

2018-1367551

Page 1 of 17

Amend Covenant

Monterra Homeowners Association

Clallam County Washington

07/17/2018 02:01:25 PM



Monterra Homeowners Association

P.O. Box 3665

Sequim, WA 98362

**AMENDED AND RESTATED  
DECLARATION OF PROTECTIVE COVENANTS,  
RESTRICTIONS, EASEMENTS AND AGREEMENTS  
WITH RESPECT TO MONTERRA I, II, III AND V**

Last amended June 10<sup>th</sup>, 2018

"Unofficial Copy"

AMENDED AND RESTATED  
DECLARATION OF PROTECTIVE COVENANTS,  
RESTRICTIONS, EASEMENTS AND AGREEMENTS  
WITH RESPECT TO MONTERRA I, II, III AND V

INDEX

ARTICLE I	DEFINITIONS PG. 2
ARTICLE II	MONTERRA HOMEOWNERS ASSOCIATION, INC. PG. 4
ARTICLE III	MEMBERSHIP PG. 5
ARTICLE IV	ARCHITECTURAL COMMITTEE PG. 7
ARTICLE V	RESIDENTIAL AREA COVENANTS PG 8
ARTICLE VI	ENFORCEMENT PG. 13
ARTICLE VII	DURATION, SEVERABILITY AND WAIVER PG. 15

## ARTICLE I

### DEFINITIONS

The following terms, as used herein, shall have the meanings set forth in this Article.

- 1.1 **“COVENANTS”** This document, the declaration of protective covenants, conditions, restrictions, easements and agreements commonly referred to as CC & Rs.
- 1.2 **“ASSOCIATION”** Monterra Homeowners Association, Inc. it's successors and assigns.
- 1.3 **“BOARD”** The Board of Directors of the Monterra Homeowners Association which may be referred to herein as “The Board”.
- 1.4 **“PROPERTIES”** The real property known as Monterra as described on the plat maps.
- 1.5 **“GREENBELT AREAS”** All real property including all structures, thereon, owned by or subject to easement for the common use, benefit or enjoyment of the Association or the Members.
- 1.6 **“OPEN AREAS”** Those Open Areas designated as ‘A’ on the plat maps of Holly Circle owned in undivided 1/36 fractional interests, Sea Bluff Lane owned in undivided 1/17 fractional interests and Ivy Lane owned in undivided 1/21 fractional interests. (see #5.8 Residential Area Covenants)
- 1.7 **“LOTS”** Any plot of land within the premises shown on the plat maps of Monterra true and correct copies of which are attached hereto as Exhibit A (the”Plat Maps”), as may be amended with the exception of the Greenbelt Areas or Areas owned in Undivided Fractional Interests, private roadways, public streets and any parcels designated on the plat for other than residential purposes.
- 1.8 **“OWNER”** The recorded Owner, whether one or more persons or entities of fee interest, or a vendee’s interest in a contract of sale of any Lot except persons having an interest merely as security for the payment of a debt or performance of an obligation.
- 1.9 **“55 AND OLDER COMMUNITY”** Monterra is a community where 80% of the households must have one resident 55 years of age or older. 20% may be between the ages of 18 and 54. No one under 18 years of age may reside in Monterra.

1.10 “TENANT” Tenant shall mean and refer to any person who is not an Owner but is a resident of a Lot. Such persons shall be subject to all governing instruments including the restrictions on age. Tenants are not Members of the Association. Owners of a Lot shall deliver a copy of these Covenants and Bylaws to all Tenants.

1.11 “MEMBERS” All persons who are Owners of record of one or more Lots, which Lots are subject to membership in the Monterra Homeowners Association as a condition of ownership of property pursuant to a declaration of restrictive Covenants governing such property.

1.12 “PAPERED MEMBERS” Owners of property who have agreed to accept the assessment and dues of the Monterra Homeowners Association and who have bound their Lots and parcels to said Covenants.

1.13 “ASSOCIATE MEMBERS” All persons owning one or more Lots within Monterra, not subject to a declaration of covenants requiring membership in the Monterra Homeowners Association, who choose to pay full dues for membership in the Monterra Homeowners Association.

