

RIVERVIEW TOWNHOUSES FOURTH ADDITION

CITY OF COON RAPIDS - COUNTY OF ANOKA

KNOW ALL MEN BY THESE PRESENTS: That Orrin E. Thompson Construction Corporation, a Minnesota corporation, owner and proprietor of the following described property situated in the County of Anoka, State of Minnesota to wit: That part of the South 512.6 feet of the East half of the West half of the Northwest quarter of the Northwest quarter and that part of the South 512.6 feet of the West half of the East half of the Northwest quarter of the Northwest quarter all in Section 11, Township 31, Range 24, Anoka County, Minnesota described as beginning at the Southeast corner of said West half of the East half of the Northwest quarter of the Northwest quarter; thence North 1° 21' 27" West, assumed bearing, along the East line of said West half of the East half of the Northwest quarter of the Northwest quarter 470.34 feet; thence South 74° 51' 52" West 267.82 feet; thence Northwesterly 111.02 feet along a non-tangent curve concave to the West, said curve having a radius of 1392.97 feet, a central angle of 4° 34' and the chord of said curve bears North 17° 25' 08" West; thence South 89° 29' 09" West 63.70 feet; thence South 73° 32' West 301.67 feet, more or less, to the West line of said East half of the West half of the Northwest quarter of the Northwest quarter; thence South 1° 21' 54" East along said West line 422.41 feet to the Southwest corner of said East half of the West half of the Northwest quarter of the Northwest quarter; thence North 89° 48' 19" East along the South line of said Northwest quarter of the Northwest quarter 645.84 feet to the point of beginning.

And the East 207 feet of the West 660 feet of the North 330 feet of the Southwest quarter of the Northwest quarter of Section 11, Township 31, Range 24, Anoka County, Minnesota. Said distances being measured parallel with the North and West lines of said Southwest quarter.

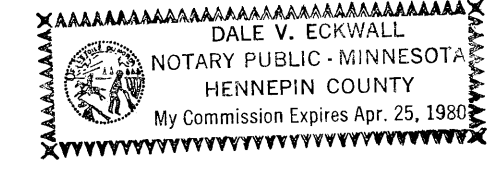
And Outlot C, Riverview Townhouses Third Addition according to the recorded plat thereof.

Have caused the same to be surveyed and platted as RIVERVIEW TOWNHOUSES FOURTH ADDITION and do hereby donate and dedicate to the public for the public use forever the Street and drainage easements as shown on the plat, and a utility easement over Outlots A and B as created hereon and said Orrin E. Thompson Construction Corporation, in recording the plat of RIVERVIEW TOWNHOUSES FOURTH ADDITION, have designated certain areas of land as parks, playground, etc., intended for use by the homeowners in RIVERVIEW TOWNHOUSES FOURTH ADDITION for recreation and other related activities. The designated areas are not dedicated hereby for use by the general public, but are dedicated to the common use and enjoyment of the homeowners in RIVERVIEW TOWNHOUSES FOURTH ADDITION as more fully provided in the Declaration of Covenants, Conditions and Restrictions applicable to RIVERVIEW TOWNHOUSES FOURTH ADDITION dated this 15th day of OCTOBER A.D. 1974. Said Declaration of Covenants, Conditions and Restrictions is hereby incorporated and made a part of this plat. In witness whereof said Orrin E. Thompson Construction Corporation has caused these presents to be signed by its proper officers and its corporate seal to be hereunto affixed this 15th day of OCTOBER A.D. 1974.

ORRIN E. THOMPSON CONSTRUCTION CORPORATION
Gary W. Thompson
 Gary W. Thompson - President
Robert Bjorklund
 Robert Bjorklund - Vice President



State of Minnesota
 County of Hennepin
 The foregoing instrument was acknowledged before me this 15th day of October A.D. 1974 by Gary W. Thompson, President and Robert Bjorklund, Vice President of Orrin E. Thompson Construction Corporation, a Minnesota corporation, on behalf of the corporation.

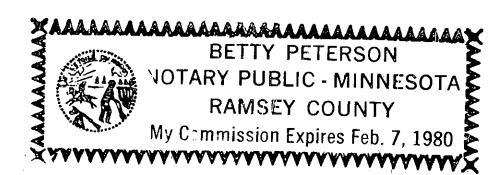


Dale V. Eckwall
 Notary Public, Hennepin County, Minnesota
 My commission expires April 25 1980

I hereby certify that I have surveyed and platted the property described on this plat as RIVERVIEW TOWNHOUSES FOURTH ADDITION, that this plat is a correct representation of said survey, that all distances are correctly shown on said plat in feet and decimals of a foot, that all monuments have been correctly placed in the ground as shown on said plat, that the outside boundary lines are correctly designated on said plat and that there are no wetlands or public highways to be designated on said plat other than as shown thereon.

Charles R. Winden
 Charles R. Winden, Land Surveyor
 Minnesota Registration No. 7726

State of Minnesota
 County of Ramsey
 The foregoing instrument was acknowledged before me this 14th day of October A.D. 1974 by Charles R. Winden.



Betty Peterson
 Notary Public, Ramsey County, Minnesota
 My commission expires February 7, 1980

We hereby certify that the City Council of Coon Rapids, Anoka County, Minnesota, duly accepted and approved the annexed plat of RIVERVIEW TOWNHOUSES FOURTH ADDITION, at a regular meeting thereof held this 22nd day of October A.D. 1974.

The annexed plat of RIVERVIEW TOWNHOUSES FOURTH ADDITION was approved by the Planning and Zoning Commission of the City of Coon Rapids at a regular meeting thereof held this 21st day of February A.D. 1974.

CITY OF COON RAPIDS, ANOKA COUNTY, MINNESOTA
 by Donald P. Silundson its Mayor
 by Betty Bell its Clerk

CITY OF COON RAPIDS, ANOKA COUNTY, MINNESOTA
 by Ronald H. Galan its Chairman
 by Walter J. McLean Jr. its Clerk

Checked and approved this 15th day of November A.D. 1974.

Robert W. Anderson
 Anoka County Surveyor

"NO DELINQUENT TAXES AND TRANSFER ENTERED"
 Nov. 1 1974
Charles R. Legebom
 Auditor, Anoka County
 BY Nancy C. Anspa
 Deputy

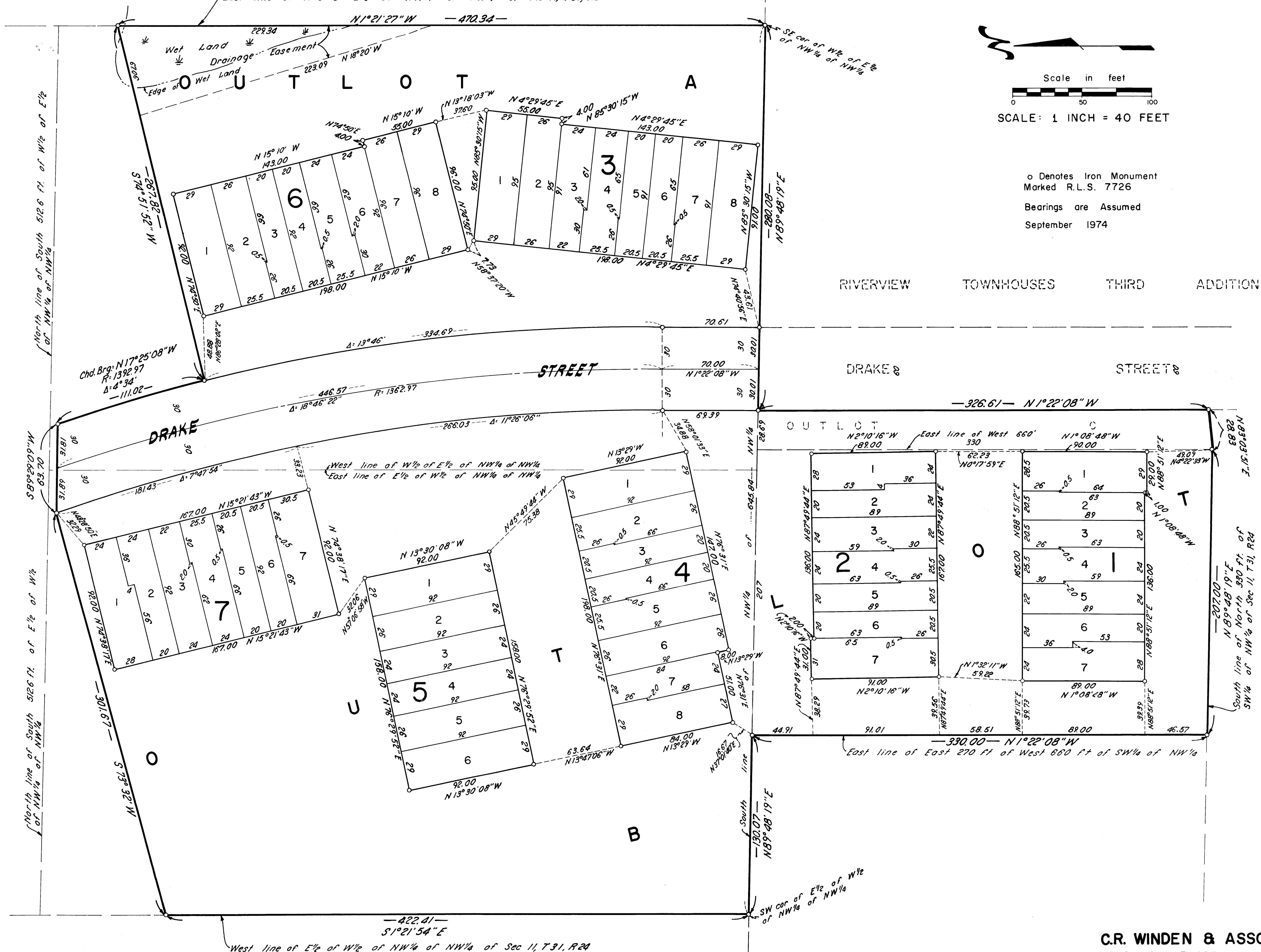
418457
 OFFICE OF REGISTER OF DEEDS
 STATE OF MINNESOTA, COUNTY OF ANOKA }
 I hereby certify that the within instrument was filed in this office for record on the 15th day of NOV. 1 1974 A.D. 1974 at 2 o'clock P.M., and was duly recorded in book 12 of Plats page 1A
Ted J. Sundahl
 Register of Deeds
 By Margaret Russell
 Deputy

