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DOCUMENT TITLE:	THIRD AMENDMENT TO DECLARATION AND COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND RESERVATIONS FOR ELLIOTT FARM
GRANTOR:	ELLIOTT FARM HOMEOWNERS ASSOCIATION
GRANTEE:	ELLIOTT FARM
ABBREVIATED LEGAL DESCRIPTION:	PTN OF NE QUARTER OF THE SE QUARTER OF SECTION 22, TOWNSHIP 23 NORTH, RANGE 5 EAST, W.M.
ASSESSOR'S PROPERTY TAX PARCEL NUMBER:	231430-0010 THROUGH 231430-1070, INCLUSIVE
REFERENCE NUMBERS OF DOCUMENTS ASSIGNED OR RELEASED OR RELATED DOCUMENTS:	19991109001443; 9705020110

DEPARTMENT OF ASSESSMENTS

Examined and approved this 24<sup>th</sup> day of

November, 2016

John Wilson

Assessor

Alan Wolfson

Deputy Assessor

COPY

**THIRD AMENDMENT TO DECLARATION AND COVENANTS, CONDITIONS,  
RESTRICITONS, EASEMENTS AND RESERVATIONS  
FOR ELLIOTT FARM**

**RECITALS**

A Declaration submitting real estate to the Washington Homeowner Association Act (Revised Code of Washington, Chapter 64.38), entitled Declaration and Covenants, Conditions, Restrictions, Easements and Reservations for Elliott Farm, was recorded on May 2, 1997 under recording number 9705020110 in King County, Washington, (hereinafter, the "Original Declaration,"), together with Plat ("Original Plat") filed with the Recorder of King County, Washington, under Recording Number 9704080990, in Volume 108, pages 4 through 15.

Elliott Farm Homeowners Association (the "Association") desires to amend the Declaration to adopt provisions with regard to leasing of Lots.

Pursuant to Article 14 of the Original Declaration not less than sixty-seven percent (67%) of the members voted to approve this amendment.

To accomplish the foregoing purpose, the undersigned President and Secretary of the Elliott Farm Homeowners Association do hereby certify that the requirements of the Original Declaration have been complied with and therefore declare and adopt the following Amendment to the Declaration:

**THIRD AMENDMENT TO DECLARATION AND COVENANTS, CONDITIONS,  
RESTRICITONS, EASEMENTS AND RESERVATIONS  
FOR ELLIOTT FARM**

**A. The following subsections are added to Section 1.1 of the Original Declaration:**

**1.1.19** "Governing Documents" means the Declaration and all amendments thereto, Articles of Incorporation, if any, Bylaws and Rules and Regulations adopted by the Association, as may be lawfully amended from time to time.

**1.1.20** "Lease" means any agreement or other writing executed by both the Lot Owner and Tenant(s) which memorializes the terms of the Leasing of a Lot.

**1.1.21** "Occupant" means anyone who occupies a Lot as a permanent residence or who stays overnight in any Lot more than fourteen (14) days in any calendar month or more than sixty (60) days per calendar year.

**1.1.22** “**Related Party**” means a person who has been certified in a written document filed by a Lot Owner with the Association to be the Spouse, parent, parent-in-law, sibling, sibling-in-law, parent’s sibling, or lineal descendant or ancestor of any of the foregoing persons, the officer or director of any Lot Owner which is a corporation, the member of any Lot Owner which is a limited liability company, the trustee or beneficiary of any Lot Owner which is a trust, or the partner of any Lot Owner which is a partnership. Notwithstanding the foregoing to the contrary, a person who is the settlor and trustee of a living trust that owns a Lot shall be deemed to be the Lot Owner of the Lot for all purposes under the Declaration.

**1.1.23** “**Renting or Leasing**” a Lot shall mean the granting of a right to use or occupy a Lot, for a specified term or indefinite term (with rent reserved on a periodic basis), in exchange for the payment of rent (that is, money, property or other goods or service of value); or the occupancy of a Lot solely by a person or persons other than its Lot Owner or a Related Party, whether or not rent is paid; but shall not mean and include joint ownership of a Lot by means of joint tenancy, tenancy-in-common or other forms of co-ownership.

