

DECLARATION OF
PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS

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LYNDEHURST I

ALBANY, N.Y. 12208 WASH

THIS INDENTURE AND DECLARATION running with the land, made this 31st day of August, 1990 by TUCCI & SONS, INC., a Washington State Corporation ("DECLARANT"),

W I T N E S S E T H

WHEREAS, DECLARANT is the owner in fee of certain real property (the "Real Property") described as LYNDEHURST I consisting of Lots 1 through 132 (the "Lots"), as recorded under Auditor's Number 9008290271, records of Pierce County, Washington.

WHEREAS, DECLARANT desires to impose certain protective covenants upon the Real Property for the mutual benefit of all owners, present and future;

NOW THEREFORE, DECLARANT hereby declares as follows:

ARTICLE I

1.1 DECLARATION. The Lots shall be held, sold and conveyed subject to the easements, covenants, conditions and restrictions set forth herein, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Lots. Such easements, covenants, conditions and restrictions shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in any Lot and shall inure to the benefit of each owner thereof; and are imposed upon each Lot as a servitude in favor of each and every other lot as the dominant tenement.

1.2 TERM. This Declaration shall be effective for an initial term, expiring December 31, 2009, and thereafter by automatic extension for successive periods of ten (10) years each, unless terminated, at the expiration of the initial term or any succeeding ten year term by a Termination Agreement executed by the then owners of not less than ninety percent (90%) of the lots then subject to this Declaration.

AUDITOR'S NOTE

LEGIBILITY FOR RECORDING AND COPYING UNSATISFACTORY IN A PORTION OF THIS INSTRUMENT WHEN RECEIVED.

1.3 ARCHITECTURAL CONTROL COMMITTEE. The Architectural Control Committee ("ACC") shall consist of not more than three (3) members who shall be appointed initially by DECLARANT and remain in office until such time as one hundred percent (100%) of the lots subject to this Declaration and any Supplemental Declarations have been sold by Declarant, his heir successors or assigns. If, after one (1) year from the sale of the 132nd lot, Declarant is unsuccessful after diligent effort in creating a Homeowner's Association the entire Association and ACC is thereby dissolved. At any time prior to the sale of 132 lots, DECLARANT reserves the right to extend the initial appointment of the ACC for a period of time not to exceed four (4) years from the date of the extension. DECLARANT further reserves unto itself the right to dissolve the ACC appointed by DECLARANT, thereby vesting the membership of the Homeowners Association with the authority to meet and appoint a successor ACC. The ACC may designate a single person to act on behalf of the ACC. No member of the ACC shall be entitled to compensation. The initial ACC shall consist of Tucci & Sons, Inc., a Washington State Corporation which hereby designates JOHN XITCO, WAYNE HAMMER and JULIE ANN TAYLOR, 4224 Waller Road, Tacoma, Washington 98443, as the persons to act on behalf of the ACC.

ARTICLE II

2.1 EASEMENTS. Easements are reserved as shown on the recorded plat and others may also be recorded if required by governmental agencies or other bodies. Within such strips no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change, obstruct or retard the flow of water through drainage channels. Such easement areas and all improvements therein shall be maintained by the owner of the Lot, except as to utilities services and improvements located therein which are the responsibility of the utility entity owning such improvements. Fencing and landscape planting are permitted on side and rear property lines as approved by the ACC.

2.2 SETBACKS. No building shall be located on any Lot nearer to the lot lines than required by the codes and ordinances governed by Pierce County.

ARTICLE III

3.1 BUILDER SITE PREPARATION/CONSTRUCTION APPROVAL. Clearing and grading, including but not limited to the cutting or transplanting of natural vegetation, shall not be undertaken until complete construction plans, plot plans and ACC checklist, for the single family dwelling to be constructed thereon are approved by the ACC as provided for herein. Builder/owner is responsible for obtaining all necessary application and permits prior to commencing work.