1.14 “QUORUM” Thirty four percent (34%) of the Membership.

Article I section 1.10 revised 6/10/2018

## ARTICLE II

### MONTERRA HOMEOWNERS ASSOCIATION, INC.

2.1 Monterra Homeowners Association is a Washington Homeowners Association duly incorporated as a non-profit corporation under Chapter 24.06 RCW. The Articles of Incorporation of the Association are and shall be kept on file with the Secretary of State of Washington. The current Bylaws of the Association shall at all reasonable times be available for inspection at the principal place of business of the Association. Amendments to the Articles of Incorporation and Bylaws may be made in the manner provided by law and the Articles of Incorporation and Bylaws of the Association. By this reference, the Articles of Incorporation and Bylaws of the Association and all duly enacted present and future amendments thereto, are incorporated herein as if fully set forth, and all persons acquiring any right, title and interest in any lot shall be bound thereby.

2.2 The Association, through its Board of Directors, can adopt rules and regulations.

2.3 The Association may enter into construction, management and service contracts with respect to its facilities and operations, or any portion thereof. Such contracts shall be made subject to pertinent provisions of the Bylaws of the Association, and may be made with any person, firm or corporation, without regard to the existence of any other business relationship that may exist or may have existed between such contracting party and the Association.

2.4 Each Owner of any lot, hereby covenants and agrees, to pay the Association such annual and special charges, dues and assessments as shall be fixed and assessed by the Board of the Association in the manner provided by the Articles and Bylaws. Any such charges, dues and assessments that remain unpaid, together with interest thereon and cost of collection, including reasonable attorney's fees, shall be a charge against the Member and a continuing lien upon the property.

2.5 Dues shall be payable semi-annually in advance and shall be fixed from time to time as set forth in the preceding paragraph. Beginning January 1, 2015, any lot sold in Monterra, or transferred to a new owner, all pay \$250 annually for MHA dues. In no case may the dues exceed \$250 per year without the affirmative vote of 2/3 majority of all the Members of the Association, either present or by written proxy, at any meeting called for that purpose; provided, however that written notice of the proposed action is sent to every member at least thirty (30) days in advance of the date of the meeting at which such action is to be considered by the members.

Article II section 2.5 revised 01/01/2015

### **ARTICLE III**

#### **MEMBERSHIP**

3.1 Every Owner shall be a Member of the Association and shall have one (1) vote for each lot owned. Associate Members, Papered Members and Maintenance Fee Members shall have the same rights and obligations as Members. Every Member, Associate Member, Papered Member and Maintenance Fee member shall have an equal right and easement to the enjoyment of the Greenbelt Areas. All classifications of Members are subject to the MHA Covenants including the following conditions and provisions:

- (a) The Association may reasonably regulate the use of the Greenbelt Areas and facilities of the Association by all classifications of Members, specifically including the number of guests of said Members who may use the same.
- (b) All classifications of Members may delegate their rights to use the Greenbelt Areas and facilities of the Association to his or her family, tenants and guests.
- (c) Members are responsible for the conduct and control of their tenants or guests within the Greenbelt Areas or facilities of the Association. Members must accompany their guests, at all time, when guests are using the Monterra Clubhouse.

- (d) The Association shall conspicuously post appropriate rules and regulations with respect to conduct and use of all completed facilities.
- (e) The Association may charge fees, collect dues, impose assessments or otherwise obtain compensation for improvement of, or use and maintenance of any Association facility.
- (f) The Association may borrow money for the purpose of maintaining and improving the Greenbelt Areas and facilities and to give security therefore. Any loan must be approved by a majority of Members who are voting either in person or by written proxy at a meeting called for that purpose at which a quorum is present; provided, however, that written notice of the proposed action is sent to every Member at least thirty (30) days in advance of the date of the meeting at which such action is to be considered by the Members.
- (g) The voting rights of Members shall be suspended during any period of time in which dues, assessments or other charges owed by a Member to the Association, are past due. The Association may suspend the voting rights of Members in violation of any other published covenant, rule or regulation of the Association.
- (h) The Association may dedicate or grant easement of all or any part of the Greenbelt Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be approved by a majority of Members who are voting either in person or by written proxy at a meeting called for that purpose at which a quorum is present; provided, however, that written notice of the proposed action is sent to every Member at least thirty (30) days in advance of the date of the meeting at which such action is to be considered by the Members.

