

COUNTY OF LARIMER

STATE OF COLORADO

## CONDOMINIUM DECLARATIONS FOR

## CARRIAGETOWN CONDOMINIUMS

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, Village Park Partnership, a Colorado Partnership, is the owner of certain lands located in Larimer County, Colorado, and described on the attached Exhibit A, which by this reference is made a part hereof; and Home Federal Savings and Loan Association of the Rockies, the sole lienholder of the property described on Exhibit A, hereinafter collectively referred to as "Declarant", and;

WHEREAS, Declarants desire to establish by this declaration a plan for the individual ownership of the part of the property consisting of the units and the co-ownership as tenants in common, of all the remainder of the property and improvements thereon, which are hereinafter defined and referred to as "Common Elements", which plan is hereby declared to be for the benefit of the property and the owners thereof, their heirs, successors, administrators, grantees and assigns, and is for the purpose of designating the property as condominium property under the provisions of The Condominium Ownership Act of the State of Colorado, Colorado Revised Statutes 1973, 38-32-101, as amended;

NOW, THEREFORE, Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, reservations, limitations and obligations shall be deemed to run with the land, shall be a burden and a benefit to Declarant, its successors and assigns, and any person or entity acquiring or owning an interest in the real property and improvements, their grantees and their heirs, executors, administrators, devisees, successors or assigns.

1. Definitions.

(a) All applicable portions of definitions as contained in 1973 Colorado Revised Statutes, Chapter 38-33-103 and any amendments thereto shall apply to this Declaration and the property, except as particularly modified or changed by individual definitions hereinafter contained.

(b) "Unit" means one individual air space which is contained within the perimeter walls, floors, ceilings, window and doors of each unit as shown on the Condominium Map to be filed for record, together with (1) all fixtures and improvements therein; (2) the inner decorated or finished surfaces of such unit's perimeter walls, floors and ceilings; (3) the doors and windows of the unit; and (4) the interior nonsupporting walls within the unit. The term does not include, however, the undecorated or unfinished surfaces of the perimeter walls, floors or ceilings of a unit, any utilities running through the unit which serve more than one unit, or any other general common element or part thereof located within the unit.

(c) "Condominium Unit" means the fee simple interest and title in and to a unit together with the undivided interests in the general common elements and the appurtenant limited common elements thereto.

(d) "Owner" means a person, persons, firm, corporation, partnership, association or other legal entity, or any combination thereof, who own(s) an interest in one or more condominium units.

(e) "Map or Condominium Map or Supplemental Map" means and includes the engineering survey of the land depicting and locating thereon all of the improvements, the floor and elevation plans and any other drawings or diagrammatic plan depicting a part of or all of the land and improvements thereon.

(f) "General Common Elements" means and includes the real property described in Exhibit "A" and the improvements thereon except the units; the structural components of the buildings; such improvements as may be provided for common use; service streets; green areas; provided, however, that each unit owner whose unit has sole access to a court, terrace or deck, if any, shall have an easement for the exclusive use thereof; all other parts of such land and the improvements thereon necessary or convenient to its existence, maintenance and safety which are normally and reasonably in common use, including the air above such land, all of which shall be owned, as tenants in common, by all of the owners of the separate units, each owner of a unit having an equal undivided one twenty-fourth (1/24th) interest in such general common elements.

(g) "Limited Common Elements" are those portions of the general common elements which are reserved for the exclusive use of the individual owners of the respective units. The limited common elements so reserved shall be identified on the Map as a court, terrace, patio, lobby, balcony, deck, garage space, fenced area, storage lockers, or by being designated on the Map as a limited common element. Any court, terrace, patio, lobby, balcony, deck, garage space, fenced area, storage lockers, which is accessible from, associated with and which adjoins a unit and any other limited common element shall, without further reference thereto, be so identified in connection with such unit to the exclusion of the use thereof by the other owners of the general common elements, except by invitation. All of the owners of condominium units in the condominium project shall have a non-exclusive right in common with all of the other owners to the use of sidewalks, pathways, driveways, and streets located within the entire condominium project. No reference thereto, whether such limited common elements are exclusive or non-exclusive, need to be made in any deed, instrument of conveyance or other instrument, and reference is made to the provisions of Paragraph 4 of this Declaration.

(h) "Declaration" means this Declaration and supplements thereof, if any.

(i) "Condominium Project or Project" means all of the land and improvements initially submitted by this Declaration and the land and improvements subsequently submitted as is provided hereinafter.

(j) "Common Expenses" means and includes (1) expenses of administration, operation and management, repair or replacement of the common elements; (2) expenses declared common expenses by the provisions of this Declaration or the By-Laws of the Association; (3) all sums lawfully assessed against the general common elements by the Board of Directors of the Association; (4) expenses agreed upon as common expenses by the Association of unit owners.

(k) "Association of Unit Owners or Association" means the Association formed as a Colorado non-profit corporation bearing the name of this condominium project, the Articles of Incorporation and By-Laws of which shall govern the administration of this condominium property, the members of which Association shall be all of the owners of the condominium units. The Association shall be called the "Carriagetown Condominium Association".

(l) "Building" means a single building containing units as shown on the Map.

