

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
MANZANITA HEIGHTS, A CONDOMINIUM-TOWNHOUSE DEVELOPMENT

This declaration is made as of this 1st day of NOVEMBER, 1979, by EDGAR SCHARRUHN and RUTH SCHARRUHN, hereinafter called "Declarant";

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real property in the County of Douglas, State of Nevada, consisting of four duplex lots, each having two units, for a total of eight duplex units, one triplex lot containing three units, for a total of three triplex units, and one fourplex unit having four units, for a total of four fourplex units, for a sum total of fifteen units, more particularly described on Exhibit "A", attached hereto and incorporated herein by reference.

NOW, THEREFORE, Declarant hereby declares that all of the property described above shall be held, sold, and conveyed subject to the following easements, covenants, conditions, and restrictions which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

SECTION 1: "Articles" shall mean and refer to the Articles of Incorporation of MANZANITA HEIGHTS HOMEOWNERS' ASSOCIATION, which are or shall be filed in the office of the Secretary of State of the State of Nevada.

SECTION 2: "Association" shall mean and refer to the MANZANITA HEIGHTS HOMEOWNERS' ASSOCIATION, a non-profit Nevada

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corporation, its successors and assigns.

SECTION 3: "Board" shall mean and refer to the Board of Directors of the Association as provided for in the aforesaid Articles of Incorporation.

SECTION 4: "By-laws" shall mean the by-laws of the Association which are or which shall be adopted by the Board, and any subsequent properly adopted amendments thereto.

SECTION 5: "Common Area" or "Common Areas" shall mean and refer to all of the project common areas as set forth on the map attached hereto as Exhibit "A" and incorporated herein by reference.

SECTION 6: "Declarant" shall mean the party signatory hereto as defined hereinabove who is, in fact, the current owner of the real property described herein.

SECTION 7: "Declaration" shall mean and refer to the within declaration of covenants, conditions and restrictions.

SECTION 8: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any one of the aforescribed duplex, triplex or fourplex units.

SECTION 9: "Project" shall mean and refer to the entire parcel of real property described on said Exhibit "A" which is divided or to be divided into various units.

SECTION 10: "Unit" shall mean and refer to the elements of the project not owned in common with the other owners. Each unit is an individual residence and is a numbered parcel or unit as shown defined and delineated on the map attached hereto as Exhibit "A" and incorporated herein by reference.

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ARTICLE 2

WAIVER OF PARTITION

There shall be no judicial partition of the project, or any part thereof, and each unit owner and each successor to each unit owner, whether by deed, gift, devise or operation of law, for their own benefit and for the benefit of their respective units, and for the benefit of all other unit owners, specifically waive and abandon all rights, interest and causes of action for judicial partition of the tenancy in common ownership of the project, and do hereby promise and covenant that no action for such judicial partition shall be instituted, prosecuted or reduced to judgment, unless agreed to in writing, signed by at least eighty percent (80%) of the members of the Association; provided, however, that if any unit shall be owned by two or more co-tenants, as tenants in common or as joint tenants or as tenants by the entirety, nothing herein contained shall be deemed to prevent a judicial partition as between such co-owners of a single unit as to their undivided interest therein. No unit shall be subdivided and become more than one unit.

ARTICLE 3

HOMEOWNERS' ASSOCIATION

SECTION 1: The Organization. The Association, as a non-profit membership corporation is charged with the duties and empowered with the rights as set forth herein and as set forth in the Articles and By-Laws. In the event that the Association as a corporate entity is dissolved, a non-profit, unincorporated association shall forthwith and without further action or notice be formed to succeed to all the rights and duties of the Association hereunder. The affairs of such unincorporated association shall be governed by the laws of the State of Nevada and, to the extent not inconsistent therewith, by the Articles

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and the By-Laws of the Association as if they were created for the purpose of governing the affairs of an unincorporated association.

SECTION 2: Membership. Each owner of a unit, including Declarant, by virtue of being an owner and for so long as it is an owner, shall be a member of the Association, or, in the event of its dissolution, a member of the unincorporated association succeeding the Association, provided that any person or entity who holds such membership interest merely as security for the performance of an obligation shall not be a member. Each unit owner shall be entitled to one membership in the Association for each unit owned. Association membership shall be appurtenant to and not be separated from the ownership of any unit. Upon termination of unit ownership, the membership in the Association shall also terminate. Ownership of a unit shall be the sole qualification for membership in the Association. Except as otherwise provided for herein, rights, duties, privileges and obligations of all members of the Association shall be as provided in these restrictions, the Articles, By-Laws and rules of the Association. The membership of an owner shall not be transferred, pledged or alienated in any way except upon transfer of title to such unit. Any attempt to make or prohibit a transfer is void.

