

**CONDOMINIUM  
DECLARATION  
OF  
YOUNGSTOWN TERRACE**

THIS DECLARATION is made this 16 day of January, 1997, by Wycolff Construction, Inc., of 6428B Newcombe Street, Arvada, Colorado 80004 ("Declarant").

WHEREAS, Declarant is the owner of certain real estate in the City of Arvada, County of Jefferson, State of Colorado, which is more particularly described as set forth in Exhibit A attached hereto and by reference made a part hereof, and;

WHEREAS, Declarant has caused to be incorporated under the laws of the State of Colorado, Youngstown Terrace Homeowners Association (the "Association"), a nonprofit corporation for the purpose of exercising the functions as herein set forth; and

WHEREAS, Declarant desires to create a Condominium Common Interest Community on the real estate described in Exhibit A, the name of which is "Youngstown Terrace" in which portions of the real estate described in Exhibit A will be designated for separate ownership;

NOW, THEREFORE, the Declarant states and declares as follows:

**ARTICLE 1.00 - SUBMISSION.**

Declarant hereby submits the real property described in Exhibit A to the provisions of the Colorado Common Interest Ownership Act, Sections 38-33.3-101, et seq., Colorado Revised Statutes, as it may be amended from time to time (the "Act"). In the event the Act is repealed, the Act, on the effective date of this Declaration, shall remain applicable. Declarant hereby declares that all of the real property described in Exhibit A shall be held, sold, and conveyed subject to the Act and to the following easements, restrictions, covenants, and conditions set forth herein 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 real property or any part thereof, their heirs, legal representatives, successors, and assigns and shall inure to the benefit of each Owner of an interest in the property.

**ARTICLE 2.00 - DEFINITIONS.**

Section 2.01 - Articles of Incorporation. The Articles of Incorporation are the Articles of Incorporation of the Association, as filed with the Secretary of State of Colorado, and as amended.

Section 2.02 - Bylaws. The Bylaws are the Bylaws of the Association, as adopted by the Executive Board, and as amended.

Section 2.03 - Executive Board. The Executive Board is the Executive Board of Directors of the Association.

Section 2.04 - Plans. The Plans are the plans for this condominium, filed with the Declaration.

Section 2.05 - Plats. The plats and maps are the plats and maps for this condominium, filed with this Declaration, or otherwise, as amended.

Section 2.06 - Rules. The Rules are the rules and regulations for this condominium adopted by the Executive Board, as amended.

Section 2.07 - Documents. The Documents are this Declaration, and the Plats, Plans, Articles of Incorporation, Bylaws, and Rules, all as amended and all including each exhibit, schedule or other attachment attached thereto.

Section 2.08 - Miscellaneous. Each term not otherwise defined in the Documents shall have the meaning specified or used in the Act.

**ARTICLE 3.00 - NAMES, ASSOCIATION AND PROPERTY.**

Section 3.01 - Names. The name of the common interest community, which is a condominium under the Act, is "Youngstown Terrace." The name of the Association is the "Youngstown Terrace Homeowners Association."

Section 3.02 - Association Authority and Powers. The business affairs of Youngstown Terrace shall be managed by the Association which shall be governed by the Documents and which shall exercise the powers and perform the duties assigned to it in the Act and the Documents. The Declarant shall have all the powers reserved in section 38-33.3-303(5) of the Act to appoint and remove officers and members of the Executive Board.

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Section 3.03 - Assignment of Income. The Association may assign its future income, including its rights to receive Common Expense Assessments, only by the affirmative vote of the Unit Owners of Units to which at least 51 percent of the votes in the Association are allocated, at a meeting called for that purpose.

Section 3.04 - Property. The entire common interest community of Youngstown Terrace is located in Jefferson County, Arvada, Colorado.

#### ARTICLE 4.00 - UNITS.

Section 4.01 - Number. The initial number of Units in the common interest community is eight (8). The Declarant reserves the right to create up to a total of twenty two (22) Units.

Section 4.02 - Identification. The identification number of each Unit is shown on the plats or maps of this condominium and Exhibit B of this Declaration. 2

Section 4.03 - Boundaries. The boundaries of each Unit are located as shown on the plats or maps of this condominium and are more particularly described as follows:

- (a) Internal walls, floors and ceilings are designated as boundaries of a Unit; and
- (b) Each unit shall include the heating, hot water and air conditioning apparatus exclusively serving that Unit whether or not located within the boundaries of the Unit.

Section 4.04 - Common Elements. The Common Elements of Youngstown Terrace include all lands, roads and improvements within the common interest community except for the Units. Thus, Common Elements includes, for example, the patios, decks and exterior surfaces of the Units.

#### ARTICLE 5.00 - COMMON EXPENSE ASSESSMENTS.

Section 5.01 - Creation of Common Expense Lien. Declarant, for each Unit, shall be deemed to have covenanted and agreed, and each Unit Owner, by acceptance of a deed to the Unit, whether or not expressed in such deed or other conveyance, shall be deemed to have covenanted and agreed to pay to the Association "Common Expense Assessments." The common expense assessments shall be a continuing lien upon the Unit against which each such assessment is made.

