

A
L
A
S
K
A

2007-010528-0

Recording Dist: 301 - Anchorage
2/20/2007 12:26 PM Pages: 1 of 48



CC

DECLARATION

OF

CREEKSIDE TOWNHOMES

AFTER RECORDATION IN THE ANCHORAGE
RECORDING DISTRICT, PLEASE RETURN TO:
John Andrew Leman
Kempel, Huffman & Ellis, P.C.
255 East Fireweed Lane, Suite 200
Anchorage, Alaska 99503

TABLE OF CONTENTS

PREAMBLE.	1
ARTICLE I.	Definitions.	1
ARTICLE II.	Name and Type of Common Interest Community and Association.	5
ARTICLE III.	Description of Land.....	5
ARTICLE IV.	Maximum Number of Units, Description, and Boundaries.....	5
ARTICLE V.	Common Elements and Limited Common Elements.....	6
ARTICLE VI.	Conveyance or Encumbrance of Common Elements.....	8
ARTICLE VII.	Maintenance, Repair, and Replacement.	8
ARTICLE VIII.	Development Rights and Special Declarant Rights.	9
ARTICLE IX.	Allocated Interests.....	13
ARTICLE X.	Restrictions on Use, Alienation, and Occupancy.....	14
ARTICLE XI.	Easements and Licenses.	16
ARTICLE XII.	Additions, Alterations, and Improvements.....	17
ARTICLE XIII.	Amendments to Declaration.	18
ARTICLE XIV.	Amendments to Bylaws of the Association.....	19
ARTICLE XV.	Termination.....	19
ARTICLE XVI.	Mortgagee Protection.	19
ARTICLE XVII.	Assessment and Collection of Common Expenses.	24
ARTICLE XVIII.	Right to Assign Future Income.....	28
ARTICLE XIX.	Persons and Units Subject to Documents.	28
ARTICLE XX.	Insurance.....	28
ARTICLE XXI.	Damage to or Destruction of Property.....	31
ARTICLE XXII.	Rights to Notice and Comment; Notice and Hearing.....	32



ARTICLE XXIII.	Executive Board.....	33
ARTICLE XXIV.	Open Meetings.....	36
ARTICLE XXV.	Condemnation.....	37
ARTICLE XXVI.	Working Capital Fund.....	37
ARTICLE XXVII.	Miscellaneous.....	37

TABLE OF EXHIBITS

Table of Allocated Interests	Exhibit 1
Development Plan for Initial Parcels	Exhibit 2
Recorded Easements and Licenses	Exhibit 3
Development Plan for Potential Additional Parcel	Exhibit 4



DECLARATION FOR
CREEKSIDE TOWNHOMES

PREAMBLE.

The Delores and Lee Baker, Sr. Living Trust owns two parcels of property in Anchorage, Alaska, described as:

Lots 3 and 4, LEVAR SUBDIVISION, according to the official plat thereof, filed under Plat Number 73-188, records of the Anchorage Recording District, Third Judicial District, State of Alaska.

The Delores and Lee Baker, Sr. Living Trust, referred to herein as "Declarant," hereby submits the above-described property, to the provisions of AS 34.08, the Uniform Common Interest Ownership Act, for the purpose of creating the CREEKSIDE TOWNHOMES. The Delores and Lee Baker, Sr. Living Trust declares that the Units created by this Declaration and shown on the unit survey map and floor plans filed under Plat No. 2007-14 shall be held and conveyed subject to the following terms, covenants, conditions, and restrictions. Creekside Townhomes is a traditional condominium development.

ARTICLE I. Definitions.

In the Documents, the following words and phrases shall have the following meanings:

Section 1.1. Act. The Uniform Common Interest Ownership Act, AS 34.08, as it may be amended from time to time.

Section 1.2. Allocated Interests. The undivided interest in the Common Elements, the Common Expense liability, and votes in the Association, allocated to Units in the Common Interest Community. The Allocated Interests are described in Article IX of this Declaration and shown on Exhibit 1.

Section 1.3. Association. Creekside Townhomes Condominium Association, Inc., is a non-profit corporation organized under Chapter 10.20 of the statutes of the State of Alaska. It is the Association of the Unit Owners pursuant to Section 34.08.310 of the Act.

Section 1.4. Bylaws. The Bylaws of the Association, as they may be amended from time to time. Neither such Bylaws nor any amendments to such Bylaws need to be recorded in the property records.