SECTION 3: Voting Privileges. Any vote may be cast by an owner in person or by proxy. All proxies shall be in writing, dated and signed by the owner and filed with the Board at the commencement of any meeting. No proxy shall extend beyond a period of eleven (11) months after filing such proxy with the Board. Every proxy shall automatically cease upon the sale of the unit by the owner. All proxies shall be revocable at any time, either in writing or by the person appearing

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in person at a meeting to vote.

SECTION 4: Meetings, Notice, Quorum and Location. Written notice to the members of the Association shall be sent to all members not less than ten (10) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all votes shall constitute a quorum. If any meeting cannot be held because a required quorum is not present, unit owners present may adjourn the meeting to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time the original meeting was called. A required quorum at the adjourned meeting shall be twenty-five percent (25%) of the votes. The location of all such meetings shall be within the project or as close thereto as practicable, and written notice of such meeting shall state the location thereof, specifying the place, day and hour, and in case of special meeting, the nature of business to be undertaken.

SECTION 5: Initial Board of Directors. The initial Board of Directors of the Association shall consist of five (5) Directors, and shall be elected by the Declarant upon the incorporation of the Association. Each Director shall hold office until six (6) months after the transfer and conveyance by Declarant of the first unit to a purchaser, or until fifty-one percent (51%) of the units in the project have been sold and conveyed to purchasers, whichever occurs first, at which time a special meeting of the members shall be held for the purpose of electing a new Board. At said special meeting, a Board of five (5) Directors shall be elected to serve until the first annual meeting of the Association, or until such later time as their successors may be elected. The initial Board of Directors of the Association need not be owners of units within the project,

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however, at such time as five units have been sold, the Board of Directors shall be elected from among the owners of the units.

SECTION 6: Board of Directors. At each annual meeting, subject to the special meeting referenced in Section 5 hereinabove, the membership shall elect a number of Directors whose terms have expired. At the first regular annual meeting, three (3) Directors shall initially serve for two year terms, and two (2) shall serve for one year terms. Thereafter, as such initial terms expire, Directors shall be elected to serve two year terms. Thus, three Directorships shall be filled every other year, and two Directorships shall be filled on the alternating years. The Board shall be responsible to undertake all duties and responsibilities of the Association, and the management and conduct of the affairs thereof except as expressly reserved herein to the vote of the membership.

SECTION 7: Duties of the Association. The Association shall have all of the powers as set forth in the Articles, together with the general power to do any and all things that may lawfully be done in operating for the benefit of the health, welfare and safety of the Association and its members, subject only to the limitations upon the exercise of such powers as are expressly set forth therein, the Articles, and the By-Laws. Without limiting the generality of the foregoing paragraph, the Association, for the benefit of all members, shall have the power, obligation and duty to enforce the provisions of this Declaration, and shall obtain and pay for, out of the maintenance fund, all of the following:

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(a) Water, sewage, garbage, electricity, gas, telephone and all necessary utilities and services used for and consumed in the common areas (to the extent not separately metered or charged) for the units.

(b) Gardening and landscaping services for the common area.

(c) Recreational facility maintenance and service charges.

(d) Charges for maintaining and repairing any portion of the common area, including, but not limited to, the roadways and roadway easements, drainage structures and drainage easements.

(e) The policy or policies of comprehensive liability insurance, insuring the Association, the Board and the owners against any liability to the public or to the unit owners incident to the ownership and/or use of the project and to the public or to any unit owner incident to the use of or resulting from any accident or intentional act occurring in or about the common areas. The maximum limits of such insurance shall be not less than \$100,000.00 for any one person injured and \$300,000.00 for any one accident, and \$50,000.00 property damage. The Board shall review the limits of coverage of such insurance at least every three (3) years and shall increase same if necessary to provide adequate coverage or protection to the Association, Board and unit owners. Said policy or policies shall provide cross-liability endorsement, wherein the rights of the named insureds thereon shall not be prejudiced as respect to any action by one insured thereunder against another named insured. Any insurance acquired by the

Board shall be taken in the name of the Board as trustee for the use and benefit of the Board and all unit owners. The Board may acquire any other types of insurance or insurances in any amounts in excess of the limits provided herein if the Board shall determine the same to be necessary in its sole discretion to fully protect the interests of the unit owners.

(f) A policy or policies of fire and causality insurance covering the entire project, with extended coverage endorsement, or a replacement cost basis in minimum amount not less than that necessary to comply with any co-insurance percentage stipulated in the policy, but not less than eighty percent (80%) of the insurable value based upon replacement costs of the entire project, payable as provided for hereinafter, or such other fire and causality insurance that the Board shall determine gives substantially equal or greater protection to the owners and their mortgagees, as their respective interests may appear. Each policy shall provide that it shall not be cancelled without at least ten (10) days prior written notice to the Association and to each of the unit owners. Board shall review the limits of such insurance for adequacy at least every three (3) years, and shall increase the same, if necessary, to provide such coverage and protection as is customarily carried by prudent property owners in the County in which the project is situated.