Section 5.02 - Common Expense Categories. For all purposes including calculation of common expense assessments, the common expenses shall be divided into two categories:

- (a) Maintenance - which includes all costs and expenses involved in the upkeep, repair and improvement of the Common Elements, all water and irrigation costs and expenses and all costs and expenses of a Maintenance contract; and
- (b) Administrative - which includes all operating, business, accounting, legal, management and other costs of the Association which are not Maintenance costs.

References in this Declaration to Common Expenses and Common Expense Assessments include both the Maintenance Common Expenses and Administrative Common Expenses collectively.

Section 5.03 - Apportionment of Common Expenses. The annual assessment for Common Expenses for each Unit shall equal the total amount of such Expenses divided by the total number of Units in the common interest community. The percentage interest of the Units in the Common Expenses is also set forth in Exhibit B of this Declaration, which shall be amended if and as Units are added to the Community.

Section 5.04 - Common Expenses Attributable to Fewer than All Units. The following Common Expenses shall be assessed as provided below against less than all the Units.

- (a) Any Common Expense specifically associated with the maintenance, repair, or replacement of components and elements attached to, or a part of patios, decks, balconies, exterior surfaces, trim, siding, doors, windows and elevators of a specific Unit caused by the conduct of a Unit Owner or the Unit Owner's guest or invitee, and any such maintenance, repair or replacement of any such item occurring other than in the course of routine maintenance, repair or replacement of the Common Elements, shall be assessed against that Unit.
- (b) Any Common Expense for services provided by the Association to an individual Unit at the request of the Unit Owner shall be assessed against that Unit.
- (c) Any insurance premium increase attributable to a particular Unit by virtue of activities in, or construction of, the Unit shall be assessed against that Unit.
- (d) An assessment to pay a judgment against the Association may be made only against the Units in the Common Interest Community at the time the judgment was entered, in proportion to their Administrative Common Expense liabilities.

(e) If a Common Expense is caused by the negligence or other misconduct of a Unit Owner or the Unit Owner's guest or invitee, the Association may assess that expense exclusively against that Unit Owner's Unit.

(f) Fees, charges, taxes, impositions, late charges, fines, collection costs and interest charged against a Unit Owner pursuant to the Documents and the Act are enforceable as Common Expense assessments against that Unit Owner's Unit.

Section 5.05 - Lien.

(a) The Association has a lien on a Unit for a Common Expense Assessment levied against the Unit or fines imposed against its Unit Owner from the time the Common Expense Assessment or fine becomes due. Fees, charges, late charges, fines and interest charged pursuant to the Act and the Documents are enforceable as assessments under this Section. If a Common Expense Assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment becomes due. 3

(b) A lien under this Section is prior to all other liens and encumbrances on a Unit except: (1) liens and encumbrances recorded before the recordation of the Declaration; (2) a first Security Interest on the Unit recorded before the date on which the Common Expense Assessment sought to be enforced became delinquent; and (3) liens for real estate taxes and other governmental assessments or charges against the Unit. A lien under this Section is also prior to all Security Interests described in Subdivision (2) of this Subsection to the extent that the Common Expense Assessments are based on the periodic budget adopted by the Association pursuant to Section 5.06 of this Article and would have become due, in the absence of acceleration, during the six months immediately preceding institution of an action to enforce either the Association's lien or a Security Interest described in Subdivision (2) of this Subsection. This Subsection does not affect the priority of mechanic's or materialmen's liens or the priority of a lien for other assessments made by the Association.

(c) Recording of the Declaration constitutes record notice and perfection of the lien. Further recording of a claim of lien for a Common Expense Assessment under this Section is not required.

(d) A lien for an unpaid Common Expense Assessment is extinguished unless proceedings to enforce the lien are instituted within three years after the full amount of the Common Expense Assessment becomes due, except that if an Owner of a Unit subject to a lien under this Section files a petition for relief under the United States Bankruptcy Code, the time period for instituting proceedings to enforce the Association's lien shall be tolled until thirty days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.

(e) This Section does not prohibit an action to recover sums for which Subsection (a) of this Section creates a lien or prohibit the Association from taking a deed in lieu of foreclosure.

(f) A judgment or decree in any action brought under this Section shall include costs and reasonable attorney's fees for the prevailing party, which shall be additional Common Expense Assessments.

(g) A judgment or decree in an action brought under this Section is enforceable by execution under the laws of the State of Colorado.

(h) The Association's lien may be foreclosed as provided by the laws of the State of Colorado for the foreclosure of mortgages.