**1.1.24** “**Spouse**” means a partner in a marital union, partner in a civil union or registered domestic partner.

**1.1.25** “**Tenant**” means and includes any lessee, renter, tenant and all other non-Owner Occupants of a Lot that is not occupied by its Owner or a Related Party, whether or not rent is paid.

**B. The following new Section 3.6 is added to Article 3 of the Original Declaration.**

**Section 3.6 Leasing of Lots.** The Leasing or Renting of a Lot by its Owner shall be governed by the provisions of this Section 3.6.

**3.6.1 Leasing Defined and Regulated.** The Leasing of a Lot is governed by the provisions of this Amendment, including, without limitation, this Section 3.6. As used in this Amendment, the terms “to Lease,” “to rent,” “Renting,” “Leasing,” or “rental” shall have the meaning as defined in 1.1.23 of this Amendment. Notwithstanding anything herein to the contrary, this Section 3.6 shall not be applicable to the Lease of a Lot acquired by the Association following a Foreclosure of the Association’s lien for Assessments or to the Lease of a Lot by a receiver appointed on the motion of the Association in connection with a lien Foreclosure action filed by the Association.

**3.6.2 Lease Ceiling Set.** Except as otherwise provided in this Section 3.6, the maximum number of non-Owner occupied Lots in the Association at

any one time shall not exceed ten percent (10%) of the Lots (hereinafter, the "Lease Ceiling").

**3.6.3 Pre-Existing Leased Lots.** On the date this Amendment is recorded, there may be existing Lots under Lease. A Lot subject to a Lease on that date is a "Pre-Existing Leased Lot." Pre-Existing Leased Lots shall not be subject to the Lease Ceiling and shall not be included in the calculation of non-Owner occupied Lots for the purpose of the Lease Ceiling. A Lot shall cease to be a Pre-Existing Leased Lot and shall be treated like every other Lot for purposes of this Section when the pre-existing lease reaches the end of its current term. In order to be considered a Pre-Existing Leased Lot for the purposes of this Amendment, an Owner must submit an executed written lease agreement to the Association within thirty (30) days of recording of this Amendment. Any Owner who does not submit documentation within thirty (30) days to prove that the Lot was Leased at the time the amendment was recorded will be subject to all provisions of this Amendment, including the Lease Ceiling. Pre-Existing Leased Lots are subject to all other provisions of this Section 3.6 unless otherwise stated.

**3.6.4 Effect of Lease Ceiling.** If an Owner wishes to Lease a Lot but is prohibited from doing so because of the Lease Ceiling, the Association shall place the Owner's name on the Lease Waiting List provided for in Section 3.6.5.

**3.6.5 Waiting List.** The Board or its designated agent shall maintain a list of Owners who desire to Lease their Lots on a first come, first served basis (the "Lease Waiting List"). The Lease Waiting List includes all of the Lots whose Owners have applied for approval from the Association to Lease their Lots when the number of applications is equal to or exceeds the Lease Ceiling. The Association will approve the Lease of Lots in the order listed on the Lease Waiting List, in order of date of application by the Lot Owner, and in the number such that the total number of applications approved for Lease, including applications for those Lots already Leased, is equal to the Lease Ceiling. If an approved Lot Owner fails to rent his or her Lot within thirty (30) days (or otherwise advises the Board of his/her waiver of the right to rent the Lot), then that Lot Owner's name shall be placed at the bottom of the Waiting List, and the opportunity to Rent shall then be offered to the next person on the Waiting List.

