

BK 3296 PG 546

DECLARATION SUBMITTING REAL PROPERTY TO THE
UNIFORM COMMON INTEREST OWNERSHIP ACT
(AS 34.08, et seq.)
FOR
ASPEN HEIGHTS CONDOMINIUMS

PHASE ONE

TBA, Inc., 200 West 34th Avenue, Suite 1004, Anchorage, Alaska 99503, herein referred to as "Declarant" herein submits the following described real property to the provisions of the Uniform Common Interest Ownership Act, AS 34.08 of the Alaska Statutes, for the purpose of creating Aspen Heights Condominiums, and making the improvements described herein and shown in the plans/plats recorded or filed contemporaneously herewith under _____:

LOT SIX "A" (6-A) BELLA VISTA SUBDIVISION NO. 1, according to Plat 97-124, in the Anchorage Recording District, Third Judicial District, State of Alaska.

I
DEFINITIONS

Section 1. ACT.

"Act" shall mean the Common Interest Ownership Act, AS 34.08 of the Alaska Statutes as it may be amended from time to time.

Section 2. ALLOCATED INTERESTS.

"Allocated Interests" shall mean the undivided interest in the Common Elements, the Common expense liability, and votes in the Association, allocated to the Units in the Common Interest Community. The Allocated Interests are described in Article VIII of this Declaration.

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Section 3. ASSOCIATION.

"Association" shall mean ASPEN HEIGHTS CONDOMINIUM OWNERS ASSOCIATION, INC., a non-profit corporation organized under AS 10.20, et seq. It is the association of Unit Owners pursuant to Section 34.08.310 of the Act.

Section 4. BYLAWS.

"Bylaws" shall mean the bylaws of the Association, as they may be amended from time to time.

Section 5. COMMON ELEMENTS.

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

Section 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 as Common Expenses by the Association; and

(d) Such reasonable reserves as may be required by this Declaration and 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 7. COMMON INTEREST COMMUNITY.

The real property which is the subject matter of this Declaration.

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Section 8. DECLARANT.

Declarant means TBA, Inc., and its successors as defined by A.S. 34.08.990(12).

Section 9. DECLARATION.

This document, including any amendments.

Section 10. DEVELOPMENT RIGHTS.

"Development Rights" shall mean a right or a combination of rights reserved by Declarant to construct and sell twelve additional Units and to create Common Elements, and Limited Common Elements on the Common Interest Community real property. See Article IX.

Section 11. DIRECTOR.

"Director" shall mean a member of the "Executive Board".

Section 12. DOCUMENTS.

"Documents" shall mean the Declaration, plans/plats recorded or filed pursuant to the provisions of the Act, the Bylaws and Rules of the Association as they exist or may be amended from time to time, and the Articles of Incorporation of the Association. Any exhibit or certification accompanying a document is a part of that document.

Section 13. ELIGIBLE INSURER.

"Eligible Insurer" shall mean an insurer or guarantor of a first security interest in the 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 XVIII.

Section 14. ELIGIBLE MORTGAGEE.

"Eligible Mortgagee" shall mean the holder of a first security interest in a Unit which has notified the Association, in writing, of its name and address, and

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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 XVII.

Section 15. EXECUTIVE BOARD.

"Executive Board" shall mean the Board of Directors of the Association.

Section 16. IMPROVEMENTS.

"Improvements" shall mean any structures or facilities existing or to be constructed on the land included in the Common Interest Community, including but not limited to, buildings, trees, shrubbery, paving, wires, pipes, light pole, driveways and parking areas constructed by Declarant or the Association.

Section 17. LIMITED COMMON ELEMENTS.

"Limited Common Elements" shall mean that portion of the Common Elements allocated for the exclusive use of one or more but fewer than all of the Units by operation of AS 34.08.100(2) or (4) or by this Declaration. The limited Common Elements in the Common Interest Community are described in Article V of this Declaration.

Section 18. MAJORITY OR MAJORITY OF UNIT OWNERS.

"Majority or Majority of Unit Owners" shall mean the Owners of more than fifty percent (50%) of the voting strength in the Association.