C.R. WINDEN & ASSOCIATES, INC.
 LAND SURVEYORS

RIVERVIEW TOWNHOUSES FOURTH ADDITION

CITY OF COON RAPIDS - COUNTY OF ANOKA

East line of W 1/2 of E 1/2 of NW 1/4 of NW 1/4 of Sec 11, T 31, R 24



Scale in feet
 0 50 100
 SCALE: 1 INCH = 40 FEET

o Denotes Iron Monument
 Marked R.L.S. 7726
 Bearings are Assumed
 September 1974

RIVERVIEW TOWNHOUSES THIRD ADDITION

STREET
 DRAKE ST
 DRAKE ST

OUTLOT
 East line of West 650'

RIVERVIEW TOWNHOUSES THIRD ADDITION

West line of E 1/2 of W 1/2 of NW 1/4 of NW 1/4 of Sec 11, T 31, R 24



Record ID 1487354

THIS DOCUMENT NUMBER REPRESENTS A PLAT

ABSTRACT DOCUMENT NUMBER ***RECORD ID***

418457.0 1487354

TORRENS DOCUMENT NUMBER ***RECORD ID***

MAP NUMBER 44913

ABBREVIATED NAME RIVERVIEW TOWNHOUSE 4TH
ADD

FULL NAME RIVERVIEW TOWNHOUSES FOURTH
ADDITION

BOOK TYPE Abstract Plats

BOOK NUMBER 17

BOOK PAGE NUMBER 10

BOOK PAGE LETTER

CITY NAME COON RAPIDS

1466945

**COMMON INTEREST COMMUNITY NUMBER 68
A Planned Community**

RIVERVIEW FOURTH ASSOCIATION

AMENDED AND RESTATED DECLARATION

**RIVERVIEW FOURTH ASSOCIATION
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COMMON INTEREST COMMUNITY NUMBER 68
A Planned Community

RIVERVIEW FOURTH ASSOCIATION

AMENDED AND RESTATED DECLARATION

This Amended and Restated Declaration ("Declaration") is made in the County of Anoka, State of Minnesota, on this 8th day of September 1999, by the Owners of the Lots within the Riverview Fourth Association (hereinafter the "Association") to which at least ninety (90%) percent of the votes of the Membership of the Association are allocated, for the purposes of electing to become subject to the Minnesota Common Interest Ownership Act, Minnesota Statutes Chapter 515B.

WHEREAS, a Declaration of Covenants, Conditions and Restrictions was recorded and filed of record in the County of Anoka, State of Minnesota, as Document No. 418633 in the Office of the County Recorder, as supplemented by that certain Supplementary Declaration of Covenants, Conditions and Restrictions dated the 1st day of April, 1975, and filed for record in the County of Anoka, State of Minnesota, as Document No. 424513 in the Office of the County Recorder (herein collectively "Original Declaration"); and

WHEREAS, the Association desires to subject itself to the provisions of the Minnesota Common Interest Ownership Act (hereinafter the "Act"), pursuant to section 515B.1-102(d); and

WHEREAS, this Declaration and any subsequent amendments shall from hereinafter govern the real property which is legally described as:

See attached Exhibit A

("Property"). Each Unit's Unit Identifier is its lot and block number and the subdivision name and the Original Declaration shall be void and no longer applicable to the real estate; and

WHEREAS, at least ninety (90%) percent of the Lot Owners have consented and duly adopted this instrument as required under the Original Declaration as affirmed and evidenced by the affidavit of the Secretary of the Association, attached hereto as Exhibit D and made a part hereof.

NOW, THEREFORE, the Association makes this Declaration and the Owners are thereby deemed to submit the Property to the Act as a planned community under the name "Riverview Fourth Association" consisting of the Units described in Section 2. The Association further declares that this Declaration shall constitute covenants which run with the Property, and the Property shall hereafter be owned, transferred, conveyed, and occupied subject to the covenants, restrictions, easements, charges and liens set forth herein, all of which shall be binding upon all persons owning or acquiring any right, title or interest therein, and their heirs, personal representatives, successors and assigns.

SECTION 1

DEFINITIONS

The following words when used in the Governing Documents shall have the following meanings (unless the context indicates otherwise):

- 1.1 "**Association**" shall mean the Riverview Fourth Association, a nonprofit corporation which is governed pursuant to Chapter 317A of the laws of the State of Minnesota and Minnesota Statutes Section 515B.3-101, whose members consist of all Owners as defined herein.
- 1.2 "**Board**" shall mean the Board of Directors of the Association as provided for in the Bylaws.
- 1.3 "**Bylaws**" shall mean the Bylaws governing the operation of the Association, as amended from time to time.
- 1.4 "**Common Elements**" shall mean all parts of the Property except the Units, including all improvements thereon, owned by the Association for the common benefit of the Owners and Occupants. The Common Elements are legally described in Exhibit C attached hereto.
- 1.5 "**Common Expenses**" shall mean and include all expenditures made or liabilities incurred by or on behalf of the Association and incident to its operation, including without limitation allocations to reserves and those items specifically identified as Common Expenses in the Declaration or Bylaws.
- 1.6 "**Dwelling**" shall mean a part of a building consisting of one or more floors, designed and intended for occupancy as a single family residence, and located within the boundaries of a Unit. The Dwelling includes any garage attached thereto or otherwise included within the boundaries of the Unit in which the Dwelling is located.
- 1.7 "**Governing Documents**" shall mean this Declaration, and the Articles of Incorporation and Bylaws of the Association, as amended from time to time, all of which shall govern the use and operation of the Property.
- 1.8 "**Member**" shall mean all persons who are members of the Association by virtue of being Owners as defined in this Declaration. The words "Owner" and "Member" may be used interchangeably in the Governing Documents.

- 1.9 "**Occupant**" shall mean any person or persons, other than an Owner, in possession of or residing in a Unit.
- 1.10 "**Owner**" shall mean a Person who owns a Unit, but excluding contract for deed vendors, mortgagees and other secured parties within the meaning of Section 515B.1-103(29) of the Act. The term "Owner" includes, without limitation, contract for deed vendees and holders of a life estate.
- 1.11 "**Party Wall**" shall mean the shared wall between two Dwellings.
- 1.12 "**Person**" shall mean a natural individual, corporation, limited liability company, partnership, trustee, or other legal entity capable of holding title to real property.
- 1.13 "**Plat**" shall mean the recorded plat depicting the Property pursuant to the requirements of Section 515B.2-110(d) of the Act, and satisfying the requirements of Minnesota Statutes Chapter 505, 508 or 508A, as applicable, including any amended or supplemental Plat recorded from time to time in accordance with the Act.
- 1.14 "**Property**" as previously set forth above shall mean all of the real property submitted to this Declaration, including the Dwellings and all other structures and improvements located thereon now and in the future.
- 1.15 "**Rules and Regulations**" shall mean the Rules and Regulations of the Association as approved from time to time pursuant to Section 5.6.
- 1.16 "**Unit**" shall mean any platted lot subject to this Declaration upon which a Dwelling is located or intended to be located, as shown on the Plat, including all improvements thereon, but excluding the Common Elements.

Any terms used in the Governing Documents, and defined in the Act and not in this Section, shall have the meanings set forth in the Act.

