

CRAIG BAY BUILDING SCHEME

Created by Craig Bay Estates Ltd.

Registered September 1996

Schedule of Restrictions

1. Definitions

1.1 **Definitions.** For the purposes of this Schedule the following words or phrases shall have the following meanings:

- (a) “Amenities” means any recreational, social or other facility now or hereafter constructed on Lot A or Lot 1 which is intended for the communal use of the owners and the occupants from time to time of all of the Lots, and which is not otherwise designated on a strata plan hereafter filed with respect to Lot A, Lot 1 or any part thereof as limited common property for the exclusive use of the owners and occupants of the strata lots located on Lot A or Lot 1, as the case may be, and which may include, without limitation, the following facilities:
 - (i) a clubhouse or recreation centre (including recreation rooms, lounges, library, workrooms and washrooms) and surrounding grounds;
 - (ii) guest suites;
 - (iii) community store;
 - (iv) hobby centre;
 - (v) tennis courts;
 - (vi) swimming pool;
 - (vii) hot tub;
 - (viii) storage rooms; and
 - (ix) visitor parking areas appurtenant to the foregoing,

and “Amenity: means any one of them;

- (b) “Caretaker’s Suite” means a strata lot acquired by a strata corporation for use as a caretaker’s suite for the benefit of all of the Lots;
- (c) “City” means the City of Parksville;
- (d) “Community Lands” means any part of a Lot which is not:
 - (i) designated on a strata plan as a strata lot or as limited common property; or
 - (ii) a part of a residential building, except that any Amenity located within a residential building will be part of the Community Lands;
- (e) “Community Lands Committee” or “Committee” means the management committee for the Community Lands established pursuant to Part 3 of this Schedule;
- (f) “Craig Bay” means the declarant of this building scheme being Craig Bay Estates Ltd.;
- (g) “general character of the development” means an attractive, first class residential multi-family development with compatible design elements which unify the buildings and Improvements located on each of the Lots such that the Lots, the buildings and the Improvements have the outward appearance of, and are functional as, an integrated residential development;
- (h) “Highway Maintenance Agreement” means the highway maintenance agreement made the 20th day of February, 1995 between Craig Bay and the City;
- (i) “Improvements” means any and all landscaping, walkways, paths, signage, fences or improvements ancillary to the residential buildings constructed, or to be constructed, on the Lots,

including any air conditioning unit, clothes line, satellite dish, antennae, facility container, fixture, machinery or other equipment which is located outside of a structure, but excluding any such residential buildings and excluding any Improvements which are constructed by or at the behest of the owner developer;

- (j) “Lot” or “Lots” means the lots described in the Declaration to which this Schedule is attached and any part or parts into which such Lot or Lots may be subdivided by means of a subdivision plan, but not by way of a strata plan or phased strata plan, to which this Building Scheme applies from time to time, unless a different meaning is expressly set out in any part of this Schedule;
- (k) “Lot A” has the meaning set out in the Declaration to which this Schedule is attached and any part or parts into which such Lot may be subdivided;
- (l) “Lot 1” has the meaning set out in the Declaration to which this Schedule is attached and any part or parts into which such Lot may be subdivided;
- (m) “Maintenance Cost” means all costs properly attributable, in accordance with generally accepted accounting principles, to the management, operation, repair, control and maintenance of the Community Lands including, without limitation:

- (i) reasonable reserves for contingencies and replacements of capital items;
- (ii) property taxes, insurance, strata maintenance fees and mortgage payments with respect to the Caretaker’s Suite;
- (iii) the cost of maintaining insurance with respect to any of the Amenities; and
- (iv) a caretaker’s salary and property management fees,

less the amount contributed by the strata corporation for the Shorehaven Development toward the cost of the Amenities,

- (n) “owner” or “owners” means, individually or collectively as the context requires, one or more or all of the persons registered as having an interest as the owner in fee simple in respect of any of the Lots from time to time;
- (o) “owner developer” with respect to a Lot means the person who, on the date that a strata plan for the Lot is deposited for registration in a land title office, is the person registered in the land title office as the owner in fee simple of the land included in the strata plan;
- (p) “present” or “presently” means as at the date of Declaration to which this Schedule is attached;
- (q) “Property Manager” shall mean the property manager retained by the Community Lands Committee to manage and administer the Community Lands;
- (r) “Proportionate Share” for each Lot means the fraction that has:
 - (i) as its numerator the number of units located on such Lot in respect of which a strata plan has been deposited for registration in the applicable land title office; and
 - (ii) as its denominator the total number of all units constructed on all of the Lots in respect of which a strata plan has been deposited in the applicable land title office;
- (s) “Shorehaven Development” means the 20 unit development located adjacent to and to the east of Lot A and comprising Strata Plan VIS3656;
- (t) “strata lot” or “strata lots” means, individually or collectively as the context requires, one or more of the strata lots into which a Lot is stratified;
- (u) “stratified” means a Lot or portion thereof in respect of which a strata plan (including a phased strata plan) has been deposited in the applicable land title office; and
- (v) “unit” means a single family residential dwelling and includes a dwelling such as a townhouse or apartment contained in a building which contains more than one single family residential dwelling.