Section 1.5. Common Elements. Each portion of the Common Interest Community other than a Unit.

Section 1.6. Common Expenses. The expenses or financial liabilities for the operation of the Common Interest Community. These include:

- (a) Expenses of administration, maintenance, repair, or replacement of the Common Elements;
- (b) Expenses declared to be Common Expenses by the Documents or by the Act;
- (c) Expenses agreed upon to be Common Expenses by the Association; and
- (d) Such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement, or addition to the Common Elements or any other real or personal property acquired or held by the Association.

Section 1.7. Common Interest Community. The real property described in the Preamble, subject to the Declaration for Creekside Townhomes.

Section 1.8. Condominium. A Common Interest Community in which portions of the real estate are designated for separate ownership, the remainder of the real estate is designated for common ownership solely by the owners of those portions, and the undivided interests in the Common Elements are vested in the Unit Owners.

Section 1.9. Declarant. A person or a group of persons acting in concert who, as part of a common promotional plan, offer to dispose of its interest in a unit not previously disposed of, or who reserves or succeeds to a special declarant right; in this case, The Delores and Lee Baker, Sr. Living Trust.

Section 1.10. Declaration. This document, including any amendments.

Section 1.11. Development Rights. The rights reserved by the Declarant under Article VIII of this Declaration to create Units, Common Elements, and Limited Common Elements within the Common Interest Community, to withdraw property and to add specific additional property to the Common Interest Community.

Section 1.12. Director. A member of the Executive Board.

Section 1.13. Documents. The Declaration, Plat and Plans which have been recorded and filed pursuant to the provisions of the Act, the Bylaws, and the Rules, if any, as they may be amended from time to time. Any exhibit or certification accompanying a Document is a part of that Document.

Section 1.14. Eligible Insurer. An insurer or guarantor of a first Security Interest in a Unit which has notified the Association in writing of its name and address and that it has insured

or guaranteed a first Security Interest in a Unit. Such notice shall be deemed to include a request that the Eligible Insurer be given the notices and other rights described in Article XVI hereof.

Section 1.15. Eligible Mortgagee. The holder of a first Security Interest in a Unit which has notified the Association, in writing, of its name and address, and that it holds a first Security Interest in a Unit. Such notice shall be deemed to include a request that the Eligible Mortgagee be given the notices and other rights described in Article XVI hereof.

Section 1.16. Executive Board. The Board of Directors of the Association.

Section 1.17. Floor Plans. Those floor plans filed with the survey map under Plat No. 2007-14, records of the Anchorage Recording District, Third Judicial District, State of Alaska, as they may be amended from time to time.

Section 1.18. Improvements. Any construction, structure, fixture or facility existing or to be constructed on the land included in the Common Interest Community including, but not limited to, buildings, trees and shrubbery planted by the Declarant, a Unit Owner, or the Association, paving, utility wires, pipes, and light poles.

Section 1.19. Limited Common Elements. The portion of the Common Elements allocated for the exclusive use of one or more but fewer than all of the Units by the Declaration or by operation of Subsections (2) and (4) of Section 34.08.100 of the Act. The Limited Common Elements in the Common Interest Community, if any, are described in Article V of this Declaration.

Section 1.20. Majority or Majority of Unit Owners. The Owners of more than fifty percent 50% of the votes in the Association.

Section 1.21. Manager. A person, firm, or corporation employed or engaged to perform management services for the Common Interest Community and the Association.

Section 1.22. Notice and Comment. The right of a Unit Owner to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to comment thereon. The procedures for Notice, Comment, and Hearing are set forth in Article XXII of this Declaration.

Section 1.23. Notice and Hearing. The right of a Unit Owner to receive notice of an action proposed to be taken by the Association, and the right to be heard thereon. The procedures for Notice, Comment, and Hearing are set forth in Article XXII of this Declaration.

Section 1.24. Party Wall. [*Intentionally left blank.*]

Section 1.25. Person. An individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, government subdivision or agency, or other legal or commercial entity.



Section 1.26. Plans. The survey map and floor plans filed under Plat No. 2007-14, records of the Anchorage Recording District, Third Judicial District, State of Alaska, as they may be amended from time to time.

Section 1.27. Plat. Plat No. 73-188, Anchorage Recording District, Third Judicial District, State of Alaska, as it may be amended.

