

9406300300

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR A STEP SEWERAGE SYSTEM

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR A STEP SEWERAGE SYSTEM is made on the ___ day of _____, 1994, by Lorigon Corporation, a Washington corporation, hereinafter referred to as "Declarant."

I. BACKGROUND

A. Declarant was originally the owner of certain property in Pierce County, Washington, which it is developing into a community called Canterwood. The Declarant has sold certain lots within that property to others, and Declarant has retained ownership of the balance of the property, which is described in Exhibit "A," and attached to this Declaration and incorporated by this reference.

B. Declarant has contracted with the City of Gig Harbor to provide to Canterwood sewer utility service for connection to Canterwood's STEP Sewerage System, which serves lots within Canterwood that are not served by individual or community on-site sewerage systems.

C. Declarant has incorporated the Canterwood STEP System Association to provide a means for operating and managing said systems, meeting the purposes of this Declaration, the requirements of Pierce County Health Department, and the provisions of WAC 248-272.

II. DECLARATION

A. Declarant hereby declares that the property described in Exhibit "A," and such additions as may be made pursuant to Article II, is, are and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration.

B. Further, Declarant delegates and assigns to the Canterwood STEP System Association the power of maintaining and administering the STEP system, administering and enforcing the covenants and conditions,

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and collecting and disbursing the assessments and charges created in this Declaration.

ARTICLE I

Definitions

Section 1.1. "Approval" shall mean the issuance of written approval, the approval at any meeting, any written waiver of approval rights, or the issuance of a letter of "no objection."

Section 1.2. "Association" shall mean the Canterwood STEP System Association, a Washington non-profit corporation, its successors and assigns.

Section 1.3. "Board" or "Board of Directors" shall mean the Board of Directors of the Association.

Section 1.4. "Community System" shall mean a subsurface sewage disposal system that serves more than one residence.

Section 1.5. "Declarant" shall mean Lorigon Corporation, a Washington corporation, and its successors and assigns; provided, however, that no successor or assignee of Declarant shall have any rights or obligations of Declarant under the Declaration unless such rights and obligations are specifically set forth in the instrument of succession or assignment. Notwithstanding this provision, the obligations of Declarant under this instrument shall be binding upon any successor or assign who acquires all or substantially all of the remaining property in the Canterwood development.

Section 1.6. "Declarant Control" shall mean the right of Declarant or persons designated by the Declarant to appoint and remove officers and members of the Board of Directors.

Section 1.7. "Declaration" shall mean the covenants, conditions and restrictions and all other provisions set forth in this Declaration, as they may from time to time be amended.

Section 1.8. "Dwelling Unit" shall mean any portion of a building on the property, which portion is designed and intended as a residence for one

family, and which is connected to a STEP System or Community System as defined below. Without limiting the foregoing, the term shall include single-family houses, townhouses, and condominium units. The term "Dwelling Unit" shall encompass the Lot upon which a Dwelling Unit is located.

Section 1.9. "Lot" shall mean any numbered parcel of land shown upon any recorded subdivision map of the Properties, with the exception of common areas or other areas set aside for non-residential use.

Section 1.10. "Member" shall mean every person or entity who holds membership in the Association.

Section 1.11. "Notice" shall mean written notice delivered personally or mailed to the last known address of the intended recipient.

Section 1.12. "Owner" shall mean every person or entity, including Declarant, which is a record Owner of the fee simple title to any Dwelling Unit, or if any Dwelling Unit is sold under real estate contract, the vendee or vendees under that contract; provided, however, that the term "Owner" shall not include those having such interest merely as security for the performance of an obligation.

Section 1.13. "Properties" shall mean the real property described on Exhibit "A," together with such other property as may be annexed thereto under the provisions of Article II from and after the time such other property is actually annexed.

Section 1.13. "STEP System" (Septic Tank Effluent Pumping System) shall mean a system which pumps effluent from the septic tank into either a community or individual subsurface sewage disposal system, or into a sewer system.

ARTICLE II

Property Subject To This Declaration And Additions Thereto

Section 2.1. The Properties. The real property which is subject to this Declaration is described on Exhibit "A."

Section 2.2. Additions to the Property. Additional property may become subject to this Declaration in the following manner:

(a) Automatic Additions. Additional properties shall automatically become subject to this Declaration upon connection to a STEP System or Community System and satisfaction of all other conditions set forth in this Declaration.

(b) Other Additions. Additional properties, other than those described in Section 2.2(a) above, may be annexed to the Properties by Declarant, in Declarant's sole discretion, during the period of Declarant control and thereafter upon the approval of two-thirds (2/3) of the Members at a meeting called for this purpose.

The additions authorized under this subsection shall be made by complying with the applicable ordinances of Gig Harbor and Pierce County, by recording one or more supplementary Declarations of Covenants and Restrictions with respect to the additional property, by filing with the Association the site plan and septic design for such additions, and by payment of all costs of connection, including any extensions of the system, by the Owner of the property to be added.