2. General Restriction

- 2.1 Compliance. No Lots shall be used or developed, and no Improvements shall be constructed or allowed to remain on any part of any Lot, except in compliance with the restrictions set out in this Schedule and except when the owner commencing or permitting the same, or under whose auspices the same is commenced or permitted, is not in breach of any of the provisions of this Schedule.

3. Community Lands Committee

- 3.1 Definitions of a Lot. For the purposes of this Part 3, a Lot will not include a strata lot, but will include the whole of a Lot which has been wholly or partially stratified. By way of example, if Lot A is stratified by a phase I strata plan for a phased strata development, none of the individual strata lots in phase I will be considered a Lot for the purposes of this Part 3, but Lot A as a whole (including the portion stratified) will together still be considered a Lot. If, however, a Lot has been partially stratified by the deposit of strata plans for one or more phases of a phases strata plan and the owner developer files a notice of election not to proceed with future phases pursuant to the Condominium Act (British Columbia), then the portion stratified shall thereafter be considered as one Lot and the remainder of the original Lot will be considered as a separate Lot.
- 3.2 Community Lands Committee. No rule or design guideline or budget affecting the Community Lands will and no such rule, design guideline or budge will be made or enforced by any person, committee or strata corporation other than the Community Lands Committee established pursuant to this Part 3.
- 3.3 Duties of the Community Lands Committee. The Community Lands Committee will be exclusively responsible for all matters relating to the management, operation, control, maintenance and administration of the Community Lands as a whole including, without limitation, the following matters:
- (a) creating the annual budget of Maintenance Cost for the Community Lands, which budget must be approved by the Community Lands Committee at least 30 days prior to the annual general meeting of any strata corporation which has been created by the stratification of a Lot;
 - (b) approving expenditures which have not been specifically approved in the annual budget if such expenditures:
 - (i) do not exceed in aggregate more than \$1,000 for the budgeted year; or
 - (ii) are required in response to an emergency or an uncontrollable expense (e.g. a non-discretionary expense imposed or determined by a third party such as insurance, taxes, utility or other charge imposed by any governmental authority) and are limited to the amount reasonably required to deal with the emergency or uncontrollable expense;
 - (c) upon submitting its annual budget with respect to the Community Lands to each owner of a Lot (or if a Lot has been stratified, to the strata council with respect to such Lot), requiring each of the owners to pay into a bank account established by the Committee on the first day of each month of the budgeted year 1/12th of their Proportionate Share of the Maintenance Cost set out in the approved budget for that year with respect to their Lot;
 - (d) providing to the owner of each Lot (or if a Lot has been stratified, to the strata council with respect to that Lot) and the owner developer a reconciliation detailing the actual expenditures made by the Committee during the preceding budgeted year and making any adjustments between the owners as necessary, in the next proceeding annual budget;
 - (e) retaining and supervising the Property Manager;
 - (f) co-ordinating with the Highway Maintenance Agreement by the strata corporations for the Lots which have been stratified;

- (g) retaining and supervising a single landscape and grounds keeping maintenance contractor for the Community Lands;
- (h) creating, amending, rescinding and administering the rules and regulations governing, restricting or affecting the manner in which the Community Lands may be used or enjoyed and taking all such reasonable actions as may be necessary to enforce or prevent any breach of such rules and regulations so long as such rules and regulations are solely for the purpose of regulating the hours of use, enjoyment, safety, cleanliness, management, maintenance or operation of the Community Lands and such rules and regulations are applied equally to the occupants of each of the Lots; and
- (i) all other duties and responsibilities of a strata corporation with respect to common property.

3.4 Allocation of Votes to Lots

- (a) Each Lot will be allocated the number of votes which is equal to the aggregate of the maximum number of units which such owner is entitled to build upon such Lot pursuant to a development permit issued by the City or, if no development permit has been issued, then pursuant to the applicable zoning.
- (b) Notwithstanding subsection 3.4(c), once the whole of a Lot is stratified, the number of votes allocated to a Lot will be equal to the number of units built on such Lot and shown on a deposited strata plan.