SECTION 2

DESCRIPTION OF UNITS AND APPURTENANCES

2.1 **Units.** There are ninety-five (95) Units, all of which are restricted exclusively to residential use. Each Unit constitutes a separate parcel of real estate. No additional Units may be created by the subdivision or conversion of Units pursuant to Section 515B.2-112 of the Act. The Unit identifiers and locations of the Units are as shown on the Plat, which is incorporated herein by

reference, and a schedule of Units is set forth on Exhibit B. The Unit identifier for a Unit shall be its lot and block numbers and the subdivision name.

2.2 **Unit Boundaries.** The front, rear and side boundaries of each Unit shall be the boundary lines of the platted lot upon which the Dwelling is located or intended to be located as shown on the Plat. The Units shall have no upper or lower boundaries. Subject to this Section 2 and Section 3.2., all spaces, walls, and other improvements within the boundaries of a Unit are a part of the Unit.

2.3 **Access Easements.** Each Unit shall be the beneficiary of an appurtenant easement for access to a driveway, walkway, public street or highway on or across the Common Elements as shown on the Plat, subject to any restrictions set forth in the Declaration.

2.4 **Use and Enjoyment Easements.** Each Unit shall be the beneficiary of appurtenant easements for use and enjoyment on and across the Common Elements, and for use and enjoyment of any Limited Common Elements allocated to the Unit, for the use and enjoyment thereof by the Owner and by members of the Owner's family, tenants, contract purchasers or others as said Owner may designate by delegation of the Owner's right in accordance with the Bylaws of the Association, subject to any restrictions authorized by the Declaration.

2.5 **Utility and Maintenance Easements.** Each Unit shall be subject to and shall be the beneficiary of appurtenant easements for all services and utilities servicing the Units and the Common Elements, and for construction, operation, addition, removal, maintenance, repair and replacement as described in Section 13.

2.6 **Encroachment Easements.** Each Unit shall be subject to and shall be the beneficiary of the appurtenant easements for encroachments as described in Section 13.

2.7 **Recorded Easements.** The Property shall be subject to such other easements as may be recorded against it or otherwise shown on the Plat.

2.8 **Easements are Appurtenant.** All easements and similar rights burdening or benefiting a Unit or any other part of the Property shall be appurtenant thereto, and shall be permanent, subject only to termination in accordance with the Act or the terms of the easement. Any recorded easement benefiting or burdening the Property shall be construed in a manner consistent with, and not in conflict with, the easements created by this Declaration.

2.9 **Impairment Prohibited.** No person shall materially restrict or impair any easement benefiting or burdening the Property; subject to the Declaration and the right of the Association to establish and enforce reasonable Rules and Regulations governing the use of the Property.

SECTION 3

COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

3.1 **Common Elements.** The Common Elements and their characteristics are as follows:

- a. All of the Property not included within the Units constitutes Common Elements. The Common Elements include those parts of the Property described in Exhibit C or designated as Common Elements on the Plat or in the Act. The Common Elements are owned by the Association for the benefit of the Owners and Occupants.
- b. The Common Elements shall be subject to certain easements as described in Section 2, and to the rights of Owners and Occupants in Limited Common Elements appurtenant to their Units.
- c. Subject to Sections 5, 6 and 9, all maintenance, repair, replacement, management and operation of the Common Elements shall be the responsibility of the Association.
- d. Common Expenses for the maintenance, repair, replacement, management and operation of the Common Elements shall be assessed and collected from the Owners in accordance with Section 6.
- e. The Association shall have the right to dedicate or transfer all or any part of the Common Elements to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication, transfer or determination as to the conditions thereof shall be effective unless an instrument signed by the Members entitled to cast two-thirds (2/3) of the votes of the Members have been recorded agreeing to such dedication, transfer, purpose or condition, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least ninety (90) days in advance of any action taken.

3.2 **Limited Common Elements.** The Limited Common Elements are those parts of the Common Elements reserved for the exclusive use of the Owners and Occupants of the Units to which they are allocated, and the rights to the use and enjoyment thereof are automatically conveyed with the conveyance of such Units. The Limited Common Elements are described and allocated to the Units as follows:

- a. Chutes, flues, ducts, pipes, wires, conduit or other utility installations, bearing walls,

bearing columns, or any other components or fixtures lying partially within and any partially outside the boundaries of a Unit, and serving only that Unit, are allocated to the Unit they serve. Any portion of such installations serving or affecting the function of more than one Unit or any portion of the Common Elements is a part of the Common Elements, but is not a Limited Common Element.

- b. Improvements such as decks, patios, balconies, shutters, awnings, window boxes, doorsteps, stoops, perimeter doors, patio doors, and windows, constructed as part of the original construction to serve a single Unit, and authorized replacements and modifications thereof, if located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit.

SECTION 4

ASSOCIATION MEMBERSHIP: RIGHTS AND OBLIGATIONS

Membership in the Association and the allocation to each Unit of a portion of the votes in the Association and a portion of the Common Expenses of the Association shall be governed by the following provisions:

4.1 **Membership.** Each Owner shall be a member of the Association by virtue of Unit ownership, and the membership shall be transferred with the conveyance of the Owner's interest in the Unit. An Owner's membership shall terminate when the Owner's ownership terminates. When more than one Person is an Owner of a Unit, all such Persons shall be members of the Association, but multiple ownership of a Unit shall not increase the voting rights allocated to such Unit nor authorize the division of the voting rights.

4.2 **Voting and Common Expenses.** Voting rights and Common Expense obligations are allocated equally among the Units; except that special allocations of Common Expenses shall be permitted as provided in Section 6.1.

4.3 **Appurtenant Rights and Obligations.** The ownership of a Unit shall include the voting rights and Common Expense obligations described in Section 4.2. Said rights, obligations and interests, and the title to the Units, shall not be separated or conveyed separately. The allocation of the rights, obligations and interests described in this Section may not be changed, except in accordance with the Governing Documents and the Act.

4.4 **Authority to Vote.** The Owner, or some natural person designated to act as proxy on behalf of the Owner, and who need not be an Owner, may cast the vote allocated to such Unit at meetings of the Association; provided, that if there are multiple Owners of a Unit, only the Owner or other Person designated pursuant to the provisions of the Bylaws may cast such vote. No more than one (1) vote shall be cast with respect to any Unit. The voting rights of Owners are more fully

described in Section 3 of the Bylaws.

SECTION 5

ADMINISTRATION

The administration and operation of the Association and the Property, including but not limited to the acts required of the Association, shall be governed by the following provisions:

5.1 **General.** The operation and administration of the Association and the Property shall be governed by the Governing Documents, the Rules and Regulations, and the Act. The Association shall, subject to the rights of the Owners set forth in the Governing Documents and the Act, be responsible for the operation, management and control of the Property. The Association shall have all powers described in the Governing Documents, the Act and the statute under which it is incorporated. All power and authority of the Association shall be vested in the Board, unless action or approval by the individual Owners is specifically required by the Governing Documents or the Act. All references to the Association shall mean the Association acting through the Board unless specifically stated to the contrary. The Association is not subject to a Master Association.

5.2 **Operational Purposes.** The Association shall operate and manage the Property for the purposes of (i) administering and enforcing the covenants, restrictions, easements, charges and liens set forth in the Governing Documents and the Rules and Regulations (ii) maintaining, repairing and replacing those portions of the Property for which it is responsible and (iii) preserving the value and architectural uniformity and character of the Property.

5.3 **Binding Effect of Actions.** All agreements and determinations made by the Association in accordance with the powers and voting rights established by the Governing Documents or the Act shall be binding upon all Owners and Occupants, and their lessees, guests, heirs, personal representatives, successors and assigns, and all secured parties as defined in the Act.

5.4 **Bylaws.** The Association shall have Bylaws. The Bylaws and any amendments thereto shall govern the operation and administration of the Association.

5.5 **Management.** The Board may delegate to a manager or managing agent the management duties imposed upon the Association's officers and directors by the Governing Documents and the Act; provided, however, that such delegation shall not relieve the officers and directors of the ultimate responsibility for the performance of their duties as prescribed by the Governing Documents and by law.

5.6 **Rules and Regulations.** The Board shall have exclusive authority to approve and implement such reasonable Rules and Regulations as it deems necessary from time to time for the

purpose of operating and administering the affairs of the Association and regulating the use of the property; provided that the Rules and Regulations shall not be inconsistent with the Governing Documents or the Act. The inclusion in other parts of the Governing Documents of authority to approve Rules and Regulations shall be deemed to be in furtherance, and not in limitation, of the authority granted by this Section. New or amended Rules and Regulations shall be effective only after reasonable notice thereof has been given to the Owners.

5.7 *Association Assets; Surplus Funds.* All funds and real or personal property acquired by the Association shall be held and used for the benefit of the Owners for the purposes stated in the Governing Documents. Surplus remaining after payment of or provision for Common Expenses and reserves shall be credited against future assessments or added to reserves, as determined by the Board.