(g) Nevada Industrial Commission insurance to the extent necessary to comply with all applicable laws in the State of Nevada, or the regulations of any

governmental body or authority having jurisdiction over the project.

(h) Legal, accounting and management services necessary or proper for the maintenance and operation of the common areas or the enforcement of this Declaration.

(i) All taxes and assessments, if any, levied separately against the common area.

(j) Painting, maintenance and repair of the common area and all structures thereon.

(k) Painting of all outside surfaces of the individual units which painting shall be done every five years.

The Board shall have full power and authority to act for and on behalf of all units owners and shall keep and maintain the common areas in good condition and repair, and shall provide for lighting, landscaping, gardening and other janitorial services as needed for the common areas, and shall cause any and all of the other acts to be done which may be necessary to ensure the maintenance of the common areas in a first class condition and repair, including painting of the exterior of any of the common area buildings and such other portions of the common areas as the Board, in its discretion, determines to be necessary; provided, however, no contract executed by the Board for materials and/or services for the common area shall exceed one (1) year in duration unless prior approval of a majority of the Association members, excluding Declarant, has first been obtained by the Board.

The Association may purchase or construct capital improvements in the common area and assess the owners for the cost thereof, provided that if the cost of such capital improvement including furniture and fixtures shall be in excess of

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\$2,500.00, the authorization for such purchase must be by affirmative vote of at least two-thirds (2/3) of the membership voting in person or by proxy at the annual meeting or at a special meeting to be called for this purpose.

The Association, as the agent of all owners, shall have the power to dedicate any of the project common area to the appropriate public authority for public use, provided that any such dedication shall have the assent of at least seventy-five percent (75%) of the membership.

Subject to the provisions of Article VIII, Section 2 the Board shall have the duty to appoint and remove members of the Architectural Review Committee and to ensure that at all reasonable times there is available a duly constituted and appointed Architectural Review Committee.

ARTICLE IV

ASSESSMENTS

SECTION 1: Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each unit owned within the project, hereby covenants, and each owner of any unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (a) Annual maintenance assessment or charges; and
- (b) Special assessments for capital improvements.

Such assessments shall be established and collected as hereinafter provided. Said assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the unit against which each such assessment is made. Such assessment, together with interest, costs and reasonable attorney's fees, shall also be the principal obligation of the person who was the owner of such

unit at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to a subsequent successor in title unless expressly assumed by such successor.

SECTION 2: Operating Fund. The Association shall maintain an operation fund, into which the Board shall deposit all funds paid to the Association as maintenance and operation assessments and special assessments. Said funds shall be held in trust by the Association for the use and benefit of its individual members, and shall only be used for and applied to the common specific purposes of the members as herein set forth.

SECTION 3: Maintenance and Operations Assessments.

(a) Regular Assessments. Within thirty (30) days after the first conveyance of a unit by Declarant to a purchaser, the Board shall estimate the total charges to be paid out of the maintenance fund, including a reasonable reserve for contingencies and replacements, for the remainder of the fiscal year, and shall allocate said assessment charges to all of the owners, including Declarant, on the basis of the ownership of the units, each owner of the unit to be assessed one-fifteenth (1/15) of the total assessment to be charged. The Board shall review such determination each fiscal year. Within thirty (30) days prior to the beginning of each subsequent fiscal year, the Board shall estimate the total charges to be paid out of the maintenance fund during such year (including a reasonable reserve for contingencies and replacements and less any expected surplus from the prior year). The Board shall allocate and assess said estimate of total charges to each owner, as set forth above. All funds of the Association shall be budgeted, allocated, assessed and collected for current maintenance and operation of the project, for contingencies, for deferred maintenance and for replacement of capital improvements. Said funds shall be used for the

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specific purposes for which said funds have been designated; however, in the event that a surplus appears in one budget account, such surplus may be transferred to another budget account so long as the overall budgeted amount is not exceeded. Prior to ninety (90) days following the end of each fiscal year, each owner shall receive an accounting of assessment receipts and disbursements for such fiscal year. If such accounting shows that a surplus of cash results in the current maintenance and operation account, the Board shall vote as to whether to refund all or a part of such surplus, or as to whether such surplus shall be carried over to future assessment periods to reduce future assessments.

(b) Additional Assessments. If, at any time during any fiscal year, the maintenance assessment proves inadequate for any reason, including nonpayment of any owner's share thereof, the Board may levy a further assessment in the amount of such actual or estimated inadequacy, which amount should be assessed to the owners individually in the manner set forth in subparagraph (a) hereinabove. Such additional assessment shall not exceed twenty percent (20%) in the aggregate of the budgeted gross expenses of the Association for the fiscal year without the vote or written assent of a majority of the unit owners.