3.5 Appointment after Stratification. Members of the Community Lands Committee will be appointed as follows:

- (a) in respect of a Lot or a portion of a Lot which has been stratified and in respect of which a strata council has been elected pursuant to the Condominium Act (British Columbia), the strata council of the strata corporation for such Lot will be entitled to appoint one representative to the Community Lands Committee from among its members for each 50 units (rounded to the nearest 50) which have actually been built upon such Lot, are shown on a deposited strata plan and for which title has been transferred by the owner developer, and such representatives will be entitled to exercise, in aggregate, the number of votes which is equal to the number of strata lots which have actually been build upon such Lot, are shown on a deposited strata plan and for which title has been transferred by the owner developer; and
- (b) in respect of a lot or a portion of a Lot which has not been stratified or which has been stratified but in respect of which a strata council has not yet been elected the owner developer will be entitled to appoint one representative to the Community Lands Committee to exercise the votes allocated thereto pursuant to section 3.4.

3.6 Division of Votes. Votes for each Lot will be divided evenly among the representatives appointed pursuant to subsection 3.5(a) by the strata council for such Lot, it being understood that all of the representatives appointed by the strata council for a Lot do not have to vote in unison, and that the vote entitlement may, in some cases, be fractional. By way of example, if two representatives are appointed by the strata council in respect of strata lots constructed on Lot A to exercise 76 of the total 87 votes, then each of the representatives will be entitled to exercise 38 votes.

3.7 Decisions of the Committee. All decisions of the Committee will be made by a simple majority vote, provided that any decision relating to any of the following matters will, in addition to requiring a majority vote, require approval by a special resolution of each strata corporation created on a Lot:

- (a) approval of any expenditures in any budgeted year which have not been approved in the annual budget and which exceed, in aggregate, more than \$1,000, other than an item required for a necessary repair or an uncontrollable expense (as contemplated in paragraph 3.3(b)(ii));
- (b) inclusion in an annual budget of any single capital item which exceeds more than \$1,000, other than an item required for a necessary repair or replacement; and
- (c) the replacement of the Property Manager.

Decisions of the Committee are binding upon all of the owners.

3.8 Meetings of the Committee.

- (a) The Committee will meet at least once each month. Any member of the Committee will have the right to call a meeting at any time upon at least seven days' notice to the other members of the Committee. Any member may waive notice of a meeting of the Committee or consent to the reduction of the period of notice convening the meeting and may give such waiver or such consent before or during the meeting.
- (b) The quorum at any meeting of the Committee will be two members if the Committee consists of two to four members, three members if the Committee consists of five to eight members, and four members if the Committee consists of nine or more members.
- (c) A resolution in writing signed by all members of the Committee will be as valid and effective as if it had been passed at a duly convened and held meeting of the Committee.
- (d) Minutes of the meetings of the Committee are to be kept by the member of the Committee to whom that responsibility has been assigned by the Committee and are to be circulated to the members of the Committee as soon as practicable after each meeting. Copies of such minutes and of all other records pertaining to the Committee's proceedings are to be forwarded to and maintained by the strata councils of each owner which is a strata corporation.

3.9 Property Manager. The Committee will delegate the preparation and administration of its budget, and the daily maintenance and management of the Community Lands, to the Property Manager.

3.10 Stratification. In the event that any of the Lots are subdivided by means of a strata plan:

- (a) the Proportionate Share of the Maintenance Cost for such subdivided Lot or portion thereof stratified will be paid by the strata corporation which is created by the deposit of such strata plan, and such Proportionate Share will be shared by the owners of the strata lots in proportion to their unit entitlements as shown on their respective strata plan; and
- (b) the rights and obligations hereunder of the owner of such Lot or the portion thereof stratified, including the entitlement to vote on issues affecting such owner, will be assumed and performed by the strata corporation unless otherwise set out herein.

3.11 Term of Office. A representative on the Community Lands Committee will sit for a one year term unless reappointed or replaced by his or her strata council, and may not be appointed to more than three consecutive one year terms. The strata council for a Lot may replace its representatives or the Community Lands Committee from time to time in its discretion.

4. Specific Restrictions

4.1 Submission of Plans. No Improvement shall be constructed, placed or maintained in, on or above a Lot unless and until proper plans and specifications have been submitted to and approved in writing by the

Community Lands Committee in accordance with this Schedule and the general character of the development.