Section 19. MANAGER.

"Manager" means a person, firm or corporation employed or engaged to perform management services for the Common Interest Community and the Association.

Section 20. NOTICE AND COMMENT.

"Notice and Comment" shall mean 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 and Comment are set forth in Article XXIV of this Declaration.

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Section 21. NOTICE AND HEARING.

"Notice and Hearing" shall mean 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 and Hearing are set forth in Article XXIV of this Declaration.

Section 22. PERSON.

"Person" shall mean an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

Section 23. PLANS/PLATS.

"Plans" shall mean the floor plans recorded or filed with this Declaration. "Plats" shall mean the Plat recorded or filed with this Declaration. Plans/Plats shall also include amendments to either.

Section 24. PROPERTY, PHASE ONE PROPERTY AND PHASE TWO PROPERTY.

"Property" shall mean the land, all improvements, easements, rights and appurtenances, submitted to the provisions of the Act by the Declaration.

"Phase One Property" shall mean the northern 130 feet of the land described at Article III.

"Phase Two Property" shall mean the southern 105 feet of such land and for the purposes of A.S. 34.08.140(8) and this Declaration, the "Development Rights" reserved under Article IX apply to any part of the land described at Article III south of any structure constructed on the northerly portion of said land.

Section 25. PUBLIC OFFERING STATEMENT.

"Public Offering Statement" means the current document prepared pursuant to AS 34.08.530 of the Act as it exists or may be amended from time-to-time, provided to purchasers and prospective purchasers.

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Section 26. RULES.

"Rules" shall mean rules for the use of Units and Common Elements and for the conduct of persons within the Common Interest Community, adopted by the Executive Board pursuant to this Declaration.

Section 27. SECURITY INTEREST.

"Security Interest" shall mean an interest in real property or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a 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 the Association, and any other consensual lien or title retention contract intended as security for an obligation.

Section 28. SPECIAL DECLARANT RIGHTS.

"Special Declarant Rights" shall mean the rights reserved for the benefit of declarant to, among other things:

- (a) complete improvements indicated on plats and plans filed with the Declaration;
- (b) exercise any Development Right;
- (c) maintain sales offices, management offices, signs advertising the Common Interest Community, model units and the exercise of any other rights for marketing;
- (d) use easements through the Common Elements for the purpose of making repairs and improvements within the Common Interest Community;
- (e) appoint or remove an officer of the Association or a master association or any Executive Board member during any period of Declarant control; and
- (f) rent units pursuant to this Declaration.

These reserved rights are more particularly described at Article IX, but are not intended to limit the foregoing.

Section 29. 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. 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 to by the secretary.

Section 30. UNIT.

"Unit" shall mean a physical portion of the Common Interest Community designated for separate ownership or occupancy, the boundaries of which are described in Article IV, Section 3 of this Declaration.

Section 31. UNIT OWNER.

"Unit Owner" shall mean the Declarant or other person who owns a Unit, or holds the possessory interest under a real estate purchase contract. Unit Owner does not include a person having an interest in a Unit solely as security for an obligation. The Declarant is the Initial Owner of any Unit created by this Declaration.

II

NAME AND TYPE OF COMMON INTEREST
COMMUNITY AND ASSOCIATION

Section 1. NAME OF COMMON INTEREST COMMUNITY.

The name of the Common Interest Community is ASPEN HEIGHTS CONDOMINIUMS.

Section 2. NAME OF ASSOCIATION.

The name of the Association is ASPEN HEIGHTS CONDOMINIUM OWNERS ASSOCIATION, INC.

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Section 3. TYPE OF COMMON INTEREST COMMUNITY.

Aspen Heights is a condominium project.

III

DESCRIPTION OF REAL ESTATE

The real estate included in the Common Interest Community is described as follows:

LOT SIX "A" (6-A) BELLA VISTA SUBDIVISION NO. 1, according to Plat 37-124, in the Anchorage Recording District, Third Judicial District, State of Alaska.

