**SECOND AMENDED AND RESTATED**

 **MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**FOR**

**THE COMMUNITY OF CANYON LAKES**

**Table of Contents**

Section 1 – Definitions ………………………………………………………. Page 4

*This revised Section 1 eliminates certain definitions that are no longer applicable or better defined elsewhere, such as “condominium,” “local association,” “supplemental declaration” “private area,” “unit,” “unit owner,” and “resident”. Terms that were previously addressed elsewhere are added, including the terms “lot” and “declaration.” The significant change is replacing the terms “private area” and “unit” with the terms “lot” and “lot owner.” The term lot is now used throughout the entire document. “Property” governed by the CCRs is now an Appendix.*

Section 2 – Property Subject to Declaration – Supplemental Declarations –

Approval Required ……………………………….……………. Page 5

*This revised Section 2 introduces the term “supplemental declaration,” which was removed from Section 1. The significant change is clarifying the requirement that supplemental declarations are valid only upon written approval by the Board of Directors.*

Section 3 – Reserved…………………………………………………….…… Page 5

*This Section 3 originally dealt with withdrawal of property. It was deleted in the previous 2009 update.*

Section 4 – Reserved………………………………………………………… Page 5

*Section 4 previously dealt with land classifications now addressed in the definitions or elsewhere. Some classifications no longer apply, such as “private way” and “private recreational area”.*

Section 5 – Consolidation of Lots …………………………………….......... Page 6

*This revised Section 5 removes the restriction prohibiting structures to be placed upon orphaned lots. Instead, this Section provides the Board the ability to impose reasonable restrictions to the use and development of such lots. Notably, this Section provides that lots may be consolidated through boundary lines adjustments, and that such lots will be subject to a single assessment. Such consolidation must be approved by the Board to ensure CCR compliance.*

Section 6 – Community Rules and Regulations………………………………. Page 6

Section 6.1 – Rule Making Generally………………………………… Page 6

*This subsection removes terms no longer used, such as “private way,” and “private recreational areas.”*

Section 6.2 – Rule Making for Lots………………………………….. Page 6

*This subsection expands the Board’s rule making authority to include irrigation, burning, holiday lighting and decorations, signage and reasonable time limits on Lot improvement start dates.*

 Section 6.3 – Administration of Rules………………………………… Page 7

*This subsection adds the requirement that the Association rules must be posted on the Association’s website.*

Section 6.4 – Repeal by Lot Owners…………………………………. Page 7

*This subsection adds clarification as to definitions relating to members “present” at a meeting and what constitutes a quorum.*

Section 7 – Assessments………………………………………………………. Page 7

Section 7.1 – Regular Assessments…………………………………… Page 7

*This revised Section 7.1 introduces limits on the Board’s ability to increase the regular assessment budget (to 10% annually).*

Section 7.2 – Payment of Regular Annual Assets…………………….. Page 7

*This subsection reverts back to Section 7.2 in the 2009 version of the CCRs, “Payment of Regular Annual Assets,” which allows late fees and a 5% discount on early payment of the annual assessment.*

Section 7.3 – Transfer Assessment………………………………..... Page 8

*This subsection remains unchanged, aside from updating language to be consistent with Section 1.*

Section 7.4 – Increase in Maximum Amount of Regular Annual

Assessment with Consent of Lot Owners…………………………… Page 8

*This subsection provides the Board with the ability to increase the annual assessment fund, should the Board deem it necessary to increase the fund beyond 10% of the previous year’s budget.*

Section 7.5 – Special Purpose Assessments…………………………… Page 8

*This subsection provides that the Board can allow special assessments to be payable in installments or early for a discount.*

Section 7.6 – Use of Assessment Funds……………………………….. Page 8

*This subsection expands the Board’s ability to allocate Assessment Funds to include goods and improvements which the Board deems beneficial to Lot Owners.*

Section 7.7 – Annual Accounting……………………………………… Page 9

*This subsection remains unchanged.*

Section 7.8 – Joint and Several Liability………………………………. Page 10

*This subsection remains unchanged, aside from updating language to be consistent with Section 1.*

Section 7.9 – Default in Payment of Assessments and Charges; Liens... Page 10

*This subsection adds the provision that Lot Owners may be liable for lien filing costs against the Lot Owner by the Association.*

Section 7.10 – Budget Required………………………………………… Page 10

*This subsection adds clarification as to definitions relating to members “present” at a meeting and what constitutes a quorum.*

Section 8 – Architectural Review Committee………………………………….. Page 10

 Section 8.1 – Function of Architectural Review Committee…………… Page 10

 *This subsection remains unchanged, aside from updating language to be consistent with Section 1.*

Section 8.2 – Members………………………………………………….. Page 11

*This subsection removes the three (3) year term limit on committee members and adds the requirement that the Board shall keep committee members’ phone numbers, emails, and addresses on file.*

