

**AMENDED AND SUPERSEDING  
FLEETRIDGE UNIT NO. 2  
DECLARATION OF RESTRICTIONS**

THIS AMENDED AND SUPERSEDING FLEETRIDGE UNIT NO. 2 DECLARATION OF RESTRICTIONS is made by the undersigned as of \_\_\_\_\_, 1991, with reference to the following

**RECITALS:**

A. Point Loma Holding Corporation, a corporation, and Morley H. Golden and Agnes H. Golden, husband and wife, made the Fleetridge Unit No. 2 Declaration of Restrictions which was recorded in the Office of the County Recorder of San Diego County, California, on December 1, 1953 as Document No. 163391 ("Declaration").

B. The Declaration originally covered the real property located in The City of San Diego, County of San Diego, California, described as:

Lots 73 to 176, inclusive, of FLEETRIDGE UNIT NO. 2 according to Map thereof No. 3040 filed in the Office of the County Recorder of San Diego County, California, on November 27, 1953 ("Real Property").

C. Some of the Lots within the Real Property have been resubdivided and the Real Property covered by the Declaration is now described as:

Lots 73 to 157, inclusive, Lots 159 through 164, inclusive, and Lots 169 through 176, inclusive, of FLEETRIDGE UNIT NO. 2 according to Map thereof No. 3040 filed in the Office of the County Recorder of San Diego County, California, on November 27, 1953; and

Lots 164A, 164B, 164C, 164D and 164E of FLEETRIDGE UNIT NO. 3 according to Map thereof No. 3083 filed in the Office of the County Recorder of San Diego County, California, on May 17, 1954; and

Lots 1 and 2 of GARRISON HEIGHTS according to Map thereof No. 3348 filed in the Office of the County Recorder of San Diego County, California, on January 5, 1955.

D. Paragraph Eighteenth of the Declaration provides in part that the Declaration may be amended upon the written agreement of the owners of a majority of the lots covered by the Declaration.

E. The undersigned are the owners of a majority of the lots covered by the Declaration and wish to amend and supersede the Declaration in its entirety.

NOW, THEREFORE, the Declaration is amended and superseded in its entirety to provide as follows:

The undersigned certify and declare that they have established and do hereby establish, for the purpose of protecting the value and desirability of all of the Real Property, the following general plan of covenants, conditions and restrictions upon and subject to which all of the Real Property shall be hereafter held, used, occupied, leased, sold, encumbered, conveyed and transferred. Each and all of the covenants, conditions and restrictions shall run with the land and shall inure to the benefit of, be binding upon and pass with the Real Property and each and every Lot and parcel thereof, and shall inure to the benefit of, apply to and bind the respective successors in title or interest of the undersigned.

## ARTICLE I

### DEFINITIONS

Section 1.1 "ARC" - The Architectural Review Committee established pursuant to Article II of this Declaration.

Section 1.2 "Declaration" - This Amended and Superseding Declaration of Restrictions as it may from time to time be amended.

Section 1.3 "Lot" - Any plot of land shown as a lot or a parcel upon any recorded subdivision map or parcel map of the Real Property and which is covered by this Declaration.

Section 1.4 "Mortgage" - A Deed of Trust as well as a mortgage encumbering a Lot.

Section 1.5 "Mortgagee" - The beneficiary of a Deed of Trust as well as the mortgagee of a mortgage encumbering a Lot.

Section 1.6 "Owner" - The record owners, whether one (1) or more persons or entities, of fee simple title to any Lot, including contract sellers, but excluding those having such interests merely as security for the performance of an obligation.

Section 1.7 "Real Property" - The real property described in Recital C of this Declaration.