ARTICLE III

Association

Section 3.1. Membership. Every Owner of a Dwelling Unit which is connected to a STEP System or a Community System shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Dwelling Unit which is connected to a STEP System or Community System.

Section 3.2. Voting Rights. Each Member shall be entitled to one vote for each Dwelling Unit owned. When more than one person holds an interest in any Dwelling Unit, all such persons shall be Members. The vote for such Dwelling Unit shall be divisible and exercised as the Owners determine, but in no event shall more than one vote be cast with respect to any Dwelling Unit.

Section 3.3. Commencement of Voting Rights. The right of a Member to vote shall commence on the date a Dwelling Unit is connected to a STEP System or Community System.

Section 3.4. Declarant Control. The Declarant shall have the right to select all of the Directors and such Directors need not be Owners, and to add additional property to this Declaration, until the earliest of the following events happens:

- (a) Declarant ceases to control the Canterwood Homeowners Association pursuant to Article IV, Section 4.2(b)(i), of the Amended and Restated Declaration of Covenants, Conditions and Restrictions recorded under Pierce County Auditor's No. 8803180143;
- (b) on June 1, 1998; or,
- (c) Declarant elects to permanently relinquish its authority under this provision by written notice to all Owners.

ARTICLE IV

Easements

Section 4.1. Location of Easements. Declarant reserves for the Association, pursuant to Article V of the Canterwood Amended and Restated Declaration of Covenants, Conditions, and Restrictions recorded under Pierce County Auditor's File No. 8803180143, an easement over those portions of the Properties where Community Systems or STEP Systems are located, together with areas set aside for reserves. The exact location of the constructed systems and reserve areas are shown on drawings filed for record in the office of the Tacoma/Pierce County Health Department and in the office of the Canterwood STEP System Association.

Section 4.2. Purpose of Easements. The Association and its agents shall have an easement for access to the exterior of any Dwelling Unit during reasonable hours as may be necessary to maintain, repair, replace, operate and improve any sewerage system covered by this Declaration, including but not limited to all lines, pumps, electrical equipment, and electrical service. The Association shall take reasonable steps to see that its activities on the Properties are performed in such a way as to minimize

adverse effects on Owners. All improvements installed or constructed by the Declarant or the Association on the Properties shall remain the property of the Association. No Owner shall undertake to alter the installed system or cover or obstruct access to the pump basin, clean-outs, or the lock-outs, without the prior approval of the Association. Any damage caused by the Owner or the Owner's agents or invitees shall be repaired by the Association at the Owner's expense. All costs of such damage shall be a lien against the Owner's property in the same manner as the assessments described below.

ARTICLE IV **Assessments**

Section 5.1. Covenants for Maintenance Assessments.

- (a) Declarant, for each Dwelling Unit owned by it, agrees, and each Owner of a Dwelling Unit by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to agree to pay to the Association (i) monthly assessments or charges for connection, maintenance, operation, repairs, replacements, emergency work, or modifications to the sewerage system, and (ii) special assessments for capital improvements.
- (b) The monthly and special assessments, together with interest, costs and reasonable attorneys' fees shall be a charge and a continuing lien upon the Dwelling Unit against which each such assessment is made. Such lien may be foreclosed by the Association in like manner as a mortgage on real property.
- (c) Each assessment, together with interest, costs, and reasonable attorneys' fees shall also be the personal obligation of the person who was the Owner of the Dwelling Unit assessed at the time the assessment fell due. The personal obligation shall not pass to the Owner's successors in interest unless expressly assumed by them. The new Owner shall be personally liable for

assessments which become due on and after the date of sale or transfer.

Section 5.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of maintenance, repairs, replacements, operation, emergency work, modifications or capital improvements of the sewerage systems and for such other purposes as the Association may deem consistent with this Declaration.

Section 5.3. Rate of Assessments. Both monthly and special assessments shall be fixed at a uniform rate for all Dwelling Units; provided, however, that connection fees and all other "one time only" charges shall be on a site-by-site basis. The monthly and special assessments shall be based upon metered water usage.

Section 5.4. Effect of Non-Payment of Assessments; Remedies of Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within fifteen (15) days after the due date, the assessment shall bear interest from the date of delinquency at the highest rate provided by law, and the Association may bring an action at law against the Owner obligated to pay the assessment, or may foreclose the lien against the property, and in either event, interest, costs, and reasonable attorneys' fees shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for monthly or special assessments by non-use or abandonment of the Owner's Dwelling Unit.