Section 8.3 – Action…………………………………………………..… Page 11

*This subsection remains unchanged.*

Section 8.4 – Failure to Act…………………………………………...… Page 11

*This subsection remains unchanged.*

Section 8.5 – Duties and Rules……………………………………….… Page 11

*This subsection removes the requirement for prior committee approval for lot improvements involving planting/cutting vegetation and installation of utilities and adds a requirement for committee approval for all landscaping that may reasonably interfere with other neighbor’s enjoyment of their property. This subsection also adds the requirement that the Architectural Committee Rules must be published online.*

Section 8.6 – Non-Waiver……………………………………………….. Page 11

 *This subsection remains unchanged.*

Section 8.7 – Estoppel Certificate……………………………………….. Page 12

 *This subsection remains unchanged, aside from updating language to be consistent with Section 1.*

Section 8.8 – Liabilities…………………………………………………. Page 12

 *This subsection remains unchanged, aside from updating language to be consistent with Section 1.*

Section 9 – The Association…………………………………………………….. Page 12

Section 9.1 – Organization of the Association………………………….. Page 12

 *This subsection remains unchanged, aside from updating language to be consistent with Section 1.*

Section 9.2 – Duties of the Association…………………………………. Page 12

 *This subsection remains unchanged, aside from updating language to be consistent with Section 1.*

Section 9.3 – Membership……………………………………………….. Page 12

 *This subsection remains unchanged, aside from updating language to be consistent with Section 1.*

Section 9.4 – Voting…………………………………………………….. Page 13

 *This subsection remains unchanged, aside from updating language to be consistent with Section 1.*

Section 9.5 – Board and Officers……………………………………….. Page 13

 *This subsection remains unchanged.*

Section 9.6 – Powers of the Board……………………………………. Page 14

 *This subsection expands powers of the Board from the construction of improvements associated with Common Areas to any improvement that may benefit Lot Owners.*

Section 9.7 – Limitation of Liability………………………………….. Page 14

 *This subsection includes that the Board, Association, or any director shall be liable to any party (as opposed previously just Lot Owners) for failure to act, if they are acting in good faith.*

Section 10 – Local Association………………………………………………... Page 14

Section 10.1 – Creation of Local Association…………………………. Page 14

*This revised subsection remains unchanged, aside from updating language to be consistent with Section 1.*

Section 10.2 – Restrictions and Limitations…………………………… Page 15

*This revised subsection remains unchanged, aside from updating language to be consistent with Section 1.*

Section 11 – Enforcement……………………………………………………… Page 15

Section 11.1 – General Provisions……………………………………… Page 15

*This revised subsection remains unchanged, aside from updating language to be consistent with Section 1.*

Section 11.2 – Violation of this Declaration or

 Supplemental Declaration by Non-Qualifying Improvement……………. Page 15

*This revised subsection remains unchanged, aside from updating language to be consistent with Section 1.*

Section 11.3 Reserved ……………………………………………….. Page 15

*This subsection appears to have been mistakenly skipped in the original CCRs (Section 11 was mistakenly labeled 11.2 and 11.4, skipping 11.3). It was deleted in a previous update.*

Section 11.4 – Right of Entry…………………………………………… Page 15

*This revised subsection remains unchanged, aside from updating language to be consistent with Section 1.*

Section 11.5 – Interest…………………………………………………... Page 16

*This revised subsection remains unchanged.*

Section 11.6 – Expenses and Attorney Fees……………………………. Page 16

*This revised subsection remains unchanged, aside from updating language to be consistent with Section 1.*

Section 11.7 – Non-Exclusiveness and Accumulation of Remedies……. Page 16

*This revised subsection remains unchanged.*

Section 12 – Miscellaneous Provisions………………………………….……… Page 16

Section 12.1 – Amendment and Repeal…………………………………. Page 16

*This subsection adds clarification as to definitions relating to members “present” at a meeting and what constitutes a quorum.*

Section 12.2 – Joint Owners…………………………………………….. Page 16

*This revised subsection remains unchanged, aside from updating language to be consistent with Section 1.*

Section 12.3 – Reserved………………………………………………… Page 17

*This subsection originally dealt with mortgage protection. It was deleted in the previous 2009 update.*

Section 12.4 – Construction; Severability; Number; Captions………….. Page 17

*This revised subsection remains unchanged, aside from updating language to be consistent with Section 1.*

Section 12.5 – Notices…………………………………………………… Page 17

*This revised subsection updates the Association’s address.*

**SECOND AMENDED AND RESTATED**

**MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**FOR**

**THE COMMUNITY OF CANYON LAKES**

INTRODUCTION

 This Second Amended and Restated Declaration is created to benefit the entire Community of Canyon Lakes (as hereafter defined), and to establish covenants, conditions, restrictions, and other provisions pertaining to the use and operation of all of the property described herein, and to provide an organization to carry out and enforce such covenants, conditions, restrictions and other provisions.