(i) In any action by the Association to collect Common Expense Assessments or to foreclose a lien for unpaid Common Expense Assessments, the court may appoint a receiver for the Unit Owner to collect all sums alleged to be due from that Unit Owner or a tenant of the Unit Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Common Expense Assessments, based on a periodic budget adopted by the Association pursuant to Section 5.06 of this Declaration.

(j) If a holder of a first or second Security Interest in a Unit forecloses that Security Interest, the purchaser at the foreclosure sale is not liable for any unpaid Common Expense Assessments against that Unit which became due before the sale, other than the assessments which are prior to that Security Interest under Subsection (b) of this section of the Declaration. Any unpaid Common Expense Assessments not satisfied from the proceeds of sale become Common Expenses collectible from all the Unit Owners, including the purchaser.

(k) In the case of foreclosure, the Association shall give reasonable notice of its action to each lien holder of a Unit whose interest would be affected.

(l) Any payments received by the Association in the discharge of a Unit Owner's obligation may be applied to the oldest balance due.

Section 5.06 - Budget Adoption and Ratification. The Common Expense Assessment for both maintenance and administrative common expenses shall be made on an annual basis against all Units and shall be based on the Association's budget. A proposed budget shall be adopted by the Executive Board based on the Board's determination of the funds required to administer the Association, maintain the condominium community, and to pay the authorized common expenses. [Within 30 days after adoption of a proposed budget for Youngstown Terrace, the Executive Board shall provide a summary of the budget to each Member and shall set a date for a meeting of the Members to consider ratification of the budget. The meeting shall be not less than 14 or more than 30 days after mailing of the summary. Unless at that meeting a majority of all Members entitled to vote reject the budget, the budget shall be deemed ratified, whether or not a quorum is present.] The periodic budget last adopted hereunder shall continue in effect until the Members ratify a new budget proposed by the Executive Board.

Budget Approval

Section 5.07 - Ratification of Nonbudgeted Common Expense Assessments. If the Executive Board votes to levy Common Expense Assessments not included in the current budget in an amount greater than 15 percent of the current annual operating budget, the Executive Board shall submit this Common Expense to the Members for ratification in the same manner as a budget under Section 5.06.

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Section 5.08 - Certificate of Payment of Common Expense Assessments. The Association, upon written request, shall furnish a Unit Owner with a statement, in recordable form, setting out the amount of unpaid Common Expense Assessments against the Unit. The statement must be furnished within ten (10) business days after receipt of the request and is binding on the Association, the Executive Board and each Unit Owner.

Section 5.09 - Payment of Common Expense Assessments. All expenses assessed under Section 5.04 of this Declaration shall be due and payable at such reasonable time as determined by the Executive Board, but no later than 30 days after notice of the expense has been given to the Unit Owner. All other Common Expense Assessments under this Article 5 of this Declaration shall be due and payable in advance monthly.

Section 5.10 - Acceleration of Common Expense Assessments. In the event of default in which any Unit Owner does not make the payment of any Common Expense Assessment levied against his or her Unit within 10 days of the date due, the Executive Board shall have the right, after Notice and Hearing, to declare all unpaid Common Expense Assessments for the pertinent fiscal year immediately due and payable.

Section 5.11 - Commencement of Common Expense Assessments. Common Expense Assessments for a Unit shall begin with the closing of conveyance of that Unit to a Unit Owner other than the Declarant. At closing, the Unit Owner shall pay the assessment for the remainder of the month of closing plus the assessment for the following month.

Section 5.12 - No Waiver of Liability for Common Expenses. No Unit Owner may become exempt from liability for payment of the Common Expense Assessments by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit against which the Common Expenses Assessments are made.

Section 5.13 - Personal Liability of Unit Owners. The Unit Owner of a Unit, at the time a Common Expense Assessment or portion of the assessment is due and payable, is personally liable for the Common Expense Assessment. Personal liability for the Common Expense Assessment shall not pass to a successor in title to the Unit unless the successor agrees to assume the obligation.

Section 5.14 - Interest and Late Charges. Any assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within ten (10) days after the due date thereof, shall bear interest at the rate as determined by the Executive Board and the Association may assess a late charge thereon. Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Owner's Unit. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien therefor.

Late fees

Section 5.15 - Declaration Enforcement Amount. The Declarant shall require the first Owner of each Unit (other than Declarant) to make a non-refundable payment to the Association in the amount of \$125.00, which sum shall be held, without interest, by the Association for use strictly with respect to enforcement of the Declaration. Said amount shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Unit, as aforesaid, and shall be maintained for the use and benefit of the Association, solely for the costs and fees incurred in enforcement of the Declaration. Such payment shall not relieve a Unit Owner from making regular payments of Assessments as the same become due.