## ARTICLE II

### ARCHITECTURAL CONTROL

Section 2.1 Architectural Review Committee. There is hereby established an Architectural Review Committee ("ARC") consisting of five (5) persons. The initial members of the ARC shall be elected by the written vote of the Owners constituting a majority of a quorum of the Owners of Lots. "A quorum of the Owners of Lots" shall be the Owners of fifty-four (54) or more Lots. At the first election of members of the ARC, three (3) persons shall be elected as members of the ARC for a term of three (3) years and two (2) persons shall be elected as members of the ARC for a term of two (2) years. Thereafter, members of the ARC elected to fill a vacancy created by the end of a term of a member of the ARC shall be elected for a term of three (3) years. A term shall commence on the date of election as designated on the election ballot. Any member of the ARC may resign by written resignation delivered to the other members of the ARC. Any member of the ARC may be removed as a member upon the written vote of the Owners of a majority of the Lots. A vacancy on the ARC resulting from a resignation, death or removal by vote of the Owners may be filled by the written vote of the Owners constituting a

majority of a quorum of the Owners of Lots, and the person elected to fill the vacancy shall serve for the remainder of the term of the person whose vacancy is being filled. All members of the ARC shall be Owners of a Lot.

Section 2.2 Architectural Control. No new building or major renovation or alteration which changes the exterior dimensions or elevations of an existing structure shall be erected, constructed, installed or placed upon any Lot until the location and plans of the improvement have been approved in writing by the ARC.

Section 2.3 ARC Approval. The ARC shall approve proposals or plans and specifications submitted for its approval if it deems that the improvements contemplated in the locations proposed will be in conformance with the provisions of this Declaration.

Section 2.4 Notification. Decisions of the ARC and the reasons for the decisions shall be transmitted by the ARC to the applicant at the address set forth in the application for approval within fifteen (15) days after receipt by the ARC of the location and elevation of the proposed improvement. Any application submitted pursuant to this Article II shall be deemed approved, unless the ARC's written disapproval or a request for additional information or materials is transmitted to the applicant within fifteen (15) days after the date of receipt by the ARC of all required materials, provided that the improvements proposed to be made conform in all other respects with the conditions and restrictions contained in this Declaration.

Section 2.5 Waiver. The approval of the ARC to any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the ARC shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.

Section 2.6 No Liability. Neither the ARC, nor any members of the ARC, nor their duly authorized representatives, shall be liable to any applicant or Lot Owner for any loss, damage or injury arising out of or in any way connected with the performance of the ARC's duties, unless due to the willful misconduct of the ARC. The ARC is authorized to obtain liability insurance covering its activities undertaken pursuant to the Declaration.

Section 2.7 ARC Responsibility and Commencement of Work. The ARC shall not be responsible for reviewing, nor shall its approval of any plans or design be deemed approval of any plan or design from the standpoint of adequacy of drainage, structural safety or conformance with building or other codes. The ARC approval of any particular construction activity shall expire and the plans and specifications therefor shall be resubmitted for ARC approval if substantial work pursuant to the approved plans and specifications is not commenced within six (6) months after the ARC's approval of such construction activity. All construction activities shall be performed as promptly and as diligently as possible.

Section 2.8 Variances. The ARC may authorize variances from compliance with any of the architectural provisions of this Declaration when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. The granting of a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Lot and particular provision covered by the variance, nor shall it affect in anyway the Owner's obligation to comply with all laws and regulations of any governmental authority affecting the use of his

Lot, including, but not limited to, zoning and building requirements of any governmental agency or entity having jurisdiction over the Lot.

Section 2.9 Action of the ARC. All actions taken by the ARC shall be in writing and shall have been approved by a majority of the members of the ARC then in office.

### ARTICLE III

#### USE PROVISIONS

Section 3.1 Residential Use. No Lot shall be used in whole or in part except for single-family residential purposes.

Section 3.2 One Residence. Only one single-family residence, together with customary out-buildings, including a private garage, shall be erected or permitted to remain on a Lot; provided, however, a guest house may be built on a Lot for occupancy only by members of the family of the Lot Owner, the Owner's friends or licensees, but no guest house shall be leased or rented.

Section 3.3 New Building Only. All buildings and structures on a Lot shall be constructed entirely of new materials and no buildings or structures erected elsewhere shall be moved on to or placed or maintained on a Lot unless approved by the ARC.

