

ORIGINAL

BOOK 1238 PAGE 3800

BY-LAWS  
OF  
THE TIMBERS HOMEOWNERS  
ASSOCIATION

ARTICLE I.

NAME AND LOCATION.

The name of the corporation is The Timbers Homeowners Association, hereinafter referred to as the "Association." The principal office of the corporation shall be located at 2108 Broadwater Ave., Billings, Montana but meetings of members and directors may be held at such places within the State of Montana, County of Yellowstone, as may designated by the Board of Directors.

ARTICLE II.

DEFINITIONS

Section 1. "Association" shall mean and refer to The Timbers Homeowners Association, a non-profit corporation, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described as Lot 1, Block 28, Harvest Subdivision, Third Filing, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property (including improvements thereto) owned by the members of the Association and designated in the Declaration of Unit Ownership for Sunshine West Townhomes as the Common Elements for the common use and enjoyment of the Owners.

Section 4. "Lot" shall mean each unit of an attached single family townhouse as defined under the Declaration of Unit Ownership for The Timbers Townhomes, placed of record in the office of the Yellowstone County Clerk and Recorder, with the exception of the Common Areas.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Declarant" shall mean and refer to Out West Construction, Inc., a Montana corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Declarations" shall mean and refer to the Declaration of Unit Ownership and the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Yellowstone County Clerk and Recorder.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

Section 9. "Unit" shall mean each attached single family townhouse unit as identified by the building permit for the construction of the same plus 400 square feet of individual yard, which shall go with the same subject to an easement for utilities.

Section 10. "Architectural Control Committee" shall mean the committee created pursuant to Article VII of the Declaration of Covenants, Conditions and Restrictions.

ARTICLE III.

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MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 7 o'clock P.m. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of Association.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast one-tenth (1/10) of the votes of each class of the membership shall constitute a quorum for any action except as otherwise provided in the Articles of

Incorporation, the Declarations, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary before the appointed time of the meeting. Proxies are valid only for the particular meeting designated. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

#### ARTICLE IV.

##### BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of five (5) directors, all of whom shall be members of the Association.

Section 2. Term of Office. At the first annual meeting the members shall elect five directors for a term of one year. The term of each director shall expire annually whereupon the Association shall hold a meeting to elect directors.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expense incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

#### ARTICLE V.

##### NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or

their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

#### ARTICLE VI.

##### MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any three directors, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

#### ARTICLE VII

##### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

- (a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;
- (c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-laws, the Articles of Incorporation, or the Declarations;
- (d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- (e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;
- (b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
- (c) as more fully provided in the Declarations, to:
  - (i) fix the amount of the annual assessment, which shall be paid in monthly installments, against each lot at least thirty (30) days in advance of each annual assessment period;
  - (ii) send written notice of each monthly installation assessment to every owner subject thereto at least ten (10) days in advance of each annual monthly installment period; and

- (iii) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.
- (d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) procure and maintain adequate liability and hazard insurance on the property if this responsibility is not delegated to the individual owners.
- (f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- (g) cause the Common Area to be maintained;
- (h) cause the exterior of the buildings to be maintained.

#### ARTICLE VIII.

##### OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.



Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all written instruments and shall co-sign all checks and promissory notes.

Vice-President

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(b) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE IX.

COMMITTEES

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The Association shall appoint an Architectural Control Committee, as provided in the Declarations, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE X.

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declarations, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at a reasonable cost.

ARTICLE XI.

ASSESSMENTS

As more fully provided in the Declarations, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the

date of delinquency at the rate of 10 percent (10%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

#### ARTICLE XII.

##### CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: The Timbers Homeowners Association.

#### ARTICLE XIII.

##### AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments so long as a contract of mortgage insurance continues in effect with respect to a lot or property located in the project.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration of Covenants, Conditions and Restrictions or the Declaration of Unit Ownership and these By-Laws, the Declarations shall control; and in the case of any conflict the Declaration of Covenants, Conditions and Restrictions and the Declaration of Unit Ownership, the Declaration of Unit Ownership shall control.

ARTICLE XIV.

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MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of eve. year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the directors of the Sunshine West Homeowners Association, have hereunto set our hands this

6TH day of AUGUST, 1980.

THE TIMBERS HOMEOWNERS ASSOCIATION

By Out West Construction Inc.

Allen A. Althoff president.

STATE OF MONTANA )  
: ss.  
County of Yellowstone )

On this 6TH day of AUGUST, 1980, before me, a Notary Public for the State of Montana, personally appeared ALLEN A. ALTHOFF, known to me to be a director of The Timbers Homeowners Association, whose name is subscribed to the foregoing instrument and acknowledged to me that HE executed the same.

Robert A. Henkel  
Notary Public for the State of Montana  
Residing at Billings, Montana.  
My commission expires 21 APRIL 1981

(SEAL)

STATE OF MONTANA )  
: ss.  
County of Yellowstone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1981, before me, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_, known to me to be a director of \_\_\_\_\_

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The Timbers Homeowners Association, whose name is subscribed to the foregoing instrument and acknowledged to me that \_\_\_\_\_ executed the same.

Notary Public for the State of Montana  
Residing at Billings, Montana  
My commission expires \_\_\_\_\_

(SEAL)

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting secretary of the  
The Timbers Homeowners Association, a Montana corporation, and,

That the foregoing By-Laws constitute the original By-Laws of  
said Association, as duly adopted at a meeting of the Board of  
Directors thereof, held on the 6TH day of AUGUST, 1989.

IN WITNESS WHEREOF, I have hereunto subscribed my name and  
affixed the seal of said Association this 6TH day of AUGUST,  
1989.

Stuart Henkel

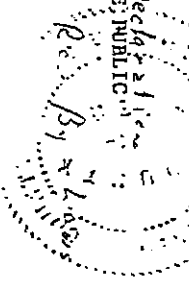
Secretary

1237216

BY LAWS

*Timberline Construction*  
OUT-POST CONSTRUCTION, INC.,  
a Colorado corporation

TO  
Declarant  
THE PUBLIC



BOOK 1238 PAGE 3814

STATE OF MONTANA ) ss  
County of Yellowstone )

I hereby certify that the within  
instrument was filed in my office  
for record on this 11th  
day of August 19 82  
at 4:20 o'clock P.M. and is  
duly recorded in Book 1238 of  
on page 3800.

Witness my hand and official seal

MERRILL H. KLUNDT

County Clerk & Recorder

By [Signature] Deputy

REB-13294 B-20000

Return to: Stu Henkel  
2108 Broadwater  
Billings, MT





FEB 13 1993

AMENDMENT TO THE BYLAWS

OF

THE TIMBERS TOWNHOMES

The Bylaws of The Timbers Townhomes Association are hereby amended as follows:

1. Article IV, Section 2, Term of Office, is hereby amended to read as follows:

At the meeting immediately following the adoption of this Amendment to the Bylaws, the term of office of two of the Directors shall be fixed for one year, the term of office for two of the Directors shall be fixed for two years, and the term of office for one Director shall be fixed for three years. At the expiration of these initial terms for each respective Director, his or her successor shall be elected to serve a term of three years. The Directors shall hold their offices until their successors have been elected and hold their first meeting.