(m) "Entire Premises or Property" means and includes the land, the buildings, and all units therein, all improvements and structures thereon, all owned in fee simple absolute, and all rights, easements and appurtenances belonging thereto.

(n) "Mortgagee" means the person or entity who has a lien upon any of the property by virtue of any mortgage or deed of trust.

## 2. Division of Property Into Condominium Units.

(a) The real property described in Exhibit "A" and the improvements thereon are hereby divided into the fee simple estates as is set forth on the attached Exhibit "B" which by this reference is made a part hereof. Each such estate shall consist of the separately designated units and the undivided interest in and to the general common elements appurtenant to each unit as set forth therein.

(b) Declarant and the owners of the units affected shall have the right to (1) physically combine the space within one unit with the space within one or more adjoining units or (2) to combine a part of or combination of parts of the space within one unit with part or parts of the space within one or more adjoining units. Any such physical changes to units shall be reflected by an amendment to Exhibit "B" and the Map, which amendments shall set forth the reapportioned undivided interest of the affected units; provided, however, that no such physical changes shall be made without the written consent of the mortgagee(s) of the affected unit(s); and provided, further, that the cost and expense incurred for legal, architectural, or engineering fees relative to preparation of such amendment shall be borne by that person requesting such physical change to the unit(s).

### 3. Condominium Map.

The map may be filed for record in whole or in parts or sections, from time to time, as the stages of construction of the units and other improvements are substantially completed. Each section of the map filed subsequent to the first or initially filed map shall be termed a Supplement to such Map and the numerical sequence of such supplements shall be shown thereon. The map or any part of a section thereof depicting units shall not be filed for record until the building in which the units are located has been substantially completed in order to permit the location thereof, both horizontally and vertically by a registered engineer. Each such map shall be filed for record prior to the conveyance of a condominium unit to a purchaser. Each such map shall depict and show at least the following: The legal description of the land and a survey thereof; the location of the building; the floor and elevation plans; the location of the unit within the building, both horizontally and vertically; the thickness of the common walls between the separating units; the location of any structural components or supporting elements of a building located within a unit; and, the unit designations and the building number. The map shall contain the certificate of a registered professional engineer or licensed architect, or both, certifying that the Map substantially depicts the location and the horizontal and vertical measurements of the building, the units, the unit designations, the dimensions of the units, the elevations of the unfinished floors and ceilings as constructed, the building number or symbol of the improvements. Each supplement and/or amendment shall set forth a like certificate when appropriate.

In interpreting the map, the existing physical boundaries of each separate unit as constructed shall be conclusively presumed to be its boundaries.

The Declarant further declares that pursuant to the reservation herein contained to file subsequent condominium maps on adjacent lands, the easements, roads, drives and general common elements shall be extended, without further specific reference in said subsequent filings, to grant full right to use and benefit to the owners of units in said subsequent filings.

### 4. Description of Condominium Unit.

(a) Every contract for the sale of a condominium unit in Carriagetown written prior to the filing for record of the map or Declaration may legally describe a condominium unit by its identifying unit designation, the building symbol, followed by the name of this condominium. The location of such condominium unit shall be depicted on the map subsequently filed for record.

(b) Subsequent to the filing of the map and the recording of the Declaration, every contract, deed, lease, mortgage, trust deed, will or other instrument may legally describe a condominium unit by its identifying unit designation, the building symbol, followed by the name of this condominium, with further reference to the map and Declaration filed for record. Every such description shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect not only the unit, but also the general common elements and the limited common elements appurtenant

thereto. Each such description shall be construed to include a non-exclusive easement for ingress and egress to and from an owner's unit and use of all of the general common elements together with the right to the exclusive use of the limited common elements appurtenant to his unit.

(c) The reference to the map and Declaration in any instrument shall be deemed to include any supplements to the map or Declaration without specific reference thereto.

5. Form of Ownership - Title.

A condominium unit may be held and owned in any real property tenancy relationship recognized under the laws of the State of Colorado.

6. Inseparability of a Condominium Unit.

Each unit, the appurtenant undivided interest in the general common elements and the appurtenant limited common elements shall together comprise one condominium unit; shall be inseparable and may be conveyed, leased, devised or encumbered only as a condominium unit.

7. Separate Assessment and Taxation of Condominium Units - Notice to Assessor.

Declarant shall give written notice to the County Assessor of Larimer County of the creation of condominium real property ownership interests in this property, as is provided by law, so that each unit and the undivided interest in the general and limited common elements appurtenant thereto shall be deemed a separate parcel and subject to separate assessment and taxation.

8. Non-Partitionability of General Common Elements.

The general common elements shall be owned in common by all of the owners of the units and shall remain undivided, and no owner shall bring any action for partition or division of the general common elements. Nothing contained herein shall be construed as a limitation of the right of partition of a condominium unit between the owners thereof, but such partition shall not affect any other condominium unit.

9. Use of General and Limited Common Elements.

Each owner shall be entitled to exclusive ownership and possession of his unit. Each owner may use the general and limited common elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other owners. The Association may adopt rules and regulations governing the use of general and limited common elements, provided such rules and regulations shall be uniform and non-discriminatory.