Section 3.4 No Excavation. No excavation for stone, gravel or earth shall be made or permitted on any Lot unless the material is used upon the Lot; provided, however, that stone, earth or gravel excavated in connection with the erection of any building or in connection with the improvements on the Lot may be removed from the Lot. No Lot or part thereof shall be used for the purpose of drilling or mining for oil, gas or any other mineral substance.

Section 3.5 Trees. Trees and hedges shall not be allowed to grow on a Lot so that the view from other Lots is obstructed or impaired. The Owner will abide by any order of the ARC directing the Owner to lace or cut back any tree or hedge which, in the opinion of the ARC, obstructs or impairs the view from another Lot or Lots.

Section 3.6 No Temporary Residence. No tent, shack, trailer, basement or garage shall be used for residential purposes on any Lot at any time and no residence of a temporary character shall be permitted on any Lot.

Section 3.7 Animals. No turkeys, geese, chickens, ducks, rabbits or animals usually termed as "farm animals" shall be kept or allowed to be kept on any Lot.

Section 3.8 Diligent Construction. The work of constructing and erecting any buildings and structures on a Lot shall be prosecuted diligently and continuously from the commencement of construction until the construction is completed in accordance with the requirements of this Declaration. No new building on a Lot shall in any manner be occupied during construction or at any time prior to the completion of the building.

Section 3.9 Setbacks. The front and rear setback requirements approved by The City of San Diego or as set forth in the Grant Deed pursuant to which the first transferee from Point Loma Holding Corporation received title to a Lot shall be observed on all Lots. The minimum side yard requirements

shall be six feet on Lots with an average width of less than 100 feet - and six percent (6%) of the average Lot width on Lots with an average width of 100 feet or more. Where the physical characteristics or shape of any Lot require, in the opinion of the ARC, modification of these requirements, then the ARC shall have the right to modify the requirements.

Section 3.10 Height Limitation. Unless otherwise approved by the ARC, all buildings erected on any Lot shall be one story in height and no building shall exceed in height the elevation set forth opposite the Lot on Schedule "A" attached to this Declaration.

Section 3.11 Residence Size. The ground floor square foot area (exclusive of porches, patios and garage) of any dwelling erected on any Lot shall be not less than the square foot area set forth opposite the Lot on Schedule "A"; provided, however, that where the physical characteristics or shape of any Lot require, in the opinion of the ARC, modification of this condition, then the ARC shall have the right to reduce the minimum ground floor square footage to not less than 1,200 square feet.

Section 3.12 Service Yard. Each Lot will be improved to provide a service yard on the Lot of not less than 100 square feet in area for rubbish disposal, incinerators, clothes lines and other uses. The service yard shall be enclosed with a hedge, fence, wall or other structure as approved by the ARC, in such manner as to conceal it from view from neighboring Lots and streets. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon any Lot so they are visible from any neighboring Lot or street except as necessary during construction.

Section 3.13 Weeds and Rubbish. Each Lot Owner will clear weeds, rubbish or debris from his Lot and maintain the Lot free and clear of any weeds, rubbish or other debris to reduce all possible fire hazards and so as not to damage the value of the adjoining Lots.

#### ARTICLE IV

#### GENERAL PROVISIONS

Section 4.1 Enforcement. The ARC or any Owner shall have the right to enforce, by any proceedings at law or in equity, or, at the option of the ARC or an Owner seeking enforcement, by arbitration, the provisions of this Declaration. In the event enforcement is sought through arbitration proceedings, the arbitration shall be held in accordance with the Commercial Arbitration Rules of the American Arbitration Association before an arbitrator selected from the panel of the Association. Failure by any person or entity to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. These conditions, covenants and restrictions shall operate as covenants and equitable servitudes running with the land, and a breach of any of them or a continuance of any such breach may be enjoined, abated or remedied by appropriate proceedings. In the event legal or equitable action or arbitration is commenced to enforce the provisions of this Declaration, the prevailing party shall be entitled to costs of suit and attorney's fees incurred in the legal or equitable action or arbitration.