SECTION 6

ASSESSMENTS FOR COMMON EXPENSES

6.1 *General.* Assessments for Common Expenses shall be determined and assessed against the Units by the Board, in its discretion; subject to the limitations set forth in Section 6.2 regarding annual assessments, Section 6.3 regarding special assessments, and the requirements of Section 8.1 of the Bylaws. Assessments for Common Expenses shall include annual assessments and may include special assessments. Assessments shall be allocated among the Units according to the Common Expense allocations set forth in Section 4.2, subject to the following qualifications:

- a. Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element undertaken by the Association may be assessed exclusively against the Unit or Units to which that Limited Common Element is assigned, on the basis of (i) equality, (ii) square footage of the area being maintained, repaired or replaced, or (iii) the actual cost with respect to each Unit.
- b. Any Common Expense or portion thereof benefiting fewer than all of the Units may be assessed exclusively against the Units benefited, on the basis of (i) equality, (ii) square footage of the area being maintained, repaired or replaced, or (iii) the actual cost incurred with respect to each Unit.
- c. The costs of insurance may be assessed in proportion to value, risk or coverage, and the costs of utilities may be assessed in proportion to usage.
- d. Reasonable attorneys' fees and other costs incurred by the Association in connection with (i) the collection of assessments and (ii) the enforcement of the Governing Documents, the Act, or the Rules and Regulations, against an Owner or Occupant or his or her guests, may be assessed against the Owner's Unit.

- e. Fees, charges, late charges, fines and interest may be assessed as provided in Section 14.
- f. Assessments levied under Section 515B.3-116 of the Act to pay a judgment against the Association may be levied only against the Units existing at the time the judgment was entered, in proportion to their Common Expense liabilities.
- g. If any damage to the Common Elements or another Unit is caused by the act or omission of any Owner or Occupant, or his or her guests, the Association may assess the costs of repairing the damage exclusively against the Owner's Unit to the extent not covered by insurance.
- h. If any installment of an assessment becomes more than thirty (30) days past due, then the Association may, upon ten (10) days written notice of the Owner, declare the entire amount of the assessment immediately due and payable in full.
- i. In the event Common Expense liabilities are reallocated for any purpose authorized by the Act, Common Expense assessments and any installments thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.
- j. Assessments under Subsections 6.1 a through h shall not be considered special assessments as described in Section 6.3.
- k. The Association shall, upon written demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Unit have been paid. A properly executed certificate of the Association as to the status of assessments on a Unit is binding upon the Association as of the date of its issuance.
- l. Written notice of any meeting called for the purpose of taking any action in connection with maximum annual assessments or special assessments shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty (50%) percent of all the votes of Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.
- m. Both annual and special assessments on all Units owned by persons, firms or

corporations must be fixed at a uniform rate and annual and/or special assessments may be collected on a monthly basis.

6.2 **Annual Assessments.** Annual assessments shall be established and levied by the Board, subject only to the limitations set forth in this section and in Section 6.3. The Board shall fix the amount of the annual assessment against each Unit at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. Each annual assessment shall cover all of the anticipated Common Expenses of the Association for that year. Annual assessments shall provide, among other things, for contributions to a separate reserve sufficient to cover the periodic cost of maintenance, repair and replacement of the Common Elements and those parts of the Units for which the Association is responsible.

- a. The increase in the annual assessment for any year shall not exceed the greater of (i) the increase in the U.S. Department of Labor Revised Consumer Price Index for Urban Wage Earners and Clerical Workers for All Items for the prior year; or (ii) ten (10%) percent of the total annual assessment for the Association's previous year, unless such increase is approved by the vote of a simple majority of those Owners voting, in person or by proxy, at a meeting duly called for that purpose. Written notice of the meeting shall be sent to all Owners not less than twenty-one (21) days nor more than thirty (30) days in advance of the meeting.

6.3 **Special Assessments.** In addition to annual assessments, and subject to the limitations set forth hereafter, the Board may levy in any assessment year a special assessment against all Units for the purpose of defraying in whole or in part (i) the cost of any foreseen or unbudgeted Common Expense, (ii) general or specific reserves for maintenance, repair or replacement, and (iii) the maintenance, repair or replacement of any part of the Property, and any fixtures or other property related thereto. Notwithstanding the foregoing, any special assessment shall be subject to approval by the vote of two-thirds (2/3) of those Owners voting, in person or by proxy, at an annual meeting or at a meeting called for that purpose. Written notice of the meeting shall be sent to all Owners as described in the Bylaws.

6.4 **Liability of Owners for Assessments.** The obligation of an Owner to pay assessments shall commence at the later of (i) the time at which the Owner acquires title to the Unit, or (ii) the due date of the first assessment levied by the Board, subject to the alternative assessment program described in Section 6.6. The Owner at the time an assessment is payable with respect to the Unit shall be personally liable for the share of the Common Expenses assessed against such Unit. Such liability shall be joint and several where there are multiple Owners of the Unit. The liability is absolute and unconditional. No Owner is exempt from liability for payment of his or her share of Common Expenses by right of set-off, by waiver of use or enjoyment of any part of the Property, by absence from or abandonment of the Unit, by the waiver of any other rights, or by reason of any claim against the Association or its officers, directors or agents, or for their failure to fulfill any duties under the Governing Documents or the Act. The Association may invoke the

charges, sanctions and remedies set forth in Section 14, in addition to any remedies provided elsewhere in the Governing Documents, the Rules and Regulations, or by law, for the purpose of enforcing its rights hereunder. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

6.5 **Assessment Lien.** The Association has a lien on a Unit for any assessment levied against that Unit from the time the assessment becomes due. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due. Fees, charges, late charges, fines and interest charges imposed by the Association pursuant to Section 515B.3-102(a)(10), (11) and (12) of the Act are liens, and are enforceable as assessments, under this Section. Recording of the Declaration constitutes record notice and perfection of any lien under this Section, and no further recordation of any notice of or claim for the lien is required.

6.6 **Foreclosure of Lien; Remedies.** A lien for Common Expenses may be foreclosed against a Unit under the laws of the State of Minnesota (i) by action, or (ii) by advertisement as a lien under a mortgage containing a power of sale. The Association, or its authorized representative, shall have the power to bid at the foreclosure sale and to acquire, hold, lease, mortgage and convey any Unit so acquired. The Owner and any other Person claiming an interest in the Unit, by the acceptance or assertion of any interest in the Unit, grants to the Association a power of sale and full authority to accomplish the foreclosure. The Association shall, in addition, have the right to pursue any other remedy at law or in equity against the Owner who fails to pay any assessment or charge against the Unit.

6.7 **Lien Priority; Foreclosure.** A lien under this Section is prior to all other liens and encumbrances on a Unit except (i) liens and encumbrances recorded before the Declaration, (ii) any first mortgage on the Unit, and (iii) liens for real estate taxes and other governmental assessments or charges against the Unit. Notwithstanding the foregoing, if (i) a first mortgage on a Unit is foreclosed, (ii) the first mortgage was recorded on or after June 1, 1994, and (iii) no Owner redeems during the Owner's period of redemption provided by Chapters 580, 581, or 582, then the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage shall take title to the Unit subject to unpaid assessments for Common Expenses levied pursuant to Sections 515B.3-115(a), (h)(1) to (3), (i), and (1) of the Act which became due, without acceleration, during the six months immediately preceding the first day following the end of the Owner's period of redemption.

6.8 **Voluntary Conveyances; Statement of Assessments.** In a voluntary conveyance of a Unit the buyer shall not be personally liable for any unpaid assessments and other charges made by the Association against the seller or the seller's Unit prior to the time of conveyance to the buyer, unless expressly assumed by the buyer. However, the lien of such assessments shall remain against the Unit until satisfied. Any seller or buyer shall be entitled to a statement, in recordable form, from the Association setting forth the amount of the unpaid assessments against the Unit, including all assessments payable in the Association's current fiscal year, which statement shall be binding on the Association, seller and buyer.

SECTION 7

RESTRICTIONS ON USE OF PROPERTY

All Owners and Occupants, and all secured parties, by their acceptance or assertion of an interest in the Property, or by their occupancy of a Unit, covenant and agree that, in addition to any other restrictions which may be imposed by the Act or the Governing Documents, the occupancy, use, operation, alienation and conveyance of the Property shall be subject to the following restrictions:

7.1 **General.** The Property shall be owned, conveyed, encumbered, leased, used and occupied subject to the Governing Documents and the Act, as amended from time to time. All covenants, restrictions and obligations set forth in the Governing Documents are in furtherance of a plan for the Property, and shall run with the Property and be a burden and benefit to all Owners and Occupants and to any other Person acquiring or owning an interest in the Property, their heirs, personal representatives, successors and assigns.

7.2 **Subdivision Prohibited.** Except as permitted by the Act, no Unit nor any part of the Common Elements may be subdivided or partitioned without the prior written approval of all Owners and all secured parties holding first mortgages on the Units.

7.3 **Residential Use.** The Units shall be used by Owners and Occupants and their guests exclusively as private, single family residential dwellings, and not for transient, hotel, commercial, business or other non-residential purposes, except as provided in Section 7.4. Any lease of a Unit (except for occupancy by guests with the consent of the Owner) for a period of less than seven (7) days, or any occupancy which includes any services customarily furnished to hotel guests, shall be presumed to be for transient purposes.