## ARTICLE IV

### ARCHITECTURAL COMMITTEE

- 4.1 The Architectural Committee shall consist of two (2) members from the Monterra Homeowners Association membership. If two (2) volunteers cannot be found; the Committee shall be chosen from the current Board of Directors. The Committee shall be appointed by the MHA Executive Board of Directors and shall serve for a one (1) year term. All decisions, made by the Committee, shall be reported to the MHA Board of Directors.
- 4.2 The Committee shall have the authority to approve or disapprove Project Applications according to current MHA Covenants standards; including but not limited to aesthetic considerations. In its evaluation of Project Applications, the Committee shall have the right to consider the suitability of proposed buildings or structures, the proposed materials thereof, height, exterior color scheme, the harmony thereof with the surroundings, and any impact of the proposed building, structure or change on adjacent or neighboring properties, topography and finish grade elevations. The Committee may consider any other factors which, in the Committee's opinion, affect or potentially bear upon the desirability or suitability of such proposed building, structure or change.
- 4.3 A complete Project Application must be submitted to the Committee for approval prior to the commencement of any construction or change on any Lot in Monterra. Project Applications must contain complete plans and specifications of all proposed buildings, structures and exterior alterations or changes, specifically depicting the proposed location thereof on the Lot or building, in writing. Dwellings must be constructed by a contractor or builder duly bonded and licensed in Washington State and having no pending bond claims with the Washington State Department of Labor and Industries at the time of commencement of the Project Application.
- 4.4 Unless the Committee and the applicant agree on a different time period; the Committee shall rule on all Project Applications not later than ten (10) days after receipt. The Committee shall, upon rendering a decision, return the Project Application to the applicant, indicating the decision. If the application is not approved, the applicant may appeal to the Board of Directors within ten (10) days of receiving the decision. The Board shall make a decision within fifteen (15) days of receiving the request for appeal.



- 4.5 The Committee shall have the right and authority to relinquish to the Board of Directors any Project Application or other matter; provided, however, that the Committee shall so relinquish the Project Application or matter not later than ten (10) days after its receipt, thereof. Upon relinquishment by the Committee of a Project Application or matter, the Board shall assume the role and authority of the Architectural Committee with respect thereto

## ARTICLE V RESIDENTIAL AREA COVENANTS

5.1 The area covered by these Covenants is the entire area described on the plat maps of Monterra I, II, III and V except those areas designated thereon as Greenbelt Areas and Open Areas.

5.2 Monterra is restricted to single story, modular or conventional homes with standard house siding and composition, shake, tile or snap-lock metal roof.

5.3 All homes in Monterra must contain at least 1200 square feet of living space and be at least 24' in width. Any replacement dwelling must meet this criteria.

5.4 No home may be brought into Monterra which is more than five (5) years old.

5.5 No structure of a temporary nature, such as a trailer or tent and no shack, barn, garage or out-building shall be used by an owner on any lot as a residence, either temporarily or permanently.

5.6 Property line set backs on all buildings, homes, or structures shall comply with Clallam County building standards.

5.7 The Greenbelt Areas and structures thereon within the plat of Division I (Heather and Cypress Circles) designated as 'A' on the plat map are and shall remain the property of the Association and shall be managed by the Association.

5.8 The Open Area designated as 'A' on plat maps of Division II (Holly Circle, owned in Undivided 1/36 Fractional Interest), Division III (Sea Bluff Lane; owned in Undivided 1/17 Fractional Interest) and Division IV (Ivy Lane; owned in Undivided 1/21 Fractional Interest), may not be divided. The undivided interests of owners in Open Areas may be conveyed, transferred or assigned only in connection with a lot sale. Management, maintenance and taxes of Open Areas shall be the exclusive responsibility of and timely paid on a pro rata basis by owners with an ownership interest therein.