Section 4.2 Extension of Declaration. Each and all of these covenants, conditions and restrictions shall terminate on December 31, 2015, after which date they shall automatically be extended for successive periods of ten (10) years unless, upon vote or written assent, the Owners of a majority of the Lots subject to the Declaration have executed and recorded at any time within six (6) months prior to December 31, 2015, or within six (6) months prior to the end of any such ten (10) year period, in the

manner required for a conveyance of real property, a writing in which it is agreed that the restrictions shall terminate on December 31, 2015 or at the end of any such ten (10) year period, and the Owners of a majority of the Lots in said writing may provide that said covenants, conditions and restrictions or some of them shall no longer apply to certain Lots.

**Section 4.3 Notice of Claim of Breach.** The ARC or any Owner may, at any time that the ARC or any Owner deems a breach of these conditions and restrictions has occurred, execute, acknowledge and record in the Office of the County Recorder of San Diego County, a Notice of Claim of Breach setting forth the facts of the breach, describing the Lot or Lots upon which such breach occurred and setting forth the name of the Owner or Owners of the Lot or Lots. The notices, upon being recorded, shall be notice to all persons of the breach, provided an action has been commenced within ninety (90) days after the recording of the notice to establish the breach, and if no such action has been commenced within the ninety (90) day period, then the notice shall be of no force or effect, and the breach set forth in the notice shall be presumed to have been remedied. A breach of any of the foregoing covenants, conditions and restrictions contained herein shall not affect, impair, defeat or render invalid the lien, charge or encumbrance of any Mortgage made for value which may then encumber a Lot, which Mortgage shall be and is hereby declared to be prior and superior to the rights in favor of any person or persons under and by virtue of these covenants, conditions and restrictions; provided, however, that in the event of a foreclosure of any Mortgage, or if the owner of the note secured by the Mortgage acquires title to the Lot in any manner whatsoever in satisfaction of his indebtedness, then any purchaser at the foreclosure or trustee's sale, or any note owner acquiring title, agrees that the property so acquired by them shall immediately upon such acquisition become subject to each and all of the covenants, conditions and restrictions and rights herein contained but free from the effects of any breach occurring prior thereto.

**Section 4.4 Protection for Mortgagees and Title Insurance.** The owners of any Mortgage made for value on any Lot and any corporation insuring the lien of the Mortgage may conclusively presume that no breach exists under these covenants, conditions and restrictions, provided the Mortgage is recorded in the Office of the County Recorder of San Diego County prior to the commencement of any action to establish any such breach which is commenced within ninety (90) days after the recording of any Notice of Claim of Breach.

**Section 4.5 Invalidity of Any Provision.** In the event any covenant, condition or restriction herein contained be invalid or held invalid or void by any court of competent jurisdiction, such invalidity or nullity shall in no way affect any other covenant, condition or restriction herein provided.

**Section 4.6 No Waiver.** A waiver of a breach of any of the covenants, conditions and restrictions contained herein shall not be construed as a waiver of any succeeding breach or violation of any other covenant, condition or restriction.

**Section 4.7 Amendments.** This Declaration may be amended at any time and from time to time by an instrument in writing signed by the Owners of a majority of the Lots subject to this Declaration, which amendment shall become effective upon recording in the Office of the County Recorder of San Diego County, California.

**Section 4.8 Compliance.** Upon the completion of an improvement to a Lot, the Owner of the Lot and a representative of the ARC shall at a mutually convenient time jointly inspect the Lot to assure compliance of the improvement with the approval of the ARC and with the provisions of the Declaration. The ARC may, at the Owner's written request, issue a certificate of completion and compliance as to any Lot showing compliance with any part or all of these conditions and restrictions, and any certificate duly

acknowledged and recorded in the Office of the County Recorder's Office of San Diego County shall be conclusive evidence of the matters recited therein. Any purchaser or encumbrance for value and the insurer of the lien of any encumbrances may conclusively presume that all statements contained in the certificate are true, and the certificate shall be binding and conclusive upon any and every person having any rights under these conditions and restrictions.

