictions (the “Initial CC&R’s”) January 15, 1982, under Recording No. 8201150123, Records of Clark County Auditor, Clark County, Washington. The Initial CC&R’s were amended by the following documents recorded in the Records of Clark County Auditor, Clark County, Washington:

Document recorded May 19, 1982 under Recording No.8205190055

Document recorded March 10, 1989 under Recording No. 8903100111

Document recorded May 19, 1993 under Recording No. 9305190031

B. By Amendment to and Restatement of Declaration of Covenant, Conditions and Restrictions for Fairway Village (the “1996 Restated CC&R’s”) recorded November 8, 1996 under Recording No. 9611080215, the Initial CC&R’s (and all amendments thereto) were amended and restated in their entirety. The 1996 Restated CC&R’s were further amended by document recorded July 30, 1999 under Recording No. 993135319.

C. Association is the association of owners formed pursuant to the Initial CC&R’s and incorporated on August 26, 1983 as a nonprofit corporation under Washington law. The Association is currently governed by Restated Bylaws of Fairway Village Homeowners Association, a Washington State Nonprofit Corporation recorded November 8, 1996 as Recording No. 9611080214, as amended by document recorded December 19, 2000 under Recording No. 3276315. 2003 Amended and Restated Bylaws of Fairway Village Homeowners Association, A Washington Nonprofit Corporation, is being recorded concurrently with these 2003 Restated CC&R’s.

D. Section 4.2 of the 1996 Restated CC&R’s provides that the CC&R’s may be amended at any time with the approval of fifty one percent (51%) or more of the total voting power of the Association taken at any Association regular or special meeting duly called for such purpose.

E. Pursuant to Section 4.2 of the 1996 Restated CC&R's, on September 30, 2003, members approved certain amendments to the 1996 Restated CC&R's

F. Association desires to record the amendments to the 1996 CC&R's approved September 30, 2003 in accordance with Section 4.2 of the 1996 Restated CC&R's.

G. The Board of Directors, on behalf of the Association, desires to restate the 1996 Restated CC&R's in their entirety, including the amendment recorded July 30, 1999 under Recording No. 993135319 and amendments approved September 30, 2003.

**NOW, THEREFORE:**

1. With the approval of fifty-one percent (51%) or more of the total voting power of the Association, the 1996 Restated CC&R's are amended.

2. The 1996 Restated CC&R's are restated in their entirety. The 1996 Restated CC&R's, including the amendment recorded July 30, 1999 under Recording No. 993135319 and amendments approved September 30, 2003, are restated to read as follows:

**DEFINITIONS**

**A – Association:** “Association” shall mean and refer to “Fairway Village Homeowners Association”, a nonprofit Washington corporation, incorporated on August 26, 1983, its successors and assigns.

**B – Board:** “Board” shall mean and refer to the Board of Directors of Fairway Village Homeowners Association.

**C – Common Areas:** “Common Areas” shall mean and include all of the land described in that certain deed from Declarant to the Association, recorded January 9, 1995, under File #9501090175, official records of Clark County Auditor, together with all improvements, recreational and maintenance facilities located thereon, provided, however, that this term shall not include the general and limited common areas and facilities located within Fairway View.

**D – Condominium Association:** “Condominium Association” shall mean and refer to the Fairway View Association of Apartment Owners.

**E – Condominium Unit:** “Condominium Unit” shall mean and refer to a residential condominium apartment located within Fairway View, including its undivided interest in the common areas and facilities and all easements and rights appurtenant thereto.

**F – Declarant:** “Declarant” shall collectively mean and refer to the original developer, Tualatin Development Co., Inc., and to Hayden Corporation, d.b.a. Hillman Properties Northwest, Inc., successor as developer to said Tualatin Development Co., Inc..

**G – Fairway View:** “Fairway View” shall mean and refer to those certain residential condominium units located within Fairway Village, together with all general and limited common areas and facilities and all easements and rights appurtenant thereto, as more particularly designated and described in the Declaration of Covenants, Conditions and Restrictions and Reservations, recorded May 11, 1989, under File #8905110002, official records of Clark County

Auditor, having been heretofore developed pursuant to the provisions of Chapter 64.32, revised Code of Washington, commonly known as The Horizontal Property Regimes Act.