7.4 **Business Use Restricted.** No business, trade, occupation or profession of any kind whether carried on for profit or otherwise, shall be conducted, maintained or permitted in any Unit or the Common Elements; except (i) an Owner or Occupant residing in a Unit may keep and maintain his or her business or professional records in such Unit and handle matters relating to such business by telephone or correspondence therefrom, provided that such uses are incidental to the residential use, do not involve physical alteration of the Unit and do not involve any observable business activity such as signs, advertising displays, bulk mailings, deliveries, or visitation or use of the Unit by customers or employees, and (ii) the Association may maintain offices on the Property for management and related purposes.

7.5 **Leasing.** Leasing of Units shall be allowed, subject to reasonable regulation by the Association, and subject to the following conditions: (i) that no Unit shall be leased for transient or hotel purposes, (ii) that no Unit may be subleased, (iii) that all leases shall be in writing, and (iv) that all leases shall provide that they are subordinate and subject to the provisions of the Governing

Documents, the Rules and Regulations and the Act, and (v) that any failure of the lessee to comply with the terms of such documents shall be a default under the lease. The Association may impose such reasonable Rules and Regulations as may be necessary to implement procedures for the leasing of Units, consistent with this Section.

7.6 **Parking.** Ownership of a Unit shall entitle the Owner thereof to the use of not more than two (2) automobile parking spaces, which shall be as near and convenient to said Unit as reasonably possible, together with the right of land ingress and egress in and upon said parking area. The Association shall permanently assign two (2) vehicle parking spaces for each dwelling. Garages and parking areas on the Property shall be used only for parking of vehicles owned or leased by Owners and Occupants and their guests, and such other incidental uses as may be authorized in writing by the Association. The use of garages, driveways and other parking areas on the Property, and the types of vehicles and personal property permitted thereon, shall be subject to regulation by the Association, including without limitation the right of the Association to tow illegally parked vehicles or to remove unauthorized personal property.

7.7 **Animals.** No animal may be bred, kept or maintained for business or commercial purposes, anywhere on the Property. However, the Board shall have the exclusive authority to prohibit, or to allow and regulate, by Rules and Regulations, the keeping of animals on the Property. The word "animal" shall be construed in its broadest sense and shall include all living creatures except human beings.

7.8 **Quiet Enjoyment; Interference Prohibited.** All Owners and Occupants and their guests shall have a right of quiet enjoyment in their respective Units, and shall use the Property in such a manner as will not cause a nuisance, nor unduly restrict, interfere with or impede the use of the Property by other Owners and Occupants and their guests. No noxious or offensive activity shall be carried on upon any Unit nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

7.9 **Compliance with Law.** No use shall be made of the Property which would violate any then existing municipal codes or ordinances, or state or federal laws, nor shall any act or use be permitted which could cause waste to the Property, cause a material increase in insurance rates on the Property, or otherwise cause any unusual liability, health or safety risk, or expense, for the Association or any Owner or Occupant.

7.10 **Alterations.** No alterations, changes, improvements, repairs or replacements of any type, temporary or permanent, structural, aesthetic or otherwise (collectively referred to as "alterations") shall be made, or caused or allowed to be made, by any Owner or Occupant, or their guests, in any part of the Common Elements, or in any part of the Unit which affects the Common Elements or another Unit or which is visible from the exterior of the Unit, without the prior written authorization of the Board, or a committee appointed by it, as provided in Section 8. The Board, or the appointed committee if so authorized by the Board, shall have authority to establish reasonable criteria and requirements for alterations, and shall be the sole judge of whether the criteria are

satisfied.

7.11 **Time Shares Prohibited.** The time share form of ownership, or any comparable form of lease, occupancy rights or ownership which has the effect of dividing the ownership or occupancy of a Unit into separate time periods, is prohibited.

7.12 **Access to Units.** In case of emergency, all Units and Limited Common Elements are subject to entry, without notice and at any time, by an officer or member of the Board of the Association, by the Association's management agents or by any public safety personnel. Entry is also authorized for maintenance purposes under Section 9 and for enforcement purposes under Section 14.

7.13 **Signs.** No sign of any kind shall be displayed to the public view in or on any Unit except one (1) professional sign of not more than one (1) square foot or one (1) sign of not more than five (5) square feet advertising the property for sale or rent.

7.14 **Refuse and Trash.** No Unit shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. Garbage, rubbish or trash shall not be kept except in sanitary containers. All incinerators or other equipment used or kept for the storage or disposal of such waste material shall be kept in a clean and sanitary condition.

7.15 **Non-Dwelling Structures.** No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other building shall be used at any time as a residence, either temporarily or permanently.

SECTION 8

ARCHITECTURAL CONTROL

8.1 **Restrictions on Alterations.** The following restrictions and requirements shall apply to alterations on the Property:

- a. Except as expressly provided in this Section 8, no structure, building, addition, deck, patio, fence, wall, enclosure, window, exterior door, sign, display, decoration, color change, shrubbery, material topographical or landscaping change, nor any other exterior improvements to or alteration of any Dwelling or any other part of a Unit which is visible from the exterior of the Unit (collectively referred to as "alterations"), shall be commenced, erected or maintained in a Unit, unless and until the plans and specifications showing the nature, kind, shape, height, color, materials and locations of the alterations shall have been approved in writing by the Board of Directors or a committee composed of three (3) or more representatives appointed by the Board of Directors.

- b. The criteria for approval shall include and require, at a minimum, (i) substantial uniformity of color, size, location, type and design in relation to existing improvements and topography, (ii) comparable or better quality of materials as used in existing improvements, (iii) ease of maintenance and repair, (iv) adequate protection of the Property, the Association, Owners and Occupants from liability and liens arising out of the proposed alterations, and (v) compliance with governmental laws, codes and regulations.
- c. Approval of alterations which encroach upon another Unit or the Common Elements shall create an appurtenant easement for such encroachment in favor of the Unit as to which the alterations are approved; provided, that any easement for a deck or patio other than as originally constructed shall be approved by resolution of the Board of Directors and a file of such resolutions shall be maintained permanently as a part of the Association's records.

8.2 **Review Procedures.** The following procedures shall govern requests for alterations under this Section:

- a. Detailed plans, specifications and related information regarding any proposed alteration, in form and content acceptable to the Board of Directors, shall be submitted to the Board of Directors at least sixty (60) days prior to the projected commencement of construction. No alterations shall be commenced prior to approval.
- b. The Board of Directors shall give the Owner written notice of approval or disapproval. If the Board of Directors fails to approve or disapprove within sixty (60) days after receipt of said plans and specifications and all other information requested by the Board of Directors, then approval will not be required, and this Section shall be deemed to have been fully complied with so long as the alterations are done in accordance with the plans, specifications and related information which were submitted.
- c. If no request for approval is submitted, approval is denied, unless (i) the alterations are reasonably visible and (ii) no written notice of the violation has been given to the Owner in whose Unit the alterations are made, by the Association or another Owner, within twelve (12) months following the date of completion of the alterations. Notice may be direct written notice or the commencement of legal action by the Association or an Owner. The Owner of the Unit in which the alterations are made shall have the burden of proof, by clear and convincing evidence, that the alterations were completed and reasonably visible for at least six (6) months following completion and that the notice was not given.

8.3 **Remedies for Violations.** The Association may undertake any measures, legal or administrative, to enforce compliance with this Section and shall be entitled to recover from the Owner causing or permitting the violation all attorneys' fees and costs of enforcement, whether or not a legal action is started. Such attorneys' fees and costs shall be a lien against the Owner's Unit and a personal obligation of the Owner as further described in the Act. In addition, the Association shall have the right to enter the Owner's Unit and to restore any part of the Dwelling or Unit to its prior condition if any alterations were made in violation of this Section, and the cost of such restoration shall be a personal obligation of the Owner and a lien against the Owner's Unit as further described in the Act.

SECTION 9

MAINTENANCE

9.1 **Maintenance by Association.** The Association shall provide for all maintenance, repair or replacement (collectively referred to as "maintenance") of the Common Elements. In addition, for the purpose of preserving the architectural character, quality, uniformity and high standards for appearance of the Property, the Association shall (i) provide for exterior maintenance upon the Dwelling in each Unit that is subject to assessment as follows: paint, care for and replace roofs, decks, walks, garage doors (except hardware), and exterior siding and other building surfaces, and pay for up to fifty (50%) percent of the cost of replacement of the lower level windows and frames on the Units, and (ii) provide for lawn, shrub and tree maintenance on all Units, including watering of lawns. The Association's obligations shall exclude patios, sliding glass doors, entry doors, garage service doors, door hardware, air conditioning equipment, glass and window frames, foundations and foundation walls, structural members, all second floor windows (*i.e.* both glass and window frames) and any other items not specifically referred to in this Section, unless otherwise approved under Section 9.2. The Association shall have easements as described in Section 13 to perform its obligations under this Section 9.