2. Article VIII, Section 3(d) is revised to read as follows:

The Treasurer, or the Manager, if one is employed by the Board of Directors, shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by a Resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account, and shall prepare an annual budget and a statement of income and expenses to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

IN WITNESS WHEREOF, we, being all of the Directors of The Timbers Townhomes Association, have hereunto set out hands this

15 day of May, 1993.

THE TIMBERS TOWNHOMES ASSOCIATION

By [Signature]

1st President

SECRET:

[Signature]  
Secretary

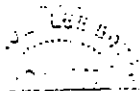
Unit P-8, The Timbers Townhomes, a townhome located on 101 1/2 North 18, Harvest Subdivision, Third Flina, The Timbers Townhomes, in the City of Billings, Montana, according to the official plat thereof on file and in record in the office of the Clerk and Recorder of said YELLOWSTONE COUNTY, together with an undivided interest in the General Common Elements of said townhome, as the said Unit, General Common Elements are established, defined, and identified in the Declaration of Unit Ownership of The Timbers Townhomes recorded August 11, 1987 in Book 1285, page 3513, and in the 1987 records of YELLOWSTONE COUNTY, Montana. The use of the unit and the interest conveyed to the grantors shall be for residential purposes only. The Timbers Townhomes Association claims a lien on all right, title, and interest, and the interest conveyed to the above described unit and the Timbers Townhomes:  
Page 1 of 2

STATE OF MONTANA )

: ss.-

County of Yellowstone )

On this 14th day of May, 1993, before me, a Notary Public for the State of Montana, personally appeared Russell R. Baker, known to me to be the President of The Timbers Townhomes Association, the corporation that executed the foregoing instrument and acknowledged to me that such corporation executed the same.



(SEAL)

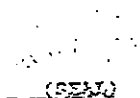
Charles R. Baker  
Notary Public for the State of Montana  
Residing at Billings, Montana  
My Commission Expires: 4-30-95

STATE OF MONTANA )

: ss.

County of Yellowstone )

On this 15th day of May, 1993, before me, a Notary Public for the State of Montana, personally appeared Robert L. Baker, known to me to be the Secretary of The Timbers Townhomes Association, the corporation that executed the foregoing instrument and acknowledged to me that such corporation executed the same.



(SEAL)

Robert L. Baker  
Notary Public for the State of Montana  
Residing at Billings, Montana  
My Commission Expires: 4-30-95

#### CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting secretary of The Timbers Homeowners Association, a Montana corporation, and that the foregoing Amendment to Bylaws have been adopted by a vote of a majority of the quorum of members present in person or by proxy at a duly called meeting of the members of The Timbers Homeowners Association, and the Federal Housing Administration and the Veterans Administration have been given notice of this Amendment and have not waived a right of vote to the Amendment.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 14th day of

May, 1993.

Robert L. Baker  
Secretary

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The following additions are to be added to the Declaration of Covenants, Conditions and Restrictions as approved at the 2-26-85 meeting of The Timbers Townhomes Association, Inc.: Book 1287, page 3785.

Article X, e.

Only one pet (cat or dog) per unit, and said animal to weigh no more than fifteen (15) pounds. This is not to affect homeowners on record of 2-26-85 who may own more than one pet or a pet that weighs more than fifteen pounds.

The following changes were approved at the 2-25-86 meeting of The Timbers Townhomes Association, Inc., and are to be added to the Declaration of Covenants, Conditions and Restrictions:

Article VI. (Architectural Control)

No hot tub, spa or pool may be installed in the common area or on any homeowner's deck.

The following changes were approved at the 2-25-86 meeting of The Timbers Townhome Association, Inc., and are to be added to the By-Laws of the Timbers Homeowners Association: Original recorded Book 1237 Page 2300

Article IV, 4 (Compensation)

The sum of \$75.00 per month will be paid to the Treasurer of the Association for performance of required duties. This sum will be reviewed annually at the association meeting.

DATED this 24 day of September, 1986.

THE TIMBERS HOMEOWNERS  
ASSOCIATION, INC.

Ellen Feldman  
By, Ellen Feldman  
Its Vice President

STATE OF MONTANA

County of Yellowstone

: ss.

On this 24<sup>th</sup> day of September, 1986, before me, a Notary Public for the State of Montana, personally appeared ELLEN FELDMAN, who represented herself to me to be the Vice President of The Timbers Homeowners Association, Inc., the corporation that executed the foregoing instrument, and acknowledged to me that the said corporation executed the same.



James Cronan  
Notary Public for the State of Montana  
Residing at Billings, Montana  
My Commission expires: 3/10/89

The Timbers Homeowners Association

Rule Regarding Pets in the Common Areas  
(effective June 1, 1987)

No homeowner or their guest or renter shall keep their dog tied up outside of the units, including the deck areas. Dogs and cats must be under the direct supervision of the owner when outside the units. Dogs must be on a leash. Owners are also responsible for cleaning up after their dog on a daily basis.

Failure to comply with the above rule will result in the following actions by the board:

- First violation - The board will contact the owner and request that they comply with the rule.
- Second violation - The board will notify the owner in writing that they are in violation of the rule and notice will be given that a fine of ten (10) dollars will be assessed for further violations.
- Third and subsequent violations - The board will notify the owner that a fine of ten (10) dollars has been assessed to the owner for each of the third and subsequent violations.

Homeowners can appeal their fine to the board up to thirty (30) days after they have been notified of the fine. If the appeal is rejected, the owner has ten (10) days to pay the fine before a lien is filed on their property for the amount of the fine.

Note: Please file this page with your copy of the Bylaws, Covenants and Restrictions of the Timbers Homeowners Association.



ORIGINAL

DECLARATION OF UNIT OWNERSHIP

ACC:1238 INT:3831

FOR

THE TIMBERS TOWNHOMES

The undersigned, Out West Construction, Inc., a Colorado corporation, which is the owner of the land and buildings hereinafter described, hereinafter called "Grantor," in order to subdivide said property into separate units, pursuant to Chapter 23 of Title 70 of the Montana Code Annotated, hereby establishes and declares on behalf of itself, its heirs and assigns, that the property hereinafter described from and after the date of the recording of this Declaration in the office of the Clerk and Recorder of Yellowstone County, Montana, shall be and continue subject to each and all of the terms hereof until this Declaration is terminated or abandoned as hereinafter provided.

1. DEFINITIONS. Unless the context expressly provides otherwise, the following definitions shall pertain throughout this Declaration and in the interpretation thereof:

- (a) Association means all of the Unit Owners acting as a group known as The Timbers Homeowners Association and in accordance with duly adopted bylaws of The Timbers Homeowners Association and this Declaration.
- (b) Board or Board of Directors shall mean the Board of Directors of the Association as more particularly defined in the bylaws.
- (c) Common Elements means both General Common Elements and Limited Common Elements.
- (d) Common Expenses means expenses of administration, maintenance, repair or replacement of Common Elements, expenses agreed upon by the Association of all unit owners, and expenses declared common by Sections 70-23-610 and 70-23-612 MCA.
- (e) General Common Elements means the land specifically described in paragraph 2, except that which is described as part of the Unit in paragraph 3; sidewalks and private roads; installations of central services such as power, light, gas, hot and cold water and waste disposal; and in general apparatus and installations existing for common use and all other elements of the project necessary or convenient to its existence, maintenance and safety, or normally in common use.
- (f) Limited Common Elements are those Common Elements reserved for the use of fewer than all of the residents of the condominium.
- (g) Unit means the separate units of The Timbers Townhomes consisting of a part of the Property, intended for any type of independent use and a direct exit to a public street or highway or to a common area or area leading to a public street or highway, as shown on the Exhibits hereto.