**H – Fairway Village:** “Fairway Village” shall mean and refer to that certain real property situated in Clark County, Washington, as more particularly described in the plat thereof recorded in Book H, Page 167, of plats, official records of the County, and all plats contiguous heretofore made applicable of record, either by declaration of the Declarant or by imposition in conveyances by Declarant of the individual lots or condominium units in such plats, which plat, lots and condominium units, individually and collectively, as hereinafter referred to as “Fairway Village”.

**I – Lot:** “Lot” shall mean and include any residential lot located within Fairway Village, including the improvements constructed thereon, but shall not include the condominium units in Fairway View.

**J – Membership:** “Proprietary Member” shall mean and include every owner of a lot or condominium unit, whether or not approved by the Board to occupy such premises. “Associate Member” shall mean and include every occupant who is not an owner, but who has been approved by the Board for occupancy as an Associate Member.

**K – Occupant:** “Occupant” shall mean any person actually residing in any unit within Fairway Village, but does not include a guest or house sitter.

**L – Owner:** “Owner” shall mean and include every record owner, whether one or more persons or entities, of the fee simple title to any lot or condominium unit within Fairway Village, including contract purchasers, but excluding those holding such title merely as security for the performance of an obligation.

**M – Unit:** “Unit” shall mean both an individual residential lot and a condominium unit.

WITNESSETH

WHEREAS, Declarant has heretofore established a general plan for Fairway Village, including these CC&R’s, and has organized an Association to supervise and enforce the provisions contained in these CC&R’s and to administer the common areas thereof; and

WHEREAS, Declarant no longer has any control over, nor responsibility for Fairway Village, and has, in accordance with the provision of Section 3.2 of the CC&R’s dated May 19, 1982, heretofore conveyed the common areas to the Association; and

WHEREAS, the Association has accepted the conveyance of the common areas and has thereby accepted the authority and responsibility for the operation and maintenance thereof; and

WHEREAS, the Association desires to administer common areas for the use and benefit of all owners and occupants of Fairway Village and to supervise and enforce compliance with these CC&R’s; and

WHEREAS, it is the spirit and intent of these CC&R’s that they provide a framework by which a pleasing, uncluttered, and peaceful environment may be maintained for the enjoyment, pleasure and safety of all occupants and their guests in Fairway Village and it is expected that all residents

and the Association will act in good faith in their interpretation and enforcement of these CC&R's.

NOW THEREFORE, the Association, in order to continue the general plan to provide a community for persons 55 years of age or older and to provide for preservation of the values and amenities in the community, hereby reaffirms that the real property shall be held, leased, mortgaged, encumbered, conveyed, used, occupied and improved subject to and with the benefit and protection of these CC&R's and easements, which shall run with the land and be binding upon all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

## SECTION 1 – PROPERTY RESTRICTIONS

1.1 **LAND USE:** The location of the golf course, all lots, condominium units, easements, recreational and maintenance areas shall be as specified in the various Fairway Village and Fairway View plats heretofore recorded in the official records of the Clark County Auditor. Only single-family dwellings, with attached garages, shall be permitted on any residential lot in Fairway Village, and only condominium units, with attached or detached garages, shall be permitted in Fairway View. No structure of a temporary character shall be erected or maintained on any lot or on any part of Fairway View.

### 1.2 **USE OF PROPERTY:**

1.2.1 No unit shall be used for the conduct of business or any commercial purpose (See Policy Statement adopted by the Board, January 31, 1997).

1.2.2 The renting/leasing of a unit not occupied by a proprietary member during the course of the rental/lease agreement shall be deemed a commercial purpose unless the renter/lessee, meeting occupancy requirements, is either a sibling, child, grandchild, parent, or grandparent of the proprietary member. See also Section 1.14B.

A proprietary member may rent/lease a unit, or portion thereof, to any person meeting occupancy requirements, provided the proprietary member also occupies the unit during the term of the rental/lease agreement.

A unit acquired by inheritance may be rented/leased by an heir under 55 years of age to any person meeting occupancy requirements for no longer than one year after the heir becomes 55 years of age. In case of multiple heirs, the one-year period shall commence upon any of the heirs becoming the aforementioned age.

A unit acquired by an heir 55 years of age or over may be rented/leased to any person meeting occupancy requirements for no longer than one year after transfer of the unit to the heir.