Section 4.9 Existing Improvements. All improvements, other than trees and hedges, existing on a Lot on the date of recordation of this Declaration with the Office of the San Diego County Recorder shall be permitted to remain on the Lot even though the improvement may not be in compliance with the provisions of this Declaration.

IN WITNESS WHEREOF, this instrument has been executed as of the date first set forth above.

**FLEETRIDGE UNIT NO. 2**

The maximum height and minimum area, as provided in Section 3.10 and 3.11 of any structure on the Lots in FLEETRIDGE UNIT NO. 2 shall be as set forth below unless otherwise approved by the ARC. All elevations are measured by the National Geodetic Vertical Datum of 1929 (NGVD 1929) which the City of San Diego has used since March, 1963. This Document was revised March 3, 2010.

LOT NO.	Elevation/ Maximum Height	Mimumum Floor Area	LOT NO.	Elevation/ Maximum Height	Mimumum Floor Area
73	151.12 feet	1400 sq. feet	126	170.12 feet	1600 sq. feet
74	162.12 feet	1400 sq. feet	127	181.12 feet	1600 sq. feet
75	170.12 feet	1400 sq. feet	128	186.12 feet	1600 sq. feet
76	176.12 feet	1600 sq. feet	129	198.12 feet	1900 sq. feet
77	191.12 feet	1700 sq. feet	130	195.12 feet	1800 sq. feet
78	194.12 feet	1600 sq. feet	131	196.12 feet	1800 sq. feet
79	195.12 feet	1500 sq. feet	132	187.12 feet	1600 sq. feet
80	199.12 feet	1500 sq. feet	133	181.12 feet	1500 sq. feet
81	205.12 feet	1400 sq. feet	134	180.12 feet	1600 sq. feet
82	210.12 feet	1600 sq. feet	135	169.12 feet	1700 sq. feet
83	219.12 feet	1700 sq. feet	136	159.12 feet	1600 sq. feet
84	221.12 feet	2000 sq. feet	137	159.12 feet	1700 sq. feet
85	223.12 feet	2100 sq. feet	138	169.12 feet	1700 sq. feet
86	223.12 feet	2200 sq. feet	139	167.12 feet	1500 sq. feet
87	221.12 feet	2200 sq. feet	140	167.12 feet	1300 sq. feet
88	236.12 feet	1800 sq. feet	141	168.12 feet	1500 sq. feet
89	236.12 feet	1800 sq. feet	142	179.12 feet	1600 sq. feet
90	240.12 feet	1600 sq. feet	143	192.12 feet	1600 sq. feet
91	240.12 feet	1700 sq. feet	144	201.12 feet	1500 sq. feet
92	232.12 feet	1800 sq. feet	145	151.12 feet	1300 sq. feet
93	236.12 feet	1600 sq. feet	146	154.12 feet	1500 sq. feet
94	241.12 feet	1600 sq. feet	147	156.12 feet	1500 sq. feet
95	241.12 feet	1700 sq. feet	148	158.12 feet	1500 sq. feet
96	241.12 feet	1700 sq. feet	149	162.12 feet	1400 sq. feet
97	241.12 feet	1700 sq. feet	150	165.12 feet	1400 sq. feet
98	242.12 feet	1700 sq. feet	151	177.12 feet	1600 sq. feet
99	242.12 feet	1500 sq. feet	152	190.12 feet	1600 sq. feet
100	235.12 feet	1500 sq. feet	153	204.12 feet	1700 sq. feet
101	228.12 feet	1600 sq. feet	154	204.12 feet	1700 sq. feet
102	226.12 feet	1500 sq. feet	155	205.12 feet	1600 sq. feet
103	230.12 feet	1500 sq. feet	156	205.12 feet	1600 sq. feet
104	234.12 feet	1500 sq. feet	157	202.12 feet	1500 sq. feet
105	238.12 feet	1500 sq. feet	1	198.12 feet	1400 sq. feet
106	240.12 feet	1600 sq. feet	2	198.12 feet	1400 sq. feet
107	237.12 feet	1600 sq. feet	159	209.12 feet	1500 sq. feet
108	232.12 feet	1500 sq. feet	160	210.12 feet	1500 sq. feet
109	227.12 feet	1400 sq. feet	161	215.12 feet	1500 sq. feet
110	223.12 feet	1400 sq. feet	162	220.12 feet	1500 sq. feet
111	219.12 feet	1500 sq. feet	163	232.12 feet	1600 sq. feet
112	208.12 feet	1500 sq. feet	164	231.12 feet	1600 sq. feet
113	206.12 feet	1500 sq. feet	164A	222.12 feet	1500 sq. feet
114	205.12 feet	1500 sq. feet	164B	212.12 feet	1500 sq. feet
115	202.12 feet	1500 sq. feet	164C	208.12 feet	1500 sq. feet
116	199.12 feet	1500 sq. feet	164D	205.12 feet	1600 sq. feet
117	192.12 feet	1500 sq. feet	164E	205.12 feet	1500 sq. feet
118	184.12 feet	1500 sq. feet	169	200.12 feet	1400 sq. feet
119	184.12 feet	1500 sq. feet	170	205.12 feet	1300 sq. feet
120	183.12 feet	1500 sq. feet	171	212.12 feet	1300 sq. feet
121	185.12 feet	1500 sq. feet	172	220.12 feet	1300 sq. feet
122	182.12 feet	1600 sq. feet	173	229.12 feet	1300 sq. feet
123	177.12 feet	1600 sq. feet	174	233.12 feet	1300 sq. feet
124	165.12 feet	1700 sq. feet	175	236.12 feet	1400 sq. feet
125	164.12 feet	1700 sq. feet	176	238.12 feet	1400 sq. feet