RECITALS

 By instrument recorded on November 17, 1981, under Benton County Auditor’s File No. 852445, an initial set of covenants to guide in the development and operation of the Canyon Lakes Community was adopted. It was entitled “Master Declaration of Covenants, Conditions and Restrictions for the Community of Canyon Lakes” (the “Original Master Declaration”).

The Original Master Declaration was thereafter amended in part by instruments recorded in 1981 under Benton County Auditor’s File No. 854090, in 1994 under Benton County Auditor’s File No. 94-113911; in 1998 under Benton County Auditor’s File No. 1998-011011; in 1999 under Benton County Auditor’s File No. 1999; and in 2000 under Benton County Auditor’s File No. 2000-003297.

By instrument recorded on February 27, 2009, under Benton County Auditor’s File No. 2009-005177, the Original Master Declaration, and all amendments subsequent thereto, were amended, consolidated and restated in a singular instrument entitled “Amended and Restated Master Declaration Of Covenants, Conditions And Restrictions for The Community Of Canyon Lakes” (“2009 Master Declaration”).

Since 2009, the Canyon Lakes Community has expanded due to several annexations. Additionally, the Association’s experience during the intervening years in administering these covenants revealed a number of areas where clarification or supplementation was desired in order for the covenants to better serve the needs of the community. It was determined appropriate to adopt a second amended and restated master declaration in the form and substance of this Second Amended and Restated Master Declaration of Covenants, Conditions and Restrictions for the Community Of Canyon Lakes. It is the intention of this instrument to again fully replace and supersede all prior declarations pertaining to the Canyon Lakes Community, including specifically those described above.

SECTION 1. Definitions. When used herein the following terms shall have the following meanings:

* 1. “Architectural Review Committee” shall mean the committee appointed pursuant to the provisions of Section 8.
	2. “Association” shall mean the Canyon Lakes Property Owners’ Association, a Washington nonprofit corporation organized pursuant to the provisions of Section 9.
	3. “Board” shall mean the Board of Directors of the Association.
	4. “Common Areas” shall mean and refer to those areas within the Property which are owned or controlled by the Association.
	5. “Community Rules and Regulations” shall mean the rules, regulations and restrictions promulgated by the Board pursuant to Section 6 of this Second Amended and Restated Declaration.
	6. “Declaration” shall mean and refer to this Second Amended and Restated Master Declaration of Covenants, Conditions and Restrictions for the Community Of Canyon Lakes.
	7. “Goods” shall mean products, materials, supplies, or equipment provided by a contractor or supplier.
	8. “Improvements” shall mean any positive and permanent change which enhances a property’s value.
	9. “Lot” shall mean all numbered lots, and any improvements thereon, as shown on the plats identified in Appendix A shall be classified as Lots. All Lots within the Property shall be used only for construction of and use as, a single-family dwelling unit; provided, however, that the Board may approve additional uses upon written application in a form acceptable to the Board.
	10. “Property” shall mean and refer to those properties described on Appendix A attached hereto. The term “Community” or “Community of Canyon Lakes” shall be synonymous with the term “Property”.
	11. “Services” shall mean any labor, work, analysis, or similar activity provided by a contractor to accomplish a specific scope of work.
	12. “Owner” or “Lot Owner” shall mean the person, persons or entity who hold legal title to any Lot as defined in Section 4 below. A contract purchaser shall constitute a Lot Owner.

SECTION 2. Property Subject to Declaration – Supplemental Declarations – Approval Required. All the Property described in Appendix A is hereby subjected to the covenants, conditions, restrictions, and other provisions of this Declaration. Additional property may be subjected to this Declaration by the recording of a Supplemental Declaration in a form acceptable to and approved in writing by the Association’s Board of Directors. No Supplemental Declaration shall be valid, nor shall it be recorded, until it has been approved in writing by the Board. Upon the recording of a Supplemental Declaration, such additional property shall become a part of the Property and be fully subject to all the terms and conditions of this Declaration, as it may be amended from time to time.

SECTION 3. Reserved.

SECTION 4. Reserved.

SECTION 5. Consolidation of Lots. If a Lot Owner owns all of a Lot restricted to single family residential use (the “basic lot”), together with one or more contiguous lots or contiguous portions thereof also restricted to single family residential use (the “additional lot”), such Lot Owner may consolidate the basic lot and the additional lot, or portion thereof, by a boundary line adjustment processed in accordance with applicable City of Kennewick regulations; provided such an application shall first require Board approval to assure that consolidated lot will be in compliance with this Declaration. All consolidated lots shall remain designated for single family residential use only. The consolidated lot shall be subject to a single assessment. The Board may impose reasonable restrictions on the use and development of an orphan parcel created by such consolidation.

SECTION 6. Community Rules and Regulations.

6.1 Rule-Making Generally. In the exercise of its powers and in the performance of its obligations pursuant to this Declaration, any applicable Supplemental Declaration, or any applicable statute, the Board may adopt, amend or repeal rules, regulations and restrictions to be known as the “Community Rules and Regulations” which shall provide for the manner of use for Lots, Common Areas, and any other areas which Owners or members of the general public are entitled to use.