10. Use and Occupancy.

Each unit shall only be used and occupied for residential purposes by the owner, by the owner's family, guests, invitees and tenants. Declarant and its employees, representatives, agents and contractors may maintain a business and sales office, construction facilities and yards, model units and other facilities required during the construction and sales period.

11. Easements for Encroachments.

If any portion of the general common elements encroaches upon a unit or units, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist. If any portion of a unit encroaches upon the general common elements, or upon any adjoining unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. In the event a structure is partially or totally destroyed and then rebuilt, the owners of condominium units therein agree that minor encroachments of parts of the common areas and facilities due to constructions shall be permitted and a valid easement for said encroachment and maintenance thereof shall exist.

There is hereby created a blanket easement upon, across, over and under the above-described premises for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones, and electricity, and television antenna systems. By virtue of this easement, it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits, on, above, across and under the roofs and exterior walls of said condominiums. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines or other utilities may be installed or relocated on said premises except as initially programmed and approved by the major builder of said premises or thereafter approved by said builder on the Association's Board of Directors. This easement shall in no way affect any other recorded easement on said premises.

An easement is also reserved in, and over each condominium unit to permit the Association or its designees to effect any desired or necessary maintenance or repairs to a building.

12. Termination of Mechanic's Lien Rights and Indemnification.

Subsequent to the completion of the improvements described on the map, no labor performed or materials furnished and incorporated in a unit with the consent or at the request of the unit owner, his agent, his contractor or subcontractor shall be the basis for filing a lien against the general common elements or against the unit of any other unit owner who did not expressly consent to or request the services or materials. Each owner shall indemnify and hold harmless each of the other owners from and against all liability arising from the claim of any lien against the unit of any other owner or against the general common elements for construction performed or for labor, materials, services or other products incorporated in an owner's unit at such owner's request or with his consent. The provisions herein contained are subject to the reserved rights as set forth in Paragraph 15.

13. Carriagetown Condominium Association.

(a) The interest of all owners of condominium units shall be governed and administered by the Articles of Incorporation of Carriagetown Condominium Association, the By-Laws of Carriagetown Condominium Association, and by this Declaration. In the event of a conflict between the provisions of this Declaration and the Articles of Incorporation or By-Laws of Carriagetown Condominium Association, the terms of this Declaration shall be controlling.

(b) An owner of a condominium unit upon becoming an owner, shall be a member of the Association and shall remain a member for the period of his ownership.

14. Access to Units for Maintenance, Repair and Emergencies.

(a) The owners shall have the irrevocable right, to be exercised by the Board of Directors of the Association, to have access to each unit from time to time during reasonable hours as may be necessary for maintenance, repair or replacement of any of the general common elements therein or accessible therefrom; provided, however, that such right of access shall be immediate for making emergency repairs therein in order to prevent damage to the general common elements or to another unit.

(b) Damage to the interior or any part of a unit resulting from the maintenance, repair, emergency or replacement of any of the general common elements or as a result of emergency repairs within another unit shall be a common expense of all of the owners; provided, however, that if such damage is caused by negligent or tortious acts of a unit owner, members of his family, his agent, employee, invitee, licensee or tenant, then such unit owner shall be responsible and liable for all of such damage. All damaged improvements shall be restored substantially to the same condition in which they existed prior to the damage. All maintenance, repairs and replacements of the general common elements, whether located inside or outside of units (unless necessitated by the negligence, misuse or tortious act of a unit owner, in which case such expense shall be charged to such unit owner), shall be the common expense of all the owners.

15. Owner's Maintenance Responsibility for His Unit.

(a) For maintenance purposes, an owner shall be obligated to keep in good repair and condition the non-supporting walls, the materials (such as, but not limited to, plaster, gypsum dry wall, paneling, wallpaper, paint, wall and floor tile and flooring, but not including the sub-flooring) which make up the finished surfaces of the perimeter walls, ceilings and floors within his unit, including unit doors and windows. The lines, pipes, wires, conduits or systems (which for brevity are herein and hereafter referred to as utilities) running through his unit which serve one or more other units are general common elements. Such utilities shall not be disturbed or relocated by an owner without the written

consent and approval of the Board of Directors. An owner's right to repair, alter and remodel the interior of his unit shall be coupled with the obligation to replace any finishing or other materials removed with similar or other types or kinds of materials of at least the same quality.

(b) An owner shall maintain and keep in repair the interior of his own unit, including the fixtures thereof. All fixtures and equipment installed within the unit commencing at a point where the utilities enter the unit shall be maintained and kept in good repair and condition by the owner thereof. An owner shall do no act nor any work that will impair the structural soundness or integrity of the building or impair any easement or hereditament. An owner shall always keep the limited common elements appurtenant to his unit in a clean and sanitary condition.

16. Maintenance of the Common Elements.

(a) The maintenance and operation of the common elements shall be the responsibility and the expense of the Association, and a common expense of all of the condominium owners.

(b) There shall be no additions, alterations or improvements of or to the general and limited common elements by the Association requiring an assessment in excess of Four Hundred Eighty Dollars per unit in any one calendar year without prior approval of a majority of the owners. Such approval shall be expressed by a vote in favor thereof by the owners of a majority in interest at a special or regular meeting of the Association members. Such expenditure(s) shall be a common expense. Such limitation shall not be applicable to expenses incurred in the replacement, repair, maintenance, or which result from the obsolescence of any general or limited common element or common personal property.