Section 5.16 - Working Capital. A working capital fund is to be established in the amount of \$300.00 per Unit for all Units. Upon the closing of the first sale of the Unit by Declarant, the Unit purchaser shall pay \$200.00 and the Declarant shall pay \$100.00 for deposit to the working capital fund. Such payment shall not relieve the Unit Owner or Declarant from the obligation to pay Assessments or any other obligation. Any amounts paid into the fund shall not be considered as advance payment of assessments. Each Unit's share of the working capital fund may be collected and then contributed to the Association by the Declarant at the time the sale of the Unit is closed or at the termination of Declarant control. Until paid to the Association, the contribution to the working capital fund shall be considered an unpaid Common Expense Assessment, with a lien on the Declarant's unsold Units pursuant to the Act. Until termination of Declarant control of the Executive Board, the working capital shall be deposited without interest in a segregated fund. While the Declarant is in control of the Executive Board, the Declarant cannot

use any of the working capital funds to defray its expenses, reserve contributions or construction costs or to make up budget deficits.

Section 5.17 - Reserves. As a part of the adoption of the regular budget the Executive Board shall include an amount which, in its reasonable business judgment, will establish and maintain an adequate reserve fund for the replacement of improvements to the Common Elements and those Limited Common Elements that it is obligated to maintain, based upon the project's age, remaining life and the quantity and replacement cost of major Common Elements improvements.

#### ARTICLE 6.00 - LIMITED COMMON ELEMENTS.

Section 6.01 - Definition. A "Limited Common Element" means a portion of the Common Elements, designated in this Declaration, the plats or maps, or the Act, for the exclusive use of at least one but fewer than all of the Units. 5

Section 6.02 - Reservation of Right to Allocate. The Declarant reserves the right to allocate specified areas which constitute a part of these Common Elements as Limited Common Elements for the exclusive use of the owners of Units to which these specified areas shall become appurtenant. The Declarant may assign such Common Elements as Limited Common Element areas pursuant to the provisions of section 38-33.3-208 of the Act: (a) by making such an allocation in a recorded instrument or in the deed to the Unit to which such Limited Common Element shall be appurtenant; or (b) by recording an appropriate amendment or supplement to this Declaration. Such allocations by the Declarant may be to Units owned by the Declarant. Subsequent to the Declarant control period, the right of allocation pursuant to this Section shall pass from the Declarant to the Executive Board and the Declarant may not thereafter exercise any such right.

Section 6.03 - Allocation of Specified Common Elements. The Executive Board may designate parts of the Common Elements from time to time for use by less than all of the Unit Owners or by nonowners for specified periods of time or by only those persons paying fees or satisfying other reasonable conditions for use as may be established by the Executive Board. Any such designation by the Executive Board shall not be a sale or disposition of such portions of the Common Elements.

#### ARTICLE 7.00 - SPECIAL DECLARANT RIGHTS.

Section 7.01 - Development Rights and Special Declarant Rights. The Declarant reserves the following Special Declarant Rights for the maximum time limit allowed by law:

- (a) the right to complete or make improvements indicated on the Plats or maps;
- (b) the right to maintain sales offices, management offices and models in Units or on the Common Elements;
- (c) the right to maintain signs except on the sold Units, advertising the community;
- (d) The right to use, and to permit others to use, easements through the Common Elements as may be reasonably necessary for the purposes of making improvements to or within the community and of discharging the Declarant's obligations under the Act and this Declaration;
- (e) the right to appoint or remove any officer of the Association or any Director during the period of Declarant Control as provided in the Documents;
- (f) the right to exercise any Development Right reserved in this Declaration;
- (g) the right to make the community subject to a Master Association;
- (h) the right to merge or consolidate the community with another community of the same form of ownership;
- (i) the right to amend the Declaration in connection with the exercise of any Development Rights; and
- (j) the right to amend the Plats or maps in connection with the exercise of any Development Rights.

Section 7.02 - Additional Reserved Rights. In addition to the Special Declarant Rights set forth above, Declarant also reserves the following additional rights (the "Additional Reserved Rights"):

- (a) the right to establish, from time to time, by dedication or otherwise, utility and other easements for purposes including but not limited to streets, paths, walkways, skiways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions for the benefit of and to serve the Unit Owners within the community;

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(b) the right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulation of parking and recreational facilities, which may or may not be a part of the community for the benefit of the Unit Owners and the Association; and

(c) the right to exercise any Additional Reserved Right created by any other provision of this Declaration.

Section 7.03 - Rights Transferable. Any Special Declarant Right or Additional Reserved Right created or reserved under this Article for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred and recorded in Jefferson County, Colorado, and executed by the Declarant and the transferee.

Section 7.04 - Limitations on Development Rights and Special Declarant Rights. Unless sooner terminated by a recorded instrument signed by the Declarant, any Development Right or Special Declarant Right or Additional Reserved Right may be exercised by the Declarant for the period of time specified in the Act.

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**ARTICLE 8.00 - RESERVATION OF EXPANSION AND DEVELOPMENT RIGHTS.**

Section 8.01 - Expansion Rights. Declarant expressly reserves the right to subject all or any part of the property described in Exhibit C (the "Development Property") to the provisions of this Declaration upon the substantial completion of improvements on the Development Property. The consent of the existing Unit Owners or Mortgagees shall not be required for any such expansion, and Declarant may proceed with such expansion without limitation at its sole option.