A unit being rented/leased on the date these amended CC&R's are filed with the Clark County auditor may continue to be rented/leased until such unit is sold or title otherwise transferred. A unit not being rented/leased on the date of such filing may be rented/leased only under the conditions identified herein.

A proprietary member may request an exception, variance, waiver or consent pursuant to Section 1.18 based upon special circumstances not generally applicable to all proprietary members.

All renters/lessees shall conform with, and be governed by, Section 1.14 (Occupancy of Units) and Section 2.2 (Associate Members). An owner renting/leasing to another shall adhere to the requirements of Section 2.1 (Proprietary Members) regarding renting/leasing.

1.2.3 Garbage and other waste shall be kept in sanitary containers away from public view and disposed of regularly.

1.2.4 Drying lines or apparatus shall be screened from public view.

1.2.5 Installation of freestanding flagpoles, exterior mounted antennas, including satellite dishes, or structures are prohibited unless prior written approval is obtained from the Architectural Review Committee. No means or device shall be operated or maintained that interferes with normal TV reception.

1.2.6 Exterior lights shall be positioned or shaded to avoid being a nuisance to neighbors.

1.2.7 No exterior speakers of other sound devices, except those used for security purposes, shall be used on any unit unless positioned or controlled to avoid being a nuisance to neighbors.

1.2.8 Every resident and unit owner shall comply with applicable governmental ordinances.

1.2.9 Nothing shall be done which may constitute a nuisance or aesthetic burden to the neighborhood or occupants.

1.3 **FENCES, HEDGES AND WALLS:** No hedge, fence, wall or other structure shall be altered, constructed or exist anywhere on a lot without prior written approval from the Architectural Review Committee. No planting or structure obstructing vision at roadway intersections or driveways shall be allowed.

Installation and maintenance of retaining walls that are required, and approved in writing by the Architectural Review Committee, due to topographic conditions of individual lots are the sole responsibility of the property owner and are to be aesthetically incorporated into the landscaping of the lot.

1.4 **SLOPE AND DRAINAGE EASEMENTS:** The owner or occupant of a building site shall permit access by the owner or occupant of an adjoining site to slopes or drainage ways on the property of the former to maintain slopes or drainage facilities for the protection and use of such adjoining site. No owner or occupant shall block or otherwise interfere with the established drainage pattern over his or her land from or to adjacent land.

1.5 **LANDSCAPING AND MAINTENANCE:** All yards shall be landscaped or re-landscaped to conform to the general patterns of others in the community, as established at the sole discretion of the Association. All landscaping shall be in compliance with the Architectural Design Manual and approved by the Architectural Review Committee. All yards and growth thereof shall be maintained, cultivated, pruned, and kept free from insects, weeds and diseases.

1.6 **TREES:** No tree within Fairway Village shall be removed, damaged or excessively trimmed without prior written approval from the Architectural Review Committee. The Architectural Review Committee may require a written statement from a licensed arborist certifying that a tree should be severely trimmed or removed for the protection of persons or property.

1.7 **YARD/PATIO ORNAMENTATION:** All ornamentation, such as figurines, plastic flowers, colored lights, windmills, birdbaths or feeders, shall either be screened from public or neighboring view or approve by the Architectural Review Committee. This section shall not apply to seasonal holiday decorations, but such decorations must be promptly removed after the holiday.

1.8 **ALTERATIONS AND ADDITIONS:** No exterior alteration or addition shall be made to any premises, including walls, fences, and buildings without prior written approval from the Architectural Review Committee.

1.9 **ROOFS AND EXTERIOR PAINT COLOR:** No roof shall be replaced with other than like material and color and no structure shall be repainted with other than like color without prior written approval from the Architectural Review Committee.

1.10 **SIGNS:** No sign, except a security system sign issued by the installer, shall be erected or displayed upon any unit, yard or common area without prior written permission from the Architectural Review Committee. Permission shall not be required for one (1) temporary sign no larger than eighteen (18) inches by twenty-four (24) inches advertising for sale the real property on which the sign is posted, or for seasonal holiday decoration. One sign of similar proportions advertising a moving or estate sale may be posted on the property, provided permission from the Board has been obtained before the sale. Such sign must be removed immediately upon completion of the sale or conclusion of the project.