- (h) Owner means the person, partnership or corporation (including the Grantor) owning a Condominium Unit in fee simple absolute or in any real estate tenancy recognized under the laws of Montana.

2. The Grantor will develop this project on an incremental basis in accordance with the paragraph on staged development as hereinafter provided. The Property herein subjected to this Declaration is the following real property situated in Yellowstone County, Montana:

Lot 1, Block 28, Harvest Subdivision, Third Filing, according to the plat thereof on file and of record in the offices of the Clerk and Recorder of Yellowstone County, Montana as Document No. 1122584.

3. The property subject to this Declaration shall be known as Timbers Townhomes. The first increment of Timbers Townhomes shall consist of twelve units. Each unit consists of an area of real property as shown on Exhibit "A" plus an individual living unit, built in accordance with one of four basic floor plans. The principal construction materials in the living unit are concrete for the foundation and basement walls, wood for the framing, structural and finish work, sheetrock for interior walls, masonite siding for exterior siding, and asphalt shingles for the roof. Each living unit has its own exit to the yard surrounding it, and is therefore capable of individual utilization and may be sold to one or more Unit Owners, each Unit Owner obtaining a particular and exclusive property right thereto, and also an undivided interest in the Common Elements hereinafter described. Each Unit shall be bounded as shown on the attached site map and shall include the real property shown and the space within the horizontal and vertical boundaries as shown on the floor plans attached hereto, subject to such encroachments as are contained in the buildings whether the same exist now or are created the construction settlement or movement of the building or by permissible repair, construction or alteration. The respective units shall be deemed to include the real property shown as part of the unit on the site plan plus the unfinished surfaces of this perimeter or the floors and ceilings surrounding each unit or any pipes, wires, conduits or other utility lines running through each Unit which are utilized for or serve more than one Unit, the same being deemed Common Elements as hereinafter provides. Each Unit shall be deemed to include all walls and partitions which are not load-bearing within its perimeter walls the interior decorated or finished surfaces of all walls, floors, and ceilings, the built-in fixtures including all windows, glass doors and fixtures attached to the building and serving only the single unit in which they are included. For identification and descriptive purposes the following exhibits are attached and by reference hereto incorporated into and made a part of the Declaration:

Exhibit "A":

A site map of the real property showing the Units, including the buildings and other improvements which are to be situated thereon, and the Unit designations.

Exhibit "B":

Basic living unit floor plans used through The Timbers Townhomes showing with particularity the area of each, the number or levels or floors for each living unit, and the vertical elevations.

4. Each condominium unit is comprised of the Unit, the appurtenant undivided interest in the Common Elements appurtenant to



such Units which shall be appurtenant, and may be conveyed, leased, devised or encumbered only as a condominium unit.

Each Unit shall also include each of the following as an inseparable appurtenance thereto, whether or not separately described, conveyed or encumbered:

- (a) An undivided share of the Common Elements as set forth in paragraph 7 of this Declaration.
- (b) Association membership and an undivided interest in the funds and assets held by the Association for the benefit of the Unit Owners. Each Owner of a Unit shall automatically become a member of the Timbers Homeowners Association, hereinafter referred to as "Association," and shall remain a member of said Association until such time as his ownership ceases for any reason, at which time his membership shall automatically cease.
- (c) The following easements:
  - (i) An easement for the benefit of each Unit through the General Common Elements for ingress and egress for all persons making use of such General Common Elements in accordance with the terms of this Declaration and for encroachments (and maintenance thereof) of any portion of a Unit upon the General Common Elements, Limited Common Elements, or upon an adjoining Unit or Units, so long as they stand.
  - (ii) An easement for the benefit of the Common Elements through the Units and the Common Elements for every portion of a Unit which contributes to the structural support of the building shall be burdened with an easement of structural support for the benefit of the Common Elements and for encroachments (and maintenance thereof) of any portion of the General Common Elements or Limited Common Elements upon a Unit or Units so long as they stand.

Such encroachments and easements shall not be considered or determined to be encumbrances either on the General Common Elements, the Limited Common Elements, or on the Units for purposes of marketability of title.

5. No Owner shall bring any action for partition of the Common Elements, it being agreed that this restriction is necessary to preserve the rights of the Owners with respect to the management of the Wheatland Townhomes.

6. Each Unit Owner shall mutually have an eight and one-third percent ( $8 \frac{1}{3}\%$ ) undivided interest in the Common Elements of The Timbers Townhomes. If additional incremental developments are annexed to this project as provided herein, each Unit owner's interest may be reduced to not less than  $1 \frac{1}{4}\%$  undivided interest in the Common Elements of the condominium. The ownership interest of each condominium shall be in equal shares as determined by dividing one(1) by the total number of units which are completed and are part of The Timbers Townhomes. Such percentage shall represent his ownership interest in the Common Elements, his liability for Common Expenses, and the factor of his voting interest in all matters within the province of interest of the respective Owners.

7. The general common elements are as follows:

- (a) The real property described in paragraph 2, except that land which is shown on Exhibit "A" as part of each individual condominium unit, together with all landscaping, plants, sidewalks, those parking spaces which are not designated for use by a particular unit owner, and all other materials installed in the property, except the units.
- (b) The foundation, columns, graders, beams, supports and other structural components of the building, perimeter and interior load bearing walls, water supply lines, lines for gas and electricity, roofs, cables, conduits, utility lines, heating and cooling ducts and equipment, and all other elements necessary for the safety, maintenance and existence of the condominiums.

8. The limited common elements of The Timbers Townhomes are those common elements reserved for fewer than all of the residents, and specifically as to any given unit owner or owners include the exclusive use of the parking space marked with the same number as the owner's unit.

9. The person designated to receive notice of process in cases provided in Section 70-23-901 MCA 1979 is Allen Althoff, c/o Henkel Realty, 2108 Broadwater Avenue, Billings, Montana. Notwithstanding the provisions in paragraph 11, this paragraph may be amended by a resolution approved by a majority of the Owners and filed with the office of the County Clerk and Recorder of Yellowstone County in the manner provided by §70-23-902, MCA.

10. The administration of the Project shall be in accordance with the provisions of this Declaration, the Declaration of Covenants, Conditions and Restrictions and the provisions of the bylaws which are made a part hereof and are attached hereto as Exhibit "C." Each Owner, tenant or occupant of a Unit shall comply with the provisions of the Declarations, the By-laws, decisions and resolutions of the Association or its representatives, as lawfully amended from time to time, and failure to comply with any such provisions, decisions or resolutions shall be grounds for an action to recover sums due, for damages, or for injunctive relief.

11. This Declaration shall not be revoked nor any of the provisions herein amended, except as provided in paragraph 9, unless all of the Owners and their mortgagees and beneficiaries under trust indentures covering the Units unanimously agree to such revocation or amendment by duly recorded instruments.