Section 8.02 - Development and Withdrawal Rights. Declarant expressly reserves the right to construct additional Units, Common Elements and Limited Common Elements (the "Additional Improvements"), to subdivide Units and to convert Units into Common Elements on all or any portion of the Property reserved for future development in the Declaration or on the Plats or maps. Declarant may exercise its Development Rights on all or any portion of the reserved property in whatever order of development Declarant, in its sole discretion, determines. If all or any part of the Development Property is submitted to this Declaration, this right to reserve property for future development shall apply to such property as well. Declarant expressly reserves the right to withdraw all or any portion of the Property that is reserved for future development in the Declaration or on the Plats or maps from the common interest community by recording a document evidencing such withdrawal in the office of the Clerk and Recorder of Jefferson County, Colorado; provided, however, that no portion of the Property may be withdrawn after a Unit in that portion of the Property has been conveyed to a Purchaser. The property withdrawn from the common interest community shall be subject to whatever easements, if any, are reasonably necessary for access to or operation of the common interest community. Declarant shall prepare and record in the office of the Clerk and Recorder of Jefferson County, Colorado, whatever documents are necessary to evidence such easements and shall amend the appropriate Exhibit of the Declaration to include reference to the recorded easement.

Section 8.03 - Amendment of the Declaration. If Declarant elects to submit the Development Property, or any part thereof, or Additional Improvements, to this Declaration, or to subdivide or to convert Units at such time as construction of the improvements on the Development Property or the Additional Improvements are substantially complete, Declarant shall record an Amendment to the Declaration reallocating the Allocated Interests so that the Allocated Interests appurtenant to each Unit will be apportioned according to the total number of Units submitted to the Declaration. The Allocated Interests appurtenant to each Unit in the common interest community, as expanded, shall be calculated based on the formula of Article 5.00 of this Declaration.

The Amendment to the Declaration shall contain at a minimum the legal description of the Development Property, or a part thereof, or a description of the Property on which the Additional Improvements being submitted to this Declaration are located and a schedule of the Allocated Interests appurtenant to the Units in the common interest community, as expanded.

Section 8.04 - Amendment of the Plats or Maps. Declarant shall, contemporaneously with the Amendment of the Declaration, file an Amendment of the Plats or maps showing the location of the Additional Improvements constructed on the Development Property. The Amendment to the Plats or maps shall substantially conform to the requirements contained in this Declaration.

Section 8.05 - Interpretation. Recording of amendments to the Declaration and Plats or maps in the office of the Clerk and Recorder of Jefferson County, Colorado, shall automatically:

- (a) Vest in each existing Unit Owner the reallocated Allocated Interests appurtenant to his or her Unit; and
- (b) Vest in each existing Mortgagee a perfected security interest in the reallocated Allocated Interests appurtenant to the encumbered Unit.

Upon the recording of an Amendment to the Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Property, as expanded. The Development Property, or any part thereof, or the Additional Improvements, shall be added to and become a part of the Property for all purposes. All conveyances of Units after such Expansion shall be effective to transfer rights in all Common Elements as expanded, whether or not reference is made to any Amendment to the Declaration or Plats or maps. Reference

to the Declaration and Plats or maps in any instrument shall be deemed to include all Amendments to the Declaration and Plats or maps without specific reference thereto.

Section 8.06 - Maximum Number of Units. The maximum number of Units in the common interest community shall not exceed twenty two (22) Units or the maximum number of Units allowed by any governmental entity having jurisdiction over the Property, pursuant to any development plan for the Property and the Development Property. Declarant shall not be obligated to expand the common interest community beyond the number of Units initially submitted to this Declaration.

Section 8.07 - Construction. The buildings, structures and types of improvements to be placed on the Property or the Development Property or any part thereof shall be of a quality equal to or better than the improvements previously constructed on the Property, but need not be of the same size, style or configuration. The improvements may be located anywhere on the Property reserved for future development or on the Development Property. 7

Section 8.08 - Construction Easement. Declarant expressly reserves the right to perform warranty work, and repairs and construction work and to store materials in secure areas, in Units and in Common Elements, and the future right to control such work and repairs, and the right of access thereto, until its completion. All work may be performed by Declarant without the consent or approval of any Unit Owner or Mortgagee. Declarant has and shall have such an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations and exercising Declarant's reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the land not designated as reserved for future development in the Declaration or on the Plats or maps for the purpose of furnishing utility and other services to building and improvements to be constructed on the property so reserved for future development. Declarant's reserved construction easement includes the right to grant easements to public utility companies and to convey improvements within those easements anywhere in the Common Elements not occupied by an improvement containing Units. If Declarant grants any such easements, the appropriate Exhibits to the Declaration will be amended to include reference to the recorded easement.