1.11 **PARKING:** In keeping with the desired aesthetics of the community, parking in Fairway Village is subject to the following:

A – Definitions

a) Vehicles – includes but not limited to cars, trucks, buses, vans, golf carts, recreational vehicles, campers, trailers, boats, construction equipment, motorcycles, bicycles and motorbikes, whether subject to DMV licensing or not.

b) Occupant Vehicle – a vehicle owned or controlled by an occupant, including ones leased, rented, borrowed, business owned, under trusteeship, etc.

c) Guest Vehicle – a vehicle owned/controlled by a visitor.

d) Passenger Vehicle – cars, minivans, station wagons, sport utilities and pickup trucks designed and used principally to transport people. The following do not fall into the category of passenger vehicles:

1 – Vehicles displaying advertising, names, etc.

2 – Trucks larger than  $\frac{3}{4}$  ton, buses and large vans.

3 – Vehicles designed to accommodate sleeping.

4 – Motorcycles, bicycles, golf carts, motorbikes, boats, trailers and construction equipment.

e) Day – for purposes of these rules, parking overnight will constitute a day.

B – Parking in the condominium areas is controlled by the Condominium Association governing documents and regulations.

C – All other parking within Fairway Village is restricted to garages, driveways, streets, and the clubhouse parking area.

D – The clubhouse parking area is restricted to vehicles operated by persons using the clubhouse/golf facilities or by special permit.

E – Guest vehicle parking on the street shall not exceed three (3) consecutive days.

F – Occupant vehicles shall only be parked in garages, except passenger vehicles may be parked in driveways.

G – Parking of occupant vehicles on the street for the purpose of loading/unloading or making minor repairs is permitted for a period not to exceed three (3) days. No major repair, construction or reconstruction of a vehicle shall be undertaken except in a garage.

H – Vehicles parked in driveways shall not overhang the sidewalk.

I – Variances to any of the above require the approval of the Board.

1.12 **ANIMALS:** A maximum of two (2) household pets, defined as dogs, cats or birds, are allowed. Household pets may not be bred or maintained for a commercial purpose. Pets must be licensed as provided by governmental ordinances.

Pets shall be allowed to run free only in a fenced yard and shall be on a leash when otherwise not confined. Pets are not permitted on the golf course, in the clubhouse or swimming pool area.

Owners of pets are required to remove excrement deposited by their animals. No pet shall be permitted to become a nuisance or a source of annoyance to other residents. The Board

may require the removal of an animal, which it finds is unreasonably disturbing other residents. The feeding of ducks, geese, seagulls or other wildlife capable of damaging the golf course is prohibited.

**1.13 MOVING, ESTATE, YARD OR GARAGE SALES:** Upon the relocation or death of an occupant, one in-house moving/estate sale not to exceed two (2) days duration will be allowed each unit or each separate occupant of that unit provided permission is obtained from the Association office prior to commencing a sale. Sales not connected with moving or estate settlements are not permitted.

**1.14 OCCUPANCY OF UNITS:** Only qualified occupants, their guests and house sitters may occupy a unit. A qualified occupant is any person who is fifty-five (55) years of age or older, or

A – Is a person eighteen (18) years of age or older, who is a spouse, child or grandchild of a qualified occupant, or

B – Any other person eighteen (18) years of age or older, residing in the unit with a qualified occupant. A variance is required for two (2) or more persons qualifying under this category.

At least one person in the unit must be fifty-five (55) years of age or older. All qualified occupants are subject to membership (Section 2). See Section 1.15 for restrictions for guests and Section 1.16 for house sitters.

**1.15 GUESTS:** Except for golfing facilities, guests may not use any facility unless accompanied by a qualified occupant. Under no circumstances may a clubhouse key be given or loaned to a guest. Guests are subject to all rules and regulations governing the facilities.

After residency for sixty (60) days consecutively or in a calendar year, a guest eighteen (18) years of age or older must apply for associate membership and an assessment paid. Visits of guests under eighteen (18) years of age are limited to thirty (30) days in a calendar year. Beyond thirty (30) days, a variance must be obtained from the Board, which can be for no more than an additional thirty (30) days.

**1.16 HOUSE SITTERS:** House sitters during the absence of the occupant must be fifty-five (55) years of age or older unless granted a variance by the Board. House sitters must be registered (including beginning and ending dates) at the Association office. A variance is required for a stay of more than sixty (60) consecutive days or in a calendar year. House sitters have the same status as guests. See Section 1.15 (Guests) regarding use of facilities and associate membership. A house sitter may not be a renter, lessee or sub-lessee.