12. The Association of Unit Owners provided by the bylaws shall levy assessments upon Unit Owners for the purposes and in the manner provided in the bylaws of the Association. No Owner of a Condominium Unit may exempt himself from liability for such assessments for payment of Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his Unit. All sums assessed by the Association but unpaid upon the share of Common Expenses chargeable to any Unit shall constitute a lien on such Unit prior to all other liens except only (a) tax liens on the Condominium Unit in favor of any assessing Governmental Unit or special improvement district and (b) all sums unpaid on the first mortgage or trust indenture of record. Such lien may be foreclosed by

suit by the manager or Board of Directors of the Association, acting on behalf of the owners of the Units, in like manner as a mortgage of real property. The manager or Board of Directors acting on behalf of the Owners of the Units shall have the power to bid on the Condominium Unit at foreclosure sale, and to acquire and hold, lease, rent, mortgage and convey the same. Suit to recover a money judgment for unpaid common expenses shall also be maintainable without foreclosing or waiving the lien securing the same.

Where the mortgagee of a first mortgage of record or other purchaser of a Unit obtains title to the Unit as a result of the foreclosure of the first mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of Common Expenses or assessments by the Association chargeable to such Unit which became due prior to the acquisition of title of such Condominium Unit by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be a Common Expense collectible from all of the Units including such acquirer, his successors or assigns.

13. Grantor, their heirs and assigns, reserve the option to construct at their sole expense, a total of sixteen buildings, containing a total of eighty units, on Lot 1, Block 28, Harvest Subdivision, Third Filing, according to the official plat thereof on file and of record in the office of the Clerk and Recorder of Yellowstone County, Montana in one or more phases subject to the following:

- (a) Grantor, their heirs and assigns, may proceed with such construction, at their sole option, without the consent of the Association or the unit owners, subject to the following conditions:
  - (1) The building or buildings so constructed shall be added to and be included within the condominium property and the jurisdiction of the Association at the time of the first occupancy of each such building or buildings.
  - (2) Prior to the first lease or conveyance of any unit within said building or buildings, Grantor, shall record as an amendment to this Declaration with the office of the Yellowstone County Clerk and Recorder adding such units to this Declaration. The amendment shall include: (i) basic unit floor plans for all units within the building or buildings showing with particularity the area of each, the number of levels or floors for each unit, and vertical elevation; (ii) a site map of the entire condominium project showing the buildings and other improvements situated thereon, the unit designations, and the location and number and types of units contained in each; and (iii) a reallocation of ownership of the undivided interest in the Common Elements described in paragraph 6 based upon a division of the total number of all units then submitted to this Declaration including amendments thereto, divided by 100. (Example, by way of illustration only, a total of 16 units are subject to the Declaration and all amendments thereto, 100 divided by 16 equals 6 2/3, each unit has an 6 2/3 ownership interest.)
  - (3) The building or buildings and units therein shall be constructed of similar materials and compatible

design and be of a similar size to the other units and buildings of The Timbers Condominiums, however, the Grantor reserves the right to change the design, and mix of the units in order to meet the requirements of the market.

- (4) The additional units shall benefit by the easements described in paragraph 4.
  - (5) Grantor covenants that upon commencement of construction of the additional units, will be complete the units and improvements in a timely manner.
  - (6) Owners (including Grantor) of the units in the said building or buildings will have the authority to vote and the responsibility for Common Expenses only upon annexation of said building or buildings to this Declaration by the filing of the required amendment with the office of the Yellowstone County Clerk and Recorder.
- (b) From and after the effective date of the amendment providing for annexation in accordance with the provisions of this paragraph, the following consequences shall ensue:
- (1) The owners of units in the annexed increment or increments shall have nonexclusive rights to use common areas in The Timbers Townhomes to the same extent as that proposed by the owners of units within said areas.
  - (2) The units in each of the annexed increment shall be assessed and shall be entitled to vote in accordance with their ownership interest pursuant to the declaration on the basis of an estimated cash requirement treating all units as one entire project. Notwithstanding the foregoing, however, no units shall be assessed nor shall they have any obligation with respect to another condominium's debts, deficits or obligations in existence at the effective date of the annexation.
  - (3) At the annual meeting of the owners next following the recordation of such amendment and at all subsequent meetings, the Board to be elected shall govern all of the property covered by this Declaration and the amendment providing for annexation. At a special meeting called for the purpose after annexation, the owners may remove the existing board and elect a Board to govern all of the increments until the next annual meeting.
  - (4) For purposes hereof, each of the increments after annexation, shall be treated as a part of a project, developed as a whole from the beginning, except to the extent expressly otherwise provided herein. It is the purpose hereof to provide that from and after the date of the amendment, the increments annexed shall be treated as though they had been developed, divided into units, held, occupied and used by the owners thereof as a single, undivided project.

- (c) Grantor reserves an irrevocable power of attorney, coupled with an interest, for the purpose of reallocating the percentage interests and voting rights appurtenant to each of the Condominium Units in accordance with the provisions of this Declaration and to execute, acknowledge, and deliver said further instruments as may from time to time be required in order to accomplish the purposes of this paragraph. Each Owner and each mortgagee of a Condominium Unit shall be deemed to have acquiesced in the amendments to this Declaration and in amendments to the condominium plat for the purpose of adding additional Condominium Units and Common Elements to the condominium in the manner set forth in this section. Each Owner and each mortgagee of a Condominium Unit shall have granted unto Albert Stu Henkel or Allen Althoff or either of them an irrevocable power of attorney coupled with an interest, to affectuate, execute, acknowledge, and deliver such amendments. Each such Unit Owner and mortgagee shall be deemed to have agreed and covenanted to execute such further instruments if any, as may be required by the Grantor, its successors, or assigns to properly accomplish such amendments.

14. (a) Comprehensive general liability and property damage insurance shall be purchased by the Board of Directors as promptly as possible following its election, and shall be maintained in force at all times, in form and amount satisfactory to mortgagees holding first mortgage, the premiums thereon to be paid out of a separate escrow account of the Association for the payment of insurance premiums as such premiums become due. Prior to the organizational meeting, such insurance shall be procured by Grantor. The insurance shall be carried with reputable companies authorized to do business in the State in such amounts as the Board may determine. The policy or policies shall name as insured all the Owners and the Association. The policy or policies shall insure against loss arising from perils in liability coverage to protect against such liabilities as may arise under the contractual exposures of the Association, and/or the Board.

(b) Fire and other hazard insurance shall be purchased by the Board of Directors as promptly as possible following its election and shall thereafter be maintained in force at all times, the premiums thereon to be paid as common expenses. Prior to the organizational meeting such insurance shall be procured by the grantor. Policies shall provide for the issuance of certificates or such endorsement evidencing the insurance as may be required by the respective mortgagees. The policy or policies shall insure against loss from perils thereon covered to all of the improvements in the Project. Such policy or policies shall contain extended coverage, vandalism, and malicious mischief endorsements. The improvements to be insured under this clause shall be continually insured to replacement value. If reasonably available, the policy or policies shall contain a stipulated amount clause, or determinable cash adjustment clause, or similar clause to permit a cash settlement covering specified value in the event of destruction and a decision not to rebuild. The policy or policies shall name as insured all of the Owners and the Association. The policy or policies shall also cover personal property owned in common, and shall further contain waiver of subrogation rights by the carrier as to negligent owners. Any casualty insurance policy obtained by the Association shall contain a provision prohibiting a reduction in the amount payable under such policy as a result of any casualty insurance proceeds payable to an Owner under a separate policy procured by the Owner.

