

DECLARATION OF RESTRICTIVE COVENANTS AND BY-LAWS OF  
BENNION SUBDIVISION NUMBER 3 TOWNHOUSE ASSOCIATION

Bennion Construction, Inc., a Wyoming corporation, the owner in fee simple of Bennion Subdivision Number 3, a resubdivision of Tract C, Mountain Shadows Subdivision (Second Filing) within Lot 74-F of Lot 74, Township 55 North, Range 99 West, 6th P.M., City of Powell, Park County, Wyoming, hereby makes the following declaration as to limitations, restrictions and uses to which the lots included therein may be put, hereby specifying that said declarations shall constitute covenants to run with all of the land as provided by law and shall be binding upon the undersigned and all persons claiming under the undersigned and for the benefit of a limitation on all future owners thereof:

ARTICLE I.

DEFINITION

Section 1. Bennion Subdivision Number 3 means an unincorporated association of the owners of lots within the subdivision as provided for in Article II.

Section 2. Owner means the owner or owners collectively of the record fee simple title to a lot.

Section 3. Lot or Lots shall mean and include Lots 1 through 16, inclusive, as designated on the recorded plat of the Bennion Subdivision Number 3.

ARTICLE II.

BENNION SUBDIVISION NUMBER 3 TOWNHOUSE ASSOCIATION

Section 1. Purpose. Bennion Subdivision Number 3 Townhouse Association hereinafter called the ASSOCIATION is a non-profit, unincorporated association organized for the purpose of enforcing the terms and conditions set forth in this declaration and for the mutual benefit of the owners of lots

in the subdivision.

Section 2. Membership. Every owner of a lot shall automatically be a member of the ASSOCIATION until such ownership ceases for any reason, at which time membership shall automatically terminate.

Section 3. Voting and Quorum. Members shall be entitled to one vote for each lot owned. Bennion Subdivision Number 3 Townhouse Association shall ultimately have sixteen owners and sixteen separate townhouses. Eight of the townhouses are presently completed, and a quorum until the other eight townhouses are completed shall be five lots, and a majority of votes cast shall be the act of the members. At the time the other eight units are completed, the quorum for any meeting shall be nine lots, and a majority of votes cast shall be the act of the members. Members may vote by written proxy.

Section 4. Meetings. The first meeting of the membership shall be held immediately following the execution of this declaration, for the purpose of electing the first officers of the ASSOCIATION. There shall be an annual meeting of the membership each year, to be held in the City of Powell at a convenient time and place during the first week in May, beginning with the year 1983, for the purpose of electing officers and the transaction of any business that may come before the meeting. Special meetings may be called from time to time by the president or by any two other members upon providing adequate notice thereof to all members.

Section 5. Officers. The officers of the ASSOCIATION shall be a president, who also shall be designated manager, a vice-president, and a secretary-treasurer; such officers may, but are not required, to be members of the ASSOCIATION. In the event of a vacancy in office, the vacancy shall be filled

by the vote of the membership at a duly called special meeting. The term of each officer shall be for one (1) year. A member who has been elected to an office shall be deemed to have resigned when his membership is terminated.

Section 6. Informal Action. Any action required or permitted to be taken at a meeting of the members, may be taken without a meeting if a consent in writing setting forth the action so taken is signed by all of the members of the ASSOCIATION authorized to vote on the matter.

Section 7. Duties of Officers. The president, or manager, shall be the chief executive officer of the ASSOCIATION and shall have all duties necessary to carry out the purposes of the ASSOCIATION. The vice-president shall have the duty and authority of the president in the absence of the president. The secretary-treasurer shall receive, disburse and account for all ASSOCIATION funds and keep a record of all meetings of the ASSOCIATION and notices thereof.

Section 8. Incorporation. Upon vote of the majority of the members, the ASSOCIATION may be incorporated under the laws of the State of Wyoming.