**1.17 LOTS SOLD TO BUILDERS:** When lots are sold or otherwise conveyed to builders, construction thereon must commence within three (3) months from the date of conveyance. No building shall commence prior to review and approval of the Architectural Review Committee. All exterior improvements, including the removal of construction debris, must be completed within three (3) months from the date construction commenced. All landscaping must be completed within nine (9) months from date of conveyance to the builder. In the event the builder or owner fails to adhere to this schedule, the Association may seek a remedy in law or in equity.

**1.18 GRANT OF WAIVERS OR CONSENTS:** the Board shall have jurisdiction and authority to grant or extend any exception, variance, waiver, or consent, permitted under any of the foregoing Sections 1.1 through 1.17 inclusive, provided, however, with respect to Fairway

View, such authority is hereby delegated to the Board of Directors of the Fairway View Condominium Association.

The granting, or refusing to grant or extend an exception, variance, waiver or consent shall not be deemed a waiver or forfeiture of either the Board's jurisdiction and authority to grant or refuse to grant or extend an exception, variance, waiver or consent in subsequent applications. The foregoing delegation of authority to the Fairway View Condominium Association shall not be construed as exempting that Association from full compliance with the intent and purposes expressed in Sections 1.1 through 1.17.

## SECTION 2 – MEMBERSHIP AND ASSESSMENTS

**2.1 PROPRIETARY MEMBERS:** Each owner shall be a proprietary member and subject to the governing documents and Board resolutions. The purchaser in a contract for the purchase and sale of a unit shall be deemed the owner of such unit for these purposes.

Each residential unit is entitled to one (1) vote. This vote can only be cast by a proprietary member.

Proprietary members are liable for any damages to the Association's real or personal property cause by the proprietary member, the member's renter/lessee, guest, house sitter, employee or agent and are at all times responsible for the appearance of the proprietary member's unit.

When renting/leasing a unit, the proprietary member shall present to the renter/lessee a copy of these CC&R's and Bylaws. Also see:

Section 1.2 – Use of Property

Section 1.14 – Occupancy of Units

Section 2.2 – Associate Members

Proprietary members shall obtain from the renter/lessee a written agreement that the renter/lessee will abide by all the governing documents and other Association rules and regulations. A copy of this agreement shall be submitted to the association office when the rental/lease agreement is executed as a prerequisite to the renter/lessee applying for associate membership.

The right and privileges of proprietary membership shall terminate when the holder of any such membership ceases to qualify as an owner or moves from Fairway Village, except moving from Fairway Village while holding an ownership interest does not disqualify a member from voting.

**2.2 ASSOCIATE MEMBERS:** Each occupant of a unit not eligible for proprietary membership, but who satisfies the membership requirements of the governing documents, shall be an associate member. An associate member shall have the same rights and privileges as those persons holding a proprietary membership, except the right to vote or become a member of the Board. At any time an associate member ceases to qualify as an occupant, the rights and privileges as an associate member shall terminate.

**2.3 ASSESSMENTS AND FEES:** The Board is vested with the power and authority to assess and collect from its proprietary members:

A – Annual assessments and charges on a per qualified occupant basis.

B – Special assessments for capital purposes on a per unit basis.

C – Late payment fee on overdue accounts.

If no one resides in the unit during the calendar year, the owner of the unit will be assessed as if there were one occupant.

2.4 **PURPOSE OF ASSESSMENTS:** The assessments and fees levied by the Association shall be used exclusively for promoting the recreation, health, welfare and protection of all residents and, in particular, for the improvement and maintenance of the buildings, services, golf course, open spaces and other facilities related to the use and enjoyment of the common areas and facilities in Fairway Village.

2.5 **ANNUAL ASSESSMENTS:** The annual assessment shall be adopted by the Board pursuant to Section 4.6 of the Bylaws for the purpose of defraying common costs. Proportional distribution on a calendar year basis will be applied to any occupant whose occupancy permanently commences or terminates other than as of January 1. Temporary or partial year residency does not qualify for assessment prorating. The annual assessment may be increased or decreased effective January 1 or July 1 of each calendar year.