- 4.2 Alterations. No remodeling, reconstruction or alteration of any Improvement or residential building which will be visible from the exterior of the Improvement or the building, including altering the exterior colour of any part of a residential building, shall be undertaken without the approval of the Community Lands Committee.
- 4.3 Design Guidelines. The refusal or failure of the Community Lands Committee to give the approvals referred to in sections 4.1 and 4.2 of this Schedule will not be actionable by any person under any circumstances, it being in the sole discretion of the Community Lands Committee to give or withhold such approval. Without restricting the foregoing, in considering whether or not to approve submitted plans and specifications, the Community Lands Committee shall have the right, but shall not be obligated, to refuse to grant such approval if such plans and specifications, in the Community Lands Committee's sole opinion, do not comply with the general character of the development.
- 4.4 Owner-Developer Excluded. Notwithstanding anything else in this Building Scheme, sections 4.1, 4.2, 4.3 and 4.4 do not apply to any Improvements which are constructed by or at the behest of the owner developer.
- 4.5 Approval Process. Following the Community Lands Committee's review of each submission of plans and specifications, the Community Lands Committee will communicate in writing its approval or reasons for not giving approval to the person making the submission and will also, where appropriate, make recommendations to the person in writing as to how the siting, design or exterior finish of the proposed Improvement might be amended to fit more harmoniously with the general character of the development. In the event the person submitting plans and specifications pursuant to section 4.1 does not receive notice of approval within 40 days after receipt by the Community Lands Committee of such plans and specifications, such plans and specifications shall be deemed to be disapproved. All costs incurred by the Community Lands Committee in reviewing any plans or specifications including, without limitation, any consulting fees, will be borne by the applicant.
- 4.6 Parking. Notwithstanding anything else in these restrictions, the Community Lands Committee may not impose any rule or regulation permitting or prohibiting the parking or movement of motor vehicles within a Lot without the approval of the owner of such Lot (or, if a lot has been stratified, the strata corporation or strata council for such Lot), and no owner of a Lot (or, if a lot has been stratified, no strata corporation or strata council for such Lot) shall pass or impose a bylaw, rule or regulation concerning parking or access by owners or occupants of other Lots which is contrary to or in conflict with any easement presently registered or hereafter registered against such Lot.
- 4.7 No Signs. No exterior or interior signs, advertisements or billboards of any kind shall be placed or exhibited in any manner on or about a Lot except:
- (a) such signage as may be reasonably required for directional or safety purposes;
 - (b) temporary signage placed or exhibited by the owner developer consisting of the type normally placed or erected in connection with construction activities being carried on, or in relation to, a Lot; and
 - (c) temporary signage consisting of signs for the purpose of advertising the offering of a Lot for sale or lease provided such signage is located in such area which has been designated by the Community Lands Committee for such purpose, except that the owner developer may at any time and from time to time place or exhibit, or consent to the placement of, any temporary signage for itself or another

owner consisting of the type normally placed or erected in connection with advertising a lot for sale or lease.

- 4.8 No Rental Restrictions. If a Lot is a strata lot, no bylaw may be passed by the strata corporation of which such Lot is a part which restricts the owner of such Lot from renting such Lot unless such bylaw is specifically approved by the Community Lands Committee.
- 4.9 Pets. No occupant of a Lot may keep a pet unless such occupant complies with the rules and regulations established by the Community Lands Committee from time to time with respect to the keeping of pets, provided that no rule shall prohibit the keeping of a pet.
- 4.10 Bylaws. No strata corporation created with respect to any Lot or any part thereof shall have a bylaw which:
- (a) provides for a date for the holding of its annual general meeting which is in a different month from the month in which each of the other strata corporations created with respect to each of the other Lots are to hold their annual general meetings, with the intent that decisions affecting the Community Lands and the budgets for each of the Lots be determined at the same time each year;
 - (b) provides for the appointment of a property manager unless such property manager is also retained as the Property Manager; and
 - (c) allows for the management of the Community Lands by any person other than the Community Lands Committee.
- 4.11 Property Manager. No property manager may be appointed to manage any Lot unless:
- (a) each of the Lots is managed by the same property manager who will also be the Property Manager; and
 - (b) the property management agreement entered into by each owner of a Lot provides that in the event the property management agreement with respect to any other Lot is terminated, then the property management agreement will be terminated with respect to each of the Lots.
- 4.12 Ongoing Development. Each owner of a Lot unconditionally acknowledges and accepts that:
- (a) the Lot forms part of a long-term development plan by the owner developer on Lot A and Lot 1 and that in that regard there will be, from time to time, related construction, noise, dirt and dirt tracks on roadways in proximity to the Lot and further subdivision from time to time of lands adjacent or in proximity to the Lot; and
 - (b) the Development of the Lots will be constructed as one or more phased strata developments in accordance with one or more Form E – Declarations of Intention to Create a Strata Plan by Phased Development (the “Form E’s”) and that, because development will occur over a significant period of time the owner-developer anticipates that it will be necessary to amend the Form E’s from time to time. Each owner of a Lot, in acquiring the Lot, agrees to co-operate with and assist the owner-developer in connection with any application by the owner-developer to amend the Form E in any way which does not materially adversely affect the owner.