3.2 CONSTRUCTION APPROVAL. No building or other structure shall be commenced, erected or altered upon any Lot, nor shall any exterior addition be made until the construction plans and specifications and a plot plan showing the nature, kind, shape, height, materials, colors and location of the same shall have been submitted to and approved in writing by the ACC as to harmony of exterior design and location in relation to, and its effect upon surrounding structures and topography.

The ACC requires a separate set of plans for each lot to be approved even if a builder is using the same plans on more than one lot. If the ACC fails to approve or disapprove such design and location within thirty (30) days after such plans and specification have been received by it, approval will not be required, and this Article will be deemed to have been fully complied with. All plans, specification and plot plans are to be submitted to the Committee at the following address: 4224 Waller Road, Tacoma, Washington 98433, or at such other address as may hereafter be given in writing to the lot owners by the DECLARANT or the ACC.

3.3 CONSTRUCTION TIME. Any dwelling or structure erected or placed on any lot shall be completed as to external appearance, including finish painting and landscaping, within six (6) months from the issuance of the building permit except for reasons beyond the control of the lot owner, in which case a longer period may be permitted if approved in writing by the ACC.

3.4 LANDSCAPING. Landscaping must be completed within the six (6) month time frame is inclusive of the lawn, rockery, shrubbery, etc. for the entire front yard lot line to lot line and a minimum of 15' back towards the rear yard from the front corner of the home. Owners of corner lots shall also be required to landscape the side yard bordering the street, extending the landscaping the entire length of the side yard until it contacts the neighboring lot's border.

Any and all landscaping plans, including retaining walls and rockery plans, must be submitted and approved by the ACC prior to installation.

3.5 SIZE OF IMPROVEMENTS. The total floor area of any dwelling on the property, exclusive of open porches and garages, shall not be less than 1,600 square feet except in the case of split level, two-story residence or multi-level home, exclusive of open porches and garages, shall total not less than 1,700 square feet.

3.6 ROOFS. All roofs shall have a minimum slope of 4-12 (four feet of rise for each 12 feet of run) and shall be constructed of cedar shake, cedar shingle or approved tile (sample tile must be submitted and approved by the ACC prior to installation). Any exception to these materials must be approved in writing by the ACC, prior to construction.

3.7 DRIVEWAYS. All driveways shall be concrete unless approval for use of other material is granted in writing by the ACC. All concrete residue or "washed off" materials (ie: washed aggregate) shall be contained on the owner's lot and shall not be allowed to be placed in the road and storm system. Violation of this requirement could result in a fine of up to \$300.00 as determined by the ACC.

3.8 FENCES. No fence, wall or hedge shall be erected or built on any lot nearer to any street than the minimum building setback line, or the actual building set back lines whichever is further from the street except that nothing shall prevent the erection of a necessary retaining wall, the top of which does not extend more than two feet above the finished grade at the back of said wall. All corner lot fence locations must be approved by the ACC prior to installation. Fences shall be constructed only of wood, shall not exceed six feet in height and shall have the finished sides facing away from the rear yard. Any hedge or shrub "fencing" shall be subject to the same restrictions. Any type of chain link, or metal fence is specifically prohibited. All fences, their design, materials, height, location, and exterior color must be approved by the ACC prior to installation.

3.9 GARAGES. Garages shall be incorporated in or made a part of the dwelling house. No detached garages shall be permitted, and there must be a minimum of a two (2) car garage and no more than a three (3) car garage. There shall be no separate or additional garages placed on the lot.

3.10 OUTSIDE STORAGE BUILDING. An outside storage building that has similar siding, matching roofing materials and matching colors to the home that it will serve and an ACC approved design are allowed in the rear yard only. Any and all buildings must be approved as to location, colors, design, size (width, length, and height) and materials by the ACC prior to commencing construction.

3.11 PLAYGROUND TYPE APPARATUS. Any installation, either temporary or permanent, of playground equipment, including but not limited to Big Toys, Jungle Gyms, swing sets, basketball backboard and hoops, slides and playhouses must have written ACC approval as to location, size, color, etc. prior to installation. In any case no swing sets, climbing toys or Big Toys, etc. will be allowed in the front yard.