6.2 Rule-Making for Lots. The Board’s authority to make and enforce rules, regulations or restrictions regarding Lots shall include but, but shall not be limited to the following so long as such rules are consistent with the general plan for development of the Canyon Lakes Community:

(a) Limiting the nature of the uses permitted to single family residential or other category of use, and prohibiting commercial, retail, manufacturing or business uses or temporary structures.

(b) Establishing standards of maintenance, use and upkeep of lots, including but not limited to controlling vegetation, irrigation, burning, rubbish, holiday lighting and decorations, signage, and unsightly or unsanitary conditions.

(c) Preventing and remedying any dangerous or obnoxious conditions, nuisances and other conduct that interferes with the quiet enjoyment of other Owners or of Canyon Lakes as a whole, including but not limited to discharge of firearms, open burning, off-road use of vehicles and motorized transport, and excessive noises.

(d) Limiting the number, nature, and manner of signs.

(e) Regulating and limiting the use of roads and streets, parking, and storage.

(f) Restricting and regulating the possession and use of animals.

(g) Establishing reasonable time limits on for the start and completion of improvements upon a Lot.

6.3 Administration of Rules. All rules, regulations and restrictions must be applicable on a non-discriminatory basis. However, provisions uniformly applicable to a class of persons, such as children of particular ages, will not be deemed discriminatory. The Community Rules and Regulations shall be interpreted and applied in a manner consistent with applicable city, county, state, and federal law.

A copy of the current Community Rules and Regulations shall be kept on file at the principal office of the Association at all times and published on its website. The Community Rules and Regulations shall have the same force and effect as if set forth herein as part of this Declaration.

6.4 Repeal by Lot Owners. Any rule, regulation or restriction enacted by the Board pursuant to this Section may be amended, modified, or repealed by a vote of the majority of the Lot Owners present at any meeting of the Association where there is a quorum. The quorum and manner of presence of Lot Owners’ shall be determined by the by-Laws.

SECTION 7. Assessments.

7.1 Regular Assessments. The Board shall have the right to impose against each Lot Owner a regular annual assessment for those uses and purposes provided in Section 7.6 below. The assessments shall be based upon a budget adopted in accordance with Section 7.2 below. The regular annual assessments shall be applied uniformly to all Lots. The Lot Owners shall be notified of the proposed regular annual assessment prior to December 31 of the same year. The Board may increase the regular annual assessment by not more than ten percent (10%) annually. Otherwise, the regular annual assessment shall be increased only pursuant to the provisions of paragraph 7.4.

7.2 Payment of Regular Annual Assessments. Any Lot Owner who shall pay the regular annual assessment prior to March 1 each year shall receive a five percent (5%) discount in the regular annual assessment. All regular annual assessments shall be paid no later than April 1 each year. After April 1, the regular annual assessment, together with a late charge equal to twenty five percent (25%) of the regular annual assessment, shall bear interest at the rate of twelve percent (12%) per annum. An additional assessment of twenty-five dollars ($25.00) shall be imposed against any such Lot, along with the recording costs and any legal fees associated with the recording of such lien.

7.3 Transfer Assessment. At the time any Lot is sold or otherwise transferred, a transfer assessment in an amount determined by the Board, but not more than one hundred fifty dollars ($150.00), shall be assessed against the purchaser or other transferee at the time of the closing of the transfer. The Board, in its discretion, may increase the maximum amount of the transfer assessment once every five years to account for inflation and increased cost of living. The lien provisions set forth below shall also apply to the transfer assessment if it is not paid at the time of closing.

* 1. Increase in Maximum Amount of Regular Annual Assessment with Consent of Lot Owners. In the event the Board shall deem the assessment fund to be inadequate for the purposes for which it is to be maintained, taking into account the need for reasonable reserves for special purposes, the regular annual assessment may be increased over the amounts provided for in paragraph 7.1. The increase to the regular annual assessment is deemed effective only of the Board follows the procedures for ratification of a budget described in paragraph 7.10.1.
	2. Special Purpose Assessments. The Board, at any time, may propose a special assessment.  The assessment is effective only if the Board follows the procedures for ratification of a budget described in paragraph 7.10.1 and the Lot Owners do not reject the proposed assessment. The Board may provide that the special assessment may be due and payable in installments over any period it determines and may provide a discount for early payment.
	3. Use of Assessment Funds. The Board shall keep the monies which it may collect from assessments, together with all other monies which it is required to add to the assessment funds pursuant to the provisions hereof or of any applicable Supplemental Declaration, in a separate fund to be called the “assessment fund” and may use the monies in the assessment fund for the following purposes.

(a) Payment of the costs of maintaining and developing (i) Common Areas, (ii) entrances, mailboxes, paper receptacles and signs) and (iii) special recreational and other facilities on Common Areas which are available for use by all Lot Owners.

