

Recorded OCT 25 1977  
Reception No. 82815 Margaret V. Chiles, Recorder.

AMENDMENT TO  
CONDOMINIUM DECLARATION  
FOR  
CLEAR CREEK CONDOMINIUM

This Amendment to the Condominium Declaration for Clear Creek Condominium, made on the date hereinafter set forth by Stop and Shop, Inc., a Colorado corporation (hereinafter referred to as "Declarant");

WITNESSETH:

WHEREAS, Declarant is the named Declarant in the Condominium Declaration for Clear Creek Condominium recorded in the office of the Clerk and Recorder of Clear Creek County, Colorado, on January 24, 1977 in Book 365 at Pages 236 through 254, and

WHEREAS, Declarant is the owner of twenty-three (23) of the twenty-four (24) Condominium Units in Clear Creek Condominium, none of which is encumbered, and

WHEREAS, Jack E. Thornton and Nancy S. Thornton are the owners of one of the twenty-four (24) Condominium Units in Clear Creek Condominium, which unit is encumbered by a deed of trust for the benefit of The D. C. Burns Realty and Trust Company, and

WHEREAS, the property to which this Amendment applies is described as:

All the following described land within the Town of Georgetown, Clear Creek County, State of Colorado, according to F. F. Brune Plat of 1876, situate East of the East right of way line of U. S. Highway 6, and West of the West right of way line of Rose Street, being a portion of Block 84 of said plat, together with vacated alley, more particularly described as follows:

Commencing at the Southeast corner of said Block 84, thence N 87°53'10" W 202.01 feet along the North right of way line of 18th Street to the intersection with the East right of way line of U. S. Highway 6; thence N 1°54'28" E 197.50 feet along said East right of way line; thence S 88°05'32" E 76.83 feet; thence S 42°53'10" E 95.00 feet; thence S 87°58'51" E 58.50 feet to a point on the West right of way line of Rose Street; thence S 2°01'09" W 130.70 feet along said West right of way line of Rose Street to the point of beginning

upon which exist two multi-story buildings containing twelve separately designated units each as improvements thereon.

WHEREAS, all conditions for the amendment of said Condominium Declaration have been met;

THEREFORE, the said Condominium Declaration is hereby and by this instrument amended as follows:

The index is stricken and Articles I through XV inclusive of the DECLARATION OF CONDOMINIUM OF CLEAR CREEK CONDOMINIUM are deleted and the following is substituted therefor:

#### ARTICLE I

##### Definitions

Section 1. "Declarant" shall mean Stop and Shop, Inc., a Colorado corporation, its successors and assigns.

Section 2. "Declaration" shall mean this document of Declaration of Condominium of Clear Creek Condominium, as it may be amended from time to time.

Section 3. "Association" shall mean and refer to CLEAR CREEK CONDOMINIUM ASSOCIATION.

Section 4. "Property" shall mean and refer to that certain real property hereinbefore described.

Section 5. "General Common Elements" shall mean the Property herein described and as herein defined, together with all facilities, structures and improvements placed thereon, and any easements granted to the Association and Owners and, in general, all apparatus and installation existing for common use, and all other parts of the Property necessary or convenient to its existence, maintenance and safety or normally in common use, excluding Units as herein-after defined.

Section 6. "Limited Common Elements" shall mean those General Common Elements designated in this Declaration as reserved for use by fewer than all of the Owners of the individual air space units.

Section 7. "Condominium Unit" means the fee simple interest and title in and to a unit, together with the undivided interest in the general common elements appurtenant to such unit and all of the rights and burdens created by this Declaration.

Section 8. "Unit" means an individual air space which is contained within the windows, doors and unfinished perimeter walls, floors (or lower most floors, if it is an individual air space unit containing more than one level) and the ceilings (or upper most ceilings, if it is an individual air space unit containing more than one level) of each unit shown on the Condominium Map being filed for record, together with all fixtures and improvements therein contained, but not including any of the general common elements, if any, located within a unit.

Section 9. "Owner" or "Owners" shall mean the record owner, whether one or more persons or entities, of a Condominium Unit excluding those having an interest under an encumbrance.

Section 10. "Common Element Expenses" shall be the expenses pertaining to the General Common Elements including but not limited to the maintenance, repairs, utilities, and management costs of

the General Common Elements, maintenance and operation of any recreational facilities, which are located on and part of the General Common Elements, or are located on real property owned by the Association, reserves, capital improvements, assessments and all other charges which the Association may levy upon the Owners in accordance with this Declaration.

Section 11. "By-Laws" shall mean the by-laws adopted by the Association as amended from time to time.

Section 12. "Rules" shall mean rules and regulations adopted by the Association as amended from time to time.

Section 13. "Manager" shall mean any duly authorized property manager employed or appointed by the Association to implement the duties and responsibilities incumbent upon the Association.

## ARTICLE II

### Conveyances, Description of Condominium Units

Section 1. Division into Fee Simple Estates. The Property herein described, and the improvements thereon are hereby divided into fee simple estates. Each such estate shall consist of the separately designated Unit and an undivided one twenty-fourth (1/24th) interest in and to the General Common Elements as will be shown on the Condominium Map subsequently filed of record. The Condominium Units shall be inseparable.

### Section 2. Description of Condominium Unit.

(a) Every contract for the sale of a Condominium Unit written prior to the filing for record of the Condominium Map or Declaration may legally describe a Condominium Unit by its identifying unit number and building designation with further reference to the Condominium Map and Declaration filed of record. The location of such Condominium Unit shall be depicted on the Condominium Map subsequently filed for record.

(b) After the Condominium Map and this Declaration have been recorded in the Office of the Clerk and Recorder of the County of Clear Creek, every Contract, Deed, Lease, Mortgage, Trust Deed, Will or other instrument shall legally describe a condominium unit as follows:

Condominium Unit No. \_\_\_\_\_, Building \_\_\_\_\_,  
Clear Creek Condominiums, in accordance with the Amended  
Declaration of Condominium of Clear Creek Condominiums  
recorded on \_\_\_\_\_, 19\_\_\_\_ in Book \_\_\_\_\_  
at Page \_\_\_\_\_, and the Condominium Map recorded on \_\_\_\_\_  
in Book \_\_\_\_\_ on Page \_\_\_\_\_ of  
the Clear Creek County Records.

Each such description shall be construed to include a perpetual non-exclusive easement for ingress and egress to and from a Unit on, over, through and across the General Common Elements and exclusive use of the Limited Common Elements appurtenant to the Unit.