5.9 All lots in Holly Circle shall have access to and a right of use of Open Areas in Division II for reasonably necessary repair of septic system drain fields for lots in Holly Circle.

5.10 No lots shall be subdivided unless said lots are contiguous and are divided in such manner as not to create a number of lots greater in number than the original number of lots or any smaller in area than shown on the plat maps.

5.11 Easements for utilities and drainage facilities are hereby reserved to the Association, their successors and assigns, over a five (5) foot wide strip within all interior lot lines. The Association shall also have easements for installation and maintenance of utilities as depicted on the plat maps.

5.12 No fence, structure, planting or other material shall be placed within any utility or drainage easement which might impede, damage or interfere with the operation, installation or maintenance of utilities, change the direction and flow of drainage or drainage channels, or change, obstruct or retard the flow of water in any drainage channel. Except for improvements for which a public authority or utility company is responsible, all improvements within utility and drainage easement areas shall be maintained by the owner of the lot on which any such improvements are located.

5.13 Residence within Monterra is restricted to persons over 18 years of age.

5.14 No lot shall be used for other than residential purposes. No dwelling shall be erected, altered, placed or permitted to remain on any lot other than one(1) detached single-family dwelling.

5.15 One separate structure in addition to the primary residence, not to exceed one(1) story nor 15' by 15' in dimension, may be placed upon and to the rear of any lot for storage purposes, *exceptions may be approved by the Architectural Committee.* Any such structure shall be constructed of high quality materials and be of a design architecturally compatible with the dwelling and be otherwise acceptable to and approved by the Architectural Committee. If constructed of metal, the building must be preserved against corrosion or rust. This structure may be built by the owner.

5.16 Each family dwelling may have one carport and/or garage built of quality material and design as approved by the Architectural Committee.

5.17 No individual water system or sewage disposal system shall be permitted on any lot unless the system is designated, located and constructed in accordance with the requirements, standards and recommendations of the Clallam County Dept. of Health and other applicable governmental authorities.

5.18 Drilling operations, oil development or refining operations, quarrying or mining operations, wells, tanks, tunnels and mineral excavations or shafts are prohibited on or about any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

5.19 No open fires shall be permitted within the boundaries of Monterra except in Clallam County approved incinerator containers and in barbecue grills. Any permanent outdoor burning containers must be constructed of concrete or masonry with permanently attached spark arrester. Any burning within Monterra must be conducted in strict compliance with *local fire district codes*.

5.20 All mobile homes shall be fully skirted and/or recessed within the ground to prevent any portion of the bottom of the mobile home being seen by the public. Skirting includes any other external item, such as pulling tongues. If a mobile home is recessed in the ground, any portion of the bottom of the mobile home remaining above ground shall be skirted as provided above.

5.21 Noxious or offensive activities or any condition or activity which may be or may become an annoyance or nuisance to residents of adjoining or neighboring lots are expressly prohibited. *Burning of treated or toxic materials is prohibited.*

5.22 No lot or Greenbelt Area or Open Area shall be used or maintained as a dumping ground for rubbish, trash, garbage and other waste which shall be kept at all times in sanitary containers and disposed of regularly.

5.23 If a tree on a Greenbelt Area becomes a danger to private property; the Association will remove the tree upon written request by an owner. If a tree becomes a problem or danger on an Open Area, removal is the responsibility of the homeowners of that Division.

5.24 No firearm, bow and arrows or other weapons shall be discharged for any purpose within the boundaries of Monterra.

5.25 Fireworks of any kind are prohibited at all times within the boundaries of Monterra. This includes the bluff area on Sea Bluff Lane.

5.26 Any residence or structure erected or placed on any lot in this subdivision shall be completed as to external appearance, including exterior painting and landscaping within six (6) months from the date of start of construction; provided, however, that a longer period may be permitted by the Architectural Committee when completion within six (6) months is impossible or impractical for good cause shown.

5.27 Owners and tenants RV's, for the purpose of loading or unloading, may park on their own driveways for up to seventy-two (72) hours. Guests staying in an RV may park on designated parking areas on an owner's lot for a maximum of two (2) weeks.