Section 8.09 - Reciprocal Easements. If all or part of the Development Property is not submitted to this Declaration, or if property is withdrawn from the common interest community ("Withdrawn Property"):

(a) the Unit Owner(s) of the Development Property and/or Withdrawn Property shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the common interest community; and

(b) the Unit Owner(s) in the common interest community shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the Development Property and Withdrawn Property.

Declarant shall prepare and record in the office of the Clerk and Recorder of Jefferson County, Colorado, whatever documents are necessary to evidence such easements and shall amend the appropriate Exhibits to the Declaration to include reference to the recorded easement(s). Such recorded easement(s) shall specify that the Unit Owners of the Development Property and the Withdrawn Property and the Unit Owners in the common interest community shall be obligated to pay a proportionate share of the cost of the operation and maintenance of any easements utilized by either one of them on the other's property upon such reasonable basis as the Declarant shall establish in the easement(s). Preparation and recordation by Declarant of an easement pursuant to this Section shall conclusively determine the existence, location and extent of the reciprocal easements that are necessary or desirable as contemplated by this Section.

Section 8.10 - Termination of Expansion and Development Rights. The expansion and development rights reserved to Declarant, for itself, its successors and assigns, shall expire ten years from the date of recording this Declaration, unless the expansion and development rights are (a) extended as allowed by law or (b) reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Executive Board of the Association may impose on the subsequent exercise of the expansion and development rights by Declarant.

Section 8.11 - Transfer of Expansion and Development Rights. Any Special Declarant Rights or Additional Reserved Rights created or reserved under this Article for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred and recorded in Jefferson County, Colorado. Such instrument shall be executed by the transferor Declarant and the transferee.

#### ARTICLE 9.00 - ALLOCATED INTERESTS.

Section 9.01 - Common Expenses. Each Unit shall be liable for the Common Expenses of Youngstown Terrace in the percentage set forth in Exhibit B, as calculated in accordance with the formula set forth in Article 5.00 of this Declaration.

Section 9.02 - Common Elements. Each Unit shall be entitled to an undivided interest in the Common Elements of Youngstown Terrace in the percentage set forth in Exhibit B, as calculated in accordance with the formula set forth in article 5.00 of this Declaration.

**Section 9.03 - Association Votes.** Each Unit in the common interest community shall be entitled to one vote on each issue to be voted on by Members of the Association, as more specifically provided and set forth in Article 5.00 of the Articles of Incorporation of the Association.

#### ARTICLE 10.00 - RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY

**Section 10.01 - Use and Occupancy Restrictions.** Subject to the Development Rights and Special Declarant Rights reserved by the Declarant, the following use restrictions apply to all Units and to the Common Elements:

- (a) No Unit may be used for other than residential, single family purposes. In-home offices may be established, subject to compliance with the Arvada City Code, except that there may be no users of any in-home office except the full time residents of the home.
- (b) No Unit may be subdivided except by the Declarant. 8
- (c) The following are prohibited:
  - (i) animal kennels
  - (ii) chickens, turkeys, guineas, fowl, swine, bees, cows, donkeys, and exotic wildlife.
  - (iii) warehousing, storage for hire, fabricating, or commercial operations.
- (d) Nuisance or obnoxious activities anywhere within the common interest community are prohibited.
- (e) No vehicles may be parked on the public right-of-way at any time.
- (f) Common Areas must be used in a responsible manner, and noise shall be kept to a minimum.
- (g) Pets must be on leash or on the Unit Owner's property at all times. All City ordinances regarding pets must be complied with and may be strictly enforced. Each Unit Owner shall be personally liable and responsible for prohibiting his or her animals from running free outside of the Unit and from creating any nuisance. Pets
- (h) Lighting fixtures shall be installed so that glare is not directed onto adjacent properties.

**Section 10.02 - Restrictions on Alienation.** A Unit may not be conveyed pursuant to a time-sharing arrangement described in Section 38-33-110 to 113, Colorado Revised Statutes. A Unit may not be leased or rented for a term of less than 60 days. All leases and rental agreements shall be in writing and subject to the reasonable requirements of the Executive Board.

#### ARTICLE 11.00 - INSURANCE

**Section 11.01 - Required Coverage.** At or before the first conveyance of a Unit to a person other than Declarant, the Association shall obtain and maintain, to the extent reasonably available, in accordance with the Act:

- (a) property insurance on the common elements, and on the property which must become a part of the common elements, for broad form covered causes of loss, in the amounts required by the Act; and
- (b) commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the common elements in an amount deemed sufficient by the Executive Board of the Association.

**Section 11.02 - Unavailable or Terminated Coverage.** If the insurance required by Section 11.01 above is not reasonably available or if a policy is canceled or not renewed without a replacement policy having been obtained, the Association shall promptly give written notice of such fact(s) to all Unit Owners by hand-delivery or prepaid United States mail at their last known addresses.

