

AMENDED AND RESTATED DECLARATION

SKYHILLS SUBDIVISION, a Common Interest Community

Pursuant to the unanimous consent of the members of SkyHills Subdivision Homeowners Association, Inc., and the agreement of all of the Lot Owners in SkyHills Subdivision, whose signatures are affixed hereto, the Declaration of SkyHills Subdivision, a Common Interest Community, recorded on the 30th day of November, 1998, in Book 3377, at Pages 379-420, in the Anchorage Recording District, Third Judicial District, State of Alaska, is hereby amended and restated, in its entirety, as set forth below.

ARTICLE I

SUBMISSION: DEFINED TERMS

Section 1.01. Submission of Real Estate. SKYVIEW, Inc., an Alaska corporation, and L&D, INC., an Alaska corporation (together the "Declarant"), owners in fee simple of the real estate described in Schedule A-1 located in the Anchorage Recording District, Third Judicial District, State of Alaska, hereby submit the real estate, together with all easements, rights and appurtenances thereto and the buildings and improvements erected or to be erected thereon (collectively, the "Property") to the provisions of AS 34.08.010 et. seq. known as the Uniform Common Interest Ownership Act (the "Act").

Section 1.02. Defined Terms. Each capitalized term not otherwise defined in this Declaration or in the Plats and Plans shall have the meanings specified or used in the Act.

In the Documents, the following words and phrases shall have the following meanings:

Section 1.02.1. Act. The Uniform Common Interest Ownership Act, AS 34.08 of the Alaska Statutes as it may be amended from time to time.

Section 1.02.2. Allocated Interests. The undivided interest in the Common Elements, the Common Expense liability, and votes in the Association allocated to Lots in the Common Interest Community. The Allocated Interests are described in Article VI of this Declaration and shown on Schedule A-3.

Section 1.02.3. Appropriate Committee. The Appropriate Committee shall mean the Initial Construction Committee ("ICC") or the Modification Committee ("MC") established pursuant to Article IX of this Declaration.

Section 1.02.4. Association. SkyHills Subdivision Homeowners Association, Inc., a non-profit corporation organized under Title 10, Chapter 20 of the statutes of the State of Alaska. It is the Association of Unit Owners pursuant to Section 34.08.310 of the Act.

Section 1.02.5. Builder. The Builder shall mean a person or entity to whom a Lot is sold, and which person or entity is purchasing the Lot for the purpose of constructing a residence for sale to a third party.

Section 1.02.6. Bylaws. The Bylaws of the Association, as they may be amended from time to time.

Section 1.02.7. Common Elements. Each portion of the Common Interest Community other than a Lot.

Section 1.02.8. Common Expenses. The expenses or financial liabilities for the operation of the Common Interest Community. These include:

- (a) Expenses of administration, maintenance, repair or replacement of the Common Elements;
- (b) Expenses declared to be Common Expenses by the Documents or by the Act;
- (c) Expenses agreed upon as Common Expenses by the Association; and
- (d) Such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by the Association.

Section 1.02.9. Common Interest Community. The real property described in **Schedule A-1**, subject to the Declaration of SkyHills Subdivision.

Section 1.02.10. Declarant. L&D, Inc. and SKYVIEW, Inc., an Alaska corporation, an Alaska corporation or its successor as defined in Subsection 34.08.990(12) of the Act.

Section 1.02.11. Declaration. This document, including any amendments.

Section 1.02.12. Development Rights. The rights reserved by the Declarant under Article V of this Declaration to create Lots, Common Elements, and Limited Common Elements within the Common Interest Community, and to withdraw property from the Common Interest Community.

Section 1.02.13. Director. A member of the Executive Board.

Section 1.02.14. Documents. The Declaration and Plat recorded and filed pursuant to the provisions of the Act, the Bylaws, and the Rules as they be amended from time to time. Any exhibit, schedule, or certification accompanying a Document is a part of that Document.

Section 1.02.15. Eligible Insurer. An insurer or guarantor of a first Security Interest in a Unit which has notified the Association in writing of its name and address and that it has insured or guaranteed a first Security Interest in a Lot. Such notice shall be deemed to include a request that the eligible insurer be given the notices and other rights described in Article XIII.

Section 1.02.16. Eligible Mortgagee. The holder of a first Security Interest in a Unit which has notified the Association, in writing, of its name and address, and that it holds a first Security Interest in a Unit. Such notice shall be deemed to include a request that the Eligible Mortgagee be given the notices and other rights described in Article XIII.

Section 1.02.17. Executive Board. The board of directors of the Association.

Section 1.02.18. Improvements. Any construction, structure, fixture or facilities existing or to be constructed on the land included in the Common Interest Community, including but not limited to, buildings, trees and shrubbery planted by the Declarant, a Lot Owner or the Association, paving, utility wires, pipes, and light poles.

Section 1.02.19. Lot. A platted lot which shall be a Unit as that term is used in the Act.

Section 1.02.20. Lot Owner. The Declarant or other Person who owns a Lot. Lot Owner does not include a Person having an interest in a Lot solely as security for an obligation. The Declarant is the initial owner of any Lot created by this Declaration.

Section 1.02.21. Majority or Majority of Unit Owners. The owners of more than 50% of the votes in the Association.

Section 1.02.22. Manager. A person, firm or corporation employed or engaged to perform management services for the Common Interest Community and the Association.

Section 1.02.23. Person. An individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, government subdivision or agency, or other legal or commercial entity.

Section 1.02.24. Plat. The plat filed with this Declaration as Schedule A-2, as it may be amended from time to time.

Section 1.02.25. Property. The land, all Improvements, easements, rights and appurtenances, which have been submitted to the provisions of the Act by this Declaration.

Section 1.02.26. Public Offering Statement. The current document prepared pursuant to 34.08.530 of the Act as it may be amended from time to time, and provided to purchasers prior to the time of execution of a purchase agreement.

Section 1.02.27. Security Interest. An interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, and any other consensual lien or title retention contract intended as security for an obligation.

Section 1.02.28. Storm Drainage System. The retention ponds, associated drainage ditches, drainage easements, culverts, and the pipe storm drainage system as shown on the Plat attached as Schedule A-2.

Section 1.02.29. Trustee. The entity which may be designated by the Executive Board as the Trustee for the receipt, administration, and disbursement of funds derived from insured

losses, condemnation awards, special assessments for uninsured losses, and other like sources as defined in the Bylaws. If no Trustee has been designated, the Trustee will be the Executive Board from time to time constituted, acting by majority vote, as executed by the president and attested by the secretary.

ARTICLE II

NAMES; DESCRIPTION OF REAL ESTATE

Section 2.01. Names.

- (a) Common Interest Community. The name of the Common Interest Community is SkyHills Subdivision.
- (b) Association. The name of the Association is the SkyHills Subdivision Homeowners Association, Inc, (the "Association") a non-profit corporation organized under the laws of the State of Alaska.

Section 2.02. Real Estate. The Common Interest Community is located in the Anchorage Recording District, Third Judicial District, State of Alaska. The real estate of the Common Interest Community is described in Schedule A-1.

ARTICLE III

THE ASSOCIATION

Section 3.01. Authority. The business affairs of the Common Interest Community shall be managed by the Association. The Association shall be governed by its Bylaws, as amended from time to time.

Section 3.02. Powers.

- (a) The Association shall have all the powers, authority and duties permitted pursuant to the Act necessary and proper to manage the business and affairs of the Common Interest Community.
- (b) The Association may assign its future income, including its right to receive Common Expense assessments, only by the affirmative vote of a majority (51%) of the Unit Owners at a meeting called for that purpose.

ARTICLE IV
LOTS

Section 4.01. Number of Lots. The number of Lots in the initial phase of the Common Interest Community is twenty-four (24). The term "Lot" shall have the same meaning as "unit" as defined in AS 34.08.990(32) of the Act. The Declarant reserves the right to create up to thirty-four (34) additional Lots in the Common Interest Community if the Declarant exercises its development rights and submits additional Lots and/or real estate to the Common Interest Community. Declarant reserves the right to develop a maximum of fifty-eight (58) Lots. Declarant does not guarantee that all of these Lots will be developed.

Section 4.02. Identification of Lots. The identification number of each Lot is shown on the Plat by lot and block number.

Section 4.03. Lot Boundaries. The boundaries of each Lot are the vertical (or perimetric) boundaries of the numbered Lots shown on the Plats and Plans. The boundary of the Lots in the initial phase of the Common Interest Community are shown on the Plat attached to this Declaration as **Schedule A-2**. The Plat will be amended as future Lots are declared. Each Lot shall include the spaces and improvements lying within the boundaries described above, and shall contain any pipes, wires, ducts, and conduits located on the Lot and serving only that Lot.

Inconsistency with survey: If this definition is inconsistent with the survey, then the survey shall control.