(c) The Condominium Map shall be filed for record, and may be filed for record in whole or in parts or sections, from time to time, as the stages of construction of the Condominium Units and other improvements are substantially completed. Each section of the Condominium Map filed subsequent to the first or initially filed Condominium Map shall be termed a supplement or amendment and the numerical sequence of such shall be shown thereon. The condominium Map or any part or section thereof

depicting units shall not be filed for record until the building in which the Units are located has been substantially completed in order to permit the location thereof to be shown both horizontally and vertically. Each such Condominium Map shall be filed for record prior to the conveyance of a Condominium Unit to a purchaser. In interpreting the Condominium Map, the existing physical boundaries of each separate Unit as constructed shall be conclusively presumed to be its boundaries. Declarant reserves the right to amend the Condominium Map from time to time, to conform the same according to the actual location of any of the constructed improvements and to establish, vacate and relocate easements, access road easements and on-site parking areas.

The reference to the Condominium Map and Declaration in any instrument shall be deemed to include any amendments or supplements to the Condominium Map and Declaration without specific reference thereto.

Section 3. Integration of Interest. A conveyance by an Owner of a Condominium Unit shall include all interest of the Owner therein, including all rights acquired by the Owner in the Unit, General Common Elements, and all other appurtenances, rights and burdens.

### ARTICLE III

#### Management

Section 1. Duties and Responsibilities of CLEAR CREEK CONDOMINIUM ASSOCIATION. Declarant has caused to be incorporated as a non-profit corporation Clear Creek Condominium Association, and designated such Association to be the Manager of the General Common Elements. Any purchaser of a Condominium Unit shall be deemed to have assented to such designation and management, and ratified and approved the same. Said Association, by its signature approving this instrument, has agreed to perform the duties required of it hereunder. Said Association shall have the following duties, rights and powers:

(a) To adopt Rules in accordance with the By-Laws of the Association for the regulation and operation of the Condominium Units, including, but not limited to, regulations governing the use of the General Common Elements and the Limited Common Elements.

(b) To levy and collect monthly or periodic assessments, equitably prorated, against and from Owners.

(c) From funds collected to:

(1) Repair, replace, restore, maintain, care for and preserve the buildings, grounds, improvements and other General Common Elements other than the interior of Units.

(2) Lease or pay for real or personal property in pursuit of its obligations.

(3) Pay for water, insurance, sewerage and other utilities and expenses, and other Common Element Expenses.

(4) Repair, replace and restore facilities, machinery and equipment.

(5) Obtain and maintain in full force and effect at all times the insurance coverages hereinafter described which insurance coverage shall be provided by companies duly authorized to do business in the State of Colorado.

(i) The Association shall obtain from an insurance carrier acceptable to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and the Administrator of Veterans Affairs hazard insurance on the General Common Elements and on all Condominium Units in the form of a "master" or "blanket" policy of property insurance in an amount equal to the full replacement value (i.e. of the current "replacement cost" exclusive of land and other items normally excluded from coverage) of the project which shall include all building service equipment and the like and any fixtures or equipment within a Condominium Unit which are normally financed under a first mortgage. Such master or blanket policy shall include an "Agreed Amount Endorsement" or its equivalent, a "Demolition Endorsement" or its equivalent and, if necessary, an "Increased Cost of Construction Endorsement" or "Contingent Liability from Operation of Building Laws Endorsement" or the equivalent. The policy contract and forms for such master or blanket policy shall not provide that contributions or assessments may be made against any first mortgagee or become a lien on any Condominium Unit superior to the lien of the first mortgagee. In addition, such master or blanket policy shall afford protection against at least the following:

Loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm and water damage; and

Such other risks as shall customarily be covered with respect to projects similar in construction, location and use to this project.

(ii) The Association shall obtain a comprehensive policy of public liability insurance covering all of the General Common Elements. Such comprehensive policy of public liability insurance shall include a "Severability of Interest Endorsement" or equivalent coverage which would preclude the insurance company from denying the claim of any Owner because of the negligent acts of the Association or any other Owner, with such limits as may be considered acceptable by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and the Administrator of Veterans Affairs (but not less than \$1,000,000 covering all claims for personal injury and/or property damage arising out of a single occurrence). Such comprehensive policy of public liability insurance shall also include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others and, if applicable, elevator collision, garage-keeper's liability, host liquor liability and such other risks as shall be customarily be covered with respect to projects similar in construction, location and use to this project.

(iii) The Association shall obtain adequate fidelity coverage or fidelity bonds to protect against dishonest acts on the part of its officers, directors, trustees and employees and on the part of all others who handle or are responsible for handling the funds of the Association. Such fidelity coverage or fidelity bonds shall meet the following requirements:

They shall name the Association as an obligee; and

They shall be written in an amount equal to at least 100% of the estimated annual operating expenses of the project, including reserves, unless a greater amount is required by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Administrator of Veterans Affairs; and

They shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression; and

They shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 30 days' prior written notice to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and the Administrator of Veterans Affairs.

(iv) Any insurance coverage obtained by the Association shall be subject to the following provisions and limitations:

The named insured under any such policies shall be the Association, as a trustee for the Owners, or its authorized representative, including any trustee with which the Association may enter into any Insurance Trust Agreement, or any successor trustee (each of which is sometimes referred to as the "Insurance Trustee") who shall have exclusive authority to negotiate losses under such policies; and

In no event shall the insurance coverage obtained and maintained pursuant to such Sections be brought into contribution with insurance purchased by the Owners or their mortgagees; and

The policies shall provide that coverage shall not be prejudiced by (a) any act or neglect of the Owners when such act or neglect is not within the control of the Association, or (b) by failure of the Association to comply with any warranty or condition with regard to any portion of the project over which the Association has no control; and

The policies shall provide that coverage may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 30 days' prior written notice to any and all insureds named therein, including the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and the Administrator of Veterans Affairs; and

The policies shall contain a waiver of subrogation by the insurer as to any and all claims against the Association and any Owner and/or their respective agents, employees or tenants, and of any defenses based upon co-insurance or upon invalidity arising from the acts of the insured; and

All policies of property insurance shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the Association (or any Insurance Trustee) or when in conflict with the provisions of any Insurance Trust Agreement to which the Association may be a party, or any requirement of law.

(v) To the extent obtainable, appropriate officers' and directors' personal liability insurance shall be obtained by the Association to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as such officers and directors in behalf of the Association.

(vi) The Association shall obtain workman's compensation or similar insurance with respect to its employees in the amounts and forms as may now or hereafter be required by law.

(vii) The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Association's responsibilities and duties.

(viii) Insurance premiums for the above provided insurance shall be a common expense to be paid by monthly assessments levied by the Association. Such payments shall be held in a separate trust account of the Association and used solely for the payment of the premiums for insurance hereinabove provided for as such premiums become due.