IV

MAXIMUM NUMBER OF UNITS, IDENTIFICATION AND BOUNDARIES

Section 1. GENERAL.

Declarant intends to construct the Project in two phases each containing twelve units. Phase One is constructed on the northern 130 feet of the land described at Article III. For the purpose of AS 34.08.140(8) and this Declaration, the Development Rights reserved under Article IX apply, however, to any part of the land described at Article III south of any structure constructed on the Phase One Property.

Phase Two, if constructed will be constructed on the southern 105 feet of the land described at Article III (See Article IX). If constructed Phase Two will create an additional twelve units for a total of twenty-four in the entire Project.

Section 2. NUMBER OF UNITS.

Phase One of the Project consists of three (3) buildings, each containing four (4) Condominium Units, for a total of twelve (12) Condominium Units. The maximum number of additional units that may be created by reason of "Special Declarant Rights" and "Development Rights" pursuant to Article IX, is twelve (12) for a total of twenty-four (24).

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Declarant does not represent or assure that the second phase (Phase Two) will be constructed.

Section 3. IDENTIFICATION OF UNITS.

The Units in Phase One are identified by the street number of the Condominium Building in which the Unit is located, followed by the number of the Unit within that building. Phase Two Units, if constructed will be similarly identified.

Section 4. BOUNDARIES.

The boundaries of each Unit are shown on the Plans/Plats now existing in or as hereafter amended and are more particularly described as follows:

(a) The interior surface of all walls, floors and ceilings are designated as boundaries of a Unit. The exterior surfaces of all windows and exterior doors are also designated as boundaries of a Unit. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials added to or placed on the interior surface of walls, floors, or ceilings are part of the Unit as are windows and exterior doors.

(b) Inclusions. Each Unit shall include the spaces and improvements lying within the boundaries described in subsection (a) above, and shall also include any chimneys, tanks, pipes, wires, ducts, conduits and other facilities situate in the perimeter walls of the Unit or elsewhere serving only that Unit.

In the case of utility services now or hereafter metered to and for the exclusive use of a Unit, the common elements extend only to, and does not include the meter or the wires, conduits or pipe from it which are part of the Unit served.

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

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Section 5. INCONSISTENCY WITH PLANS/PLATS.

If any of the above descriptions are inconsistent with the plats/plans, then these descriptions shall control.

V

LIMITED COMMON ELEMENTS

Section 1. PHASE ONE LIMITED COMMON ELEMENTS.

The following portions of the Common Elements are Limited Common Elements:

(a) Exterior Parking. The areas adjacent to the garage doors of each Unit are allocated for the exclusive use of the Unit to which the area is adjacent. This area is the width of the pavement which is approximately that of the garage door of each Unit to a depth of approximately twenty feet from the exterior surface of the garage door. Such Limited Common Elements are identified on the Plan/Plat by Exterior Parking followed by the unit number of the Unit to which such Limited Common Area is reserved.

(b) Decks. Each Unit has immediate access to an exterior deck at the rear of each Unit at its lower level, allocated for the exclusive use of that Unit. Such Limited Common Elements are identified on plans/plats by the word "Deck" followed by the Unit number for the Unit to which the exclusive use thereof is reserved.

(c) Walkways/Entries. The "Unit" entrance areas, covered walkways, steps and stairs leading thereto are allocated to the exclusive use of the Unit served to the exclusion of all other Units within the common interest community.

Unit entrance areas shall include the steps, stairs, walkways, etc. providing access to Limited Common Element exterior decks as well as the main entry. The covered walkways are identified on the plans/plats by the word "walkway/entry" followed by the Unit designation for the Unit to which the exclusive use thereof is reserved.

Section 2. PHASE TWO LIMITED COMMON ELEMENTS.

In the event Phase Two is constructed, limited common elements similar to the Limited Common Elements described at for Phase One will be allocated to each of the twelve (12) Units in Phase Two.

VI

MAINTENANCE, REPAIR AND REPLACEMENT

Section 1. COMMON ELEMENTS.