17. Compliance with Provisions of Declaration Mandatory.

Each owner shall comply with the provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association, and the Rules and Regulations, decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully adopted and amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or injunctive relief, or both, and for reimbursement of all attorneys fees incurred in connection therewith, which action shall be maintainable by the Association on behalf of the owners or, in a proper case, by an aggrieved owner.

18. Revocation or Amendment to Declaration.

Except as is otherwise provided, this Declaration shall not be revoked unless all of the owners and all of the holders of any recorded mortgage or deed of trust covering or affecting any or all of the condominium units in the project consent and agree to such revocation by instrument(s) duly recorded. This Declaration shall not be amended unless the owners representing an aggregate ownership interest of seventy-five percent, or more, of the general common elements



in the project and one hundred percent of the holders of recorded first mortgages or deeds of trust consent and agree to such amendment by instrument(s) duly recorded; provided, however, that the undivided interest in the general common elements appurtenant to each unit shall have a permanent character and shall not be altered without the consent of all of the unit owners and all of the holders of any recorded mortgage or deed of trust as expressed in an amended Declaration duly recorded.

19. Assessment for Common Expenses.

(a) Each owner shall pay his prorata share of the common expenses and reserves therefor as provided herein. Such proration shall be made on the basis of the owners' respective undivided interest in the general common elements on the date such assessment is made, except that Declarant shall be assessed on only 30% of the undivided interest appurtenant to units owned by it. The By-Laws of the Association shall empower its Board of Directors to fix, determine, levy and collect monthly and special assessments to be paid by the owners to meet the common expenses and to create a contingency reserve therefor. The By-Laws shall also establish the procedures by which the assessments shall be made known to and paid by the owners. An action may be brought by the Association to recover unpaid common expenses from the owner liable for payment thereof, with or without foreclosing or waiving the lien described in the following paragraph.

(b) In the event the ownership of a condominium unit, title to which is derived from Declarant, commences on a day other than the first day of the assessment period, the assessment for that period shall be prorated.

(c) Assessments shall be based upon the cash requirements deemed to be such aggregate sum as the Board of Directors of the Association shall from time to time determine is to be paid by all of the condominium unit owners to provide for the payment of all estimated expenses growing out of or connected with the maintenance, repair, operation, additions, alterations and improvements of and to the general common elements, which sum may include, but shall not be limited to, expenses of management, taxes and special assessments until separately assessed; premiums for insurance; landscaping and care of grounds, common lighting and heating, repairs and renovation, trash and garbage collections, wages, common water and sewer charges, legal and accounting fees, management fees, expenses and liabilities incurred by the Managing Agent or Board of Directors on behalf of the unit owners under or by reason of this Declaration and the Articles of Incorporation and By-Laws of the Association, for any deficit remaining from a previous period, for the creation of a reasonable contingency, reserve, working capital and sinking funds as well as other costs and expenses relating to the general common elements.

20. Insurance.

(a) The Association shall obtain and maintain to the extent obtainable, the following insurance: (1) fire insurance with extended coverage, vandalism and malicious mischief

endorsements, insuring the entire condominium improvements and any other property, the nature of which is a general common element (including all of the units, fixtures therein initially installed by the Declarant but not including furniture, furnishings or other personal property supplied by or installed by unit owners) together with all service equipment contained therein in an amount equal to the full replacement value, without deduction for depreciation, and which shall contain a standard non-contributory mortgage clause in favor of each mortgagee of a condominium unit which shall provide that the loss, if any, thereunder shall be payable to such mortgagee as its interest may appear, subject however to the loss payment provisions in favor of the Board of Directors hereinafter set forth in Paragraph 26; (2) public liability insurance in such limits as the Board of Directors may from time to time determine, covering each member of the Board, and each unit owner. Such public liability coverage shall also cover cross liability claims of one insured against the other.

(b) All policies of public liability insurance shall contain waivers of subrogation and waivers of any defense based on co-insurance or of invalidity arising from any acts of the insured and shall provide that such policies may not be cancelled or substantially modified without at least ten days' prior written notice to all of the insured, including mortgagees. Duplicate proof of payments of premiums shall be delivered to all mortgagees at least ten days prior to the expiration of the then current policies. The insurance shall be carried in blanket form naming the Association as the insured, as attorney-in-fact for all of the condominium unit owners, which policy or policies shall identify the interest of each condominium owner (owner's name, unit number and building designation).

(c) Prior to obtaining any policy of fire insurance or renewal thereof, the Association shall obtain an appraisal from a fire insurance company or otherwise of the full replacement value of the entire condominium improvements, without deduction for depreciation, for the purpose of determining the amount of the insurance to be effected pursuant to the provisions of this insurance paragraph. In no event shall the insurance policy contain a co-insurance clause for less than ninety (90) percent of the full replacement cost. Determination of maximum replacement value shall be made annually by one or more written appraisals to be furnished by a person knowledgeable of replacement cost and each mortgagee shall, upon request by such mortgagee, be furnished with a copy thereof within thirty days after receipt of such request or as soon thereafter as the written appraisal can reasonably be obtained.