Section 1.28. Property. The land and all Improvements, easements, rights, and appurtenances which have been submitted to the provisions of the Act by this Declaration.

Section 1.29. Public Offering Statement. The current document prepared pursuant to Section 34.08.530 of the Act as it may be amended from time to time, and provided to purchasers prior to the time of execution of a purchase agreement.

Section 1.30. Rules. Regulations for occupancy of the Units and use of the Common Elements and for the conduct of persons within the Common Interest Community, adopted by the Executive Board pursuant to this Declaration.

Section 1.31. Security Interest. An interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an Association, and any other consensual lien or title retention contract intended as security for an obligation.

Section 1.32. Special Declarant Rights. The rights, as defined in AS 34.08.990(30), reserved for the benefit of a Declarant to (a) complete improvements indicated on plats and plans filed with the Declaration; (b) exercise a Development Right; (c) maintain sales offices, management offices, models and signs advertising the Common Interest Community; (d) use easements through the Common Elements for the purpose of making improvements within the Common Interest Community; (e) make the Common Interest Community subject to a master association; (f) merge or consolidate a Common Interest Community with another Common Interest Community of the same form of ownership; or (g) appoint or remove any officer of the Association or any Executive Board member during any period of Declarant control. Special Declarant Rights are described in Article VIII.

Section 1.33. Trustee. The entity which may be designated by the Executive Board as the Trustee for the receipt, administration, and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses, and other like sources as defined in the Bylaws. If no Trustee has been designated, the Trustee will be the Executive Board from time to time constituted, acting by majority vote, as executed by the President and attested by the Secretary.

Section 1.34. Unit. A physical portion of the Common Interest Community designated for separate ownership or occupancy, as shown on the development plan attached hereto as Exhibit 2, and the boundaries of which are described in Article IV of this Declaration.

Section 1.35. Unit Owner. A Person, including the Declarant, who owns a Unit. Unit Owner does not include a Person having an interest in a Unit solely as security for an obligation.

ARTICLE II. Name and Type of Common Interest Community and Association.

Section 2.1. Common Interest Community. The name of the Common Interest Community is Creekside Townhomes.

Section 2.2. Association. The name of the Association is Creekside Townhomes Condominium Association, Inc., a non-profit corporation organized under the laws of the State of Alaska.

ARTICLE III. Description of Land.

The entire Common Interest Community is situated in Anchorage, Alaska. The land is zoned as R-2M by the Municipality of Anchorage and officially described as:

Lots 3 and 4, LEVAR SUBDIVISION, according to the official plat thereof, filed under Plat Number 73-188, records of the Anchorage Recording District, Third Judicial District, State of Alaska.

ARTICLE IV. Maximum Number of Units, Description, and Boundaries.

Section 4.1. Maximum Number of Units. The Common Interest Community will contain four (4) Units upon creation, and may have eleven (11) Units if the option to add additional property and/or Units is exercised by the Declarant. The initial Units are shown on the development plan and unit survey filed under **Plat No. 2007-14**. These Units are known as the "Phase I" units, Unit Nos. 4, 5, 6, and 7.

Section 4.2. Description of Units. All Units within Creekside Townhomes contain two-story townhomes with similar Unit floor plans. The Units all contain three bedrooms. All Units have two bathrooms and two-car garages.

Section 4.3. Boundaries. Boundaries of each Unit created by the Declaration are shown graphically on Exhibit 2 and on the unit survey filed under **Plat No. 2007-14**. The boundaries of the Units are described as follows:

(a) Upper Boundary: The horizontal or sloping plane or planes of the unfinished lower surfaces of the ceiling bearing structure surfaces, beams, and rafters, and of closed fireplace dampers, extended to an intersection with the vertical perimeter boundaries.

(b) Lower Boundary: The horizontal plane or planes of the undecorated or finished surfaces of the floors extended to an intersection with the vertical perimeter boundaries, and open horizontal unfinished surfaces of trim, sills, and structural components.

(c) Vertical Perimeter Boundaries: The planes described by the inner surfaces of the studs and framing of the perimeter walls; the unfinished inner surfaces of poured concrete walls; the unfinished surfaces of the interior trim, fireplaces, and thresholds along perimeter walls and doors; the outer surfaces of closed windows and closed perimeter doors, except garage doors; and the innermost unfinished planes of all interior bearing studs and framing of bearing walls, columns, bearing partitions, and partition walls between separate Units.