The Association shall be responsible for the maintenance, repair and replacement of the Common Elements, including Limited Common Elements, except any parts which are required by this Declaration to be maintained, repaired or replaced by the Unit Owner. In this regard, each Unit Owner shall be responsible for maintenance, repair and replacement of the garage doors of each of the Unit. Casualty insurance as required for such garage doors, as well as the Limited Common Elements as required by this Declaration, may be obtained and maintained by the Association for the benefit of the particular Unit Owner.

Without limiting the definition of Common Element contained in Article I, Section 5, Common Elements shall include the approximate six foot (6') wooden fence along the west boundary of the land, all asphalt and other pavement, retaining walls on the north side of the land and grass, trees and landscaping.

Section 2. UNITS.

Each Unit Owner shall maintain, repair and replace, at Owner's expense, all portions of Owner's Unit, and the garage doors for the Unit, except the portions thereof to be maintained, repaired or replaced by the Association. Anything to the contrary herein notwithstanding, the Association shall be responsible for painting and staining of the garage doors and snow removal for the Limited Common Element Exterior Parking.

Section 3. LIMITED COMMON ELEMENTS.

Common expenses associated with the maintenance, repair or replacement of all Limited Common Elements will be assessed against the Unit to which the Limited Common Element is assigned where necessitated by the acts or omissions of Owner or Invitees thereof and otherwise by the Association, unless otherwise provided herein.

Section 4. ACCESS.

Any person authorized by the Executive Board shall have the right of access to all portions of the Common Interest Community for the purpose of correcting any condition threatening a Unit or the Common Elements, for the purpose of performing installations, alterations or repairs, and for the purpose of reading, repairing, 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 an 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 5. REPAIRS RESULTING FROM NEGLIGENCE.

Each Unit Owner will pay for or reimburse the Association for any damages to any other Unit or to the Common Elements (including Limited Common Elements) caused intentionally or negligently by Owner or Owner's Invitees, or by Owner's failure to properly maintain, repair or make replacements.

VII

SUBSEQUENTLY ALLOCATED LIMITED COMMON ELEMENTS

There are no Limited Common Elements to be allocated subsequent to recording of this Declaration, save and except that Limited Common Elements described at V that will be allocated to the twelve (12) Units in Phase Two, should Phase Two be constructed.

VIII

ALLOCATED INTERESTS

Section 1. ALLOCATION OF INTERESTS.

The allocated interest appertaining to each Unit in Phase One for all purposes including voting and the determination of liability for Common Expenses shall be one-twelfth (1/12th) each. These interests have been allocated in accordance with the formula described in Section 2 of this Article. Such formula is to be used in reallocating interests if Units are added to the Common Interest Community by reason of the construction of Phase Two.

Section 2. FORMULA FOR ALLOCATION OF INTERESTS.

The interest allocated to each unit is derived by dividing the total number of units in the common interest community at any one time into one (1) and may be expressed as a fraction or a percentage.

Section 3. VOTING.

Each Unit in the Common Interest Community shall have voting strength and rights in accordance with the specified percentages set forth above. These percentages are determined by the same formula described at Section 2, above.

Section 4. ASSIGNMENT OF ALLOCATED INTEREST UPON CREATION OF UNITS PURSUANT TO EXERCISE OF DEVELOPMENT RIGHTS.

The effective date for assigning allocated interest to Units created pursuant to Article IX of this Declaration shall be the date on which the amendment creating the Phase Two Units is recorded in the records of the Anchorage Recording District, Third Judicial District, State of Alaska.

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IX

DEVELOPMENTAL RIGHTS, SPECIAL DECLARANT RIGHTS
AND OTHER RESERVATIONSSection 1. GENERAL.

Declarant reserves all "Special Declarant Rights" and "Development Rights" defined at Article I, Sections 10 and 29, A.S. 34.08.990(14) and A.S. 34.08.990(30), to the maximum extent permitted by law, and the below reservations are not intended to diminish such rights.

Section 2. 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 Unit owned by the Declarant as a model unit, sales office or management office. So long as Declarant is a Unit Owner, it shall hold the Association harmless for damages suffered by invitees of Declarant, visiting the sales or management office or using the Common Elements where the same is not otherwise covered by liability insurance.