5.28 Signs on or about any lot or structure, Greenbelt Area, Open Area or near the entrances to the Monterra Development are prohibited, except for directional and informational signs placed by the Monterra Homeowners Association. Nothing herein shall be construed to prohibit the placement upon any lot of (a) one sign per lot advertising the lot and/or residence for sale or rent, (b) contractor signs exhibited in connection with a construction or landscaping project or (c) a sign advertising garage sales as authorized herein below –Section 5.29. No sign on any lot shall be larger than 18" by 24". Upon sale or rental of the lot or residence, or completion of construction or landscaping; all such signs must be promptly removed.

5.29 Owners or tenants may hold one (1) garage sale per year in addition to the annual All-Monterra Garage Sale. Signs advertising such individual garage sales shall be no larger than 18" by 24" and may be placed, on the day of the sale only, at the entrance to Monterra, at the entrance to the Circle where the sale is being held and on the property.

5.30 No animals, livestock or poultry of any kind shall be kept, raised, bred or maintained on or about any lot for any commercial purpose; provided, however, that dogs, cats, fish or birds in cages may be kept, raised, or maintained as pets. Animals that make an excessive amount of noise are prohibited. All pets must be kept under control at all times. Pet owners must clean up after their pets anywhere in Monterra. No animal shall be off the owner's lot unless on a hand-held leash or in a pet carrier.

5.31 Wood to be used for home fuel consumption shall be neatly stacked in appropriate areas on the owner's property.

5.32 Sanitary containers, gas storage containers and similar items must be kept or maintained not closer to the street than the front line of the house. Gas storage containers must be screened from public view. Screening does not apply to bottled gas used for portable barbecue grills.

5.33 No fence, wall or hedge shall be erected, placed or altered on any lot that interferes with any utility or drainage easement of the Association, except as specifically allowed herein or as may be authorized by the Architectural Committee, fences may not exceed four and one-half feet (4 and 1/2') in height. No fence shall be located nearer to the street than the front of the home structure that faces the street. The Architectural Committee may approve fences of different heights for any purpose for good cause. Any fences constructed or maintained in violation of these rules shall be removed at the owner's expense.

5.34 Owners' and tenants' motorhomes, campers, fifth-wheels, travel trailers and any other recreational vehicles (hereinafter referred to as RV's) and boats and auxiliary trailers may be parked or stored on owner's lot behind the front line of the house with the approval of the Architectural Committee. Only property owners of such vehicles may store them in the RV Storage Area provided for this, on a first-come, first-served basis.

5.35 Parking of owner or tenant vehicles shall be accomplished at no other area but off the street on specific sites of each lot as approved by the Architectural Committee and constructed as driveway and parking areas.

5.36 A small home business may be conducted from a residence, by a Monterra Property Owner, provided that it does not cause an increase in traffic, does not involve excess noise and does not involve dangerous materials or equipment that could be a danger to neighbors. No signs advertising a business are allowed.

5.37 Lots and residences must be well kept and maintained. Lot owners and tenants are required to keep the grass of residences and lots cut, shrubbery pruned, weeds controlled or eliminated and debris removed. Roofs and paint shall be maintained in good repair. Vacant lots and areas designated or constructed as driveways or parking areas must be kept free of weeds and debris. Clotheslines must be screened from public view. Objectionable materials are not to be stored on any property; including but not limited to hazardous material, junk items, building materials and yard or household waste. Abandoned vehicles, trash or junk shall not be permitted to remain on any lot and shall be promptly removed by the owners of the lot.