Section 9. Maintenance, Assessments & Liens. Dues and assessments shall be assessed upon approval by the majority of a quorum at any meeting, and such assessment shall be made only for purposes authorized herein, otherwise unanimously agreed upon by all of the members. Each owner of a lot shall be personally liable to pay to the ASSOCIATION such assessments and charges as may be established from time to time. Assessments shall be uniform as to each lot, shall be due within thirty (30) days following the assessment thereof, and shall be subject to a late charge of ten percent (10%) if not paid when due and shall bear interest at the rate of ten percent (10%) per year if not paid within thirty (30) days of the due date. If any member

shall fail to pay or make timely payment of an assessment, after having been given ten (10) days written notice of a delinquency, the amount of such unpaid assessment shall become a lien against such member's lot in the subdivision, in favor of the ASSOCIATION, and such lien shall be made of record. Any such lien shall be prior to all other liens, except the lien for property taxes and special improvement district assessments, and the lien of a prior first mortgage of record. Such a lien may be foreclosed in the manner provided by Wyoming laws for the enforcement of liens and the lot owner shall be required to pay all foreclosure costs, including reasonable attorney's fees, which costs shall be secured by the lien against the lot. A certificate signed by the secretary-treasurer of the ASSOCIATION concerning the payment of assessments against the lot shall be sufficient evidence of the acts therein stated.

#### ARTICLE III.

##### RULES AND REGULATIONS

Section 1. Additional Rules and Regulations. The membership may adopt additional rules and regulations as may be necessary or appropriate for the accomplishment of the purposes of the ASSOCIATION. The membership may also modify, change, add or delete provisions of these covenants and by-laws provided that the written consent and approval of the City of Powell is first obtained and further provided that they shall be recorded as provided by the revised Ordinances of the City of Powell.

#### ARTICLE IV.

##### USE RESTRICTIONS

Section 1. Lots are restricted for use to single family residential purposes only, and shall not be used for any commercial, public or illegal purpose or purposes and

no public nuisance shall be maintained or permitted to exist thereon.

ARTICLE V.

ARCHITECTURAL CONTROL AND MAINTENANCE OF INDIVIDUAL TOWNHOUSE UNITS AND AREAS OF COMMON USAGE

Section 1. Painting. The exterior of each townhouse unit shall not be repainted any different color other than its original color without prior consent of a majority of the existing members of the ASSOCIATION.

Section 2. Building Permit. No building, fence, wall or other structure shall be commenced, erected or maintained on any lot nor shall any exterior addition to or change or alteration therein be made until the plan and specifications showing the nature, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to the surrounding structures and topography at a duly called regular or special or annual meeting of the membership. Approval or disapproval may be granted by vote of a majority, and in the event of the failure of such a majority to approve or disapprove such plan and location within sixty (60) days after the submission thereof, then the failure to so act shall constitute approval and no further action by the applying party will be required, and this Article will be deemed to have been complied with in full.

Section 3. Repairs, Maintenance and Improvements. Each owner shall be responsible for and shall provide exterior painting, maintenance, repair and replacement for all buildings and other improvements on or appurtenant to the owner's lot, including without limiting the generality thereof, roofs, exterior building surfaces, sidewalks, landscaping, and off-street parking areas. In the event an owner fails or

refuses to make or perform the necessary maintenance, repair or replacement on any such building or other improvement on or appurtenant to the lot for more than sixty (60) days after written demand is made by the president of the ASSOCIATION, or other designated officer, the other members shall have the power and authority by majority vote to cause such necessary painting, maintenance, repair or replacement to be made or performed which shall be at the sole cost and expense of the owner. Any such costs and expense not paid by the owner within thirty (30) days after the due date thereof shall bear interest from the due date at the legal rate, and the ASSOCIATION may collect such costs and expenses with such interest in an action at law or equity against the owner personally together with the necessary costs of collection, including reasonable attorney's fees. All such costs, expenses, interest and collection costs, including reasonable attorney's fees, shall be a lien against the lot subject to foreclosure in the manner provided by Wyoming law for the foreclosure of liens; provided, however, that any such lien shall be subordinate to the lien of any then existing first mortgage upon such lot.