Section 3. CONSTRUCTION; DECLARANT'S EASEMENT.

The Declarant reserves the right to perform warranty work, and repairs and construction work, and to store materials in secure areas, on 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 the Common Interest Community as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Special Declarant Rights and Development 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, municipalities, the State, riparian owners or upland owners to fulfill the plan of development.

Section 4. SIGNS AND MARKETING.

The Declarant reserves the right to post signs and displays on Units and on the Common Elements to promote sales of Units, and to conduct general sales activities, in a manner as will not unreasonably disturb the rights of Unit Owners.

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Section 5. 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 Common Interest Community that has not been represented in writing to be property of the Association. The Declarant reserves the right to remove any and all goods and improvements used in development, marketing and construction whether or not they have become fixtures.

Section 6. DECLARANT'S CONTROL OF THE ASSOCIATION.

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

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

(ii) two (2) years after 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 years after the first Unit is conveyed to an Owner other than Declarant.

Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of such 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 executed by the Declarant be approved by the Declarant before they became 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 a Declarant, at least one member and not less than twenty-five percent (25%) of the members of the

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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 a 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, at least a majority of whom shall be Unit Owners. The Executive Board shall elect the officers. The Executive Board members and officers shall take office upon election.

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

Section 7. LIMITATIONS ON SPECIAL DECLARANT RIGHTS.

Unless sooner terminated by a recorded instrument executed by Declarant, Special Declarant Rights (as opposed to Development Rights) may be exercised by the Declarant, so long as Declarant is obligated under any warranty or obligation, owns a Unit or a security interest in a Unit, or for twenty (20) years after recording this Declaration, whichever is sooner.

Section 8. RESERVATION OF DEVELOPMENT RIGHTS.

Declarant reserves the following Development Rights:

(a) The right by amendment to this Declaration to add Units, Limited Common Elements and Common Elements to the Common Interest Community on the Phase Two Property (See Article I Section 24). No assurances are made that the second phase will be constructed.

(b) The right to fail to construct the second phase (Phase Two) of the Project.

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(c) The right to construct utility lines, pipes, wires, ducts, conduits across the Land described at Article III for the purposes of furnishing utilities and other services to buildings, and improvements to be constructed on the land designated as "Phase Two". The Declarant also reserves the right to withdraw and grant easements to public utility companies and to convey improvements within these easements anywhere in the Common Interest Community not occupied by buildings for the above mentioned purposes.

Section 9. LIMITATIONS ON DEVELOPMENT RIGHTS.

(a) Development Rights may be exercised at any time in whole or in part within two years from the recording date of this Declaration.

(b) Not more than twelve (12) Units may be created on the Phase Two Property.

(c) All Units created by exercise of Development Rights will be restricted to single family residential purposes and shall be subject in all respects to the provisions of this Declaration.

(d) If constructed the Condominium buildings and Units in Phase Two will be compatible in terms of architectural styles, quality of construction and size. The value of the Units and their quality of construction shall commensurate with the Units initially constructed.

(e) Any reallocation of interest made necessary by exercise of Development Rights shall be made in a manner which causes all Units in the Condominium Project as expanded to have an equal interest in the common areas and facilities and therefore equal assessments and voting rights.

(f) Unit Owners, eligible insurers and mortgagees of Units in Phase One will not be adversely affected by liens arising from the construction of improvements on the Phase Two Property.

(g) Development Rights shall not be exercised without the approval of all persons who hold a security interest in those rights.

X

RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY

Subject to any reserved rights of Declarant, the use, alienation and occupancy of all Units is restricted as follows:

Section 1. SINGLE-FAMILY RESIDENCE

Units shall be used exclusively for single-family residential purposes. (One or more persons occupying a Unit and living as a single housekeeping Unit as distinguished from a group occupying a rooming house, club, fraternity house or hotel).