Section 5.5. Subordination of Lien to Mortgages. The lien of the assessments provided for in this Declaration shall be subordinate to the lien of any first mortgage. Sale or transfer of any Dwelling Unit shall not affect the assessment lien. However, where the mortgagee of a mortgage of record or other purchaser of a Dwelling Unit obtains possession of the Dwelling Unit as the result of foreclosure of a mortgage, or by deed or assignment in lieu of foreclosure, such possessor, his successors and assigns, shall not be liable for the share of the common expenses or assessments by the Association chargeable to such Dwelling Unit which became due prior to such possession. Such unpaid share of common expenses or assessments shall be deemed to be a common expense collectible from all of the Owners, including such possessor, his successors and assigns.

ARTICLE VI

General Provisions

Section 6.1. Binding Effect. All present and future Owners or occupants of Dwelling Units shall be subject to and shall comply with the provisions of this Declaration, and the Bylaws of the Association, as they may be amended from time to time. The acceptance of a deed or conveyance, or the entering into occupancy of any Dwelling Unit shall constitute an agreement that the provisions of this Declaration, and the Bylaws of the Association, as they may be amended from time to time, are accepted and ratified by such Owner or occupant, and all such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Dwelling Unit, as though such provisions were recited and stipulated at length in each and every deed and conveyance, or lease thereof.

Section 6.2. Enforcement. The Association and any Owner shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Should the Association or any Owner employ counsel to enforce any of the foregoing restrictions, conditions, covenants, reservations, liens or charges, all costs incurred in such enforcement, including reasonable attorneys' fees, shall be paid by the Owner found to be in violation of said restriction, condition, covenant or reservation, or found to be delinquent in the payment of said lien or charge.

Section 6.3. Failure to Enforce. No delay or omission on the part of the Declarant or the Owners of Dwelling Units in exercising any rights, power, or remedy provided in this Declaration shall be construed as a waiver of or acquiescence in any breach of the covenants, conditions, reservations, or restrictions set forth in the Declaration. No action shall be brought or maintained by anyone whatsoever against the Declarant for or on account of its failure to bring any action for any breach of these restrictions, conditions, covenants or reservations, or for imposing restrictions which may be unenforceable.

Section 6.4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this day personally appeared before me Douglas A. Gonyea, to me known to be the President of LORIGON CORPORATION, the corporation that executed the within and foregoing instrument, and acknowledged 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 was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed on this 16th day of JUNE, 1994.



Eva L. Jacobson
EVA L. JACOBSON
(Type/Print Name)
NOTARY PUBLIC in and for the State
of Washington, residing at 919 HARBOR
My Commission Expires: 2-28-96.

LEGAL DESCRIPTION FOR

CANTERWOOD (LORIGON)

LOTS 1 THROUGH 8, INCLUSIVE OF CANTERWOOD REPLAT A OF CANTERWOOD REPLAT A & B, RECORDED JULY 30, 1990 UNDER RECORDING NUMBER 9007300358, WHICH IS A REPLAT OF LOT 22 OF CANTERWOOD DIVISION FIVE UNDER RECORDING NUMBER 8905170206, IN PIERCE COUNTY, WASHINGTON.

Canterwood Division 10

THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 22 NORTH, RANGE 2 EAST, W.M.

AND

THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE W.M., SITUATE IN PIERCE COUNTY, STATE OF WASHINGTON.

TOGETHER WITH:

LOT 24 OF DIVISION 5 CANTERWOOD SUBDIVISION RECORDED PLAT UNDER PIERCE COUNTY AUDITOR'S NO. 8905170206.

EXCEPT LOTS 22, 42 AND 46 CANTERWOOD DIVISION 10 PHASE "A", CANTERWOOD SUBDIVISION RECORDED PLAT UNDER PIERCE COUNTY AUDITOR'S NO. 9311090619.

APPROX. 83 ACRES - 136 LOTS TOTAL.

Canterwood Division 11

SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 22 NORTH, RANGE 1 EAST OF THE W.M., RECORDS OF PIERCE COUNTY.

EXCEPT THAT PORTION CONVEYED TO THE CITY OF TACOMA, FOR TRANSMISSION RIGHT OF WAY, BY DEED RECORDED UNDER PIERCE COUNTY AUDITOR'S NO. 677886.

EXHIBIT A

ALSO EXCEPT THAT PORTION CONVEYED TO THE STATE OF WASHINGTON BY DEED RECORDED AUGUST 17, 1971 UNDER PIERCE COUNTY AUDITOR'S NO. 2406340.

ALSO EXCEPT LOTS 25, 26, 27 & 28 DIVISION 11 CANTERWOOD SUBDIVISION PLAT RECORDED UNDER PIERCE COUNTY AUDITOR'S NO. 9306020522.

APPROX. 37 ACRES - 52 LOTS TOTAL.

Canterwood Division 12

SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE W.M., IN PIERCE COUNTY, WASHINGTON.

APPROX. 40 ACRES - 50 LOTS TOTAL.

EXHIBIT A