(c) Increase in Regular Assessments. From and after July 1st of the year immediately following the conveyance of the first unit to a public purchaser, the maximum annual regular assessment may be increased each fiscal year not more than twenty percent (20%) above the maximum assessment for the previous year, without the approval of a majority of members by vote or written assent. The Association may change the maximum amount of the regular assessment prospectively for any period in excess of twenty percent (20%) provided that any such changes shall have the assent of a majority of members entitled to vote; such votes shall be cast in person or by proxy at a meeting duly called for

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this purpose pursuant to written notice given to all voting members at least thirty (30) days in advance, which notice shall set forth the purpose of the meeting. In the event that a majority of the members are not present in person or by proxy at any such meeting as hereinabove provided, members not present may give their written assent to the action taken as long as such writings are executed and delivered to the Secretary of the Association within five (5) days after said meeting.

(d) Time and Manner of Payment of Assessments. Assessments shall be due and payable by the owners to the Association during the fiscal year in monthly installments, in advance, on or before the first day of each month of each fiscal year, or in such other manner as the Board shall designate. If not paid within fifteen (15) days after its due date, each such charge shall thereafter bear interest at the rate of ten percent (10%) per annum until paid. If an installment of an assessment is not paid within thirty (30) days after its due date, the Board may declare the entire assessment for such fiscal year immediately due and payable in full. If any suit or action is brought to collect any such charge, there shall be added to the amount thereof, costs of suit and a reasonable amount of attorney's fees to be fixed by the Court and included in any judgment of any such suit or action.

SECTION 4: Reimbursement Assessment. The Board shall levy an assessment against any owner as a result of whose failure to comply with this Declaration, the Rules or the Architectural Review Committee Rules, moneys were expended by the Association from the operating fund in performing its functions under these restrictions. Such assessments shall be for the purpose of reimbursing the Association, and shall be limited to the amount so expended and shall be due and payable to the Association when levied.

SECTION 5. Capital Improvement Fund. The Board shall maintain a capital improvement fund, into which it shall deposit all moneys paid to it as capital improvement assessments. Said funds shall be deemed to be contributions to the capital account of the Association by the members and shall be so reflected on its books.

The Board shall made disbursements from said capital improvement fund as required in the performance of the functions for which the capital improvement assessments are levied.

SECTION 6: Capital Improvement Assessments.

(a) Upon approval by two-thirds (2/3) of the voting members approving a proposed capital improvement, the estimated cost of said improvement shall be assessed to all members in accordance with the formula set forth hereinabove. If such assessment shall be in excess of five percent (5%) of the original assessment, the affirmative vote or written consent of two-thirds (2/3) of the members shall be required for such further assessment.

(b) If at any time and from time to time a capital improvement assessment proves or appears likely to prove inadequate for any reason, including nonpayment of any owner's share thereof, the Board may, without obtaining any further approval from the owners, levy a further capital improvement assessment in the amount of such actual or estimated inadequacy, which shall be assessed to all such owners in accordance with the formula set forth hereinabove. If such additional assessment shall be in excess of five percent (5%) of the original assessment, the affirmative vote or written consent of two-thirds (2/3) of the members shall be required for such further assessment.

(c) Capital improvement assessments shall be due and payable by all owners in such installments and during such period or periods as the Board shall designate.

SECTION 7: Default in Payment of Assessments.

(a) The assessments levied by the Board on behalf of the Association under this Article shall constitute separate assessments. Each assessment levied under this Article, together with interest, costs and reasonable attorney's fees, shall be a separate, distinct and personal debt and obligation of the owner against whom it is assessed, and shall bind his heirs, devisees, personal representatives and assigns. Each assessment levied under this Article shall also be a charge on the land and shall be a continuing lien upon the unit against which such assessment is made. The Association shall have a separate lien and a separate lien is hereby created upon each unit against which an assessment is made to secure the payment of any assessments under this Article. Each such lien shall likewise secure interest on the amount unpaid from the date that it became due and shall also secure costs of the suit and reasonable attorney's fees in the event either an action or exercise of power of sale is used to collect such assessment, and the interest thereon.

(b) Upon request of any unit owner, the Board shall execute and acknowledge a certificate stating that the indebtedness secured by the lien upon the unit of said owner has been paid, and such certificate shall be conclusive upon the Association. The Board shall furnish a copy of such certificate to any owner upon request. A reasonable fee may be charged for the preparation of such statement.