Section 4.04. Subdivision of Lots. A single Lot may not be reduced in size by subdivision. Owners of contiguous Lots may, however, replat their Lots without the agreement of other Lot Owners, provided they obtain the approval of the Executive Board and no Lot resulting from the replatting is smaller than the smallest of the Lots from which the new Lots were created.

Section 4.05. Common Area. Every Lot Owner shall have a right and nonexclusive easement for use, access, and enjoyment in and to the Common Area, subject to:

(a) This Declaration, the Bylaws and any other applicable covenants;

(b) Any restrictions or limitations contained in any deed conveying such property to the Association;

(c) The right of the Board to adopt rules regulating the use and enjoyment of the Common Area;

(d) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area pursuant to Section 4.8;

(e) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and

ARTICLE V

DEVELOPMENT RIGHTS AND OTHER SPECIAL DECLARANT RIGHTS

Section 5.01. Reservation of Development Rights. The Declarant reserves the following Development Rights:

- (a) the right to create Lots, and Common Elements within the property shown as Real Property subject to Development Rights in **Schedule A-1**;
- (b) The right to construct underground utility lines, pipes, wires, ducts, conduits and other facilities across the land in SkyHills Subdivision for the purpose of furnishing utility and other services to buildings and improvements to be constructed on the land. The Declarant also reserves the right to grant easements to public utility companies and to convey improvements within those easements anywhere in the Common Interest Community for the above-mentioned purposes. If the Declarant grants any such easements, **Schedule A-1** shall be amended to include reference to the recorded easement;
- (c) The right to withdraw all or a portion of the property listed in **Schedule A-1** as Real Property Subject To Development Rights;

Section 5.02. Limitations on Development Rights. The development rights reserved in Section 5.01 are limited as follows:

- (a) The development rights may be exercised at any time, but not more than seven (7) years after the recording of the initial Declaration.

- (b) In addition to the first twenty-four (24) Lots, not more than thirty-four (34) additional Lots may be created under the development rights on the property listed in Schedule A-1 as Real Property Subject To Development Rights;
- (c) The quality of construction of any Improvements to be created on the property may, but need not be, consistent with the quality of those constructed pursuant to this Declaration as initially recorded.
- (d) All Lots and Common Elements created pursuant to the development rights will be restricted to residential use in the same manner and to the same extent as the Lots created under this Declaration as initially recorded.

Section 5.03. Phasing of Development Rights. No assurances are made by the Declarant regarding the portions of the areas shown on the Plat as to the portions where the Declarant will exercise its development rights or the order in which such portions, or all of the areas, will be developed. The exercise of development rights as to some portions will not obligate the Declarant to exercise them as to other portions.

Section 5.04. Personal Property of Declarant. The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction, and maintenance of the Common Interest Community that Declarant has not explicitly represented as property of the Association. The Declarant reserves the right to remove from the Property any and all goods, models, and Improvements used in development, marketing, and construction, whether or not they have become fixtures.

Section 5.05. Declarant's Easement for Construction. The Declarant reserves the right to perform warranty work, repairs, construction work, and to store materials in secure areas on Lots and Common Elements and the further right to control all such work and repairs and the right of access thereto, until the completion of any such repair or work. All work may be performed by the Declarant without the consent or approval of the Executive Board. The Declarant has an easement through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising any Development or Special Declarant Rights, whether arising under the Act or reserved in this Declaration.

Section 5.06. Lot Usage by Declarant, Builder, or Dealer. Until Declarant, a Builder or a Dealer no longer owns any Lots in the Common Interest Community, the Declarant, Builder or Dealer and their duly authorized agents, representatives, and/or employees may maintain any Lot owned by the Declarant, Builder or Dealer or any portion of the Common Elements as a model Lot, sales office or management office.

Section 5.07. Special Declarant Rights. The Declarant reserves the following Special Declarant rights:

- (a) the right to complete or make improvements indicated on the Plats;
- (b) the right to allow Dealers/Builders to maintain sales offices, management offices and models on any of the Common Elements or any Lot, but only in a manner which does not unreasonably disturb Lot Owners;
- (c) the right to maintain signs in the Common Interest Community to advertise the Lots;
- (d) the right to use, and to permit others to use, easements through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations under the Act and this Declaration;
- (e) the right to appoint or remove officers and members of the Executive Board/Board of Directors during the Declarant Control Period;
- (f) the right to appoint or remove members of the ICC.
- (g) the right to exercise any Development Right including the rights to (i) create Lots or Common Elements within the Common Interest Community (Declarant may, at the time it adds any additional Lots and/or Common Elements to the Common Interest Community, specify restrictions on use, occupancy, and alienation, as well as standards for architectural controls for the additional Lots and/or Common Elements, should Declarant determine that, in its sole discretion, that restrictions and standards different than those contained in this Declaration are appropriate); (ii) replat Lots or convert Lots into Common Elements; or (iii) withdraw real estate from the Common Interest Community; and

(h) construct utility lines, pipes, wires, ducts, and other facilities across the land in SkyHills Subdivision for the purpose of furnishing utility and other services to the Lots and to convey utility and drainage easements to utility companies and the Municipality of Anchorage, respectively, in Declarant's own name and on behalf of the Association; and convey public use easements in any Common Elements.

Section 5.08. Limitations on Special Declarant Rights. Unless sooner terminated by recorded instrument executed by the Declarant, any Special Declarant Right may be exercised by the Declarant until the latest of the following events occur:

- (a) So long as the Declarant is obligated under any warranty or other obligation;
- (b) So long as the Declarant holds a Development Right to create additional Lots or Common Elements;
- (c) So long as the Declarant owns any Lot; and/or
- (d) For seven (7) years after the recording of the initial Declaration.

Section 5.09. Declarant Control of the Association.

- (a) Subject to Subsection 5.09(b), there shall be a period of Declarant control of the Association, during which the Declarant, or persons designated by it, may appoint and remove the officers and members of the Executive Board. The period of Declarant control shall terminate no later than the earlier of:
 - (i) sixty (60) days after conveyance of seventy-five percent (75%) of the Lots that may be created to Lot Owners other than a Declarant;
 - (ii) two (2) years after all Declarants have ceased to offer Lots for sale in the ordinary course of business; or
 - (iii) two (2) years after any right to add new Lots was last exercised.

- (iv) five (5) years after the first Lot is conveyed to a Lot Owner other than a Declarant.

A Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of that period, but in that event the Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Executive Board as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

- (b) Not later than sixty (60) days after conveyance of one-fourth (1/4) of the Lots that may be created to Lot Owners other than a Declarant, at least one member and not less than one-fourth (1/4) of the members of the Executive Board shall be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots that may be created to Lot Owners other than a Declarant, not less than one-fourth (1/4) of the members of the Executive Board must be elected by Lot Owners other than the Declarant.
- (c) Not later than the termination of any period of Declarant control, the Lot Owners shall elect an Executive Board of at least three (3) members, at least a majority of whom shall be Lot Owners. The Executive Board shall elect the officers. The Executive Board members and officers shall take office upon election.
- (d) Notwithstanding any provision of this Declaration or the Bylaws to the contrary, following notice under AS 34.08.390, the Lot Owners, by a two-thirds (2/3) vote of all persons present and entitled to vote at any meeting of the Lot Owners at which a quorum is present, may remove any member of the Executive Board with or without cause, other than a member appointed by the Declarant.

ARTICLE VI **ALLOCATED INTERESTS**

Section 6.01. Allocated Interests. The undivided interest in the Common Elements, the Common Expense liability and votes in the Association allocated to each Lot are set forth in Schedule A-3.

Section 6.02. Determination of Allocated Interests. The interests allocated to each Lot have been calculated as follows:

- (a) the percentage of liability for Common Expenses allocated to each Lot is on the basis of one (1) equal share for each Lot. The specified percentage for the initial phase is set forth in Schedule A-3. When Lots are created or removed from the Common Interest Community, the above formula shall be used in reallocating the interest in an amendment to the Declaration; and
- (b) each Lot in the Common Interest Community shall have one equal vote.

ARTICLE VII

RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY

Section 7.01. Use and Occupancy Restrictions. Subject to the Special Declarant Rights reserved by the Declarant, the following use restrictions apply to all Lots and to the Common Elements:

- (a) Land Use and Dwelling Type

No Lot shall be used except as a single-family residence, except that professional or business uses may be conducted in a dwelling provided that the uses must be incidental to the use of the dwelling for residential purposes. A single-family residence is defined as a single housekeeping unit, operating on a non-profit, non-commercial basis between its occupants, cooking and eating with a common kitchen and dining area, with no more overnight occupants than two per bedroom as designated on the plans on file with the building official of the Municipality of Anchorage. Non-residential activities must comply with governmental regulations addressing home occupations. No signs may indicate in any way that a nonresidential activity is being conducted, and no increase in street traffic, substantial or insubstantial is permissible. Further, non-residential activities shall not require regular visits from the public or unreasonable levels of mail, shipping, trash or storage. No Lot may be used for bed and breakfast, transient, hotel or motel purposes.