(d) Inclusions: Each Unit will include the spaces and Improvements lying within the boundaries described in Sections 4.3(a), (b), and (c) above, and will also include the spaces and the Improvements within such spaces containing any space heating, water heating, and air conditioning apparatus, smoke detector systems and all electrical switches, wiring, pipes, ducts, conduits, television, telephone, and electrical receptacles and light fixtures and boxes serving that Unit exclusively, the surface of the foregoing being the boundaries of such Unit, whether or not such spaces are contiguous.

(e) Exclusions: Except when specifically included by other provisions of Section 4.3, the following are excluded from each Unit: The spaces and Improvements lying outside of boundaries described in Section 4.2(a), (b), and (c) above; and all chutes, pipes, flues, ducts, wires, conduits, skylights, and other facilities running through or within any interior wall or partition for the purpose of furnishing utility and similar services to other Units and Common Elements or both.

(f) Non-Contiguous Portions: Certain units may include special portions, pieces, or equipment, such as water heaters, furnaces, meter boxes, or utility connection structures, portions of which may be situated in crawl spaces or in buildings or structures that are detached or semi-detached from the buildings containing the principal occupied portions of the Units. Such special equipment is a part of the Unit notwithstanding its non-contiguity with the residential portions.

(g) Inconsistency with Plans: If this definition is inconsistent with the plans, then this definition will control.

Section 4.4. Unit Areas. Unit areas are listed in Exhibit 2.

Section 4.5. Unit Numbers. The Unit numbers are listed in Exhibits 1 and 2.

ARTICLE V. Common Elements and Limited Common Elements.

Section 5.1. Common Elements. The Common Elements include all of the land area within the Common Interest Community and any man-made Improvements not included in a



Unit. In Creekside Townhomes, the Common Elements include, among other things, (but are not limited to):

- (a) Any streets and other common access drives within the boundaries of the Common Interest Community;
 - (b) all water and sewer lines serving Units in the Common Interest Community from the point of connection to government facilities;
 - (c) any fencing or berms constructed by Declarant or the Association at the perimeter of the Common Interest Community;
 - (d) any space for community mailboxes in the Common Interest Community;
- and
- (e) any designated guest parking areas.

Section 5.2. Limited Common Elements Depicted on Plans. The following portions of the Common Elements are Limited Common Elements assigned on the Plans to the Units for the exclusive use of the Unit Owners:

- (a) Balconies accessible from within the Unit (if present);
- (b) Any exterior parking spaces or yards specifically assigned to a Unit on the Plans;
- (c) Mailbox;
- (d) Garage doors (if any) and entries of each Unit are the Limited Common Element of the Unit Owners of that Unit; and
- (e) Utility connections serving only one unit, chimneys (if any), and exterior doors and windows.

Section 5.3. Additional Limited Common Elements. In addition to the Limited Common Elements listed in Section 5.2, the following are also Limited Common Elements:

- (a) A chute, flue, pipe, duct, wire, conduit, bearing wall, bearing column, or other fixture lying partially within and partially outside the designated boundaries of a Unit, that serves only the Unit, is allocated solely to that Unit, although any portion thereof serving more than one Unit or a portion of the Common Elements is a part of the Common Elements;
- (b) Exterior doors, windows, screen doors, storm doors, storm windows, or other fixtures designed to serve a single Unit, that are located outside the boundaries of the Unit



are Limited Common Elements allocated exclusively to the Unit, and their use is limited to that Unit; and

(c) A chimney, the use of which is limited to the Unit in which its fireplace is located, is a Limited Common Element.

Section 5.4. Reallocation of Limited Common Elements. Limited Common Elements may not be reallocated by Unit Owners.

ARTICLE VI. Conveyance or Encumbrance of Common Elements.

Section 6.1. Homeowner Approval. Portions of the Common Elements, except Limited Common Elements, may be conveyed or subjected to a security interest by the Association if persons entitled to cast at least eighty percent (80%) of the votes in the Association, including eighty percent (80%) of the votes allocated to Units not owned by the Declarant, agree to this action. Each owner of a Unit to which a Limited Common Element is allocated must agree in order for the Limited Common Element allocated to that Unit to be conveyed or subjected to a Security Interest by the Association.

Section 6.2. Proceeds of Sale or Loan. The proceeds of a sale and proceeds of a loan secured by encumbering a Common Element are an asset of the Association.