Section 2. PARKING AND VEHICULAR RESTRICTIONS

No vehicle not in an operating condition shall be parked or left on the property subject to this Declaration. No boats, snowmachines, motorhomes or other recreational or commercial vehicle shall be stored anywhere on the property for any longer than forty-eight (48) hours, except with permission of the Executive Board. This Section shall not be deemed to apply to such items stored within Unit garages.

No vehicle shall be parked for any period of time on the Common Element land which provides access to the garages for the condominium Units or otherwise infringes upon access to Units, except as elsewhere herein provided.

Section 3. NUISANCES

No noxious or offensive activities (including, but not limited to, the repair of automobiles) shall be carried on upon the project. No horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of a Unit and its contents, shall be placed in any Unit. No loud noises shall be permitted on the property, and the Executive Board of the Association shall have the right to determine if any noise or activity producing noise constitutes a nuisance. No Unit Owner shall permit or cause anything to be done or kept upon the property which will increase the rate of insurance thereon or which will obstruct or interfere with the rights of other Unit Owners, nor commit or permit any nuisance on the property, or

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commit or cause any illegal act to be committed thereon. Each Unit Owner shall comply with all of the requirements of the local or State health authorities and with all other governmental authorities with respect to the occupancy and use of a residence.

Section 4. SIGNS

No signs, posters, displays or other advertising devices of any character shall be erected or maintained on, or shown or displayed from, the Units without prior written approval from the Executive Board; provided, however, that the restrictions of this Section shall not apply to any sign or notice of customary and reasonable dimension which states that the premises are for rent or sale. Address, identification signs shall be maintained by the Association. The Executive Board may summarily cause all unauthorized signs to be removed and destroyed. This section shall not apply to any signs used by Declarant or its agents in connection with the original construction and sale of the Units as set forth in Article IX, Section 4.

Section 5. HOLD HARMLESS AND INDEMNIFICATION

Each Unit Owner shall be liable to the Association for any damage to the Common Elements or any equipment thereon as well as the Limited Common Elements which may be sustained by reason of the negligence of said Unit Owner or of his guests or invitees, to the extent that any such damage shall not be covered by insurance. Each Unit Owner does further, by the acceptance of a Unit deed, agree to indemnify each and every other Unit Owner, and to hold him, her or it harmless from claims of any person for personal injuries or property damage occurring within his, her or its Unit Owner, unless said injury or damage shall occur by reason of the negligence of any other Unit Owner, and each Unit Owner further agrees to defend, at his, her or its expense, any and all remaining owners who may be sued by any person for a claim for personal injury or property damage alleged to have been sustained within his, her or its Unit.

Section 6. OUTSIDE INSTALLATIONS

No outside pole or antennae shall be erected or maintained without first obtaining the approval of the Executive Board. No wiring or installation of air conditioning or other machine shall be installed on the exterior of the buildings or be

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allowed to protrude through the walls or roofs of the buildings, unless the prior written approval of the Executive Board is secured. No basketball standards or fixed sports apparatus shall be attached to any Unit without the prior written approval of the Executive Board.

Section 7. PET REGULATIONS

No animals, livestock or poultry shall be kept in any residence, except that domestic dogs, cats, fish and birds in inside bird cages may be kept as household pets within the project, provided that they are not kept, bred or raised therein for commercial purposes or in unreasonable quantities. As used in this Declaration, "unreasonable quantities" shall be deemed to limit the total number of dogs, cats and birds to two (2), and not two (2) each. The Association shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Executive Board, a nuisance to any other Unit Owner. Dogs and cats belonging to Unit Owners, occupants or their invitees must be kept on a leash being held by a person capable of controlling the animal. Unit Owners, occupants and licensees shall not allow animals to defecate on common areas, but if it occurs the Unit Owner shall promptly clean up and remove the same. Should any dog or cat belonging to a Unit Owner be found unattended and not being held on a leash by a person capable of controlling the animal, such animal may be removed by the Executive Board or a person designated by them to a pound under the jurisdiction of the local municipality in which the property is situated. Furthermore, any Unit Owner shall be absolutely liable to each and all remaining owners, their families, guests and invitees, for any damage to person or property caused by any pets brought or kept upon the property by an owner or by members of his family, guests, or other invitees.