No dwelling or structure shall be erected, altered, placed or permitted to remain on any Lot other than the following

structures, which shall be subject to all of the terms and provisions of this Declaration:

1. One detached single family dwelling. Every dwelling must have an enclosed and attached garage capable of housing at least two automobiles side by side. Carports are not allowed. Detached garages may be permitted on a case-by-case basis pursuant to the provisions of Article IX.
2. Fences, gates, and associated structures.
3. Retaining walls.
4. A greenhouse.
5. A garden tool shed, children's playhouse, or like structure.
6. A doghouse and/or pen.
7. Any other accessory dwelling, shed, structure, or other item permitted by the Committee.
8. A driveway.

(b) Dwelling Quality, Size, and Construction

Unless otherwise approved in writing by the appropriate committee, no dwelling shall be permitted on any lot at an appraised value of less than \$250,000 in 1998 dollars (appraised value of the structure and lot combined including the septic system). It is the intention and purpose of the covenants to insure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded. The minimum value acceptable shall be adjusted each year on January 1 to reflect the minimum value which shall be equal to \$250,000 plus or minus the average percentage increase or decrease in house values for the previous year in Anchorage as reported by MLS times \$250,000. Example (1998 price equals \$250,000; if the average market price increases 9% in 1998; the 1999 adjusted minimum price shall be equal to \$250,000 times 1.09).

The ground floor living area of the main structure of a one-story dwelling, exclusive of one story open porches, garages and greenhouses, shall not be less than 1,800 square feet of finished living space, excluding basements and walk-out basements, nor less than 1,200 square feet of finished living space on the main floor for a dwelling of more than one story, excluding basement and walk-out basement. Any multi-story/level dwelling shall have a minimum size of 2,100 square feet of finished living area, excluding basements and walk-out basements.

The Declarant wishes to create a superior residential neighborhood which exhibits a wide range of designs, appearances, and colors. Thus, no set of dwelling plans may be replicated within five hundred (500) feet along the street frontage of a dwelling. For purposes of this Declaration, "street frontage" shall mean both sides of the street.

Approval by the Municipality of the dwelling height and Lot coverage as shown on plans submitted for a land use permit or a building permit constitutes approval by the Appropriate Committee, described in Article IX (hereinafter collectively referred to as the "Appropriate Committee").

(c) Siding, Roofs, and Colors

No metal building shall be constructed or maintained on any lot. No T1-11 or sheet wood siding may be used in construction of dwellings or permanent, detached structures on the three (3) sides that are most visible from any street. Partial T1-11 siding may be allowed where visibility is completely blocked due to major offsets in the dwelling architecture. Cedar shake roofing or architectural shingles are recommended. All roofs shall be of a material, color and texture approved by the Appropriate Committee. No maximum or minimum pitch is specified, but approval will be based on the visual impact of the roof on the lot or on neighboring lots, dwellings, roads and open spaces. The color scheme must be approved by the Appropriate Committee in writing.

The color of external materials shall be subdued. Earth tones, generally muted, are recommended, although occasionally accent colors used judiciously and with restraint may be permitted by the Appropriate Committee. No dwelling shall have an identical exterior color to the exterior color of dwellings on lots located within 300 feet on either side of the street. The entire body of the dwelling must be painted or stained the

same color. The subjective matter of approving colors is the responsibility of the Appropriate Committee.

(d) Dwelling Location

No dwelling shall be located on any Lot nearer to any Lot line than the minimum dwelling setback distance.

1. All homes shall be set back no less than 50 feet from the front lot and rear line unless the Appropriate Committee determines that it will be detrimental to the subdivision and the Lot to require these 50 foot set backs.
2. All homes shall be set back at least 25 feet from any side lot line unless the Appropriate Committee determines that it will be detrimental to the subdivision and the Lot to require these 25 foot set backs. It is the intent of these requirements to provide maximum possible spacing between all dwellings and/or outbuildings in the subdivision, but not less than fifty feet (50') between dwellings. Under special or unusual set-back/layout circumstances, Lot Owners may obtain variances from these provisions only by written approval.

A Lot layout plan showing dwelling, driveway and clearing limits of existing vegetation shall be plotted by a registered surveyor at the Lot Owner's expense. A Certified Plot Plan shall be delivered by each Lot Owner to the Appropriate Committee for written approval prior to construction, showing dwelling and driveway locations. If feasible, dwellings shall be located within the Lot in such a manner that the driveways drain toward the street. All driveways and walkways from the street shall conform with the natural drainage and shall be culverted, unless waived in writing by the Appropriate Committee, to allow unimpeded flow drainage. Any alteration of natural drainage shall become the responsibility of the party changing grades and shall so make the necessary provisions for such water and run-off. All culverts shall be 18 inches in diameter and have prefabricated flared ends. Lot Owners must maintain culverts and kept clean of debris, etc. No permanent damage to the natural vegetation is to occur outside of those limits and special instructions are to be given to contractors by the Lot Owners to protect areas outside of these limits as shown on the lot layout plan.

(e) Completion of Exteriors and Dwelling Occupancy

A dwelling must be enclosed and its exteriors finished within twelve (12) months of the time of beginning of construction. No dwelling shall be occupied prior to the completion of the exterior.

(f) Temporary Structures

No temporary structure, boat, truck, trailer, camper or recreation vehicle of any kind shall be used as a living area while located on the project. Temporary construction structures shall be limited to small, approved structures under two hundred (200) square feet. Temporary construction structures shall be approved by the Appropriate Committee. These structures shall be used only during the construction or modification phase of a dwelling and shall be removed promptly upon completion of the improvements on the Lot. The Appropriate Committee may also require the removal of a temporary construction structure upon thirty (30) days written request if in its opinion the temporary construction structure is unsightly.

Portable toilet facilities shall be required within three hundred (300) feet of any construction site.

(g) Permanent, Detached Structures (Outbuildings)

Any permanent, detached structure, such as sheds, dog houses, fences, and greenhouses, must be finished to blend into the surroundings and its siding must be similar to the siding of the dwelling on the Lot. All permanent, detached structures must be approved by the Appropriate Committee. The Appropriate Committee shall, at its sole discretion, set criteria on the location of the permanent, detached structure, but it is required that such structures be located and constructed to blend in to the surrounding vegetation and in a location that cannot be seen from the front of the Lot.

(h) Fences and Dog Runs

Hedges, shrubs or trees shall be used for screening. No fences shall be erected on any lot except as approved in writing. For homes located on corner lots, the back of the home shall constitute the longest dimension of the two (2) sides not facing a street. The fence shall be constructed such that posts, and stringers reside on the inside of the fence and facings or tails are on the outside of the fence perimeter. Pressure

treated posts shall be used, and only cedar or redwood may be used for stringers and facing. Fences shall not exceed six feet (6') in height. Split rail or decorative wood fences less than four feet (4') high may be approved in writing. If a dog run is approved, it must be in the back of the home only and must be a minimum of 15 feet from any lot line, unless approved by the Appropriate Committee. All dog runs must be concealed by wooden fences.

(i) Landscaping and Natural Vegetation

No trees over four inches (4") in diameter four feet (4') above the ground, may be removed from any lot except those trees within the Appropriate Committee's approved clearing limits for the dwelling to be constructed on that lot. It is the intent of this provision that all persons purchasing lots shall do their utmost to maintain the trees and the natural wooded surroundings of their properties especially at the side and rear lot area between houses. In the event of excess removal of trees on any lot, the Lot Owner shall be responsible to replant and maintain live trees, at the Lot Owner's expense, to the extent required by the Appropriate Committee. It shall be the responsibility of each Lot Owner to inform any construction personnel of these requirements and to take the necessary time and expense to make certain that: (1) no more than four inches (4") of dirt is placed over any live tree roots; (2) damaged roots and trees must be painted with protective sealer to prevent dehydration; (3) root feeding of damaged trees is done in a timely fashion; (4) tree surgery is done on all trees deemed unsafe or unsightly to correct the condition; and (5) roots exposed by machinery, etc., are covered by four inches (4") of topsoil within thirty (30) days of their exposure. Any lot re-contouring or tree cutting outside the building pad and driveway shall be done only with the written approval of the Appropriate Committee, and such approval shall be given only after a comprehensive plan has been developed by the Lot Owner. Minor tree surgery to enhance views is allowed. Infested, diseased or dead trees shall be removed immediately, except when weather/snow cover does not permit the safe removal. Stumps shall be trimmed flush with the ground level or removed and covered by soil and re-vegetated immediately as weather conditions permit.