(c) An Owner may carry such personal insurance, in addition to that herein covered, as he may desire. All such insurance separately carried shall contain waiver of subrogation rights by the carrier as to negligent Owners.

(d) The Board may purchase and maintain in force, as a Common Expense, debris removal insurance, director's liability insurance, fidelity bonds, and other insurance and/or bonds that it deems necessary. The Board shall purchase and maintain workmen's compensation insurance to the extent that the same shall be required by law respecting employees of the corporation.

(e) The Board is hereby appointed the attorney in fact for all owners to negotiate loss adjustment on the policy or policies carried under subparagraphs (a), (b) and (d) above.

(f) In the event of damage or destruction by fire or other casualty affecting a Unit or Units, and/or if any portion of the Common Elements is damaged or destroyed by fire or other casualty, all insurance proceeds paid in satisfaction of claims for said loss or losses shall be segregated according to losses suffered by each Unit or Units and/or the Common Elements and shall be paid to the Association, as trustee for the Owner or Owners and for the encumbrancer or encumbrancers, as their interest may appear. Said insurance proceeds, whether or not subject to liens of mortgages or deeds of trust, and the proceeds of any special assessments as hereinafter provided, shall be collected and disbursed by said trust through a separate trust account on the following terms and conditions:

- (1) Except in the case of substantial damage to or destruction of a majority of the buildings subject to this Declaration, all damaged or destroyed Common Elements and Units shall be repaired or rebuilt, and the Board shall immediately contract to repair or rebuild the damaged portions of the Unit or Units and the Common Elements substantially in accordance with the original plans and specifications thereof.
- (2) In the event of substantial damage to, or destruction of the buildings subject to this Declaration, if the cost of repair or rebuilding the damaged or destroyed portion of the Common Elements exceeds the amount of available insurance proceeds for said loss by more than \$32,000.00, the Owners of the individual Units, by vote of not less than 80% of those entitled to vote, in person or by proxy, and 75% of the eligible holders of first mortgages to the units which are mortgaged at a duly constituted Owners' meeting held within sixty days from the date of such damage or destruction, shall determine whether the Board shall be authorized to proceed with the repair or reconstruction, or whether Wheatland Townhomes shall be sold.

In the event of a determination to rebuild or repair, the Board shall have prepared the necessary plans, specifications, and maps, and shall execute the necessary documents to effect such reconstruction or repair as promptly as practicable and in a lawful and workmanlike manner.

In the event of a determination not to rebuild, the project shall be considered removed from the Unit Ownership Act as provided in 870-23-803, MCA, and the Board shall offer the property for sale forthwith at the highest and best price obtainable, either in its damaged condition, or after damaged structures have been razed. The net proceeds of such sale, and the proceeds, if any, of insurance carried by the Association, and/or by the owners as a whole on the project, including coverage on the Units and the Common Elements, shall be distributed to the owners in the proportions set out in paragraph 6 of this Declaration. The balance then due on any individual encumbrance executed in good faith and for value shall be first paid before the distribution of any proceeds to the owner whose Unit is so encumbered.

- (3) In the event that Common Elements or Unit or Units are repaired or reconstructed pursuant to the provisions of subparagraph (1) or (2) of this subparagraph (f) and there is a deficiency between the insurance proceeds paid for the damage to the Common Elements or Unit and Units and the contract price for repairing or rebuilding the General Common Elements, Limited Common Elements, Unit or Units, the Board shall levy a special assessment to make up such deficiency. All such assessments shall be in proportion to the owner's percentage of ownership of General Common Elements or Limited Common Elements as set forth in paragraphs 5 and 6. If any owner shall fail to pay said special assessments within thirty (30) days after the levy thereof, the Board shall make up the deficiency by paying from the fund for Common Expenses and the remaining owners shall be entitled to the same remedies as those provided in paragraph 13 of this Declaration, covering a default of any owner in the payment of assessments for Common Expenses.
- (4) In the event the estimated cost of repair or reconstruction exceeds the total of the annual assessments for Common Expenses made during the year in which the casualty occurred, whether or not all or any part of said cost is covered by the insurance proceeds, or upon request of a mortgagee which is the beneficiary of an insurance policy, the proceeds of which are included in the construction fund, the monies deposited in the special trust account hereinabove referred to shall be disbursed for the purpose of said repair or reconstruction. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds and if there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund was established, such balance shall be distributed jointly to the Unit owners and their mortgagees who are the beneficial owners of the fund.
- (5) In the event of a dispute among the owners and/or mortgagees respecting the provisions of this subparagraph, any such party may cause the same

to be referred to arbitration in accordance with the then prevailing rules of the American Arbitration Association.

In the event of arbitration, the party requesting the arbitration will give immediate notice thereof to the Board, which shall notify all other owners and mortgagees as promptly as possible after the reference to arbitration is made, giving all such parties an opportunity to appear at such arbitration proceedings. The decision of the arbitrator in this matter shall be final and conclusive upon all of the parties. The arbitrator may include in his determination an award for costs and/or attorneys fees against any one or more parties to the arbitration.

(g) The Board is authorized to provide coverage for payment of maintenance charges which are abated hereunder in behalf of an owner whose Unit is rendered uninhabitable by a peril insured against. Maximum period of abatement may not exceed four months.

(h) Insurance coverage will be analyzed by the Board, or its representative, at least every year from the date hereof and the insurance program revised accordingly.

15. Each Unit Owner, his successors and assigns, shall be governed by and shall comply with the terms of this Declaration as adopted under Chapter 23 of Title 70 of the Montana Code Annotated and bylaws and regulations adopted pursuant thereto, and such bylaws and regulations as they may be amended from time to time. Failure to comply with any of the terms of the Declaration, bylaws or regulations adopted pursuant thereto, shall be ground for relief which may include, without intending to limit the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien or any combination thereof, and which relief may be sought by the Association or if appropriate, by an aggrieved Unit Owner. In any proceeding arising because of an alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be determined by the court. The failure of the Association or of a Unit Owner to enforce any right, provision, covenant or condition which may be granted by the declaration or bylaws shall not constitute a waiver of the right of the Association or Unit Owner to enforce such right, provisions, covenant or condition in the future. All rights, remedies and privileges granted to the Association or a Unit Owner pursuant to any terms, provisions, covenants or conditions of the Declaration or bylaws shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such party by the declaration, bylaws or law or in equity.

16. All Unit Owners shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association; provided that nothing herein contained shall be construed to modify any waiver by insurance companies of rights of subrogation.



17. The grantor covenants that each Unit sold shall be free and clear of all liens.

18. All provisions of this Declaration and of the bylaws validly adopted pursuant hereto, shall be construed to be covenants running with the land and with every part thereof and interest therein including but not limited to every Unit and every Unit Owner and claimant of the property or any part thereof or interest therein, and his heirs, executors, administrators, successors and assigns shall be bound by all of the provisions of this Declaration and bylaws.

19. This Declaration of Unit Ownership shall be terminated, if at all, in the manner provided in Sections 70-23-801 through 70-23-804, inclusive, Montana Code Annotated.