**WILLIAM E. CRAIG**  
**Professional Land Surveyor**

**LS 7743**

Re: Vertical Datum Change in the City of San Diego

Date: February 4, 2010

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In March of 1963, the City of San Diego bumped up all of its elevations by 6.12 feet as shown in the attached diagrams. An elevation, whether it was a benchmark or a height limitation, listed on a deed before March of 1963 would be using the old datum; anything after that date would be on the new datum (6.12 feet higher). An elevation of 100.00 feet before 1963 would now be 106.12 feet.

Anytime that elevations are referenced within the limits of the City of San Diego, great care must be taken so as to avoid confusion related to this change in vertical data. After receiving a letter from the Captain Supervisor of the Southwest Division of the USC&GS in June of 1955, suggesting that the City change its vertical reference, the City of San Diego finally adopted the change in March of 1963. Once the City enacted this resolution, it was then in line with other entities in the County and State so that they were speaking the same proverbial language as it relates to elevations.

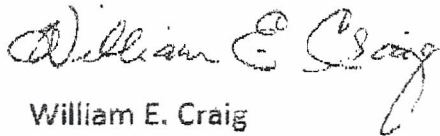
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Up until that time, the City had been using a parochial reference based upon local topographic sheets and general construction plans. This had to change with the rapid growth of the area's population and the onset of some large infrastructure projects that would span both the City and County. The prevailing feeling was that the City had to come into compliance with the County and update their vertical datum so as to avoid having two sets of divergent elevations within the scope of one job.

The newly referenced datum was the National Geodetic Vertical Datum of 1929 (NGVD 29) and is known as Mean Sea Level. The basis for this was the average height of the sea for all stages of tide. This was done by taking hourly height readings over a 19-year period and is currently the most widely accepted vertical reference.

Hopefully, this clears up some of the confusion related to height restrictions in your neighborhood. Once again, anything related to City of San Diego elevations before March of 1963 (whether it be benchmarks or height restrictions) must be categorically bumped up by 6.12 feet when looked at after that date.

If you need to contact me, I can be reached at 760-788-2892 (home), or 760-419-7351 (cell).

A handwritten signature in cursive script that reads "William E. Craig". The signature is written in dark ink and is positioned above the printed name.

William E. Craig

LS 7743