All disturbed ground within the approved clearing limits shall be landscaped and seeded, weather permitting, within sixty (60) days, but not later than eight (8) months of the issuance of the certificate of occupancy. All lawns are to be maintained free of weeds, mowed and trimmed whenever growth exceeds four inches (4"). Homeowners shall mow and maintain roadside drainage

and shoulders in the front of their lot to the edge of pavement. Fertilizer shall be used sparingly, not more than twice yearly, to minimize adverse runoff water quality.

All areas of each Lot not devoted to the dwelling, driveway, walks, or other permitted site improvements shall be landscaped or covered with lawns, shrubbery trees, garden bark, landscaping cobbles, or other ground cover. The trees shall be six feet high and larger than two and one half (2.5) inches in diameter as measured three feet above the ground. Waivers of this requirement may be granted by the Appropriate Committee on a case-by-case basis if the owner presents an acceptable alternative proposal.

All the landscaping shall be completed within twelve months from the date of the purchase of the dwelling.

(j) Declarant's Reservations

The Declarant hereby reserves for the life of this project, the right and privilege to approve for construction or to build the first house constructed on any Lot. The Declarant further reserves the right and privilege to complete the later phases of SkyHills Subdivision and to add subsequent phases to this as they are developed with no hindrance of any Lot Owner(s) or their representatives.

(k) Signs

No signs of any kind shall be displayed to the public view on any Lot except a sign of not more than five (5) square feet advertising the Lot for sale or rent, or a sign used by the Declarant or Builder to advertise the Property during the Lot sales or construction period. During the period of construction of a residence on a Lot, an additional sign of similar size may be installed to identify the Builder associated with the construction on the Lot. No such signs shall be nailed or affixed to trees. All signs shall comply with the current zoning ordinance regulations applicable to signs.

(l) Garbage and Refuse Disposal

Trash, garbage or other waste shall be disposed of through a household garbage disposal or wrapped in a secure package and deposited in a sanitary container. The sanitary container shall be sheltered in a storage shed which is completely enclosed and located immediately adjacent to the exterior wall of the dwelling, except the sanitary container or containers may be

placed in the public view on the eve or day of garbage pick-up. No outside burning of trash or garbage shall be allowed. No portion of the Property shall be used for the storage of building materials, refuse, or any other materials other than in connection with approved construction.

Construction waste during construction shall be kept to a minimum on the site and removed to the satisfaction of the Appropriate Committee consistent with professional building standards.

(m) Animal Regulations

No animals, livestock, or poultry shall be kept on any Lot except that domestic dogs, cats, fish, and birds inside bird cages may be kept as household pets, provided they are not kept, bred, or raised for commercial purposes or in unreasonable quantities. No more than three (3) dogs or three (3) cats may be maintained on a Lot. No vicious dog (as defined by the Anchorage Municipal Code) shall be kept on any Lot. All pets shall be chained, fenced or otherwise restrained at all times. No pet shall be allowed to run freely. Dog runs shall not be visible from the street and shall be approved by the Appropriate Committee. The Lot Owner is responsible for removing its pet's animal feces from all areas of the Subdivision (i.e., when walking foot trails, sidewalks, etc.).

(n) Sight Distance

Fences, walls, hedges, or shrub plantings must conform with municipal sight distance standards for corner Lots. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two feet (2') and six feet (6') above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five feet (25') from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the property lines adjacent to the street extended in a straight line. The same sight line limitations shall apply on any Lot within ten feet (10') from the intersection of street property line with the edge of a driveway or alley pavement. No trees shall be permitted to remain within such distances or such intersection, unless the foliage line is maintained at sufficient height to prevent obstruction of sight line.

(o) Water and Sewer

No individual water supply system shall be permitted on any Lot. Each home shall be connected to the water supply from AWWU.

SkyHills Subdivision has no sewer available to the lots and thereby requires the installation of individual septic systems at the lot buyer's expense. Each system must comply with the Department of Environmental Conservation and Municipality of Anchorage regulations and must be installed and approved before occupancy. It is the sole responsibility of the lot buyer to comply with the testing requirements for septic approval before an occupancy permit can be issued.

(p) Parking and Vehicle Restrictions and Storage

No wrecked, inoperative, vandalized or otherwise derelict-appearing automobiles, and no trucks, trailers, mobile homes, truck campers, detached camper units, boats, motorcycles, snowmachines, all-terrain vehicles, and recreational vehicles of any type, whether operative or inoperative, shall be kept, placed, stored, or maintained upon any Lot, except within an enclosed garage, or screened so that the item is not visible from the public streets, an adjoining Lot, or a nearby house. Fencing, landscaping, or natural vegetation may act as the screen. The purpose of this provision is to keep these stored vehicles as well as any equipment out of sight. Fuel storage is prohibited. No lot or street may be used for the storage of any equipment, materials or merchandise used or to be sold in a business or trade. All owners shall comply with the parking ordinances of the Municipality of Anchorage which are applicable to residential neighborhoods. There shall be no on-street overnight parking.

No large commercial van, business related vehicle (e.g. dump trucks), heavy equipment such as bulldozers and road graders may be kept on any Lot or street except during the time it is actually working in the subdivision in a continuous manner. No Lot or street may be used for the storage of any equipment, materials or merchandise used or to be sold in a business or trade.

Notwithstanding the above provisions, campers, boats, and motor homes are allowed to be parked in driveways during the period of May 1 through October 15. If they are parked in the driveways at any other time, the Association may impose a fine against the Lot Owner.

(q) Oil and Mining Operations

No oil or gas drilling, development operations, refining, quarrying or mining operations of any kind shall be permitted on any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot. No surface entry will be permitted and no extraction of minerals will be permitted within a 250 foot buffer measured vertically from the surface.

(r) Nuisances

No noxious or offensive activity shall be carried on within the subdivision, nor shall anything be done therein which may become an annoyance or nuisance to the neighborhood. Motor bikes, motorcycles and automobiles shall have operable mufflers. Off road use of snow machines, 3 wheelers or 4 wheelers, all terrain vehicles or motorcycles within the subdivision is expressly prohibited. Lot Owners shall contain or control their animals to the extent necessary to prevent their becoming a nuisance to other Lot Owners, including, but not limited to, the barking dogs.

(s) Antennas

All roof or ground-mounted antennas for short-wave, "Ham," Citizens Band, microwave or other types of radio or communications systems are prohibited unless specifically approved in writing by the Appropriate Committee.

Regardless of the approval or disapproval of the Appropriate Committee, in the event an outside antenna or dish is required by the regulations of the Federal Communications Commission, the antenna or dish shall be no longer nor installed higher than absolutely necessary for reception of an acceptable quality signal. Antennas, masts, and any visible wiring must be painted to match the color of the dwelling, provided the paint does not degrade the signal. An antenna or dish situated on the ground and visible from the street or from other Lots must be camouflaged by existing landscaping or fencing, if an acceptable signal may be received from such placement. An antenna or mast may not extend beyond a railing or fence unless no acceptable quality signal may be received from this location.

(t) Utility and Drainage Easements

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plats and Plans attached as Schedule A-4. Within these easements, no structures, plantings or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels in the easements, or which may obstruct or significantly affect the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible. A foot or bike path or trail easement shall not be utilized by motor powered vehicles of any sort except for maintenance, or as approved in writing by the Appropriate Committee. No live vegetation shall be disturbed in the perimeter buffer easements, except where utilities and storm drainage structures are to be installed. All disturbed areas must be re-vegetated with buffer landscaping. The perimeter buffer landscaping must be maintained.

The excavation for utility connections, etc., shall be located so as not to open up visibility between houses. Utility installations shall be underground and located within the approved clearing limits or existing cleared areas. All driveways shall be paved with black asphalt or gray concrete unless otherwise approved by the Appropriate Committee.

(u) Retention Pond

The drainage retention pond and the culverts feeding the drainage retention pond shown on the Plat will be the sole responsibility of the Association beginning two (2) years after the date the Declarant's Municipal subdivision warranty period begins. The Association shall, from dues collected, for the semi-annual inspection and cleaning of the retention pond; and for any future replacement or any extraordinary work required to repair the retention pond or the culverts.

The Municipality of Anchorage will not accept the responsibility for the maintenance or replacement of the Storm Drainage System now or at any time in the future. The obligation for the maintenance, repair and replacement of these facilities shall remain in perpetuity as the sole responsibility of the Association, unless the Municipality, in its sole discretion, agrees to accept the responsibility, in which case

the Storm Drainage System must be improved to the Municipality of Anchorage standards in force at that time.

(v) Security Systems

All residences are encouraged but not required to be equipped with security systems.