9.2 **Optional Maintenance by Association.** In addition to the maintenance described in this Section the Association may, with the approval of a majority of votes cast in person or by proxy at a meeting called for such purposes, undertake to provide additional exterior maintenance to the Units or Dwellings, or maintenance of water and sewer systems within the Units.

9.3 **Maintenance by Owner.** Except for the exterior maintenance required to be provided by the Association under Section 9.1 or 9.2, all maintenance of the Dwellings and Units shall be the sole responsibility and expense of the Owners thereof. However, the Owners and Occupants shall have a duty to promptly notify the Association of defects in or damage to those parts of the Property which the Association is obligated to maintain. The Association may require that any exterior maintenance to be performed by the Owner be accomplished pursuant to specific uniform criteria established by the Association. The Association may also undertake any exterior maintenance which the responsible Owner fails to or improperly performs and assess the Unit and

the Owner for the cost thereof.

9.4 **Damage Caused by Owner.** Notwithstanding any provision to the contrary in this Section, if, in the judgment of the Association, the need for maintenance of any part of the Property is caused by the willful or negligent act or omission of an Owner or Occupant, or his or her guests, or by a condition in a Unit which the Owner or Occupant has willfully or negligently allowed to exist, the Association may cause such damage or condition to be repaired or corrected (and enter upon any Unit to do so), and the cost thereof may be assessed against the Unit of the Owner responsible for the damage. In the case of party walls between Dwellings, the Owners of the affected Dwellings shall be liable as provided in Section 10.

SECTION 10

PARTY WALLS

10.1 **General Rules of Law to Apply.** Each Dwelling wall built as part of the original construction of the Dwelling and located on the boundary line between Units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions shall apply thereto.

10.2 **Repair and Maintenance.** The Owners of the Units which share the party wall shall be responsible for the maintenance repair and replacement of the party wall in proportion with their use; provided (i) that any maintenance, repair or replacement necessary due to the acts or omissions of a certain Owner or Occupant sharing such party wall shall be paid for by such Owner, and (ii) that the Association may contract for and supervise the repair of damage caused by an Owner or Occupant and assess the Owners for their respective shares of the cost to the extent not covered by insurance.

10.3 **Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty, any Owner who has use of the wall may, with the consent of the Association, restore it, and the other Owner shall promptly reimburse the Owner who restored the wall for his or her share of the cost of restoration thereof; provided, however, that the cost of restoration resulting from destruction or other casualty resulting from the acts or omissions of any Owner shall be the financial responsibility of such Owner, and the Association may assess the responsible Owner for his or her share of the costs, without prejudice to the right of an Owner to recover a larger contribution from the other Owner. Insurance claims shall be made promptly following any casualty. All repairs required must be commenced within ten (10) business days.

10.4 **Weatherproofing.** Notwithstanding any other provision of this Section, any Owner who, by his or her negligent or willful act, causes a party wall to be exposed to the elements shall bear the whole cost of the repairs necessary for protection against such elements.

10.5 ***Right to Contribution Runs With Land.*** The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the Unit and shall pass to such Owner's assign and successors in title.

10.6 ***Arbitration.*** In the event of any dispute arising concerning a party wall, and if the same is not resolved within thirty (30) days of the event causing the dispute, the matter shall be submitted to binding arbitration under the rules of the American Arbitration Association, upon the written demand of the Association or any Owner whose Dwelling shares the party wall. Each party agrees that the decision of the arbitrators shall be final and conclusive of the questions involved. The fees of the arbitrators shall be shared equally by the parties, but each party shall pay its own attorney fees or other costs to prove its case.

SECTION 11

INSURANCE

11.1 ***Required Coverage.*** The Association shall obtain and maintain, at a minimum, a master policy or policies of insurance in accordance with the insurance requirements set forth in the Act and the additional requirements set forth herein, issued by a reputable insurance company or companies authorized to do business in the State of Minnesota, as follows;

- a. Property Insurance in broad form covering all risks of physical loss in an amount equal to one hundred percent (100%) of the insurable "replacement cost" of the Property, less deductibles, exclusive of land, footings, excavation and other items normally excluded from coverage (but including all building service equipment and machinery). The policy or policies shall cover personal property owned by the Association. The policy or policies shall also contain "Inflation Guard" and "Agreed Amount" endorsements, if reasonably available. Such policy or policies shall include such additional endorsements, coverages and limits with respect to the foregoing and other hazards as may be required from time to time by the regulations of the FHA or Federal National Mortgage Association ("FNMA") as a precondition to their insuring, purchasing or financing a mortgage on a Unit. The Board may also, on behalf of the Association, enter into binding written agreements with a mortgagee, insurer or servicer, including without limitation the FHA or FNMA, obligating the Association to keep certain specified coverages or endorsements in effect.
- b. Comprehensive public liability insurance covering the use, operation and maintenance of the Common Elements, with minimum limits of \$1,000,000 per occurrence, against claims for death, bodily injury and property damage, and such

other risks as are customarily covered by such policies for projects similar in construction, location and use to the Property. The policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner or Occupant because of negligent acts of the Association or other Owners or Occupants. The policy shall include such additional endorsements, coverages and limits with respect to such hazards as may be required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing a mortgage on a Unit.

- c. Fidelity bond or insurance coverage against dishonest acts on the part of directors, officers, manager, trustees, employees or persons responsible for handling funds belonging to or administered by the Association if deemed to be advisable by the Board or required by the regulations of the FHA or FNMA as a precondition to the purchase or financing of a mortgage on a Unit. The fidelity bond or insurance shall name the Association as the named insured and shall, if required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing of a mortgage on a Unit, be written in an amount equal to the greater of (i) the estimated maximum of Association funds, including reserves, in the custody of the Association or management agent at any given time while the bond is in force, or (ii) a sum equal to three months aggregate assessments on all Units plus reserves. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers, or a waiver of defense based upon the exclusion of persons serving without compensation shall be added.
- d. Workers' Compensation insurance as required by law.
- e. Directors' and officers' liability insurance with such reasonable limits and coverages as the Board shall determine from time to time.
- f. Such other insurance as the Board may determine from time to time to be in the best interests of the Association and the Owners.

11.2 **Premiums; Improvements; Deductibles.** All insurance premiums shall be assessed and paid as a Common Expense. The insurance need not cover improvements and betterments to the Units installed by Owners, but if improvements and betterments are covered, any increased cost may be assessed against the Units affected. The Association may, in the case of a claim for damage to a Unit, (i) pay the deductible amount as a Common Expense, (ii) assess the deductible amount against the Units affected in any reasonable manner, or (iii) require the Owners of the Units affected to pay the deductible amount directly.

11.3 **Loss Payee; Insurance Trustee.** All insurance coverage maintained by the Association shall be written in the name of, and the proceeds thereof shall be payable to, the

Association (or a qualified insurance trustee selected by it) as trustee for the benefit of the Owners and secured parties, including Eligible Mortgagees, which suffer loss. The Association, or any insurance trustee selected by it, shall have exclusive authority to negotiate, settle and collect upon any claims or losses under any policy maintained by the Association.

11.4 ***Waivers of Subrogation.*** All policies of insurance shall contain waivers of subrogation by the insurer against the Association, or an Owner, members of the Owner's household, officers or directors, as applicable, and, if available, waivers of any defense based on co-insurance or of invalidity from any acts of the insured.

11.5 ***Cancellation; Notice of Loss.*** All policies of property insurance and comprehensive liability insurance maintained by the Association shall provide that the policies shall not be canceled or substantially modified, for any reason, without at least thirty (30) days prior written notice to the Association, to the FHA or FNMA (if applicable), all of the insureds and all Eligible Mortgagees.

11.6 ***Restoration in Lieu of Cash Settlement.*** All policies of property insurance maintained by the Association shall provide that, despite any provisions giving the insurer the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable (i) without the prior written approval of the Association (or any Insurance Trustee) or (ii) when in conflict with provisions of any insurance trust agreement to which the Association may be a party, or any requirement by law.

11.7 ***No Contribution.*** All policies of insurance maintained by the Association shall be the primary insurance where there is other insurance in the name of the Owner covering the same property, and may not be brought into contribution with any insurance purchased by Owners or their Eligible Mortgagees.

11.8 ***Effect of Acts Not Within Association's Control.*** All policies of insurance maintained by the Association shall provide that the coverage shall not be voided by or conditioned upon (i) any act or omission of an Owner or Eligible Mortgagee, unless acting within the scope of authority on behalf of the Association, or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

11.9 ***Owner's Personal Insurance.*** Each Owner may obtain additional personal insurance coverage at his or her own expense covering fire and other casualty to the Unit, personal property or personal liability. All insurance policies maintained by Owners shall provide that they are without contribution as against the insurance purchased by the Association.