(ix) It shall be the responsibility of the Owners, and at their expense, to make arrangements in regard to title insurance on their Condominium Unit, for hazard insurance on their personal property and furnishings, and for public liability insurance covering their Unit and, in addition, the Owner may obtain such other and additional insurance coverage on and in relation to his Condominium Unit as he in his sole determination shall conclude to be desirable; provided, however, that none of such insurance coverages obtained by an Owner shall affect any insurance coverage obtained by the Association nor cause the diminution or termination thereof. Any such insurance obtained by an Owner shall waive the particular insurance company's right of subrogation against the Association and other Owners.

(6) Or for any other purposes as expressed in this Article III.

(d) When necessary in connection with the duties outlined herein, to enter into and upon the Units, with at least twenty-four (24) hour notice and at the reasonable convenience of the occupants. However, in cases of obvious emergency requiring the immediate protection of life, the adjacent Owner's properties, or the Limited and General Common Elements, the Association has the right to immediately enter into and upon the Units, provided such emergency entry is accomplished with as little inconvenience to the occupants concerned as possible.

(e) To collect delinquent assessments by suit or otherwise and to enjoin or seek damages from the Owners for violation of the covenants contained herein or the Rules as promulgated hereunder.

(f) To employ workmen, maids, janitors, gardeners, and others; to contract for services to be performed including those of a Manager; to purchase supplies and equipment; to enter into contracts and generally to have the powers of an apartment house or property manager in connection with the matters hereinbefore set forth, except that the Association may not encumber or dispose of the interest of any Owner except to satisfy a lien or judgment against such Owner for violation of the Owner's covenants imposed by this Declaration.

(g) To protect and defend the condominium project from loss and damage suit or otherwise.

(h) To employ counsel, attorneys, and auditors in connection with legal matters of the Association and audit of its books and records, which books and records and audits shall be available to Owners and holders of first mortgages encumbering condominium units for inspection at the Association offices.

(i) To delegate the management to a professional manager, provided that, the management agreement must be terminable without cause or payment of a termination fee upon 30 days'

notice and run for a period of one year so long as Declarant controls the Association and, thereafter, according to the contract made by the Association, but not to exceed three (3) years.

(j) To file legal protests with authorities when requested to do so by a majority of the Owners against the granting by authorities of zoning or variances as to any property adjoining or within a reasonable proximity of the condominium project which might affect or depreciate the value of the Owner's interests in the Condominium Unit.

(k) To designate and assign to Owners any available storage facilities contained within the General Common Elements for the exclusive use of such Owners. The right to make such designations and assignments is hereby reserved to the Association.

#### ARTICLE IV

##### Membership and Voting Rights

Section 1. Members. Any person acquiring an interest in a Condominium Unit, other than as a mortgagee or beneficiary under trust deeds or as a lien claimant, and the Declarant shall automatically become a member of the Association. Upon the sale or transfer of a Condominium Unit by an Owner, his membership shall terminate and shall be automatically transferred to the new Owner.

Section 2. Voting. Within 45 days of sale of the first Condominium Unit by Declarant, a meeting of the Owners will be held for the purpose of electing a Board of Directors of the Association to succeed the original Board of Directors appointed by Declarant. Each Owner shall be entitled to one vote in the election of members to the Board of Directors of the Association and Declarant shall have the number of votes represented by the unsold Condominium Units.

Only one vote shall be permitted each Condominium Unit even though said Condominium Unit shall be owned by more than one Owner. Where Condominium Units are owned by more than one Owner, such Owners shall, by a written instrument, designate one of such Owners to be the voting member. In the absence of such designation, the Board of Directors of the Association may designate one of the Owners as the voting member. When the same person owns more than one Condominium Unit, the Owner shall be entitled to one vote on Association matters for each Condominium Unit he owns.

#### ARTICLE V

##### General and Limited Common Elements and Other Property Rights

Section 1. Limited Common Elements. The patios, balconys, and atriums, if any, appurtenant to each Unit and the crawl spaces appurtenant to ground floor Units are hereby designated as Limited Common Elements. The Owner and his invitees shall have the exclusive right to use and enjoy said Limited Common Elements appurtenant to Owner's Unit, and the electricity required to illuminate the Limited Common Elements shall be the obligation of such Owner.

Section 2. Rules. The Association may promulgate and enforce Rules relating to the use of which the Limited Common Elements may be put such as their maintenance, upkeep and aesthetic appearance.



Section 3. Use of General Common Elements. Owners shall have the right to use and enjoy with others the General Common Elements (including recreational areas) but excluding structures housing the Units and the Limited Common Elements subject to the Association's Rules. The Association shall have the authority to make Rules governing the use of the General Common Elements.

Section 4. Delegation of Use. Any Owner may delegate his right to enjoyment to the General Common Elements and Limited Common Elements and facilities to the resident members of his family or his tenants or contract purchasers who may reside in the Unit.

#### ARTICLE VI

##### Common Element Expenses and Assessments

Section 1. Assessments. Each Owner by acceptance of a deed, agrees to pay to the Association: (1) assessments or charges, and (2) special assessments to be fixed, established and collected from time to time as herein provided. Such assessments together with interest and cost of collection in the event of delinquency in payment shall also be the personal obligation of the person who was the Owner of such Condominium Unit at the time when the assessment was made.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the benefit of the Association including, but not limited to, the management and the maintenance of the General Common Elements, including, but not limited to, services and facilities related to the use and enjoyment of the General Common Elements, the improvements thereon, insurance, repairs, replacements, the maintenance and repair of roads and underground utilities, asphalt paving, curbs, gutters, and drainage swales on the streets, lighting and walkways, the maintenance of the exteriors of the Units and other facilities, including, but not limited to, snow removal, mowing grass, caring for the grounds, sprinkler system, landscaping, roofs and exterior walls, garbage pickup and water and sewer service furnished, operation and maintenance of recreational facilities, including personnel necessary for implementation, administration expenses, working capital, rental and acquisition of real or personal property, and in connection with other duties to be performed under this Declaration of Condominium, or that the Association, in its opinion, shall determine to be necessary and desirable including the establishment and maintenance of a cash reserve for such repairs, maintenance and other expenses to be incurred as herein specified. In the event repairs are required resulting from negligent acts of an Owner, the Owner's family, guests, employees, or invitees or lessees, the Association shall be reimbursed by such Owner therefor.

Section 3. Due Dates and Basis of Assessments. Payment of the assessments shall be paid by the Owners to the Association on the date of closing of the original purchase of a Condominium Unit and prorated if upon a date other than the due date of an assessment, and thereafter in monthly or other periodical installments commencing on the first day of each month or period following the transfer of a Condominium Unit to a purchaser.

(a) Insurance. Insurance premiums on Condominium Units shall be prorated equally between all Condominium Units subject to the right of the Association to increase or decrease the amount of insurance on Condominium Units as may appear desirable, but at not less than full replacement value.

(b) Water and Sewer. Water and sewerage charges shall be prorated equally to all Condominium Units based upon actual charges levied by the municipal water and sewer source.