(w) Mailboxes and Newspaper Tubes

Lot Owners shall use the mailboxes approved by the U.S. Postal Service. Materials and location of each individual mail box shall be subject to the approval of the Appropriate Committee. Newspaper stands and receptacles are not permitted on Lots.

(x) Architectural Control Standards

All Lots in the Common Interest Community are subject to Architectural Controls set forth in Article IX of this Declaration.

Section 7.02. Restrictions on Alienation. A Lot may not be conveyed pursuant to a time-sharing arrangement described in AS 34.08.990(31).

ARTICLE VIII
COMMON EXPENSE ASSESSMENT AND COLLECTION

Section 8.01. Assessment for Common Expenses. Except as provided in Section 8.02 hereof, any Common Expenses shall be assessed against all Lots in accordance with their percentage interest in the Common Expenses. See Table of Interest, attached as Schedule A-3.

Section 8.02. Apportionment of Common Expenses to Less Than All Lots.

- (a) Any Common Expenses for services provided by the Association for the benefit of an individual Lot at the request of the individual Lot Owner shall be assessed against said Lot.
- (b) An assessment to pay a judgment against the Association may be made only against the Lots in the Common Interest Community at the time judgment was entered, in proportion to their

percentage interests in the Common Expenses at the time judgment was entered.

- (c) Any fees, charges, late charges, fines, collection costs, and interest charged against a Lot Owner pursuant to this Declaration and the Act are enforceable as Common Expense Assessments.

Section 8.03. Lien for Assessment. The Association shall have a lien, according AS 34.08.470, on a Lot for any assessment levied against the Lot and/or for any fines, fees, charges, late charges, collection costs, and/or interest imposed against the Lot Owner from the time any such assessment or fines, fees, charges, late charges, collection costs, and/or interest become due.

ARTICLE IX ARCHITECTURAL CONTROLS

Section 9.01. General. No structure shall be placed, erected, or installed upon any Lot, and no improvements (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements, and planting or removal of landscaping materials) shall take place except in compliance with the provisions of Articles VII and IX of this Declaration and the approval of the Appropriate Committee under Section 9.02.

Any Lot Owner may remodel, paint or redecorate the interior of structures on his Lot without approval of the Appropriate Committee. However, modifications to the exterior of the dwelling or of other structures on the Lot or the interior of screened porches, patios, and similar portions of a dwelling visible from outside shall be subject to approval by the Appropriate Committee.

Pursuant to Declarant's development rights and in Declarant's sole discretion, Declarant may repeal, modify, or amend in any way the provisions of Articles VII and/or IX after the initial recordation of the Declaration for any Lots and/or Common Elements not yet conveyed to a purchaser other than a Builder, Dealer, or Declarant.

Section 9.02. Architectural Review. Responsibility for administration of the architectural standards and review of all applications for construction and modifications shall be handled by the Appropriate Committee as described below in subsections

(a) and (b). The members of the Committees need not be Lot Owners or representatives of Lot Owners, and may, but need not, include architects, engineers or similar professionals.

(a) Initial Construction Committee. The Initial Construction Committee ("ICC") shall consist of one to three persons and shall have exclusive jurisdiction over all original construction on any portion of the Common Interest Community. The initial ICC shall be composed of Mitch Kean, Robert D. Klein, Jr., and Paul M. Palmer. Until one hundred percent (100%) of the Common Interest Community has been developed and conveyed to Lot Owners other than Builders or Dealers, the Declarant retains the right to appoint all members of the ICC who shall serve at the Declarant's discretion. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon expiration of such right, the Executive Board shall appoint the members of the ICC, who shall serve and may be removed in the Executive Board's discretion.

Any dispute over ICC approval of plans for construction of the first dwelling on a Lot shall be decided by arbitration in accordance with Section 12.06.

(b) Modification Committee. The Executive Board may establish a Modification Committee ("MC") to consist of at least three and no more than five persons, all of whom shall be appointed by and shall serve at the discretion of the Executive Board. The MC, if established, shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing structures on Lots, including fences, landscaping, and site grading. The MC is responsible for the enforcement of architectural standards on any given Lot in the subdivision after the completion of construction of the dwelling on that Lot. The design or color scheme of the proposed improvements or alterations shall be controlled by the MC to insure harmony through out the Subdivision. However, this provision shall not be held to require approval to repaint a dwelling with substantially the same color scheme. The compensation of the members of the MC, if any, shall be established from time to time by the Executive Board. The Executive Board may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review.

Until the MC is formed, the ICC will assume the functions of the MC.

Section 9.03. Procedure to Obtain Committee Approval. Requests for approval by either the ICC or MC shall be submitted in writing according to the specific procedure and on the forms established by these Committees. The approval or disapproval by these Committees of a request shall be in writing. In the event the Committees, or their designated representative fail to approve or disapprove a request within thirty (30) days after plans and specifications have been properly submitted, the proposal shall be deemed approved. Notification may be delivered orally, but must be followed with written confirmation.

All plans and documents submitted to these Committees will be retained in their files.

No dwelling, structure, or other improvement (including regrading of the site) shall be constructed, placed, erected, repainted, altered or made without the express written approval of the ICC or MC. Failure to obtain the approval of the ICC prior to making an improvement to the land or dwelling shall give the ICC the right to bring a legal action at law or in equity against the wrongdoer and assess the Lot Owner \$100.00 per day. Similarly, when the MC has jurisdiction over the approval process, if a Lot Owner fails to obtain the MC's approval before commencing a modification, the Association may levy an assessment of \$100.00 per day against the Lot Owner for each day following commencement of construction until the MC approval is obtained to assess the Lot Owner \$100.00 per day, and the Association may bring a legal action at law or in equity against the wrongdoer.

Decisions of the MC may be appealed to the Executive Board. Appeals must be taken to the Board by written notice to the Board not more than thirty (30) days following receipt of the final decision of the MC.

Section 9.04. Committee Approval.

(a) In reviewing each submission, the ICC or MC, as appropriate, shall consider the plans, specifications and plot plan for (i) quality of workmanship and materials, (ii) harmony of external design with existing structures, (iii) location with respect to topography and finished grade elevation, and (iv) compliance with the land use provisions of Article VII.. The committees may require relocation of native plants within the construction site as a condition of approval of any submission.

The ICC or the MC, as appropriate, shall, within thirty (30) days after receipt of each submission of the Plans, advise the party submitting the same, in writing, at an address specified by such party at the time of submission, of (i) the approval of Plans, or (ii) the segments or features of the Plans which are deemed by such committee to be inconsistent or not in conformity with this Declaration and/or the Design Guidelines, the reasons for such finding, and suggestions for the curing of such objections. In the event the Appropriate Committee fails to advise the submitting party by written notice within the time set forth above of either the approval or disapproval of the Plans, approval shall be deemed to have been given. Notice shall be deemed to have been given at the time the envelope containing such notice, properly addressed, and postage prepaid, is deposited with the U.S. Postal Service, registered or certified mail, return receipt requested. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery.

Section 9.05. No Waiver of Future Approvals. Each Owner acknowledges that the members of the ICC and the MC will change from time to time and that interpretation, application and enforcement of the Design Guidelines may vary accordingly. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

Section 9.06. Variance. The ICC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations, require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the ICC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, the cost of compliance, or the terms of any financing shall not be considered a hardship warranting a variance.

Section 9.07. Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and neither the ICC nor the MC shall bear any responsibility for ensuring the

structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, any committee, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Unit.

ARTICLE X
EASEMENTS AND LICENSES

Section 10.01. Recording Data. All easements and licenses to which the Common Interest Community is presently subject are recited in Schedule A-4. In addition, the Common Interest Community may be subject to other easements or licenses granted by the Declarant pursuant to Article V of this Declaration.

ARTICLE XI
AMENDMENTS

Section 11.01. General. Except in cases of amendments that are executed by the Declarant in the exercise of its development rights or as otherwise provided by the Declaration or the Act, this Declaration, including the Plats and Plans, may be amended only by vote or agreement of Lot Owners of Lots to which at least sixty seven percent (67%) of the votes in the Association are allocated.

Section 11.02. Declarant Rights. Provisions in this Declaration reserving Declarant rights may not be amended without the consent of Declarant.

If, in Declarant's exercise of any rights described in Article V of this Declaration, an amendment to the Declaration is required, the Declarant shall, in conformance with the Act, prepare, execute, and record an amendment to the Declaration and amend any required Plat and/or other required exhibits. Any amendment effected by Declarant's exercise of rights reserved in Article V requires Declarant approval only.

ARTICLE XII
MISCELLANEOUS

Section 12.01. Changes in Act. In the future and from time to time, in all instances where this Declaration or the Bylaws contain language that tracks the Act on the date that SkyHills Subdivision is created, this Declaration and the Bylaws shall be automatically amended in accordance with the amended

cognate language of the Act which may be adopted by the State of Alaska, unless the particular language of the Declaration or Bylaws, either as initially adopted or as amended at any subsequent time by the Association, is clearly to supersede the amended text of the Act.