2.6 **SPECIAL ASSESSMENTS:** The Board may levy a special assessment, pursuant to Section 4.6 of the Bylaws, effective January 1 or July 1 of each calendar year. The special assessment shall be for the purpose of defraying in whole or in part the cost of any construction or reconstruction, major repair, or replacement of any improvement described in the meeting notice at which such action shall be considered. The special assessment will not be prorated for partial year occupancy.

2.7 **LATE PAYMENT FEES:** A late payment charge will be levied on overdue payments. Payments over ninety (90) days late shall be turned over to an attorney with no payment accepted unless all legal fees and other related costs are paid in full. Such overdue payments and related fees and costs shall be a charge against the respective unit and a continuing lien against the unit on which the assessment was made.

2.8 **OFFSETS:** No offsets against any assessment or fee shall be permitted for any reason, including, without limitation, any claim that the Association is not properly discharging its duties.

2.9 **NEW BUYER FEE:** A Fairway Village New Buyer Fee of one thousand dollars (\$1,000) will be due and paid to the Fairway Village Homeowners Association out of escrow for all units closing escrow on or after October 1, 1999. Such fee shall not be refundable and shall be utilized for the Replacement Fund that is designated for replacement and major repair expense. Proprietary members of Fairway Village who purchase another unit within Fairway Village for their personal residence are exempt from payment of this fee.

### SECTION 3 – LIENS AND ENFORCEMENT

3.1 **COVENANT RUNNING WITH THE LAND:** These CC&R's shall constitute covenants and servitude running with the land and shall be binding upon, inure to the benefit of, and enforceable by, the Association or any owner.

3.2 **BINDING EFFECT:** Declarant has heretofore made the CC&R's recorded May 19, 1982, under Auditor's File #820519005, and all subsequent amendments thereto, applicable to all lots and condominium units in Fairway Village. By reason thereof, each owner and any party claiming under an owner shall be deemed conclusively to have accepted such lot or condominium unit upon and subject to all of the covenants, conditions, restrictions and provisions herein contained and to have agreed to be bound thereby, whether or not the same are set forth or referred to in any instrument by which such person acquired title thereto, possession thereof or interest therein.

### **3.3 JOINT AND SEVERAL LIABILITY:**

3.3.1 Each member of the Association and member guests, house sitters, agents and tenants are governed by and must comply with the Association's governing documents and resolutions of the Board. The proprietary member is responsible for correcting any breach of these CC&R's by any occupant, guest, house sitter, agent or tenant of the proprietary member's unit and is jointly and severally liable to the Association for any damages to the common property caused by an occupant, guest, house sitter or agent.

3.3.2 In addition, the assessments, fees, legal fees and related cost provided for in Section 2 hereof shall be the personal obligation of any person who was an owner of such property at the time the assessment, related cost or fee became due. No owner may avoid liability for payment of such assessments, related costs or fees by non-use of the common facilities by any owner or occupant or by abandonment of the property.

3.3.3 In any legal proceeding for the breach of Section 1.14 hereof, respecting occupancy, such action may include any owner who occupies or permits the property to be occupied in violation of this section as well as any occupant in violation thereof.

3.4 **NOTICE OF BREACH:** The Association may execute, acknowledge and record a Notice of Breach, setting forth the facts thereof, together with any monetary amount involved, including legal fees and other related costs, a legal description of the lot or condominium unit against which the lien is claimed, and the name of the record or reputed record owner thereof. Such notice, when recorded with the Clark County Auditor, Washington, shall be public notice of such breach, and constructive notice to any subsequent purchaser.

If the breach is cured prior to foreclosure of the lien, the Association shall record a further notice stating that the claim of breach has been satisfied and releasing any lien involved. But, if no action for enforcement thereof has been commenced within one hundred twenty (120) days after recording the notice, the Notice of Breach shall expire by its own terms and the breach described therein shall be presumed to have been remedied.

### **3.5 ENFORCEMENT – NON-WAIVER:**

3.5.1 Breach, or attempted breach, of any of the provisions contained in these CC&R's and the continuation of any such breach or attempted breach may be enjoined, abated or remedied by appropriate legal proceeding by the Association or by any owner, and the prevailing party in such litigation shall be entitled to recover court costs and reasonable attorney fees.

3.5.2 Failure or delay by the Association or by any owner to enforce any provision of these CC&R's shall not constitute a waiver of the right to enforce the same thereafter.