**3.6.6 Notice of Lease Non-Renewal or Termination.** Each Owner who has Leased his or her Lot shall give written notice to the Association of any expiration and non-renewal or other termination of a Lease within ten (10) days of the date that the Owner learns of the expiration and non-renewal or other termination of the Lease. If a Lease is not renewed by the Tenant occupying the Lot or a Lease otherwise expires or is terminated by either party thereto, the Owner shall request the Association's consent to Lease the Lot prior to any execution of a

subsequent Lease with any new Tenant. The Owner may seek a new Tenant for the Lot and in doing so much comply with all other requirements of this section 3.6. However, if a new lease is not executed within thirty (30) days, the name of the Owner seeking the Association's consent to the Lease will be placed at the end of the Lease Waiting List, and no Lease shall be approved for that Owner's Lot until all other Owners whose names had previously been added to the Lease Waiting List have been given the opportunity to Lease their Lots. If the number of Lots Leased is below the Lease Ceiling as a result of the non-renewal or other termination of a Lease or otherwise, the Association will notify in writing the first Lot Owner on the Lease Waiting List of its position on the List and that Owner shall have the opportunity to Lease his or her Lot pursuant to Section 3.6. This section is subject to the Hardship Exception and does not apply to Pre-Existing Leased Lots.

**3.6.7 Lease Approval.** Prior to the Rental of a Lot, and prior to the renewal of any previously approved Lease, an Owner must submit to the Association a valid and binding Lease, executed by both the Owner and the proposed Tenant. In lieu of submission of an executed Lease, a Lot Owner may submit a request for written approval from the Board in advance of entering into a Lease. The Board may grant such advance approval; provided, however, that the Lot Owner must submit a Lease which meets the requirements of this Section 3.6 within sixty (60) days of receiving approval from the Board. The Association shall grant its consent to the Owner if:

**3.6.7.1** The Lot Owner has complied with Section 3.6 of the Declaration; and

**3.6.7.2** In the case of a renewal, the Tenant is in strict compliance with all provisions of the Governing Documents, and has not been found to be in violation of the Governing Documents following notice and opportunity to be heard more than once during the immediately preceding year; and

**3.6.7.3** The Lease contains a Lease Addendum in the form approved by the Association acknowledging that the Tenant's Rental of the Lot is subject to the Governing Documents, or is otherwise in compliance with the requirements of the Declaration; and

**3.6.7.4** The Lease would not cause the aggregate number of all non-Owner occupied Lots to exceed the Lease Ceiling, with the exceptions set forth in this section.

**3.6.8 Renewal of Leases.** If the Owner of a Leased Lot and the existing Tenant wish to renew their Lease, the Association shall not withhold consent merely because of the number of non-Owner occupied Lots is equal to or greater than the Lease Ceiling if (a) the Association has previously approved the Lease in

the manner provided in this Section; and (b) the conduct of the Tenant has not resulted in more than two violation notices or more than one fine within the previous six (6) months for failure to comply with the Governing Documents.

**3.6.9 Holders of Mortgages.** The Association shall not withhold its consent to Lease a Lot to a Mortgagee, institutional holder or loan servicer in possession of a Lot following default on a Mortgage or deed of Trust (or Foreclosure of same) merely because the Lease would cause the number of non-Owner occupied Lots to exceed the Lease Ceiling.

**3.6.10 Hardship Exception.** Where, on written application from an Owner, the Board determines that a hardship exists whereby that Owner would suffer serious harm by virtue of the limitation on Leasing contained in this Section 3.6, the Board may, in its discretion, grant an Owner a waiver of the Lease Ceiling for a period of time determined by the Board but not to exceed six (6) months, with the possibility of renewal upon application by the Lot Owner (the "Hardship Exception"). The total number of rental months under this Hardship Exception shall not exceed twenty-four (24) months for any individual Owner. A Lot Leased under a Hardship Exception granted by the Board under this section shall not be counted as a non-Owner occupied Lot for the purpose of determining whether a Lease would cause the number of non-Owner occupied Lots to exceed the Lease Ceiling. The Board, at its discretion, may require compliance with any provision of this Section 3.6 in connection with the granting of a Hardship Exception.