(d) Unit owners may carry other insurance for their benefit and at their expense, provided that all such policies shall contain waivers of subrogation, and provided, further, that the liability of the carriers issuing insurance obtained by the Board of Directors shall not be affected or diminished by reason of any such additional insurance carried by any unit owner.

(e) Insurance coverage on furnishings and other items of personal or other property belonging to an owner and public liability coverage within each unit shall be the sole and direct responsibility of the unit owner thereof, and the Board of Directors and the Association shall have no responsibility therefor.

21. Owner's Personal Obligation for Payment of Assessments.

(a) The amount of the common expenses assessed against each condominium unit shall be the personal and individual debt of the owner thereof. No owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his unit. The Board of Directors shall have the authority to take prompt action to collect any unpaid assessment which remains unpaid for more than 30 days from the due date for payment thereof. In the event of default in the payment of the assessment, the unit owner shall be obligated to pay interest at the rate of twelve percent per annum on the amount of the assessment from due date thereof, together with all expenses, including attorneys fees, incurred together with such late charges as provided by the By-Laws of the Association. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing the lien, and such suit shall not be or construed to be a waiver of the lien.

(b) In addition, if an owner shall be in default in the payment of the assessment for more than 60 days from the due date for payment thereof, the Association may notify such owner that the utilities to such owner's unit shall be shut off unless the assessment has been paid in full within 60 days after receipt of such notice. If any owner fails to pay any assessment within such 60 days, the Board of Directors may direct that such unit owner's utilities be shut off until the assessment has been paid in full.

22. Association Lien for Nonpayment of Assessment.

(a) All sums assessed but unpaid for the share of common expenses chargeable to any condominium unit shall constitute a lien on such unit superior to all other liens and encumbrances, except only for tax and special assessment liens on the condominium unit in favor of any assessing unit, and all sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrances. To evidence such lien, the Board of Directors shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the amount of the accrued interest and late charges thereon, the name of the owner of the condominium unit and a description of the condominium unit. Such notice of lien shall be signed by one of the Board of Directors or by one of the officers of the Association on behalf of the Association and shall be recorded in the office of the County Clerk and Recorder of Larimer County, Colorado. Such lien shall attach and be effective from the due date of the assessment until all sums, with interest and other charges thereon, shall have been paid in full.

(b) Such lien may be enforced by the foreclosure of the defaulting owner's condominium unit by the Association in like manner as a mortgage on real property upon the recording of a notice of claim thereof. In any such proceedings, the owner shall be required to pay the costs, expenses and attorney's fees incurred for filing the lien, and in the event of foreclosure proceedings, all additional costs, all expenses and reasonable attorney's fees incurred. The owner of the condominium unit being foreclosed shall be required to pay to the Association the monthly assessment for the condominium unit during the period of foreclosure, and the Association shall be entitled to a receiver during foreclosure. The Association shall have the power to bid in the condominium unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the same.

(c) Any encumbrancer holding a lien on a condominium unit may pay, but shall not be required to pay, any unpaid common assessments payable with respect to such unit, and upon such payment, such encumbrancer shall have a lien on such unit for the amount paid of the same rank as the lien of his mortgage or encumbrance without the necessity of having to record a notice or claim of such lien. Upon request of a mortgagee, the Association shall report to the mortgagee of a condominium unit any unpaid assessment remaining unpaid for longer than thirty days after the same is due; provided, however, that a mortgagee shall have furnished to the Board of Directors notice of such encumbrance.

(d) The recorded lien may be released by recording a release of lien to be signed by an officer of the Association on behalf of the Association.

23. Liability for Common Expense Upon Transfer of Condominium Unit is Joint.

Upon payment to the Board of Directors of the Association, or a reasonable fee not to exceed Thirty Five Dollars (\$35.00), and upon the written request of any owner or any mortgagee or prospective mortgagee of a prospective owner of a condominium unit, the Association shall issue a written statement setting forth the amount of the unpaid common expenses, if any, with respect to the subject unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for any advanced payments of common assessments, for prepaid items, such as insurance premiums, but not including accumulated amounts for reserves or sinking funds, if any, which statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied with within twenty (20) days, all unpaid common expenses which become due prior to the date of making such requests shall be subordinate to the rights of the person requesting such statement, and in the case of a grantee of such unit, the grantee shall not be liable for, nor shall

the unit conveyed be subject to a lien for any unpaid assessments against said unit. The provisions set forth in this paragraph shall not apply to the initial sales and conveyances of the condominium units made by Declarant, and such sales shall be free from all common expenses to the date of conveyance made or to a date as agreed upon by Declarant and Declarant's grantee.

24. Mortgaging a Condominium Unit - Priority.

An owner shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage or other security instrument. A first mortgage shall be one which has first and paramount priority under applicable law. The owner of a condominium unit may create junior mortgages, liens or encumbrances on the following conditions: (1) that any such junior mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for common expenses, and other obligations created by this Declaration, the Articles of Incorporation and the By-Laws of the Association; (2) that the mortgagee under any junior mortgage shall release, for the purpose of restoration of any improvements upon the mortgaged premises, all of his right, title and interest in and to the proceeds under all insurance policies upon said premises by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request of one or more of the members of the Board of Directors of the Association, and if such request is not granted, such release may be executed by the Association as attorney-in-fact for such junior mortgagee.