(c) Each owner of a unit subject to these Restrictions by acceptance of a deed or other conveyance therefor, whether from Declarant or subsequent owners, shall become personally obligated and agree to pay such charges that accrue after he received title thereto, plus costs of suit, and reasonable attorney's fees as above provided and shall thereby vest in the Association the right and power to bring all actions for the

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collection of such charges, costs of suit and attorney's fees, and for the enforcement of such liens. Such right and power shall continue in the Association and such obligations shall run with the unit, so that the successive owner or owners of record of any unit within the project shall in turn become liable to pay all such charges which shall become a lien thereon during the time they are the record owner of such unit within the project. After a record owner transfers record of any unit owned by him he shall not be liable for any charges thereafter to accrue against such unit. He shall remain personally liable, however, for all unpaid amounts due and owing at the time of transfer. A contract seller of any unit shall continue to be liable for all such charges until a conveyance by deed of such unit is recorded in the Office of the County Recorder of Douglas County, Nevada.

(d) The lien of each of the assessments provided for under this Article shall be subordinate to the lien of any first mortgage or mortgages or deeds of trust now or thereafter placed upon the units subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale of such unit pursuant to a decree of foreclosure of any such first mortgage or deed of trust or pursuant to the exercise of a power of sale in such first mortgage or deed of trust. Such foreclosure sale shall not relieve such unit from liability for any assessments thereafter becoming due nor from the lien of any such subsequent assessment. The foregoing subordination shall not apply to any secondary financing covering the units subject to assessment and the lien created herein shall be superior to liens securing secondary financing.

(e) Any assessment not paid within thirty (30) days after the due date shall be deemed to be in default and shall

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bear interest from the due date at the rate of ten percent (10%) per annum, and the Board, on behalf of the Association, may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the unit. No action shall be brought to foreclose the lien securing any assessment under this Article less than thirty (30) days following the mailing of a notice of default in the payment of an assessment when due signed by a majority of the Board to the owner of such unit and the recording of a copy of such notice in the Office of the Recorder of Douglas County, State of Nevada. Said notice shall state the amount of the assessment together with the interest, costs and reasonable attorney's fees; a description of the unit against which the same has been assessed and name or names of the record owner or owners thereof. Such notice of default in payment of an assessment and election to declare the entire amount thereof forthwith due and payable may be recorded and the lien of said assessment may be foreclosed either by an action brought to foreclose the same or, the Association may, at its option, foreclose the lien of said assessment by exercise of the power of sale herein granted to the Association, and all costs, charges and attorney's fees shall be included in the amount to be recovered either by action or through exercise of power of sale.

(f) Each owner does hereby grant to the Association the power to enforce and foreclose the lien of each assessment by power of sale in the manner herein provided. The Association may, after not less than three (3) months have elapsed after the recording of said notice of default, sell the unit described in the notice of default in order to satisfy said assessment, costs and fees specified in the notice of default, and the costs incurred in connection with the sale, including the cost of a search of title and additional attorney's fees, after first

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giving notice of the time and place of such sale in the manner provided by the law of the State of Nevada for the sale of real property under writ of execution. Said sale may be conducted by a member of the Board, or an attorney or other representative designated by the Association to conduct said sale. The time of said sale may be postponed from time to time by proclamation made to the persons assembled at the time and place previously appointed and advertised for such sale or to which such sale may have been postponed. Said sale shall be at public auction to the highest cash bidder. The Association may make purchase at said sale. The Association upon such sale, shall make, without warranty, execute and after due payment made, deliver to purchaser at said sale a deed conveying the unit so sold, which shall convey to the purchaser all of the title of the delinquent record owner. The proceeds of the sale shall be applied first to the payment of the costs of the sale, then to the sums described in the notice of default. The balance then remaining shall be applied to the delinquent record owner or to his heirs, executors, administrators or assigns. The deed given by the Association to the purchaser at such sale shall be conclusive proof of all recitals contained therein, and shall be effectual and conclusive against the delinquent record owner of the unit so sold, his heirs and assigns.

(g) Any owner of a unit purchased at execution sale, or at foreclosure, shall be bound by the restrictions, covenants, reservations, assessments and liens as provided herein, other than assessments or liens arising prior to such foreclosure sale, or to the commencement of the action resulting in sale under writ of execution.

(h) Upon payment of a delinquent assessment, together with the fees and costs incurred in connection therewith, the Board shall cause to be recorded in the same manner as the notice of

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default, a certificate stating the satisfaction and release of the lien upon payment by the delinquent owner of the costs incident thereto. A failure to record such certificate of discharge within thirty (30) days after written demand by the owner of such unit shall entitle him to recover a penalty of One Hundred Dollars (\$100.00) from the Association, plus any actual damages that he may have sustained.

(j) In the event any owner fails to pay any assessment when due, in addition to such other action as the Board of Directors may determine to be appropriate, the Board of Directors may deny such owner the right to vote as a member of the Association until such time as said owner satisfies all current and delinquent assessments and all fees and costs incurred by reason of such delinquency.