### **3.6 ASSOCIATION OPTION TO REMEDY VIOLATIONS:**

3.6.1 The Association shall have, at its option, the power and right at all times, after thirty (30) days written notice to the owner and any occupant, and for the account of the owner, to abate and correct any violation of the provisions contained herein respecting land and the exterior appearance of the improvements on any residential lot in Fairway Village; to plant or replant, trim, remove, cultivate or otherwise maintain any vegetation and to clean, paint, repair, replace and generally maintain the exterior of any improvements thereon in order to maintain the general attractive character of Fairway Village. All expenses incurred by the Association in correcting such violations shall be a charge and a lien against the lot involved, and the person obligation of the owner thereof. The Association may bring an action at law against the owner or foreclose the lien against the property.

Notice to owners and occupants shall be deemed served when hand delivered to the unit or deposited in the US mail, postage prepaid, certified, return receipt requested, addressed to the

street address of the property or, in the case of an absentee owner, to the owner's address in the Association's record.

3.6.2 The Association shall also have, at its option, a like power and right at all times, after thirty (30) days written notice to the Condominium Association, to abate and correct any violation of the provisions contained herein respecting landscaping and the exterior appearance of the general and limited common areas, improvements and facilities in Fairway View; and to plant or replant, trim, remove, repair, replace and generally maintain the exterior of any improvements and facilities thereon in order to maintain the general attractive character of Fairway Village. All costs incurred by the Association in correcting such violations shall be at the expense of the Condominium Association.

Notice to the Condominium Association shall be deemed served when hand delivered to the President of the Association or when deposited in the US mail, postage prepaid, certified, return receipt requested, addressed to the street address of either President of the Association or its managing agent.

3.7 **REMEDIES TO BE CUMULATIVE:** The remedies herein provided for breach of any provision hereof shall be deemed cumulative and may be enforced individually or jointly and in any order. None of such remedies shall be deemed exclusive.

#### SECTION 4 – GENERAL PROVISIONS

4.1 **TERMINATION:** All of these CC&R's herein shall apply to all units and shall be binding upon owners and occupants of a unit until January 1, 2080. At that time the CC&R's shall automatically extend for successive periods of ten (10) years unless, effective January 1, 2080, or at the end of any ten (10) year extension, 75 percent (75%) or more of the total voting power of the Association resolve to terminate these CC&R's.

4.2 **AMENDMENTS:** The provisions of these CC&R's may be amended at any time by approval of fifty-one percent (51%) or more of the total voting power of the Association. Such action may be taken at any Association regular or special meeting duly called for such purpose. Any such amendment shall be effective only upon the recording, with the Clark County Auditor, Washington, an instrument executed by the proper officers of the Association, setting forth such amendment, together with appropriate references to these CC&R's and attesting that the amendment has been approved as herein above specified.

4.3 **SEVERABILITY:** Invalidation by any appropriate authority of any one or more of these CC&R's, or as hereafter amended, shall not affect any of the remaining provisions, which shall remain in full force and effect.

4.4 **BINDING EFFECT:** The provisions contained in these CC&R's, or as hereafter amended, shall bind and inure to the benefit of and be enforceable by the association, owner of any unit and their respective representatives, successors, or assigns.

4.5 **NON-WAIVER:** Failure or delay by the Board or an owner to enforce any of these CC&R's shall not be deemed a waiver or forfeiture of the right to do so thereafter.

4.6 **COVENANT RUNNING WITH THE LAND:** These CC&R's shall be operative as a set of covenants, conditions and restrictions running with the land or equitable servitudes.

4.7 **INTERPRETATION:** When interpreting these CC&R's, the term "owner" or "person" may include individuals, partnerships, corporations, associations, trustees and personal

representatives. The singular may include the plural and the masculine may include the feminine, or vice versa, where the context so admits or requires.

In the case of any conflict among the Articles of Incorporation, these CC&R's and the Bylaws, the Articles of Incorporation shall control over both these CC&R's and the Bylaws and the CC&R's shall control over the Bylaws.

In the case of any conflict between these CC&R's and the Declaration of Covenants, Conditions, Restrictions and Reservations for Fairway View Condominiums 1-19, these CC&R's shall control.

4.8 **CAPTION AND SCHEDULE:** Captions given to the various sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof.

This amendment is effective upon recording with the Clark County Auditor, Washington.