25. Destruction, Damage or Obsolescence - Association Attorney-in-Fact.

This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its destruction or damage, for its repair and reconstruction or its obsolescence and to maintain, repair and improve the condominium units, buildings and general and limited common elements. Title to any condominium unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from Declarant or from any owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the owners irrevocably constitute and appoint the Association their true and lawful attorney in their name, place and stead for the purpose of dealing with the property upon its damage or destruction or obsolescence as is hereinafter provided. As attorney-in-fact, the Association, by its President and Secretary or Assistant Secretary or its other duly authorized officers or agents, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of a condominium unit owner which are necessary and appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as

used in the succeeding subparagraphs means restoring the improvement(s) to substantially the same condition in which they existed prior to the damage, with each unit and the general and limited common elements having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration, reconstruction or replacement unless the owners and all first mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

(a) In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s), shall be applied by the Association, as attorney-in-fact, to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair and restoration of the improvement(s). Assessments for common expenses shall not be abated during the period of insurance adjustments and repair and reconstruction.

(b) If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is not more than forty percent of the total replacement cost of all of the condominium units in this project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of a special assessment to be made against all of the owners and their condominium units. Such deficiency assessment shall be a common expense and made pro rata according to each owner's interest in the general common elements and shall be due and payable within thirty days after written notice thereof. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair, replacement and restoration of the improvement(s) using all of the insurance proceeds for such purpose notwithstanding the failure of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as is provided in Paragraph 22. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such deficiency within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by this paragraph. Assessments for common expenses shall not be abated during the period of insurance adjustment and repair and reconstruction. The delinquent owner shall be required to pay to the Association the costs and expenses for filing the notices, interest at the rate of eight percent per annum on the amount of the assessment and all reasonable attorney's fees. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

1. For payment of taxes and special assessments liens in favor of any assessing entity and the customary expenses of sale;
2. For payment of the balance of the lien of any first Mortgage;
3. For payment of unpaid common expenses and all costs, expenses, and fees incurred by the Association;
4. For payment of junior liens and encumbrances in the order of and to the extent of their priority; and
5. The balance remaining, if any, shall be paid to the condominium unit owner.

(c) If the insurance proceeds are insufficient to repair and reconstruct the damaged improvement(s), and if such damage is more than forty percent of the total replacement cost of all of the condominium units in this project, not including land, and if the owners representing an aggregate ownership interest of sixty-five percent (65%), or more, of the general common elements do not voluntarily, within one hundred days thereafter, make provisions for repair, replacement and reconstruction, which plan must have the approval or consent of one hundred percent (100%), of the first mortgagees of record, then the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire remaining premises shall be sold by the Association pursuant to the provisions of this paragraph, as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, the map, Articles of Incorporation and the By-Laws. Assessments for common expenses shall not be abated during the period prior to sale. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each owner's interest in the general common elements, and such divided proceeds shall be paid into separate accounts, each such account representing one of the condominium units. Each such account shall be in the name of the Association, and shall be further identified by the condominium unit designation and the name of the owner. From each separate account the Association, as attorney-in-fact, shall forthwith use and disburse the total amount (of each) of such accounts, without contribution from one account to another, toward the partial or full payment of the lien of any first mortgagee against the condominium unit represented by such separate account. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds obtained from the sale of the entire property. Such apportionment shall be based upon each condominium unit owner's interest in the general common elements. The total funds of each account shall be used and disbursed, without contribution from one account to another, by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph (b) 1 through 5 of this paragraph.

(d) In the event of such damage or destruction under subparagraph (c) of this paragraph, and if a plan for repair, replacement and reconstruction is adopted as therein provided, then all of the owners shall be bound by the terms and other provisions of such plan. Any assessment made in connection with such plan shall be a common expense and made pro rata according to each owner's interest in the general common elements and shall be due and payable as provided by the terms of such plan, but not sooner than thirty days after written notice thereof. The Association shall have full authority, right, and power, as attorney-in-fact, to cause the repair, replacement or restoration of improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an owner to pay the assessment. Assessments for common expenses shall not be abated during the period of insurance adjustment and repair and reconstruction. The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as is provided in paragraph 22. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the Association. The delinquent owner shall be required to pay to the Association the costs and expenses for filing the notices, interest at the rate of eight percent (8%) per annum on the amount of the assessment and all reasonable attorney's fees. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph (b) 1 through 5 of this paragraph.

(e) The owners representing an aggregate ownership interest of eighty percent (80%), or more, of the general common elements in this project may agree that the general elements are obsolete and adopt a plan for the renewal and reconstruction, which plan has the approval of one hundred percent (100%), or more, of the first mortgagees of record at the time of the adoption of such plan. If a plan for the renewal or reconstruction is adopted, notice of such plan shall be recorded, and the expenses of renewal and reconstruction shall be payable by all of the owners as a common expense, whether or not they have previously consented to the plan of renewal and reconstruction. The Association, as attorney-in-fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the Association. The delinquent owner shall be required to pay to the Association the costs and expenses for filing the notices, interest at the rate of eight percent per annum on the amount of the assessment and all reasonable attorney's fees. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph (b) 1 through 5 of this paragraph.