Section 12.02. Captions. The captions contained in the Declaration are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Declaration nor the intent of any provision thereof.

Section 12.03. Waiver. No provision contained in the Declaration is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 12.04. Invalidity. The invalidity of any provision of the Declaration does not impair or affect in any manner the validity, enforceability or effect of the remainder, and in such event, all of the other provisions of the Declaration shall continue in full force and effect.

Section 12.05. Conflict. The Declaration, the Bylaws, and the Articles of Incorporation are intended to comply with the requirements of the Act and Title 10, Chapter 20 of the Alaska Statutes (Non Profit Corporation Law). In the event of any conflict between these documents and the provisions of the statutes, the provisions of the statutes shall control. In the event of any conflict between this Declaration and any other documents, this Declaration shall control.

Section 12.06. Arbitration. Any dispute over ICC approval of plans for construction of the first dwelling on a Lot shall be decided by arbitration. An aggrieved party seeking arbitration shall notify the ICC. The parties shall attempt to select a retired local judge to arbitrate the dispute. If the parties cannot agree on the name of a retired local judge, each party to such a dispute shall select and pay for an arbitrator of its choice to act as an arbitrator. These arbitrators shall select a third arbitrator whose costs shall be shared equally by the parties. The arbitration shall proceed at the earliest possible time, and the arbitrators are encouraged to render their decision within twenty-four (24) hours of the conclusion of the arbitration proceeding, including in their decision an award of cost and attorney fees to the prevailing party.

Any dispute that the parties agree to subject to arbitration shall follow the above procedure.

ARTICLE XIII
MORTGAGE PROTECTION

Section 13.01. Introduction. This Article establishes certain standards and covenants which are for the benefit of the holders, insurers and guarantors of certain Security Interests. This Article is supplemental to, and not in substitution for, any other provisions of the Documents, but in the case of conflict, this Article shall control.

Section 13.02. Percentage of Eligible Mortgagees. Wherever in this Declaration the approval or consent of a specified percentage of Eligible Mortgagees is required, it shall mean the approval or consent of Eligible Mortgagees holding Security Interests in Lots which in the aggregate have allocated to them such specified percentage of votes in the Association when compared to the total allocated to all Lots then subject to Security Interests held by Eligible Mortgagees.

Section 13.03. Notice of Actions. The Association shall give prompt written notice to each Eligible Mortgagee and Eligible Insurer of:

- (a) Any condemnation loss or any casualty loss exceeding \$10,000 which affects a portion of the Common Interest Community or any Lot in which there is a first Security Interest held, insured, or guaranteed by such Eligible Mortgagee or Eligible Insurer, as applicable;
- (b) Any delinquency in the payment of Common Expense assessments owed by an Owner whose Lot is subject to a first Security Interest held, insured, or guaranteed, by such Eligible Mortgagee or Eligible Insurer, which remains uncured for a period of sixty (60) days;
- (c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;
- (d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 13.04; and
- (e) Any judgment rendered against the Association.

Section 13.04. Consent Required.

(a) Document Changes. Notwithstanding any lower requirement permitted by this Declaration or the Act, no amendment of any material provision of the Documents by the Association or Unit Owners described in this Subsection may be effective without the vote of at least sixty-seven percent (67%) of the Lot Owners (or any greater Lot Owner vote required in this Declaration or the Act) and until approved in writing by at least fifty-one percent (51%) of the Eligible Mortgagees (or any greater Eligible Mortgagee approval required by this Declaration). The foregoing approval requirements do not apply to amendments effected by the exercise of any Development Right. Material includes, but is not limited to, any provision affecting:

- (1) Assessments, assessment liens or subordination of assessment liens;
- (2) Voting rights;
- (3) Reserves for maintenance, repair and replacement of Common Elements;
- (4) Responsibility for maintenance and repairs;
- (5) Reallocation of interests in the Common Elements or Limited Common Elements, including any change in the pro rata interest or obligations of any Lot Owner for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, except that when Limited Common Elements are reallocated by agreement between Lot Owners, only those Lot Owners and only the Eligible Mortgagees holding Security Interests in such Lots must approve such action;
- (6) Rights to use Common Elements and Limited Common Elements;
- (7) Boundaries of Lots except that when boundaries of only adjoining Lots are involved, or a Lot is being subdivided, then only those Lot Owners and the Eligible Mortgagees holding Security Interests in such Lot or Lots must approve such action;
- (8) Convertibility of Lots into Common Elements or Common Elements into Lots;

- (9) Abandonment, partition, subdivision, expansion or contraction of the Common Interest Community, or the addition, annexation, partition, subdivision or withdrawal of property to or from the Common Interest Community;
- (10) Insurance or fidelity bonds, including the use of hazard insurance proceeds for losses to any property in the Common Interest Community for other than the repair, replacement or reconstruction of such property except as provided by AS 34.08.440(h);
- (11) Leasing of Lots;
- (12) Imposition of restrictions on a Lot Owner's right to sell or transfer his or her Lot;
- (13) Establishment of self-management when professional management had been required previously by any Eligible Mortgagee;
- (14) Restoration or repair of the project after a hazard damage or partial condemnation in a manner other than that specified in the Documents;
- (15) Termination of the Common Interest Community for reasons other than the substantial destruction or condemnation, as to which a sixty-seven percent (67%) Eligible Mortgagee approval is required; and
- (16) The benefits of mortgage holders, insurers or guarantors.

(b) Actions. Notwithstanding any lower requirement permitted by the Declaration or the Act, the Association may not take any of the following actions other than rights reserved to the Declarant as Special Declarant Rights without the approval of at least 51% of the Eligible Mortgagees:

- (1) Convey or encumber the Common Elements or any portion thereof (as to which an 80% Eligible Mortgagee approval is required). (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Common Interest Community

will not be deemed a transfer within the meaning of this clause);

- (2) The establishment of self-management when professional management had been required previously by any Eligible Mortgagee;
- (3) The restoration or repair of the Property (after a hazard damage or partial condemnation) in a manner other than that specified in the Documents;
- (4) The termination of the Common Interest Community for reasons other than substantial destruction or condemnation, as to which a sixty-seven percent (67%) Eligible Mortgagee approval is required;
- (5) The alteration of any partition or creation of any aperture between adjoining Lots (when other Lot boundaries are not otherwise being affected), in which case only the owners of Lots affected and Eligible Mortgagees of those Lots need approve the action;
- (6) The merger of this Common Interest Community with any other common interest community;
- (7) The granting of any easements, leases, licenses and concessions through or over the Common Elements (excluding, however, any utility easements serving or to serve the Common Interest Community and excluding any leases, licenses or concessions for no more than one year);
- (8) The assignment of the future income of the Association, including its right to receive Common Expense assessments; and
- (9) Any action taken not to repair or replace the Property.

(c) The Association may not change the period for collection of regularly budgeted Common Expense assessments to other than monthly without the consent of all Eligible Mortgagees.

(d) The failure of an Eligible Mortgagee to respond within thirty (30) days to any written request of the Association for approval of a non-material addition or amendment to the

Documents shall constitute an implied approval of the addition or amendment.

Section 13.05. Development Rights. No development rights may be exercised or voluntarily abandoned or terminated by the Declarant unless all persons holding Security Interests in the development rights consent to the exercise, abandonment, or termination.

Section 13.06. Inspection of Books. The Association shall permit any Eligible Mortgagee or Eligible Insurer to inspect the books and records of the Association during normal business hours.

Section 13.07. Financial Statements. The Association shall provide any Eligible Mortgagee or Eligible Insurer which submits a written request, with a copy of an annual financial statement within ninety (90) days following the end of each fiscal year of the Association. Such financial statement shall be audited by an independent certified public accountant if:

- (a) the Common Interest Community contains fifty or more Lots, in which case the cost of the audit shall be a Common Expense; or
- (b) any Eligible Mortgagee or Eligible Insurer requests it, in which case the Eligible Mortgagee or Eligible Insurer shall bear the cost of the audit.

Section 13.08. Enforcement. The provisions of this Article are for the benefit of Eligible Mortgagees and Eligible Insurers and their successors, and may be enforced by any of them by any available means, at law, or in equity.

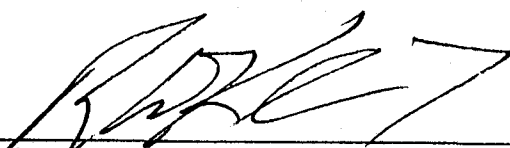
Section 13.09. Attendance at Meetings. Any representative of an Eligible Mortgagee or Eligible Insurer may attend any meeting which a Unit Owner may attend.