Section 8. BUSINESS OR COMMERCIAL ACTIVITY.

No business or commercial activity shall be maintained or conducted in any Unit, except that Declarant, or a person designated by the Association as agent of the Association for purposes of managing the property, may maintain management offices and facilities in a Unit or in a temporary structure constructed on the project; provided, however, that professional and administrative occupations may be carried on within the Units so long as there exists no external evidence thereof.

Section 9. TEMPORARY STRUCTURE.

No temporary structure, boat, truck, trailer, camper or recreation vehicle of any kind shall be used as a living area while located on the property; however,

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trailers or temporary structures for use incidental to the initial construction improvements on the property may be maintained thereon, but shall be removed within a reasonable time after completion of construction.

Section 10. RUBBISH REMOVAL/EXTERIOR FIRES.

Trash, garbage or other waste shall be disposed of only by depositing same in a garbage disposal or wrapped in a secure package, into a designated trash container or garbage disposal. No Owner of a Unit shall permit or cause any trash or refuse to be disposed of on any portion of the property except designated trash receptacles. No portion of the property shall be used for the storage of building materials, refuse or any other materials other than in connection with approved construction and construction pursuant to Article IX. There shall be no exterior fires whatsoever, except barbecue fires contained within receptacles.

Section 11. LEASE OF UNITS.

Any Unit Owner may lease a Unit to a third party, but such a lease arrangement must be in writing, be for a term of not less than thirty (30) days, and provide that the failure to comply in all respects with the provisions of the Declaration Bylaws and Rules (if any) shall be a default under the terms of the lease. No owner shall rent or lease less than an entire Unit.

Section 12. RESTRICTIONS ON ALIENATION.

A Unit may not be conveyed pursuant to a time-sharing or similar plan. Leasing of Units is restricted in accordance with Section 11 above.

XI

EASEMENTS AND LICENSES

Declarant, in addition to all other easements reserved herein or reasonably implied from the contents of this Declaration, expressly reserves, for the benefit of itself and Owners in the Common Interest Community, reciprocal non-exclusive easements of use, access, ingress and egress over all the Common Elements in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of others. Such easements may be used by Declarant's successors, purchasers, and all Unit owners, their guests, tenants and

invitees, residing or temporarily visiting the project, for pedestrian walkways, vehicular access, and such other purposes reasonably necessary to the use and enjoyment of a Unit in the project. Such easements shall be appurtenant to, and shall pass with, the title to every Unit conveyed without specific reference to the same. The Declarant expressly reserves, for the benefit of each Unit to which a Limited Common Element is allocated, an exclusive easement for use of those areas described at Article V and/or depicted on the plans/plats as Limited Common Elements, in accordance with Article V hereof. In the event any portion of the Common Elements encroaches upon any Unit, or any Unit encroaches upon the Common Elements, as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the property, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists, even though no specific reference to such easement appears in a conveyance instrument.

The recorded data for recorded easements and licenses appurtenant to or included in the Common Interest Community is set forth on Exhibit A attached.

XII

ALLOCATION AND REALLOCATION OF LIMITED COMMON ELEMENTS

Except as may be provided herein, no Limited Common Element depicted on the plat or plans as described in the Declaration may be reallocated by an amendment to this Declaration without the written consent of all affected Owners and mortgages as required by this Declaration.

XIII

SUBDIVISION AND JOINDER OF UNITS

Section 1. Subdivision.

There shall be no subdivision of Units.

Section 2. Permitted Joinder.

Subject to Executive Board approval of any structural changes and existence of any required permits and compliance with applicable code requirements apertures

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can be created in the walls common to contiguous Units and partitions may be removed so that the contiguous Units can be used as one, even if the wall or partition is in whole or in part a Common Element. Such removal or creation is not an alteration of boundaries.

Section 3. Relocation of Boundaries Between Adjoining Units.