**Section 11.03 - Unit Coverage.** Each Unit Owner shall obtain and maintain broad form property and liability insurance for his or her Unit.

**Section 11.04 - Policy Terms.** Each insurance policy obtained and maintained by the Association shall contain the terms and provide for loss or claim adjustment as set forth in the Act.

**Section 11.05 - Optional Coverages.** The Association may obtain and maintain the following coverages:

- (a) fidelity insurance for any person who handles or is responsible for the funds of the Association;
- (b) directors' and officers' liability insurance; and

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(c) such other insurance which the Executive Board deems reasonably appropriate for the protection of the Association and its Members.

Section 11.06 - Premiums. All insurance premiums paid by the Association shall be deemed to be an Administrative Common Expense and apportioned as provided in Article 5.00 of the Declaration.

Section 11.07 - Duty to Restore. A portion of the common interest community for which insurance is required under the Act or for which insurance carried by the Association is in effect, whichever is more extensive, that is damaged or destroyed, must be repaired or replaced promptly by the Association unless:

- (a) the common interest community is terminated; or
- (b) repair or replacement would be illegal under a state statute or municipal ordinance governing health or safety; or
- (c) eighty percent (80%) of the Unit Owners, including each owner of a Unit or assigned Limited Common Element that will not be rebuilt, vote not to rebuild.

Section 11.08 - Cost and Plans for Repair. The cost of repair or replacement in excess of insurance proceeds and reserves is an Administrative Common Expense. The property must be repaired and restored in accordance with either the original plans and specifications or other plans and specifications which have been approved by the Executive Board and a majority of Unit Owners.

Section 11.09 - Replacement of Less than Entire Property.

- (a) The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the common interest community.
- (b) Except to the extent that other persons will be distributees:
  - (i) the insurance proceeds attributable to a Unit and Limited Common Elements that are not rebuilt must be distributed to the owner of the Unit and the owner of the Unit to which the Limited Common Elements were allocated, or to lien holders, as their interests may appear; and
  - (ii) the remainder of the proceeds must be distributed to each Unit Owner or lien holder, as their interests may appear, in their Administrative Common Expense Assessment percentages.
- (c) If the Unit Owners vote not to rebuild a Unit, the Allocated Interests of the Unit are reallocated upon the vote as if the Unit had been condemned under Section 38-33.3-107 of the Act, and the Association promptly shall prepare, execute and record an amendment to the Declaration reflecting the reallocation.

Section 11.10 - Insurance Proceeds. The Executive Board of the Association, acting by the President, shall hold any insurance proceeds in trust for the Association, Unit Owners and lien holders as their interests may appear. Subject to the provisions of Section 11.07 of this Declaration, the proceeds shall be disbursed first for the repair or restoration of the damaged Property. The Association, Unit Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus after the Property has been completely repaired or restored, or unless the common interest community is terminated.

**ARTICLE 12.00 - EASEMENTS AND LICENSES**

All easements and licenses to which the common interest community is presently subject are recited in the Documents. In addition, the common interest community may be subject to other easements or licenses granted by the Declarant pursuant to Articles 7.00 and 8.00 of this Declaration.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this 16 day of January, 1997.

WYCOLFF CONSTRUCTION, INC.

*Thomas M. Sloan*  
By Thomas M. Sloan, President

STATE OF COLORADO

COUNTY OF JEFFERSON

Subscribed and sworn to before me on this 16th day of January, 1997.

My commission expires: 1-2-2001



*James M. Bradley*  
Notary Public

EXHIBIT A  
DESCRIPTION OF LAND

Phase I: Units 1 through 18

Lot 1, Block 1,  
Youngstown Terrace Subdivision,  
FKA: Estes Townhomes  
County of Jefferson,  
State of Colorado.

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## EXHIBIT B

## TABLE OF INTERESTS

<u>Unit</u>	<u>Percentage share of Common Expenses and of Common Elements</u>	<u>Vote in the affairs in Association</u>
Phase I		
Unit 1 6270 A Everett Court	12.50%	1
Unit 2 6270 B Everett Court	12.50	1
Unit 3 6270 C Everett Court	12.50	1
Unit 4 6270 D Everett Court	12.50	1
Unit 5 6260 A Everett Court	12.50	1
Unit 6 6260 B Everett Court	12.50	1
Unit 7 6260 C Everett Court	12.50	1
Unit 8 6260 D Everett Court	12.50	1
	<hr/> 100.00%	<hr/> 8

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EXHIBIT C  
DEVELOPMENT PROPERTY

Phases II and III: Units 9 through 22

Lot 1, Block 1,  
Youngstown Terrace Subdivision,  
FKA: Estes Townhomes  
County of Jefferson,  
State of Colorado.