SECTION 12

RECONSTRUCTION, CONDEMNATION AND EMINENT DOMAIN

12.1 **Reconstruction.** The obligations and procedures for the repair, reconstruction or disposition of the Property following damage or destruction thereof shall be governed by the Act. Any repair or reconstruction shall be substantially in accordance with the plans and specifications of the Property as initially constructed and subsequently improved. The Association shall have all authority necessary to cause the Property to be reconstructed, including without limitation the authority (i) to require the Owners to enter into reconstruction contracts on their respective Units, or (ii) to contract for the reconstruction of the Units on behalf of the Owners. Notice of substantial damage or destruction shall be given pursuant to Section 18.10.

12.2 **Condemnation and Eminent Domain.** In the event of a taking of any part of the Property by condemnation or eminent domain, the provisions of the Act shall govern.

SECTION 13

EASEMENTS

13.1 **Easement for Encroachments.** Each Unit and the Common Elements, and the rights of the Owners and Occupants therein, shall be subject to an exclusive easement for encroachments in favor of the adjoining Units for fireplaces, walls, roof overhangs, air conditioning systems, decks, balconies, porches, patios, utility installations and other appurtenances (i) which are part of the original construction of the adjoining Unit or the Property or (ii) which are added pursuant to Section 8. If there is an encroachment by a Dwelling, or other building or improvement located in a Unit, upon another Unit or Dwelling as a result of the construction, reconstruction, repair, shifting, settlement or movement of any part of the Property, an appurtenant easement for the encroachment, for the use, enjoyment and habitation of any encroaching Dwelling, building or improvement, and for the maintenance thereof, shall exist; provided that with respect to improvements or alterations added pursuant to Section 8, no easement shall exist unless the same have been approved, and the proposed improvements constructed, as required by this Declaration. Such easements shall continue for as long as the encroachment exists and shall not affect the marketability of title.

13.2 **Easement for Maintenance, Repair, Replacement and Reconstruction.** Each Unit, and the rights of the Owners and Occupants thereof, shall be subject to the rights of the Association to an exclusive, appurtenant easement on and over the Units for the purposes of maintenance, repair, replacement and reconstruction of the Units, and utilities serving the Units, to the extent necessary to fulfill the Association's obligations under the Governing Documents.

13.3 **Utilities Easements.** The Property shall be subject to non-exclusive, appurtenant easements for all utilities, water and sewer, and similar services, which exist from time to time, as constructed or referred to in the Plat, or as otherwise described in this Declaration or any other duly recorded instrument. Each Unit, and the rights of the Owners and Occupants thereof, shall be subject to a non-exclusive easement in favor of the other Units for all such services, including without limitation any sewer or water lines servicing other Units. Each Unit shall also be subject to an exclusive easement in favor of the Association and all utilities companies providing service to the Units for the installation and maintenance of utilities metering devices.

13.4 **Continuation and Scope of Easements.** Notwithstanding anything in this Declaration to the contrary, in no event shall an Owner or Occupant be denied reasonable access to his or her Unit or the right to utility services thereto. The easements set forth in this Section shall supplement and not limit any easements described elsewhere in this Declaration or recorded, and shall include reasonable access to the easement areas through the Units and the Common Elements for purposes of maintenance, repair, replacement and reconstruction.

SECTION 14

COMPLIANCE AND REMEDIES

Each Owner and Occupant, and any other Person owning or acquiring any interest in the Property, shall be governed by and comply with the provisions of the Act, the Governing Documents, the Rules and Regulations, the decisions of the Association, and such amendments thereto as may be made from time to time. A failure to comply shall entitle the Association to the relief set forth in this Section, in addition to the rights and remedies authorized elsewhere by the Governing Documents and the Act.

14.1 **Entitlement to Relief.** The Association may commence legal action to recover sums due, for damages, for injunctive relief or to foreclose a lien owned by it, or any combination thereof, or an action for any other relief authorized by the Governing Documents or available at law or in equity. Legal relief may be sought by the Association against any Owner, or by an Owner against the Association or another Owner, to enforce compliance with the Governing Documents, the Rules and Regulations, the Act or the decisions of the Association. However, no Owner may withhold any assessments payable to the Association, or take (or omit) other action in violation of the Governing Documents, the Rules and Regulations or the Act, as a measure to enforce such Owner's position, or for any other reason.

14.2 **Sanctions and Remedies.** In addition to any other remedies or sanctions, expressed or implied, administrative or legal, the Association shall have the right, but not the obligation, to implement any one or more of the following actions against Owners and Occupants and/or their family, guests, tenants or invitees, who violate the provisions of the Governing Documents, the

Rules and Regulations or the Act:

- a. Commence legal action for damages or equitable relief in any court of competent jurisdiction.
- b. Impose late charges in any reasonable amount as determined by the Board of Directors in its discretion from time to time for each past due assessment or installment thereof, and any other amounts lawfully assessed against an Owner or a Unit and interest at up to the highest rate permitted by law.
- c. In the event of default of more than thirty (30) days in the payment of any assessment or installment thereof, all remaining installments of assessments assessed against the Unit owned by the defaulting Owner may be accelerated and shall then be payable in full if all delinquent assessments, together with all costs of collection and late charges, are not paid in full prior to the effective date of the acceleration. Reasonable advance written notice of the effective date of the acceleration shall be given to the defaulting Owner.
- d. Impose reasonable fines, penalties or charges for each violation of the Act, the Governing Documents or the Rules and Regulations of the Association.
- e. Suspend the rights of any Owner or Occupant and their family, guests, tenants or invitees to use any Common Element amenities; provided, that this limitation shall not apply to Limited Common Elements or deck, balcony, porch or patio easements, appurtenant to the Unit, and those portions of the Common Elements providing utilities service and access to the Unit. Such suspensions shall be limited to periods of default by such Owners and Occupants in their obligations under the Governing Documents to pay assessments, and for up to thirty (30) days thereafter, or for any period not to exceed sixty (60) days for each violation or infraction of the Association's Governing Documents and/or published Rules and Regulations.
- f. Restore any portions of the Common Elements or Limited Common Elements damaged or altered, or allowed to be damaged or altered, by any Owner or Occupant or his or her family, guests, tenants or invitees in violation of the Governing Documents, and to assess the cost of such restoration against the responsible Owners and their Units.
- g. Enter any Unit or Limited Common Element in which, or as to which, a violation or breach of the Governing Documents exists which materially affects, or is likely to materially affect in the near future, the health or safety of the other Owners or Occupants, or their guests, or the safety or soundness of any Dwelling or other part of the Property or the property of the Owners or Occupants, and to abate and remove, at the expense of the offending Owner or Occupant, any structure, thing or

condition in the Unit or Limited Common Elements which is causing the violation; provided, that any improvements which are a part of a Unit may be altered or demolished only pursuant to a court order or with the agreement of the Owner.

- h. Foreclose any lien arising under the provisions of the Governing Documents or under law, in the manner provided for the foreclosure of mortgages by action or under a power of sale in the state where the Property is located.

14.3 ***Rights to Hearing.*** In the case of imposition of any of the remedies authorized by Section 14.2 d., e., f. or g. of this Section, the Board shall, upon written request of the offender, grant to the offender a fair and equitable hearing as contemplated by the Act. The offender shall be given notice of the nature of the violation and the right to a hearing, and at least ten (10) days within which to request a hearing. The hearing shall be scheduled by the Board and held within thirty (30) days of receipt of the hearing request by the Board, and with at least ten (10) days prior written notice to the offender. If the offending Owner fails to appear at the hearing then the right to a hearing shall be waived and the Board may take such action as it deems appropriate. The decision of the Board and the rules for the conduct of hearings established by the Board shall be final and binding on all parties. The Board's decision shall be delivered in writing to the offender within ten (10) days following the hearing, if not delivered to the offender at the hearing.

14.4 ***Lien for Charges, Penalties, etc.*** Any assessments, charges, fines, penalties or interest imposed under this Section shall be a lien against the Unit of the Owner or Occupant against whom the same are imposed and the personal obligation of such Owner in the same manner and with the same priority and effect as assessments under Section 6. The lien shall attach as of the date of imposition of the remedy, but shall not be final as to violations for which a hearing is held until the Board gives written notice following the hearing. All remedies shall be cumulative, and the exercise of, or failure to exercise, any remedy shall not be deemed a waiver of the right to pursue any others.

14.5 ***Costs of Proceeding and Attorneys' Fees.*** With respect to any collection measures, or any measures or action, legal, administrative, or otherwise, which the Association takes to enforce the provisions of the Act, Governing Documents or Rules and Regulations, whether or not finally determined by a court or arbitrator, the Association may assess the violator and his or her Unit with any expenses incurred in connection with such enforcement, including without limitation fines or charges previously imposed by the Association, reasonable attorneys' fees, and interest (at the highest rate allowed by law) on the delinquent amounts owed to the Association.

14.6 ***Liability of Owners' and Occupants' Acts.*** An Owner shall be liable for the expense of any maintenance, repair or replacement of the Property rendered necessary by such Owner's acts or omissions, or by that of Occupants or family, guests, tenants or invitees in the Owner's Unit, to the extent that such expense is not covered by the proceeds of insurance carried by the Association or such Owner or Occupant. However, any insurance deductible amount and/or increase in insurance rates, resulting from the Owner's acts or omissions may be assessed, against

the Owner responsible for the condition and against his or her Unit.