(c) Expense of Electricity and Heat. Electricity and heat expense for the General Common Elements other than those designated in the second paragraph of this subsection, street lights not paid by the municipality, and all other expense of lighting and heating for the benefit of Owners shall be prorated in the same manner as "Common Element Expenses" referred to hereinafter in Subparagraph (d).

Electricity and heat serving a Unit and the Limited Common Elements and the maintenance of the equipment providing such heating services shall be an expense of the Unit Owner.

(d) Common Element Expenses. Each Owner shall pay his proportionate amount of the expense of maintenance, repair, replacements, administration and operation of the General Common Elements, including recreational facilities.

(e) Proration of Common Element Expenses. Common Element Expenses shall be prorated and charged to all Condominium Units equally and there shall be no division of the assessment between expenses for the General Common Elements and those for the Limited Common Elements.

(f) Owner Expenses.

(i) Each Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements within his own Unit; provided, however, such maintenance, repairs, and replacements as may be required for the functioning of the plumbing outside of the Unit and for the bringing of water, gas and electricity to the Unit shall be performed by the Association as a part of the Common Element Expenses. Maintenance, repairs and replacements of refrigerators, ranges and other kitchen appliances, lighting fixtures and other electrical appliances, the operating expenses of which are the Owner's responsibility shall be performed by and at the expense of each Owner. By way of clarification and notwithstanding anything contained herein to the contrary, each Owner shall be responsible and obligated for maintenance of utilities once the utility lines enter his individual air space unit.

(ii) Each Owner shall furnish and be responsible for, at his own expense, all of the decorating within his own Unit, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps and other furnishings and interior decorating. Each Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors and ceilings, which constitute the exterior boundaries of the respective Unit owned by an Owner, and such Owner shall maintain such interior surfaces in good condition at his sole expense as may be required from time to time. Each Owner shall have the right to decorate such interior surfaces from time to time as he may see fit and at his sole expense. The interior surfaces of all windows forming a part of a perimeter wall of a Unit shall be cleaned or washed at the expense of each respective Owner, and the exterior surfaces of such windows shall be cleaned or washed as part of the Common Element Expenses by the Association, at such time or times as the Board of Directors of the Association shall determine. The use of and the covering of the interior surfaces of such windows, whether by draperies, shades, or other items visible from the exterior of the Building, shall be subject to the Rules of the Association. Decorating of

the General Common Elements (other than interior surfaces within the Units) and any redecorating of the interior of the Units to the extent made necessary by any damage thereto caused by maintenance, repair or replacement work by the Association to the General Common Elements shall be performed by the Association as a Common Element Expense. Each Owner shall be entitled to the exclusive use of the fireplace appurtenant to his Unit.

(g) Levy of Assessments. The Board of Directors of the Association shall, during the first month of each calendar year, determine the estimated annual assessment to be made to each Owner and payable periodically during the year; provided, however, that said assessments may be adjusted at any time if deemed necessary by said Board of Directors of the Association. As soon as practicable after the close of each calendar year, actual expenses shall be totaled and any overages or shortages of actual expenses and assessments made shall then be charged or refunded to the Owner.

(h) Non-Exemption. No Owner shall be exempt or relieved from payment of any assessment or charge by waiver or suspension of the use of any of the General Common Elements or by the abandonment or leasing of his Unit.

Section 4. Special Assessments. In addition to the assessments or charges authorized above, the Board of Directors of the Association may levy special assessments for the purpose of defraying in whole or in part the cost of any construction, or reconstruction, unexpected structural repairs or replacement of capital improvements, including the necessary fixtures and personal property related thereto; provided, however, that if any such assessment exceeds \$5,000.00, the same shall have the assent of not less than 75% of the Owners voting in person or by proxy at a meeting duly called for such purpose, at which time not less than 51% of the Owners shall be represented in person or by proxy, written notice of which shall be sent to all Owners of record not less than fifteen (15) days nor more than thirty (30) days in advance of the meeting setting forth the purpose of the meeting. Only one vote shall be permitted to a Condominium Unit, even though said Condominium Unit may be owned by more than one Owner.

Section 5. Right of Entry. The Association, through its duly authorized agents, shall have the right in case of any emergency originating in or threatening a Unit to enter therein. An Owner shall permit entry into his Unit for the purpose of performing installation, alterations, or repairs to the mechanical, electrical, or utility services, which, if not performed, would affect the use of other Units; provided, that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of an emergency, such right of entry shall be immediate.

Section 6. Effect of Nonpayment of Assessments or Recreational Fees, Remedies.

(a) Assessments and fees shall be due and payable on the first day of each month or the first day of the periodic period fixed for payment of the assessment or fees, and shall become delinquent unless paid 10 days thereafter. All unpaid assessments and fees shall be subject to a late charge for non-payment as may be determined from time to time by the Board of Directors of the Association. If such fees or assessments are not paid within 30 days after the due date, they shall bear interest from the date of delinquency at the rate of 10% per annum or other reasonable rate fixed by the Association and uniformly applied. In the event it shall become necessary for

the Association to collect any delinquent assessments or fees, whether by foreclosure of a lien hereinafter created or otherwise, the delinquent Owner shall pay, in addition to the assessment and late charge and interest herein provided, all costs of collection, including a reasonable attorney's fee and costs incurred by the Association in enforcing payment.

(b) The Association is hereby granted a lien against the Owner's Condominium Unit for any payment or payments which the Owner fails to make as required by this Declaration; provided, however, that (1) such lien shall attach and be enforceable upon recording of a lien statement in the office of the Clerk and Recorder of Clear Creek County, State of Colorado, and when so recorded, such lien statement shall be record evidence of the existence of such lien which lien is effectual only from the time of recording, (2) a lien accruing hereunder shall be foreclosed in the same manner as provided by the laws of Colorado for foreclosure of mortgages on real property; and (3) such lien shall be subject and subordinate to and shall not affect the right of a holder of any first encumbrance on the Condominium Unit or any interest therein whether the lien statement is recorded prior to or subsequent to the attachment of the lien of said first encumbrance. The lien hereby given shall also be a lien upon all of the rents and profits of the Condominium Units against which such liens attach. In the event of a foreclosure, the Owner shall be required to pay reasonable rental to the Association for occupying the same during the period of the foreclosure, and if after the filing of a foreclosure action, the Owner's Unit is left vacant, the Association may take possession of and rent said Unit or apply for the appointment of a receiver for the Condominium Unit without notice to the Owner. In addition to the lien herein granted, the Association shall have the right to bring an action at law against any Owner who fails to pay any amounts assessed against his Condominium Unit and obtain judgment for the amount of the assessments due plus costs as herein provided. The Association, acting on behalf of the Owners of undivided interests, shall have the power to bid at the foreclosure sale and if title is obtained, hold, lease, mortgage and encumber or convey the same.