Any and all structures, fences, sheds, playground equipment, etc. installed without written approval of the ACC are subject to removal by the ACC or its contractor. The homeowner will be responsible for all costs of removal plus a 15% administrative charge based on the total costs of removal which shall include but not limited to, labor charges, mileage, hauling cost, dump charges and clean up.

3.12 "STICK BUILT" CONSTRUCTION. All dwellings shall be of a "stick built" variety. Mobile homes, manufactured housing and modular homes are specifically not permitted.

3.13 ANTENNA. No Lot owner shall be permitted to install, erect and/or maintain any antenna, including satellite dishes.

3.14 EXTERIOR FINISHES. All exterior finishes on the front of the houses shall be of cedar siding, LP lap siding, brick or stone. Any exception must have ACC written approval prior to construction, but in no case will T-111, or equivalents, be allowed on any house within LYNDEHURST. The entire house must be painted or stained in colors acceptable to the ACC. All colors must have ACC written approval prior to being used.

All metal fireplace chimneys shall be either wood or stone wrapped.

All window frames and sashes must be made of wood, painted enamel, vinyl, or anodized aluminum, unless specifically authorized in writing by the ACC. Mill finish or silver appearance is not acceptable.

3.15 YARD LIGHT. Every lot is required to have a yard light with a solar eye in the front yard, which is to be located eight feet from the inside of the front property line and two feet from the side of the driveway in which the front door is located. The color and design of the yard light and structural base must be submitted and approved by ACC prior to installation.

ARTICLE IV

4.1 BUSINESS & COMMERCIAL USE. Except model homes or Declarant's sales office, no Lot shall be used for other than one detached single family dwelling with parking for not more than three cars, and no trade, craft, business, profession, commercial or manufacturing enterprise or business or commercial activity of any kind shall be conducted or carried on upon any Lot or within any building located on a Lot; nor shall any goods, materials or supplies used in connection with any trade, service or business, wherever the same may be conducted, be kept or stored, outside any building on any Lot; nor shall any goods, used for private purposes and not for trade or business be kept or stored outside any building on any Lot. Any exception to this must receive written consent from the ACC.

4.2 TREES. The Declarant will provide one hundred (100) "Aristocrat" Flowering Pear Trees (pyrus "Aristocrat") for the Lyndehurst Development. These trees will be placed at even intervals throughout the development, initial planting locations to be determined by the Declarant. Each

individual lot owner is responsible for the care and maintenance of the tree (or trees) placed on their lot. Any dead or severely damaged tree shall be replaced within 30 days of written notice from the ACC, with a 1 1/2 inch caliper, Aristocrat Flowering Pear by the lot owner thereof, at the homeowner's expense. No lot owner is allowed to move or remove the tree and there shall be no replacement with any other type of tree.

4.3 MAINTENANCE OF STRUCTURES & LANDSCAPING. All structures upon a Lot shall at all times be maintained in good condition and repair and be properly painted, stained or otherwise finished. All trees, hedges, shrubs, flowers and lawns shall be watered, maintained and cultivated so that the Lot is not detrimental to the neighborhood as a whole. Slope banks upon any Lot shall be properly watered and maintained by the owner thereof. Slope banks shall be planted with erosion control type of plants. Homeowners are responsible for damage caused by water run off from their lots. Lot owners shall be responsible for maintaining any "landscaping theme" set forth by the DECLARANT or BUILDER with respect to individual cul-de-sacs and/or streets.

4.4 VEHICLES. No recreation vehicle and/or commercial vehicle, including but not limited to boats, campers, motorhomes, trucks and trailers - whether operable or not - of any kind shall be parked, stored maintained or constructed on any Lot or street in such a manner as to be visible from the street. No unsightly vehicles shall be permitted upon the property nor shall any abandoned or disabled vehicle be stored upon the property for more than 48 hours. Vehicles may be parked only on concrete surfaces. Homeowners must park their vehicles on the driveway or in the garage and not on the street. Violators of this section are subject to removal of the vehicle at vehicle owner's expense.