Section 6.3. Form of Conveyance and Ratification. An agreement to convey Common Elements or to subject the Common Elements to a security interest must be evidenced by the execution of an agreement, or ratification of the agreement, in the same manner as a deed by the requisite number of Unit Owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement is effective only upon recording.

Section 6.4. Association Contract to Convey. The Association on behalf of the Unit Owners may contract to convey an interest in Common Elements as provided in this Article, but the contract is not enforceable against the Association until approved as required herein. After approval, the Association has the powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute a deed or other instrument.

ARTICLE VII. Maintenance, Repair, and Replacement.

Section 7.1. Common Elements and Limited Common Elements. The Association shall maintain, repair, and replace all of the Common Elements of Creekside Townhomes, including snow removal. The Unit Owners are responsible for:

- (a) snow removal from their balconies (if any); and
- (b) replacement of lost mailbox keys.



Section 7.2. Units. Each Unit Owner shall maintain, repair, and replace, at his or her own expense, all portions of his or her Unit. If a Unit Owner fails to maintain and repair his or her own Unit to the standards established by the Association's Rules, the Association may, after Notice and Hearing, repair or maintain the Unit as needed to bring it up to Association standards and assess the Unit Owner for the expenses of such repairs or maintenance as provided in Section 7.4.

Section 7.3. Access. Any person authorized by the Executive Board has the right to access all portions of the Property for the purpose of correcting any condition threatening a Unit, the Limited Common Elements or the Common Elements and for the purpose of performing installations, alterations or repairs, and for the purpose of reading, repairing, and replacing utility meters and related pipes, valves, wires, and equipment, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the affected Unit Owner. In case of emergency, no such request or notice is required and such right of entry shall be immediate, whether or not the Unit Owner is present at the time.

Section 7.4. Allocation of Costs of Repairs and Maintenance. Each Unit Owner will reimburse the Association for any costs, including insurance deductibles, incurred by the Association due to damage to any Unit or its appurtenant Limited Common Elements, or to the Common Elements to the extent that such damages or costs were caused intentionally, negligently, or by the Unit Owner's failure to properly maintain, repair, or make replacements to his or her Unit or appurtenant Limited Common Elements. Such expense will be assessed following Notice and Hearing. The Association will be responsible for damage to Units caused intentionally, negligently, or by its failure to maintain, repair, or make replacements to the Common Elements, not including the Limited Common Elements which are the responsibility of the Unit Owners.

ARTICLE VIII. Development Rights and Special Declarant Rights.

Section 8.1. Reservation of Development Rights. The Declarant reserves the following Development Rights:

(a) The right by amendment to add Units and Common Elements in the location shown as "Development Rights Reserved" on the Plans, and which is identified in Exhibit 2.

(b) *[Intentionally left blank.]*

(c) The right to add additional property to the Common Interest Community and to add Units and Common Elements within that parcel. The property that may be added is the following parcel:

Lot 2A, TOOMEY SUBDIVISION, according to the official plat thereof, filed under Plat Number 82-120,

records of the Anchorage Recording District, Third Judicial District, State of Alaska.

The Development Plan for this additional parcel, if it is added to the Common Interest Community, is attached as Exhibit 4.

(d) The right to withdraw property if any is identified as "Developer Rights Reserved" on the Plans.

Section 8.2. Limitations on Development Rights. The Development Rights reserved in Section 8.1 are limited as follows:

(a) The Development Rights may be exercised at any time, but not more than seven (7) years after the recording of the initial Declaration. If exercised more than five (5) years after recording of the original Declaration, consent of fifty-one percent (51%) of the Eligible Mortgagees shall be required pursuant to Section 16.11.

(b) Not more than seven (7) total Units may be created under the Development Rights, for a total of eleven (11) Units in the Common Interest Community.

(c) The quality of construction of any buildings and improvements to be created on the property shall be consistent with the quality of those constructed pursuant to this Declaration as initially recorded.

(d) All Units and Common Elements created pursuant to the Development Rights will be restricted to residential use in the same manner and to the same extent as the Units created under this Declaration as initially recorded.

(e) No Development Rights may be exercised unless approved pursuant to Section 16.4 of this Declaration.

Section 8.3. Phasing of Development Rights. The Declarant is not making any promises regarding the phasing of additional development. Additional Units may be added in multiple phases.