(b) Payment of taxes and assessments levied against Common Areas, and the improvements thereon.

(c) Payment of the costs of providing patrol services, fire prevention and control services and garbage and trash disposal, if provided by the Association.

(d) Payment of the costs of insurance, including insurance protecting the Board, the Architectural Review Committee, any other Board appointed committee, the Association and any of its officers, directors, employees, or agents against liability arising out of their function and activities in the administration of the provisions of this Declaration or any Supplemental Declaration.

(e) Payment of the costs of enforcing the provisions contained in this Declaration, any Supplemental Declaration, the Community Rules and Regulations and the Architectural Review Committee Rules, or any amendments thereto. This shall include payment of any necessary legal fees.

(f) Payment of the reasonable expenses and fees of the Architectural Review Committee.

(g) Payment of other goods, services and improvements which the Board deems to be of general benefit to Lot Owners.

(h) Payment of the costs incurred in collecting assessments.

(i) Payment of the expenses incurred in organizing or reorganizing the Association and of maintaining the same as a corporation.

(j) Payment of any expense reasonably incurred by the Board in carrying out any function for which it has been given responsibility hereunder, including but not limited to court costs and attorney fees.

* 1. Annual Accounting. The Board shall conduct an annual accounting as required by RCW 64.38. Audits will be done to the extent required by RCW 64.38.
	2. Joint and Several Liability. If a Lot Owner comprises more than one person or entity, each shall be jointly and severally liable for any assessment, charge, fee, fine or cost.
	3. Default in Payment of Assessments and Charges - Automatic Lien. Each assessment or charge levied or imposed pursuant to this Declaration, the Community Rules and Regulations, or any applicable Supplemental Declaration, together with interest thereon, shall be a separate, distinct, and personal debt and obligation of the Lot Owner against whom the assessment or charge is levied or imposed or from whom the amount is due. If the Lot Owner fails to pay any such assessment or charge or any installment thereof when due, the Lot Owner shall be in default and the assessment or charge not paid, together with interest, costs and attorney fees as elsewhere provided for herein, shall automatically become a lien upon the Lot or Lots owned by the person from whom the assessment or charge is due. The Association may but shall not be required to file and record notice of its lien in the records of the Benton County Auditor, in which case the cost of the lien filing, and any release thereof shall be become an additional charge to be paid by the Lot Owner. The Association may commence a proceeding to foreclose the lien in the same form of action as is then provided for the foreclosure of a mortgage on real property by Washington law.

The Association may also foreclose the lien in a non-judicial proceeding pursuant to the deed of trust foreclosure law as is then provided in Washington law. The Association may also enforce or foreclose the lien in any other manner permitted by Washington law for the enforcement or foreclosure of liens against real property or the sale of property subject to such lien. Upon the sale of a Lot pursuant to this provision, the purchaser thereof shall be entitled to a deed to the Lot and to immediate possession thereof and said purchaser may apply to a court of competent jurisdiction for a writ of restitution or other relief for the purpose of acquiring such possession. The proceeds of any such sale shall be applied as provided by applicable law. In the absence of any such law, the proceeds shall first be applied to discharge the costs of the sale, including but not limited to court costs, other litigation costs, costs and attorney fees incurred by the Association, all other expenses of the proceedings, interest, late charges, unpaid assessments and other amounts due to the Association, and the balance of the sale proceeds shall be paid to the Lot Owner. The Association shall have the power to bid for the Lot at any sale and to acquire and hold, lease, mortgage or convey the Lot. Notwithstanding any foreclosure or the lien or sale of the Lot, any assessment, and other amounts due after application of any sale proceeds shall continue to exist as personal obligations of the defaulting Lot Owner or Lot Owners to the Association.

7.10 Budget Required. All assessments must be based upon a budget first adopted by the Board on or before November 30 of each year for the ensuing year.

 7.10.1 Within thirty days after adoption of any proposed budget for the common interest community, the Board must provide a copy of the budget to all the Lot Owners and set a date for a meeting of the Lot Owners to consider ratification of the budget not less than fourteen nor more than fifty days after providing the budget.  Unless at that meeting the Owners of Lots to which a majority of the votes in the Association are allocated reject the budget, the budget and the assessments against the Lots included in the budget are ratified, whether or not a quorum is present. The quorum and manner of presence of Lot Owners’ shall be determined by the by-Laws. If the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the Lot Owners continues until the Lot Owners ratify a subsequent budget proposed by the Board.

 7.10.2 The budget must include:

                              (a) The projected income to the Association by category.

(b) The projected common expenses and any specifically allocated expenses that are subject to being budgeted, both by category.

(c) The amount of the assessments per Lot and the date the assessments are due.

(d) The current amount of regular assessments budgeted for contribution to the reserve account.

(e) A statement of whether the Association has a reserve study that meets the requirements of RCW 64.90.550 and, if so, the extent to which the budget meets or deviates from the recommendations of that reserve study; and

(f) The current deficiency or surplus in reserve funding expressed on a per unit basis.