Article V section 5.33 revised 6/10/2018

**ARTICLE VI**  
**ENFORCEMENT**

- 6.1 A notice of any violation of the Covenants or rules and regulations coming to the attention of the Association Board of Directors shall be sent to the offending owner and Tenant, specifically including the following information: The nature of the violation, date (s) thereof, the action requested to correct the violation, how long one has to comply and what will happen if action is not taken. If the violation is not corrected within thirty (30) days of the mailing of the notice USPS mail to the last known address of the owner, the Board shall impose a monthly fine in every month in which the violation remains uncorrected. This fine shall be enforceable as provided herein. The Board may extend due dates when appropriate.
- 6.2 In the event an owner shall fail to maintain any lot or the exterior of the premises and improvements situated thereon in a manner consistent with the provisions of Article V, the Monterra Homeowners Association through their Board of Directors shall have the right to enter upon said parcel and to repair, maintain and restore the lot and the exterior of the buildings or any other improvements thereon if the owner thereof should fail to respond in a manner satisfactory to the Board within thirty (30) days after mailing of adequate notice, by certified or registered mail, to the last known address of the owner. The cost of such repair, maintenance or restoration shall be assessed against the owner, and the Monterra Homeowners Association shall have the right to cause to be recorded a notice of lien for labor and materials furnished, which may be enforced by foreclosure of the lien.
- 6.3 Charges and assessments imposed by the Association, as authorized herein or in the Articles of Incorporation or Bylaws, which are unpaid, shall constitute a continuing lien upon the applicable Lot and all its appurtenances. Such lien shall be in the amount of the charges and assessment owing, plus late charges, any and all costs of collection, including the cost of title examination, service of process and reasonable attorney's fees, with interest to accrue thereon in favor of the Association at the rate of 12% per annum.
- 6.4 In addition to constituting a lien on the lot and all its appurtenances, all sums assessed by the Association chargeable to any lot or parcel, (together with interest, late charges, costs and attorney's fees in the event of delinquency) shall be enforceable as the personal obligation of the owner.

6.5 The terms, covenants and conditions including rules and regulations hereof may be enforced by the Association or any owner. In any such action, the Association or owner may obtain legal, equitable and injunctive relief for any breach hereof by any person. Failure to enforce any provision of these Covenants at any time by the Association or any other party shall not be deemed a waiver of the right of the Association or such other party to enforce the same or to obtain appropriate relief for breach thereof. In any such action, the substantially prevailing party shall be entitled to be reimbursed by the losing party for the costs of bringing or defending such action, including reasonable attorney's fees and including such costs and fees as may be incurred on appeals. In addition, the Association or any owner is entitled to recovery of reasonable non-litigation costs expended to enforce any provision of these Covenants.

Article VI section 6.1 revised 06/10/2018

## **ARTICLE VII**

### **DURATION, SEVERABILITY AND WAIVER**

- 7.1 These Covenants may be amended at any time by a majority of members who are voting either in person or by written proxy at a meeting called for that purpose at which a quorum is present; provided, however, that written notice of the proposed action is sent to every Member at least thirty (30) days in advance of the date of the meeting at which such action is to be considered by the Members.  
(This does not apply to Article II Section 2.5, which refers to Association dues.)
- 7.2 In the event that any provision hereof shall be declared invalid or unenforceable by any court of competent jurisdiction, no other provision shall be affected and the remaining provisions shall remain in full force and effect.
- 7.3 No waiver or a breach of any provision shall constitute a waiver of a subsequent breach of the same provision or of any other provision.
- 7.4 These Covenants shall be for the benefit of, appurtenant to and run with all properties subject thereto, as now existing and hereafter divided.



These amended and restated Covenants for Monterra Divisions I, II, III, and V are Adopted for the Monterra Homeowners Association pursuant to a vote taken by the MHA Membership on the 9<sup>th</sup> day of June 2018

President Judith Norton  
Judith Norton

Vice President Dennis D Shelp  
Dennis D Shelp

Secretary Lawrence Morgan  
Lawrence Morgan

Ballots were sent out to the 148 MHA Members 65.2% voted. As required in the May 15, 2008 MHA Covenants, a simple majority of the Members approved the amended and restated MHA Covenants contained herein.

STATE OF WASHINGTON  
COUNTY OF CLALLAM

On this day personally appeared before me the above Executive Board of Directors of the Monterra Homeowners Association known to be the individuals described here and who executed the forgoing document and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 10th day of July, 2018.

James Hoch  
Notary Public in and for the State of Washington,  
Residing at Port Angeles  
My appointment expires 9-2-2019