14.7 **Enforcement by Owners.** The provisions of this Section shall not limit or impair the independent rights of other Owners to enforce the provisions of the Governing Documents, the Rules and Regulations, and the Act as provided therein.

SECTION 15

AMENDMENTS

This Declaration may be amended by the consent of Owners of Units to which are allocated at least sixty-seven percent (67%) of the votes in the Association. Consent of the Owners may be obtained in writing or at a meeting of the Association duly held in accordance with the Bylaws. Any amendment shall be subject to any greater requirements imposed by the Act. The Amendment shall be effective when recorded as provided in the Act. An affidavit by the Secretary of the Association as to the outcome of the vote, or the execution of the foregoing agreements or consents, shall be adequate evidence thereof for all purposes, including without limitation, the recording of the amendment.

SECTION 16

MISCELLANEOUS

16.1 **Severability.** If any term, covenant, or provision of this instrument or any exhibit attached hereto is held to be invalid or unenforceable for any reason whatsoever, such determination shall not be deemed to alter, affect or impair in any manner whatsoever any other portion of this instrument or exhibits.

16.2 **Construction.** Where applicable the masculine gender of any word used herein shall mean the feminine or neutral gender, or vice versa, and the singular of any word used herein shall mean the plural, or vice versa. References to the Act, or any section thereof, shall be deemed to include any statutes amending or replacing the Act, and the comparable sections thereof.

16.3 **Notices.** Unless specifically provided otherwise in the Governing Documents or the Act, all notices required to be given by or to the Association, the Board of Directors, the Association officers or the Owners or Occupants shall be in writing and shall be effective upon hand delivery, or mailing if properly addressed with postage prepaid and deposited in the United States mail; except that registrations pursuant to Section 2.2 of the Bylaws shall be effective upon receipt by the Association.

16.4 *Conflicts Among Documents.* In the event of any conflict among the provisions of the Act, the Declaration, the Bylaws or any Rules or Regulations approved by the Association, the Act shall control. As among the Declaration, Bylaws and Rules and Regulations, the Declaration shall control, and as between the Bylaws and the Rules and Regulations, the Bylaws shall control.

IN WITNESS WHEREOF, the undersigned has executed this instrument the day and year first set forth in accordance with the requirements of the Original Declaration and of the Act.

RIVERVIEW FOURTH ASSOCIATION, a Minnesota non-profit corporation

By: Edward Hershberger
Its: President

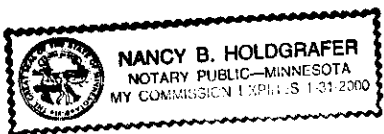
STATE OF MINNESOTA)
)
COUNTY OF ANOKA)

The foregoing instrument was acknowledged before me this 8th day of September, 1999, by Edward Hershberger the President of Riverview Fourth Association, a Minnesota non-profit corporation, on behalf of the non-profit corporation.

Nancy B. Holdgrafer
Notary Public

This instrument was drafted by:

ILIFF & ASSOCIATES, P.A.
4830 France Avenue South
Suite 200
Edina, Minnesota 55410
i:\assn\mcioalriverdec



COMMON INTEREST COMMUNITY NO. 68

RIVERVIEW FOURTH ASSOCIATION

EXHIBIT A TO DECLARATION

LEGAL DESCRIPTION OF PROPERTY SUBJECT TO DECLARATION:

Riverview Townhouses Fourth Addition, Anoka County Minnesota

EXHIBIT B

**Lots 1 through 7, Block 1, Riverview Townhouses Fourth Addition, Anoka County
Minnesota**

**Lots 1 through 7, Block 2, Riverview Townhouses Fourth Addition, Anoka County
Minnesota**

**Lots 1 through 8, Block 3, Riverview Townhouses Fourth Addition, Anoka County
Minnesota**

**Lots 1 through 8, Block 4, Riverview Townhouses Fourth Addition, Anoka County
Minnesota**

**Lots 1 through 6, Block 5, Riverview Townhouses Fourth Addition, Anoka County
Minnesota**

**Lots 1 through 8, Block 6, Riverview Townhouses Fourth Addition, Anoka County
Minnesota**

**Lots 1 through 7, Block 7, Riverview Townhouses Fourth Addition, Anoka County
Minnesota**

COMMON INTEREST COMMUNITY NO. 68

RIVERVIEW FOURTH ASSOCIATION

EXHIBIT C TO DECLARATION

DESCRIPTION OF COMMON ELEMENTS:

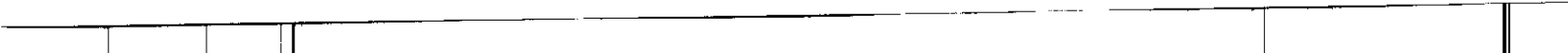


EXHIBIT C

Outlots A and B, Riverview Townhouses Fourth Addition, Anoka County Minnesota

COMMON INTEREST COMMUNITY NO. 68

RIVERVIEW FOURTH ASSOCIATION

EXHIBIT D TO DECLARATION

AFFIDAVIT OF SECRETARY

**AFFIDAVIT OF
SECRETARY**

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

Your Affiant, being first duly sworn on oath states and deposes as follows:

1. I am the Secretary of Riverview Fourth Association ("Association"), a Minnesota non-profit corporation.
2. Not less than ninety (90%) percent of the members of the Association have signed an instrument for the purpose of voting on whether the Association desired to "opt-in" to the Minnesota Common Interest Ownership Act ("MCIOA") by amending and restating the Declaration of Covenants, Conditions and Restrictions which was recorded in the office of the Anoka County Recorder as Document No. 418633 ("Declaration") and the Bylaws of the Association. Pursuant to the Declaration and the Bylaws, the requisite number of unit owners, have signed an instrument in favor of approving and adopting the annexed Amended and Restated Declaration which will be filed with the Anoka County Recorder and the Amended and Restated Bylaws of Riverview Fourth Association, a Minnesota non-profit corporation.

FURTHER YOUR AFFIANT SAYETH NOT.

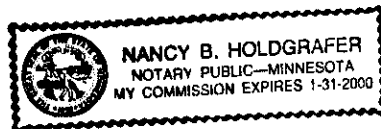
Maureen Bowden 9/8/99
Secretary

On this 8th day of September, 1999, before me appeared Mary Ann Bowden, the Secretary of Riverview Fourth Association, to me personally known to be the person described in and who executed the foregoing instrument and acknowledged that s/he executed the same as her/his free act and deed.

Nancy B. Holdgrafer
Notary Public

This instrument was drafted by:

ILIFF & ASSOCIATES, P.A.
4830 France Avenue South
Suite 200
Edina, Minnesota 55410



i:\assn\mcioa\riverdef

ABSTRACT

Receipt # _____	<input type="checkbox"/> Certified Copy Date Mailed _____
Date/Time: <u>10/4 / 17:00</u>	<input type="checkbox"/> Tax Liens / Releases
Doc. Order _____ of _____	<input type="checkbox"/> Multi-Co Doc Tax Pd
✓ by: Pins: <u>JR</u>	<input checked="" type="checkbox"/> Transfer <input type="checkbox"/> New Desc.
Recordability / Delqs: _____	<input checked="" type="checkbox"/> Division <input type="checkbox"/> GAC
Filing Fees: _____	<input type="checkbox"/> Status <input type="checkbox"/> Def. Spec
Well Certificate Received this Date: _____ Anoka County Recorder	<input type="checkbox"/> Other <input type="checkbox"/> No Change
Notes: <u>21 extra pages</u>	

10-499 KR

ABSTRACT

Receipt # <u>115716/41.50</u>	<input type="checkbox"/> Certified Copy Date Mailed _____
Date/Time: <u>10-1- / 17:00</u>	<input type="checkbox"/> Tax Liens / Releases
Doc. Order <u>1</u> of <u>1</u>	<input type="checkbox"/> Multi-Co Doc Tax Pd
✓ by: Pins: <u>JR</u>	<input type="checkbox"/> Transfer <input type="checkbox"/> New Desc.
Recordability / Delqs: <u>77</u>	<input checked="" type="checkbox"/> Division <input type="checkbox"/> GAC
Filing Fees: <u>41.50</u>	<input type="checkbox"/> Status <input type="checkbox"/> Def. Spec
Well Certificate Received this Date: _____ Anoka County Recorder	<input type="checkbox"/> Other <input type="checkbox"/> No Change
Notes: <u>36 pages / Copy</u>	

DOCUMENT NO. 1466945.0 ABSTRACT

ANOKA COUNTY MINNESOTA

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED IN THIS OFFICE
 FOR RECORD ON **NOV 02 1999**
 AT **5:00 PM** AND WAS DULY RECORDED.
 FEES AND TAXES IN THE AMOUNT OF **\$41.50** PAID.

RECEIPT NO. 1999115716
 EDWARD M. TRESKA

ANOKA COUNTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES

KMB

BY _____
 DEPUTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES