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Declaration of Protective Covenants For Colony Surf A Homeowner's Association

Introduction

This rewritten version of the Protective Covenants establishes a single common document for all divisions, since the original documents (Division 1-3/Division 4-6) are slightly different, and expire at different dates. This version updates the document to remove references to the original developer. It also provides additions and a restructure to reflect current uses and restrictions deemed necessary to enhance and protect the values of all Club and member owned property.

These Protective Covenants are also rewritten to be in compliance with and incorporate the Engrossed Substitute House Bill 1471 as amended by the Senate in the 54th Legislature, 1995 regular session. This amendment added a new chapter to the RCW Chapter 64.38 for Homeowner's Associations, and took effect July 23, 1995. All elements outlined by this amendment are incorporated here by reference and tie in the total operation/uses of Colony Surf Club, Inc.

This DECLARATION, by Colony Surf Club, Inc. a Washington Corporation, hereinafter referred to as the "Club"

WHEREAS, the owners of all lots contained within the boundary are considered owners in the "Club" of certain property in the County of Mason, State of Washington, which is more particularly described as:

Divisions 1 through 6 of Colony Surf, as appearing of record in Volume 6 of Plats at Pages 93-94, 107-109, and 188-189 dated April 1967 (Div. 1-3) and Volume 8 of Plats at Page 48 dated September 22, 1969 (Div. 4), Pages 107 dated October 5, 1970 (Div. 5), and page 117-118 dated October 19, 1970 (Div. 6), Records of the Auditor, Mason County, State of Washington.

The lot owners hereby declare their power through the "Club" to impose protective covenants, for the purpose of enhancing and protecting the value, attractiveness, natural beauty, and desirability of the lots within the divisions constituting Colony Surf Club. They further declare that all of the real property described above and each part thereof shall be held, used, occupied, developed, sold, and conveyed only subject to the following easements, covenants, conditions, and restrictions, which shall constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in the above described property or any part thereof, and shall work to the benefit of each owner thereof.

This DECLARATION replaces the original Protective Covenants, which have been

revised to reflect current Club ownership conditions and land use, in accordance with provisions of the original covenants and has been ratified by a majority of the membership of Colony Surf Club owners.

ARTICLE I Definitions

Section 1. “Club” shall mean and refer to Colony Surf Club, Inc., its successors and assignees, as incorporated on November 9, 1967, and amended August 27, 1971.

Section 2. “Division” shall mean the divided real property herein-before described and such additions thereto as may be brought within the jurisdiction of the Club as hereinafter provided.

Section 3. “Lot” shall mean any plot of land shown as a lot on the recorded Division maps referred to above.

Section 4. “Member” shall mean any person or entity who owns property in the platted area known as Colony Surf.

Section 5. “Owner” shall mean the owner of record, whether one or more persons or entities, or a fee simple title to any lot which is part of the Divisions, and shall include contract buyers but shall not include those holding title merely as security for performance of an obligation.

Section 6. “Greenbelt” shall mean community property belonging to the Club that divides or separates member lots or property outside the confines of Colony Surf Club, Inc. as platted. This property is intended to be left "untouched " forest land, which is not to be cut, cleared or changed to improve a member’s lot.

Section 7. “Community Property” or “Common Property” or “Common Area” shall mean Club owned properties and facilities.

Section 8. “Residence” - shall mean any structure usable as a permanent dwelling that meets Mason County Codes and minimum Club standards. (Reference RCW 64 House Bill 1471 Sec 2 (6) further defines "residential Real Property").

Section 9. “Resident” - shall mean any member living within Colony Surf, on either a temporary or permanent basis.

ARTICLE II Membership in Club - Voting Rights

Each owner or co-owner of one or more lots holds or shares a single membership in the Club and has voting rights. Membership shall be appurtenant to and may not be separated from ownership of a lot. Members must be in good standing as defined in the Bylaws to exercise their voting right. Voting rights of co-owners are addressed in the Bylaws.

ARTICLE III Assessments

Section 1. Lien and Personal Obligation of Assessments - Each owner of a lot is hereby deemed to covenant by acceptance of the deed for such lot, whether or not this covenant shall be so expressed in the deed, to pay to the Club

- a. Annual assessments
- b. Special assessments for capital improvements
- c. Any fine or penalty imposed for non-compliance with a Covenant, Bylaw, policy, rule, or regulation

Section 2. Common Areas - The Club shall own and maintain the water supply, road system, drainage ditches, recreational facilities, and other common areas provided by the Club.

Section 3. Delinquency - The amount of any dues or assessments not paid pursuant to the terms for payment set forth by the Bylaws are enforceable by foreclosure proceedings in the manner provided by law for foreclosure of mortgages.

Section 4. Multiple Lot Owners - If more than one (1) lot is combined in accordance with Mason County codes, the owner of said lots shall be assessed according to the original plat map.

ARTICLE IV Property Rights

Section 1. Owner's Easement of Enjoyment - Every owner of a lot shall have a right and easement of enjoyment in and to the common area which shall be appurtenant to and shall pass with the title to such lot.

Section 2. Delegation of Use - Subject to such limitations as may be imposed by the Bylaws.

Section 3. Fees - The Club maintains the right to charge reasonable admission and other fees authorized by the majority of the membership for the use of any recreational facilities situated within the common areas. (See Washington State RCW 64.38 as amended)

Section 4. Penalty Procedures - The Colony Surf Club, Inc. shall establish and maintain a written policy of procedures and penalties as authorized by majority vote of the membership, that address violations of Covenants, Bylaws, policies, rules, or regulations.

Section 5. Suspension of Rights - The Club maintains the right to suspend the right of use to recreational facilities, and the general membership voting rights of any owner(s) for periods during which an assessment against their lot is not paid in full.

Section 6. Other Easements - Easements for installation and maintenance of utilities and drainage facilities plus the purposes for which the same may be used by the Club, are reserved as shown on the recorded plat and over a two and one half (2.5) foot wide strip along each side of the interior lot lines, and over the back five (5) feet of each lot. Within these recorded easements 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 the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The recorded easement areas of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which the Club or a public authority or utility company is responsible. This provision remains in effect until such time as the recorded easement, reservation, or right of way is legally vacated according to Mason County Code.

Section 7. Emergency Right of Entry - Under emergency conditions, such as fire, earthquake, or water damage, no prior notice is needed for such entry. The Club, through its duly authorized employees and contractors, shall have the right, after reasonable notice to the owner thereof, to enter any lot at any reasonable hour on any day to perform emergency maintenance as may be required.

Section 8. No Partition - There shall be no partition of any of the common Colony Surf Club property.

ARTICLE V Architectural Control

Section 1. Architectural Control Committee (ACC) - The ACC shall be composed of all members of the Board of Trustees. A majority of the ACC may designate a representative(s) to act for it. Neither the members of such committee nor its designated representatives shall be entitled to compensation for services performed pursuant to this Article.

Section 2. Plans - No building (Temporary or Permanent), fence, hedge, wall or other construction shall be commenced, erected or maintained until the site plans and specifications have been submitted to and approved in writing by the ACC. All structures must be finished, painted, and located so as not to detract from the value of the surrounding area, and must be in compliance with Mason County Codes.

Section 3. Lot Development - No clearing or earth-moving for development of a lot shall be conducted without prior approval of the ACC. The Board of Trustees may adopt policies and regulations governing the cutting of trees. Such policies and regulations are necessary to protect the value of the surrounding properties, and the privacy at Colony Surf.

Section 4. Construction Guidelines - At all times, the general property value of the area shall be protected when constructing on or otherwise altering any lot or common area.

Section 5. Time Limit - In the event the ACC fails to approve or disapprove an architectural request within thirty (30) days after final plans and specifications have been submitted to it, further approval will not be required, and this Article will be deemed to have been fully complied with.

Section 6. Minimum Permanent Dwelling Size - The total floor area of the main floor, exclusive of open porches and garages, shall not be less than six hundred (600) square feet of livable covered space. The 600 Sq. Ft. minimum applies to structures constructed on the building site or manufactured off location.

Section 7. Building location - No building on any lot shall be located nearer than thirty-five (35) feet (front) from the middle of the road (as exists). No building shall be located nearer than five (5) feet from an interior lot line (side or rear) unless such building will occupy more than one lot. In such case, Mason County must give approval for combining lots.

Section 8. Height Restriction - No structure, except normal chimneys, flagpoles, or antennas, shall be permitted to exceed a height of thirty (30) feet above the average point of the original ground of the lot on which the building is located.

Section 9. Underground Utilities -In Divisions served by underground utilities, such utilities shall be retained underground to the edge of the structure they will serve.

Section 10. Date for Completion of Construction - Any dwelling or structure erected or placed on any lot shall be completed as to external appearance, including the finished painting, within sixteen (16) months from the date of commencement of construction.

Section 11. Mobile/Manufactured Home Requirements - Prior to bringing any mobile/manufactured home into Colony Surf ALL of the following requirements must be met.

1. Approved Architectural Request
2. Electrical meter base must be installed and operational
3. Approved septic system installed and operational
4. Water must be installed on lot
5. Mason County building permit issued and posted on lot

NO MOBILE/MANUFACTURED HOME OVER 10 YEARS OLD FROM THE DATE OF MANUFACTURE WILL BE AUTHORIZED.

ARTICLE VI Use Restrictions

Section 1. Use of Land - Each lot, if in use, shall be used for residential or recreational purposes. Only one permanent residence may be built on any single lot. The ownership of a subdivision or portion of a lot shall not be transferred by sale, resale, or other means whereby the ownership of any portion of the plat shall apply to less than the area originally platted for that lot.

Section 2. Structure uses - No structure shall be used as a permanent residence unless it meets the minimum size requirements of Article V, Section 6. Recreational vehicles, tents, campers, trailers, or other temporary structures may be kept on a lot and/or used as temporary residences as long as they are well maintained and do not detract from the property value of the surrounding area.

Section 3. Restrictions on Rental of Lots and/or Improvements - No lot or improvements shall be rented to any person or entity at any time.

Section 4. Water System - No one may alter or tap into the water system without approval of the Board of Trustees. No water line shall be extended from one lot owner to any other different lot owner, or externally to any property outside the platted area of Colony Surf as defined in these covenants. No well drilling of any kind shall be permitted upon any member owned lot.

Water connection and water maintenance fees may be established by the membership and maintained by the Board of Trustees.

Section 5. Sewage Systems - No individual sewage disposal system shall be permitted on any lot unless such system is designed, located, and constructed in accordance with the requirements and standards of the Mason County Health Department. Sewage may only be disposed of through an approved septic system. No stationary or portable outhouses will be allowed except those approved by the Club for use on Common recreational areas. Sewage includes, but is not limited to, "gray water" from sinks.

Section 6. Roads / Parking - All Club roads are private. The Club retains the right to restrict all traffic, including heavy weight commercial vehicles. No overnight on-street parking is allowed.

Section 7. Timber Cutting - Cutting of trees from lots for the sole purpose of harvesting timber is not allowed. If clear cutting is planned, approval by Mason County and Colony Surf's Architectural Committee is necessary. When a lot is excavated for residential purposes, the lot must be restored to a presentable appearance within 16 months, subject to a submitted plan approved by the Architectural Control Committee.

Section 8. Common Area Uses - Nothing shall be altered in, constructed on, or removed from the common area except on the written consent of the Board of Trustees. Use of the common areas shall be controlled by the Club through its Bylaws, including boat storage.

Section 9. Fences - No fence, wall or other dividing instrumentality shall be constructed, placed, erected, altered or maintained on any lot without prior approval of the ACC. No fence, wall, or other dividing instrumentality shall be situated on any lot nearer than the edge of a recorded easement, or eight (8) feet from the edge of the existing pavement. No fence shall be over six (6) feet in height, or detract from the attractiveness of the surrounding area.

Section 10. Signs - No sign of any kind shall be displayed to public view on any lot or the common area without the prior written consent of the Board of Trustees, except for customary name and address signs, and lawn signs of not more than five (5) square feet in size advertising a property for sale.

Section 11. Rubbish/Trash - No rubbish, trash, garbage, or other discarded or abandoned material shall be kept or permitted on any lot or on the common area except in sanitary containers, which are located in appropriate areas concealed from public view, except on collection days.

Section 12. Lake Front Usage - All waterfront piers, wharves, bulkheads, floats, docks, or similar structures shall be subject to the ACC approval. No motor driven crafts are allowed on Fosen Lake. The State of Washington approval is required.

Section 13. Animals - Except as noted below, no animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot or on the common area. However, dogs, cats, and other

household pets may be kept on lots subject to such rules and regulations as may be adopted by the Club, so long as they are not kept, bred, or maintained for commercial purposes, and do not become a nuisance.

Section 14. Home Based Businesses - A home based business is defined as a repeated activity for the purpose of generating revenue, conducted on an owner's property at Colony Surf. Home businesses are allowed at Colony Surf providing the following conditions are met:

- a) There are no permanent signs or visual evidence on the lot which advertises the business.
- b) The activity does not detract from the property value of the surrounding property.
- c) Businesses do not generate any traffic or parking from outside Colony Surf.

Section 15. Insurance Impacts - Nothing shall be done or kept on a lot which would increase the rate of insurance paid by the Club without the prior written consent of the Board of Trustees, and no member shall store personal property on common areas which would result in the cancellation or increase in rate of the Club's insurance costs. (e.g., fire, excavation, or water damage).

Section 16. Abandoned Personal Property - No owner or contract purchaser of any lot shall permit any personal property to be abandoned upon any lot or on any portion of the common area. Items include cars, trailers, campers, tents, boats, etc.

Section 17. Noxious or Offensive Activity - No noxious or offensive behavior shall take place in or on any lot, or on common areas or roads of Colony Surf, nor shall anything be done thereon which may become a nuisance to the neighborhood. Fines and penalties for violations, will be established by the members of Colony Surf and maintained/enforced by the Board of Trustees.

ARTICLE VII Owner's Obligation to Rebuild or Remove

If all or any portion of a building is damaged or destroyed by fire or other casualty, it shall be the duty of the owner thereof to rebuild, repair, or reconstruct the structure to the standards of these covenants, or to clear and cleanup the damage so as to not reduce the property value of the surrounding area. Reconstruction or removal shall be started within six (6) months after the damage occurs, and reconstruction shall be completed in accordance with Article 5 Section 10 of these covenants, within sixteen (16) months after the damage occurs.

ARTICLE VIII Enforcement of Covenants

Section 1. Fines and Penalties. - The Board of Trustees shall establish a schedule of fines, fees, and penalties for violations of Covenants, Bylaws, and operating guidelines. Colony Surf membership must approve a schedule of these fees, fines and penalties.

Section 2. Enforcement Rights. - The Club shall have the right to enforce, by any procedure at law or in equity, all restrictions, conditions, covenants, easements, reservations, bylaws, liens and charges now or hereafter imposed by the provisions of this declaration. If the Club retains an attorney to enforce any provisions of this declaration and if it prevails, then the owner will pay the Club's attorney fees and costs. Failure by the Club or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE IX Variances/Easements on Pre-Existing Residences/Lots

All easements or variances existing prior to the enactment of these covenants will be accepted as a pre-existing conditions. These restrictive covenants as amended will be strictly enforced.

ARTICLE X Survivorship Provision

If challenges to any portion of these covenants are successful in a court of law, the balance of these covenants shall remain unchanged. Only that portion which the court determines unenforceable shall be amended or deleted and the court should reformat the challenged portion to reflect the intention of the original covenant provisions.

ARTICLE XI Amendments

Covenants and restrictions of this Declaration may be amended during the term of this Declaration by duly recording an instrument executed and approved by a vote of not less than two-thirds of the then owners.

ARTICLE XII Duration

The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Club, or any member thereof, for the period as specified in the introduction of this document, and thereafter shall continue automatically in effect for periods of ten (10) years from the date these Covenants are recorded after which time said Covenants shall be automatically extended for successive periods of ten (10) years unless a majority of the then owners agree to change said Covenants.

ATTEST

The below signed officers warrant that a majority of the lot owners as defined in the introduction section of these covenants, existing at the date below, has agreed to this Declaration by a properly documented vote. The signatures attesting to this agreement are filed in the office of the Colony Surf Club, Inc.

Executed this _____ day of _____, 20__.

COLONY SURF CLUB, INC.,

By _____ By _____
President Secretary

STATE OF WASHINGTON)
COUNTY OF MASON)

I certify that I know or have satisfactory evidence that _____, and _____ signed this instrument, on oath stated that they were authorized to execute the instrument, and acknowledged it as the President and Secretary of Colony Surf Club, Inc. to be the free and voluntary act of such parties for the uses and purposes mentioned in the instrument.

Dated: This _____ day of _____, 20__

Notary Public. My commission expires _____