The Board may also grant a Hardship Exception or subsequent renewal if the Board determines that doing so is in the best interests of the Association. The Board, at its discretion, may impose additional restrictions or conditions upon said Leasing which it deems in its sole discretion reasonable and necessary to protect the best interests of the Association or the Owners.

A hardship is presumed to exist when an Owner has been called, recalled, drafted or otherwise become subject to a legal requirement to enter into active military service in the armed forces of the United States or the National Guard of any State. The Board may require written documentation evidencing said required active military service, including updated written documentation on an annual basis. The Board, at its discretion, may grant a Hardship Exception for the entire duration of the active military service, even if that period of time exceeds the twenty-four (24) month maximum described in the paragraph above.

A hardship is also presumed to exist in the event of an Owner's death; when an Owner's need for medical care necessitates an extended absence from his or her Lot; or when an Owner has received an employment transfer which will require the Owner to move more than fifty (50) miles away from the Association. The Board may require written documentation evidencing the above circumstances, including

updated written documentation on an annual basis when appropriate. The Board, at its sole discretion, may grant a Hardship Exception for the entire duration of the expected absence without a renewal request by the Owner, even if that period of time exceeds the twenty-four (24) month period described above.

**3.6.11 Tenant Screening.** The Board may adopt a rule that requires any Lot Owner desiring to Rent a Lot to have a potential Tenant screened by a professional service before entering into a Lease, at the Lot Owner's sole cost and expense, and to furnish proof in a form reasonably satisfactory to the Board that the screening has been completed. The Board may adopt reasonable rules and regulations regarding the type of information that must be provided by the Tenant screening service.

**3.6.12 Responsibility for Tenant Selection.** Neither the Association's Board nor Manager shall evaluate any information provided by the Tenant screening service or in any way make a determination or recommendation as to the suitability of any potential Tenant. The selection of a suitable and appropriate Tenant is the sole right and responsibility of the Lot Owner.

**3.6.13 Minimum Occupancy Term.** No Owner shall Lease a Lot until the Owner or Related Party has continuously occupied the Lot as a primary residence for one (1) year after the Lot Owner has taken ownership. This section is subject to the Hardship Exception. This section does not apply to the case of a Mortgagee, institutional holder or loan servicer in possession of a Lot following default on a Mortgage or deed of trust (or Foreclosure of the same).

**3.6.14 Entire Lot.** No Lot Owner may Lease less than the entire Lot.

**3.6.15 Minimum Lease Term Required.** No Lot Owner shall permit a Lot to be used for hotel or transient purposes, which shall be defined as Rental, occupancy or use by a Tenant or other non-Owner Occupant for an initial occupancy period of less than one (1) year. This includes, but is not limited to, the use of a Lot through a short-term rental service such as AirBnB, VRBO, Couchsurfing, etc. No Lot Owner or Tenant who does not occupy a Lot as a primary residence shall cause or allow the overnight accommodation of employees or business invitees in a Lot on a temporary or transient basis. Except as provided otherwise in this Section 3.6 every Lease shall be for a fixed initial term of not less than one (1) year, but may be renewed thereafter for lesser terms.

**3.6.16 Tenants' Subleasing Lots.** No Tenant may sublease a Lot or any part of a Lot (e.g., a room).

**3.6.17 Lease Requirements.** No Lease of a Lot is valid or enforceable unless it shall be by means of a written instrument or agreement between the Owner(s) and the Tenant(s). No Lease entered into after the date of recording of this Amendment is valid unless it bears the Association's written approval, granted prior to the Tenant's occupancy. A hard copy of each Lease, executed by the Lot Owner and Tenant, shall be provided by the Lot Owner to the Board or its designated agent within thirty (30) days of its execution.