(c) In the event an Owner is in default on any obligation secured by an encumbrance on his Condominium Unit, the Association may at its option pay the amount due on said obligation and file a lien against the Condominium Unit in the same manner as provided for herein for unpaid assessments for fees.

(d) Sale or transfer of such interest by an Owner shall not affect or release any lien granted the Association herein and the grantee of the Condominium Unit shall be jointly and severally liable with the grantor for all unpaid assessments made by the Association against the grantor to the time of the conveyance, without prejudice to the right of the grantee to recover from the grantor the amount required to be paid by the grantee therefor. Any such grantee shall be entitled to a statement from the Manager or the Board of Directors of the Association, as the case may be, setting forth the amount of the unpaid assessment against the grantor and Condominium Unit due the Association and such grantee shall not be liable for any unpaid assessment made by the Association against the grantor in excess of the amount therein set forth. The foregoing liability of successors in interest for all unpaid assessments, interest, late charges, costs, expenses and attorney's fees against his Condominium Unit shall not apply to any first mortgagee or first mortgagee's nominee who shall, in good faith and not for the primary purpose of circumventing this section, acquire the Condominium Unit through a deed in lieu of foreclosure proceedings.

Section 7. Subordination of the Lien to Encumbrances. The lien provided for herein shall be subordinate to the lien of any first encumbrance now or hereafter placed on the interest of the Condominium Unit Owner. Upon request, a first mortgagee shall be entitled to written notification if any fee or assessment described in this Article is not paid by the Owner within 60 days after the due date, or if any non-monetary default is not cured within 60 days after the date the default occurs. In the event the holder of a first encumbrance on a Condominium Unit exercises any of the remedies contained in its security instrument, and through the exercise of such remedies becomes the Owner of a Condominium Unit, said holder will not have any obligation to pay past due and owing general common element expense assessments.

## ARTICLE VII

### Use Limitations

Section 1. Use. All of the General Common Elements shall be used for residential purposes, recreational facilities in conjunction with said residential use, and for maintenance and administration of the residential units and recreational facilities contained thereon. All buildings or structures erected upon said General Common Elements shall be of new construction and no buildings or structures shall be moved from other locations onto the General Common Elements. No structures of a temporary character, trailer, tent, shack, garage, barn or other outbuildings shall be placed on any portions of said General Common Elements.

Section 2. Temporary Use by Declarant. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant to maintain upon the General Common Elements during the period of sale of said Condominium Units, such facilities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the sale of said Condominium Units, including, but not limited to, a business office, storage areas, construction yards and structures, signs, model units and sales office; provided, however, that such facilities do not create a nuisance, endanger public health, or unreasonably interfere with the occupants of the Units.

Section 3. Prohibition Against Partition. No Owner shall institute or prosecute any action for partition of the General Common Elements and each Owner hereby expressly waives such right by acceptance of a conveyance of such interest to him and further agrees by said acceptance that this Section 3 of Article VII may be pled as a bar to the maintenance of any such partition action and that a violation of this provision shall entitle the Association to personally collect, jointly and severally from the violating parties, the actual attorney's fees, costs and other damages incurred by the Association in connection with such violation.

Section 4. Household Pets. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any of said General Common Elements or in Units except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose, and shall be subject to the Rules of the Association and any governmental ordinances or laws.

Section 5. Advertising. No advertising signs, for sale signs, bill boards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the General Common Elements or in the Units, nor shall the same be used in any way for any purpose which may endanger the health or unreasonably disturb the Owners of any Condominium Units or any residents thereof; provided, however, the Declarant shall be permitted,

during the original construction and sale period, to erect such advertising signs, for-sale signs, billboards, and construction and maintenance facilities as it deems necessary and desirable, so long as such signs and facilities do not create a nuisance, endanger the public health, or unreasonably interfere with the occupants of the Units. The Association may erect such billboards or notices as it deems desirable in conjunction with its administration of the community and the providing and advertising of recreational and other activities for the benefit of the residents therein.

Section 6. Personal Business. No business activities of any kind whatsoever shall be conducted in any building or in any portion of the General Common Elements. This restriction shall not be construed in such a manner as to prohibit an Owner or occupant from: (a) maintaining his personal or professional library therein; (b) keeping his personal business or professional records or accounts therein; or (c) handling his personal business or professional telephone calls or correspondence therefrom. Such uses are expressly declared customarily incidental to the principal residential use and not in violation of this paragraph.

This covenant shall not apply to the business activities, if any, of Declarant during the original construction and sales period.

Section 7. Patios, Courtyards and Residential Windows. Maintenance and upkeep of patios, patio doors, screens, interior surfaces of windows in Units, repairs to screens and to any patio shall be the sole responsibility of the Owner of the Unit appurtenant thereto and shall not be the responsibility of the Association. Repairs to windows and patios and snow removal from all walks are to be Common Element Expenses.

Section 8. Utility Maintenance. All utilities, fixtures and equipment installed within a Unit, commencing at a point where utility lines, pipes, wires, conduits or systems enter the interior walls of the Unit shall be maintained and kept in repair by the Owners thereof. An Owner shall do no act nor work nor allow any condition to exist which shall adversely affect the other Units or their Owners.

Section 9. Antennas. Without prior written approval and the authorization of the Association, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the General Common Elements or improvements thereon.

Section 10. Negligent Acts. In the event that the need for any maintenance or repair to the General Common Elements or Limited Common Elements is caused through the willful or negligent act of an Owner, his family, guests or invitees or lessees, and not covered or paid for by insurance for the benefit of the Association, the cost of such maintenance or repairs shall be added to and become a part of the next regular payable installment of the assessment to which such Owner is subject, and subject to lien privileges as provided herein.

Section 11. Unightly Objects. Refuse piles or other unsightly objects or materials shall not be allowed to be placed or to remain upon the General Common Elements, including the Limited Common Elements. The Association shall have the right to enter upon said General Common Elements and remove such refuse piles or other unsightly objects or materials at the expense of the Owner and such entry shall not be deemed a trespass upon due notice to Owner and failure to Owner to comply.

Section 12. Nuisances. No noxious or offensive activity shall be carried on upon the General Common Elements, or within the Units, and nothing shall be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood.

Section 13. Painting and Maintenance of Units. Repainting of the exterior of the improvements, garages, fences of other structure shall be a Common Element Expense and in accordance with the scheme established for the entire area by the Board of Directors of the Association.