4.5 PETS. No animals or fowls shall be raised, kept, or permitted on any Lot except domestic dogs, cats, and caged birds kept within the dwelling unit; provided such dogs, cats and pet birds are not permitted to run at large and are not permitted to be kept, bred, or raised for commercial purposes or in unreasonable numbers. No such household pet which is or becomes an annoyance or nuisance to the neighborhood shall thereafter be kept on any Lot. No caged birds shall be allowed outside the dwelling unit.

4.6 GARBAGE AND TRASH. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall be kept only in sanitary containers properly screened and shielded from adjacent properties. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No trash, refuse pile, vehicles, underbrush, compost pile or other unsightly growth or objects shall be allowed to group, accumulate or remain on any Lot so as to be a detriment to the neighborhood or become a fire hazard.

No building material of any kind shall be placed or stored upon the property until the owner is ready to commence construction, and then such material shall be placed within the boundary lines of the Lot.

4.7 NOXIOUS OR OFFENSIVE ACTIVITY. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done or maintained thereon which may be or become any annoyance or nuisance to the neighborhood or detract from its value.

4.8 WATER AND SEWAGE SYSTEMS. No individual water supply system shall be permitted on any Lot. No individual sewage disposal system shall be permitted on any Lot unless the system is designed, located and constructed in accordance with the requirements, standards and recommendations of all governmental agencies having jurisdiction of such systems.

4.9 TEMPORARY RESIDENCE. No mobile home, trailer, tent, shack, garage, barn, structure of a temporary character, or any other outbuilding shall be used on any Lot at any time as a residence.

4.10 DRILLING, MINING, ETC. Exploration for any recovery of minerals, oil and gas, sand and gravel or other materials, by any means or method, is prohibited.

4.11 MAILBOXES. DECLARANT will provide one U.S. Postal System approved mailbox for each Lot at an approved cluster location with reasonable proximity to the dwellings served thereby. Thereafter Lot owners shall be obligated to maintain, repair or replace their respective mailboxes.

4.12 SIGNS. All signs and advertising devices for display to public view, except during the initial build out, are prohibited except one sign not to exceed 500 square inches which advertises the Lot (whereon posted) for sale. The sign shall only contain the Owner's/Builder's name, Realtor, lot number, and up to two phone numbers. The ACC shall have sole jurisdiction on all signs within the boundaries of LYNDENHURST, including any and all common areas. "A" Boards that advertise "open house" will be allowed if taken down daily.

4.13 FIREARMS. The shooting of any type of weapon or firearms is prohibited within the property, including but not limited to BB-guns and pistols, pellet guns and sling shots.

4.14 HOMEOWNER'S ASSOCIATION. Every lot owner, by acceptance of a deed or contract for such Lot, is hereby deemed to covenant and agree to membership in the Lyndehurst Homeowner's Association, for the purpose of owning property and property right as common area for the benefit of homeowners, and for the purposes of maintaining, repairing, replacing, or improving any such property or any improvements placed thereon. Such membership shall be appurtenant to the Lot owned by such Lot owner and may not be transferred except by sale or transfer of the Lot itself. Every Lot owner is further deemed to covenant and agree to pay when due any and all dues, assessments, or other charges that may be levied from time to time by the Lyndehurst Homeowner's Association in accordance with these articles and/or the Articles of Incorporation of such Association, and any sums not paid within thirty (30) days of the date due shall become a continuing lien on the lot owned, which lien may be foreclosed by the Association. Any lien created hereby shall be subordinate only to any duly recorded purchase money mortgage, deed of trust or real estate contract which appears as a "first lien" against the lot.

Lyndehurst is not a part of the GemClub Homeowner's Association. THE HOMEOWNERS IN LYNDEHURST DO NOT HAVE ANY RESPONSIBILITY TO MAINTAIN THE GEMCLUB FACILITY AND WILL NOT UNDER ANY CIRCUMSTANCES HAVE THE RIGHT TO USE THE FACILITY IN ANY SHAPE OR FORM. ANY RECREATIONAL FACILITY SHOWN ON ANY MAPS ARE ALREADY IN PLACE (ie: GEMCLUB). DECLARANT DOES NOT INTEND TO CONSTRUCT ANY ADDITIONAL RECREATIONAL INSTALLATIONS.