Section 4. Party Walls. The general rule of law as to party walls shall apply, and specifically each wall which is built as a part of the original construction and placed on the dividing line between 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. The cost of repair and maintenance of a party wall shall be shared equally by the owners who own the adjoining lots. If a party wall is destroyed or damaged by fire or other casualty, any owner of

an adjoining lot may restore it, and the owners of adjoining lots shall contribute equally to the cost of restoration without prejudice to the right of any owner to call for a larger contribution under any rule of law regarding liability for negligent or willful acts or omissions.

Section 5. Roof Repairs. The owner of each unit shall be responsible for the general maintenance and repair of the roof over the specific unit or units. Provided, however, that in the event that the entire townhouse roof is in need of reshingling, then the cost shall be split equally among the owners of the units. It is specifically provided that a majority of existing members of the ASSOCIATION shall decide when complete reshingling is necessary.

#### ARTICLE VI.

##### PARKING LOTS AND INGRESS AND EGRESS DRIVES

Section 1. Use and Ownership. There shall be a common area located between units 1 through 8 and units 9 through 16 consisting of 14,083 square feet which shall be a common area and which has been designated as Tract A on the Subdivision Plat which shall be comprised of a driveway and entrance area from Gilbert Street for a means of ingress and egress together with specifically designated parking areas for each unit. Each owner of the lots in the subdivision shall own an undivided one-sixteenth (1/16) interest in Tract A and said area shall be used only for ingress, egress and parking areas for the private use of said owners and their guests or invitees. Each unit shall be provided a specifically designated parking area for two vehicles which shall be located immediately in front of each unit, this is on the north side of lots 1 through 8 and the south side of lots 9 through 16. The frontal parking areas shall consist

of an 18' x 20' area in front of each specific townhouse unit.

Section 2. Improvements and Maintenance. The improvements, repair, maintenance and snow removal for the parking lot, sidewalk area and ingress and egress drives, including signing, painting or other work that may be necessary to maintain the clear designation of off-street parking spaces, shall be maintained by the ASSOCIATION. The need for such maintenance, repair or improvements shall be determined by a majority vote of the members of the ASSOCIATION, and the cost thereof shall be assessed in accordance with the provisions of Article II, Section 9 hereof.

Section 3. Conveyance. The parking lot and ingress and egress drives shall not be separately conveyed, and a conveyance of any other lot or unit in the subdivision shall automatically include an undivided one-sixteenth (1/16) interest in the parking lot and ingress and egress drives, whether or not said lots are referred to in such conveyance.

#### ARTICLE VII.

##### GENERAL PROVISIONS

Section 1. Enforcement. Bennion Subdivision No. 3 Townhouse Association or any owner shall have the right to enforce by any proceeding at law or in equity or restrictions, conditions, covenants, reservations, liens and other charges imposed by the provisions of this declaration of restrictive covenants. Failure to enforce any of said restrictions, conditions, covenants or reservations shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. If any provision of this declaration of restrictive covenants or the application thereof to any person or circumstance is held invalid, the invalid-



...dity shall not affect other provisions or applications herein which can be given effect without the invalid provision or application.

IN WITNESS WHEREOF, this document is executed this 15th day of April, 1983.



BENNION CONSTRUCTION, INC.,  
A Wyoming Corporation,

BY: [Signature]  
DANIEL B. BENNION  
President

ATTEST:

[Signature]  
Secretary

STATE OF WYOMING )  
                          ) SS.  
COUNTY OF PARK )

On this 15th day of April, 1983, before me personally appeared Daniel B. Bennion, to me personally known, who, being by me duly sworn, did say that he is the President of Bennion Construction, Inc., and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and said Daniel B. Bennion acknowledged said instrument to be the free act and deed of said corporation.

WITNESS my hand and official seal this 15th day of April, 1983.

[Signature]  
Notary Public

My commission expires: 7/12/84

Notary Public stamp for Mary Devors, Notary Public, State of Wyoming, County of Park. Includes recording information: 'This instrument was filed for record on the 15 day of April 1983 at 2:45 o'clock P.M. and recorded in Microfilm Book 207013'. My Commission Expires JULY 12, 1984. Includes signature of Notary Public and the number 207013.