(f) The owners representing an aggregate ownership interest of eighty-five percent (85%), or more, of the general common elements may agree that the condominium units are obsolete and that the same should be sold. Such plan or agreement must have the unanimous approval of every first mortgagee. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire premises shall be sold by the Association, as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, the Map, the Articles of Incorporation and the By-Laws. The sales proceeds shall be apportioned among the owners on the basis of each owner's interest in the general common elements, and such apportioned proceeds shall be paid into separate accounts, each such account representing one condominium unit. Each such account shall be in the name of the Association, and shall be further identified by the condominium unit designation and the name of the owner. From each separate account the Association, as attorney-in-fact, shall use and disburse the total amount (of each) of such accounts, without contribution from one account to another, for the same purpose and in the same order as is provided in subparagraph (b) 1 through 5 of this paragraph.

26. Registration of Mailing Address.

Each owner shall register his mailing address with the Association, and notices or demands intended to be served upon an owner shall be sent by mail, postage prepaid, addressed in the name of the owner at such registered address.

27. Period of Condominium Ownership.

The separate condominium estates created by this Declaration and the Map shall continue until this Declaration is revoked in the manner and as is provided in paragraph 18 of this Declaration or until terminated in the manner and as is provided in subparagraph (c) or (f) of paragraph 25 of this Declaration.

28. Automobile Parking Facilities.

There shall be parking areas and facilities located on the property described in Exhibit A which shall be under the control of the Association for the use of all condominium owners on a nondiscriminatory basis.

29. Assessment Reserves.

Each owner, other than the Declarant, may be required to deposit and to maintain with the Association up to three times the amount of the estimated monthly assessment charged to such owner, without interest, which sum shall be used by the Board of Directors of the Association as a reserve for paying such owner's monthly common assessment, for purchase of equipment and supplies and for working capital. Such advance payment shall not relieve an owner from making the regular monthly payments of the monthly assessment as the same come due. Upon the sale of his condominium unit, an owner shall be entitled to a credit from his grantee for any unused portion thereof.

30. Restrictive Covenants and Obligations.

(a) The property is hereby restricted to residential dwellings for residential use and uses related to the convenience and enjoyment of such residential use. All buildings or structures erected upon the property shall be of new construction, and no buildings or structures shall be moved from other locations onto said premises, and no residential buildings other than buildings shown on the Map shall be erected or constructed on the property except by vote of the majority in interest of the condominium unit owners. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used or permitted to be kept or stored on any portion of the premises at any time either temporarily or permanently.

(b) Notwithstanding any other provisions expressly or impliedly to the contrary contained herein, it shall be expressly permissible for the Declarant, his agent, employees and contractors to maintain during the period of construction and sale of the condominium units, upon such portion of the property as Declarant may be reasonably required, convenient or incidental to the construction and sale or rental of condominium units and interests, including, but without limitation, a business office, storage areas, construction yards, signs, model units, sales office, construction office, parking areas and lighting.

(c) No animals, livestock or poultry of any kind shall be raised, bred or kept on the property, except that one dog or cat or other household pet weighing no more than fifteen pounds may be kept; provided, however, that the right to keep a household pet shall be coupled with the responsibility to pay for any damage caused by an owner's pet. Every owner of a pet shall maintain strict control over his pet and shall prohibit the pet from making loud, disturbing noises. The owner of a dog shall prohibit barking by his dog. The Association may adopt rules and regulations to supplement this covenant.

(d) No advertising signs, except a "For Rent" or "For Sale" sign which may be placed in a unit advertising for the sale or rental of the unit in which said sign is placed, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the premises, nor shall the premises be used in any way or for any purpose which may endanger the health or unreasonably disturb the owner of any condominium unit or any resident thereof. Further, no business activities of any kind whatever shall be conducted in any building or in any portion of the property; provided, however, that the foregoing covenants shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings and improvements, if any, of the Declarant, its agents, contractors and assigns during the construction and sale and rental period of the Association, its successors and assigns, in furtherance of its powers and purposes as hereinafter set forth.

(e) No nuisances shall be allowed on the property, nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful enjoyment or possession and proper use of the property by its residents. All parts of the property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage be allowed to accumulate nor any fire hazard to exist. No unit owner shall permit any use of his unit to make use of the common elements which will increase the rate of insurance upon the condominium property. The Association may adopt By-Laws and Rules and Regulations relatate to abatement and enjojment of nuisances.

(f) No immoral, improper, offensive or unlawful use shall be permitted or made of the condomini property or any part thereof. All valid laws, ordinance. and regulations of all governmental bodies having jurisdiction shall be observed.

(g) Rules and regulations may be adopted by the Board of Directors concerning and governing the use of the general and limited common elements; provided, however, that such rules and regulations shall be available to unit owners prior to the time that they become effective and that such rules and regulations shall be uniform and non-discriminatory.

(h) Except for those improvements erected or installed by Declarant, no exterior additions, alterations to or decorating of any buildings, nor changes in fences, hedges, walls and other structures shall be commenced, erected or maintained in or on the project until the plans and specifications showing the nature, kind, shape, heights, materials, location and approximate cost of same shall have been submitted to and approved in writing as to conformity and harmony of external design and location with existing structures in the condominium project by the Association or by a representative designated by it and by the Declarant. The Declarant's approval shall not be required after five years from the date of recording this Declaration.