Section 8.4. Special Declarant Rights. The Declarant reserves the following Special Declarant Rights to the maximum extent permitted by law which may be exercised, where applicable, anywhere within the Common Interest Community:

(a) To complete Improvements indicated on Plats and Plans filed with this Declaration;

(b) To exercise a Development Right reserved in the Declaration;



(c) To maintain sales offices, management offices, signs advertising the Common Interest Community, and models;

(d) To use easements through the Common Elements for the purpose of making Improvements within the Common Interest Community; and

(e) To appoint or remove an officer of the Association or an Executive Board member during a period of Declarant control subject to the provisions of Section 8.9 of this Declaration.

Section 8.5. Models, Sales Offices, and Management Offices. As long as the Declarant is a Unit Owner, the Declarant and its duly authorized agents, representatives, and employees may maintain any Units owned by the Declarant or any portion of the Common Elements as a model Unit, sales office, or management office. Declarant may have no more than three (3) model Units and one (1) sales/management office within the Common Interest Community at any time, although the specific location may change from time to time as Units are developed and sold. A model home within a Unit or sales/management office may be no larger than a typical home within a Unit constructed for sale to the public. Declarant may delegate this authority to dealers who purchase Units for resale.

Section 8.6. Construction; Declarant's Easement. The Declarant reserves the right to perform warranty work, repair and construction work, and to store materials in secure areas in Units and Common Elements, and the further right to control all such work and repairs, and the right of access thereto, until its completion. All work may be performed by the Declarant without the consent or approval of the Executive Board. The Declarant has such an easement through Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Special Declarant Rights, whether arising under the Act or reserved in the Declaration. Such easement includes the right to convey utility and drainage easements to public utilities, government, the State, or upland owners to fulfill the plan of development.

Section 8.7. Signs and Marketing. The Declarant reserves the right to post signs and displays in the Units or Common Elements to promote sales of Units, and to conduct general sales activities, in a manner that will not unreasonably disturb the rights of Unit Owners.

Section 8.8. Declarant's Personal Property. The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction, and maintenance of the premises that has not been represented as property of the Association. The Declarant reserves the right to remove from the property, promptly after the sale of the last Unit, any and all goods and Improvements used in development, marketing, and construction, whether or not they have become fixtures.



Section 8.9. Declarant Control of the Association.

(a) Subject to Subsection 8.9(b): There shall be a period of Declarant control of the Association, during which the Declarant, or persons designated by the Declarant, may appoint and remove the officers and members of the Executive Board. The period of Declarant control terminates no later than the earlier of:

(i) Sixty (60) days after conveyance of seventy-five percent (75%) of the Units that may be created to Unit Owners other than the Declarant; or

(ii) Two (2) years after the Declarant has ceased to offer Units for sale in the ordinary course of business; or

(iii) Two (2) years after any right to add new Units was last exercised;
or

(iv) Five (5) years after the first Unit is conveyed to a Unit Owner other than the Declarant; or

(v) Seven (7) years after recordation of the Declaration.

The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of that period, but in that event, the Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Executive Board, as described in a recorded instrument, be approved by the Declarant before they become effective.

(b) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that may be created to Unit Owners other than the Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that may be created to Unit Owners other than the Declarant, not less than thirty-three and one-third percent (33 1/3%) of the members of the Executive Board must be elected by Unit Owners other than the Declarant.

(c) Not later than the termination of any period of Declarant control, the Unit Owners shall elect an Executive Board of at least three (3) members, all of whom shall be Unit Owners. The Executive Board shall elect the officers. The Executive Board members and officers take office upon election.

(d) Notwithstanding any provision of this Declaration or the Bylaws of the Association to the contrary, following notice under Section 34.08.390 of the Act, the Unit Owners, by a two-thirds (2/3) vote of all persons present and entitled to vote at a meeting of Unit Owners at which a quorum is present, may remove a member of the Executive Board with or without cause, other than a member appointed by the Declarant.



Section 8.10. Limitations on Special Declarant Rights. Unless sooner terminated by an amendment to this Declaration executed and recorded by the Declarant, any Special Declarant Right (except for Development Rights) may be exercised by the Declarant so long as:

- (a) Declarant is obligated under any warranty or obligation; or
- (b) Declarant holds a Development Right to create additional Units or Common Elements; or
- (c) Declarant owns any Unit or any Security Interest in any Units.