**3.6.18 Governing Documents.** All Leases shall be in compliance with, subject to, and deemed to integrate the Governing Documents whether such Lease is silent with respect thereto or contains this provision, a similar provision or otherwise incorporates this Amendment by reference. A default by the Tenant in complying with the Governing Documents shall constitute a default under the Lease. Each Lot Owner who Rents or Leases a Lot or allows the Lot to be occupied by a Related Party shall provide that Tenant or Related Party with a copy of the Governing Documents. If the Owner fails to provide written evidence to the Association that he/she has done so, the Association may furnish a copy of the Governing Documents to the Tenant or Related Party and the Lot Owner will be charged a reasonable fee to be determined by the Board for each document provided.

**3.6.19 No Impairment of Insurance.** Nothing shall be done or kept in any Lot or in the Common or Limited Common Areas by a renter or lessee which will increase the rate of insurance on the Common Areas, Limited Common Areas, or Lots without the prior written consent of the Board. No Owner shall permit anything to be done or kept in his Lot or in the Common or Limited Common Areas by a renter or lessee that will result in the cancellation of insurance on any Lot or on any part of the Common or Limited Common Areas.

**3.6.20 Insurance Carried by Tenants.** The Board is authorized to establish rules and regulations affecting Tenants, including that Tenants must obtain and provide proof of insurance for the Lot and its contents.

**3.6.21 Rent Paid to Association.** If a Lot is Leased by its Owner, the Board may collect, and the Tenant shall pay over to the Board, so much of the rent for such Lot as is required to pay any Assessments against the Lot due to the Association, plus interest and costs, if the same are in default over thirty (30) days. The Tenant shall not have the right to question payment to the Association. Such payment will discharge the Tenant's duty of payment to the Owner for rent to the extent such rent is paid to the Association, but will not discharge the liability of the Owner or Purchaser and the Lot under this Declaration for unpaid or future Assessments and charges. Acceptance of such payment by the Association shall not operate as an approval of the Lease.



If a Tenant fails or refuses to pay rent to the Association in accordance with this Section, the Association shall have the right to pursue an unlawful detainer action and to collect reasonable attorneys' fees and costs for such action from the Tenant and the Lot Owner. The Board shall not exercise this power where a receiver has been appointed with respect to the Lot or its Owner; nor in diminishment of any rights which a Mortgagee of such Lot may have with respect to such rents.

**3.6.22 Association's Right to Evict and Levy Fines.** Each Lot Owner shall have the responsibility to ensure compliance by a Tenant with the Association's governing documents, including the Declaration, Bylaws, and Rules and Regulations of the Association, or with any laws of the local municipalities, the State of Washington or the United States of America. A Lot Owner may be assessed a fine by the Association in accordance with Rules and Regulations adopted by the Board if the Owner's Tenant fails to comply with the governing documents. If the Tenant continues to fail to comply with the governing documents after written notice of the violation of the Governing Documents has been given to the Lot Owner, the Association shall have the power and authority to evict the Tenant. The Association shall not be liable in any way to the Lot Owner or Tenant for any exercise of its right to evict. The Lot Owner shall be responsible for all costs to evict, including legal fees, which costs shall be levied against the Lot as an Assessment, and which may be collected and foreclosed by the Association in the same manner as Assessments may be collected and foreclosed under the Declaration.

**3.6.23 Limitation of Association's Liability.** The Association shall not be liable in any way to a Related Party, Tenant or Occupant, more than it would be to an Owner for any accident or injury occurring in, on, around, or caused by the Common Areas, the Lot, or the Limited Common Areas, except as covered by insurance and according to the Association's standard policy. Each Owner who Leases a Lot agrees to hold the Association harmless for any claims brought by the Lot's Tenants, Occupants, or guests against the Association.

**3.6.24 Rental Processing Fees.** The Board is authorized to establish and charge reasonable fees in connection with the Leasing of Lots and for maintaining Tenant information, in order to defray the added costs of such activities. Such processing fees shall be collectible as an Assessment against the Lot which is Leased and its Owner.

**3.6.25 Non-Discrimination.** Neither the Association nor any Lot Owner shall discriminate against any Person on the basis of a legally protected classification under local, Washington State or Federal law.