Section 13.10. Appointment of Trustee. In the event of damage or destruction or condemnation of all or a portion of the community, any Eligible Mortgagee may require that such proceeds be payable to a Trustee established pursuant to this Declaration. Such Trustee may be required to be a corporate trustee licensed by the State of Alaska. Proceeds will thereafter be distributed pursuant to the provisions of this Declaration or pursuant to a condemnation award. Unless otherwise required, the members of the Executive Board acting by majority vote through the president may act as Trustee.

In the future and from time to time, Eligible Mortgagees and Insurers (AHFC, FNMA, FHLMC, FHA, VA, etc.) may adopt provisions that relate to the financing of improvements on the Lots or require the Association to notify the Eligible Mortgagees and Insurers who have requested to be given notices. It is the intent of the Declarant that the Declaration and the Bylaws shall incorporate these financing provisions by this reference as if they were already set forth herein and adopted by the Association without any further action.


IN WITNESS WHEREOF, all of the Lot Owners, Declarants as Lot Owners, and the Association have caused this Amended and Restated Declaration to be executed, this 4th day of December, 1998.

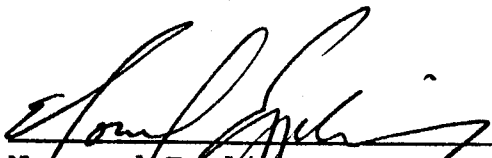
DECLARANTS/
LOT OWNERS: SKYVIEW, INC.

By: 
Robert D. Klein, Jr., Secretary

L&D, INC.

By: 
Lynn H. Lythgoe, Vice President


Kathleen Porterfield
Signing as a Lot Owner approving
the Amended and Restated
Declaration, not as a Declarant


Norwood Egging
Signing as a Lot Owner approving
the Amended and Restated
Declaration, not as a Declarant

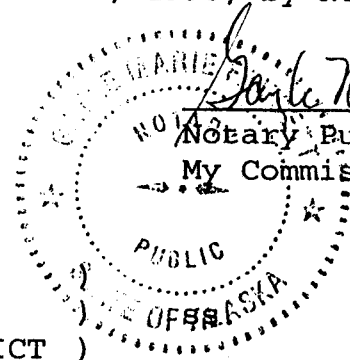
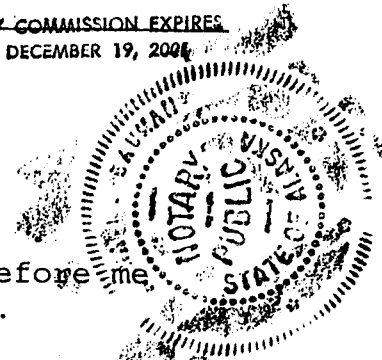
STATE OF ALASKA)
)
THIRD JUDICIAL DISTRICT) SS.

The foregoing instrument was acknowledged before me
this 4th day of December, 1998, by Kathleen Porterfield.

Anna M Bauman
Notary Public in and for Alaska
My Commission Expires: ~~MY COMMISSION EXPIRES~~
DECEMBER 19, 2004

STATE OF ALASKA)
)
THIRD JUDICIAL DISTRICT) SS.

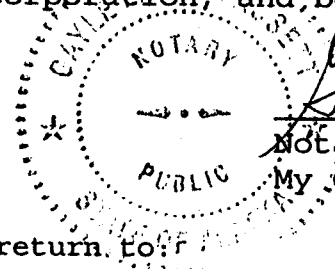
The foregoing instrument was acknowledged before me
this 4th day of December, 1998, by Norwood Eggeling.



Gayle Marie Fausett
Notary Public in and for Alaska
My Commission Expires: 12/29/99

STATE OF ALASKA)
)
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 4th day of December, 1998, before me, the undersigned, appeared Robert D. Klein, Jr., who acknowledged being the President, of SKYHILLS SUBDIVISION HOMEOWNERS ASSOCIATION, INC., an Alaska non-profit corporation, and voluntarily signing and sealing the foregoing instrument on behalf of said Corporation, and being authorized so to do.



Gayle Marie Fausett
Notary Public in and for Alaska
My Commission Expires: 12/29/99

Upon recordation return to:

L&D, Inc. and Skyview, Inc.
c/o James H. McCollum
Bankston & McCollum, P.C.
550 W. 7th Ave., Ste. 1800
Anchorage, Alaska 99503

SCHEDULE A-1
DESCRIPTION OF LAND

LOTS AND COMMON ELEMENTS SUBJECT TO DECLARATION
AND NOT SUBJECT TO DEVELOPMENT RIGHTS:

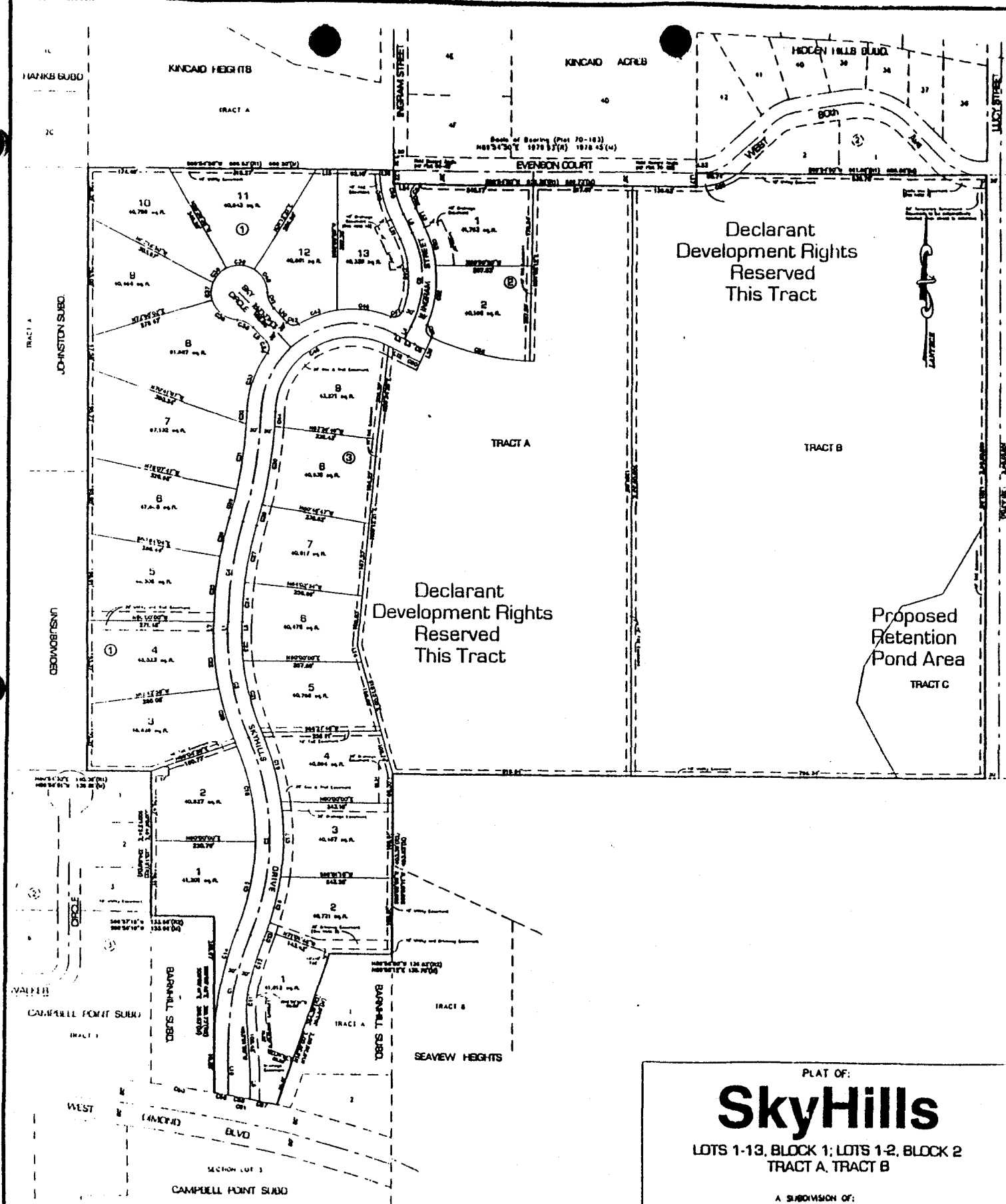
Lots 1-13, Block 1, Lots 1 & 2, Block 2,
Lots 1-9, Block 3, SKYHILLS SUBDIVISION,
according to Plat No. 98-134, records of the
Anchorage Recording District, Third Judicial
District, State of Alaska.