Declarant's Special Declarant Rights expire upon the earliest date on which one of the conditions described in (a)-(c) is no longer operative, or for ten (10) years after recording the original Declaration, whichever is sooner. Earlier termination of certain rights may occur by statute.

Section 8.11. Interference with Special Declarant Rights. Neither the Association nor any Unit Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

Section 8.12. Veteran's Administration Approval. During the period of Declarant control of the Association, all Declaration amendments and extraordinary actions must have the approval of Veterans Administration, if the Veteran's Administration has guaranteed any loans secured by Units. Additionally, the condominium regime may not be amended or merged with a successor condominium regime without the prior written approval of the Secretary of the Veteran's Administration if the Veteran's Administration has guaranteed any loans secured by Units. These provisions do not apply to an amendment to add Units to the Common Interest Community under Article VIII.

ARTICLE IX. Allocated Interests.

Section 9.1. Allocation of Interests. The table showing Unit numbers, addresses, and their Allocated Interests is attached as Exhibit 1. These interests have been allocated in accordance with the formulas set out in this Article IX. These formulas are to be used in reallocating interests if Units are added to or deleted from the Common Interest Community. The percentage of undivided interest in the Common Elements assigned to each Unit for all purposes voting and the assessment of liability for Common Expenses shall be in accordance with Exhibit 1.

Section 9.2. Formulas for the Allocation of Interests. The Interests allocated to each Unit have been calculated on the following formulas:

- (a) Undivided Interest in the Common Elements. Each Unit in the Common Interest Community shall have an equal percentage of the undivided interest in the Common Elements.



(b) Liability for the Common Expenses. Each Unit in the Common Interest Community shall have an equal percentage of liability for Common Expenses. As a result, the percentage of liability for Common Expenses for each Unit is determined by dividing the total number of Units into 100. Nothing contained in this Subsection shall prohibit certain Common Expenses from being apportioned to particular Units under Article XVII of this Declaration.

(c) Votes. Each Unit in the Common Interest Community shall have one equal Vote. Any specified percentage, portion, or fraction of Unit Owners, unless otherwise stated in the Documents, means the specified percentage, portion, or fraction of all of the votes as allocated in Exhibit 1.

Section 9.3. Assignment of Allocated Interests Upon Creation of Units Pursuant to Exercise of Development Rights. The effective date for assigning Allocated Interests to Units created pursuant to Section 9.1 of this Declaration shall be the date on which the amendment creating the Units is recorded in the records of the Anchorage Recording District.

ARTICLE X. Restrictions on Use, Alienation, and Occupancy.

Section 10.1. Use Restrictions. Subject to the Special Declarant Rights reserved under Article VIII of this Declaration, each Unit is restricted to residential use for a single family including, therein, home professional pursuits not requiring regular visits from the public or unreasonable levels of mail, shipping, trash or storage. No sign indicating commercial or professional uses may be displayed outside a Unit. Residential use for a single family is defined as a single housekeeping unit, operating on a non-profit, non-commercial basis between its occupants, cooking and eating with a common kitchen and dining area, with no more than two (2) overnight occupants per bedroom.

Section 10.2. Occupancy Restrictions. Subject to the Special Declarant Rights reserved under Article VIII of this Declaration, the following occupancy restrictions apply to the Units and the Common Elements:

(a) All Unit Owners shall maintain their Units in a clean and well-maintained condition. Trash may not be stored outside and must be regularly placed in the trash bins designated for that purpose. The Executive Board may regulate or prohibit the storage of any type of material on the balconies in order to preserve the overall appearance of the Property.

(b) No nuisances shall be allowed on the Property, nor shall any use be made or practice be maintained by any Unit Owner or tenant of a Unit Owner that shall interfere with the quiet enjoyment of the Property by other Unit Owners and residents. The Executive Board, after Hearing and Comment, may further define the definition of "nuisance" in the rules of the Association.

(c) Exterior parking is for use by Unit Owners, tenants, and guests. Units will have assigned parking. The Association has the right to adopt restrictions and limitations on the use of unit parking and of guest area parking. Exterior parking is not reserved. The Executive



Board may regulate the use of exterior parking space. There shall be no automotive repair conducted in the open at Creekside Townhomes. Recreational vehicles may not be parked or stored anywhere on Creekside Townhomes. Only licensed and operating vehicles may be parked or stored on the parking spaces.