SECTION 8. Architectural Review Committee.

* 1. Function of Architectural Review Committee. The Architectural Review Committee (the “Committee”) shall exercise the functions for which it is given responsibility in this Declaration. The Committee will be responsible for the approval of plans and specifications for the development of Lots and for the promulgation and enforcement of its related rules and regulations. All such rules and regulations of the Committee shall be deemed to constitute part of the Community Rules and Regulations; provided, that such rules and regulations are first approved by the Board.
	2. Members. The Committee shall consist of at least three persons who shall be appointed by the Board for terms as determined by the Board. The Board shall determine the total number of persons to be appointed to the Committee. Members of the Committee may be removed and replaced at any time by the Board. The Board shall keep on file at its principal office a list of the names, phone numbers and street and /e-mail addresses of the members of the Committee.
	3. Action. Except as otherwise provided herein, any two (2) members of the Committee shall have the power to act on behalf of the Committee without the necessity of a meeting and without the necessity of consulting the remaining member of the Committee; provided, however, that if the Committee has more than three members, then any number of Committee members constituting a two-thirds (2/3) majority of the membership of the Committee shall have the power to act on behalf of the Committee without the necessity of a meeting and without the necessity of consulting the remaining member of the Committee. The Committee may render its decisions only by written instrument setting forth the action taken by the members consenting thereto.
	4. Failure to Act. If at any time the Committee shall for any reason fail to function, the Board shall have complete authority to serve as a temporary Architectural Review Committee.
	5. Duties and Rules. No person shall construct or reconstruct any improvement on any Lot, alter or refinish the exterior of any improvement on any Lot or make any change in any Lot, whether by excavation, fill, or alteration of existing drainage on a Lot unless such person has first obtained the approval of the Committee. This shall include any landscaping that reasonably may interfere with the use, enjoyment of a neighboring Owner, or views from neighboring properties; but shall not include replacement of existing landscaping. The Committee shall consider and act upon all matters properly submitted to it pursuant to this Declaration or any applicable Supplemental Declaration. In furtherance of these functions of the Committee, the Board may from time to time adopt, amend, and repeal rules and regulations to be known as the “Architectural Review Committee Rules” establishing the Committee’s operating procedures and interpreting, detailing, and implementing the provisions of the instruments to which it is charged with responsibility. The Board may establish a reasonable fee to be paid to cover the costs incurred by the Architectural Review Committee in considering and acting upon matters submitted to it. A current copy of the Architectural Review Committee Rules shall be kept on file at the principal office of the Association at all times and published on its website. Such rules and regulations have the same force and effect as if set forth herein as part of this Declaration.
	6. Non-Waiver. Consent by the Committee to any matter proposed to it or within its jurisdiction shall not be deemed to constitute a precedent or waiver impairing its right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.
	7. Estoppel Certificate. Within thirty (30) days after written demand therefor by a Lot Owner, the Committee shall execute and deliver to the Lot Owner requesting the same an estoppel certificate certifying with respect to the Lot of such Lot Owner that, if true, as of the date of the certificate, either (i) all improvements and other work within such Lot comply with the provisions of this Declaration and any applicable Supplemental Declaration and with all restrictions, rules and regulations adopted in or pursuant thereto, or (ii) that such improvements and work do not so comply for reasons specified in the certificate. Any purchaser or mortgagee of a Lot may rely on such certificate with respect to the matters set forth therein, such matters being conclusive against the Board and all Lot Owners.
	8. Liabilities. Neither the Committee nor any member thereof shall be liable to any Lot Owner or the Board (or to any other party as a result of any certificate furnished pursuant to Section 8.7 above) for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the Committee or a member thereof, provided only that the member has acted in good faith. In the event that any person alleges that the Committee or any member thereof is liable for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the Committee or a member thereof, the Association shall indemnify and hold harmless any such Committee member, including but not limited to the payment of associated court costs, attorney fees and other legal fees, provided that such Committee member has acted in good faith.

SECTION 9. The Association.