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SECOND AMENDMENT TO THE DECLARATION OF THE CONDOMINIUM OF YOUNGSTOWN TERRACE

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THIS SECOND AMENDMENT TO THE DECLARATION OF THE CONDOMINIUM OF YOUNGSTOWN TERRACE is made this \_\_\_ day of \_\_\_\_\_, 1997, by Wycolff Construction, Inc., a Colorado corporation, with an office at 6428B Newcombe Street, Arvada, Colorado ("Declarant").

WHEREAS, Declarant recorded with the Clerk and Recorder of Jefferson County, Colorado: the Condominium Declaration of Youngstown Terrace ("Declaration") on January 17, 1997, at Reception No. F0359269; and

WHEREAS, Declarant desires to submit additional portions of the Development Property to the Declaration;

NOW THEREFORE, the Declarant states and declares as follows: 1. This Amendment concerns the Condominium of Youngstown Terrace, which contains real property located in the County of Jefferson, State of Colorado, more particularly described as a certain parcel of land:

Lot 1, Block 1, Youngstown Terrace Subdivision,  
FKA: Estes Townhomes,  
County of Jefferson, State of Colorado.

2. Declarant hereby amends Section 4.01 of the Declaration to increase the number of Units in the planned community from eight (8) to fourteen (14).

3. Declarant hereby amends Exhibit B of the Declaration, in accordance with Exhibit B attached to this Second Amendment and made a part hereof, listing the additional Units and calculating the allocated interests and votes of all Units pursuant to Article 5.00 of the Declaration.

IN WITNESS WHEREOF, the Declarant has caused this Second Amendment to be executed by Thomas M. Sloan, as President, of the Declarant Wycolff Construction, Inc. a Colorado corporation.

WYCOLFF CONSTRUCTION, INC.

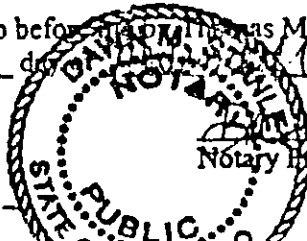
*Thomas M. Sloan*  
By: Thomas M. Sloan, President

STATE OF COLORADO )  
 ) ss.  
COUNTY OF JEFFERSON )

Subscribed and sworn to before me by Thomas M. Sloan, as President of Wycolff Construction, Inc., a Colorado corporation, this 9th day of February, 1997.

My Commission Expires:

1-2-2001



*Thomas M. Stanley*  
Notary Public

RECEPTION NO. F0550852

**EXHIBIT B**

**Table of Interests**

<b>Unit</b>	<b>Percentage share of Common Expenses and of Common Elements</b>	<b>Vote in the affairs in Association</b>
<b>Phase I</b>		
Unit 1 6270 A Everett Court	7.143%	1
Unit 2 6270 B Everett Court	7.143%	1
Unit 3 6270 C Everett Court	7.143%	1
Unit 4 6270 D Everett Court	7.143%	1
Unit 5 6260 A Everett Court	7.143%	1
Unit 6 6260 B Everett Court	7.143%	1
Unit 7 6260 C Everett Court	7.143%	1
Unit 8 6260 D Everett Court	7.143%	1
<b>Phase II</b>		
Unit 9 6250 A Everett Court	7.143%	1
Unit 10 6250 B Everett Court	7.143%	1
Unit 11 6250 C Everett Court	7.143%	1
Unit 12 6250 D Everett Court	7.143%	1
Unit 13 6250 E Everett Court	7.143%	1
Unit 14 6250 F Everett Court	<u>7.143%</u>	<u>1</u>
	100%	14



## EXHIBIT B

### Table of Interests

Unit	Percentage share of Common Expenses and of Common Elements	Vote in the affairs in Association
Phase I		
Unit 1 6270 A Everett Court	4.546%	1
Unit 2 6270 B Everett Court	4.546%	1
Unit 3 6270 C Everett Court	4.546%	1
Unit 4 6270 D Everett Court	4.546%	1
Unit 5 6260 A Everett Court	4.546%	1
Unit 6 6260 B Everett Court	4.546%	1
Unit 7 6260 C Everett Court	4.546%	1
Unit 8 6260 D Everett Court	4.546%	1
Phase II		
Unit 9 6250 A Everett Court	4.546%	1
Unit 10 6250 B Everett Court	4.546%	1
Unit 11 6250 C Everett Court	4.546%	1
Unit 12 6250 D Everett Court	4.546%	1
Unit 13 6250 E Everett Court	4.546%	1
Unit 14 6250 F Everett Court	4.546%	1
Phase III		
Unit 15 6240 A Everett Court	4.546%	1
Unit 16 6240 B Everett Court	4.546%	1
Unit 17 6240 C Everett Court	4.546%	1
Unit 18 6240 D Everett Court	4.546%	1
Unit 19 6240 E Everett Court	4.546%	1
Unit 20 6240 F Everett Court	4.546%	1
Unit 21 6240 G Everett Court	4.546%	1
Unit 22 6240 H Everett Court	4.546%	1
	<u>4.546%</u>	<u>1</u>
	100%	22

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