SECTION 8: Association Funds. The assessments collected by the Association shall be deposited into a separate account(s) with a savings and loan association or bank selected by the Board, which accounts shall be clearly designated as the "MANZANITA HEIGHTS HOMEOWNERS' ASSOCIATION ACCOUNT". The assessments collected by the Association shall be held in trust by the Association for and on behalf of each owner and shall be used solely for the operation, care and maintenance of the project as provided in this Declaration. The Board shall allocate a portion of said funds as collected for the annual maintenance and operation of the project as specified in the annual budget and the Board shall allocate a portion of said funds as collected as reserves for contingencies, replacement and deferred maintenance of the capital improvements of the project as specified in the annual budget. Upon sale or transfer of any unit by any owner, the owner's interest in the trust funds shall be deemed automatically transferred to the successor transferee of such owner.

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In the event that the Board retains a professional management service, the Board may delegate the authority to deposit or withdraw funds to responsible representatives of the professional management agent so retained. Said professional management agent may additionally be authorized to establish a common trustee account deposit of assessment as collected. Any funds deposited in such common trustee account shall be allocated as previously specified herein.

SECTION 9: Failure to Fix Maintenance Assessments.

The omission by the Board of Directors to fix the maintenance assessments hereunder before the expiration of any year, for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of these Restrictions, or a release of the owner from the obligation to pay the assessments, or any installment thereof, for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

ARTICLE V

PROJECT COMMON AREA OWNERSHIP

SECTION 1: The project common area shall be conveyed to and owned by the Association. The Association shall accept the conveyance of the project common area from time to time transferred to it pursuant to this paragraph. Declarant shall transfer and convey to the Association and the Association shall accept Declarant's free hold estate in all of the real property on the map attached hereto as Exhibit "A" and designated on said map as "Common Area". Said conveyance shall be by appropriate grant deed. Such real property and free hold estate shall be transferred to the Association prior to or concurrently with the transfer of title to the first unit shown on the map attached hereto as Exhibit "A" in which such real property is

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included. Such real property and free hold estate shall be transferred by Declarant to the Association free and clear of all liens, restrictions and encumbrances, except the following:

(a) The covenants, conditions and restrictions contained herein;

(b) The lien of real property taxes and assessments not delinquent;

(c) Such easements and rights-of-way on, over or under all or any part thereof as may be designated on the map attached hereto as Exhibit "A".

(d) Such easements and rights-of-way on, over or all or any part thereof as may be reserved to Declarant or granted to or for the benefit of the United States of America, the State of Nevada, County of Douglas, or any other political subdivision or public organization, or public utility entity, for the purpose of constructing, erecting, operating and maintaining thereon, therein or thereunder at the time or at any time in the future, (1) roads, streets, walks, drive-ways, parkways and park areas; (2) poles, wires and conduits for transmission of electricity to the project and for the necessary attachments in connection therewith, and (3) public and private sewers, sewage disposal systems, storm water drains, land drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipelines and any and all equipment in connection therewith.

(e) The obligation imposed, directly or indirectly by virtue of any statute, law, ordinance, resolution or regulation or regulation of the United States of America, the State of Nevada, County of Douglas, or any other political subdivision or public organization having jurisdiction over such property or by virtue of any organization or body politic

created pursuant to any such statute, law, ordinance or regulation.

ARTICLE VI

OCCUPANCY AND USE RESTRICTIONS

SECTION 1: The subject property is hereby restricted to residential dwellings for residential use. All buildings or structures erected upon said project shall be of new construction and no buildings or structures of a temporary nature, trailer, basement, tent, shack, barn, or other out buildings shall be used on any unit at any time as a residence either temporarily or permanently.

SECTION 2: No animals, livestock or poultry of any kind shall be raised, bred or kept in any unit except that dogs, cats and other household pets may be kept provided they are not kept, bred or maintained for any commercial purpose, and the maximum number of dogs does not exceed two (2) and the maximum number of cats does not exceed two (2).

SECTION 3: No exotic or wild animals shall be kept in any unit for any purpose.

SECTION 4: No dogs or cats or other household pets may be chained or housed outside of a unit. No kennels for the housing of such animals will be allowed in the project.

SECTION 5: All dogs and cats shall be kept on a leash or be otherwise in the control of the owner or person having custody of said animal during the times in which said animals are outside of the units.

SECTION 6: No noxious or offensive activity shall be carried on upon any unit, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

SECTION 7: All buildings and other structures erected on any unit within said development shall be built in a good workmanlike manner and shall be maintained in good condition. No building shall be moved from any other location. Notwithstanding anything herein to the contrary, no building or other structure shall be erected unless previously approved by the Architectural Review Committee as set forth in Article VIII.