20. If any term, covenant, provision, phrase or other element of this Declaration is held to be invalid or unenforceable for any reason whatsoever, such holding shall not be deemed to affect, alter, modify or impair in any manner whatsoever any other term, provision, covenant or element in this Declaration.

IN WITNESS WHEREOF, the Grantor has executed this Declaration on the 6TH day of AUGUST, 1982.

ATTEST:

*[Signature]*

OUT WEST CONSTRUCTION, INC.

By *[Signature]* President

STATE OF MONTANA )  
County of Yellowstone ) ss.

On this 6TH day of AUGUST, 1982, before me, a Notary Public for the State of Montana, personally appeared ALLEN H. BROWN, and FRANCIS L. ALTMAN, known to me to be the PRESIDENT and SECRETARY of OUT WEST CONSTRUCTION, INC., the corporation that executed the foregoing instrument and acknowledged to me that said corporation executed the same.

*[Signature]*  
Notary Public for the State of Montana  
Residing at Billings, Montana  
My commission expires 21 APRIL 1984

(SEAL)

1237217

DECLARATION OF EASE OF RIGHT  
FOR  
THE TIMPENS TOWNSHIPS

OUT WEST CONSTRUCTION, INC.,  
a Colorado Corporation



TO  
The Public

1237217

STATE OF MONTANA ) ss  
County of Yellowstone )

I hereby certify that the within  
instrument was filed in my office  
for record on this 11th

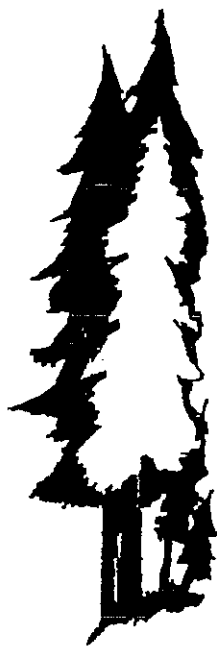
day of August 1918  
at 5:30 o'clock PM and in  
the presence of

Witness my hand and seal of said  
County at Helena

By John H. Kilduff  
County Clerk & Recorder

FILED 5/27/18  
Return to: Sta. Helena

2105 Broadway  
Billings, Montana



**Timbers HOMEOWNERS**  
ASSOCIATION, INC.

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
THE TIMBERS TOWNHOMES

THIS DECLARATION, made on the date hereinafter set forth by  
Out West Construction Inc., a Colorado corporation, of Bridger,  
Montana, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property in  
the City of Billings, County of Yellowstone, State of Montana, which  
is more particularly described as: Lot 1, Block 28, Harvest  
Subdivision, Third Filing, according to the official plat thereof on  
file and of record in the offices of the Yellowstone County Clerk and  
Recorder, Yellowstone County, Montana as Document No. 1122584.

NOW, THEREFORE, Declarant hereby declares that all of the  
properties described above shall be held, sold and conveyed subject to  
the following easements, restrictions, covenants, and conditions,  
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 par-  
ties having any right, title or interest in the described properties  
or any part thereof, their heirs, successors and assigns, and shall  
inure to the benefit of each owner thereof.

ARTICLE I.

DEFINITIONS

Section 1. "Association" shall mean and refer to The Timbers  
Homeowners Association, a non-profit corporation, its successors and  
assigns.

Section 2. "Owner" shall mean and refer to the record owner,  
whether one or more persons or entities, of a fee simple title to any  
Lot which is a part of the Properties, including contract, but

excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration and Bylaws.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) designated as Common Elements in the Declaration of Unit Ownership of The Timbers Townhomes and owned by the members of the Association for the common use and enjoyment of the owners.

Section 5. "Lot" shall mean and refer to each unit, composed of a living unit and 400 square feet of yard, as defined under the Declaration of Unit Ownership for The Timbers Townhomes.

Section 6. "Declarant" shall mean and refer to Out West Construction, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Properties" shall mean and refer to that certain real property described as Lot 1, Block 28, Harvest Subdivision, Third Filing, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 8. "Unit" shall mean each attached single family townhouse unit as identified by the building permit for the construction of the same plus 400 square feet of individual yard, which shall be appurtenant to said unit, subject to an easement for utilities.

## ARTICLE II.

### PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational

facility situated upon the Common Area;

- (b) the right of the Association to establish rules and regulations for use of any and all common areas;
- (c) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;
- (d) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds of the members has been recorded;
- (e) the right of individual owners to the exclusive use of designated parking areas.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

### ARTICLE III.

#### MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on December 31, 1991.

#### ARTICLE IV.

##### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Timbers Townhomes and for the improvement and maintenance of the Common Area and the homes situated upon the property.

Section 3. Maximum Annual Assessment. Until January 1 of the year following the conveyance of the first Lot to an Owner, the maximum monthly assessment shall be Forty five Dollars (\$ 45.00 ) per Lot.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- (c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Taxes. There shall be no assessment for real estate taxes levied against the common area so long as the same are levied and collected from the individual lot owners.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 6. Notice and Quorum for Any Action Authorized Under Sections 3 and 5. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 5 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the



preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 15 percent (15%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof,

shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Montana shall be exempt from the assessments created herein, except no land or improvements devoted to dwelling use shall be exempt from said assessments.

#### ARTICLE V.

##### MAINTENANCE

Section 1. Exterior Maintenance. The Association, or its duly delegated representative, shall maintain, manage and otherwise be responsible for the Common Areas, including, but not limited to the streets, sidewalks and pedestrian paths, parking areas, landscaping, utility services and all other real and personal property within the jurisdiction of or owned by the Association. In addition, the Association shall provide exterior maintenance as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. Such exterior maintenance shall not extend to glass surface and exterior door and window fixtures and other hardware. The Association shall also have the right, but not the obligation, to undertake additional maintenance as the Board may from time to time determine to be in the best interest of the Association and the Owners, and shall also maintain and otherwise manage and be responsible for the rubbish removal in all areas within the properties. The Board shall use a reasonably high standard of care in providing such maintenance, management and repair, so that the Properties will reflect a high pride of ownership. Maintenance and repair of the

individual townhouse units shall be the sole obligation and expense of the individual Owners, except to the extent that exterior maintenance and repair is provided by the Association pursuant to this Article.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment for that townhouse unit.

Section 2. Interior and Other Maintenance. Each Owner shall be responsible for the upkeep and maintenance of the exterior and interior of his Unit and for the upkeep of all other areas, features or parts of his Unit and property not otherwise maintained by the Association. All fixtures and equipment within a Unit, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a Unit, shall be maintained and kept in repair by the Owner thereof. The Owner shall also have the responsibility to maintain and repair any appliances, such as air conditioning units, located on the exterior of his unit and shall also be responsible for any modifications to the exterior surface of such unit. An Owner shall not permit any act or work to be performed that will impair the structural soundness or integrity of the Unit or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other units or their Owners.