#### ARTICLE VIII

##### Easements

Section. 1 Encroachment. In the event that any portion of the general common elements encroaches upon a unit or units or in the event that any portion of a unit encroaches upon another unit or units or upon a portion of the general common elements, as a result of the settling of a building, alteration or repair of the general common elements; or repair or restoration of a building or units after damage or destruction or condemnation or eminent domain proceedings or as a result of the original construction of the building, a valid easement shall exist for this encroachment and for the maintenance of the same so long as the building stands or as the building is reconstructed. In the event that any one or more of the units or buildings or other improvements comprising part of the general common elements are partially or totally destroyed, and are then rebuilt or reconstructed in substantially the same location and as a result of such rebuilding a portion thereof shall encroach as provided in the preceding sentence, a valid easement for such encroachment does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either upon the general common elements or on the units for purposes of marketability of title or other purposes. In interpreting any or all of the provisions of this Declaration, subsequent unit deeds to and mortgages of condominium units, the location of the condominium unit shall be deemed conclusively to be property intended to be conveyed, reserved or encumbered, notwithstanding any minor deviations either horizontally or vertically or laterally from the location as indicated on the Condominium Map.

Section 2. Blanket Easements. There is hereby created a blanket easement upon, across, over and under all of the General Common Elements for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones and electricity. By virtue of this easement, it shall be expressly permissible for the electrical and/or telephone company providing service to erect and maintain the necessary poles and other necessary equipment on said General Common Elements and to affix and maintain electrical and/or telephone wires, circuits and conduits, on, above, across and under the roofs and exterior walls of the buildings upon the General Common Elements. An easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the streets and General Common Elements in the performance of their duties. Further, an easement is hereby granted to the Association to enter in or to, across or over the General Common Elements and any Unit to perform the duties of maintenance and repair of the Units or General Common Elements. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said General Common Elements except as approved by the Declarant or the Association. Should any utility furnishing a service covered by the general easement herein provided request a specific easement, Declarant or the Association may grant the same by a separate recordable instrument; provided however, that Declarant's right to grant such easements shall terminate three years from the date hereof. Declarant or the Association shall have the right to grant such easements on said General Common Elements without conflicting with the terms hereof or consent of the Owners being required. The easements provided for in this Article shall in no way affect or restrict any other recorded easement on said General Common Elements.

## ARTICLE IX

### Separate Assessment and Taxation--Notice to Assessor

Declarant shall give written notice to the Assessor of the County of Clear Creek, State of Colorado, of the creation of condominium ownership of the Property as is provided by law, so that each Unit and the undivided interest in the General Common Elements appurtenant thereto shall be deemed a parcel for the purpose of separate assessment and taxation.

## ARTICLE X

### Indemnification

Section 1. Indemnification. Each Director and Officer of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon them in connection with any proceeding to which they may be a party, or in which they may become involved, by reason of being or having acted as such upon behalf of the Association; provided, that this indemnification shall not apply if the said person is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided further, that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors of the Association approves such settlement and reimbursement as being for the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such person may be entitled.

Section 2. Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the General Common Elements, the Association shall not be liable for injury or damage, other than the normal cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association or by the conduct of other Owners or persons or by casualties for which provision is not specifically made.

## ARTICLE XI

### Condemnation

Section 1. Condemnation. If at any time or times during the continuance of the Condominium ownership pursuant to this Declaration, all or any part of the Condominium project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions of this Article shall apply:

(a) Proceeds. All compensation, damages or other proceeds therefrom, the sum of which is hereafter called the "Condemnation Award" shall be payable to the Association.

(b) Complete Taking.

(1) In the event that the entire project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership pursuant hereto shall terminate. The Condemnation Award shall be apportioned among the owners on the same basis of each owner's interest in the General Common Elements, provided however, that if a standard different from the value of the property as a whole is employed as the measure of the Condemnation Award in the negotiation, judicial decree or otherwise, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable.



(2) On the basis of the principle set forth in the last preceding paragraph, the Association shall as soon as practicable determine the share of the condemnation award to which each owner is entitled. Such shares shall be paid into separate accounts and disbursed as soon as practicable in the same manner provided in Article XII, Section 1(b)(1) through (5).

(c) Partial Taking. In the event that less than the entire condominium project is taken or condemned, sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership hereunder shall not terminate. Each owner shall be entitled to a share of the Condemnation Award to be determined in the following manner: As soon as practicable the Association shall reasonably and in good faith, allocate the Condemnation Award between compensation, damages or other proceeds and shall apportion the amounts so allocated among the owners as follows:

(1) the total amount allocated to taking of or injury to the General Common Elements, shall be apportioned among the owners on the basis of each owner's interest respectively in the General Common Elements;

(2) the total amount allocated to severance damages shall be apportioned to those Units which were not taken or condemned;

(3) the respective amounts allocated to the taking of or injury to a particular Unit and to the improvements an owner has made within his own Unit shall be apportioned to the particular Unit involved; and

(4) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances. If the allocation of the Condemnation Award is already established in negotiations, judicial decree or otherwise, then in allocating the Condemnation Award the Association shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be disbursed as soon as practicable in the same manner provided in Article XII, Section 1(b)(1) through (5).

In the event a partial taking results in the taking of a complete Unit, the owner thereof shall automatically cease to be a member of the Association, shall cease to hold any right, title or interest in the remaining general common elements and shall execute any and all documents necessary to accomplish the same. Thereafter, the Association shall reallocate the ownership, voting rights and assessment ratios in accordance with the same principles employed in this Declaration at its inception for determining such ratios and shall submit such reallocation to the owners and first mortgagees of the remaining units as an amendment to the Declaration in conformance with the provisions of Article XV.

(d) The Association shall notify each first mortgagee of any Condominium Unit, which has furnished the Association with an address to which the first mortgagee wants such notice sent, of the commencement of the condemnation proceedings and shall notify said mortgagees in the event of the taking of all or any part of the general common elements, if the value of the general common elements taken exceeds \$10,000.00.

## ARTICLE XII

### Destruction, Damage or Obsolescence

Section 1. Destruction, Damage or Obsolescence - Association as Attorney-in-Fact. This Declaration does hereby make mandatory the

irrevocable appointment of an attorney-in-fact to deal with the project in the event of its destruction, damage, obsolescence or condemnation, including the repair, replacement and improvement of any Condominium Units, buildings, general common elements or other portion of the project which has been so destroyed, damaged, condemned or becomes obsolete. Title to any Condominium Unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any Owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the owners irrevocably constitute and appoint the Clear Creek Condominium Association as their true and lawful attorney in their name, place and stead, for the purpose of dealing with the project upon its damage, destruction, obsolescence or condemnation as is hereinafter provided. As attorney-in-fact, the Association, by its President and Secretary or Assistant Secretary or its other duly authorized officers and agents, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed, or other instrument with respect to the interest of a Condominium Unit owner which are necessary and appropriate to exercise the powers herein granted. In the event that the Association is dissolved or becomes defunct, a meeting of the Condominium Unit Owners shall be held within thirty (30) days of either such event. At such meeting a new attorney-in-fact, to deal with the property upon its destruction, damage, or obsolescence, or condemnation shall be appointed. Said appointment must be approved by the owners representing an aggregate ownership interest of seventy-five percent (75%) or more of the general common elements and at least seventy-five percent (75%) of the first mortgagees of the Condominium Units. Repair and reconstruction of the improvements as used in the succeeding subparagraphs means restoring the improvement(s) to substantially the same condition in which they existed prior to the damage, with each Unit and the general and limited common elements having substantially the same vertical and horizontal boundaries as before. The proceeds of the insurance collected shall be available to the Association for the purpose of repair, restoration, reconstruction or replacement unless all of the Owners and all first mortgagees agree not to rebuild in accordance with the provisions hereinafter set forth.