(d) No animals, livestock, or poultry shall be kept in any Unit, except that domestic dogs, cats, fish, and birds may be kept as household pets within the Unit, provided they are not kept, bred, or raised for commercial purposes or in unreasonable quantities. As used in this Declaration, "unreasonable quantities" shall be deemed to limit the total number of pets to three (3), of which no more than two (2) may be cats or dogs. The Executive Board may, after Notice and Hearing, further limit the sizes and types of dogs, if sizes and types of dogs become a problem for the Association and may make exceptions as to the types of pets permitted on a case-by-case basis. Furthermore, the Executive Board may prohibit the maintenance of any animal that constitutes a nuisance to any other Unit Owner. Dogs and cats belonging to Unit Owners, occupants of Units, or their licensees or invitees, must be kept within the Unit except that they may be taken out of the Unit on a leash held by a person capable of controlling the animal. Should any dog or cat be found outside of the Unit, other than on a leash being held by a person capable of controlling the animal, the animal may be removed by Declarant or any person authorized by the Executive Board to remove the dog or cat from the Property. The dog or cat removed shall be taken to the Municipality of Anchorage animal shelter and, if its owner is known, the Association shall notify the owner of the animal's location. The owner of any pet visiting or residing on the Property shall be absolutely liable to all other Unit Owners, their families, guests, and invitees for any damage to persons or property caused by the pet. Owners of pets are responsible for removing their pets' waste from the Common Elements of Creekside Townhomes.

(e) The use of Units and Common Elements is further subject to the Bylaws and the Rules of the Association.

Section 10.3. Restrictions on Alienation. A Unit may not be conveyed pursuant to a time-sharing plan. A Unit may not be leased or rented for a term of less than thirty (30) days. All leases and rental agreements shall be in writing and subject to the requirements of the Documents and the Association. A copy of all leases or rental agreements must be given to the Association. All leases and rental agreements must contain a provision that gives the Association the power to enforce a violation of the Documents against tenant so long as the Association first gives notice to the Unit Owner of its intent do so and gives Unit Owner a reasonable opportunity to remedy the violation. The Association's right to enforce violations of the Documents against a tenant does not limit the Association's right to take action against the Unit Owner for the tenant's violations of provisions of the Documents. This Declaration does not impose any right of first refusal or similar restriction on a Unit Owner's right to sell or convey a Unit.

Section 10.4. Fences in Backyards. Each backyard is the Limited Common Element of the Unit it sits behind as depicted on the Plans. Unit Owners may construct fences around the perimeter of the backyard assigned to their Unit. Any fences built by Unit Owners must comply



with applicable local, state, and federal laws. Unit Owners must obtain the permission of the Executive Board to construct a fence. If built, fences must be maintained by the Unit Owner as an attractive addition to the Common Interest Community. Metal or chain-link fences are not permitted. Declarant makes no guarantees that the Municipality of Anchorage will allow Unit Owners to construct fences. At a minimum, the Executive Board must require Unit Owners prior to constructing fences to:

- (a) prove to the satisfaction of the Executive Board that the fence will not encroach on neighboring other Common Elements or Limited Common Elements;
- (b) obtain utility locations to avoid damaging utilities during construction;
- (c) obtain any permission necessary from utilities; and
- (d) submit drawings, photographs, plans, or other descriptions that will allow the Executive Board to determine that the fence will be an attractive addition to the Unit.

ARTICLE XI. Easements and Licenses.

Section 11.1. Easement for Ingress and Egress Through Common Elements. Each Unit Owner has an easement in common with each other Unit Owner for ingress and egress through all Common Elements, subject to such reasonable rules, regulations, and restrictions as may be imposed by the Association. Each Unit is hereby burdened with and subjected to an easement for ingress and egress through all Common Elements by persons lawfully using or entitled to the same.

Section 11.2. Easements for Support. Each Unit and Common Element shall have an easement for lateral and subjacent support from every other Unit and Common Element.

Section 11.3. Easements for Encroachments. In the event any portion of the Common Elements encroaches on any Unit or any Unit encroaches on the Common Elements or another Unit as a result of the construction, reconstruction, repair, shifting, settlement, or movement of any portion of the Improvements, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

Section 11.4. Recorded Easements and Licenses. All recorded easements or licenses to which the Common Interest Community is presently subject are recited in Exhibit 3 to this Declaration or are shown on the Plat and Plans.