REAL PROPERTY SUBJECT TO DEVELOPMENT RIGHTS
(INCLUDING BUT NOT LIMITED TO THE RIGHT TO WITHDRAW):

Tracts A and B, SKYHILLS SUBDIVISION,
according to Plat No. 98-134, records of the
Anchorage Recording District, Third Judicial
District, State of Alaska.

SCHEDULE A-2
PLAT

AK 2381 PG 956



PLAT OF:

SkyHills

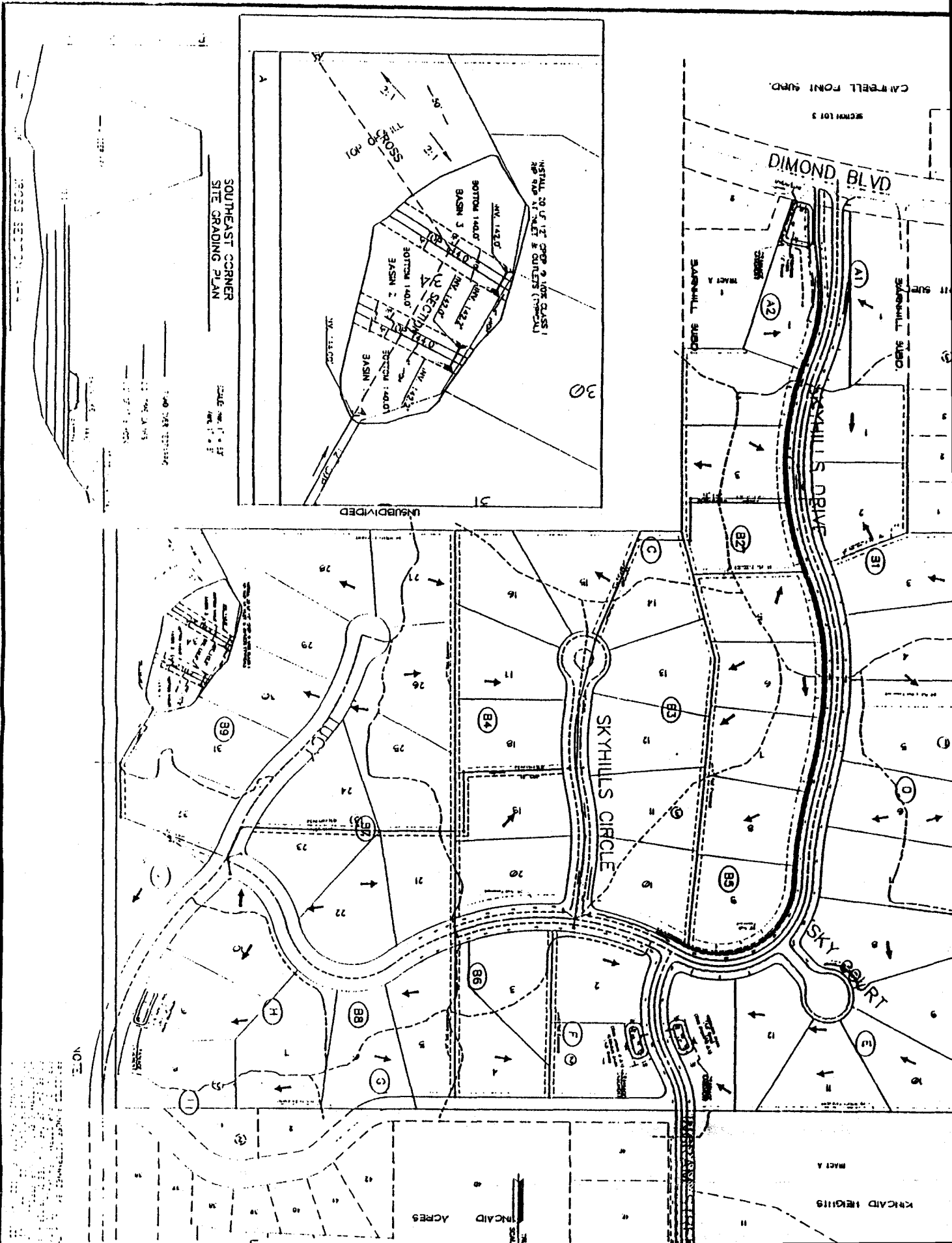
LOTS 1-13, BLOCK 1; LOTS 1-2, BLOCK 2
TRACT A, TRACT B

A SUBDIVISION OF:
TRACT B, JOHNSTON SUBDIVISION AND LOT 2, TRACT B, BARNHILL SUBDIVISION
LOCATED WITHIN THE N.W. 1/4 AND THE S.W. 1/4 OF SECTION 9, T.12N., R.4W.
S.M., ANCHORAGE RECORDING DISTRICT, ALASKA AND CONTAINING 68.03 ACRES

Lantech

LAND & CONSTRUCTION SURVEYORS-AUTOCAD
440 W BENSUN BLVD SUITE 103
ANCHORAGE, ALASKA 99503
562-5291 (FAX 561-6626)

PLANNER'S
ENGINEERS



SOUTHEAST CORNER
SITE GRADING PLAN
SCALE: 1" = 10'

UNSUBDIVIDED

NO. 3

SCHEDULE A-3
TABLE OF INTERESTS

<u>Lot No.</u>	<u>Interest</u>	<u>Votes in Association</u>
Lot 1, Block 1	1/24	1
Lot 2, Block 1	1/24	1
Lot 3, Block 1	1/24	1
Lot 4, Block 1	1/24	1
Lot 5, Block 1	1/24	1
Lot 6, Block 1	1/24	1
Lot 7, Block 1	1/24	1
Lot 8, Block 1	1/24	1
Lot 9, Block 1	1/24	1
Lot 10, Block 1	1/24	1
Lot 11, Block 1	1/24	1
Lot 12, Block 1	1/24	1
Lot 13, Block 1	1/24	1
Lot 1, Block 2	1/24	1
Lot 2, Block 2	1/24	1
Lot 1, Block 3	1/24	1
Lot 2, Block 3	1/24	1
Lot 3, Block 3	1/24	1
Lot 4, Block 3	1/24	1
Lot 5, Block 3	1/24	1
Lot 6, Block 3	1/24	1
Lot 7, Block 3	1/24	1
Lot 8, Block 3	1/24	1
Lot 9, Block 3	1/24	1
TOTAL	----- 100.00%	----- 24

SCHEDULE A-4
EASEMENTS, LICENSES, AND RESTRICTIONS

The Common Interest Community is presently subject to the following easements, licenses, and restrictions:

AFFECTS LOTS 1-13, BLOCK 1, LOTS 4-9, BLOCK 3, AND LOTS 1 AND 2, BLOCK 2, SKYHILLS SUBDIVISION:

SUBJECT TO the easement for electric transmission and incidental purposes granted to Chugach Electric Association, Inc. recorded on June 20, 1952, in Book 74, at Page 40, in the Anchorage Recording District, Third Judicial District, State of Alaska.

FURTHER SUBJECT TO the easement for the purposes set out therein granted to Anchorage, a municipal corporation, recorded on March 22, 1985, in Book 1242, at Pages 417 and 419, in the Anchorage Recording District, Third Judicial District, State of Alaska.

FURTHER SUBJECT TO the easement for electric transmission and/or telephone system and incidental purposes granted to Chugach Electric Association, Inc. and recorded on October 7, 1998, in Book 3338, at Page 329, in the records of the Anchorage Recording District, Third Judicial District, State of Alaska.

AFFECTS LOTS 1 AND 2, BLOCK 1, AND LOTS 1-4, BLOCK 3, SKYHILLS SUBDIVISION:

SUBJECT TO the easement for electric transmission and incidental purposes granted to Chugach Electric Association, Inc. recorded on January 31, 1958, in Book 3, at Page 143, in the Anchorage Recording District, Third Judicial District, State of Alaska.

FURTHER SUBJECT TO the easement for ingress and egress to and from Lot 1, Tract A, Barnhill Subdivision granted to M. Greg Braund and C. Diane Braund, husband and wife, recorded on June 7, 1991, in Book 2158, at Page 466, in the Anchorage Recording District, Third Judicial District, State of Alaska. Said easement affects Lot 2, of Block 3, of Skyhills Subdivision where there is an existing driveway running in a Northeasterly direction from the right-of-way for West Dimond Boulevard, then in a Southeasterly direction to Lot 1. The width of the easement and right-of-way shall be 15 feet, but in no event less than the existing driveway.

FURTHER SUBJECT TO the easement for electric transmission and/or telephone system and incidental purposes granted to Chugach Electric Association, Inc., and recorded on October 7, 1998, at Book 3338, at Page 330, in the Anchorage Recording District, Third Judicial District, State of Alaska.

FURTHER SUBJECT TO the easements shown on Plat 98-134 records of the Anchorage Recording District, Third Judicial District, State of Alaska.