### 31. Association Right to Acquire Additional Property.

The Association may acquire and hold for the benefit of all of the condominium unit owners, real, tangible and intangible personal property and may dispose of the same by sale or otherwise. The beneficial interest in any such property shall be owned by all of the condominium unit owners in the same proportions as their respective interests in the general common elements, and such interest therein shall not be transferable except with a conveyance of a condominium unit. A conveyance of a condominium unit under a foreclosure sale shall transfer to the grantee ownership of the grantor's beneficial interest in all such property interests associated with the foreclosed condominium unit.

### 32. Reservation to Enlarge and Supplement Condominium Project.

(a) Declarant, for itself, its successors and assigns, expressly reserves the right to enlarge this condominium project by submitting additional real property and improvements. Such additions shall be expressed in and by a duly recorded Supplement to this Declaration and by filing for record an additional section or supplement to the Map. The reference to the map and Declaration in any instrument, shall be deemed to include any supplements to the map or Declaration without specific reference thereto.

(b) Such supplements to this Declaration shall provide for a division of such additionally submitted real property and improvements into condominium units similar in method and form to the division made of the real property and improvements in this Declaration. Each unit shall be separately designated, and each building shall be identified by a symbol or designation dissimilar to any other building in the condominium project. The undivided interest in and to the general common elements appurtenant to each such unit shall not be a part of the general common elements of the condominium units described and initially created by this Declaration and the Map nor a part of the general common elements of subsequently submitted condominium units; provided, however, that all owners of condominium units in this condominium project shall have a non-exclusive right in common with all of the other owners to use of the sidewalks, pathways, driveways, and all other general common elements within this entire condominium project.

(c) Except as may be otherwise provided by the provisions of such Supplement(s) to this Declaration, all of the provisions contained in this Declaration shall be applicable to such additional condominium units submitted to this condominium project.

### 33. General Reservations.

(a) Declarant reserves the right to establish easements, reservations, exceptions and exclusions consistent with the condominium ownership of the condominium project and for the best interests of all of the condominium unit owners, including the Declarant, in order to serve the entire condominium project.

(b) Notwithstanding any other provisions expressly or impliedly to the contrary contained in this Declaration, the Articles of Incorporation or By-Laws of the Association, Declarant reserves the right to exercise the rights, duties and functions of the Board of Directors of the Association until all of the condominium units in the entire project have been sold.

(c) Notwithstanding any other provisions expressly or impliedly to the contrary contained in this Declaration, Declarant reserves itself the exclusive right to exercise the rights, duties and functions of the Board of Directors of the Association, for a term of two years from the date of the conveyance of the first condominium unit by the Declarant.

34. Acceptance of Provisions of All Documents.

The conveyance or encumbrance of a condominium unit shall be deemed to include the acceptance of all of the provisions of this Declaration, the Articles of Incorporation and Association By-Laws and Rules and Regulations and shall be binding upon each grantee or encumbrancer without the necessity of inclusion of such an express provision in the instrument of conveyance or encumbrance.

35. Title Subject to Declarant's Reservations.

Title to and ownership of each condominium unit is expressly subject to the reservations set forth in this Declaration.

36. General.

(a) If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstances be invalidated, such invalidation shall not affect the validity of the remainder of this Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

(b) "Declarant" as used herein means the name Declarant, its successors and assigns.

(c) The provisions of this Declaration shall be in addition to and supplemental to the Condominium Ownership Act of the State of Colorado and to all other provisions of law.

(d) That whenever used herein, unless the context shall otherwise provide, the singular shall include the plural, the plural the singular, and the use of any gender shall include all genders.

(e) Paragraph titles are for convenience of reference and are not intended to limit, enlarge or change the meaning of the contents of the various paragraphs.

IN WITNESS WHEREOF, Declarant has duly executed this Declaration this 4 day of February, 1981.

VILLAGE PARK PARTNERS

By [Signature]

By [Signature]

By [Signature]

HOME FEDERAL SAVINGS AND LOAN ASSOCIATION OF THE ROCKIES


By [Signature] President



STATE OF COLORADO )  
 ) ss  
COUNTY OF LARIMER )

Subscribed and sworn to before me this 4th day of February, 1981, by Michael J. Kelcher Brian A. Bequist and James Jensen for Village Park

Witness my hand and official seal.  
My commission expires: 7-26-81

A circular notary seal for the State of Colorado, County of Larimer, with the name "Diana" in the center.  
Diana  
Notary Public

STATE OF COLORADO )  
 ) ss.  
COUNTY OF LARIMER )

Subscribed and sworn to before me this 4th day of FEBRUARY, 1981, by MYLAN M. BRADEN as PRESIDENT and KARL L. LARSEN as SECRETARY of Home Federal Savings and Loan Association of the Rockies.

Witness my hand and official seal.  
My commission expires:

A circular notary seal for the State of Colorado, County of Larimer, with the name "Harry J. Kelcher" in the center.

Harry J. Kelcher  
Notary Public