* 1. Organization of the Association. The Association shall be organized as provided herein to represent all Lot Owners. The Association shall be incorporated under the Miscellaneous and Mutual Corporations Act of the State of Washington, RCW 24.06, as now enacted or hereafter amended. The Association shall have articles of incorporation (the “articles”) and by-laws as provided in RCW 24.06.
	2. Duties of the Association. The Association shall be charged with the duties and invested with the powers prescribed by law and set forth in the articles, by-laws, and this Declaration. Neither the articles nor by-laws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.
	3. Membership. Each Lot Owner, by virtue of being a Lot Owner and for so long as such ownership is maintained, shall be a member of the Association, and no Lot Owner shall have more than one membership in the Association, except as hereinafter set forth with respect to voting. Memberships in the Association shall not be assignable, except to the successor in interest of the Lot Owner, and all memberships in the Association shall be appurtenant to the Lot owned by such Lot Owner. The memberships in the Association shall not be transferred, pledged, or alienated in any way except upon the transfer of title to a Lot and then only to the transferee of title to the Lot. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association.
	4. Voting. All voting power shall be exercised by the members of the Association in accordance with the duly adopted by-laws of the Association. Each Lot Owner shall have one vote for each Lot owned.
	5. Board and Officers. The affairs of the Association shall be conducted by a Board and such officers as the directors may elect or appoint, in accordance with the articles of incorporation or the by-laws, which may be amended from time to time as provided therein.
	6. Powers of the Board. The powers of the Association shall be exercised by and through the Board. In addition to such other powers as shall be given to or imposed upon the Board by this Declaration or by any applicable Supplemental Declaration, the Board shall have the power to carry out the following:
1. Maintenance of all Common Areas, and the improvements thereon.
2. Construction of such improvements as it deems will be of benefit to the Lot Owners.
3. Enforcement of all covenants, conditions, restrictions, and other provisions contained in this Declaration, in any Supplemental Declaration, as now enacted or hereafter amended.
4. Promulgation and enforcement of the Community Rules and Regulations, and enforcement of the Architectural Review Committee Rules and Regulations and the decisions of the Architectural Review Committee
5. Payment of all taxes and assessments on any of the Common Areas within the Property.
6. Provision of such services to Lot Owners as it shall deem to be of benefit.
7. Procuring and maintaining insurance on all improvements constructed on the Common Areas.
8. Collection of assessments and penalties adopted in accordance with RCW 64.38.
9. Fixing of fees for use of recreational and service facilities within the Common Areas and for the collection thereof. All such fees shall be paid into the assessment fund.
10. Borrowing of money on behalf of the Association and in connection therewith, the granting of mortgages, deeds of trust or other security interests with respect to land owned or leased by it and improvements thereon.
11. Granting of easements along roadways of the Property owned by the Association to owners, occupants, and invitees of office, commercial and lodging or other facilities constructed on land within the Property, whether or not subject to this Declaration, and entering into road maintenance agreements providing for contribution to the cost of maintenance of the entrances to the Property and roadways and related improvements which are subject to easements granted by the Board.
12. Sell, transfer or adjust boundaries of Common Areas where to do so is in the best interest of the Association.
13. The Board shall have such further powers as permitted or allowed in RCW 24.06.030 and 64.38.020, as now enacted or hereafter amended.
	1. Limitation of Liability. The Board shall not be liable for failure to carry out any power enumerated in Section 9.2 or 9.6 herein or elsewhere in this Declaration or in any applicable Supplemental Declaration in cases in which there are not sufficient monies in the assessment fund to enable it to carry out its power. The Board shall have sole power to determine for which authorized purposes monies in the assessment fund shall be spent and in what priority, including the power to determine how much shall be held in reserve. Neither the Board, nor the Association, nor any director shall be liable to any Lot Owner or any other party on account of any action or failure to act of the Board, provided only that actions are in good faith. In the event that any Lot Owner or other person alleges that the Association, the Board or any director, officer, employee or agent of the Association is liable for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the Association, the Board, or any director, officer, employee or agent of thereof, the Association shall indemnify and hold harmless any such director, officer, employee or agent, including but not limited to the payment of associated court costs, attorney fees and other legal fees, provided that such director, officer, employee or agent has acted in good faith.

 SECTION 10. Local Associations.

10.1 Creation of Local Associations. Any legally platted subdivision subjected to this Declaration may create and maintain a Local Association. A Local Association shall determine its own purposes, powers and obligations and shall be responsible for its own governance and internal operation consistent with RCW 64.38 and the provisions of this Declaration. The creation of any Local Association shall be set forth in a Supplemental Declaration recorded in the records of Benton County, Washington.

10.2 Restrictions and Limitations. Local Associations may establish and enforce covenants, conditions, restrictions, rules and regulations in addition to those set forth in or enacted pursuant to this Declaration, provided, however, that any such covenants, conditions, restrictions, rules and regulations which conflict with, are inconsistent with or purport to override any provision of this Declaration or any document executed pursuant to it shall be invalid and of no force and effect.

SECTION 11. Enforcement.

11.1 General Provisions. The Board, the Association and any Lot Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration or any applicable Supplemental Declaration. Failure by any such person to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

11.2 Violation of This Declaration or Supplemental Declaration by Non-Qualifying Improvement. In the event any Lot Owner constructs or permits to be constructed on his or her Lot an improvement contrary to the provisions of this Declaration or any applicable Supplemental Declaration or in the event that a Lot Owner maintains or permits any improvement, condition or thing on his or her Lot contrary to the provisions of this Declaration or any Supplemental Declaration, the Board, through its designated representative, may no sooner than thirty (30) days after delivery to such Lot Owner of written notice of the violation enter upon the offending Lot and remove the cause of such violation, or alter, repair or change the item which is in violation of such Declaration in such manner as to make it conform thereto. The Board may charge such Lot Owner for the entire cost of the work done by it pursuant to this provision. Such amounts shall become payable upon delivery by the Board to the Lot Owner of notice of the amount due and shall be paid into the assessment fund to the extent that the costs being reimbursed were paid out of the assessment fund.

11.3 Reserved

11.4 Right of Entry. A representative of the Board or any member of the Architectural Review Committee authorized by the Board may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of determining whether or not the use of such Lot or any improvement thereon is then in compliance with the provisions of this Declaration, any rule or regulation pursuant thereto or any applicable Supplemental Declaration. No such entry shall be deemed to constitute a trespass or otherwise to create any right of action in the Lot Owner or occupant of such Lot.

11.5 Interest. Any amount not paid to the Board when due in accordance with the provisions of this Declaration or of any Supplemental Declaration shall bear interest from such date until paid at the rate of twelve percent (12%) per annum.

11.6 Expenses and Attorney Fees. In the event of any suit or action to enforce any provision contained in this Declaration or in an applicable Supplemental Declaration, to collect any money due thereunder or to foreclose any lien, the prevailing party in such suit or action shall be entitled to recover all costs and expenses incurred in connection with such suit or action, including a foreclosure title report, and such amount as the court may determine to be reasonable as attorney fees therein, including attorney fees incurred in connection with any appeal from a decision of the trial court or an intermediate appellate court.

11.7 Non-Exclusiveness and Accumulation of Remedies. Election by the Board or the Association to pursue any remedy provided for herein or in any applicable Supplemental Declaration with respect to any violation of any provision of this Declaration or of any Supplemental Declaration shall not prevent concurrent or subsequent exercise of another remedy permitted herein or in any applicable Supplemental Declaration, or which is permitted by law. The remedies provided in this Declaration and in any applicable Supplemental Declaration are not intended to be exclusive but shall be in addition to all other remedies, including without limitation, actions for damages or suits for injunctions or for specific performance available under applicable law.

SECTION 12. Miscellaneous Provisions.

12.1 Amendment and Repeal. Any provision of this Declaration or any Supplemental Declaration may be amended or repealed by the Board, provided that the amendment has been approved by the Board following consent of two-thirds (2/3) of the members present at a meeting of the Association. The manner of determining presence of Lot Owners’ shall be determined by the by-Laws.

Notwithstanding the above, no amendment hereto shall diminish the votes or consent required in respect of any matter for which the number of votes or consenting Lot Owners required is specifically set out herein, unless such amendment has received the consent of Lot Owners having such number of votes (or of such number of Lot Owners, as the case may be). Any amendment or repeal of a provision of this Declaration or additional provisions shall become effective only upon the filing thereof in the records of Benton County, Washington, of a certificate of an officer of the Association setting forth in full the amendment, additional provision or repeal approved as provided in this Section, and certifying that said amendment, additional provision or repeal has been approved in the manner required therefor herein.

12.2 Joint Owners. In any case in which two or more persons or entities share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with the provisions of this Declaration and of any applicable Supplemental Declaration shall be a joint and several responsibility. The act or consent of any one or more of such persons shall constitute the act of consent of the entire ownership interests; however, in the event that such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Board, and the vote or right of consent involved shall then be disregarded completely in determining the number or proportion of votes or consents given with respect to such matter.

12.3 Reserved.

12.4 Construction; Severability; Number; Captions. This Declaration shall be construed as an entire document to accomplish the purposes stated in the Recitals set forth above. Nevertheless, each provision of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision shall not affect the validity or enforceability of the remaining part of that or any other provision. As used herein, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions hereof.

12.5 Notices. Any notice permitted or required by this Declaration or by any applicable Supplemental Declaration may be delivered personally, by mail or by electronic transmission, unless a particular provision of this Declaration, any applicable Supplemental Declaration or the law requires otherwise. Delivery by mail shall be deemed to have been accomplished seventy-two (72) hours after the notice has been deposited as certified mail in the United States mail, with postage prepaid. Delivery by electronic transmission shall be deemed complete at the time the transmission is sent. All notices shall be addressed as follows:

If to the Association, the Architectural Review Committee, or the Board:

P. O. Box 7252

Kennewick, Washington 99336

with copy via: CLPOA@canyonlakespoa.com

The Board may designate in the by-laws a different mailing address than that listed above. If to a Lot Owner, at the address given by him or her at the time of his or her purchase of a Lot or at the address of his or her Lot. The address of any person may be changed at any time by notice in writing delivered as provided herein.

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Secretary of the Canyon Lakes Property Owners’ Association, hereby certify that the foregoing Second Amended and Restated Master Declaration of Covenants, Conditions and Restrictions for the Community of Canyon Lakes was duly adopted by the Board of Directors of the Canyon Lakes Property Owners’ Association on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ following approval by the requisite number of members of the Canyon Lakes Property Owners’ Association acting in accordance with the bylaws.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Secretary