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Section 15. Prohibited Use. Nothing shall be constructed in, altered, or removed from the Common Area by any Owner without written consent of the Board. No tin or other portable sheds may be maintained in any carport by any Owner without the approval of the Board.

Section 16. Sports Equipment. No basketball standard or hoop, or other sports equipment shall be affixed to any portion of any Lot by any Owner.

Section 17. Additional Restrictions. The Association upon majority vote of both its Class A and Class B members, may formulate reasonable rules and regulations in addition to the foregoing specific restrictions and upon the Association furnishing copies of such rules and regulations to the Owners, such rules and regulations shall be binding upon and shall be observed by the Owners the same as if they were set forth herein at length.

Section 18. Declarant Exemption from Restrictions. The foregoing restrictions shall not apply to the Declarant so long as it is a Class B member.

ARTICLE VII

COVENANTS 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: (i) annual assessment or charges, and (ii) 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 each Lot and shall be a continuing lien upon each Lot so assessed until paid. The personal obligation for delinquent assessments shall not pass to the Owner's 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 health, safety, and welfare of the Owners of the Properties, for the improvement and maintenance of the Common Area, and if required, of the exterior of the Townhouses.

Section 3. Association Assessments. The Board shall levy assessments against members of the Association according to the following procedure:

a. Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Sixty Dollars (\$60) per Lot.

From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, annual assessments shall be made by the Board. The Board shall fix the amount of the annual assessment against each

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Lot at least 30 days in advance of each annual assessment period and written Notice of the Annual Assessment shall be sent to every member.

The regular assessments against all Lots shall be based upon advance estimates of cash requirements as determined by the Board growing out of or connected with the maintenance and operation of the Common Areas and other common services provided all members.

The estimates may include, and the Association may assess for, among other things, expenses of management, taxes and the special assessments of local governmental entities, premiums for all insurance upon property owned by the Association, landscaping and care of grounds, common lighting and heating, water charges, trash collection charges, sewer charges, repairs and maintenance of Association property, including streets, sidewalks, fences, buildings, open areas, wages for Association employees, legal and accounting fees, any deficits remaining from previous periods, and any other expenses and liabilities which may be incurred by the Association for the benefit of the Members.

The maximum annual assessment may be increased each year by the Board of not more than 5 percent above the maximum assessment for the previous year without a majority vote of each class of Members.

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b. **Special Assessments.** In addition to the annual assessments, the Board may levy in any calendar year a special assessment for the purpose of defraying in whole or in part the cost of any purchase, construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area, including personal property related thereto. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the Members. Provided, however, any special assessment for improvements to the Common Area will require the approval of a two-thirds vote of each class of members voting in person or by proxy at a meeting duly called for this purpose.

Section 4. **Notice and Quorum for Any Action Authorized Under Sections 3(A) and 3(B).** Written notice of any meeting called for the purpose of taking any action authorized under Sections 3(A) or 3(B) 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 60 percent of all the votes of each class of members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 5. 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 6. Certificate of Payment. 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 Townhouse is binding upon the Association as of the date of its issuance.

Section 7. Interest and Lien for Assessment. Any assessment not paid within 30 days after the due date shall bear interest from the due date at the rate of 12 percent per annum or at such rate as the Board of Directors shall from time to time determine.

All sums assessed to an Owner pursuant to this Article, together with interest thereon as provided herein, shall be secured by a lien on his Lot or Lots in favor of the Association upon recordation of a Notice of Assessment as herein provided.

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 8. Notice of Lien. To create a lien for sums assessed pursuant to this Article, the Association shall prepare a written notice of Assessment setting forth the type of assessment, the amount of the assessment, the date due, the

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amount remaining unpaid at the time of filing, the name of the Owner personally obligated to the Association, and the legal description of his or her Lot. Such notice shall be signed by the President and Secretary of the Association, acknowledged and recorded in the office of the county recorder of Bannock County, Idaho.

Section 9.        **Enforcement of Lien.** Such lien may be enforced by the Association in an action for foreclosure after failure of the Owner to pay such an assessment in accordance with its terms. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filing the Notice of Assessment and all reasonable attorney fees which shall be secured by the lien being foreclosed. The Owner shall also be required to pay the Association any assessments against the Lot which shall become due during the period of foreclosure. The Association shall have the authority to bid at the foreclosure sale of the Lot being foreclosed and if it is the successful bidder, the Association shall hold, convey, lease, encumber, and otherwise deal with the Lot as an Owner thereof.