Subject to Executive Board approval of any structural changes and existence of any required permits, the boundaries of adjoining units may be relocated by an amendment to this Declaration as well as the plans/plats. The person seeking the relocation shall file an application with the Executive Board stating the proposed relocation and reallocation of the percentage interest in common areas and facilities, if any. The Executive Board shall have thirty (30) days to consider and act upon the allocation. If the application does not adversely affect the common interest community or its members, it shall be granted. Approval may be conditioned in any reasonable manner. After an application is approved, amendments to the declaration as well as the plans/plats shall be prepared at the expense of the applicant(s) which sets forth the change and reallocation and which contains words of conveyance between the owners of the affected Units. The amendment shall be executed by the owners and all persons holding a security interest in the Units.

Section 4. Recording Amendments.

The amendment making the relocation, along with a revised plan/plat showing the change, shall be recorded and/or filed as required by the applicable law. The applicant(s) shall bear the cost of preparing, recording and filing amendments.

Section 5. Not Applicable to Declarant.

The provisions of this Article do not apply to or in any way limit the exercise of Special Declarant Rights or Developmental Rights.

XIV

AMENDMENTS TO DECLARATION

Section 1. GENERAL.

Except in cases of amendments that may be executed by the Association under Section 34.08.740 of the Act, or by certain Unit Owners under Section

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34.08.280 of the Act, and except as limited by Section 4 of this Article, Article XVII, Article XVIII, Article XXIII, and Article XXV Section 2], the Declaration, including the plans/plats, may be amended by vote or agreement of Unit Owners of Units to which at least sixty-seven percent (67%) of the allocated undivided interest in the Common Elements is appurtenant.

Section 2. LIMITATION OF CHALLENGES.

No action to challenge the validity of an amendment adopted by the Association pursuant to this Article may be brought more than one (1) year after the amendment is recorded.

Section 3. RECORDATION OF AMENDMENTS.

Each amendment to the Declaration must be recorded in each recording district in which a portion of the Common Interest Community is located and the amendment is effective only upon recording as set forth in AS 34.08.250(c).

Section 4. WHEN UNANIMOUS CONSENT REQUIRED.

Except to the extent expressly permitted or required by other provisions of the Act and this Declaration, no amendment may create or increase Special Declarant Rights, increase the number of Units, change the boundaries of any Unit, the Allocated Interests of any Unit, or the uses to which any Unit is restricted, in the absence of unanimous consent of the Unit Owners.

Section 5. EXECUTION OF AMENDMENTS.

Amendments to this Declaration required by the Act to be recorded by the Association, which have been adopted in accordance with this Declaration and the Act, shall be prepared, executed, recorded and certified on behalf of the Association by any officers of the Association designated for that purpose or, in the absence of designation, by the president of the Association.

Section 6. DEVELOPMENTAL RIGHTS, SPECIAL DECLARANT RIGHTS AND OTHER RESERVATIONS.

Developmental Rights, Special Declarant Rights and Other Reservations referred to in Article IX or elsewhere for the benefit of Declarant may not be amended without the consent of the Declarant.

Section 7. CONSENT OF HOLDERS OF SECURITY INTERESTS.

Amendments are subject to the consent requirements of Article XVIII.

XV

AMENDMENT TO BYLAWS

The Bylaws may be amended only by vote of two-thirds (2/3) of the members of the Executive Board, following Notice and Comment to all Unit Owners, at any meeting duly called for such purpose.

XVI

TERMINATION

Termination of the Common Interest Community may be accomplished only in accordance with AS 34.08.260.

XVII

MORTGAGEE PROTECTION

Section 1. INTRODUCTION.

This Article establishes certain standards and covenants which are for the benefit of the holders, insurers and guarantors of certain security interests. This Article is supplemental to, and not in substitution for, any other provisions of the Documents, but in the case of conflict, this Article shall control.

Section 2. PERCENTAGE OF ELIGIBLE MORTGAGEES.

When in this Declaration the approval or consent of a specified percentage of eligible mortgagees is required the percentage shall be determined by comparing the aggregate allocated interests of Units subject to security interests held by eligible mortgagees approving or consenting to the aggregate allocated interest of all Units subject to security interests held by eligible mortgagees.

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