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

(b) If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is not more than seventy percent (70%) of the total replacement cost of all of the Condominium Units in this project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney-in-fact, using the proceeds of insurance and the proceeds of a special assessment to be made against all of the owners and their Condominium Units. Such special assessment shall be a common element expense and made pro rata according to each Owner's interest in the general common elements and shall be due and payable within thirty (30) days after written notice thereof. The Association shall have full authority, right and power as attorney-in-fact, to cause the repair, replacement or restoration of the improvement(s) using all of the insurance proceeds for such purpose, notwithstanding

the failure of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his Condominium Unit and may be enforced and collected as is provided in Article VI, Section 6. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the Condominium Unit of any owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent owner shall be sold by the Association, as attorney-in-fact, pursuant to the provisions of this paragraph. Assessments for general common element expenses shall not be abated during the period of insurance adjustment and repair and reconstruction. The delinquent owner shall be required to pay to the Association the costs and expenses for filing the notice, interest at a rate of 10% per annum, on the amount of the assessment and all reasonable attorney's fees. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

(1) For payment of the balance of the lien of any first mortgage;

(2) For payment of taxes and special assessments liens in favor of any assessing entity and the customary expenses of sale;

(3) For payment of unpaid common element expenses and all costs, expenses and fees incurred by the Association.

(4) For payment of junior liens and encumbrances in the order of and to the extent of their priority; and

(5) The balance remaining, if any, shall be paid to the Condominium Unit owner.

(c) If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is more than seventy percent (70%) of the total replacement cost of all of the Condominium Units in this project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of a special assessment to be made against all of the owners and their Condominium Units, provided, however, that owners representing an aggregate ownership interest of seventy-five percent (75%) or more of the general common elements and at least seventy-five percent (75%) of the first mortgagees of record may agree not to repair or reconstruct the improvements; and in such event, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire project shall be sold by the Association pursuant to the provisions of this paragraph, as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, the Map, Articles of Incorporation and By-Laws. Assessments for common element expenses shall not be abated during the period prior to sale. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each owner's interest in the general common elements, and such divided proceeds shall be paid into separate accounts, each such account representing one of the Condominium Units. Each such account shall be in the name of the Association, and shall be further identified by the Condominium Unit designation and the name of the owner. From each separate account the Association, as attorney-in-fact, shall forthwith use and disburse the total amount of each of such accounts, without contribution from one account to another, toward the partial or full payment of the lien of any first mortgagee encumbering the Condominium Unit represented by such separate account. Thereafter, each such account

shall be supplemented by the apportioned amount of the proceeds obtained from the sale of the entire property. Such apportionment shall be based upon each Condominium Unit owner's interest in the general common elements. The total funds of each account shall be used and disbursed, without contribution, from one account to another by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph (b)(1) through (5) of this paragraph. In the event that the damage is to be repaired or reconstruction is to be made then the provisions of Article XII, Section 1(b) shall apply.

(d) The owners representing an aggregate ownership interest of eighty percent (80%) or more, of the general common elements in this project may agree that the general common elements are obsolete and adopt a plan for the renewal and reconstruction, which plan must have the approval of at least seventy-five percent (75%) of the first mortgagees of record at the time of the adoption of such plan. If a plan for the renewal or reconstruction is adopted, notice of such plans shall be recorded, and the expense of renewal and reconstruction shall be payable by all of the owners as a common element expense, whether or not they have previously consented to the plan of renewal and reconstruction. The Association, as attorney-in-fact, shall have the absolute right and power to sell the Condominium Unit of any owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent owner shall be sold by the Association. The delinquent owner shall be required to pay to the Association the costs and expenses for filing the notices, interest at the rate of ten percent (10%) per annum, and all reasonable attorney's fees. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as attorney-in-fact for the same purposes and in the same order as is provided in Section 1(b)(1) through (5) of this Article.

(e) The owners representing an aggregate ownership interest of eighty percent (80%) or more, of the general common elements may agree that the Condominium Units are obsolete and that the same should be sold. Such plan or agreement must have the approval of all of the first mortgagees of the Condominium Units. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire project shall be sold by the Association, as attorney-in-fact, for all of the owners, free and clear of the provisions contained in this Declaration, the Map, the Articles of Incorporation and the Bylaws. The sale proceeds shall be apportioned among the owners on the basis of each owner's interest in the general common elements, and such apportioned proceeds shall be paid into separate accounts, each such account representing one Condominium Unit. Each such account shall be in the name of the Association and shall be further identified by the Condominium Unit designation and the name of the owners. From each separate account, the Association, as attorney-in-fact shall use and disburse the total amount (of each) of such accounts, without contribution from one account to another, for the same purposes and in the same order as is provided in Section 1 (b)(1) through (5) of this Article.

(f) The Association shall notify each first mortgagee of any Condominium Unit, which has furnished the Association with an address to which the first mortgagee wants such notice sent, of any loss to the general common elements which exceeds \$10,000.00 or of any damage to such Condominium Unit which exceeds \$1,000.00.

ARTICLE XIII

Additional Liens

Additional liens, other than mechanic's liens, assessment liens, or tax liens, may not be obtained against the General or Limited Common Elements then existing in which the Unit Owner has a percentage ownership.

ARTICLE XIV

Annexation of Additional Property

Section 1. Annexation by Declarant. Declarant expressly reserves the right to enlarge this condominium project by annexing the following described contiguous real property, upon which is situate two condominium buildings, provided such annexation occurs on or before June 1, 1980:

All of the following described land within the Town of Georgetown, being a portion of Block 84 and Block 90 together with vacated alley and that portion of vacated 19th Street adjoining said Blocks, described as follows: Commencing at the Southeast corner of said Block 84; thence N. 2°01'09" E., a distance of 130.70 feet to the point of beginning; thence continuing N. 2°01'09" E., a distance of 192.86 feet; thence N. 87°58'51" W., a distance of 202.64 feet; thence S. 1°54'28" W., a distance of 125.75 feet; thence S. 88°05'32" E., a distance of 76.83 feet; thence S. 42°53'10" E., a distance of 95.0 feet; thence S. 87°58'51" E., a distance of 58.50 feet to the point of beginning; County of Clear Creek, State of Colorado.