#### ARTICLE VI.

##### ARCHITECTURAL CONTROL

No building, fence, wall or other structure or living hedge shall be commenced, erected or maintained upon the Properties, nor

shall any exterior addition to or change or alteration therein be made until the plans and specifications (including site landscaping and grading plans, plans for off-street parking of vehicles and utility layouts) showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design, color, scale and materials, and location in relation to the overall master plan for surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. Emphasis shall be given to well-planned open spaces, appropriately landscaped. Buildings shall appear compatible to the development on all sides without reduction of quality or materials. Each builder shall provide a site plan and shall stake out all improvements at the time of preliminary planning. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

#### ARTICLE VII.

##### RESTRICTIONS DURING CONSTRUCTION

Each builder shall take all precautions to protect existing features, especially landscaping and trees and shall maintain both public and private streets during the construction work to prevent unnecessary buildup of mud, gravel or other debris. All construction sites shall be suitably fenced and kept reasonably orderly. No accumulation of debris, garbage, trash, or rubbish shall be permitted. The builder shall indemnify and hold harmless the Association and Declarant against all third party liability claims and shall defend at his own expense all such claims which may arise.

ARTICLE IX.

BUILDING RESTRICTIONS

(a) No buildings shall be located nearer to the front Lot line or nearer to the side street lines than the minimum building setback lines shown on the recorded plat. In any event no building shall be located on any Lot nearer than 20 feet to the Lot lines adjacent to =front, 10 feet to the side Lot lines; 5 feet to the rear Lot lines, and 10 feet to the Lot line adjacent to an interior drive.

(b) No building shall exceed a maximum of 25 feet from the peak of the roof to the lowest point of the foundation.

(c) All utilities, including but not limited to electricity, gas, water, telephone and cable t.v., including connections for individual services from the street to the dwellings, are to be underground. No antennae are to be erected on the property or dwellings, unless approved by the Board of Directors or the architectural review board.

ARTICLE X.

RESIDENTIAL COVENANTS

(a) Each structure shall be used solely for residential purposes. No structure shall be erected, altered, placed or permitted within the subdivision other than single family four-plex and eight-plex dwellings, and parking, storage and recreational facilities related thereto. No more than one family shall reside in a single living unit. No portion of a unit together with its interest in the common areas, shall be rented other than as an entire unit to a single family.

(b) No structure shall be used for any trade, profession, manufacturing or business of any description, except an owner may use

a portion of his dwelling for an office or studio, provided that, the activities therein shall not interfere with the quiet enjoyment or comfort of any other owner or occupant. Notwithstanding the foregoing provision, the Declarant may use dwellings owned or leased by it as models and display and sales offices during the construction period and so long as such Declarant owns a dwelling in the project or is the agent of an owner of a dwelling in the project.

(c) No sign (other than a name and address sign, not exceeding 9" x 30" in size) of any nature whatsoever shall be permitted on any Lot; provided, however, that one sign of not more than two square feet may be temporarily erected or placed on a lot for the purpose of advertising the property for sale or for rent; and provided, further, that during the construction and sale of buildings, the builder may erect such signs as it deems appropriate; and, provided further, that this restriction shall not apply to the activities of the Association in furtherance of its powers and purposes as herein set forth.

(d) No Lot shall be used or maintained as a dumping ground for rubbish. Except on days when garbage pickup is made trash, garbage or other waste shall be kept in sanitary containers in garages or in enclosures which are concealed from view from the street or adjacent Lots. No burning barrels shall be allowed on the premises.

(e) No animals, fish or birds of any kind shall be raised, bred or kept on the premises; except that commonly accepted household pets may be kept, provided that such pets are not kept, bred or maintained for any commercial purposes.

(f) No clotheslines, poles, wires or devices for hanging clothes shall be erected outside any dwelling.

(g) No trucks, buses, trailers, horse trailers, boats, campers, recreational vehicles or vehicles other than passenger automobiles or pickup trucks and vans (less than 3/4 ton) shall be permitted

on any Lot other than in the course of making deliveries, unless kept within a completely enclosed garage with closed doors or upon obtaining prior written approval from the Association with respect to the manner of screening or concealing the same from view of neighboring property and streets. Such permission and approval from the Association may not be granted for longer than a one year period at any time but may be renewed each year.

(h) Except in the individual patio areas or areas specifically designated by the Association, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon said premises other than as are approved in accordance with the provisions of Article VII of the Declaration of Covenants, Conditions and Restrictions.

(i) Placement and location of all radio, television and other antennas of every kind or nature upon the premises shall be in such a manner that no portion thereof shall be visible from the outside of any townhouse or as may be approved by the Association.

(j) No nuisances shall be allowed on the property nor shall any use of practice be allowed which is a source of annoyance to any owner or which interferes with the peaceful possession or proper use of the property. Without limiting the generality of the foregoing, nothing shall be done or permitted which results in noxious or offensive odors, dust, smoke or noise, and the property shall be maintained so as to avoid unsightly, unclean or hazardous conditions. The prolonged operation of snowmobiles, trail bikes, motorcycles, all-terrain vehicles or any other noisy vehicle shall be considered a nuisance.

(k) Nothing shall be done or kept in any dwelling or the common area which will increase the rate of insurance of the Association, without the prior written consent of the Association. No owner shall permit anything to be done or kept in his dwelling or in the Common Area which will result in the cancellation of insurance of the Association, or which would be in violation of any law. No waste

shall be permitted in or upon the Common Area.

#### ARTICLE XI.

##### GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, 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. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property and Common Area may be annexed to The Timbers Townhomes with the consent of two-thirds (2/3) of each class of members.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 21<sup>st</sup> day of AUGUST, 1986.

ATTEST:

*James F. [Signature]*

OUT WEST CONSTRUCTION, INC.

By Allen H. Althoff president.



STATE OF MONTANA )

County of Yellowstone )

: ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 1982, before me, a  
Notary Public for the State of Montana, personally appeared \_\_\_\_\_  
\_\_\_\_\_, and \_\_\_\_\_, known  
to me to be the \_\_\_\_\_ and \_\_\_\_\_  
of OUT WEST CONSTRUCTION, INC., the corporation that executed the  
foregoing instrument and acknowledged to me that said corporation exe-  
cuted the same.

\_\_\_\_\_  
Notary Public for the State of Montana  
Residing at Billings, Montana  
My commission expires \_\_\_\_\_

(SEAL)

ASSESSOR'S APPROVAL

The undersigned, the duly elected and acting Assessor of Yellowstone County, Montana, hereby approves the Declaration of THE TIMBERS TOWNHOMES, after having found that the name, THE TIMBERS TOWNHOMES, is not the same as, similar to or pronounced the same as a word in the name of any other property or subdivision in Yellowstone County, Montana, and therefore complies with Section 70-23-303, MCA.

DATED this 1<sup>st</sup> day of August, 1982.

Creath A. Tooley,  
Yellowstone County Assessor

By

Creath A. Tooley  
Deputy

The undersigned, the duly elected and acting Assessor of Yellowstone County, Montana, hereby approves the Declaration of THE TIMBERS TOWNHOMES, after having found that the taxes and assessments due and payable for the said THE TIMBERS TOWNHOMES have been paid.

DATED this 1<sup>st</sup> day of August, 1982.