Section 10.      **Nonexclusive Remedy.** The remedy set forth in Section 9 shall not be deemed to be an exclusive remedy and the Association may pursue all other available remedies at law or in equity to collect the delinquent assessments.

Section 11.      **Subordination of the Lien to Mortgages.**  
The lien of the assessments provided for herein shall be

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subordinate to the lien of any first mortgage recorded subsequent to such lien. The sale or transfer of any Lot pursuant to a foreclosure of a first mortgage or any proceeding in lieu thereof, shall extinguish the lien of such assessments so subordinated. But such foreclosure or proceeding in lieu thereof shall not relieve such Lot and the new Owner from liability for any assessments thereafter becoming due or from the lien thereof.

The failure to pay Association assessments by an Owner shall not constitute a default under any Mortgage. No Mortgagee shall be responsible for or required to collect Association assessments from Owners whose Lots are Mortgaged and no Mortgagee shall be liable for any Association's assessments until such time as Mortgagee becomes the legal owner of a Lot.

#### ARTICLE VIII

##### ARCHITECTURAL CONTROL

No exterior addition to, change, or alteration shall be made to any Townhouse until the plans and specifications showing the nature, kind, shape, height, or materials, for same shall have been submitted to and approved in writing, as to harmony of external design in relation to all the other Townhouses, by the Board or by an architectural committee composed of three or more representatives appointed by the Board. In the event said Board, or its Architectural Committee, fails to approve or disapprove such addition, change, or alteration within 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

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fully complied with. Timely disapproval by the Board, or its Architectural Committee, of an Owner's plans and specifications shall be final and binding upon the Owner.

**ARTICLE IX**

**INSURANCE**

No person other than the Owner of a Townhouse or the Mortgagee named in a Mortgage covering the Townhouse shall have the right to purchase hazard or liability insurance on said Townhouse and such insurance shall be placed with an insurance company authorized to do business in Idaho with the loss payable to the Owner or the Mortgagee as their respective interests may appear.

**ARTICLE X**

**EXTERIOR MAINTENANCE**

In the event an Owner of any Lot shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board, the Association after approval by two-thirds (2/3) vote of the Board, shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the exterior of the Townhouse and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.



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ARTICLE XI

GENERAL PROVISIONS

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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, conditions, 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, conditions, and restrictions of this Declaration shall run with and bind the land, for a term of 20 years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of 10 years. This Declaration may be amended during the first 20-year period by an instrument signed by not less than 90 percent of the members of both classes, if Class B membership has not been terminated or by 90 percent (90%) of the Owners if Class B membership has been terminated and thereafter by an instrument signed by not less than 75 percent (75%) of the Owners. Any amendment must be recorded in the office of the County Recorder of Bannock County, Idaho.

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Section 4. HUD/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the U. S. Department of Housing and Urban Development or the Veterans Administration: Annexation of additional properties, dedication or mortgaging of Common Area, mergers, consolidations, and amendment of this Declaration.

Section 5. Effective Date. This Declaration shall take effect upon recording.

IN WITNESS WHEREOF, the Declarant herein, has executed this instrument this 19 day of October, 1993.

Declarant:

BECKER-WEST, INC.

By Joseph D. Becker  
Its President

STATE OF IDAHO )  
: ss.  
County of Bannock )

On this 19 day of October, 1993, before me, the undersigned, a Notary Public in and for said State, personally appeared Joseph D. Becker, known or identified to me to be the President of BECKER-WEST, INC., the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

**NOTARY SEAL**  
(SEAL)

Edda B. McDaniel  
NOTARY PUBLIC FOR IDAHO  
Residing at Pocatello, ID  
My Commission Expires: 7/25/97

C:\wp51\Corporation\West\Declaration

NO. 93017837  
RECORDED AT REQUEST OF  
AMERICAN LAND TITLE CO.

DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS - 26

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OFFICIAL RECORD BOOK NO. 598  
BANNOCK COUNTY IDAHO  
LARRY W. GUAN RECORDER  
FEE: 7800 DEPUTY B