5. Miscellaneous

Provisions in Addition. The provisions of this Building Scheme shall be in addition to, but not in substitution for:

- (a) the provisions of any easements and rights of way presently registered in respect of all or any part of the Lots;
- (b) any generally applicable laws, ordinances, rules, regulations or orders of governmental authorities applicable to the Lots; and
- (c) any restrictions pursuant to section 215 of the Land Title Act (British Columbia) registered in respect of all or any part of the Lots.

In the event of any conflict between the restrictions set out in this Building Scheme and the bylaws of any strata corporation of which a Lot is a part, the restrictions set out in this Building Scheme will govern.

No Liability. Nothing contained in this Building Scheme shall be construed or implied as imposing on the owner developer or the Community Lands Committee or any member thereof any liability in the event of:

- (a) non-compliance with or non-fulfillment of any of the covenants, conditions or restrictions contained herein by any owner;
- (b) the approval or lack thereof of any plans or specifications; or
- (c) any other aspect of this Schedule.

No Waiver. No condoning, excusing or waiver by any person of a default or non-observance by any other person at any time in respect of any provision of this Schedule shall operate as a waiver in respect of any continuing or subsequent default or non-observance, or so as to defeat or affect in any way the rights of any person in respect of such continuing default or non-observance, and waiver shall be inferred or implied by anything done or omitted to be done by the person having such rights.

Benefit Acknowledged. The provisions of this Schedule have been instituted for the general benefit of all owners of the Lots from time to time, and all such owners, in agreeing to buy any Lot, acknowledge such general benefit and a personal benefit attaching to that part of or interest in the Lot purchased by them and each of such owners agrees that his or her being in violation of the restrictions of this Schedule will constitute an injury and damage to all of the owners which is impossible to measure monetarily, and as a result, any or all of the other owners will, in addition to all of the other remedies in law and in equity (including the right to damages), be entitled to their own behalf to enforce the provisions of this Schedule to obtain an order restraining or enjoining any breach of such provision and any owner in breach of any such provision and named in the application for such an order shall not plead in defense that there would be an adequate remedy at law, in equity, in damages or otherwise.

Invalid or Unenforceable Provisions. Should any part of this Building Scheme be declared invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect the remainder of this Building Scheme which shall continue in full force and effect and be construed as if this Building Scheme had been declared without such invalid or unenforceable part.

Amendments. The provisions in this Building Scheme may only be amended by the unanimous vote of the owners of each of the Lots (except that if a Lot has been stratified, the vote will be by way of a special resolution of its members).

Termination.

- (a) Craig Bay (as the original owner of the Lots) reserves the right to exempt any Lot owned by Craig Bay from any or all of the restrictions set out in this Schedule, and to discharge this Building Scheme from title to any Lot owned by Craig Bay.

- (b) Notwithstanding any other provisions of this Building Scheme, this Building Scheme will absolutely terminate and be of no further force or effect on the earlier of:
- i. The date which is [60] years after the stratification of the first Lot; and
 - ii. The date on which the owners of all Lots agree (and in the case of any Lot which has been wholly or partially stratified, the strata corporation for such Lot or portion thereof has resolved by special resolution) to terminate the Building Scheme,

And this Building Scheme may be discharged from all titles affected hereby upon the filing of a discharge signed by the owner of each Lot and, in the case of any lot which has been wholly or partially stratified, the strata corporation for such Lot or portion thereof, but the owner of each individual strata lot will not be required to sign such discharge.

Personal Covenants. None of the covenants herein shall be personal, or binding upon the owner, save and except during such owner's respective ownership of any interest in any of the Lots or a part thereof and to the extent of that interest, and save and except for such obligations arising, from acts of omissions prior to the termination of such owner's ownership of any interest in such lands; but in any event, subject to section 5.7, the Lots nevertheless shall be and remain at all times charged herewith.

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