SECTION 8: When the construction of any structure is commenced upon any of said units, the owner thereof shall prosecute, with all reasonable diligence, the completion thereof and shall complete the construction thereof within twelve (12) months from date of commencement.

SECTION 9: No building or structure shall be constructed of a building material that will cause the sunlight to be reflected nor shall any building or any structure be painted with any paint or other material that will cause the light to be reflected. Any repair, decoration or improvement which is determined to be in violation of this paragraph by the Architectural Review Committee, shall be removed by owner upon notice from the Architectural Review Committee of said violation.

SECTION 10: Once a building is constructed on any of said units, there shall be no alterations to the exterior of said structure without the approval of the Architectural Review Committee and any such alteration which is determined to be in violation of this paragraph by the Architectural Review Committee, shall be removed by owner upon notice from the Architectural Review Committee of said violation.

SECTION 11: No dwelling unit shall be occupied for residential purposes until the same shall be issued a Certificate of Occupancy from the Douglas County Building

Department.

SECTION 12: No advertising signs (except one of not more than five square feet "For Rent" or "For Sale" sign per unit), billboards, unsightly objects, unsightly appearance or nuisance shall be erected, placed or permitted to remain on any of said unit, nor shall the premises be used in any way or for any purpose which may endanger the health or unreasonably disturb the holder of any unit in the project. No business activities of any kind whatsoever shall be conducted in any building or in any portion of the project; provided further, however, the foregoing covenants shall not apply to the business activities, signs and billboards, if any, by the Declarant, its agents and assigns during the construction and sale period, and by sales organization designated by the Declarant, its successors and assigns, in furtherance of its powers and purposes as hereinafter set forth.

SECTION 13: No garbage, refuse, rubbish, or obnoxious or offensive material shall be permitted to accumulate in any unit or any portion of the common area, and the owner thereof shall cause all garbage and other like material to be disposed of by and in accordance with accepted sanitary practice. All garbage or trash containers shall be placed in the area specifically provided therefore and in no event shall they be placed outside of the unit so that they can be seen from the adjoining properties, from the streets, or pedestrian areas or from the common areas, provided, however, that said garbage or trash containers may be placed outside of the unit on the day for the collection of said garbage.

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SECTION 14: There shall be no storage of gasoline or other dangerous or noxious chemicals or products within the project.

SECTION 15: No fences, hedges or walls, exterior clotheslines or unenclosed garbage receptacles shall be erected or maintained upon said units except such as are installed in accordance with the initial construction located thereon or as approved by the Architectural Review Committee in the manner set forth herein.

SECTION 16: No trees or native materials of any kind shall be removed, cut, painted or disturbed without written approval of the Architectural Review Committee.

SECTION 17: No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted, nor shall oil wells, tanks, tunnels, mineral excavation or shafts be permitted. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted.

SECTION 18: No commercial building shall be permitted. No commercial vehicles shall be parked overnight.

SECTION 19: No house trailers, travel trailers, motor homes, or boats shall be stored on the project.

SECTION 20: There shall be no parking or storage of vehicles and/or equipment except in spaces provided for such parking.

ARTICLE VII

EASEMENTS

SECTION 1: Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plot. Within these easements, no structure, planting or other material shall be placed or permitted to remain which

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may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements.

ARTICLE VIII

ARCHITECTURAL REVIEW COMMITTEE

SECTION 1: Organization. There shall be an Architectural Review Committee consisting of three (3) persons. There shall also be two (2) alternate members either of whom may be designated by the Committee to act as substitute on the Committee in the event of absence or disability of any member.

SECTION 2: Designation of Members and Terms of Office.

(a) Initial Members. The initial members of the Architectural Review Committee shall be appointed by Declarant. The Declarant shall designate said members prior to the conveyance of the first unit to a purchaser. Such designation shall be reflected in the Minutes of the Association. Declarant shall designate one (1) member to serve a term of one (1) year; one (1) member to serve a term of two (2) years, and one (1) member to serve a term of three (3) years from the date of appointment. The two alternate members shall serve a term of three (3) years. Each of said members shall serve the length of said terms unless they have resigned or have been removed from office. Upon the expiration of the initial term of the members nominated to serve by Declarant, the Association shall have the right to appoint replacement members. Thereafter, the terms of all Architectural Review Committee members appointed to replace a member who has resigned or has been removed shall serve such member's unexpired term.

(b) Resignations. Any member or alternate member of the Architectural Review Committee may at any time resign from the Committee upon written notice delivered to Declarant or to the Board, whichever then has the right to appoint members.

(c) Vacancies. Vacancies on the Architectural Review Committee, however caused, shall be filled by the Association.