Section 2. Annexation by Owners. Additional real property, whether contiguous to the property hereinbefore described and defined or otherwise, may be annexed to the condominium project at any time within 5 years from the date hereof with the consent of seventy-five (75%) percent or more of the Owners and of seventy-five percent (75%) or more of the first mortgagees of Condominium Units.

Section 3. Procedure. The annexation and submission of additional property to this condominium shall be expressed in and by a duly recorded supplement to this Declaration and by a supplement to the Map filed for record. Each such supplement to this Declaration shall provide for the division of such additional real property and improvements into Condominium Units substantially similar to the form of the division of the real property and improvements contained in this Declaration. Each Unit shall be identified by number, and each building shall be identified by a symbol or designation dissimilar to any other building under this Declaration and the Map. The undivided interest in and to the General Common Elements appurtenant to each such Condominium Unit so created shall not be a part of the General Common Elements appurtenant to the Condominium Units described in and initially created by this Declaration and the Map. The undivided interest in and to the General Common Elements appurtenant to each Condominium Unit created by this Declaration or supplements thereto, shall have a permanent character and shall not be altered by subsequent annexations of additional property.

Except to the extent inconsistent with this Section 3, all of the provisions contained in this Declaration shall be applicable to all such additional Condominium Units; provided, however, that all Owners of Condominium Units in this condominium project shall have a non-exclusive right, in common with all other Owners, to

the use of sidewalks, pathways and parking areas located within the condominium project, as supplemented, without making reference thereto in any deed, instrument or conveyance or other instrument. The amount of the monthly assessment attributable to additional Condominium Units shall be determined independently of the amount attributable to the Condominium Units initially covered by this Declaration. Common Element Expenses of the General Common Elements associated with additional Condominium Units shall be borne solely by and attributed exclusively to such additional Condominium Units. Assessments collected from Owners of such additional Condominium Units shall be deposited and held in accounts separate and apart from those collected from Owners of Condominium Units initially covered by this Declaration. Nothing contained herein shall be interpreted as imposing a prohibition on prorating expenses for services rendered among all Condominium Units benefited by such service.

Section 4. Voting Rights. Each Owner in the condominium project, as supplemented, shall be entitled to one vote.

#### ARTICLE XV

##### Duration and Amendments

The Declaration of Condominium as herein set forth shall remain in full force and effect for as long as said Property remains as a condominium; provided, however, the Declaration of Condominium herein contained may be amended by a vote of Owners representing not less than 75% of the interests in the Condominium Units or may be revoked by a vote of all the Owners; provided that each such amendment or revocation must be approved by at least 75% of the holders of recorded first mortgages or deeds of trust. Such amendments shall be effective only upon the recordation of the certificate setting forth the amendment signed by the Owners and the holders of encumbrances representing not less than the required percentages. No amendments to this Declaration shall be in conflict with the Condominium Ownership Act of Colorado or affect the rights of Declarant herein unless approved and consented to by such Declarant in writing.

#### ARTICLE XVI

##### General Provisions

Section 1. Enforcement. The Association shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration.

Section 2. Invalidity. The invalidity of any provisions of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

Section 3. Severability. Invalidation of any one or more of the covenants or restrictions herein contained by judgment or court order shall in no manner affect any other provisions hereof which shall remain in full force and effect.

Section 4. Claims. No claim or cause of action shall accrue in favor of any person in the event of the invalidity of any covenant or provision of this Declaration or for failure of the Association or Declarant to enforce any covenant or provision hereof. This section may be plead as a full bar to the maintenance of any suit or action brought in violation of the provisions of this section.

Section 5. Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 6. Declaration Effect and Binding Clause. The Declarations herein contained are hereby declared to be and shall be covenants running with the land. The covenants and restrictions of this Declaration shall be binding upon the Owners of Condominium Units, their successors, assigns, legal representatives, devisees and heirs-at-law.

Section 7. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration nor the intent of any provision hereof.

Section 8. Gender. The use of the masculine gender in this Declaration shall be deemed to refer to the feminine gender and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals this 21st day of October, 1977.

STOP & SHOP, INC.

By: Franklin L. Burns  
Franklin L. Burns, President



THE D. C. BURNS REALTY AND TRUST COMPANY

By: Franklin L. Burns  
Franklin L. Burns, President

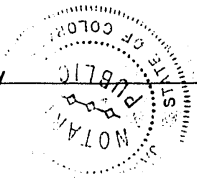


STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this 21st day of October, 1977, by Franklin L. Burns as President and L. E. Canterbury as Secretary of The D. C. Burns Realty and Trust Company and Stop & Shop, Inc., respectively.

My commission expires: November 16, 1980

James C. Holladay  
Notary Public



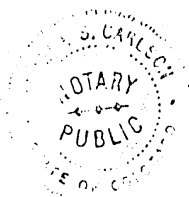
Notary Public

Nancy S Thornton  
Nancy S. Thornton

STATE OF COLORADO )  
COUNTY OF Prospere ) ss.

The foregoing instrument was acknowledged before me this  
21<sup>st</sup> day of October, 1977, by Jack E. Thornton and  
Nancy S. Thornton, individually.

My commission expires: January 27, 1981



[Signature]  
Notary Public

CLEAR CREEK CONDOMINIUM ASSOCIATION

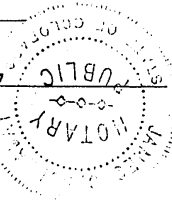
By: [Signature] State President

STATE OF COLORADO )  
COUNTY OF DENVER ) ss.

The foregoing instrument was acknowledged before me this  
21<sup>st</sup> day of October, 1977, by L. E. CANTERBURY  
as PRESIDENT of Clear Creek Condominium Association.

My commission expires: NOVEMBER 16, 1980

[Signature]  
Notary Public





Jack E. Thornton  
Jack E. Thornton

STATE OF COLORADO )  
COUNTY OF ARAPAHOE )

ss.

The foregoing instrument was acknowledged before me this 21st day of October, 1977, by Jack E. Thornton, individually.

My commission expires: November 16, 1980

James C. Holliday  
Notary Public



82816

Recorder's Office  
STATE OF CALIFORNIA  
CLERK OF SUPERIOR COURT

IN and TO THE PUBLIC RECORDS OF THE COUNTY OF SAN DIEGO

was filed for record on this day

of OCT 25 1977

at 1:00 PM in Book

No. \_\_\_\_\_

Margaret V. Chiles

County Clerk

Recorder

50<sup>th</sup> & C

Return to: D. L. Marino Realty & Trust Co.  
1436 W. 10th St.  
Dana Point, CA 92629