4.15 COMMON EXPENSES. The following expenses shall be considered expenses in common with all the lot owners: operation and maintenance of street lighting; operation and maintenance of common area sprinkler systems; maintenance of common area landscaping and operation and maintenance of the common areas, pro rata share of maintenance of the south entry of the Gem Heights Planned Development District located at the northeast and northwest corners of the intersection of 176th Street East and Gem Heights Drive, including designated common areas. (A more specific legal description to be added to these covenants by declarant on or before December 1, 1990). Common expenses shall be inclusive of the cost of liability and casualty insurance in whatever amount is reasonable and deemed appropriate. The initial assessment shall not be more than \$120 per year per lot for the operation and maintenance of all common areas utilized by and for the plat of LYNDEHURST. Such assessment shall be uniformly placed on all single family dwellings south of 168th Street East in Gem Heights Planned Development District. The payment of such dues will be collected by the Homeowner's Association biannually.

4.16 NON-LIABILITY OF ACC AND HOMEOWNER'S ASSOCIATION MEMBERS. Neither the ACC nor the Homeowner's Association, nor any member thereof, shall be liable to any owner, occupant, builder, or developer for any damages, loss or prejudice suffered or claimed on account of any action or failure to act of the committee or member thereof, provided that the member has acted in good faith and on the basis of the facts as known to him.

5.1 AMENDMENT. This Declaration can be amended at any time by DECLARANT prior to December 31, 1995. Thereafter, this Declaration can be amended by an affirmative majority vote of the lot owners.

5.2 ENFORCEMENT. The Declarant or the ACC shall have the right to enforce any provision of this Declaration or to recover damages plus 15% for administration expenses, resulting from any violation thereof by any proceeding at law or in equity. Thirty (30) days after written notice to the owner of any Lot setting forth a violation, DECLARANT, the ACC or the agent of either may enter upon such Lot, which entry shall not be deemed a trespass, and take whatever steps are necessary to correct the violation. The expenses thereof, if not paid by such owner within thirty (30) days after written notice and billing, may be filed as a lien upon such Lot. Failure of the DECLARANT or the ACC to enforce any provision herein shall in no event be deemed a waiver of the right to do so. In the event of legal action, the prevailing party shall be entitled to recover actual costs and reasonable attorney fees.

5.3 SEVERABILITIES. Invalidation of any provision hereof shall not affect the other provisions, which shall remain in full force and effect.

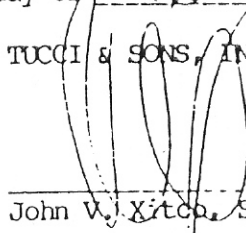
5.4 NOTICE. Any notice required hereunder shall be deemed effective when published in the Morning News Tribune.

5.5 ADDITIONAL PROPERTIES. The Declarant reserves the right at any time during the term of this document to add additional properties that would adhere to these covenants and be a part of LYNDHURST as additional division.

Any properties added shall be added in writing, reference this document and be recorded at the Pierce County Auditor's Office.

IN WITNESS WHEREOF, the DECLARANT has hereunto set its hand and corporate seal this 5th day of Sept, 1990.

TUCCI & SONS, INC.



John W. Xitco, Secretary/Treasurer

STATE OF WASHINGTON)

ss.

COUNTY OF PIERCE)

J. L. ANN TAYLOR
 STATE OF WASHINGTON
 NOTARY - - - PUBLIC
 My Comm. Expires Dec. 01, 1993

On this 5th day of September, 1990, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared John V. Xitco, to me known to be the Sec. Treas, of the Corporation that executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Julia A. Taylor
 NOTARY PUBLIC in and for the
 State of Washington, residing at
Regalleg
 My commission expires: 12-1-93