SECTION 3: Duties. It shall be the duty of the Architectural Review Committee to consider and act upon such proposals or plans submitted to it pursuant to the terms hereof, to adopt Architectural Review Committee Rules, to perform other duties delegated to it by the Association, and to carry out all other duties imposed upon it by these restrictions.

SECTION 4: Meetings. The Architectural Review shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of any two (2) members shall constitute an act by the Committee unless the unanimous decision of its members is otherwise required by these Restrictions. The Committee shall keep and maintain a record of all actions taken by it at such meeting or otherwise. During the period that Declarant has the right to appoint and remove Members under this section the Committee may charge a filing fee to be used to pay an architect who may or may not be a member of the Committee to review the submitted Plans and Specifications. After the period described hereinabove, the Architectural Review Committee may reimburse members for reasonable expenses incurred by them in the performance of any Architectural Review Committee function.

SECTION 5: Waiver. The approval by the Architectural Review Committee of any plans, drawings or specifications for any work done or proposed or for any other matter requiring the approval of the Architectural Review Committee under these

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Restrictions shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

SECTION 6: Liability. Neither the Architectural Review Committee nor any member thereof shall be liable to the Association or to any owner for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; (c) the development of any unit subject to these Restrictions.

ARTICLE IX

GENERAL PROVISIONS

SECTION 1: Severability. Invalidation of any one of these covenants or restrictions by judgment or Court order shall in no way affect any other provisions which shall remain in full force and effect.

SECTION 2: Amendment. All of the restrictions set forth herein are imposed upon the units for the direct benefit thereof as a part of the general plan of improvement. Said restrictions shall run with the units and shall be binding for twenty (20) years from the date of this Declaration or until such time as the owners of at least fifty-one percent (51%) of the units shall amend or modify the restrictions by the recordation in the office of the County Recorder of Douglas County, State of Nevada, of a supplemental set of restrictions duly executed and acknowledged by the owners of not less than fifty-one percent (51%) of the units, provided however, that no change in the restrictions may be made without the written consent of the Declarant so long as the Declarant owns any units. At the

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end of said twenty (20) years, this declaration of restrictions and covenants shall automatically extend for successive periods of ten (10) years, unless an instrument has been recorded agreeing to change said declaration of restrictions and covenants by the method set forth in the preceding sentence.

SECTION 3: Enforcement. The conditions, restrictions or covenants herein contained shall bind and enure to the benefit of, and be enforceable by, Declarant, buyer or the Association, and it shall be lawful for any one of them to institute and prosecute a proceeding at law or in equity against any person, firm or corporation violating or threatening to violate any of the restrictions, conditions or covenants herein contained, and such action may be maintained for the purpose of preventing the violation or to recover damages for a violation or for both of such purposes. Any failure to enforce any of the conditions, restrictions or covenants herein contained shall in no way or event be deemed a waiver of the right to enforce such conditions, restrictions or covenants thereafter. Nothing herein contained shall be construed as preventing the application of any remedies given by law against a nuisance, public or private, or otherwise, but the remedies contained herein shall be in addition to any other remedies given by law.

SECTION 4: Attorney's Fees. In the event that an action shall be commenced to enforce any of the conditions, restrictions, or covenants herein contained, the party commencing such action shall be entitled to a reasonable attorney's fee in an amount to be set by the Court in such action.

SECTION 5: Heirs, Successors and Assigns. This Declaration of restrictions shall be binding upon and enure to the benefit of Declarant, its heirs, successors and assigns.

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ARTICLE X

DAMAGE OR DESTRUCTION OF PROJECT COMMON AREA

SECTION 1: In the event of damage to or destruction of the project common area or any part thereof, the Association shall repair or replace the same from the insurance proceeds payable to it by reason of said damage or destruction. If any such damage or destruction was insured against and the insurance proceeds are insufficient to cover the costs of repair or replacement of the property so damaged or destroyed, the Association shall levy a special assessment to cover said costs against all units in the project in proportion to the ratio set forth hereinabove.

If any damage or destruction to the project common area is caused by causality not insured against, then the repair or reconstruction shall be accomplished in the manner approved by vote of sixty percent (60%) of the members. The Association shall levy a special assessment against all unit owners to cover the costs of said repair or replacement as provided for hereinabove.

ARTICLE XI

DESTRUCTION OF UNITS

SECTION 1: In the event any of the buildings are damaged by fire or other causality which is insured against and said damage is limited to the individually owned unit or units, the insurance proceeds shall be paid to the owner or owners of such unit or units, or the mortgagees thereof as their respective interests appear, and such owner or mortgagee shall use the same to rebuild or repair such unit. In the event such proceeds are insufficient to complete such work, the unit owner shall pay in advance such additional sums that may be necessary to complete such rebuilding and repair. In the event that any unit is not so

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