Creath A. Tooley,  
Yellowstone County Assessor

By

Creath A. Tooley  
Deputy

1237217

DECLARATION OF UNIT OWNERSHIP  
FOR  
THE TIMBERS TOWNHOMES

CO. WEST CONSTRUCTION, INC.,  
a Colorado Corporation

TO  
The Public

STATE OF MONTANA )  
County of Yellowstone ) ss

I hereby certify that the within  
instrument was filed in my office  
for record on this 11th  
day of August 1982  
at 5:30 o'clock P.M. and is  
duly recorded in Book 1238 of  
on page       

Witness my hand and official seal  
M. H. H. KLUNDT  
County Clerk & Recorder

By                      Deputy

SEE: > / 8420000

Return to: Stu Henkel  
2108 Broadwater  
Billings, Montana

1237215

DECLARATION

OUT WEST CONSTRUCTION, INC.,  
a Colorado Corporation

TO

THE PUBLIC

STATE OF MONTANA )  
County of Yellowstone ) ss

I hereby certify that the within  
instrument was filed in my office  
for record on this 11th  
day of August 1983  
at 10 o'clock A.M. and is  
 duly recorded in Book 1138 of  
\_\_\_\_\_ on page 2

Witness my hand and official seal  
MERCEDES H. HENKEL  
County Clerk & Recorder  
By \_\_\_\_\_ Deputy

FILE: S \_\_\_\_\_ B-20000  
Return to: Stu Henkel  
2108 Broadwater  
Billings, MT

AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
OF  
THE TIMBERS TOWNHOMES

WHEREAS, Declaration of Covenants, Conditions and Restrictions of The Timbers Townhomes dated August 16, 1982 was recorded on August 11, 1982 in Book 1238 at page 3785 as Document # 1237215

WHEREAS, the Declarant is the owner of certain real property subject to said Declaration and is the attorney-in-fact for other owners of certain real property also subject to said Declaration.

WHEREAS, a party wall agreement is required to fulfill the purpose of said Declaration.

NOW THEREFORE, said Declaration is amended by adding the following as Article XV.

ARTICLE XV

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

DATED this 5 day of November, 1982.

OUTWEST CONSTRUCTION INC.

By Allen A. Althoff  
ALLEN A. ALTHOFF  
President

ATTEST:

Florence L. Althoff  
FLORENCE L. ALTHOFF

Allen A. Althoff  
ALLEN A. ALTHOFF

Attorney-in-fact for

Carolyn Shellenberg  
Carolyn Shellenberg

Kim Hodges  
and Kim Hodges

STATE OF MONTANA )  
County of Yellowstone ) : ss.

On this 5 day of November, 1982, before me, the undersigned, a notary public for the State of Montana, personally appeared Allen A. Althoff, known to me to be the President of Outwest Construction Inc. the corporation that executed the foregoing instrument, and acknowledged to me that said corporation executed the same.

(SEAL)

Paul D. Bernick  
Notary Public for the State of Montana  
Residing at Billings, Montana  
My commission expires: 4-15-84

STATE OF MONTANA )  
County of Yellowstone ) : ss.

On this 5 day of November, 1982, before me, the undersigned, a notary public for the State of Montana, personally appeared Allen A. Althoff, known to me to be the person whose name is subscribed to the foregoing instrument as the attorney in fact of Carolyn Shellenberg, and acknowledged to me that he subscribed the name of Kim Hodges thereto as principal, and his own name as attorney in fact.

(SEAL)

Paul D. Bernick  
Notary Public for the State of Montana  
Residing at Billings, Montana  
My commission expires: 4-15-84

CORRECTION TO

BOOK 1243 PAGE 122

AMENDMENT TO

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

OF

THE TIMBERS TOWNHOMES

The first paragraph of the Amendment to the Declaration of Covenants, Conditions, and Restrictions of the Timbers Townhomes dated November 5, 1982, recorded on November 8, 1982 in Book 1241 at page 1423 as Document # 1245541 is hereby amended to read as follows:

WHEREAS, the Declaration of Covenants, Conditions, and Restrictions of the Timbers Townhomes dated August 16, 1982, was recorded on August 11, 1982 in Book 1238 at Page 3785 as Document #1237215.

All other provisions of said amendment to the Declaration of Covenants, Conditions and Restrictions of the Timbers Townhomes remain unchanged.

DATED this 20<sup>th</sup> day of December, 1982.

OUTWEST CONSTRUCTION INC.

By Allen A. Althoff  
ALLEN A. ALTHOFF  
President

ATTEST:

Florence L. Althoff  
FLORENCE L. ALTHOFF

Allen A. Althoff  
ALLEN A. ALTHOFF  
Attorney in fact for  
all owners of the Timbers  
Townhomes

STATE OF MONTANA )  
County of Yellowstone ) ss.

On this 18<sup>th</sup> day of December, 1982, before me, the undersigned, a notary public for the State of Montana, personally appeared Allen A. Althoff, known to me to be the President of Out West Construction the corporation that executed the foregoing instrument, and acknowledged to me that said corporation executed the same.

Laura A. Marshall  
Notary Public for the State of Montana  
Residing at Billings, Montana  
My commission expires: Jan. 8, 1983

(SEAL)

1911414

*The Timber Homeowner*

*Boonville, Ind.*

*SEP 24*

*Declaration  
Amend. By Davis & Rethel*

STATE OF MONTANA, } ss.

County of Yellowstone, }

I hereby certify that the within in-

strument was filed in my office for

record on 24th day of SEP 24 1986

at 9:42 AM by A. M. [unclear]

only recorded in book 1295 of

Page 4313

Witness my hand and official seal

WILLIAM M. KLUNDY

County Clerk & Recorder

By *[Signature]* Deputy

*Timber Homeowner Book*

*3274 Boonville Ind*

*Filed by 89102*



The following additions are to be added to the Declaration of Covenants, Conditions and Restrictions as approved at the 2-26-85 meeting of The Timbers Townhomes Association, Inc.: Book 1238, page 3785

Article X. e.

Only one pet (cat or dog) per unit, and said animal to weigh no more than fifteen (15) pounds. This is not to affect homeowners on record of 2-26-85 who may own more than one pet or a pet that weighs more than fifteen pounds.

The following changes were approved at the 2-25-86 meeting of The Timbers Townhomes Association, Inc., and are to be added to the Declaration of Covenants, Conditions and Restrictions:

Article VI. (Architectural Control)

No hot tub, spa or pool may be installed in the common area or on any homeowner's deck.

The following changes were approved at the 2-25-86 meeting of The Timbers Townhomes Association, Inc., and are to be added to the By-Laws of the Timbers Homeowners Association: Original recorded Book 1238 page 3800

Article IV, 4 (Compensation)

The sum of \$75.00 per month will be paid to the Treasurer of the Association for performance of required duties. This sum will be reviewed annually at the association meeting.

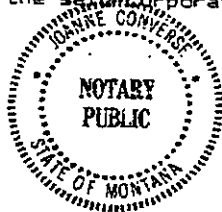
DATED this 24 day of September, 1986.

THE TIMBERS HOMEOWNERS  
ASSOCIATION, INC.

Ellen Feldman  
By, Ellen Feldman  
Its Vice President

STATE OF MONTANA )  
 ) ss.  
County of Yellowstone )

On this 24<sup>th</sup> day of September, 1986, before me, a Notary Public for the State of Montana, personally appeared ELLEN FELDMAN, who represented herself to me to be the Vice President of The Timbers Homeowners Association, Inc., the corporation that executed the foregoing instrument, and acknowledged to me that the said corporation executed the same.



Joanne Converse  
Notary Public for the State of Montana  
Residing at Billings, Montana  
My Commission expires: 3/11/89

